

**SUBMITTAL TO THE FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM  
11.4  
(ID # 5488)

**MEETING DATE:**

Tuesday, October 17, 2017

**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of Amended and Restated Cooperative Agreement for Winchester Hills – Line 3, Stage 2 and Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1 (Tract No. 31141); Approval of Amended and Restated Cooperative Agreement for Winchester Hills – line 2, Stage 2 and Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 2 (Tract No. 31142); and Approval of Cooperative Agreement for Winchester Hills – Line 3, Stage 3 (Tract No. 31633); Project Nos. 4-0-00576, 4-0-00577 and 4-0-00578; 3rd District; [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Cooperative Agreements between the District, the County of Riverside (County) and SR Conestoga, LLC (Developer); and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District; and
3. Direct the Clerk of the Board to return four (4) copies of the executed Cooperative Agreements to the District.

**ACTION:**

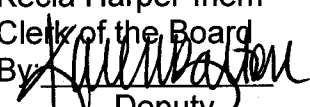
  
Bob Cullen, Assistant Chief Engineer 10/2/2017

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Tavaglione 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: Flood, Transp.

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

(Companion Item 3.26, 3.27, 3.28)

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT 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 DISTRICT COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: N/A</b>	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Cooperative Agreements (Agreements) sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Tract Nos. 31141, 31142 and 31633, are to be constructed by Developer and inspected, operated and maintained by the District, County, and Developer.

The Agreement is necessary to provide for District inspection and subsequent operation and maintenance of the referenced storm drain facilities. Upon completion of construction, the Developer will assume ownership, operation and maintenance of the mainline storm drains until such time as the District assumes ownership, operation and maintenance in accordance with the terms and conditions as set forth in the Agreement. The Developer will retain ownership, operation and maintenance of four water quality basins and landscape features located within its rights of way.

The County will assume ownership and responsibility for the operation and maintenance of:

- (i) the project's associated 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 diameter that are located within County held rights of way for Tract No. 31141; and
- (ii) the project's associated 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 diameter that are located within County held rights of way for Tract No. 31142; and
- (iii) the project's associated 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 diameter that are located within County held rights of way for Tract No. 31633.

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD  
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COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

County Counsel has approved the Agreements as to legal form, and the County and Developer have executed the Agreements. A companion item appears on the Riverside County Transportation Department's 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 Nos. 31141, 31142 and 31633. The principal beneficiaries are the future residents of the tracts. Ancillary benefits will accrue to the public who will utilize the tracts' roadways.

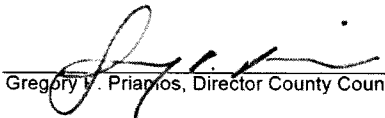
**Additional Fiscal Information**

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

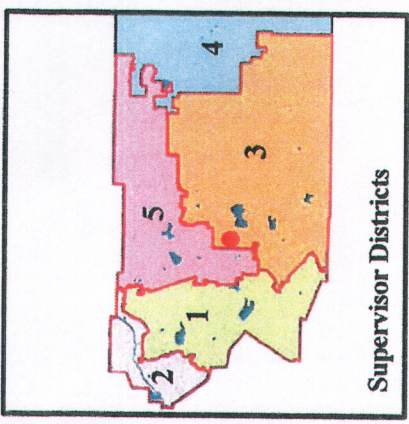
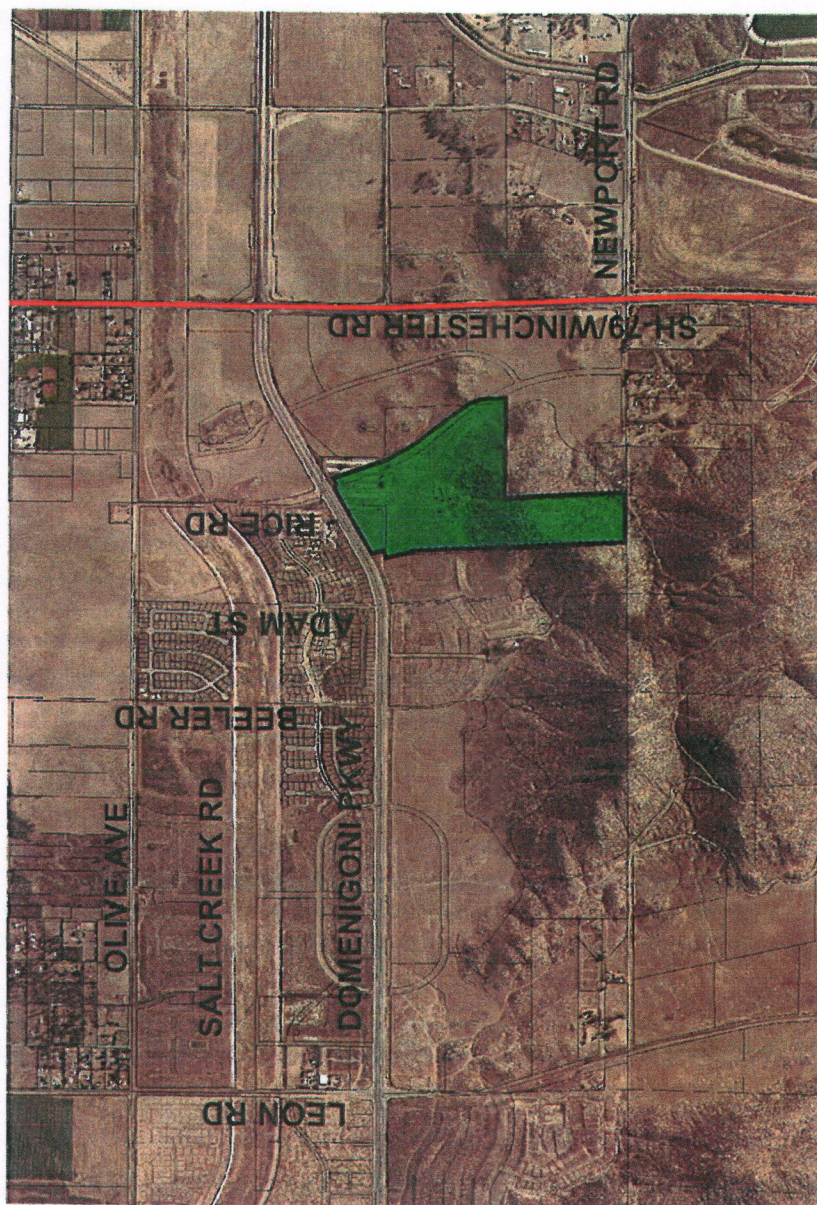
**ATTACHMENTS:**

1. Vicinity Maps
2. Cooperative Agreements



AMR:blm  
P8/214380

  
\_\_\_\_\_  
Gregory V. Priamos, Director County Counsel      10/4/2017





**LEGEND:**

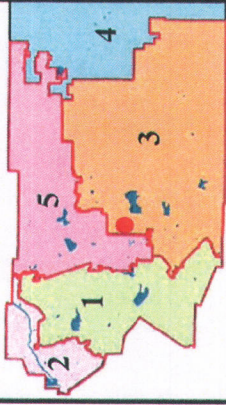
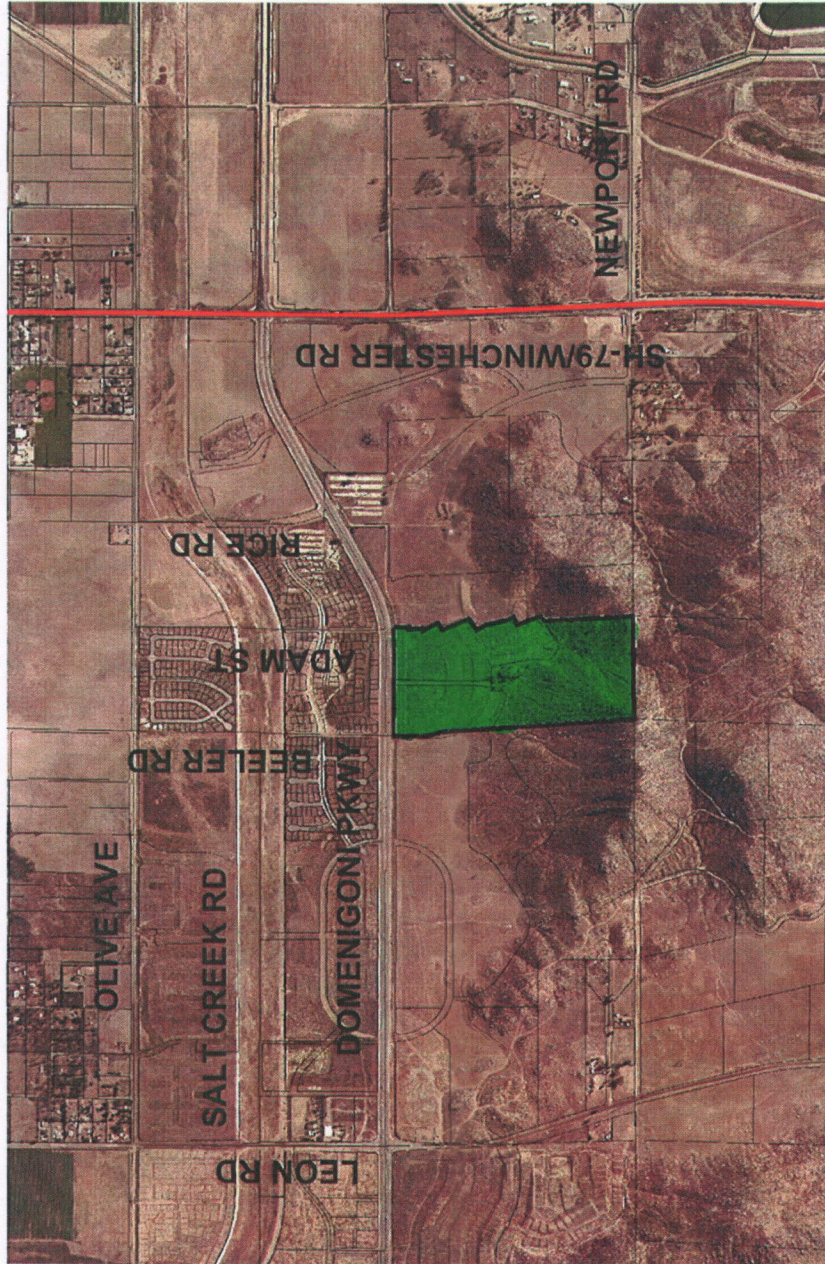
-  Project Vicinity
-  Supervisorial District

**DESCRIPTION:**

Tract No. 31633  
Winchester Hills – Line 3, Stage 3  
storm drain







Supervisor Districts

**LEGEND:**

- Project Vicinity
- Supervisorial District

**DESCRIPTION:**

Tract No. 31142

Winchester Hills – Line 2, Stage 2

Prairie Crossing Drive Storm Drain,  
Stage 2





AMENDED AND RESTATED COOPERATIVE AGREEMENT  
Winchester Hills – Line 3, Stage 2  
Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1  
Project Nos. 4-0-00577 and 4-0-00578  
Tract No. 31141

