

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



ITEM  
3.28  
(ID # 5347)

MEETING DATE:

Tuesday, October 17, 2017

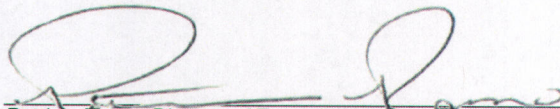
FROM : TLMA-TRANSPORTATION:

SUBJECT: TR31633 TRANSPORTATION AND LAND MANAGEMENT AGENCY/  
TRANSPORTATION: Approval of the Cooperative Agreement between the  
County of Riverside, Flood Control and Water Conservation District, and SR  
Conestoga, LLC for Winchester Hills – Line 3, Stage 3 storm drain (Tract No.  
31633), Project No. 4-0-0057; 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 SR Conestoga, LLC (Developer); and
2. Authorize the Chairman of the Board to execute the same.

ACTION: Policy

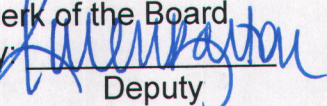
  
Patricia Romo, Director of Transportation 9/21/2017

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MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, 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 17, 2017  
xc: Transp., Flood

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

(Companion Item 11.4)

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Developer is funding all construction and construction inspection costs. 100%			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 17/18	

**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. 31633, are to be constructed, inspected, operated and maintained by the Riverside County Flood Control and Water Conservation District and County Transportation Department (Transportation Department). The Tract is located in the Winchester area and is south of Domenigoni Parkway.

The 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**

As noted above, construction of these drainage improvements is a requirement for the development of Tract No. 31633. The principal beneficiaries are the future residents of the tracts. Ancillary benefits will accrue to citizens who will utilize the tract's roadways.

**SUPPLEMENTAL:**

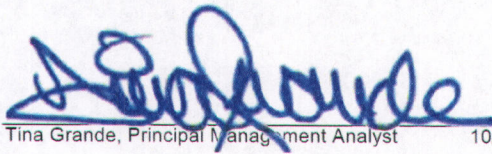
**Additional Fiscal Information**

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 right of way will accrue to County Transportation Department.

**ATTACHMENTS:**

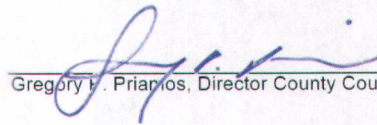
Cooperative Agreement  
Vicinity Map

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



Tina Grande, Principal Management Analyst

10/8/2017



Gregory L. Priamos, Director County Counsel

9/26/2017

COOPERATIVE AGREEMENT  
Winchester Hills – Line 3, Stage 3  
Project No. 4-0-0577  
Tract No. 31633

The Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the County of Riverside, a political subdivision of the State of California ("COUNTY"), and SR Conestoga, LLC, a Delaware limited liability company ("DEVELOPER"), hereby agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property, including Tract No. 31633, located within the County of Riverside. DEVELOPER has submitted for approval Tract No. 31633 located in an unincorporated area of western Riverside County. As a condition of approval for Tract No. 31633, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The required flood control facilities and drainage improvements, as shown on District Drawing No. 4-1115, include construction of approximately 2,200 lineal feet of underground storm drain system ("LINE 3 STAGE 3"), as shown in concept in red on Exhibit "A" attached hereto and made a part hereof. At its downstream terminus, LINE 3 STAGE 3 will connect to the proposed Winchester Hills – Line 3, Stage 2 storm drain facility for Tract No. 31141, as shown on District Drawing No. 4-0903. LINE 3 STAGE 3 is hereinafter called "DISTRICT FACILITY"; and

C. Associated with the construction of DISTRICT FACILITY is the construction of certain graded earthen channel, catch basins, inlets, outlets, connector pipes, curbs and gutters, access roads and various lateral storm drains that are thirty-six inches (36") or less in

1 diameter that are located within COUNTY held easements or rights of way  
2 ("APPURTENANCES"); and

3 D. Also associated with the construction of DISTRICT FACILITY is the  
4 construction of a water quality basin ("DEVELOPER BASIN"); and

5 E. DEVELOPER BASIN is to be located within privately held easements or  
6 rights of way, and is to be initially owned and maintained by DEVELOPER and subsequently  
7 owned by the Homeowners' Association for Tract No. 31633 and maintained by the Homeowners'  
8 Association for Tract No. 31633 or via the anticipated formation of a maintenance Community  
9 Facilities District ("CFD"); and

10 F. Altogether DISTRICT FACILITY, APPURTENANCES and DEVELOPER  
11 BASIN are called "PROJECT"; and

12 G. All parties recognize and acknowledge that Winchester Hills – Line 3, Stage  
13 1 (Tract No. 31632) called "PROPOSED LINE 3 STAGE 1" and Winchester Hills – Line 3, Stage  
14 2 called "PROPOSED LINE 3 STAGE 2" are to be constructed by DEVELOPER in conjunction  
15 with PROJECT pursuant to separate Cooperative Agreements between DISTRICT, COUNTY  
16 and DEVELOPER. Said Cooperative Agreements are hereinafter called the "LINE 3 STAGE 1  
17 AGREEMENT" and the "LINE 3 STAGE 2 AGREEMENT", respectively. DISTRICT will not  
18 accept DISTRICT FACILITY for ownership, operation and maintenance until PROPOSED LINE  
19 3 STAGE 1 and PROPOSED LINE 3 STAGE 2 are completed pursuant to their respective  
20 Cooperative Agreements and accepted for ownership, operation and maintenance by DISTRICT;  
21 and

