

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.21
(ID # 5350)

MEETING DATE:

Tuesday, October 3, 2017

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/ TRANSPORTATION:

Approval of the Cooperative Agreement between the County of Riverside, Flood Control and Water Conservation District, and Riverside Mitland 03, LLC for Warm Springs Valley – Spencers Crossing Parkway, Stage 2 and Warm Springs Valley – Myoporum Lane Storm Drain, Stage 2 (Tract No. 37053-1), Project No. 7-0-00238 and 7-0-00239; 3rd District [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the County of Riverside (County), Flood Control and Water Conservation District (District), and Riverside Mitland 03, LLC (Developer); and
2. Authorize the Chairman of the Board to execute the same.

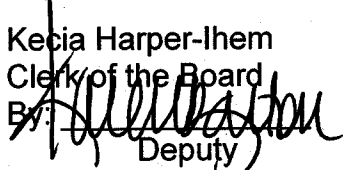
ACTION: Policy


Patricia Romo, Director of Transportation 9/13/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: October 3, 2017
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Developer is funding all construction and construction inspection costs. 100%			Budget Adjustment:	No
			For Fiscal Year:	N/A

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Cooperative Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Tract No. 37053-1, are to be constructed, inspected, operated and maintained by the Riverside County Flood Control and Water Conservation District and the County Transportation Department (Transportation Department). The Tract is located in the French Valley area and is west of Leon Road (see attached location map).

This Agreement is necessary for the Transportation Department to provide construction inspection, and subsequent operation and maintenance of the referenced storm drain appurtenances.

Upon completion of construction, the Riverside County Flood Control and Water Conservation District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain systems. The Transportation Department will assume ownership and responsibility for the operation and maintenance of the storm drain appurtenances located within the County right of way, including associated catch basins, inlets, outlets and laterals that are 36 inches or less in diameter.

County Counsel has approved the Agreement as to legal form, and the Developer has executed the Agreement. A companion item appears on the Riverside County Flood Control and Water Conservation District Agenda this same date.

Impact on Residents and Businesses

Construction of these drainage improvements is a requirement for the development of Tract No. 37053-1. The principal beneficiaries are the future residents of the tracts. Ancillary benefits will accrue to citizens who will utilize the tract's roadways.

SUPPLEMENTAL:

Additional Fiscal Information

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the mainline storm drain system will accrue to the District. Future operation and maintenance costs of the storm drain appurtenances located within the County

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

right of way will accrue to County Transportation Department and can be absorbed into the existing budget for storm drain maintenance.

ATTACHMENTS:

Cooperative Agreement

VicinityMap



Tina Grande, Principal Management Analyst

9/26/2017



Gregory V. Priaplos, Director County Counsel

9/18/2017

1 connect to the storm drain facility for Tract No. 32290-1. Together,
2 LINE B and LINE C are called "DISTRICT FACILITIES"; and

3 D. Associated with the construction of DISTRICT FACILITIES is the
4 construction of certain catch basins, connector pipes, inlets, maintenance access road and various
5 lateral storm drains that are thirty-six inches (36") or less in diameter that are located within
6 COUNTY held easements or rights of way ("APPURTENANCES"); and
7

8 E. Together, DISTRICT FACILITIES and APPURTENANCES are
9 hereinafter called "PROJECT"; and

10 F. All parties recognize and acknowledge that DISTRICT FACILITIES will
11 not be accepted for ownership, operation and maintenance responsibilities by DISTRICT until
12 the Warm Springs Valley – Spencers Crossing Parkway, Stage 1 and Warm Springs Valley –
13 Myoporum Lane Storm Drain, Stage 1 (Tract No. 32290-1), hereinafter called "STAGE 1
14 FACILITIES" are accepted by DISTRICT; and
15

16 G. DEVELOPER and COUNTY desire DISTRICT to ultimately accept
17 ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES.
18 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
19 PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and
20

21 H. DEVELOPER and DISTRICT desire COUNTY to accept ownership and
22 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY
23 must review and approve DEVELOPER'S plans and specifications for PROJECT and
24 subsequently inspect and approve the construction of APPURTENANCES; and
25

26 I. DEVELOPER is willing to assume ownership, operation and maintenance
27 responsibilities of DISTRICT FACILITIES on an interim basis as set forth herein, with the
28 recognition and understanding that the actual acceptance of DISTRICT FACILITIES for

1 ownership, operation and maintenance responsibilities by DISTRICT is entirely dependent upon:
2 (i) DISTRICT acceptance of ownership and responsibility for the operation and maintenance of
3 STAGE 1 FACILITIES; (ii) DISTRICT FACILITIES being constructed in accordance with
4 plans and specifications approved by DISTRICT and as set forth herein; (iii) DISTRICT'S sole
5 determination that DISTRICT FACILITIES are in a satisfactorily maintained condition; and (iv)
6 DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely
7 determined by the DISTRICT; and
8

