

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



ITEM: 11.5
(ID # 15088)

MEETING DATE:

Tuesday, June 08, 2021

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Two Cooperative Agreements Between the Riverside County Flood Control and Water Conservation District, the City of Riverside and AFG Development, LLC for University Wash Channel, Stage 5, and University Area Master Drainage Plan Line 8-E, Stages 1 and 2, (Parcel Map No. 37475) Project Nos. 1-0-00120 and 1-0-00118, Nothing Further is Required Under CEQA, District 2. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the approval of the two Cooperative Agreements provides for construction inspection and subsequent operation and maintenance of the above flood control facilities and the transfer of the necessary rights of way and will not have a significant adverse effect on the environment and that any potentially significant environmental effects have been adequately analyzed in The Exchange, Environmental Impact Report (SCH No. 2018071058), adopted by the Lead Agency;
2. Approve the two Cooperative Agreements between the Riverside County Flood Control and Water Conservation District (District), the City of Riverside (City) and AFG Development, LLC (Developer);
3. Authorize the Chair of the Board of Supervisors for the District to execute the two Cooperative Agreement documents on behalf of the District;

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ACTION: Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

5/28/2021

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Date: June 8, 2021
xc: Flood

Kecia R. Harper
Clerk of the Board
By:
Deputy

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RECOMMENDED MOTION: That the Board of Supervisors:

4. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the two Cooperative Agreements including, but not limited to, negotiating, approving and executing any non-substantive amendments and any assignment and assumption associated with change of ownership or the property, subject to approval by County Counsel; and
5. Direct the Clerk of the Board to return five (5) executed originals of each Cooperative Agreement to the District.

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
			For Fiscal Year: 20/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The two Cooperative Agreements (Agreements) set forth the terms and conditions by which certain flood control facilities required as a condition of approval for Parcel Map No. 37475 (PM 37475) are to be constructed by Developer and inspected, operated and maintained by the District, City, and Developer.

Additionally, the District has an existing open channel, University Wash, Stage 2, (District Drawing No. 1-0350) within PM 37475. The Developer proposes to convert this open channel into an underground storm drain system to utilize the surface for other approved uses. The District owns the existing open channel and is transferring the ownership and associated liabilities to the Developer and retaining easement rights pursuant to a separate Grant Deed and Reservation of Easement Agreement (MT 15297). The District will retain easement rights on the existing open channel for its continued operation and maintenance until the new underground facility is constructed and accepted by the District for maintenance pursuant to these Agreements.

The Agreements are necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection and subsequent operation and maintenance of University Wash Channel, Stage 5, and University Area Master Drainage Plan Line 8-E, Stages 1 and 2.

Upon completion of construction, the District will assume ownership, operation and maintenance of the underground facilities University Wash Channel, Stage 5, and University Area Master Drainage Plan Line 8-E, Stages 1 and 2, storm drain systems that are greater than 36 inches in diameter, concrete pads, slope protection barriers, signage and fencing. The City will assume ownership and responsibility for the operation and maintenance of the project's associated inlets, outlets, connector pipes, and various lateral storm drains that are 36 inches or less in diameter that are located with City held easements or rights of way.

County Counsel has approved the Agreements as to legal form, and the City of Riverside plans to take the Agreements to their Board on June 15, 2021 for signature.

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Environmental Findings

Pursuant to Section 15096 of the California Environmental Quality Act (CEQA) Statutes and Guidelines, the District, in its limited capacity as a Responsible Agency, considered the Environmental Impact Report (EIR) that was certified by the Lead Agency (City of Riverside) and independently finds that the EIR adequately covers the District's plan check, inspection and the operation and maintenance of the flood control facilities and necessary transfer of rights of way that are the subject of the Agreements. Furthermore, the District finds that no significant adverse impacts will occur as a result of the plan check, inspection, operation and maintenance of the facilities and transfer of rights of way that are the subject of the Agreements, and that no further analysis under CEQA is required for the Agreements.

Impact on Residents and Businesses

As noted above, construction of these drainage improvements is a requirement for the development of Parcel Map No. 37475. The key beneficiaries are the future owners of the property.

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 Map
2. Cooperative Agreements

BB:blm
P8/238138



Jason Farin, Principal Management Analyst

6/1/2021



Gregory L. Priamos, Director County Counsel

5/26/2021

COOPERATIVE AGREEMENT

University Area Master Drainage Plan Line 8-E, Stage 2

Project No. 1-0-00118

Parcel Map No. 37475

This Cooperative Agreement ("Agreement"), dated as of _____, 2021, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the City of Riverside, a California municipal corporation, ("CITY"), and AFG Development, LLC, a California Limited Liability Company, ("DEVELOPER"). DISTRICT, CITY, and DEVELOPER individually referred to herein as "party" and collectively referred to herein as "parties." The Parties hereto agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within City of Riverside. DEVELOPER has submitted for approval Parcel Map 37475 located in the City of Riverside. As a condition of approval for Parcel Map 37475, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER's planned development; and

B. The legal description of Parcel Map No. 37475 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities and drainage improvements, are shown on DISTRICT's Drawing No. 1-0750, and as shown in concept on Exhibit "B", attached hereto and made a part hereof and includes the construction of:

- i. Approximately 1,448 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0750 as LINE B and as shown in concept in green on Exhibit "B", ("LINE B"). At the upstream terminus LINE B will extend from the proposed

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

University Master Drainage Plan Line 8-E, Stage 1; and

- ii. All safety devices requested by DISTRICT staff during PROJECT construction and during any final field inspections, including but not limited to concrete pads, slope protection barriers, signage and fencing, ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER, and subject to DISTRICT's inspection and approval.

D. Together, LINE B, and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

E. Associated with the construction of DISTRICT FACILITIES is the construction of inlets, outlets, connector pipes, and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located with CITY held easements or rights of way ("APPURTENANCES"); and

F. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

G. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore, DISTRICT must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

H. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect and approve the construction of APPURTENANCES; and

I. DISTRICT is willing to: (i) review and approve DEVELOPER's plans

and specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications, (c) obtains and conveys to DISTRICT and CITY the necessary rights of way for the inspection, operation and maintenance of DISTRICT FACILITIES and APPURTENANCES, and (d) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES as set forth herein; and

J. CITY is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES and APPURTENANCES, (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way, and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and CITY.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this Agreement and as follows:

SECTION I

DEVELOPER shall:

1. Prepare PROJECT plans and specifications, hereinafter called

"IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their respective review and approval.

2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the review of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this Agreement. Additionally, DEVELOPER shall pay CITY, within thirty (30) days after receipt of periodic billings from CITY, any and all such amounts as are deemed reasonably necessary by CITY to cover CITY's costs associated with (i) the review of IMPROVEMENT PLANS, (ii) the review and approval of right of way and conveyance documents, and (iii) the processing and administration of this Agreement.