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. DISTRICT, COUNTY and Ashbrook West Prairie Crossing, L.P. ("PREVIOUS DEVELOPER") entered into that certain Cooperative Agreement, dated December 5, 2006 and recorded as Document No. 2006 – 0954755 in the Official Records of the County of Riverside, hereinafter referred to as "PREVIOUS AGREEMENT", requiring PREVIOUS DEVELOPER, as a condition of approval, to construct certain flood control and drainage facilities as defined in PREVIOUS AGREEMENT; and

B. Pursuant to PREVIOUS AGREEMENT, PREVIOUS DEVELOPER has not constructed the flood control and drainage facilities; and

C. Pursuant to a certain Deed of Trust dated December 4, 2014, DEVELOPER has acquired fee title to the Real Property from PREVIOUS DEVELOPER; and

D. DISTRICT, COUNTY and DEVELOPER now desire to enter into a Cooperative Agreement with the intent that this Agreement shall prevail over the terms of the previous Agreement dated December 5, 2006; and

E. DEVELOPER is the legal owner of record of certain real property, including Tract No. 31141, located within the County of Riverside. DEVELOPER has submitted for approval Tract No. 31141 located in an unincorporated area of western Riverside County. As a

1 condition of approval for Tract No. 31141, DEVELOPER must construct certain flood control  
2 facilities in order to provide flood protection and drainage for DEVELOPER'S planned  
3 development; and

4  
5 F. The required flood control facilities and drainage improvements, as shown  
6 in concept in red on Exhibit "A" attached hereto and made a part hereof, and as shown on District  
7 Drawing No. 4-0903, include construction of:

8 (i) Approximately 786 lineal feet of underground storm drain system  
9 ("LINE 3 STAGE 2"). At its downstream terminus, LINE 3 STAGE 2 will  
10 connect to the proposed Winchester Hills – Line 3, Stage 1 storm drain  
11 facility ("PROPOSED LINE 3 STAGE 1"), as shown on District Drawing  
12 No. 4-0902;

13  
14 (ii) Approximately 1090 lineal feet of underground storm drain system  
15 ("PRAIRIE STAGE 1 STORM DRAIN"). At its downstream terminus,  
16 PRAIRIE STAGE 1 STORM DRAIN will connect to LINE 3 STAGE 2. At  
17 its upstream terminus, PRAIRIE STAGE 1 STORM DRAIN will connect to  
18 the proposed storm drain facility for Tract No. 31142. Together, LINE 3  
19 STAGE 2 and PRAIRIE STAGE 1 STORM DRAIN are called "DISTRICT  
20 FACILITIES"; and  
21

22 G. Associated with the construction of DISTRICT FACILITIES is the  
23 construction of certain catch basins, inlets, outlets, connector pipes, curbs and gutters, access  
24 roads and various lateral storm drains that are thirty-six inches (36") or less in diameter that are  
25 located within COUNTY held easements or rights of way ("APPURTENANCES"); and  
26

27 H. Also associated with the construction of DISTRICT FACILITIES is the  
28 construction of a water quality basin ("DEVELOPER BASIN"); and



1 I. DEVELOPER BASIN is to be located within privately held easements or  
2 rights of way, and is to be initially owned and maintained by DEVELOPER and subsequently  
3 owned by the Homeowners' Association for Tract No. 31141 and maintained by the Homeowners'  
4 Association for Tract No. 31141 or via the anticipated formation of a maintenance Community  
5 Facilities District ("CFD"); and  
6

7 J. Altogether, DISTRICT FACILITIES, APPURTENANCES and  
8 DEVELOPER BASIN are called "PROJECT"; and

9 K. All parties recognize and acknowledge that PROPOSED LINE 3 STAGE 1  
10 is to be constructed by DEVELOPER in conjunction with PROJECT and pursuant to a separate  
11 Cooperative Agreement, hereinafter called the "LINE 3 STAGE 1 AGREEMENT," between  
12 DISTRICT, COUNTY and DEVELOPER. DISTRICT will not accept DISTRICT FACILITIES  
13 for ownership, operation and maintenance until PROPOSED LINE 3 STAGE 1 is completed  
14 pursuant to the LINE 3 STAGE 1 AGREEMENT and accepted for ownership, operation and  
15 maintenance by DISTRICT; and  
16

17 L. DEVELOPER and COUNTY desire DISTRICT to ultimately accept  
18 ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES.  
19 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for  
20 PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and  
21

22 M. DEVELOPER and DISTRICT desire COUNTY to accept ownership and  
23 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY  
24 must review and approve DEVELOPER'S plans and specifications for PROJECT and  
25 subsequently inspect the construction of APPURTENANCES; and  
26

27 N. DEVELOPER is willing to assume ownership, operation and maintenance  
28 responsibilities of DISTRICT FACILITIES on an interim basis as set forth herein, with the

1 recognition and understanding that the actual acceptance of DISTRICT FACILITIES for  
2 ownership, operation and maintenance responsibilities by DISTRICT is entirely dependent upon:  
3 (i) the construction of PROPOSED LINE 3 STAGE 1 as being complete; (ii) DISTRICT  
4 acceptance of ownership and responsibility for the operation and maintenance of PROPOSED  
5 LINE 3 STAGE 1; (iii) DISTRICT FACILITIES being constructed in accordance with plans and  
6 specifications approved by DISTRICT and as set forth herein; (iv) DISTRICT'S sole  
7 determination that DISTRICT FACILITIES are in a satisfactorily maintained condition; and (v)  
8 DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely  
9 determined by DISTRICT; and  
10

11 O. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and  
12 specifications for PROJECT; (ii) inspect the construction of DISTRICT FACILITIES; and (iii)  
13 ultimately assume ownership and responsibility for the operation and maintenance of DISTRICT  
14 FACILITIES, provided DEVELOPER (a) complies with this Agreement; (b) constructs  
15 PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications; (c)  
16 obtains and conveys to DISTRICT all rights of way necessary for the inspection, operation and  
17 maintenance of DISTRICT FACILITIES as set forth herein; and (d) accepts ownership and  
18 responsibility for the operation and maintenance of PROJECT following completion of PROJECT  
19 construction until such time as DISTRICT accepts ownership and responsibility for the operation  
20 and maintenance of DISTRICT FACILITIES and COUNTY accepts ownership and responsibility  
21 for operation and maintenance of APPURTENANCES; and  
22

23 P. COUNTY is willing to (i) review and approve DEVELOPER'S plans and  
24 specifications for PROJECT; (ii) inspect the construction of PROJECT; (iii) accept and hold  
25 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT  
26 FACILITIES and APPURTENANCES; (iv) grant DISTRICT the right to inspect, operate and  
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1 maintain DISTRICT FACILITIES within COUNTY rights of way; and (v) accept ownership and  
2 responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is  
3 constructed in accordance with plans and specifications approved by DISTRICT and COUNTY.  
4

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

6 SECTION I

7 DEVELOPER shall:

8  
9 1. Prepare PROJECT plans and specifications ("IMPROVEMENT PLANS"),  
10 in accordance with applicable DISTRICT and COUNTY standards, and submit to DISTRICT and  
11 COUNTY for their respective review and approval.

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

18 3. Deposit with DISTRICT (Attention: Business Office - Accounts  
19 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
20 construction as set forth in Section I.8. herein, the estimated cost of providing construction  
21 inspection for DISTRICT FACILITIES in an amount as determined and approved by DISTRICT  
22 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any  
23 amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time the  
24 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with DISTRICT,  
25 DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by  
26 DISTRICT to complete inspection of DISTRICT FACILITIES, within thirty (30) days after  
27 receipt of billing from DISTRICT.  
28



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

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

11           6. Prior to commencing construction, furnish DISTRICT with copies of all  
12 permits, approvals or agreements required by any federal, state or local resource and/or regulatory  
13 agency for the construction, operation and maintenance of DISTRICT FACILITIES. Such  
14 documents include but are not limited to those issued by the U.S. Army Corps of Engineers,  
15 California Regional Water Quality Control Board, California State Department of Fish and  
16 Wildlife, State Water Resources Control Board and Western Riverside County Regional  
17 Conservation Authority ("REGULATORY PERMITS").

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

3           8. Notify DISTRICT in writing (Attention: Contract Services Section) at least  
4 twenty (20) days prior to the start of construction of PROJECT. Construction shall not begin on  
5 any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to  
6 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction  
7 of PROJECT.  
8

9           9. [INTENTIONALLY DELETED]

10          10. [INTENTIONALLY DELETED]

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

17          12. 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 construction schedule which shall show the  
19 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the  
20 various parts of work, including estimated start and completion dates. As construction of  
21 DISTRICT FACILITIES progresses, DEVELOPER shall update said construction schedule as  
22 requested by DISTRICT.  
23

24          13. Furnish DISTRICT with final mylar PROJECT plans and assign their  
25 ownership to DISTRICT prior to the start on any portion of PROJECT construction.  
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1           14. 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           15. Comply with all Cal/OSHA safety regulations including regulations  
5 concerning confined space and maintain a safe working environment for DEVELOPER,  
6 COUNTY and DISTRICT employees on the site.

7           16. 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 shall  
12 be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed.  
13

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

19           Without limiting or diminishing DEVELOPER'S obligation to indemnify or  
20 hold DISTRICT harmless, DEVELOPER shall procure and maintain or cause to be maintained,  
21 at its sole cost and expense, the following insurance coverage's during the term of this Agreement:  
22

23           A. Workers' Compensation:

24           If DEVELOPER has employees as defined by the State of California,  
25 DEVELOPER shall maintain statutory Workers' Compensation  
26 Insurance (Coverage A) as prescribed by the laws of the State of  
27 California. Policy shall include Employers' Liability (Coverage B)  
28



1 including Occupational Disease with limits not less than \$1,000,000 per  
2 person per accident. Policy shall be endorsed to waive subrogation in  
3 favor of DISTRICT and COUNTY.  
4

5 B. Commercial General Liability:

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

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

8 D. Professional Liability:

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

3 E. General Insurance Provisions – All Lines:

4 i. Any insurance carrier providing insurance coverage hereunder  
5 shall be admitted to the State of California and have an A.M.  
6 BEST rating of not less than an A: VIII (A: 8) unless such  
7 requirements are waived, in writing, by the County Risk  
8 Manager. If the County Risk Manager waives a requirement for  
9 a particular insurer such waiver is only valid for that specific  
10 insurer and only for one policy term.

11 ii. DEVELOPER must declare its insurance self-insured retention  
12 for each coverage required herein. If any such self-insured  
13 retention exceeds \$500,000 per occurrence each such retention  
14 shall have the prior written consent of the County Risk Manager  
15 before the commencement of operations under this Agreement.  
16 Upon notification of self-insured retention deemed unacceptable  
17 to DISTRICT, and at the election of the County Risk Manager,  
18 DEVELOPER'S carriers shall either 1) reduce or eliminate such  
19 self-insured retention with respect to this Agreement with  
20 DISTRICT; or 2) procure a bond which guarantees payment of  
21 losses and related investigations, claims administration, and  
22 defense costs and expenses.