9 J. DISTRICT is willing to: (i) review and approve DEVELOPER'S plans and
10 specifications for PROJECT; (ii) inspect the construction of DISTRICT FACILITIES; and (iii)
11 ultimately accept ownership and responsibility for the operation and maintenance of DISTRICT
12 FACILITIES provided DEVELOPER: (a) complies with this Agreement; (b) constructs
13 PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications; (c)
14 obtains and conveys to DISTRICT all rights of way necessary for the inspection, operation and
15 maintenance of DISTRICT FACILITIES as set forth herein; and (d) accepts ownership and
16 responsibility for the operation and maintenance of PROJECT following completion of
17 PROJECT construction until such time as DISTRICT accepts ownership and responsibility for
18 the operation and maintenance of DISTRICT FACILITIES and COUNTY accepts ownership
19 and responsibility for operation and maintenance of APPURTENANCES; and
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21
22 K. COUNTY is willing to: (i) review and approve DEVELOPER'S plans and
23 specifications for PROJECT; (ii) inspect the construction of PROJECT; (iii) accept and hold
24 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT
25 FACILITIES and APPURTENANCES; (iv) grant DISTRICT the right to inspect, operate and
26 maintain DISTRICT FACILITIES within COUNTY rights of way; and (v) accept ownership and
27 responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is
28

1 constructed in accordance with plans and specifications approved by DISTRICT and COUNTY;
2 and

3 L. DEVELOPER shall grant DISTRICT a blanket Right of Entry Maintenance
4 Agreement over Tract No. 37053-2 ("STAGE 3 FACILITY") that authorizes DISTRICT to
5 operate and maintain the inlet structure as shown on Sheet 18 of DISTRICT'S Drawing Number
6 7-0543 and all its appurtenant works including ingress and egress. The Right of Entry
7 Maintenance Agreement shall remain in effect until such time as the Cooperative Agreement for
8 the STAGE 3 FACILITY is fully executed.

9
10 NOW, THEREFORE, the parties hereto mutually agree as follows:

11 SECTION I

12 DEVELOPER shall:

13
14 1. Prepare PROJECT plans and specifications, hereinafter called
15 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY
16 standards, and submit to DISTRICT and COUNTY for their review and approval.

17
18 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic
19 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by
20 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,
21 review and approval of rights of way and conveyance documents, and with the processing and
22 administration of this Cooperative Agreement.

23
24 3. Deposit with DISTRICT (Attention: Business Office - Accounts
25 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
26 construction as set forth in Section I.8., the estimated cost of providing construction inspection
27 for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in
28 accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any

1 amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time
2 the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with
3 DISTRICT, DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary
4 by DISTRICT to complete inspection of PROJECT within thirty (30) days after receipt of billing
5 from DISTRICT.
6

7 4. Pay DISTRICT, upon execution of this Cooperative Agreement, the one-
8 time cash sum of twenty-two thousand dollars (\$22,000), the amount agreed upon to cover
9 DISTRICT'S estimated cost to operate and maintain DISTRICT FACILITIES for a period of ten
10 (10) years (Zone 7 - Maintenance Trust Fund) commencing upon DISTRICT'S acceptance of
11 DISTRICT FACILITIES as complete for ownership, operation and maintenance.
12

13 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
14 permits and rights of entry as may be needed for the construction, inspection, operation and
15 maintenance of PROJECT. DEVELOPER shall furnish DISTRICT and COUNTY, at the time
16 of providing written notice to DISTRICT of the start of construction as set forth in Section I.8.
17 or not less than twenty (20) days prior to recordation of the final map for Tract No. 37053-1 or
18 any phase thereof, whichever occurs first, with sufficient evidence of DEVELOPER having
19 secured such necessary licenses, agreements, permits and rights of entry, as determined and
20 approved by DISTRICT and COUNTY.
21

22 6. Prior to commencing construction, furnish DISTRICT and COUNTY with
23 copies of all permits, approvals or agreements required by any federal, state or local resource
24 and/or regulatory agency for the construction, operation and maintenance of PROJECT. Such
25 documents include, but are not limited to, those issued by the U.S. Army Corps of Engineers,
26 California Regional Water Quality Control Board, California State Department of Fish and
27
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1 Wildlife, State Water Resources Control Board and Western Riverside County Regional
2 Conservation Authority ("REGULATORY PERMITS").

3 7. Provide COUNTY, at the time of providing written notice to DISTRICT of
4 the start of construction as set forth in Section I.8. or not less than twenty (20) days prior to
5 recordation of the final map for Tract No. 37053-1 or any phase thereof, whichever occurs first,
6 with faithful performance and payment bonds, each in the amount of one hundred percent (100%)
7 of the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT
8 and of the APPURTENANCES as determined by the COUNTY. The surety, amount and form
9 of the bonds shall be subject to approval of DISTRICT and COUNTY. The bonds shall remain
10 in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and COUNTY
11 as complete; at which time the bond amount may be reduced to five percent (5%) for a period of
12 one (1) year to guarantee against any defective work, labor or materials.