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

4. Provide CITY, upon execution of this Agreement, or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with faithful performance and payment bonds in accordance with CITY's ordinance for the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT and of APPURTENANCES as determined by CITY. The surety, amount and form of the bonds, shall list DISTRICT as an obligee in addition to the CITY and shall be subject to approval by DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and CITY as complete. Both bonds

shall be subscribed by an Admitted Surety Insurer which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger. Should any bond or surety become insufficient, DEVELOPER shall furnish a new bond within ten (10) days after receiving notice from CITY.

5. Deposit with DISTRICT (Attention: Business Office – Accounts Receivable), and notify Contract Services Section, upon DISTRICT approval of IMPROVEMENT PLANS, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES.

6. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

7. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor proposes to carry out the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.

8. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a confined space entry procedure specific to PROJECT. The procedure shall comply with requirements

contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined Space and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT's and CITY's approval.

9. DEVELOPER shall not commence operations until DISTRICT (Attention: Contract Services Section) and CITY have been furnished with original certificate(s) of insurance and original certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments. Upon approval of IMPROVEMENT PLANS, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in Exhibit "C", attached hereto and made a part hereof. 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.

10. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of PROJECT. DEVELOPER shall furnish DISTRICT (Attention: Real Estate Services Section) and CITY, upon DISTRICT approval of IMPROVEMENT PLANS, or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with

sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry, as determined and approved by DISTRICT and CITY.

11. Obtain and provide DISTRICT (Attention: Real Estate Services Section), upon DISTRICT approval of IMPROVEMENT PLANS, with duly executed Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

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

13. Furnish DISTRICT (Attention: Plan Check Section) and CITY each with a set of final mylar PROJECT plans and assign their ownership to DISTRICT and CITY respectively.

14. Notify DISTRICT in writing (Attention: Construction Management Section) after receiving DISTRICT's plan check, administrative, and right of way clearance for PROJECT as set forth in Sections I.3. through I.11., with twenty (20) days written notice of intent to start of construction of PROJECT, and include PROJECT's Geotechnical Firm, Concrete Lab/Test Firm, D-Load test forms, Trench Shoring/False Work Calculations, Concrete Mix designs for DISTRICT's review and approval. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT and CITY have issued to DEVELOPER a written Notice to Proceed authorizing

DEVELOPER to commence construction of PROJECT.

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

16. Not permit any change to or modification of DISTRICT and CITY approved IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and CITY.

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

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

19. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Construction Management Section) and CITY with written notice that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.

20. Upon completion of PROJECT construction, and upon acceptance by CITY of all rights of way deemed necessary by DISTRICT and CITY for the

operation and maintenance of PROJECT but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to CITY the flood control easement(s) including ingress and egress, in a form approved by DISTRICT, to the rights of way as shown in concept cross-hatched in Exhibit "D", attached hereto and made a part hereof. The easement(s) or grant deed(s) shall be in a form approved by both DISTRICT and CITY and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

21. At the time of recordation of the conveyance document(s) as set forth in Section I.20., furnish DISTRICT (Attention: Real Estate Services Section) with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except those which, in the sole discretion of DISTRICT, are acceptable.

22. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as (i) DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES, (ii) CITY accepts ownership and responsibility for operation and maintenance of APPURTENANCES.

23. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT

(Attention: Construction Management Section), with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, and (iii) 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 DISTRICT FACILITIES plans "Record Drawings."

24. Ensure that all work performed pursuant to this 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.

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

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 CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT's final approval.

3. Upon execution of this Agreement, record or cause to be

recorded, a copy of this Agreement in the Official Records of the Riverside County Recorder.

4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.11.

5. Inspect construction of DISTRICT FACILITIES.

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

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

8. Provide CITY with a reproducible duplicate copy of "Record Drawings" of DISTRICT FACILITIES plans upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

9. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon; (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.19., (ii) DISTRICT acceptance of PROJECT construction as being complete, (iii) DISTRICT receipt of stamped and signed "Record Drawings" of PROJECT plans, as set forth in Section I.23., (iv) recordation of all conveyance documents described in Section I.20., (v) CITY acceptance of

APPURTENANCES for ownership, operation, and maintenance, (vi) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vii) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

10. 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. If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT FACILITIES is not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

11. Provide CITY reproducible duplicate copy of "Record Drawings" of constructed DISTRICT FACILITIES along with a written notice that the PROJECT is complete and requesting CITY to release bonds held for DISTRICT FACILITIES upon; (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

SECTION III

CITY shall:

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

2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.4., and hold said bonds as provided herein. CITY shall not release said bonds until DISTRICT provides CITY with a reproducible duplicate copy of "Record Drawings" and written notification

as set forth in Section II.11.

3. Inspect PROJECT construction.
4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the inspection, operation and maintenance of DISTRICT FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to inspect, operate and maintain DISTRICT FACILITIES.
6. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way.
7. Upon completion of PROJECT construction, but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s) including ingress and egress, to the rights of way as shown on Exhibit "D".
8. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance.
9. Upon DISTRICT and CITY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY 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 V

It is further mutually agreed:

1. All construction work involved with PROJECT shall be inspected by DISTRICT and CITY but shall not be deemed complete until DISTRICT and CITY mutually agree in writing that construction is completed in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.
2. CITY 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. DEVELOPER shall complete construction of PROJECT within twelve (12) consecutive months after execution of this Agreement and within eight (8) months after commencing work on PROJECT. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. In which case, DISTRICT or CITY on behalf of DISTRICT shall file a claim with DEVELOPER's surety to DISTRICT costs incurred.
4. If DEVELOPER fails to commence construction of PROJECT within nine (9) months after execution of this Agreement, then DISTRICT reserves the right to withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at the time DEVELOPER provides written notification to DISTRICT of the start of construction as set forth in Section I.14. In the event of a change in the existing site conditions that materially affects PROJECT function or DISTRICT's ability to operate and maintain DISTRICT FACILITIES, DISTRICT may

require DEVELOPER to modify IMPROVEMENT PLANS as deemed necessary by DISTRICT.

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

In the event DEVELOPER wishes to expedite issuance of a Notice to Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at DEVELOPER's sole cost and expense. DEVELOPER shall furnish appropriate documentation of the individual's credentials and experience to DISTRICT for review and, if appropriate, approval. DISTRICT shall review the individual's qualifications and experience, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act on DISTRICT's behalf on all DISTRICT FACILITIES construction and quality control matters. If DEVELOPER's initial construction inspection deposit furnished pursuant to Section I.5. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER's initial inspection deposit within forty-five (45) days of DISTRICT's approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand dollars (\$10,000) shall be retained on account.