22 H. DEVELOPER and COUNTY desire DISTRICT to ultimately accept  
23 ownership and responsibility for the operation and maintenance of DISTRICT FACILITY.  
24

1 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for  
2 PROJECT and subsequently inspect the construction of DISTRICT FACILITY; and

3 I. DEVELOPER and DISTRICT desire COUNTY to accept ownership and  
4 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY  
5 must review and approve DEVELOPER'S plans and specifications for PROJECT and  
6 subsequently inspect the construction of APPURTENANCES; and

7  
8 J. DEVELOPER is willing to assume ownership, operation and maintenance  
9 responsibilities of DISTRICT FACILITY on an interim basis as set forth herein, with the  
10 recognition and understanding that the actual acceptance of DISTRICT FACILITY for ownership,  
11 operation and maintenance responsibilities by DISTRICT is entirely dependent upon (i) the  
12 construction of PROPOSED LINE 3 STAGE 1 and PROPOSED LINE 3 STAGE 2 as being  
13 complete; (ii) DISTRICT acceptance of ownership and responsibility for the operation and  
14 maintenance of PROPOSED LINE 3 STAGE 1 and PROPOSED LINE 3 STAGE 2; (iii)  
15 DISTRICT FACILITY being constructed in accordance with plans and specifications approved  
16 by DISTRICT and as set forth herein; (iv) DISTRICT'S sole determination that DISTRICT  
17 FACILITY is in a satisfactorily maintained condition; and (v) DISTRICT FACILITY is fully  
18 functioning as a flood control drainage system as solely determined by DISTRICT; and

19  
20 K. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and  
21 specifications for PROJECT; (ii) inspect the construction of DISTRICT FACILITY; and (iii)  
22 ultimately assume ownership and responsibility for the operation and maintenance of DISTRICT  
23 FACILITY, provided DEVELOPER (a) complies with this Agreement; (b) constructs PROJECT  
24 in accordance with DISTRICT and COUNTY approved plans and specifications; (c) obtains and  
25 conveys to DISTRICT all rights of way necessary for the inspection, operation and maintenance  
26 of DISTRICT FACILITY as set forth herein; and (d) accepts ownership and responsibility for the  
27  
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1 operation and maintenance of PROJECT following completion of PROJECT construction until  
2 such time as DISTRICT accepts ownership and responsibility for the operation and maintenance  
3 of DISTRICT FACILITY and COUNTY accepts ownership and responsibility for operation and  
4 maintenance of APPURTENANCES; and  
5

6 L. COUNTY is willing to (i) review and approve DEVELOPER'S plans and  
7 specifications for PROJECT; (ii) inspect the construction of PROJECT; (iii) accept and hold  
8 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITY  
9 and APPURTENANCES; (iv) grant DISTRICT the right to inspect, operate and maintain  
10 DISTRICT FACILITY within COUNTY rights of way; and (v) accept ownership and  
11 responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is  
12 constructed in accordance with plans and specifications approved by DISTRICT and COUNTY.  
13

14 NOW, THEREFORE, the parties hereto mutually agree as follows:

15 SECTION I

16 DEVELOPER shall:

17  
18 1. Prepare PROJECT plans and specifications ("IMPROVEMENT PLANS")  
19 in accordance with applicable DISTRICT and COUNTY standards, and submit to DISTRICT and  
20 COUNTY for their respective review and approval.

21 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic  
22 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by  
23 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,  
24 review and approval of rights of way and conveyance documents, and with the processing and  
25 administration of this Cooperative Agreement.  
26  
27  
28

1           3. Deposit with DISTRICT (Attention: Business Office - Accounts  
2 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
3 construction as set forth in Section I.8. herein, the estimated cost of providing construction  
4 inspection for DISTRICT FACILITY in an amount as determined and approved by DISTRICT  
5 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any  
6 amendments thereto, based upon the bonded value of DISTRICT FACILITY. If at any time the  
7 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with DISTRICT,  
8 DEVELOPER shall pay such additional amount(s) as deemed reasonably necessary by  
9 DISTRICT to complete inspection of DISTRICT FACILITY within thirty (30) days after receipt  
10 of billing from DISTRICT.  
11

12           4. Grant DISTRICT and COUNTY, by execution of this Cooperative  
13 Agreement, the right to enter upon DEVELOPER'S property where necessary and convenient for  
14 the purpose of gaining access to and performing inspection service for the construction of  
15 PROJECT as set forth herein.  
16

17           5. Secure, at its sole cost and expense, all necessary licenses, agreements,  
18 permits and rights of entry as may be needed for the construction, inspection, operation and  
19 maintenance of DISTRICT FACILITY. DEVELOPER shall furnish DISTRICT, at the time of  
20 providing written notice to DISTRICT of the start of construction as set forth in Section I.8., with  
21 sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits  
22 and rights of entry as determined and approved by DISTRICT.  
23