23 iii. DEVELOPER shall cause their insurance carrier(s) or its  
24 contractor's insurance carrier(s), to furnish DISTRICT with 1) a  
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1 properly executed original certificate(s) of insurance and  
2 certified original copies of endorsements effecting coverage as  
3 required herein; and 2) if requested to do so orally or in writing  
4 by the County Risk Manager, provide original certified copies of  
5 policies including all endorsements and all attachments thereto,  
6 showing such insurance is in full force and effect. Further, said  
7 certificate(s) and policies of insurance shall contain the covenant  
8 of the insurance carrier(s) that a minimum of sixty (60) days  
9 written notice shall be given to DISTRICT prior to any material  
10 modification, cancellation, expiration or reduction in coverage  
11 of such insurance. If DEVELOPER insurance carrier(s) policies  
12 does not meet the minimum notice requirement found herein,  
13 DEVELOPER shall cause DEVELOPER'S insurance carrier(s)  
14 to furnish a 60 day Notice of Cancellation Endorsement. In the  
15 event of a material modification, cancellation, expiration or  
16 reduction in coverage, this Agreement shall terminate forthwith,  
17 unless DISTRICT receives, prior to such effective date, another  
18 properly executed original certificate of insurance and original  
19 copies of endorsements or certified original policies, including  
20 all endorsements and attachments thereto, evidencing coverages  
21 set forth herein and the insurance required herein is in full force  
22 and effect. An individual authorized by the insurance carrier to  
23 do so on its behalf shall sign the original endorsements for each  
24 policy and the certificate of insurance.  
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- 1                   iv.    It is understood and agreed by the parties hereto that  
2                   DEVELOPER'S insurance shall be construed as primary  
3                   insurance, and DISTRICT'S insurance and/or deductibles and/or  
4                   self-insured retentions or self-insured programs shall not be  
5                   construed as contributory.  
6  
7                   v.    If, during the term of this Agreement or any extension thereof,  
8                   there is a material change in the scope of services or there is a  
9                   material change in the equipment to be used in the performance  
10                  of the scope of work which will add additional exposures (such  
11                  as the use of aircraft, watercraft, cranes, etc.), or the term of this  
12                  Agreement, including any extensions thereof, exceeds five (5)  
13                  years, DISTRICT reserves the right to adjust the types of  
14                  insurance required under this Agreement and the monetary limits  
15                  of liability for the insurance coverages currently required herein,  
16                  if, in the County Risk Manager's reasonable judgment, the  
17                  amount or type of insurance carried by DEVELOPER has  
18                  become inadequate.  
19  
20                  vi.   DEVELOPER shall pass down the insurance obligations  
21                  contained herein to all tiers of subcontractors working under this  
22                  Agreement.  
23  
24                  vii. The insurance requirements contained in this Agreement may be  
25                  met with a program(s) of self-insurance acceptable to  
26                  DISTRICT.  
27  
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viii. DEVELOPER agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

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

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

19. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Contract Administration Section) and COUNTY with written notice that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT FACILITIES and COUNTY conduct a final inspection of APPURTENANCES. It is mutually understood that prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT and PROPOSED LINE 3 STAGE 1 shall have been accepted by DISTRICT for ownership, operation and maintenance.

20. [INTENTIONALLY DELETED]

21. [INTENTIONALLY DELETED]

22. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation

1 and maintenance of DISTRICT FACILITIES and PROPOSED LINE 3 STAGE 1 and COUNTY  
2 accepts ownership and responsibility for operation and maintenance of APPURTENANCES.

3           23. Accept all liability whatsoever associated with the ownership, operation and  
4 maintenance of DISTRICT FACILITIES until such time as DISTRICT FACILITIES are formally  
5 accepted by DISTRICT for ownership, operation and maintenance.  
6

7           24. Pay, if suit is brought upon this Cooperative Agreement or any bond  
8 guaranteeing the completion of PROJECT, all costs and reasonable expenses and fees, including  
9 reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses  
10 and fees shall be computed as costs and included in any judgment rendered.  
11

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

21           26. Ensure that all work performed pursuant to this Cooperative Agreement by  
22 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and  
23 regulations, including but not limited to all applicable provisions of the Labor Code, Business and  
24 Professions Code and Water Code. DEVELOPER shall be solely responsible for all costs  
25 associated with compliance with applicable laws and regulations.  
26  
27  
28

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 Cooperative Agreement, record or cause to be recorded a copy of this Cooperative Agreement in the Official Records of the Riverside County Recorder.

4. [INTENTIONALLY DELETED]

5. Inspect DISTRICT FACILITIES construction.

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 Cooperative 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 from DEVELOPER upon (i) the completion of PROPOSED LINE 3 STAGE 1 construction; (ii) DISTRICT acceptance of PROPOSED LINE 3 STAGE 1 for ownership, operation and maintenance; (iii) DISTRICT inspection of DISTRICT FACILITIES in



1 accordance with Section I.19.; (iv) DISTRICT acceptance of PROJECT construction as being  
2 complete; (v) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans,  
3 as set forth in Section I.25.; (vi) COUNTY acceptance of APPURTENANCES for ownership,  
4 operation, and maintenance; and (vii) DISTRICT'S sole determination that DISTRICT  
5 FACILITIES are in a satisfactorily maintained condition.  
6

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

9 SECTION III

10 COUNTY shall:

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

15 2. Accept COUNTY and DISTRICT approved faithful performance and  
16 payment bonds submitted by DEVELOPER as set forth in Section I.7., and hold said bonds as  
17 provided herein.  
18

19 3. Inspect PROJECT construction.

20 4. [INTENTIONALLY DELETED]

21 5. [INTENTIONALLY DELETED]

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

24 7. Accept ownership and sole responsibility for the operation and maintenance  
25 of APPURTENANCES from DEVELOPER upon COUNTY acceptance of PROJECT  
26 construction as being complete.  
27  
28

8. Not grant any occupancy permits for any units within any portion of Tract No. 31141 or any phase thereof until construction of PROJECT is complete, unless otherwise approved in writing by DISTRICT.

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

## SECTION IV

It is further mutually agreed:

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

2. COUNTY and DEVELOPER personnel may observe and inspect all work being done on DISTRICT FACILITIES, but shall provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with DEVELOPER'S contractor(s) during the construction of PROJECT.

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

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

10           5. If DEVELOPER fails to commence construction of PROJECT within nine  
11 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to  
12 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they  
13 exist at the time DEVELOPER provides written notification to DISTRICT of the start of  
14 construction as set forth in Section I.8. In the event of a change in the existing site conditions that  
15 materially affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT  
16 FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT PLANS as  
17 deemed necessary by DISTRICT.  
18

19           6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within  
20 twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in Section I.8.;  
21 however, DISTRICT'S construction inspection staff is limited and, therefore, the issuance of a  
22 Notice to Proceed is subject to staff availability.  
23

24           In the event DEVELOPER wishes to expedite issuance of a Notice to  
25 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at  
26 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation  
27 of the individual's credentials and experience to DISTRICT for review and, if appropriate,  
28

1 approval. DISTRICT shall review the individual's qualifications and experience, and upon  
2 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized  
3 to act on DISTRICT'S behalf on all DISTRICT FACILITIES construction and quality control  
4 matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section  
5 I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty  
6 percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of  
7 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand  
8 dollars (\$10,000) shall be retained on account.  
9

10           7. PROJECT construction work shall be on a five (5) day, forty (40) hour work  
11 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless  
12 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more  
13 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written  
14 request for permission from DISTRICT to work the additional hours. The request shall be  
15 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work  
16 hours and state the reasons for the overtime and the specific time frames required. The decision  
17 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and  
18 shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost  
19 incurred at the overtime rates for additional inspection time required in connection with the  
20 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments  
21 thereto, of the County of Riverside.  
22  
23

24           8. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY  
25 (including their agencies, districts, special districts and departments, their respective directors,  
26 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
27 representatives) from any liability, claim, damage, proceeding or action, present or future, based  
28



1 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,  
2 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,  
3 performance under this Agreement, or failure to comply with the requirements of this Agreement,  
4 including but not limited to (a) property damage; (b) bodily injury or death; (c) liability or damage  
5 pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United  
6 States Constitution or any other law, ordinance or regulation caused by the diversion of waters  
7 from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d)  
8 any other element of any kind or nature whatsoever.  
9

10 DEVELOPER shall defend, at its sole expense, including all costs and fees  
11 (including but not limited to attorney fees, cost of investigation, defense and settlements or  
12 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and  
13 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
14 officials, employees, agents and representatives) in any claim, proceeding or action for which  
15 indemnification is required.  
16

17 With respect to any of DEVELOPER'S indemnification requirements,  
18 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall  
19 have the right to adjust, settle, compromise any such claim, proceeding or action without the prior  
20 consent of DISTRICT and COUNTY; provided, however, that any such adjustment, settlement  
21 or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S indemnification  
22 obligations to DISTRICT or COUNTY.  
23

24 DEVELOPER'S indemnification obligations shall be satisfied when  
25 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or  
26 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding  
27 or action involved.  
28

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

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

9           9.     DEVELOPER for itself, its successors and assigns hereby releases  
10 DISTRICT and COUNTY, their respective officers, agents, and employees from any and all  
11 claims, demands, actions, or suits of any kind arising out of any liability, known or unknown,  
12 present or future, including but not limited to any claim or liability, based or asserted, pursuant to  
13 Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States  
14 Constitution, or any other law or ordinance which seeks to impose any other liability or damage,  
15 whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing  
16 contained herein shall constitute a release by DEVELOPER of DISTRICT or COUNTY, their  
17 officers, agents and employees from any and all claims, demands, actions or suits of any kind  
18 arising out of any liability, known or unknown, present or future, for the negligent maintenance  
19 of DISTRICT FACILITIES and APPURTENANCES, after the acceptance of DISTRICT  
20 FACILITIES and APPURTENANCES by DISTRICT and COUNTY, respectively.

23           10.   Any waiver by DISTRICT or by COUNTY of any breach of any one or more  
24 of the terms of this Cooperative Agreement shall not be construed to be a waiver of any subsequent  
25 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or  
26 COUNTY to require exact, full and complete compliance with any terms of this Cooperative  
27  
28

1 Agreement shall not be construed as in any manner changing the terms hereof, or estopping  
2 DISTRICT or COUNTY from enforcement hereof.