15 8. Notify DISTRICT in writing (Attention: Contract Services Section) at least
16 twenty (20) days prior to the start of construction of PROJECT. Construction shall not begin on
17 any element of PROJECT, for any reason whatsoever, until DISTRICT and COUNTY have
18 issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence
19 construction of PROJECT.

21 9. Grant DISTRICT and COUNTY, by execution of this Agreement, the right
22 to enter upon DEVELOPER'S property where necessary and convenient for the purpose of
23 gaining access to and performing inspection service for the construction of PROJECT as set forth
24 herein.

26 10. Obtain and provide DISTRICT (Attention: Right of Way Acquisition
27 Section), at the time of providing written notice to DISTRICT of the start of construction as set
28 forth in Section I.8. or not less than twenty (20) days prior to the recordation of the final map for

1 Tract No. 37053-1, with duly executed Irrevocable Offers(s) of Dedication to the public for flood
2 control and drainage purposes, including ingress and egress, for the rights of way deemed
3 necessary by DISTRICT for the construction, inspection, operation and maintenance of
4 DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved
5 by DISTRICT and shall be executed by all legal and equitable owners of the property described
6 in the offer(s).
7

8 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of Dedication
9 as set forth in Section I.10., with Preliminary Reports on Title dated not more than thirty (30)
10 days prior to date of submission of all the property described in the Irrevocable Offer(s) of
11 Dedication.
12

13 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT
14 and COUNTY of the start of construction as set forth in Section I.8., with a complete list of all
15 contractors and subcontractors to be performing work on PROJECT, including the corresponding
16 license number and license classification of each. At such time, DEVELOPER shall further
17 identify in writing its designated superintendent for PROJECT construction.
18

19 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT
20 and COUNTY of the start of construction as set forth in Section I.8., a construction schedule
21 which shall show the order and dates in which DEVELOPER or DEVELOPER'S contractor
22 proposes to carry out the various parts of work, including estimated start and completion dates.
23 As construction of PROJECT progresses, DEVELOPER shall update said construction schedule
24 as requested by DISTRICT and/or COUNTY.
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26 14. Furnish DISTRICT with final mylar plans for DISTRICT FACILITIES, and
27 assign their ownership to DISTRICT prior to the start on any portion of PROJECT construction.
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1 15. Not permit any change to or modification of DISTRICT and COUNTY
2 approved IMPROVEMENT PLANS without the prior written permission and consent of
3 DISTRICT and COUNTY.

4 16. Comply with all Cal/OSHA safety regulations including, but not limited to,
5 regulations concerning confined space and maintain a safe working environment for
6 DEVELOPER, DISTRICT and COUNTY employees on the site.

7 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
8 the start of construction as set forth in Section I.8., a confined space entry procedure specific to
9 PROJECT. The procedure shall comply with requirements contained in California Code of
10 Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit
11 Required Confined Space and District Confined Space Procedures, SOM-18. The procedure
12 shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed.

13 18. DEVELOPER shall not commence operations until DISTRICT and
14 COUNTY have been furnished with original certificate(s) of insurance and original certified
15 copies of endorsements and, if requested, certified original policies of insurance including all
16 endorsements and any and all other attachments as required in this section.

17 Without limiting or diminishing DEVELOPER'S obligation to indemnify or
18 hold DISTRICT or COUNTY harmless, DEVELOPER shall procure and maintain or cause to
19 be maintained, at its sole cost and expense, the following insurance coverages during the term of
20 this Agreement:

21 A. Workers' Compensation:

22 If DEVELOPER has employees as defined by the State of California,
23 DEVELOPER shall maintain statutory Workers' Compensation
24 Insurance (Coverage A) as prescribed by the laws of the State of
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1 California. Policy shall include Employers' Liability (Coverage B)
2 including Occupational Disease with limits not less than \$1,000,000
3 per person per accident. Policy shall be endorsed to waive subrogation
4 in favor of DISTRICT and COUNTY.
5

6 B. Commercial General Liability:

7 Commercial General Liability insurance coverage including, but not
8 limited to, premises liability, unmodified contractual liability,
9 products and completed operations liability, personal and advertising
10 injury, and cross liability coverage, covering claims which may arise
11 from or out of DEVELOPER'S performance of its obligations
12 hereunder. Policy shall name the Riverside County Flood Control and
13 Water Conservation District and COUNTY, its agencies, districts,
14 special districts, and departments, their respective directors, officers,
15 Board of Supervisors, employees, elected or appointed officials,
16 agents or representatives as additional insureds. Policy's limit of
17 liability shall not be less than \$2,000,000 per occurrence combined
18 single limit. If such insurance contains a general aggregate limit, it
19 shall apply separately to this Agreement or be no less than two (2)
20 times the occurrence limit.
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22
23 C. Vehicle Liability:

24 If DEVELOPER'S vehicles or mobile equipment are used in the
25 performance of the obligations under this Agreement, then
26 DEVELOPER shall maintain liability insurance for all owned, non-
27 owned or hired vehicles so used in an amount not less than \$1,000,000
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1 per occurrence combined single limit. If such insurance contains a
2 general aggregate limit, it shall apply separately to this Agreement or
3 be no less than two (2) times the occurrence limit. Policy shall name
4 the Riverside County Flood Control and Water Conservation District
5 and COUNTY, its agencies, districts, special districts, and
6 departments, their respective directors, officers, Board of Supervisors,
7 employees, elected or appointed officials, agents or representatives as
8 additional insureds.
9

10 D. Professional Liability:

11 DEVELOPER shall cause any architect or engineer retained by
12 DEVELOPER in connection with the performance of DEVELOPER's
13 obligations under this Agreement to maintain Professional Liability
14 Insurance providing coverage for the performance of their work
15 included within this Agreement, with a limit of liability of not less than
16 \$2,000,000 per occurrence and \$4,000,000 annual aggregate.
17 DEVELOPER shall require that, if such Professional Liability
18 Insurance is written on a claims made basis rather than an occurrence
19 basis, such insurance shall continue through the term of this
20 Agreement and that such architect or engineer shall purchase at such
21 architect or engineer's sole expense either: 1) an Extended Reporting
22 Endorsement (also known as Tail Coverage); or 2) Prior Dates
23 Coverage from a new insurer with a retroactive date back to the date
24 of or prior to the inception of this Agreement; or 3) demonstrate
25 through Certificates of Insurance that such architect or engineer has
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1 maintained continuous coverage with the same or original insurer.
2 Coverage provided under items: 1), 2) or 3) shall continue for the term
3 specified in the insurance policy as long as the law allows.
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5 E. General Insurance Provisions – All Lines:

- 6 i. Any insurance carrier providing insurance coverage hereunder shall
7 be admitted to the State of California and have an A.M. BEST rating
8 of not less than an A: VIII (A: 8) unless such requirements are waived,
9 in writing, by the County Risk Manager. If the County Risk Manager
10 waives a requirement for a particular insurer such waiver is only valid
11 for that specific insurer and only for one policy term.
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- 13 ii. DEVELOPER must declare its insurance self-insured retention for
14 each coverage required herein. If any such self-insured retention
15 exceeds \$500,000 per occurrence each such retention shall have the
16 prior written consent of the County Risk Manager before the
17 commencement of operations under this Agreement. Upon
18 notification of self-insured retention deemed unacceptable to the
19 DISTRICT, and at the election of the County Risk Manager,
20 DEVELOPER'S carriers shall either: 1) reduce or eliminate such self-
21 insured retention with respect to this Agreement with DISTRICT; or
22 2) procure a bond which guarantees payment of losses and related
23 investigations, claims administration and defense costs and expenses.
24
- 25 iii. DEVELOPER shall cause their insurance carrier(s) or its contractor's
26 insurance carrier(s), to furnish DISTRICT with: 1) a properly
27 executed original certificate(s) of insurance and certified original
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1 copies of endorsements effecting coverage as required herein; and 2)
2 if requested to do so orally or in writing by the County Risk Manager,
3 provide original certified copies of policies including all
4 endorsements and all attachments thereto, showing such insurance is
5 in full force and effect. Further, said certificate(s) and policies of
6 insurance shall contain the covenant of the insurance carrier(s) that a
7 minimum of sixty (60) days written notice shall be given to the
8 DISTRICT prior to any material modification, cancellation,
9 expiration or reduction in coverage of such insurance. If
10 DEVELOPER insurance carrier(s) policies does not meet the
11 minimum notice requirement found herein, DEVELOPER shall cause
12 DEVELOPER'S insurance carrier(s) to furnish a 60 day Notice of
13 Cancellation Endorsement. In the event of a material modification,
14 cancellation, expiration or reduction in coverage, this Agreement
15 shall terminate forthwith, unless DISTRICT receives, prior to such
16 effective date, another properly executed original certificate of
17 insurance and original copies of endorsements or certified original
18 policies, including all endorsements and attachments thereto,
19 evidencing coverages set forth herein and the insurance required
20 herein is in full force and effect. An individual authorized by the
21 insurance carrier to do so on its behalf shall sign the original
22 endorsements for each policy and the certificate of insurance.
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- 27 iv. It is understood and agreed by the parties hereto that DEVELOPER'S
28 insurance shall be construed as primary insurance, and DISTRICT'S

1 insurance and/or deductibles and/or self-insured retentions or self-
2 insured programs shall not be construed as contributory.

3 v. If, during the term of this Agreement or any extension thereof, there
4 is a material change in the scope of services or there is a material
5 change in the equipment to be used in the performance of the scope
6 of work which will add additional exposures (such as the use of
7 aircraft, watercraft, cranes, etc.), or the term of this Agreement,
8 including any extensions thereof, exceeds five (5) years, DISTRICT
9 reserves the right to adjust the types of insurance required under this
10 Agreement and the monetary limits of liability for the insurance
11 coverages currently required herein, if, in the County Risk Manager's
12 reasonable judgment, the amount or type of insurance carried by
13 DEVELOPER has become inadequate.