24           6. Prior to commencing construction, furnish DISTRICT with copies of all  
25 permits, approvals or agreements required by any federal, state or local resource and/or regulatory  
26 agency for the construction, operation and maintenance of DISTRICT FACILITY. Such  
27 documents include but are not limited to those issued by the U.S. Army Corps of Engineers,  
28

1 California Regional Water Quality Control Board, California State Department of Fish and  
2 Wildlife, State Water Resources Control Board and Western Riverside County Regional  
3 Conservation Authority ("REGULATORY PERMITS").  
4

5 7. Provide COUNTY, at the time of providing written notice to DISTRICT of  
6 the start of construction as set forth in Section I.8., with faithful performance and payment bonds,  
7 each in the amount of one hundred percent (100%) of the estimated cost for construction of  
8 DISTRICT FACILITY as determined by DISTRICT and of the APPURTENANCES as  
9 determined by COUNTY. The surety, amount and form of the bonds shall be subject to approval  
10 of DISTRICT and COUNTY. The bonds shall remain in full force and effect until PROJECT is  
11 accepted by DISTRICT and COUNTY as complete. At which time, the bond amount may be  
12 reduced to five percent (5%) for a period of one (1) year to guarantee against any defective work,  
13 labor or materials.  
14

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 has issued to  
18 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction  
19 of PROJECT.  
20

21 9. [INTENTIONALLY DELETED]

22 10. [INTENTIONALLY DELETED]

23 11. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
24 the start of construction as set forth in Section I.8., with a complete list of all contractors and  
25 subcontractors to be performing work on DISTRICT FACILITY, including the corresponding  
26 license number and license classification of each. At such time, DEVELOPER shall further  
27 identify in writing its designated superintendent for PROJECT construction.  
28

1           12.   Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
2 the start of construction as set forth in Section I.8., a construction schedule which shall show the  
3 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the  
4 various parts of work, including estimated start and completion dates. As construction of  
5 DISTRICT FACILITY progresses, DEVELOPER shall update said construction schedule as  
6 requested by DISTRICT.  
7

8           13.   Furnish DISTRICT with final mylar PROJECT plans and assign their  
9 ownership to DISTRICT prior to the start on any portion of PROJECT construction.  
10

11           14.   Not permit any change to or modification of DISTRICT and COUNTY  
12 approved IMPROVEMENT PLANS without the prior written permission and consent of  
13 DISTRICT and COUNTY.

14           15.   Comply with all Cal/OSHA safety regulations including regulations  
15 concerning confined space and maintain a safe working environment for DEVELOPER,  
16 COUNTY and DISTRICT employees on the site.

17           16.   Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
18 the start of construction as set forth in Section I.8., a confined space entry procedure specific to  
19 PROJECT. The procedure shall comply with requirements contained in California Code of  
20 Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit  
21 Required Confined Space and District Confined Space Procedures, SOM-18. The procedure shall  
22 be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed.  
23

24           17.   DEVELOPER shall not commence operations until DISTRICT has been  
25 furnished with original certificate(s) of insurance and original certified copies of endorsements  
26 and, if requested, certified original policies of insurance including all endorsements and any and  
27 all other attachments as required in this Section.  
28

1 Without limiting or diminishing DEVELOPER'S obligation to indemnify or hold DISTRICT  
2 harmless, DEVELOPER shall procure and maintain or cause to be maintained, at its sole cost and  
3 expense, the following insurance coverage's during the term of this Agreement:

4  
5 A. Workers' Compensation:

6 If DEVELOPER has employees as defined by the State of California,  
7 DEVELOPER shall maintain statutory Workers' Compensation  
8 Insurance (Coverage A) as prescribed by the laws of the State of  
9 California. Policy shall include Employers' Liability (Coverage B)  
10 including Occupational Disease with limits not less than \$1,000,000  
11 per person per accident. Policy shall be endorsed to waive subrogation  
12 in favor of DISTRICT and COUNTY.  
13

14 B. Commercial General Liability:

15 Commercial General Liability insurance coverage, including but not  
16 limited to, premises liability, unmodified contractual liability, products  
17 and completed operations liability, personal and advertising injury, and  
18 cross liability coverage, covering claims which may arise from or out  
19 of DEVELOPER'S performance of its obligations hereunder. Policy  
20 shall name the Riverside County Flood Control and Water  
21 Conservation District and COUNTY, its agencies, districts, special  
22 districts, and departments, their respective directors, officers, Board of  
23 Supervisors, employees, elected or appointed officials, agents or  
24 representatives as additional insureds. Policy's limit of liability shall  
25 not be less than \$2,000,000 per occurrence combined single limit. If  
26 such insurance contains a general aggregate limit, it shall apply  
27  
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1 separately to this Agreement or be no less than two (2) times the  
2 occurrence limit.