3  
4 11. Any and all notices sent or required to be sent to the parties of this  
5 Cooperative Agreement will be mailed by first class mail, postage prepaid, to the following  
6 addresses:

7 RIVERSIDE COUNTY FLOOD CONTROL  
8 AND WATER CONSERVATION DISTRICT  
9 1995 Market Street  
10 Riverside, CA 92501  
11 Attn: Contract Services Section

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

10 SR CONESTOGA, LLC  
11 41391 Kalmia Street, Suite 200  
12 Murrieta, CA 92562  
Attn: Jim Lytle

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

17  
18 13. Any action at law or in equity brought by any of the parties hereto for the  
19 purpose of enforcing a right or rights provided for by the Cooperative Agreement shall be tried in  
20 a court of competent jurisdiction in the County of Riverside, State of California, and the parties  
21 hereto waive all provisions of law providing for a change of venue in such proceedings to any  
22 other county.

23 14. This Cooperative Agreement is the result of negotiations between the parties  
24 hereto, and the advice and assistance of their respective counsel. The fact that this Cooperative  
25 Agreement was prepared as a matter of convenience by DISTRICT shall have no import or  
26 significance. Any uncertainty or ambiguity in this Cooperative Agreement shall not be construed  
27 against DISTRICT because DISTRICT prepared this Cooperative Agreement in its final form.  
28

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

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

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

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

20 //

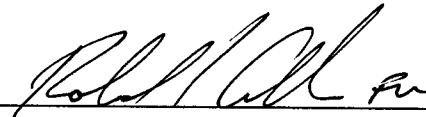
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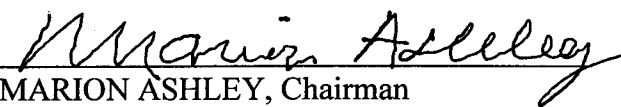


1 IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement on  
 2 OCT 17 2017  
 3 (to be filled in by Clerk of the Board)

4  
 5 RECOMMENDED FOR APPROVAL:

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

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

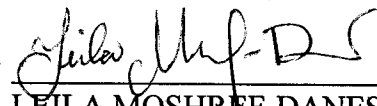
By   
 MARION ASHLEY, Chairman  
 Riverside County Flood Control and Water  
 Conservation District Board of Supervisors

9  
 10 APPROVED AS TO FORM:

ATTEST:

11 GREGORY P. PRIAMOS  
 12 County Counsel

KECIA HARPER-IHEM  
 Clerk of the Board

13  
 14 By   
 15 LEILA MOSHREF-DANESH  
 Deputy County Counsel

By   
 Deputy

(SEAL)

16  
 17  
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 19  
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 22  
 23  
 24  
 25 Amended and Restated Cooperative Agreement:

Winchester Hills – Line 3, Stage 2

26 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1

27 (Tract No. 31141)

Project Nos. 4-0-00577 and 4-0-00578


28 AMR:blm

08/03/17

1 RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

2  
3 By

  
PATRICIA ROMO  
Director of Transportation

By

  
JOHN TAVAGLIONE, Chairman  
Board of Supervisors


4  
5  
6  
7 APPROVED AS TO FORM:

ATTEST:

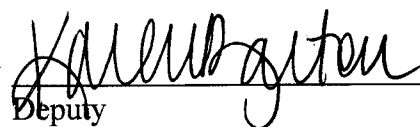
8 GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

9  
10 By

 9/18/17  
SYNTHIA M. GUNZEL Marsha L. Victor  
Supervising Deputy County Counsel

By

  
Deputy

(SEAL)

11  
12  
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17  
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21  
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23  
24  
25 Amended and Restated Cooperative Agreement:

Winchester Hills – Line 3, Stage 2

26 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1  
(Tract No. 31141)

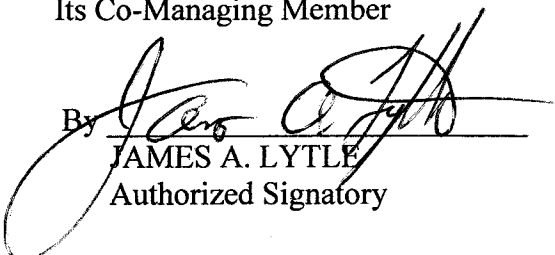
27 Project Nos. 4-0-00577 and 4-0-00578

28 AMR:blm

08/03/17

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

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

6 By   
7 JAMES A. LYTLE  
8 Authorized Signatory

9 (ATTACH NOTARY WITH CAPACITY  
10 STATEMENT)

11 See attached acknowledgment  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 Amended and Restated Cooperative Agreement:

26 Winchester Hills – Line 3, Stage 2

27 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1  
(Tract No. 31141)

28 Project Nos. 4-0-00577 and 4-0-00578

AMR:blm

08/03/17

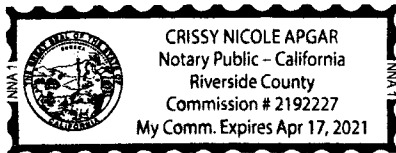
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT****CIVIL CODE § 1189**

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

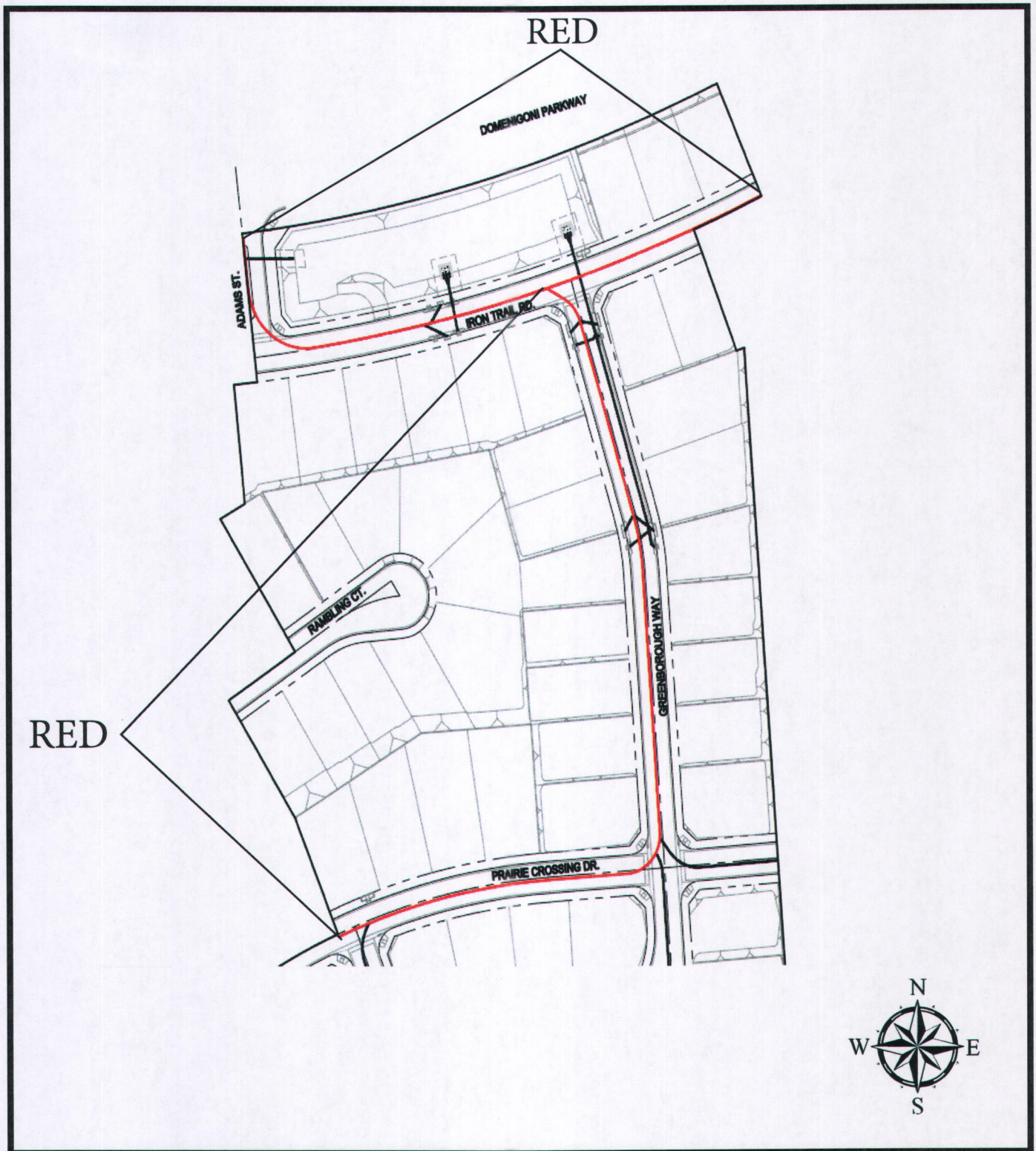
☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

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



## Exhibit A



### AMENDED AND RESTATED COOPERATIVE AGREEMENT

Winchester Hills – Line 3, Stage 2

Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 1

Project Nos. 4-0-00577 and 4-0-00578

Tract No. 31141

Page 1 of 1

1 AMENDED AND RESTATED COOPERATIVE AGREEMENT  
2 Winchester Hills – Line 2, Stage 2  
3 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 2  
4 Project Nos. 4-0-00576 and 4-0-00578  
5 Tract No. 31142

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

10 RECITALS

11 A. DISTRICT, COUNTY and Ashbrook West Prairie Crossing, LP  
12 ("PREVIOUS DEVELOPER") entered into that certain Cooperative Agreement dated December  
13 5, 2006 and recorded as Document No. 2006 – 0954758 in the Official Records of the County of  
14 Riverside, hereinafter referred to as "PREVIOUS AGREEMENT", requiring PREVIOUS  
15 DEVELOPER, as a condition of approval, to construct certain flood control and drainage facilities  
16 as defined in PREVIOUS AGREEMENT; and

17 B. Pursuant to PREVIOUS AGREEMENT, PREVIOUS DEVELOPER has not  
18 constructed the flood control and drainage facilities; and

19 C. Pursuant to a certain Deed of Trust dated June 2, 2014, DEVELOPER has  
20 acquired fee title to the Real Property from PREVIOUS DEVELOPER; and

21 D. DISTRICT, COUNTY and DEVELOPER now desire to enter into a  
22 Cooperative Agreement with the intent that this Agreement shall prevail over the terms of the  
23 previous Agreement dated December 5, 2006; and

24 E. DEVELOPER is a legal part owner of record of certain real property,  
25 including Tract No. 31142, located within the County of Riverside. DEVELOPER has submitted  
26 for approval Tract No. 31142 located in an unincorporated area of western Riverside County. As  
27  
28

1 a condition of approval for Tract No. 31142, DEVELOPER must construct certain flood control  
2 facilities in order to provide flood protection and drainage for DEVELOPER'S planned  
3 development; and

4  
5 F. Susan A. Stanaland, Trustee of the Susan Stanaland Family Trust dated  
6 January 11, 2016 ("TRUST"), is a legal part owner of record of Tract No. 31142 subject to this  
7 Cooperative Agreement. TRUST'S consent to this Cooperative Agreement is required.