6. PROJECT construction work shall be on a five (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written request for permission from DISTRICT to work the additional hours. The request shall be submitted to DISTRICT at least

seventy-two (72) hours prior to the requested additional work hours and state the reasons for the overtime and the specific time frames required. The decision of granting permission for overtime work shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

7. DEVELOPER shall indemnify and hold harmless DISTRICT, CITY, CITY Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DEVELOPER's (including its officers, employees, contractors, subcontractors and agents) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law, ordinance or regulation caused by the diversion of waters from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d) any other element of any kind or nature whatsoever arising from the performance of DEVELOPER, its officers, employees, contractors, subcontractors, agents or representatives ("Indemnitors") from this Agreement.

DEVELOPER shall defend, at its sole expense, including all costs and fees (including but not limited to attorney fees, cost of investigation, defense and settlements or

awards), the Indemnitees in any claim, proceeding or action for which indemnification is required.

With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, compromise any such claim, proceeding or action without the prior consent of DISTRICT and CITY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification obligations to Indemnitees as set forth herein.

DEVELOPER's indemnification obligations hereunder shall be satisfied when DEVELOPER has provided to DISTRICT and CITY the appropriate form of dismissal (or similar document) relieving DISTRICT or CITY from any liability for the claim, proceeding or action involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

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

8. DEVELOPER for itself, its successors and assigns hereby releases DISTRICT and CITY (including their agencies, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives) from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, including but not limited to any claim or liability, based or asserted, pursuant to Article

I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute a release by DEVELOPER of DISTRICT or CITY, their officers, agents and employees from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, for the negligent maintenance of PROJECT, after the acceptance of PROJECT by CITY.

9. Any waiver by any party hereto of any breach of any one or more of the terms of this 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 any party hereto to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or stopping such party from enforcement hereof.

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

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

To CITY: CITY OF RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92502
Attn: Public Works

To AFG DEVELOPMENT, LLC
DEVELOPER: P.O Box 52049
Riverside, CA 92517
Attn: Jim Guthrie

11. 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.

12. 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 Agreement, shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other County.

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

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

15. In the event DEVELOPER sells Parcel Map No. 37475, DEVELOPER shall notify DISTRICT of any such transfer or assignment in writing no later than 30 days from the date of the sale. DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties

contained in this Agreement until DISTRICT, CITY, DEVELOPER and the new owner(s) of Parcel Map No. 37475 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties or obligations hereunder to the new owner(s) of Parcel Map No. 37475.

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

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

18. The Agreement may be executed in one of more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on

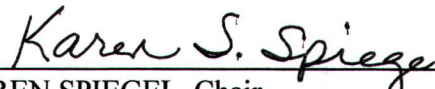
June 8, 2021

(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 
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By 
LEILA MOSHREF-DANESH
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

CITY OF RIVERSIDE

By _____
AL ZELINKA
City Manager

APPROVE AS TO FORM:

BY _____
RUTHANN M. SALERA
Deputy City Attorney


ATTEST:

By _____
COLLEEN J. NICOL, MMC
City Clerk

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

AFG DEVELOPMENT, LLC,
a California limited liability company

By: 
JIM GUTHRIE
Managing Member

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

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.

County of Riverside


S.S.

Name of Notary Public, Title

Name of Signer (1)

Name of Signer (2)

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


Signature of Notary Public

Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document

Agreement

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s)

Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other:

representing: _____

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☐
- form(s) of identification
- ☐
- credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- ☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

COOPERATIVE AGREEMENT
 University Wash Channel, Stage 5
 University Area Master Drainage Plan Line 8-E, Stage 1
 Project Nos. 1-0-00120, 1-0-00118
 Parcel Map No. 37475

This Cooperative Agreement ("Agreement"), dated as of _____, 2021, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the City of Riverside, a California municipal corporation ("CITY"), and AFG Development, LLC, a California Limited Liability Company ("DEVELOPER"). DISTRICT, CITY, and DEVELOPER are individually referred to herein as "Party" and collectively referred to herein as "Parties." The Parties hereto agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the city of Riverside ("DEVELOPER PROPERTY"). DEVELOPER has submitted for approval of Parcel Map 37475 located in the city of Riverside. As a condition of approval for Parcel Map 37475, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER's planned development; and

B. DISTRICT is the legal owner of record of certain real property located in the city of Riverside, within a portion of Parcel Map 37475, as identified in Table 1 attached hereto and made part hereof ("DISTRICT PROPERTY"). District owns, operates, and maintains an existing channel as shown on District Drawing No. 1-0384 ("EXISTING CHANNEL") within DISTRICT PROPERTY; and

C. The legal description of Parcel Map No. 37475 is provided in Exhibit "A" attached hereto and made a part hereof; and

D. The required flood control facilities and drainage improvements, as

WHEN DOCUMENT IS FULLY EXECUTED RETURN

CLERK'S COPY

- 1 -

to Riverside County Clerk of the Board, Stop 1010
 Post Office Box 1147, Riverside, Ca 92502-1147
 Thank you.

08 2021 11.5

shown on DISTRICT Drawing No1-0749 and as shown in concept on Exhibit "B", attached hereto and made a part hereof, include the construction of:

- i. Approximately 1,122 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0749 as LINE A and as shown in concept in red on Exhibit "B" ("LINE A"). At the upstream terminus, LINE A will extend from existing reinforced concrete box, as shown on DISTRICT Drawing No. 1-0384, and at the downstream terminus, LINE A will connect to the existing reinforced concrete box, as shown on DISTRICT Drawing No. 1-0384; and
- ii. Approximately 37 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0750 as LINE B and as shown in concept in green in Exhibit "B" (LINE B). At its downstream terminus, LINE B will connect to the proposed University Master Drainage Plan Line 8-E, Stage 2; and
- iii. All safety devices requested by DISTRICT staff during construction and during any final field inspections, including, but not limited to, concrete pads, slope protection barriers, signage, and fencing ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER and are subject to DISTRICT's inspection and approval.

E. Together, LINE A, LINE B, and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

F. Associated with the construction of DISTRICT FACILITIES is the construction of inlets, outlets, connector pipes, and various lateral storm drains that are

thirty-six inches (36") or less in diameter that are located with CITY held easements or rights of way ("APPURTENANCES"); and

G. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

H. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore, DISTRICT must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

I. DEVELOPER desires to purchase the fee interest of portions of DISTRICT PROPERTY, pursuant to a separate legal instrument ("GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT"), identified as DISTRICT Parcel Nos. 1120-13B and 1120-13C and a portion of DISTRICT Parcel No. 1020-14A, described and depicted on the legal and plat attached hereto as Exhibit "E" and made a part hereof for the purpose of converting the existing open channel to an underground facility. DISTRICT desires to sell those certain fee interests in DISTRICT PROPERTY pursuant to the GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT and reserve certain easement rights, including access, which is required for the continued operation and maintenance of DISTRICT FACILITIES.

J. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect and approve the construction of APPURTENANCES; and

K. DISTRICT is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii) accept ownership and responsibility for the operation and maintenance of

DISTRICT FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications, (c) obtains and conveys to DISTRICT and CITY the necessary rights of way for the inspection, operation, and maintenance of DISTRICT FACILITIES and APPURTENANCES, and (d) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES as set forth herein; and

L. CITY is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES and APPURTENANCES, (iv) grant DISTRICT the right to inspect, operate, and maintain DISTRICT FACILITIES within CITY rights of way, and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and CITY.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the Parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this Agreement and as follows:

SECTION I

DEVELOPER shall:

1. Pursuant to the GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT, accept the fee interest to the portions of DISTRICT PROPERTY described therein. Construction shall not begin on any element of PROJECT,

for any reason whatsoever, until DEVELOPER has accepted the fee interest to the portions of DISTRICT PROPERTY as described herein.

2. Prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their respective review and approval.

3. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the review of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this Agreement. Additionally, DEVELOPER shall pay CITY, within thirty (30) days after receipt of periodic billings from CITY, any and all such amounts as are deemed reasonably necessary by CITY to cover CITY's costs associated with (i) the review of IMPROVEMENT PLANS, (ii) the review and approval of right of way and conveyance documents, and (iii) the processing and administration of this Agreement.

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

5. Provide CITY, upon execution of this Agreement or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with faithful performance and payment bonds in accordance with CITY's ordinance for the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT and of APPURTENANCES as determined by CITY. The surety, amount, and form of the bonds shall list DISTRICT as an obligee in

addition to CITY and shall be subject to approval by DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and CITY as complete. Both bonds shall be subscribed by an Admitted Surety Insurer, which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger. Should any bond or surety become insufficient, DEVELOPER shall furnish a new bond within ten (10) days after receiving notice from CITY.

6. Deposit with DISTRICT (Attention: Business Office – Accounts Receivable) and notify Contract Services Section, upon DISTRICT approval of IMPROVEMENT PLANS, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES.

7. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

8. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor proposes to carry out the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.

9. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a confined space entry procedure specific to PROJECT. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations; Section 5157, Permit Required Confined Space; and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT's and CITY's approval.

10. DEVELOPER shall not commence operations until DISTRICT (Attention: Contract Services Section) and CITY have been furnished with original certificate(s) of insurance and original certified copies of endorsements and, if requested, certified original policies of insurance including all endorsements and any and all other attachments. Upon approval of IMPROVEMENT PLANS, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in Exhibit "C", attached hereto and made a part hereof. 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.

11. For portions outside of DISTRICT PROPERTY, secure, at its sole cost and expense, all necessary licenses, agreements, permits, and rights of entry as may be needed for the construction, inspection, operation, and maintenance of PROJECT.

DEVELOPER shall furnish DISTRICT (Attention: Real Estate Services Section) and CITY, upon DISTRICT approval of IMPROVEMENT PLANS or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits, and rights of entry, as determined and approved by DISTRICT and CITY.

12. Obtain and provide DISTRICT (Attention: Real Estate Services Section), upon DISTRICT approval of IMPROVEMENT PLANS, with duly executed Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation, and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

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

14. Furnish DISTRICT (Attention: Plan Check Section) and CITY each with a set of final mylar PROJECT plans and assign their ownership to DISTRICT and CITY respectively.

15. Notify DISTRICT in writing (Attention: Construction Management Section) after receiving DISTRICT's plan check, administrative, and right of way clearance for PROJECT as set forth in Sections I.4 through I.12, with twenty (20) days written notice of intent to start of construction of PROJECT, and include PROJECT's Geotechnical Firm,

Concrete Lab/Test Firm, D-Load Test Forms, Trench Shoring/False Work Calculations, and Concrete Mix Designs for DISTRICT's review and approval. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT and CITY have issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction of PROJECT.

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

17. Not permit any change to or modification of DISTRICT and CITY approved IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and CITY.

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

19. Construct or cause to be constructed PROJECT at DEVELOPER's sole cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

20. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Construction Management Section) and CITY with written notice that PROJECT construction is substantially complete and requesting that

DISTRICT conduct a final inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.

21. Upon completion of PROJECT construction and upon acceptance by CITY of all rights of way deemed necessary by DISTRICT and CITY for the operation and maintenance of PROJECT but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, convey or cause to be conveyed to CITY the flood control easement(s), including ingress and egress, in a form approved by DISTRICT, to the rights of way as shown in concept cross-hatched in Exhibit "D", attached hereto and made a part hereof. The easement(s) or grant deed(s) shall be in a form approved by both DISTRICT and CITY and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

22. At the time of recordation of the conveyance document(s) as set forth in Section I.3., furnish DISTRICT (Attention: Real Estate Services Section) with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes, and leases (recorded or unrecorded), and except those which, in the sole discretion of DISTRICT, are acceptable.

23. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as (i) DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES, and (ii) CITY accepts ownership and responsibility for operation and maintenance of APPURTENANCES.

24. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT (Attention: Construction Management Section) with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, and (iii) 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 DISTRICT FACILITIES plans "Record Drawings."

25. Ensure that all work performed pursuant to this 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.

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

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 CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT's final approval.
3. Upon execution of this Agreement, record or cause to be recorded a copy of this Agreement in the Official Records of the Riverside County Recorder.
4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.12.
5. Inspect construction of DISTRICT FACILITIES.
6. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS, the review and approval of right of way and conveyance documents, and the processing and administration of this Agreement.
7. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit as set forth in Section I.6. exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.
8. Provide CITY with a reproducible duplicate copy of "Record Drawings" of DISTRICT FACILITIES plans upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.
9. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.20., (ii) DISTRICT acceptance of PROJECT construction as being complete, (iii) DISTRICT receipt of stamped and signed "Record

Drawings" of PROJECT plans as set forth in Section I.23, (iv) recordation of all conveyance documents described in Section I.21, (v) CITY acceptance of APPURTENANCES for ownership, operation, and maintenance, (vi) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vii) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

10. 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. 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.

11. Provide CITY reproducible duplicate copy of "Record Drawings" of constructed DISTRICT FACILITIES along with a written notice that PROJECT is complete and requesting CITY to release bonds held for DISTRICT FACILITIES upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

12. Grant CITY, by execution of this Agreement, the right to inspect PROJECT within DISTRICT PROPERTY.

13. Grant DEVELOPER the right to construct within DISTRICT PROPERTY upon the issuance of the Notice to Proceed to commence construction of PROJECT by DISTRICT and CITY as set forth in Section I.15.