14 vi. DEVELOPER shall pass down the insurance obligations contained
15 herein to all tiers of subcontractors working under this Agreement.

16 vii. The insurance requirements contained in this Agreement may be met
17 with a program(s) of self-insurance acceptable to DISTRICT.

18 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third
19 party or any incident or event that may give rise to a claim arising
20 from the performance of this Agreement.

21 Failure to maintain the insurance required by this paragraph shall be deemed a
22 material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at
23 its sole discretion, to provide written notice to DEVELOPER that DISTRICT is unable to
24 perform its obligations hereunder, nor to accept responsibility for ownership, operation and
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1 maintenance of DISTRICT FACILITIES due, either in whole or in part, to said breach of this
2 Agreement.

3 19. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole cost
4 and expense in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.

5 20. Within two (2) weeks of completing PROJECT construction, provide
6 DISTRICT (Attention: Construction Management Section) and COUNTY with written notice
7 that PROJECT construction is substantially complete and requesting that DISTRICT conduct a
8 final inspection of DISTRICT FACILITIES and COUNTY conduct a final inspection of
9 APPURTENANCES. It is mutually understood that, prior to DISTRICT acceptance of
10 ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES,
11 DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely determined
12 by DISTRICT.
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14

15 21. Upon completion of PROJECT construction, and upon acceptance by
16 COUNTY of all rights of way deemed necessary by DISTRICT and COUNTY for the operation
17 and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT FACILITIES
18 for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the
19 flood control easement(s), including ingress and egress, for the rights of way.
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21 22. At the time of recordation of the conveyance document(s) as set forth in
22 Section I.21., furnish DISTRICT with policies of title insurance, each in the amount of not less
23 than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
24 easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the
25 estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT,
26 guaranteeing DISTRICT'S interest in said property as being free and clear of all liens,
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1 encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except
2 those which, in the sole discretion of DISTRICT, are acceptable.

3 23. Accept ownership and sole responsibility for the operation and maintenance
4 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
5 and maintenance of DISTRICT FACILITIES and STAGE 1 FACILITIES and COUNTY accepts
6 ownership and responsibility for operation and maintenance of APPURTENANCES.
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8 24. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
9 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
10 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees
11 shall be computed as costs and included in any judgment rendered.
12

13 25. Upon completion of PROJECT construction, but prior to DISTRICT
14 acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or
15 cause its civil engineer of record or construction civil engineer of record, duly registered in the
16 State of California, to provide DISTRICT with a redlined "record drawings" copy of PROJECT
17 plans. After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer
18 shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original
19 mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign the original
20 PROJECT engineering plans "record drawings".
21

22 26. Ensure that all work performed pursuant to this Agreement by
23 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
24 regulations, including but not limited to all applicable provisions of the Labor Code, Business
25 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
26 associated with compliance with applicable laws and regulations.
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SECTION II

DISTRICT shall:

1. Review IMPROVEMENT PLANS and approve when DISTRICT has determined that such plans meet DISTRICT standards and are found acceptable to DISTRICT prior to the start of PROJECT construction.
2. Provide COUNTY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT'S final approval.
3. Upon execution of this Agreement, record or cause to be recorded a copy of this Agreement in the Official Records of the Riverside County Recorder.
4. Record or cause to be recorded the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.10.
5. Inspect construction of DISTRICT FACILITIES.
6. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS, the review and approval of right of way and conveyance documents, and the processing and administration of this Agreement.
7. Keep an accurate accounting of all DISTRICT construction inspection costs and, within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit as set forth in Section I.3. exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.
8. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) the completion of DISTRICT FACILITIES construction; (ii) DISTRICT acceptance of STAGE 1 FACILITIES for ownership, operation and maintenance; (iii) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.20.; (iv)

1 5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication
2 as set forth herein and any other outstanding offers of dedication necessary for the construction,
3 inspection, operation and maintenance of DISTRICT FACILITIES, and convey sufficient rights
4 of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT
5 FACILITIES.
6

7 6. Grant DISTRICT, by execution of this Agreement, the right to construct,
8 inspect, operate and maintain DISTRICT FACILITIES within COUNTY rights of way.

9 7. Accept ownership and sole responsibility for the operation and maintenance
10 of APPURTENANCES upon COUNTY acceptance of PROJECT construction as being
11 complete.
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13 8. Not grant any occupancy permits for any units within any portion of Tract
14 No. 37053-1 or any phase thereof until construction of PROJECT is complete, unless otherwise
15 approved in writing by DISTRICT.