3 C. Vehicle Liability:

4 If DEVELOPER'S vehicles or mobile equipment are used in the  
5 performance of the obligations under this Agreement, then  
6 DEVELOPER shall maintain liability insurance for all owned, non-  
7 owned or hired vehicles so used in an amount not less than \$1,000,000  
8 per occurrence combined single limit. If such insurance contains a  
9 general aggregate limit, it shall apply separately to this Agreement or  
10 be no less than two (2) times the occurrence limit. Policy shall name  
11 the Riverside County Flood Control and Water Conservation District  
12 and COUNTY, its agencies, districts, special districts, and departments,  
13 their respective directors, officers, Board of Supervisors, employees,  
14 elected or appointed officials, agents or representatives as additional  
15 insureds.  
16

17 D. Professional Liability:

18 DEVELOPER shall cause any architect or engineer retained by  
19 DEVELOPER in connection with the performance of DEVELOPER'S  
20 obligations under this Agreement to maintain Professional Liability  
21 Insurance providing coverage for the performance of their work  
22 included within this Agreement, with a limit of liability of not less than  
23 \$2,000,000 per occurrence and \$4,000,000 annual aggregate.  
24 DEVELOPER shall require that, if such Professional Liability  
25 Insurance is written on a claims made basis rather than an occurrence  
26  
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1 basis, such insurance shall continue through the term of this Agreement  
2 and that such architect or engineer shall purchase at such architect or  
3 engineer's sole expense either 1) an Extended Reporting Endorsement  
4 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new  
5 insurer with a retroactive date back to the date of, or prior to, the  
6 inception of this Agreement; or 3) demonstrate through Certificates of  
7 Insurance that such architect or engineer has maintained continuous  
8 coverage with the same or original insurer. Coverage provided under  
9 items 1), 2) or 3) shall continue for the term specified in the insurance  
10 policy as long as the law allows.  
11

12  
13 E. General Insurance Provisions – All Lines:

- 14 i. Any insurance carrier providing insurance coverage hereunder  
15 shall be admitted to the State of California and have an A.M.  
16 BEST rating of not less than an A: VIII (A: 8) unless such  
17 requirements are waived, in writing, by the County Risk  
18 Manager. If the County Risk Manager waives a requirement for  
19 a particular insurer such waiver is only valid for that specific  
20 insurer and only for one policy term.  
21  
22 ii. DEVELOPER must declare its insurance self-insured retention  
23 for each coverage required herein. If any such self-insured  
24 retention exceeds \$500,000 per occurrence each such retention  
25 shall have the prior written consent of the County Risk Manager  
26 before the commencement of operations under this Agreement.  
27 Upon notification of self-insured retention deemed unacceptable  
28

1 to DISTRICT, and at the election of the County Risk Manager,  
2 DEVELOPER'S carriers shall either 1) reduce or eliminate such  
3 self-insured retention with respect to this Agreement with  
4 DISTRICT; or 2) procure a bond which guarantees payment of  
5 losses and related investigations, claims administration, and  
6 defense costs and expenses.  
7

- 8 iii. DEVELOPER shall cause their insurance carrier(s) or its  
9 contractor's insurance carrier(s), to furnish DISTRICT with 1) a  
10 properly executed original certificate(s) of insurance and certified  
11 original copies of endorsements effecting coverage as required  
12 herein; and 2) if requested to do so orally or in writing by the  
13 County Risk Manager, provide original certified copies of  
14 policies including all endorsements and all attachments thereto,  
15 showing such insurance is in full force and effect. Further, said  
16 certificate(s) and policies of insurance shall contain the covenant  
17 of the insurance carrier(s) that a minimum of sixty (60) days  
18 written notice shall be given to DISTRICT prior to any material  
19 modification, cancellation, expiration or reduction in coverage of  
20 such insurance. If DEVELOPER insurance carrier(s) policies  
21 does not meet the minimum notice requirement found herein,  
22 DEVELOPER shall cause DEVELOPER'S insurance carrier(s) to  
23 furnish a 60-day Notice of Cancellation Endorsement. In the  
24 event of a material modification, cancellation, expiration or  
25 reduction in coverage, this Agreement shall terminate forthwith,  
26  
27  
28

1 unless DISTRICT receives, prior to such effective date, another  
2 properly executed original certificate of insurance and original  
3 copies of endorsements or certified original policies, including all  
4 endorsements and attachments thereto, evidencing coverages set  
5 forth herein and the insurance required herein is in full force and  
6 effect. An individual authorized by the insurance carrier to do so  
7 on its behalf shall sign the original endorsements for each policy  
8 and the certificate of insurance.  
9

10 iv. It is understood and agreed by the parties hereto that  
11 DEVELOPER'S insurance shall be construed as primary  
12 insurance, and DISTRICT'S insurance and/or deductibles and/or  
13 self-insured retentions or self-insured programs shall not be  
14 construed as contributory.  
15

16 v. If, during the term of this Agreement or any extension thereof,  
17 there is a material change in the scope of services or there is a  
18 material change in the equipment to be used in the performance  
19 of the scope of work which will add additional exposures (such  
20 as the use of aircraft, watercraft, cranes, etc.), or the term of this  
21 Agreement, including any extensions thereof, exceeds five (5)  
22 years, DISTRICT reserves the right to adjust the types of  
23 insurance required under this Agreement and the monetary limits  
24 of liability for the insurance coverages currently required herein,  
25 if, in the County Risk Manager's reasonable judgment, the  
26  
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1 amount or type of insurance carried by DEVELOPER has  
2 become inadequate.