SECTION III

CITY shall:

1. Review IMPROVEMENT PLANS and approve when CITY has determined that such plans meet CITY standards and are found acceptable to CITY prior to the start of PROJECT construction.
2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.5. and hold said bonds as provided herein. CITY shall not release said bonds until DISTRICT provides CITY with a reproducible duplicate copy of "Record Drawings" and written notification as set forth in Section II.11.
3. Inspect PROJECT construction.
4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein and any other outstanding offers of dedication necessary for the inspection, operation, and maintenance of DISTRICT FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to inspect, operate, and maintain DISTRICT FACILITIES.
6. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate, and maintain DISTRICT FACILITIES within CITY rights of way.
7. Upon completion of PROJECT construction but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s), including ingress and egress, to the rights of way as shown on Exhibit "D".
8. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT

FACILITIES for ownership, operation, and maintenance.

9. Upon DISTRICT and CITY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY 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 V

It is further mutually agreed:

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

2. CITY 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. DEVELOPER shall complete construction of PROJECT within twelve (12) consecutive months after execution of this Agreement and within eight (8) months after commencing work on PROJECT. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. In which case, DISTRICT or CITY on behalf of DISTRICT shall file a claim with DEVELOPER's surety to DISTRICT costs incurred.

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

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

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

thousand dollars (\$10,000) shall be retained on account.

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

7. DEVELOPER shall indemnify and hold harmless DISTRICT, CITY, CITY Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, claim, damage, proceeding, or action, present or future, based upon, arising out of, or in any way relating to DEVELOPER's (including its officers, employees, contractors, subcontractors, and agents) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including, but not limited to (a) property damage, (b) bodily injury or death, (c) liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any

other law, ordinance or regulation caused by the diversion of waters from the natural drainage patterns or the discharge of drainage within or from PROJECT, or (d) any other element of any kind or nature whatsoever arising from the performance of DEVELOPER, its officers, employees, contractors, subcontractors, agents, or representatives ("Indemnitors") from this Agreement.

DEVELOPER shall defend, at its sole expense, including all costs and fees (including but not limited to attorney fees, cost of investigation, defense, and settlements or awards), the Indemnitees in any claim, proceeding, or action for which indemnification is required.

With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such claim, proceeding, or action without the prior consent of DISTRICT and CITY; provided, however, that any such adjustment, settlement, or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification obligations to Indemnitees as set forth herein.

DEVELOPER's indemnification obligations hereunder shall be satisfied when DEVELOPER has provided to DISTRICT and CITY the appropriate form of dismissal (or similar document) relieving DISTRICT or CITY from any liability for the claim, proceeding, or action involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

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

2782. Such interpretation shall not relieve DEVELOPER from indemnifying the Indemnitees to the fullest extent allowed by law.

8. DEVELOPER for itself, its successors, and assigns hereby releases DISTRICT and CITY (including their agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, and representatives) from any and all claims, demands, actions, or suits of any kind arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute a release by DEVELOPER of DISTRICT or CITY, their officers, agents, and employees from any and all claims, demands, actions, or suits of any kind arising out of any liability, known or unknown, present or future, for the negligent maintenance of PROJECT, after the acceptance of PROJECT by CITY.

9. Any waiver by any Party hereto of any breach of any one or more of the terms of this 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 any Party hereto to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or stopping such Party from enforcement hereof.

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

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

To CITY: CITY OF RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92502
Attn: Public Works

To DEVELOPER: AFG DEVELOPMENT, LLC
P.O Box 52049
Riverside, CA 92517
Attn: Jim Guthrie

11. 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.

12. 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 Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the Parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other County.

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

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

15. In the event DEVELOPER sells Parcel Map No. 37475, DEVELOPER shall notify DISTRICT of any such transfer or assignment in writing no later than 30 days from the date of the sale. DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties contained in this Agreement until DISTRICT, CITY, DEVELOPER and the new owner(s) of Parcel Map No. 37475 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties, or obligations hereunder to the new owner(s) of Parcel Map No. 37475.

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

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

18. The Agreement may be executed in one of more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on


June 8, 2021

(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


KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By


LEILA MOSHREF-DANESH
Deputy County Counsel

By


Deputy

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

CITY OF RIVERSIDE

By _____
AL ZELINKA
City Manager

APPROVE AS TO FORM:

By _____
RUTHANN M. SALERA
Deputy City Attorney

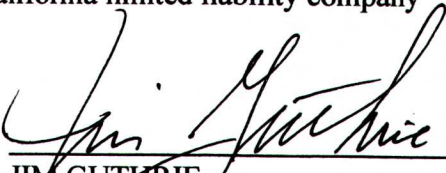
ATTEST:

By _____
COLLEEN J. NICOL, MMC
City Clerk

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

AFG DEVELOPMENT, LLC,
a California limited liability company

By 
JIM GUTHRIE
Managing Member

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

California All-Purpose Certificate of Acknowledgment

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

S.S.

On 04/14/21 before me, Isabela Marilyn Rodas Pablo, ^{Notary} public,
Name of Notary Public, Title

personally appeared Jimmy Guthrie, A.k.a Jim Guthrie
Name of Signer (1)

Name of Signer (2)

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.

Isabela Rodas
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Cooperative

Agreement
containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s) _____
Title(s): _____

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____
Name of Entity, if not a person (e.g., corporation, partnership, etc.)

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- ☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

COOPERATIVE AGREEMENT
 University Wash Channel, Stage 5
 University Area Master Drainage Plan Line 8-E, Stage 1
 Project Nos. 1-0-00120, 1-0-00118
 Parcel Map No. 37475

This Cooperative Agreement ("Agreement"), dated as of _____, 2021, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the City of Riverside, a California municipal corporation ("CITY"), and AFG Development, LLC, a California Limited Liability Company ("DEVELOPER"). DISTRICT, CITY, and DEVELOPER are individually referred to herein as "Party" and collectively referred to herein as "Parties." The Parties hereto agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the city of Riverside ("DEVELOPER PROPERTY"). DEVELOPER has submitted for approval of Parcel Map 37475 located in the city of Riverside. As a condition of approval for Parcel Map 37475, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER's planned development; and

B. DISTRICT is the legal owner of record of certain real property located in the city of Riverside, within a portion of Parcel Map 37475, as identified in Table 1 attached hereto and made part hereof ("DISTRICT PROPERTY"). District owns, operates, and maintains an existing channel as shown on District Drawing No. 1-0384 ("EXISTING CHANNEL") within DISTRICT PROPERTY; and

C. The legal description of Parcel Map No. 37475 is provided in Exhibit "A" attached hereto and made a part hereof; and

D. The required flood control facilities and drainage improvements, as

**WHEN DOCUMENT IS FULLY EXECUTED RETURN
 CLERK'S COPY**
 to Riverside County Clerk of the Board, Stop 1010
 Post Office Box 1147, Riverside, Ca 92502-1147
 Thank you.