8 G. The required flood control facilities and drainage improvements, as shown  
9 in concept in red on Exhibit "A", attached hereto and made a part hereof, and as shown on District  
10 Drawing No. 4-1114, include construction of:

- 11 (i) Approximately 598 lineal feet of underground storm drain system  
12 ("LINE 2 STAGE 2"). At its downstream terminus, LINE 2 STAGE 2  
13 will connect to the proposed Winchester Hills – Line 2, Stage 1 storm  
14 drain facility from Tract No. 30322, hereinafter called "PROPOSED  
15 LINE 2 STAGE 1" as shown on District Drawing No. 4-0898;  
16  
17 (ii) Approximately 46 lineal feet of 48-inch reinforced concrete pipe  
18 ("LATERAL"). At its upstream terminus, LATERAL will terminate  
19 with a concrete bulkhead for future extension;  
20  
21 (iii) Approximately 500 lineal feet of underground storm drain system  
22 ("PRAIRIE STAGE 2 STORM DRAIN"). At its downstream  
23 terminus, PRAIRIE STAGE 2 STORM DRAIN will connect to the  
24 proposed storm drain facility for Tract No. 31141, hereinafter called  
25 "PROPOSED PRAIRIE STAGE 1". Together, LINE 2 STAGE 2,  
26 LATERAL and PRAIRIE STAGE 2 STORM DRAIN are called  
27 "DISTRICT FACILITIES"; and  
28



1 H. Associated with the construction of DISTRICT FACILITIES is the  
2 construction of certain catch basins, inlets, outlets, connector pipes, curbs and gutters, access  
3 roads and various lateral storm drains that are thirty-six inches (36") or less in diameter that are  
4 located within COUNTY held easements or rights of way ("APPURTENANCES"); and

5  
6 I. Also associated with the construction of DISTRICT FACILITIES is the  
7 construction of two (2) water quality basins: ("BASIN 1") and ("BASIN 2"). Together, BASIN  
8 1 and BASIN 2 are called "DEVELOPER BASINS"; and

9 J. DEVELOPER BASINS are to be located within privately held easements or  
10 rights of way, and are to be initially owned and maintained by DEVELOPER and subsequently  
11 owned by the Homeowners' Association for Tract No. 31142 and maintained by the Homeowners'  
12 Association for Tract No. 31142 or via the anticipated formation of a maintenance Community  
13 Facilities District ("CFD"); and

14  
15 K. Also associated with the construction of DISTRICT FACILITIES is the  
16 construction of certain landscape features appurtenant ("DEVELOPER FEATURES") that are to  
17 be located within privately held easements or rights of way and which are to be initially owned  
18 and maintained by DEVELOPER and subsequently owned and maintained by the Homeowners'  
19 Association for Tract No. 31142 or via the anticipated formation of a maintenance CFD; and

20  
21 L. Altogether, DISTRICT FACILITIES, APPURTENANCES, DEVELOPER  
22 BASINS and DEVELOPER FEATURES are called "PROJECT"; and

23 M. All parties recognize and acknowledge that PROPOSED LINE 2 STAGE 1  
24 and PROPOSED PRAIRIE STAGE 1 are to be constructed by DEVELOPER in conjunction with  
25 PROJECT pursuant to separate Cooperative Agreements between DISTRICT, COUNTY and  
26 DEVELOPER. Said Cooperative Agreements are hereinafter called the "LINE 2 STAGE 1  
27 AGREEMENT" and the "PRAIRIE STAGE 1 AGREEMENT", respectively. DISTRICT will  
28



1 not accept DISTRICT FACILITIES for ownership, operation and maintenance until PROPOSED  
2 LINE 2 STAGE 1 and PROPOSED PRAIRIE STAGE 1 are completed pursuant to their  
3 respective Cooperative Agreements and accepted for ownership, operation and maintenance by  
4 DISTRICT; and

5  
6 N. DEVELOPER and COUNTY desire DISTRICT to ultimately accept  
7 ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES.  
8 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for  
9 PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

10  
11 O. DEVELOPER and DISTRICT desire COUNTY to accept ownership and  
12 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY  
13 must review and approve DEVELOPER'S plans and specifications for PROJECT and  
14 subsequently inspect the construction of APPURTENANCES; and

15  
16 P. DEVELOPER is willing to assume ownership, operation and maintenance  
17 responsibilities of DISTRICT FACILITIES on an interim basis as set forth herein, with the  
18 recognition and understanding that the actual acceptance of DISTRICT FACILITIES for  
19 ownership, operation and maintenance responsibilities by DISTRICT is entirely dependent upon  
20 (i) the construction of PROPOSED LINE 2 STAGE 1 and PROPOSED PRAIRIE STAGE 1 as  
21 being complete; (ii) DISTRICT acceptance of ownership and responsibility for the operation and  
22 maintenance of PROPOSED LINE 2 STAGE 1 and PROPOSED PRAIRIE STAGE 1; (iii)  
23 DISTRICT FACILITIES being constructed in accordance with plans and specifications approved  
24 by DISTRICT and as set forth herein; (iv) DISTRICT'S sole determination that DISTRICT  
25 FACILITIES are in a satisfactorily maintained condition; and (v) DISTRICT FACILITIES are  
26 fully functioning as a flood control drainage system as solely determined by DISTRICT; and  
27  
28

1 Q. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and  
2 specifications for PROJECT; (ii) inspect the construction of DISTRICT FACILITIES; and (iii)  
3 ultimately assume ownership and responsibility for the operation and maintenance of DISTRICT  
4 FACILITIES, provided DEVELOPER (a) complies with this Agreement; (b) constructs  
5 PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications; (c)  
6 obtains and conveys to DISTRICT all rights of way necessary for the inspection, operation and  
7 maintenance of DISTRICT FACILITIES as set forth herein; and (d) accepts ownership and  
8 responsibility for the operation and maintenance of PROJECT following completion of PROJECT  
9 construction until such time as DISTRICT accepts ownership and responsibility for the operation  
10 and maintenance of DISTRICT FACILITIES and COUNTY accepts ownership and responsibility  
11 for operation and maintenance of APPURTENANCES; and  
12

13  
14 R. COUNTY is willing to (i) review and approve DEVELOPER'S plans and  
15 specifications for PROJECT; (ii) inspect the construction of PROJECT; (iii) accept and hold  
16 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT  
17 FACILITIES and APPURTENANCES; (iv) grant DISTRICT the right to inspect, operate and  
18 maintain DISTRICT FACILITIES within COUNTY rights of way; and (v) accept ownership and  
19 responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is  
20 constructed in accordance with plans and specifications approved by DISTRICT and COUNTY.  
21

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

23 SECTION I

24 DEVELOPER shall:

25  
26 1. Prepare PROJECT plans and specifications ("IMPROVEMENT PLANS")  
27 in accordance with applicable DISTRICT and COUNTY standards, and submit to DISTRICT and  
28 COUNTY for their respective review and approval.

1                   2.     Continue to pay DISTRICT, within thirty (30) days after receipt of periodic  
2 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by  
3 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,  
4 review and approval of rights of way and conveyance documents, and with the processing and  
5 administration of this Cooperative Agreement.  
6

7                   3.     Deposit with DISTRICT (Attention: Business Office - Accounts  
8 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
9 construction as set forth in Section I.8. herein, the estimated cost of providing construction  
10 inspection for DISTRICT FACILITIES in an amount as determined and approved by DISTRICT  
11 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any  
12 amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time the  
13 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with DISTRICT,  
14 DEVELOPER shall pay such additional amount(s) as deemed reasonably necessary by  
15 DISTRICT to complete inspection of DISTRICT FACILITIES within thirty (30) days after  
16 receipt of billing from DISTRICT.  
17

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

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

3           6. Prior to commencing construction, furnish DISTRICT with copies of all  
4 permits, approvals or agreements required by any federal, state or local resource and/or regulatory  
5 agency for the construction, operation and maintenance of DISTRICT FACILITIES. Such  
6 documents include but are not limited to those issued by the U.S. Army Corps of Engineers,  
7 California Regional Water Quality Control Board, California State Department of Fish and  
8 Wildlife, State Water Resources Control Board and Western Riverside County Regional  
9 Conservation Authority ("REGULATORY PERMITS").  
10

11           7. Provide COUNTY, at the time of providing written notice to DISTRICT of  
12 the start of construction as set forth in Section I.8., with faithful performance and payment bonds,  
13 each in the amount of one hundred percent (100%) of the estimated cost for construction of  
14 DISTRICT FACILITIES as determined by DISTRICT and of the APPURTENANCES as  
15 determined by the COUNTY. The surety, amount and form of the bonds shall be subject to  
16 approval of DISTRICT and COUNTY. The bonds shall remain in full force and effect until the  
17 PROJECT is accepted by DISTRICT and COUNTY as complete. At which time, the bond  
18 amount may be reduced to five percent (5%) for a period of one (1) year to guarantee against any  
19 defective work, labor or materials.  
20  
21

22           8. Notify DISTRICT in writing (Attention: Administrative Services Section) at  
23 least twenty (20) days prior to the start of construction of PROJECT. Construction shall not begin  
24 on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to  
25 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction  
26 of PROJECT.  
27

28           9. [INTENTIONALLY DELETED]

1                   10. [INTENTIONALLY DELETED]

2                   11. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
3 the start of construction as set forth in Section I.8., with a complete list of all contractors and  
4 subcontractors to be performing work on DISTRICT FACILITIES, including the corresponding  
5 license number and license classification of each. At such time, DEVELOPER shall further  
6 identify in writing its designated superintendent for PROJECT construction.  
7

8                   12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
9 the start of construction as set forth in Section I.8., a construction schedule which shall show the  
10 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the  
11 various parts of work, including estimated start and completion dates. As construction of  
12 DISTRICT FACILITIES progresses, DEVELOPER shall update said construction schedule as  
13 requested by DISTRICT.  
14

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

17                   14. Not permit any change to or modification of DISTRICT and COUNTY  
18 approved IMPROVEMENT PLANS without the prior written permission and consent of  
19 DISTRICT and COUNTY.  
20

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

24                   16. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
25 the start of construction as set forth in Section I.8., a confined space entry procedure specific to  
26 PROJECT. The procedure shall comply with requirements contained in California Code of  
27 Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit  
28

1 Required Confined Space and District Confined Space Procedures, SOM-18. The procedure shall  
2 be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed.