3 vi. DEVELOPER shall pass down the insurance obligations  
4 contained herein to all tiers of subcontractors working under this  
5 Agreement.  
6

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

9 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third  
10 party or any incident or event that may give rise to a claim arising  
11 from the performance of this Agreement.  
12

13 Failure to maintain the insurance required by this paragraph shall be deemed  
14 a material breach of this Agreement and shall authorize and constitute authority for DISTRICT,  
15 at its sole discretion, to provide written notice to DEVELOPER that DISTRICT is unable to  
16 perform its obligations hereunder, nor to accept responsibility for ownership, operation and  
17 maintenance of DISTRICT FACILITY due, either in whole or in part, to said breach of this  
18 Agreement.  
19

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

22 19. Within two (2) weeks of completing PROJECT construction, provide  
23 DISTRICT (Attention: Contract Administration Section) and COUNTY with written notice that  
24 PROJECT construction is substantially complete and requesting that DISTRICT conduct a final  
25 inspection of DISTRICT FACILITY and COUNTY conduct a final inspection of  
26 APPURTENANCES. It is mutually understood that, prior to DISTRICT acceptance of ownership  
27 and responsibility for the operation and maintenance of DISTRICT FACILITY, DISTRICT  
28

1 FACILITY shall be in a satisfactorily maintained condition as solely determined by DISTRICT  
2 and construction of PROPOSED LINE 3 STAGE 1 and PROPOSED LINE 3 STAGE 2 shall have  
3 been accepted by DISTRICT for ownership, operation and maintenance.

4 20. [INTENTIONALLY DELETED]

5 21. [INTENTIONALLY DELETED]

6 22. Accept ownership and sole responsibility for the operation and maintenance  
7 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation  
8 and maintenance of DISTRICT FACILITY, PROPOSED LINE 3 STAGE 1 and PROPOSED  
9 LINE 3 STAGE 2 and COUNTY accepts ownership and responsibility for operation and  
10 maintenance of APPURTENANCES.

11 23. Accept all liability whatsoever associated with the ownership, operation and  
12 maintenance of DISTRICT FACILITY until such time as DISTRICT FACILITY are formally  
13 accepted by DISTRICT for ownership, operation and maintenance.

14 24. Pay, if suit is brought upon this Cooperative Agreement or any bond  
15 guaranteeing the completion of PROJECT, all costs and reasonable expenses and fees, including  
16 reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses  
17 and fees shall be computed as costs and included in any judgment rendered.

18 25. Upon completion of PROJECT construction, but prior to DISTRICT  
19 acceptance of DISTRICT FACILITY for ownership, operation and maintenance, provide or cause  
20 its civil engineer of record or construction civil engineer of record, duly registered in the State of  
21 California, to provide DISTRICT with a redlined "record drawings" copy of PROJECT plans.  
22 After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer shall  
23 schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original  
24  
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1 mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign the original  
2 PROJECT engineering plans "record drawings".

3 26. Ensure that all work performed pursuant to this Cooperative Agreement by  
4 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and  
5 regulations, including but not limited to all applicable provisions of the Labor Code, Business and  
6 Professions Code and Water Code. DEVELOPER shall be solely responsible for all costs  
7 associated with compliance with applicable laws and regulations.  
8

## 9 SECTION II

10 DISTRICT shall:

11 1. Review IMPROVEMENT PLANS and approve when DISTRICT has  
12 determined that such plans meet DISTRICT standards and are found acceptable to DISTRICT  
13 prior to the start of PROJECT construction.  
14

15 2. Provide COUNTY an opportunity to review and approve IMPROVEMENT  
16 PLANS prior to DISTRICT'S final approval.

17 3. Upon execution of this Cooperative Agreement, record or cause to be  
18 recorded a copy of this Cooperative Agreement in the Official Records of the Riverside County  
19 Recorder.  
20

21 4. [INTENTIONALLY DELETED]

22 5. Inspect DISTRICT FACILITY construction.

23 6. Keep an accurate accounting of all DISTRICT costs associated with the  
24 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and  
25 conveyance documents and the processing and administration of this Cooperative Agreement.  
26

27 7. Keep an accurate accounting of all DISTRICT construction inspection costs,  
28 and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITY 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 FACILITY as being complete.

8. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITY from DEVELOPER upon (i) the completion of PROPOSED LINE 3 STAGE 1 and PROPOSED LINE 3 STAGE 2 construction; (ii) DISTRICT acceptance of PROPOSED LINE 3 STAGE 1 and PROPOSED LINE 3 STAGE 2 for ownership, operation and maintenance; (iii) DISTRICT inspection of DISTRICT FACILITY in accordance with Section I.19.; (iv) DISTRICT acceptance of PROJECT construction as being complete; (v) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans, as set forth in Section I.25.; (vi) COUNTY acceptance of APPURTENANCES for ownership, operation, and maintenance; and (vii) DISTRICT'S sole determination that DISTRICT FACILITY is in a satisfactorily maintained condition.

9. Provide COUNTY with a reproducible duplicate copy of "record drawings" PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITY as being complete.

### SECTION III

COUNTY shall:

1. Review IMPROVEMENT PLANS and approve when COUNTY has determined that such plans meet County standards and are found acceptable to COUNTY prior to the start of PROJECT construction.