shown on DISTRICT Drawing No 1-0749 and as shown in concept on Exhibit "B", attached hereto and made a part hereof, include the construction of:

- i. Approximately 1,122 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0749 as LINE A and as shown in concept in red on Exhibit "B" ("LINE A"). At the upstream terminus, LINE A will extend from existing reinforced concrete box, as shown on DISTRICT Drawing No. 1-0384, and at the downstream terminus, LINE A will connect to the existing reinforced concrete box, as shown on DISTRICT Drawing No. 1-0384; and
- ii. Approximately 37 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0750 as LINE B and as shown in concept in green in Exhibit "B" (LINE B). At its downstream terminus, LINE B will connect to the proposed University Master Drainage Plan Line 8-E, Stage 2; and
- iii. All safety devices requested by DISTRICT staff during construction and during any final field inspections, including, but not limited to, concrete pads, slope protection barriers, signage, and fencing ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER and are subject to DISTRICT's inspection and approval.

E. Together, LINE A, LINE B, and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

F. Associated with the construction of DISTRICT FACILITIES is the construction of inlets, outlets, connector pipes, and various lateral storm drains that are

thirty-six inches (36") or less in diameter that are located with CITY held easements or rights of way ("APPURTENANCES"); and

G. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

H. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore, DISTRICT must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

I. DEVELOPER desires to purchase the fee interest of portions of DISTRICT PROPERTY, pursuant to a separate legal instrument ("GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT"), identified as DISTRICT Parcel Nos. 1120-13B and 1120-13C and a portion of DISTRICT Parcel No. 1020-14A, described and depicted on the legal and plat attached hereto as Exhibit "E" and made a part hereof for the purpose of converting the existing open channel to an underground facility. DISTRICT desires to sell those certain fee interests in DISTRICT PROPERTY pursuant to the GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT and reserve certain easement rights, including access, which is required for the continued operation and maintenance of DISTRICT FACILITIES.

J. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect and approve the construction of APPURTENANCES; and

K. DISTRICT is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii) accept ownership and responsibility for the operation and maintenance of

DISTRICT FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications, (c) obtains and conveys to DISTRICT and CITY the necessary rights of way for the inspection, operation, and maintenance of DISTRICT FACILITIES and APPURTENANCES, and (d) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES as set forth herein; and

L. CITY is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES and APPURTENANCES, (iv) grant DISTRICT the right to inspect, operate, and maintain DISTRICT FACILITIES within CITY rights of way, and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and CITY.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the Parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this Agreement and as follows:

SECTION I

DEVELOPER shall:

1. Pursuant to the GRANT DEED AND RESERVATION OF EASEMENT AGREEMENT, accept the fee interest to the portions of DISTRICT PROPERTY described therein. Construction shall not begin on any element of PROJECT,

for any reason whatsoever, until DEVELOPER has accepted the fee interest to the portions of DISTRICT PROPERTY as described herein.

2. Prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their respective review and approval.

3. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the review of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this Agreement. Additionally, DEVELOPER shall pay CITY, within thirty (30) days after receipt of periodic billings from CITY, any and all such amounts as are deemed reasonably necessary by CITY to cover CITY's costs associated with (i) the review of IMPROVEMENT PLANS, (ii) the review and approval of right of way and conveyance documents, and (iii) the processing and administration of this Agreement.

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

5. Provide CITY, upon execution of this Agreement or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with faithful performance and payment bonds in accordance with CITY's ordinance for the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT and of APPURTENANCES as determined by CITY. The surety, amount, and form of the bonds shall list DISTRICT as an obligee in

addition to CITY and shall be subject to approval by DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and CITY as complete. Both bonds shall be subscribed by an Admitted Surety Insurer, which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger. Should any bond or surety become insufficient, DEVELOPER shall furnish a new bond within ten (10) days after receiving notice from CITY.

6. Deposit with DISTRICT (Attention: Business Office – Accounts Receivable) and notify Contract Services Section, upon DISTRICT approval of IMPROVEMENT PLANS, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES.

7. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

8. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor proposes to carry out the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.

9. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a confined space entry procedure specific to PROJECT. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations; Section 5157, Permit Required Confined Space; and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT's and CITY's approval.

10. DEVELOPER shall not commence operations until DISTRICT (Attention: Contract Services Section) and CITY have been furnished with original certificate(s) of insurance and original certified copies of endorsements and, if requested, certified original policies of insurance including all endorsements and any and all other attachments. Upon approval of IMPROVEMENT PLANS, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in Exhibit "C", attached hereto and made a part hereof. 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.

11. For portions outside of DISTRICT PROPERTY, secure, at its sole cost and expense, all necessary licenses, agreements, permits, and rights of entry as may be needed for the construction, inspection, operation, and maintenance of PROJECT.

DEVELOPER shall furnish DISTRICT (Attention: Real Estate Services Section) and CITY, upon DISTRICT approval of IMPROVEMENT PLANS or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits, and rights of entry, as determined and approved by DISTRICT and CITY.

12. Obtain and provide DISTRICT (Attention: Real Estate Services Section), upon DISTRICT approval of IMPROVEMENT PLANS, with duly executed Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation, and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

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

14. Furnish DISTRICT (Attention: Plan Check Section) and CITY each with a set of final mylar PROJECT plans and assign their ownership to DISTRICT and CITY respectively.

15. Notify DISTRICT in writing (Attention: Construction Management Section) after receiving DISTRICT's plan check, administrative, and right of way clearance for PROJECT as set forth in Sections I.4 through I.12, with twenty (20) days written notice of intent to start of construction of PROJECT, and include PROJECT's Geotechnical Firm,

Concrete Lab/Test Firm, D-Load Test Forms, Trench Shoring/False Work Calculations, and Concrete Mix Designs for DISTRICT's review and approval. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT and CITY have issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction of PROJECT.

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

17. Not permit any change to or modification of DISTRICT and CITY approved IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and CITY.

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

19. Construct or cause to be constructed PROJECT at DEVELOPER's sole cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

20. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Construction Management Section) and CITY with written notice that PROJECT construction is substantially complete and requesting that

DISTRICT conduct a final inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.

21. Upon completion of PROJECT construction and upon acceptance by CITY of all rights of way deemed necessary by DISTRICT and CITY for the operation and maintenance of PROJECT but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, convey or cause to be conveyed to CITY the flood control easement(s), including ingress and egress, in a form approved by DISTRICT, to the rights of way as shown in concept cross-hatched in Exhibit "D", attached hereto and made a part hereof. The easement(s) or grant deed(s) shall be in a form approved by both DISTRICT and CITY and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

22. At the time of recordation of the conveyance document(s) as set forth in Section I.3., furnish DISTRICT (Attention: Real Estate Services Section) with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes, and leases (recorded or unrecorded), and except those which, in the sole discretion of DISTRICT, are acceptable.

23. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as (i) DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES, and (ii) CITY accepts ownership and responsibility for operation and maintenance of APPURTENANCES.

24. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT (Attention: Construction Management Section) with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, and (iii) 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 DISTRICT FACILITIES plans "Record Drawings."

25. Ensure that all work performed pursuant to this 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.

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

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 CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT's final approval.
3. Upon execution of this Agreement, record or cause to be recorded a copy of this Agreement in the Official Records of the Riverside County Recorder.
4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.12.
5. Inspect construction of DISTRICT FACILITIES.
6. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS, the review and approval of right of way and conveyance documents, and the processing and administration of this Agreement.
7. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit as set forth in Section I.6. exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.
8. Provide CITY with a reproducible duplicate copy of "Record Drawings" of DISTRICT FACILITIES plans upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.
9. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.20., (ii) DISTRICT acceptance of PROJECT construction as being complete, (iii) DISTRICT receipt of stamped and signed "Record

Drawings" of PROJECT plans as set forth in Section I.23, (iv) recordation of all conveyance documents described in Section I.21, (v) CITY acceptance of APPURTENANCES for ownership, operation, and maintenance, (vi) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vii) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

10. 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. 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.

11. Provide CITY reproducible duplicate copy of "Record Drawings" of constructed DISTRICT FACILITIES along with a written notice that PROJECT is complete and requesting CITY to release bonds held for DISTRICT FACILITIES upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

12. Grant CITY, by execution of this Agreement, the right to inspect PROJECT within DISTRICT PROPERTY.

13. Grant DEVELOPER the right to construct within DISTRICT PROPERTY upon the issuance of the Notice to Proceed to commence construction of PROJECT by DISTRICT and CITY as set forth in Section I.15.

SECTION III

CITY shall:

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

2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.5. and hold said bonds as provided herein. CITY shall not release said bonds until DISTRICT provides CITY with a reproducible duplicate copy of "Record Drawings" and written notification as set forth in Section II.11.

3. Inspect PROJECT construction.

4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.

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

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

7. Upon completion of PROJECT construction but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation, and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s), including ingress and egress, to the rights of way as shown on Exhibit "D".

8. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT

FACILITIES for ownership, operation, and maintenance.

9. Upon DISTRICT and CITY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY 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 V

It is further mutually agreed:

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

2. CITY 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. DEVELOPER shall complete construction of PROJECT within twelve (12) consecutive months after execution of this Agreement and within eight (8) months after commencing work on PROJECT. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. In which case, DISTRICT or CITY on behalf of DISTRICT shall file a claim with DEVELOPER's surety to DISTRICT costs incurred.

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

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

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

thousand dollars (\$10,000) shall be retained on account.

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

7. DEVELOPER shall indemnify and hold harmless DISTRICT, CITY, CITY Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, claim, damage, proceeding, or action, present or future, based upon, arising out of, or in any way relating to DEVELOPER's (including its officers, employees, contractors, subcontractors, and agents) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including, but not limited to (a) property damage, (b) bodily injury or death, (c) liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any

other law, ordinance or regulation caused by the diversion of waters from the natural drainage patterns or the discharge of drainage within or from PROJECT, or (d) any other element of any kind or nature whatsoever arising from the performance of DEVELOPER, its officers, employees, contractors, subcontractors, agents, or representatives ("Indemnitors") from this Agreement.

DEVELOPER shall defend, at its sole expense, including all costs and fees (including but not limited to attorney fees, cost of investigation, defense, and settlements or awards), the Indemnitees in any claim, proceeding, or action for which indemnification is required.

With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such claim, proceeding, or action without the prior consent of DISTRICT and CITY; provided, however, that any such adjustment, settlement, or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification obligations to Indemnitees as set forth herein.

DEVELOPER's indemnification obligations hereunder shall be satisfied when DEVELOPER has provided to DISTRICT and CITY the appropriate form of dismissal (or similar document) relieving DISTRICT or CITY from any liability for the claim, proceeding, or action involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

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

2782. Such interpretation shall not relieve DEVELOPER from indemnifying the Indemnitees to the fullest extent allowed by law.

8. DEVELOPER for itself, its successors, and assigns hereby releases DISTRICT and CITY (including their agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, and representatives) from any and all claims, demands, actions, or suits of any kind arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute a release by DEVELOPER of DISTRICT or CITY, their officers, agents, and employees from any and all claims, demands, actions, or suits of any kind arising out of any liability, known or unknown, present or future, for the negligent maintenance of PROJECT, after the acceptance of PROJECT by CITY.

9. Any waiver by any Party hereto of any breach of any one or more of the terms of this 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 any Party hereto to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or stopping such Party from enforcement hereof.

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

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

To CITY: CITY OF RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92502
Attn: Public Works

To DEVELOPER: AFG DEVELOPMENT, LLC
P.O Box 52049
Riverside, CA 92517
Attn: Jim Guthrie

11. 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.

12. 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 Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the Parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other County.

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

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

15. In the event DEVELOPER sells Parcel Map No. 37475, DEVELOPER shall notify DISTRICT of any such transfer or assignment in writing no later than 30 days from the date of the sale. DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties contained in this Agreement until DISTRICT, CITY, DEVELOPER and the new owner(s) of Parcel Map No. 37475 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties, or obligations hereunder to the new owner(s) of Parcel Map No. 37475.

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

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

18. The Agreement may be executed in one of more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on

June 8, 2021

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By

[Signature]
JASON E. UHLEY
General Manager/Chief Engineer

By

[Signature]
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By

[Signature]
LEILA MOSHREF-DANESH
Deputy County Counsel

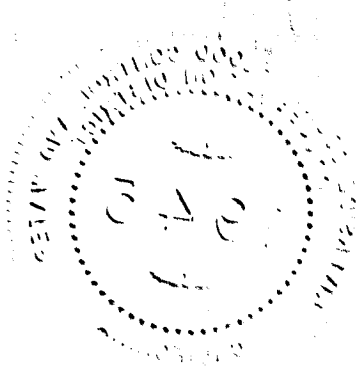
By

[Signature]
Deputy

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

10 9 24



CITY OF RIVERSIDE

By

AL ZELINKA
City Manager

APPROVE AS TO FORM:

By

RUTHANN M. SALERA
Deputy City Attorney

ATTEST:

By

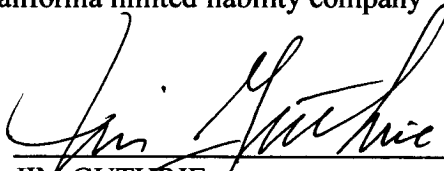
DONESIA GAUSE
City Clerk

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

AFG DEVELOPMENT, LLC,
a California limited liability company

By



JIM GUTHRIE

Managing Member

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement Parcel Map No. 37475
University Wash Channel, Stage 5
University Area Master Drainage Plan Line 8-E, Stage 1
Project Nos. 1-0-00120, 1-0-00118
04/08/21
BB:blm

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.