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

7  
8 Without limiting or diminishing DEVELOPER'S obligation to indemnify or  
9 hold DISTRICT harmless, DEVELOPER shall procure and maintain or cause to be maintained,  
10 at its sole cost and expense, the following insurance coverage's during the term of this Agreement:

11 A. Workers' Compensation:

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

19 B. Commercial General Liability:

20 Commercial General Liability insurance coverage, including but not  
21 limited to, premises liability, unmodified contractual liability, products  
22 and completed operations liability, personal and advertising injury, and  
23 cross liability coverage, covering claims which may arise from or out of  
24 DEVELOPER'S performance of its obligations hereunder. Policy shall  
25 name the Riverside County Flood Control and Water Conservation  
26  
27  
28

1 District and COUNTY, its agencies, districts, special districts, and  
2 departments, their respective directors, officers, Board of Supervisors,  
3 employees, elected or appointed officials, agents or representatives as  
4 additional insureds. Policy's limit of liability shall not be less than  
5 \$2,000,000 per occurrence combined single limit. If such insurance  
6 contains a general aggregate limit, it shall apply separately to this  
7 Agreement or be no less than two (2) times the occurrence limit.  
8

9 C. Vehicle Liability:

10 If DEVELOPER'S vehicles or mobile equipment are used in the  
11 performance of the obligations under this Agreement, then  
12 DEVELOPER shall maintain liability insurance for all owned, non-  
13 owned or hired vehicles so used in an amount not less than \$1,000,000  
14 per occurrence combined single limit. If such insurance contains a  
15 general aggregate limit, it shall apply separately to this Agreement or be  
16 no less than two (2) times the occurrence limit. Policy shall name the  
17 Riverside County Flood Control and Water Conservation District and  
18 COUNTY, its agencies, districts, special districts, and departments,  
19 their respective directors, officers, Board of Supervisors, employees,  
20 elected or appointed officials, agents or representatives as additional  
21 insureds.  
22

23 D. Professional Liability:

24 DEVELOPER shall cause any architect or engineer retained by  
25 DEVELOPER in connection with the performance of DEVELOPER's  
26 obligations under this Agreement to maintain Professional Liability  
27  
28

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

16  
17  
18 E. General Insurance Provisions – All Lines:

- 19  
20 i. Any insurance carrier providing insurance coverage hereunder  
21 shall be admitted to the State of California and have an A.M.  
22 BEST rating of not less than an A: VIII (A: 8) unless such  
23 requirements are waived, in writing, by the County Risk  
24 Manager. If the County Risk Manager waives a requirement for a  
25 particular insurer such waiver is only valid for that specific  
26 insurer and only for one policy term.  
27  
28



1                   ii.   The DEVELOPER must declare its insurance self-insured  
2                   retention for each coverage required herein. If any such self-  
3                   insured retention exceeds \$500,000 per occurrence each such  
4                   retention shall have the prior written consent of the County Risk  
5                   Manager before the commencement of operations under this  
6                   Agreement. Upon notification of self-insured retention deemed  
7                   unacceptable to the DISTRICT, and at the election of the County  
8                   Risk Manager, DEVELOPER'S carriers shall either: 1) reduce or  
9                   eliminate such self-insured retention with respect to this  
10                  Agreement with DISTRICT, or 2) procure a bond which  
11                  guarantees payment of losses and related investigations, claims  
12                  administration, and defense costs and expenses.  
13

14  
15                  iii.   DEVELOPER shall cause their insurance carrier(s) or its  
16                  contractor's insurance carrier(s), to furnish DISTRICT with 1) a  
17                  properly executed original certificate(s) of insurance and certified  
18                  original copies of endorsements effecting coverage as required  
19                  herein; and 2) if requested to do so orally or in writing by the  
20                  County Risk Manager, provide original certified copies of  
21                  policies including all endorsements and all attachments thereto,  
22                  showing such insurance is in full force and effect. Further, said  
23                  certificate(s) and policies of insurance shall contain the covenant  
24                  of the insurance carrier(s) that a minimum of sixty (60) days  
25                  written notice shall be given to the DISTRICT prior to any  
26                  material modification, cancellation, expiration or reduction in  
27  
28

1 coverage of such insurance. If DEVELOPER insurance carrier(s)  
2 policies does not meet the minimum notice requirement found  
3 herein, DEVELOPER shall cause DEVELOPER'S insurance  
4 carrier(s) to furnish a 60 day Notice of Cancellation Endorsement.  
5  
6 In the event of a material modification, cancellation, expiration  
7 or reduction in coverage, this Agreement shall terminate  
8 forthwith, unless DISTRICT receives, prior to such effective  
9 date, another properly executed original certificate of insurance  
10 and original copies of endorsements or certified original policies,  
11 including all endorsements and attachments thereto, evidencing  
12 coverages set forth herein and the insurance required herein is in  
13 full force and effect. An individual authorized by the insurance  
14 carrier to do so on its behalf shall sign the original endorsements  
15 for each policy and the certificate of insurance.  
16

17 iv. It is understood and agreed by the parties hereto that  
18 DEVELOPER'S insurance shall be construed as primary  
19 insurance, and DISTRICT'S insurance and/or deductibles and/or  
20 self-insured retentions or self-insured programs shall not be  
21 construed as contributory.  
22

23 v. If, during the term of this Agreement or any extension thereof,  
24 there is a material change in the scope of services or there is a  
25 material change in the equipment to be used in the performance  
26 of the scope of work which will add additional exposures (such  
27 as the use of aircraft, watercraft, cranes, etc.); or the term of this  
28

1 Agreement, including any extensions thereof, exceeds five (5)  
2 years, DISTRICT reserves the right to adjust the types of  
3 insurance required under this Agreement and the monetary limits  
4 of liability for the insurance coverages currently required herein,  
5 if, in the County Risk Manager's reasonable judgment, the  
6 amount or type of insurance carried by DEVELOPER has  
7 become inadequate.

8  
9 vi. DEVELOPER shall pass down the insurance obligations  
10 contained herein to all tiers of subcontractors working under this  
11 Agreement.

12  
13 vii. The insurance requirements contained in this Agreement may be  
14 met with a program(s) of self-insurance acceptable to DISTRICT.

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

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

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

26  
27 19. Within two (2) weeks of completing PROJECT construction, provide  
28 DISTRICT (Attention: Contract Administration Section) and COUNTY with written notice that

1 PROJECT construction is substantially complete and requesting that DISTRICT conduct a final  
2 inspection of DISTRICT FACILITIES and COUNTY conduct a final inspection of  
3 APPURTENANCES. It is mutually understood that prior to DISTRICT acceptance of ownership  
4 and responsibility for the operation and maintenance of DISTRICT FACILITIES, DISTRICT  
5 FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT  
6 and PROPOSED LINE 2 STAGE 1 and PROPOSED PRAIRIE STAGE 1 shall have been  
7 accepted by DISTRICT for ownership, operation and maintenance.  
8

9 20. [INTENTIONALLY DELETED]

10 21. [INTENTIONALLY DELETED]

11 22. Accept ownership and sole responsibility for the operation and maintenance  
12 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation  
13 and maintenance of DISTRICT FACILITIES, PROPOSED LINE 2 STAGE 1 and PROPOSED  
14 PRAIRIE STAGE 1 and COUNTY accepts ownership and responsibility for operation and  
15 maintenance of APPURTENANCES.  
16

17 23. Accept all liability whatsoever associated with the ownership, operation and  
18 maintenance of DISTRICT FACILITIES until such time as DISTRICT FACILITIES are formally  
19 accepted by DISTRICT for ownership, operation and maintenance.  
20

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

25 25. Upon completion of PROJECT construction but prior to DISTRICT  
26 acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or  
27 cause its civil engineer of record or construction civil engineer of record, duly registered in the  
28

State of California, to provide DISTRICT with a redlined "record drawings" copy of PROJECT plans. After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office. After which, the engineer shall review, stamp and sign the original PROJECT engineering plans "record drawings".

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

## 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 Cooperative Agreement, record or cause to be recorded a copy of this Cooperative Agreement in the Official Records of the Riverside County Recorder.

4. [INTENTIONALLY DELETED]

5. Inspect DISTRICT FACILITIES construction.

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

4           7.    Keep an accurate accounting of all DISTRICT construction inspection costs,  
5 and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being  
6 complete, submit a final cost statement to DEVELOPER. If the deposit as set forth in Section I.3.  
7 exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty  
8 (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.

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

19           9.    Provide COUNTY with a reproducible duplicate copy of "record drawings"  
20 PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITIES as being complete.  
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1 replaced or changed. It being further understood and agreed that any such adjustments shall be  
2 performed at no cost to DISTRICT.

#### 3 SECTION IV

4 It is further mutually agreed:

5  
6 1. All work involved with PROJECT shall be inspected by DISTRICT and  
7 COUNTY, but shall not be deemed complete until DISTRICT and COUNTY mutually agree in  
8 writing that construction is completed in accordance with DISTRICT and COUNTY approved  
9 IMPROVEMENT PLANS.

10 2. COUNTY and DEVELOPER personnel may observe and inspect all work  
11 being done on DISTRICT FACILITIES, but shall provide any comments to DISTRICT personnel  
12 who shall be solely responsible for all quality control communications with DEVELOPER'S  
13 contractor(s) during the construction of PROJECT.

14  
15 3. DISTRICT acceptance of ownership and responsibility for the operation and  
16 maintenance of DISTRICT FACILITIES shall be in a satisfactorily maintained condition, as  
17 solely determined by DISTRICT. If, subsequent to the inspection and in the sole discretion of  
18 DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections shall be  
19 made at sole expense of DEVELOPER.

20  
21 4. DEVELOPER shall complete construction of PROJECT within twelve (12)  
22 consecutive months after execution of this Cooperative Agreement and within one hundred twenty  
23 (120) consecutive calendar days after commencing work on PROJECT. It is expressly understood  
24 that since time is of the essence in this Cooperative Agreement, failure of DEVELOPER to  
25 perform the work within the agreed upon time shall constitute authority for DISTRICT to perform  
26 the remaining work and require DEVELOPER'S surety to pay to COUNTY the penal sum of any  
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1 and all bonds. In which case, COUNTY shall subsequently reimburse DISTRICT for DISTRICT  
2 costs incurred.

3           5. If DEVELOPER fails to commence construction of PROJECT within nine  
4 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to  
5 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they  
6 exist at the time DEVELOPER provides written notification to DISTRICT of the start of  
7 construction as set forth in Section I.8. In the event of a change in the existing site conditions that  
8 materially affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT  
9 FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT PLANS as  
10 deemed necessary by DISTRICT.  
11

12           6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within  
13 twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in Section I.8.;  
14 however, DISTRICT'S construction inspection staff is limited and, therefore, the issuance of a  
15 Notice to Proceed is subject to staff availability.  
16

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

3           7. PROJECT construction work shall be on a five (5) day, forty (40) hour work  
4 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless  
5 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more  
6 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written  
7 request for permission from DISTRICT to work the additional hours. The request shall be  
8 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work  
9 hours and state the reasons for the overtime and the specific time frames required. The decision  
10 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and  
11 shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost  
12 incurred at the overtime rates for additional inspection time required in connection with the  
13 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments  
14 thereto, of the County of Riverside.

17           8. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY  
18 (including their agencies, districts, special districts and departments, their respective directors,  
19 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
20 representatives) from any liability, claim, damage, proceeding or action, present or future, based  
21 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,  
22 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,  
23 performance under this Agreement, or failure to comply with the requirements of this Agreement,  
24 including but not limited to (a) property damage; (b) bodily injury or death; (c) liability or damage  
25 pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United  
26 States Constitution or any other law, ordinance or regulation caused by the diversion of waters  
27  
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1 from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d)  
2 any other element of any kind or nature whatsoever.