2. Accept COUNTY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.7., and hold said bonds as provided herein.

3. Inspect PROJECT construction.

1 4. [INTENTIONALLY DELETED]

2 5. [INTENTIONALLY DELETED]

3 6. Grant DISTRICT, by execution of this Agreement, the right to construct,  
4 inspect, operate and maintain DISTRICT FACILITY within COUNTY rights of way.  
5

6 7. Accept ownership and sole responsibility for the operation and maintenance  
7 of APPURTENANCES from DEVELOPER upon COUNTY acceptance of PROJECT  
8 construction as being complete.

9 8. Not grant any occupancy permits for any units within any portion of Tract  
10 No. 31633, or any phase thereof, until construction of PROJECT is complete, unless otherwise  
11 approved in writing by DISTRICT.  
12

13 9. Upon DISTRICT acceptance of PROJECT construction as being complete,  
14 accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located  
15 within COUNTY rights of way which must be performed at such time(s) that the finished grade  
16 along and above the underground portions of DISTRICT FACILITY is improved, repaired,  
17 replaced or changed. It being further understood and agreed that any such adjustments shall be  
18 performed at no cost to DISTRICT.  
19

#### 20 SECTION IV

21 It is further mutually agreed:

22 1. All work involved with PROJECT shall be inspected by DISTRICT and  
23 COUNTY but shall not be deemed complete until DISTRICT and COUNTY mutually agree in  
24 writing that construction is completed in accordance with DISTRICT and COUNTY approved  
25 IMPROVEMENT PLANS.

26 2. COUNTY and DEVELOPER personnel may observe and inspect all work  
27 being done on DISTRICT FACILITY, but shall provide any comments to DISTRICT personnel  
28

1 who shall be solely responsible for all quality control communications with DEVELOPER'S  
2 contractor(s) during the construction of PROJECT.

3           3. DISTRICT acceptance of ownership and responsibility for the operation and  
4 maintenance of DISTRICT FACILITY shall be in a satisfactorily maintained condition as solely  
5 determined by DISTRICT. If, subsequent to the inspection and in the sole discretion of  
6 DISTRICT, DISTRICT FACILITY is not in an acceptable condition, corrections shall be made  
7 at sole expense of DEVELOPER.  
8

9           4. DEVELOPER shall complete construction of PROJECT within twelve (12)  
10 consecutive months after execution of this Cooperative Agreement and within one hundred twenty  
11 (120) consecutive calendar days after commencing work on PROJECT. It is expressly understood  
12 that since time is of the essence in this Cooperative Agreement, failure of DEVELOPER to  
13 perform the work within the agreed upon time shall constitute authority for DISTRICT to perform  
14 the remaining work and require DEVELOPER'S surety to pay to COUNTY the penal sum of any  
15 and all bonds. In which case, COUNTY shall subsequently reimburse DISTRICT for DISTRICT  
16 costs incurred.  
17

18           5. If DEVELOPER fails to commence construction of PROJECT within nine  
19 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to  
20 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they  
21 exist at the time DEVELOPER provides written notification to DISTRICT of the start of  
22 construction as set forth in Section I.8. In the event of a change in the existing site conditions that  
23 materially affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT  
24 FACILITY, DISTRICT may require DEVELOPER to modify IMPROVEMENT PLANS as  
25 deemed necessary by DISTRICT.  
26  
27  
28

1           6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within  
2 twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in Section I.8.;  
3 however, DISTRICT'S construction inspection staff is limited and, therefore, the issuance of a  
4 Notice to Proceed is subject to staff availability.  
5

6           In the event DEVELOPER wishes to expedite issuance of a Notice to  
7 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at  
8 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation  
9 of the individual's credentials and experience to DISTRICT for review and, if appropriate,  
10 approval. DISTRICT shall review the individual's qualifications and experience, upon approval  
11 thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act  
12 on DISTRICT'S behalf on all DISTRICT FACILITY construction and quality control matters. If  
13 DEVELOPER'S initial construction inspection deposit furnished pursuant to Section I.3. exceeds  
14 ten thousand dollars (\$10,000) DISTRICT shall refund to DEVELOPER up to eighty percent  
15 (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of DISTRICT'S  
16 approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand dollars  
17 (\$10,000) shall be retained on account.  
18  
19

20           7. PROJECT construction work shall be on a five (5) day, forty (40) hour work  
21 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless  
22 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more  
23 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written  
24 request for permission from DISTRICT to work the additional hours. The request shall be  
25 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work  
26 hours and state the reasons for the overtime and the specific time frames required. The decision  
27 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and  
28

1 shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost  
2 incurred at the overtime rates for additional inspection time required in connection with the  
3 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments  
4 thereto, of the County of Riverside.