16 9. Upon DISTRICT and COUNTY acceptance of PROJECT construction as
17 being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and
18 covers located within COUNTY rights of way which must be performed at such time(s) that the
19 finished grade along and above the underground portions of DISTRICT FACILITIES are
20 improved, repaired, replaced or changed. It being further understood and agreed that any such
21 adjustments shall be performed at no cost to DISTRICT.
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1 5. If DEVELOPER fails to commence construction of PROJECT within nine
2 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to
3 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as
4 they exist at the time DEVELOPER provides written notification to DISTRICT of the start of
5 construction as set forth in Section I.8. In the event of a change in the existing site conditions
6 that materially affects PROJECT function or DISTRICT'S ability to operate and maintain
7 DISTRICT FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT
8 PLANS as deemed necessary by DISTRICT.
9

10 6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed
11 within twenty (20) days of receipt of DEVELOPER'S complete written notice, as set forth in
12 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
13 issuance of a Notice to Proceed is subject to staff availability.
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15 In the event DEVELOPER wishes to expedite issuance of a Notice to
16 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
17 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
18 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
19 approval. DISTRICT shall review the individual's qualifications and experience and, upon
20 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be
21 authorized to act on DISTRICT'S behalf on all PROJECT construction and quality control
22 matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section
23 I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to
24 eighty percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of
25 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand
26 dollars (\$10,000) shall be retained on account.
27
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1 7. PROJECT construction work shall be on a five (5) day, forty (40) hour work
2 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless
3 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more
4 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written
5 request for permission from DISTRICT and COUNTY to work the additional hours. The request
6 shall be submitted to DISTRICT and COUNTY at least seventy-two (72) hours prior to the
7 requested additional work hours and state the reasons for the overtime and the specific time
8 frames required. The decision of granting permission for overtime work shall be made by
9 DISTRICT at its sole discretion and shall be final. If permission is granted by DISTRICT,
10 DEVELOPER will be charged the cost incurred at the overtime rates for additional inspection
11 time required in connection with the overtime work in accordance with Ordinance Nos. 671 and
12 749, including any amendments thereto, of the County of Riverside.

15 8. DEVELOPER shall indemnify and hold harmless DISTRICT and
16 COUNTY (including their agencies, districts, special districts and departments, their respective
17 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and
18 representatives) from any liability, claim, damage, proceeding or action, present or future, based
19 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,
20 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,
21 performance under this Agreement, or failure to comply with the requirements of this Agreement,
22 including but not limited to: (a) property damage; (b) bodily injury or death; (c) liability or
23 damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of
24 the United States Constitution or any other law, ordinance or regulation caused by the diversion
25 of waters from the natural drainage patterns or the discharge of drainage within or from
26 PROJECT; or (d) any other element of any kind or nature whatsoever.

1 DEVELOPER shall defend, at its sole expense, including all costs and fees
2 (including but not limited to attorney fees, cost of investigation, defense and settlements or
3 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
4 departments, their respective directors, officers, Board of Supervisors, elected and appointed
5 officials, employees, agents and representatives) in any claim, proceeding or action for which
6 indemnification is required.
7

8 With respect to any of DEVELOPER'S indemnification requirements,
9 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
10 have the right to adjust, settle, compromise any such claim, proceeding or action without the prior
11 consent of DISTRICT and COUNTY; provided, however, that any such adjustment, settlement
12 or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S
13 indemnification obligations to DISTRICT or COUNTY.
14

15 DEVELOPER'S indemnification obligations shall be satisfied when
16 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or
17 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding
18 or action involved.
19

20 The specified insurance limits required in this Cooperative Agreement shall
21 in no way limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless
22 DISTRICT and COUNTY from third party claims.

23 In the event there is conflict between this section and California Civil Code
24 Section 2782, this section shall be interpreted to comply with California Civil Code Section 2782.
25 Such interpretation shall not relieve the DEVELOPER from indemnifying DISTRICT or
26 COUNTY to the fullest extent allowed by law.
27
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1 9. DEVELOPER for itself, its successors and assigns hereby releases
2 DISTRICT and COUNTY, their respective officers, agents, and employees from any and all
3 claims, demands, actions, or suits of any kind arising out of any liability, known or unknown,
4 present or future, including, but not limited to any claim or liability, based or asserted, pursuant
5 to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States
6 Constitution, or any other law or ordinance which seeks to impose any other liability or damage,
7 whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing
8 contained herein shall constitute a release by DEVELOPER of DISTRICT or COUNTY, their
9 officers, agents and employees from any and all claims, demands, actions or suits of any kind
10 arising out of any liability, known or unknown, present or future, for the negligent maintenance
11 of DISTRICT FACILITIES and APPURTENANCES, after the acceptance of DISTRICT
12 FACILITIES and APPURTENANCES by DISTRICT and COUNTY, respectively.
13
14

15 10. Any waiver by DISTRICT or by COUNTY of any breach of any one or
16 more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or
17 other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
18 COUNTY to require exact, full and complete compliance with any terms of this Agreement shall
19 not be construed as, in any manner, changing the terms hereof, or estopping DISTRICT or
20 COUNTY from enforcement hereof.
21

22 11. This Agreement is to be construed in accordance with the laws of the State
23 of California. If any provision in this Agreement is held by a court of competent jurisdiction to
24 be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect
25 without being impaired or invalidated in any way.
26