3 DEVELOPER shall defend, at its sole expense, including all costs and fees  
4 (including but not limited to attorney fees, cost of investigation, defense and settlements or  
5 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and  
6 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
7 officials, employees, agents and representatives) in any claim, proceeding or action for which  
8 indemnification is required.  
9

10 With respect to any of DEVELOPER'S indemnification requirements,  
11 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall  
12 have the right to adjust, settle or compromise any such claim, proceeding or action without the  
13 prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,  
14 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S  
15 indemnification obligations to DISTRICT or COUNTY.  
16

17 DEVELOPER'S indemnification obligations shall be satisfied when  
18 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or  
19 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding  
20 or action involved.  
21

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

25 In the event there is conflict between this section and California Civil Code  
26 Section 2782, this section shall be interpreted to comply with California Civil Code Section 2782.  
27  
28

1 Such interpretation shall not relieve DEVELOPER from indemnifying DISTRICT or COUNTY  
2 to the fullest extent allowed by law.

3           9.     DEVELOPER for itself, its successors and assigns hereby releases  
4 DISTRICT and COUNTY, their respective officers, agents and employees from any and all  
5 claims, demands, actions or suits of any kind arising out of any liability, known or unknown,  
6 present or future, including but not limited to any claim or liability, based or asserted, pursuant to  
7 Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States  
8 Constitution, or any other law or ordinance which seeks to impose any other liability or damage  
9 whatsoever for damage caused by the discharge of drainage within or from PROJECT. Nothing  
10 contained herein shall constitute a release by DEVELOPER of DISTRICT or COUNTY, their  
11 officers, agents and employees from any and all claims, demands, actions or suits of any kind  
12 arising out of any liability, known or unknown, present or future, for the negligent maintenance  
13 of DISTRICT FACILITIES and APPURTENANCES after the acceptance of DISTRICT  
14 FACILITIES and APPURTENANCES by DISTRICT and COUNTY, respectively.  
15  
16

17           10.    Any waiver by DISTRICT or by COUNTY of any breach of any one or more  
18 of the terms of this Cooperative Agreement shall not be construed to be a waiver of any subsequent  
19 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or  
20 COUNTY to require exact, full and complete compliance with any terms of this Cooperative  
21 Agreement shall not be construed as in any manner changing the terms hereof or estopping  
22 DISTRICT or COUNTY from enforcement hereof.  
23

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

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

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

4 SR CONESTOGA, LLC  
5 41391 Kalmia Street, Suite 200  
6 Murrieta, CA 92562  
7 Attn: Jim Lytle

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

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

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

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

24 16. DEVELOPER shall not assign or otherwise transfer any of its rights, duties  
25 or obligations hereunder to any person or entity without the written consent of the other parties  
26 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER  
27  
28

1 expressly understands and agrees that it shall remain liable with respect to any and all of the  
2 obligations and duties contained in this Cooperative Agreement.

3           17. The individual(s) executing this Cooperative Agreement on behalf of  
4 DEVELOPER certify that they have the authority within their respective company(ies) to enter  
5 into and execute this Cooperative Agreement, and have been authorized to do so by all boards of  
6 directors, legal counsel, and / or any other board, committee or other entity within their respective  
7 company(ies) which have the authority to authorize or deny entering into this Cooperative  
8 Agreement.  
9

10           18. This Cooperative Agreement is intended by the parties hereto as a final  
11 expression of their understanding with respect to the subject matter hereof and as a complete and  
12 exclusive statement of the terms and conditions thereof and supersedes any and all prior and  
13 contemporaneous agreements and understandings, oral or written, in connection therewith. This  
14 Cooperative Agreement may be changed or modified only upon the written consent of the parties  
15 hereto.  
16

17 //

18 //

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

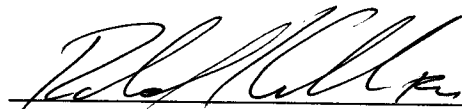
08/27/2017

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

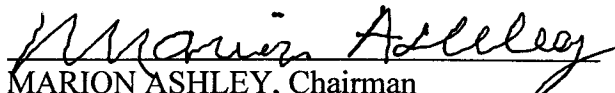
By



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

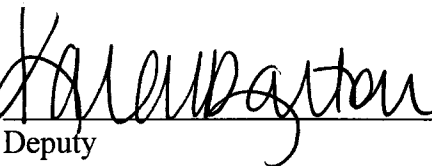
By



LEILA MOSHREF-DANESH

Deputy County Counsel

By



Deputy

(SEAL)

Cooperative Agreement

Winchester Hills – Line 2, Stage 2

Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 2  
(Tract No. 31142)

Project Nos. 4-0-00576 and 4-0-00578

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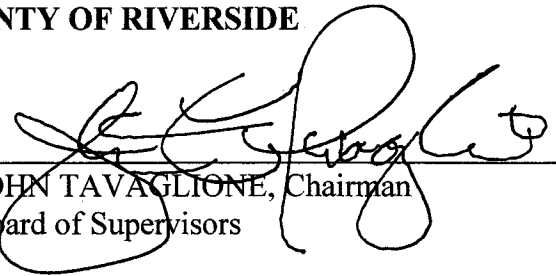
1 RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

2  
3 By

  
PATRICIA ROMO  
Director of Transportation

By

  
JOHN TAVAGLIONE, Chairman  
Board of Supervisors

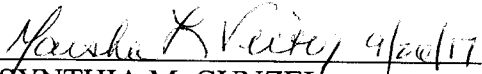
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6  
7 APPROVED AS TO FORM:

ATTEST:

8 GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

9  
10 By

  
~~SYNTHIA M. GUNZEL~~  
Supervising Deputy County Counsel

By

  
Deputy

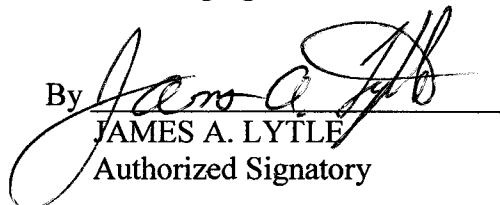
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13 (SEAL)  
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23

24 Amended and Restated Cooperative Agreement  
Winchester Hills – Line 2, Stage 2  
25 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 2  
(Tract No. 31142)  
26 Project Nos. 4-0-00576 and 4-0-00578  
27 AMR:blm  
08/03/17  
28 P8/214382



1  
2 **SR CONESTOGA, LLC**  
a Delaware limited liability company

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

6 By   
7 JAMES A. LYTLE  
8 Authorized Signatory

9 (ATTACH NOTARY WITH CAPACITY  
10 STATEMENT)

11 See attached acknowledgment  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 Amended and Restated Cooperative Agreement

25 Winchester Hills – Line 2, Stage 2

26 Winchester Hills – Prairie Crossing Drive Storm Drain, Stage 2

(Tract No. 31142)

27 Project Nos. 4-0-00576 and 4-0-00578

28 AMR:blm

08/03/17

P8/214382

**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: \_\_\_\_\_



**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 )

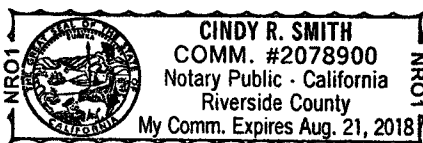
On AUGUST 29, 2017 before me, CINDY R. SMITH, NOTARY PUBLIC,  
Date Here Insert Name and Title of the Officer

personally appeared SUSAN A. STANLAND  
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 [Signature]  
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)**

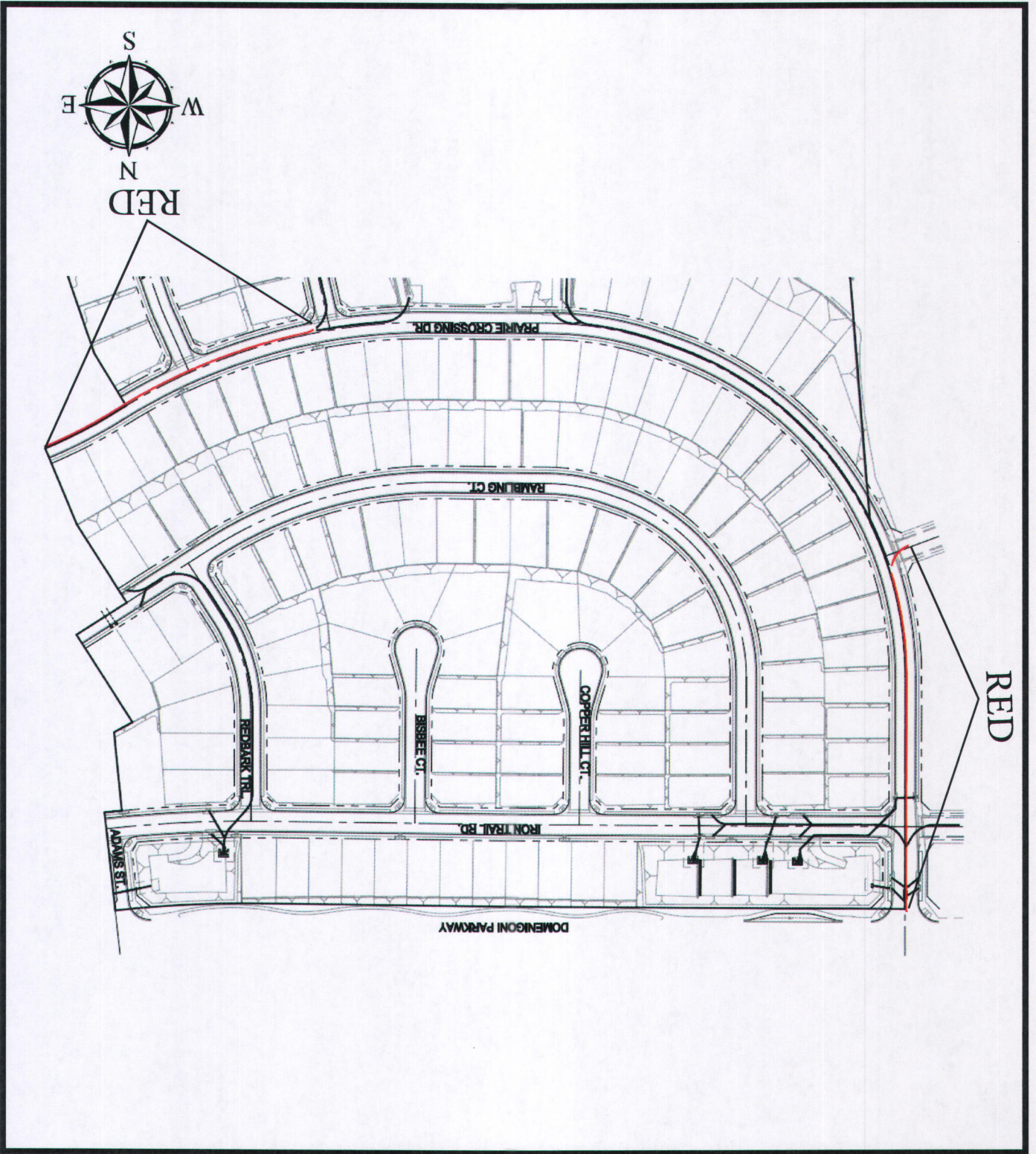
Signer's Name: \_\_\_\_\_

- |  |  |
|--|--|
| <input type="checkbox"/> Corporate Officer — Title(s): _____   | <input type="checkbox"/> Corporate Officer — Title(s): _____   |
| <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General |
| <input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact                        | <input type="checkbox"/> Individual <input type="checkbox"/> Attorney in Fact                        |
| <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator                    | <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator                    |
| <input type="checkbox"/> Other: _____  | <input type="checkbox"/> Other: _____  |