5  
6 8. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY  
7 (including their agencies, districts, special districts and departments, their respective directors,  
8 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
9 representatives) from any liability, claim, damage, proceeding or action, present or future, based  
10 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,  
11 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,  
12 performance under this Agreement, or failure to comply with the requirements of this Agreement,  
13 including but not limited to (a) property damage; (b) bodily injury or death; (c) liability or damage  
14 pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United  
15 States Constitution or any other law, ordinance or regulation caused by the diversion of waters  
16 from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d)  
17 any other element of any kind or nature whatsoever.  
18

19  
20 DEVELOPER shall defend, at its sole expense, including all costs and fees  
21 (including but not limited to attorney fees, cost of investigation, defense and settlements or  
22 awards) DISTRICT and COUNTY (including their agencies, districts, special districts and  
23 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
24 officials, employees, agents and representatives) in any claim, proceeding or action for which  
25 indemnification is required.  
26

27 With respect to any of DEVELOPER'S indemnification requirements,  
28 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall

1 have the right to adjust, settle, compromise any such claim, proceeding or action without the prior  
2 consent of DISTRICT and COUNTY; provided, however, that any such adjustment, settlement  
3 or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S indemnification  
4 obligations to DISTRICT or COUNTY.  
5

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

10 The specified insurance limits required in this Cooperative Agreement shall  
11 in no way limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless  
12 DISTRICT and COUNTY from third party claims.  
13

14 In the event there is conflict between this section and California Civil Code  
15 Section 2782, this section shall be interpreted to comply with California Civil Code Section 2782.  
16 Such interpretation shall not relieve DEVELOPER from indemnifying DISTRICT or COUNTY  
17 to the fullest extent allowed by law.

18 9. DEVELOPER for itself, its successors and assigns hereby releases  
19 DISTRICT and COUNTY, their respective officers, agents, and employees from any and all  
20 claims, demands, actions, or suits of any kind arising out of any liability, known or unknown,  
21 present or future, including, but not limited to any claim or liability, based or asserted, pursuant  
22 to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States  
23 Constitution, or any other law or ordinance which seeks to impose any other liability or damage,  
24 whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing  
25 contained herein shall constitute a release by DEVELOPER of DISTRICT or COUNTY, their  
26 officers, agents and employees from any and all claims, demands, actions or suits of any kind  
27  
28

arising out of any liability, known or unknown, present or future, for the negligent maintenance of DISTRICT FACILITY and APPURTENANCES, after the acceptance of DISTRICT FACILITY and APPURTENANCES by DISTRICT and COUNTY, respectively.

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

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

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

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

SR CONESTOGA, LLC  
41391 Kalmia Street, Suite 200  
Murrieta, CA 92562  
Attn: Jim Lytle

12. This Agreement is to be construed in accordance with the laws of the State of California. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

13. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by the Cooperative Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties

1 hereto waive all provisions of law providing for a change of venue in such proceedings to any  
2 other county.

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

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

10           16. DEVELOPER shall not assign or otherwise transfer any of its rights, duties  
11 or obligations hereunder to any person or entity without the written consent of the other parties  
12 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER  
13 expressly understands and agrees that it shall remain liable with respect to any and all of the  
14 obligations and duties contained in this Cooperative Agreement.

15           17. The individual(s) executing this Cooperative Agreement on behalf of  
16 DEVELOPER certify that they have the authority within their respective company(ies) to enter  
17 into and execute this Cooperative Agreement, and have been authorized to do so by all boards of  
18 directors, legal counsel, and / or any other board, committee or other entity within their respective  
19 company(ies) which have the authority to authorize or deny entering into this Cooperative  
20 Agreement.

21           18. This Cooperative Agreement is intended by the parties hereto as a final  
22 expression of their understanding with respect to the subject matter hereof and as a complete and  
23 exclusive statement of the terms and conditions thereof and supersedes any and all prior and  
24 contemporaneous agreements and understandings, oral or written, in connection therewith. This  
25  
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1 Cooperative Agreement may be changed or modified only upon the written consent of the parties  
2 hereto.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement on

2  
3 (to be filled in by Clerk of the Board)

4  
5 RECOMMENDED FOR APPROVAL:

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

6  
7 By \_\_\_\_\_  
8 JASON E. UHLEY  
General Manager-Chief Engineer

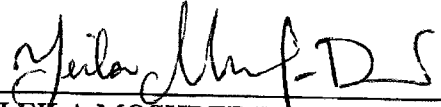
By \_\_\_\_\_  
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

9  
10 APPROVED AS TO FORM:

11 GREGORY P. PRIAMOS  
County Counsel

ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

12  
13 By   
14 LEILA MOSHREF-DANESH  
15 Deputy County Counsel


By \_\_\_\_\_  
Deputy

(SEAL)

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25 Cooperative Agreement:  
26 Winchester Hills – Line 3, Stage 3 (Tract No. 31633)  
27 Project No. 4-0-00577  
28 AMR:blm  
08/03/17

1 RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

2  
3 By   
4 PATRICIA ROMO  
5 Director of Transportation  
6

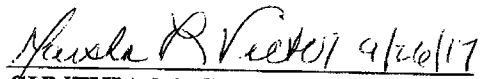
By \_\_\_\_\_  
JOHN TAVAGLIONE, Chairman  
Board of Supervisors

7 APPROVED AS TO FORM:

ATTEST:

8 GREGORY P. PRIAMOS  
9 County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

10 By  4/26/17  
11 SYNTHIA M. GUNZEL  
12 Supervising Deputy County Counsel

By \_\_\_\_\_  
Deputy

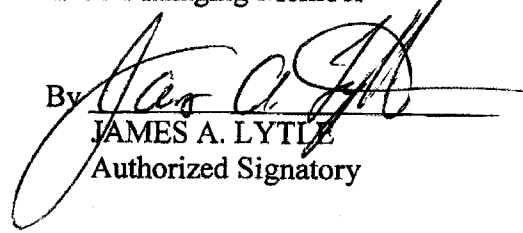
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26 Cooperative Agreement:  
27 Winchester Hills – Line 3, Stage 3 (Tract No. 31633)  
28 Project No. 4-0-00577  
AMR:blm  
08/03/17