27 12. Any and all notices sent or required to be sent to the parties of this
28 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

1 RIVERSIDE COUNTY FLOOD CONTROL
2 AND WATER CONSERVATION DISTRICT
3 1995 Market Street
4 Riverside, CA 92501
5 Attn: Contract Services Section

COUNTY OF RIVERSIDE
4080 Lemon Street, 8th Floor
Riverside, CA 92502-1090
Attn: Transportation Department
Plan Check Section

6 RIVERSIDE MITLAND 03 LLC
7 3200 Park Center Drive, Suite 1000
8 Costa Mesa, CA 92626
9 Attn: David E. Bartlett

10 13. Any action at law or in equity brought by any of the parties hereto for the
11 purpose of enforcing a right or rights provided for by the Agreement shall be tried in a court of
12 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
13 waive all provisions of law providing for a change of venue in such proceedings to any other
14 county.

15 14. This Agreement is the result of negotiations between the parties hereto, and
16 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
17 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
18 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
19 prepared this Agreement in its final form.

20 15. The rights and obligations of DEVELOPER shall inure to and be binding
21 upon all heirs, successors and assignees.

22 16. DEVELOPER shall not assign or otherwise transfer any of its rights, duties
23 or obligations hereunder to any person or entity without the written consent of the other parties
24 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER
25 expressly understands and agrees that it shall remain liable with respect to any and all of the
26 obligations and duties contained in this Agreement.
27
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1 17. The individual(s) executing this Agreement on behalf of DEVELOPER
2 certify that they have the authority within their respective company(ies) to enter into and execute
3 this Agreement, and have been authorized to do so by all boards of directors, legal counsel, and/or
4 any other board, committee or other entity within their respective company(ies) which have the
5 authority to authorize or deny entering into this Agreement.
6

7 18. This Agreement is intended by the parties hereto as a final expression of
8 their understanding with respect to the subject matter hereof and as a complete and exclusive
9 statement of the terms and conditions thereof and supersedes any and all prior and
10 contemporaneous agreements and understandings, oral or written, in connection therewith. This
11 Agreement may be changed or modified only upon the written consent of the parties hereto.
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By _____
JASON E. UHLEY
General Manager-Chief Engineer

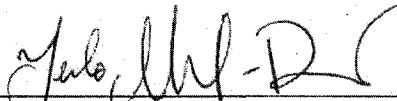
By _____
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By  _____
LEILA MOSHREF-DANESH
Deputy County Counsel

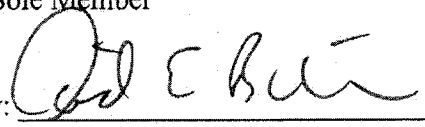
By _____
Deputy
(SEAL)

Cooperative Agreement for:
Warm Springs Valley – Spencers Crossing Parkway, Stage 2
Warm Springs Valley – Myoporium Lane Storm Drain, Stage 2
Project Nos. 7-0-00238 and 7-0-00239
Tract No. 37053-1
08/21/17
AMR:cw

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RIVERSIDE MITLAND 03 LLC,
a Delaware limited liability company

By: Brookfield Southern California Land LLC,
a Delaware limited liability company
its Sole Member

By: 

DAVID E. BARTLETT
Vice President

By: 

RICHARD T. WHITNEY
Chief Financial Officer

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement for
Warm Springs Valley – Spencers Crossing Parkway, Stage 2
Warm Springs Valley – Myoporium Lane Storm Drain, Stage 2
Project Nos. 7-0-00238 and 7-0-00239
Tract No. 37053-1
08/21/17
AMR:cw

Exhibit A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIVERSIDE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCELS 2 TO 6 INCLUSIVE AND 8 TO 12 INCLUSIVE, OF PARCEL MAP NO. 14390, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP ON FILE IN BOOK 84, PAGES 39 THROUGH 41, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING FROM SAID PARCEL 3 THOSE PORTIONS DESCRIBED IN THE DEED TO EASTERN MUNICIPAL WATER DISTRICT RECORDED FEBRUARY 2, 1988 AS INSTRUMENT NO. 28226 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER.

ALSO EXCEPTING FROM PARCEL 6 THOSE PORTIONS LYING WITHIN THE BOUNDARIES OF TRACT NO. 30696-4, AS SHOWN ON A MAP RECORDED IN BOOK 422, PAGES 36 THROUGH 46, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID OF SAID COUNTY.

ALSO EXCEPTING FROM PARCELS 5 AND 6 THOSE PORTIONS LYING WITHIN THE BOUNDARIES OF TRACT NO. 30696, AS SHOWN ON A MAP RECORDED IN BOOK 436, PAGES 84 THROUGH 89, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID OF SAID COUNTY.

ALSO EXCEPT THEREFROM THOSE PORTIONS LYING WITHIN TRACT NO. 32290-1 AS MAP FILED IN BOOK 453, PAGES 10 THROUGH 24 INCLUSIVE, OF MAPS, RECORDS OF SAID COUNTY.