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



Exhibit A



AMENDED AND RESTATED COOPERATIVE AGREEMENT  
Winchester Hills - Line 2, Stage 2  
Winchester Hills - Prairie Crossing Drive Storm Drain, Stage 2  
Project Nos. 4-0-00576 and 4-0-00578  
Tract No. 31142  
Page 1 of 1

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  
25  
26  
27  
28

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  
28



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 A. Workers' Compensation:

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

13 B. Commercial General Liability:

14 Commercial General Liability insurance coverage, including but not  
15 limited to, premises liability, unmodified contractual liability, products  
16 and completed operations liability, personal and advertising injury, and  
17 cross liability coverage, covering claims which may arise from or out  
18 of DEVELOPER'S performance of its obligations hereunder. Policy  
19 shall name the Riverside County Flood Control and Water  
20 Conservation District and COUNTY, its agencies, districts, special  
21 districts, and departments, their respective directors, officers, Board of  
22 Supervisors, employees, elected or appointed officials, agents or  
23 representatives as additional insureds. Policy's limit of liability shall  
24 not be less than \$2,000,000 per occurrence combined single limit. If  
25 such insurance contains a general aggregate limit, it shall apply  
26  
27  
28

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  
27  
28

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  
27  
28

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

12 23. Accept all liability whatsoever associated with the ownership, operation and  
13 maintenance of DISTRICT FACILITY until such time as DISTRICT FACILITY are formally  
14 accepted by DISTRICT for ownership, operation and maintenance.  
15

16 24. Pay, if suit is brought upon this Cooperative Agreement or any bond  
17 guaranteeing the completion of PROJECT, all costs and reasonable expenses and fees, including  
18 reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses  
19 and fees shall be computed as costs and included in any judgment rendered.  
20

21 25. Upon completion of PROJECT construction, but prior to DISTRICT  
22 acceptance of DISTRICT FACILITY for ownership, operation and maintenance, provide or cause  
23 its civil engineer of record or construction civil engineer of record, duly registered in the State of  
24 California, to provide DISTRICT with a redlined "record drawings" copy of PROJECT plans.  
25 After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer shall  
26 schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original  
27  
28

mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign the original PROJECT engineering plans "record drawings".

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

## 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 Cooperative Agreement, record or cause to be recorded a copy of this Cooperative Agreement in the Official Records of the Riverside County Recorder.

4. [INTENTIONALLY DELETED]

5. Inspect DISTRICT FACILITY construction.

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 Cooperative Agreement.

7. Keep an accurate accounting of all DISTRICT construction inspection costs, 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

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

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

17           17. The individual(s) executing this Cooperative Agreement on behalf of  
18 DEVELOPER certify that they have the authority within their respective company(ies) to enter  
19 into and execute this Cooperative Agreement, and have been authorized to do so by all boards of  
20 directors, legal counsel, and / or any other board, committee or other entity within their respective  
21 company(ies) which have the authority to authorize or deny entering into this Cooperative  
22 Agreement.  
23

24           18. This Cooperative Agreement is intended by the parties hereto as a final  
25 expression of their understanding with respect to the subject matter hereof and as a complete and  
26 exclusive statement of the terms and conditions thereof and supersedes any and all prior and  
27 contemporaneous agreements and understandings, oral or written, in connection therewith. This  
28

1 Cooperative Agreement may be changed or modified only upon the written consent of the parties  
2 hereto.

3 //

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

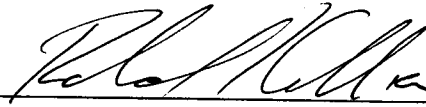
2 OCT 17 2017

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

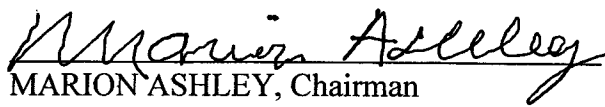
4  
5 RECOMMENDED FOR APPROVAL:

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

6  
7 By

  
JASON E. UHLEY  
General Manager-Chief Engineer

By

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

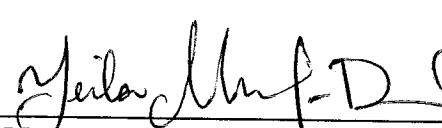
9  
10 APPROVED AS TO FORM:

ATTEST:

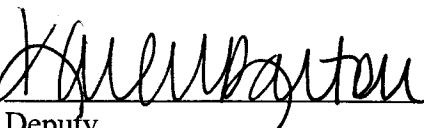
11 GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

12  
13 By

  
LEILA MOSHREF-DANESH  
Deputy County Counsel

By


  
Deputy

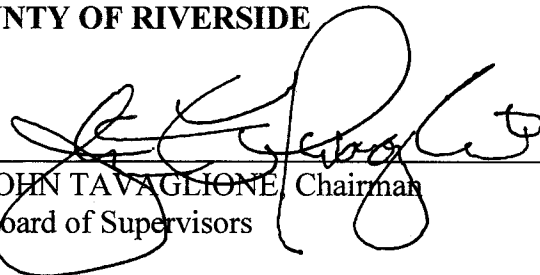
(SEAL)

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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  9/26/17  
11 SYNTHIA M. GUNZEL  
12 Supervising Deputy County Counsel

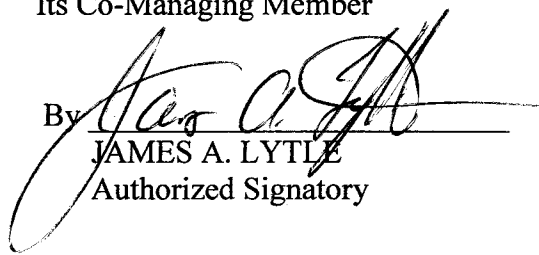
By   
Deputy

(SEAL)

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

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

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

6 By   
7 JAMES A. LYTLE  
8 Authorized Signatory

9 (ATTACH NOTARY WITH CAPACITY  
10 STATEMENT)

11 See attached acknowledgment  
12  
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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



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

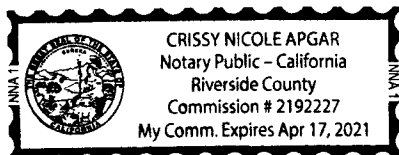
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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

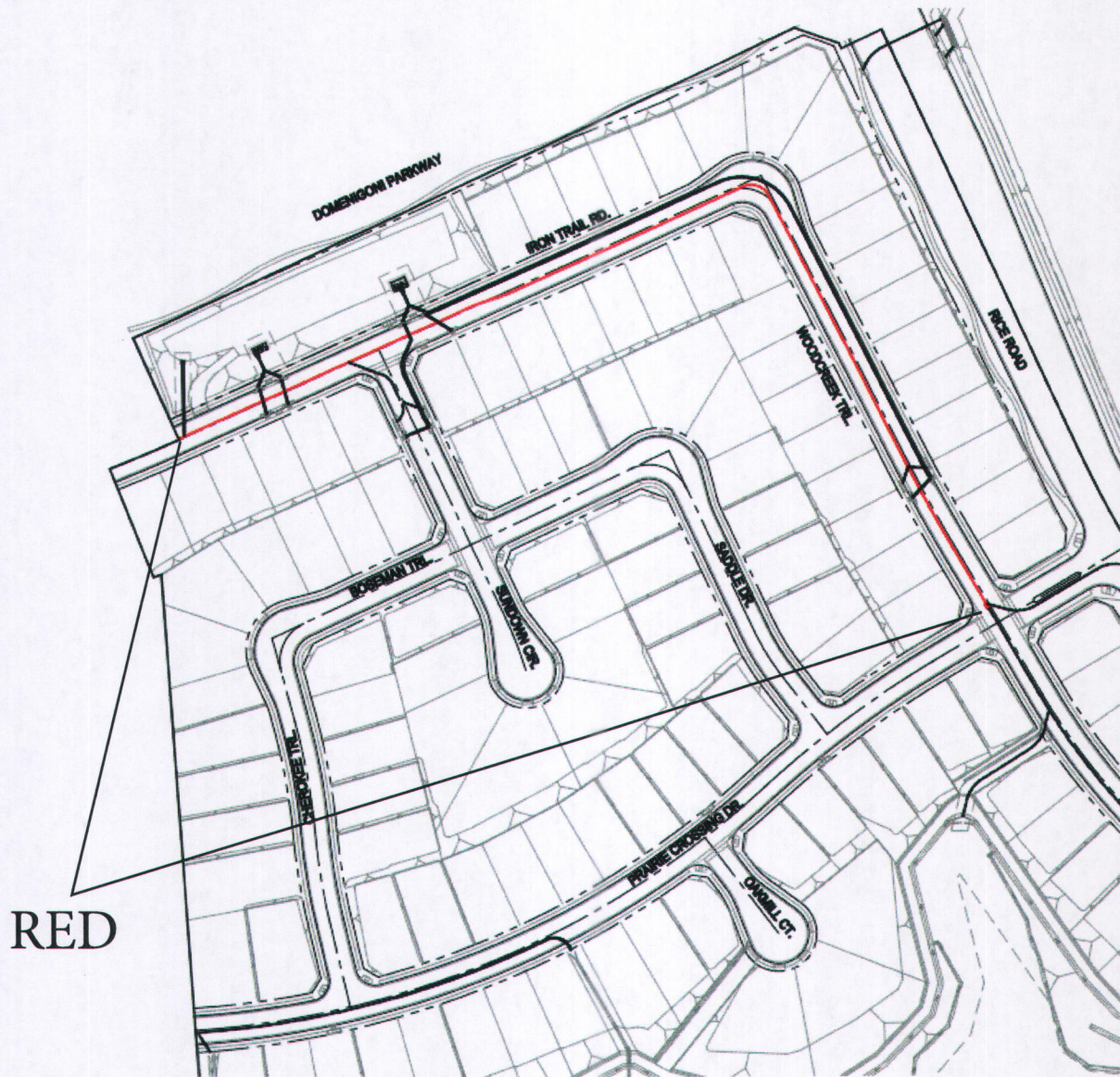
☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

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

## Exhibit A



RED