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**SR CONESTOGA, LLC**  
a Delaware limited liability company

By: Conestoga Development LLC  
a California limited liability company  
Its Co-Managing Member

By   
JAMES A. LYTLE  
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY  
STATEMENT)

*See attached acknowledgment*

Cooperative Agreement:  
Winchester Hills – Line 3, Stage 3 (Tract No. 31633)  
Project No. 4-0-00577  
AMR:blm  
08/03/17

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

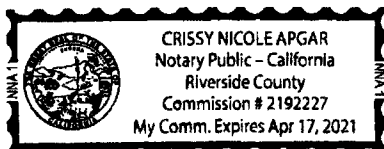
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Riverside )  
 On August 7, 2017 before me, Crissy Nicole Apgar,  
Date Here Insert Name and Title of the Officer  
 personally appeared James A. Lytle  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Crissy Nicole Apgar  
Signature of Notary Public

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_  
 Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

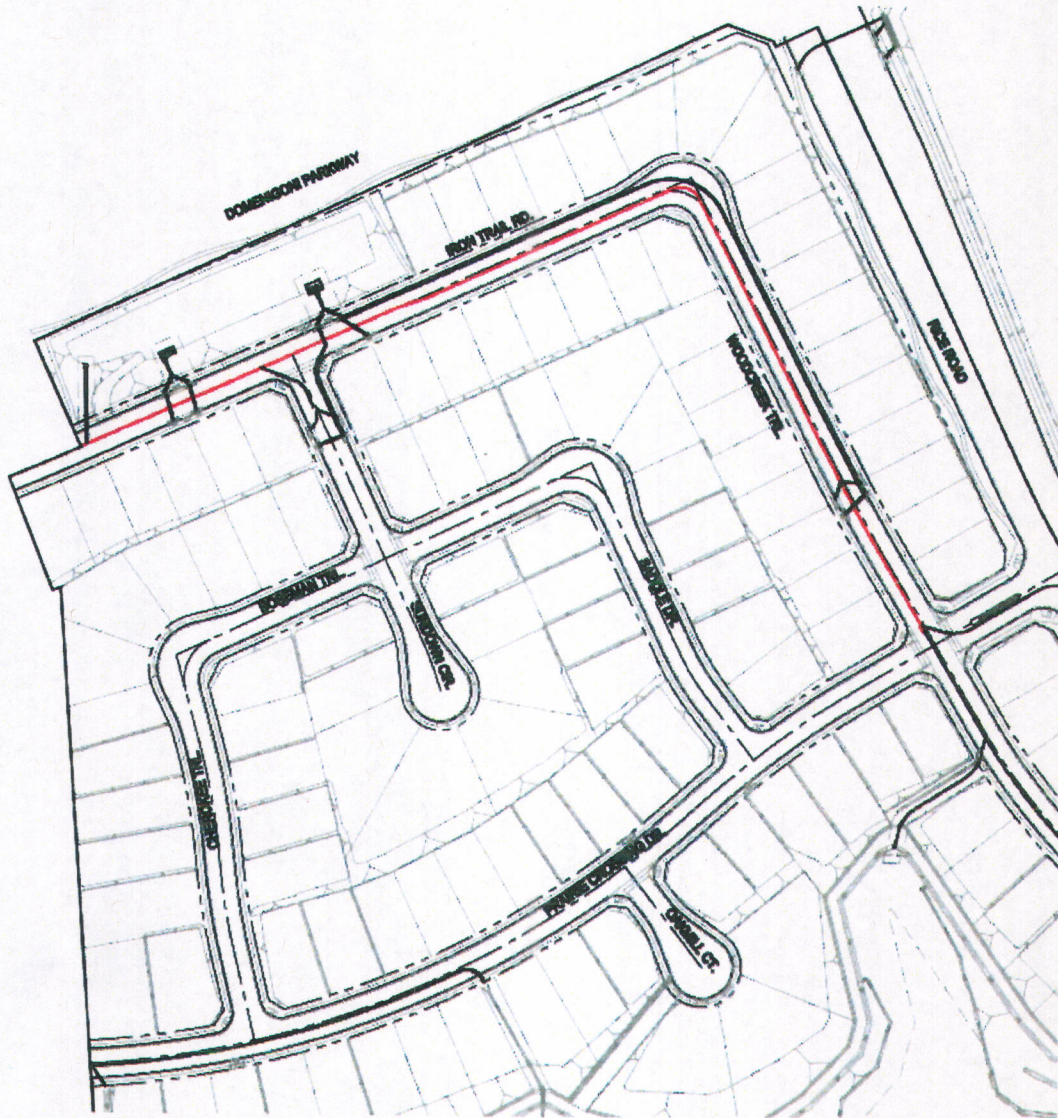
Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

## Exhibit A



COOPERATIVE AGREEMENT  
Winchester Hills – Line 3, Stage 3  
Project No. 4-0-0057  
Tract No. 31633  
Page 1 of 1