APN: 480-010-023; 480-010-025; 480-010-026; 480-020-009; 480-020-010; 480-020-011; 480-020-13; 480-020-014; 480-020-032; 480-020-035

PARCEL B:

LOT 519 AND 525 OF TRACT NO. 30433, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP RECORDED IN BOOK 438, AT PAGES 23 THROUGH 60, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE RIVERSIDE COUNTY RECORDER.

APN: 480-670-031, 480-661-16

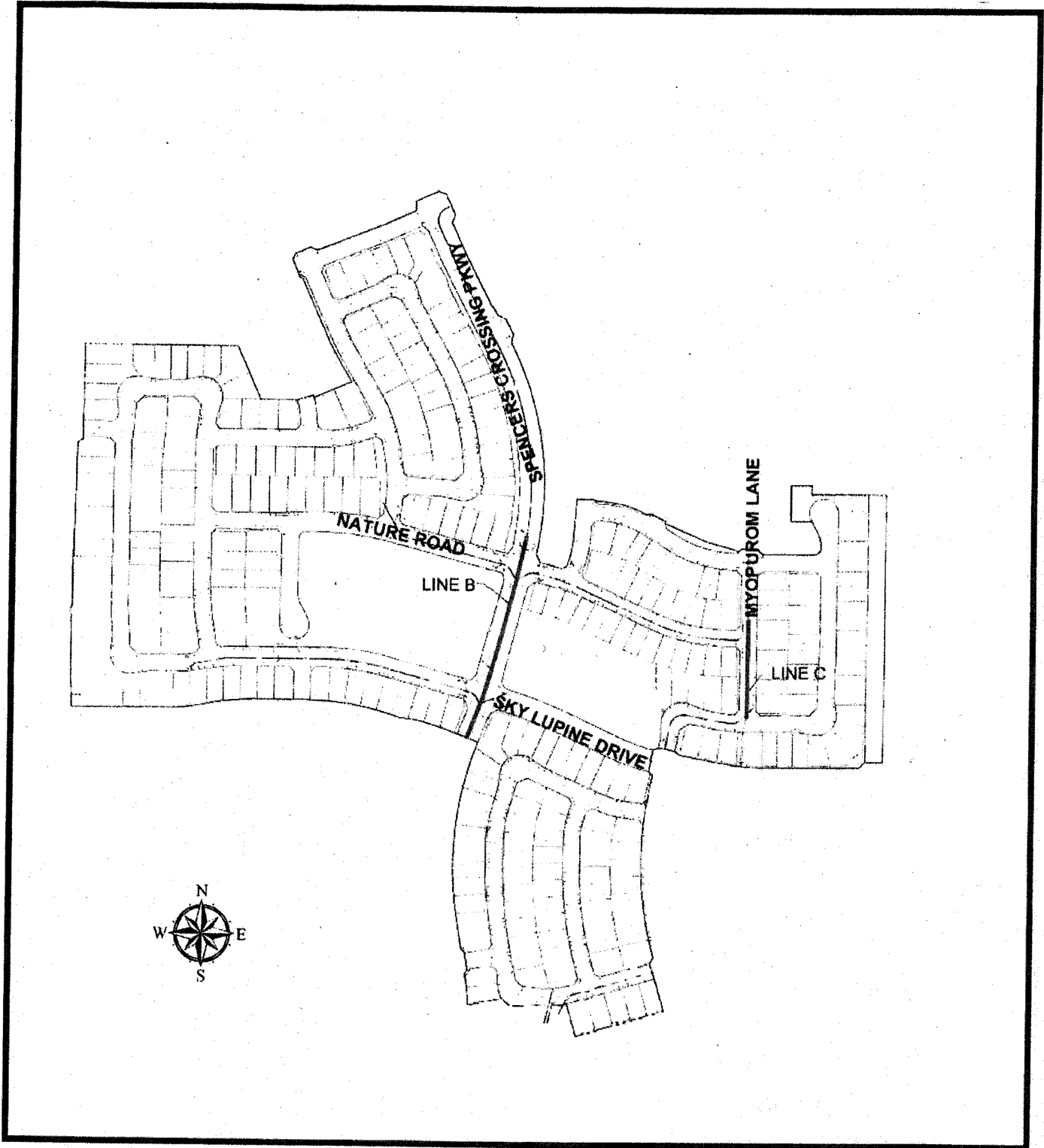
COOPERATIVE AGREEMENT

Warm Springs Valley – Spencers Crossing Parkway, Stage 2
Warm Springs Valley – Myoporum Lane Storm Drain, Stage 2
Project Nos. 7-0-00238 and 7-0-00239

Tract No. 37053-1

Page 1 of 1

Exhibit B



COOPERATIVE AGREEMENT

Warm Springs Valley – Spencers Crossing Parkway, Stage 2
Warm Springs Valley – Myoporum Lane Storm Drain, Stage 2
Project Nos. 7-0-00238 and 7-0-00239
Tract No. 37053-1
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