County of Riverside

S.S.

before me,

Isabella Marilyn Rodas Pablo

Name of Notary Public, Title

personally appeared

Jimmy Guthrie, A.k.A Jim Guthrie

Name of Signer (1)

Name of Signer (2)

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.

NESS my hand and official seal.



Signature of Angela Rodas

Signature of Notary Public



Seal

OPTIONAL INFORMATION

Description of Attached Document

document titled/for the purpose of Cooperative
Agreement

containing _____ pages, and dated _____

☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s)

Title(s)

☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____

Name(s) of Person(s) Entirely(ies) Signed is Representing:

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

COOPERATIVE AGREEMENT

University Area Master Drainage Plan Line 8-E, Stage 2
Project No. 1-0-00118
Parcel Map No. 37475

This Cooperative Agreement ("Agreement"), dated as of _____, 2021, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the City of Riverside, a California municipal corporation, ("CITY"), and AFG Development, LLC, a California Limited Liability Company, ("DEVELOPER"). DISTRICT, CITY, and DEVELOPER individually referred to herein as "party" and collectively referred to herein as "parties." The Parties hereto agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within City of Riverside. DEVELOPER has submitted for approval Parcel Map 37475 located in the City of Riverside. As a condition of approval for Parcel Map 37475, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER's planned development; and

B. The legal description of Parcel Map No. 37475 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities and drainage improvements, are shown on DISTRICT's Drawing No. 1-0750, and as shown in concept on Exhibit "B", attached hereto and made a part hereof and includes the construction of:

- i. Approximately 1,448 lineal feet of underground storm drain as shown on DISTRICT Drawing No. 1-0750 as LINE B and as shown in concept in green on Exhibit "B", ("LINE B"). At the upstream terminus LINE B will extend from the proposed

University Master Drainage Plan Line 8-E, Stage 1; and

- ii. All safety devices requested by DISTRICT staff during PROJECT construction and during any final field inspections, including but not limited to concrete pads, slope protection barriers, signage and fencing, ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER, and subject to DISTRICT's inspection and approval.

D. Together, LINE B, and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

E. Associated with the construction of DISTRICT FACILITIES is the construction of inlets, outlets, connector pipes, and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located with CITY held easements or rights of way ("APPURTENANCES"); and

F. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

G. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore, DISTRICT must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

H. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect and approve the construction of APPURTENANCES; and

I. DISTRICT is willing to: (i) review and approve DEVELOPER's plans

and specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications, (c) obtains and conveys to DISTRICT and CITY the necessary rights of way for the inspection, operation and maintenance of DISTRICT FACILITIES and APPURTENANCES, and (d) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES as set forth herein; and

J. CITY is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES and APPURTENANCES, (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way, and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and CITY.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this Agreement and as follows:

SECTION I

DEVELOPER shall:

1. Prepare PROJECT plans and specifications, hereinafter called

"IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their respective review and approval.

2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the review of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this Agreement. Additionally, DEVELOPER shall pay CITY, within thirty (30) days after receipt of periodic billings from CITY, any and all such amounts as are deemed reasonably necessary by CITY to cover CITY's costs associated with (i) the review of IMPROVEMENT PLANS, (ii) the review and approval of right of way and conveyance documents, and (iii) the processing and administration of this Agreement.

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

4. Provide CITY, upon execution of this Agreement, or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with faithful performance and payment bonds in accordance with CITY's ordinance for the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT and of APPURTENANCES as determined by CITY. The surety, amount and form of the bonds, shall list DISTRICT as an obligee in addition to the CITY and shall be subject to approval by DISTRICT (Attention: Contract Services Section) and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and CITY as complete. Both bonds

shall be subscribed by an Admitted Surety Insurer which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger. Should any bond or surety become insufficient, DEVELOPER shall furnish a new bond within ten (10) days after receiving notice from CITY.

5. Deposit with DISTRICT (Attention: Business Office – Accounts Receivable), and notify Contract Services Section, upon DISTRICT approval of IMPROVEMENT PLANS, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES.

6. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

7. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor proposes to carry out the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.

8. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT's approval of IMPROVEMENT PLANS, with a confined space entry procedure specific to PROJECT. The procedure shall comply with requirements

contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined Space and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT's and CITY's approval.

9. DEVELOPER shall not commence operations until DISTRICT (Attention: Contract Services Section) and CITY have been furnished with original certificate(s) of insurance and original certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments. Upon approval of IMPROVEMENT PLANS, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in Exhibit "C", attached hereto and made a part hereof. 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.

10. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of PROJECT. DEVELOPER shall furnish DISTRICT (Attention: Real Estate Services Section) and CITY, upon DISTRICT approval of IMPROVEMENT PLANS, or not less than twenty (20) days prior to recordation of the final map for Parcel Map No. 37475 or any phase thereof, whichever occurs first, with

sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry, as determined and approved by DISTRICT and CITY.

11. Obtain and provide DISTRICT (Attention: Real Estate Services Section), upon DISTRICT approval of IMPROVEMENT PLANS, with duly executed Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

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

13. Furnish DISTRICT (Attention: Plan Check Section) and CITY each with a set of final mylar PROJECT plans and assign their ownership to DISTRICT and CITY respectively.

14. Notify DISTRICT in writing (Attention: Construction Management Section) after receiving DISTRICT's plan check, administrative, and right of way clearance for PROJECT as set forth in Sections I.3. through I.11., with twenty (20) days written notice of intent to start of construction of PROJECT, and include PROJECT's Geotechnical Firm, Concrete Lab/Test Firm, D-Load test forms, Trench Shoring/False Work Calculations, Concrete Mix designs for DISTRICT's review and approval. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT and CITY have issued to DEVELOPER a written Notice to Proceed authorizing

DEVELOPER to commence construction of PROJECT.

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

16. Not permit any change to or modification of DISTRICT and CITY approved IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and CITY.

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

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

19. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Construction Management Section) and CITY with written notice that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.

20. Upon completion of PROJECT construction, and upon acceptance by CITY of all rights of way deemed necessary by DISTRICT and CITY for the

operation and maintenance of PROJECT but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to CITY the flood control easement(s) including ingress and egress, in a form approved by DISTRICT, to the rights of way as shown in concept cross-hatched in Exhibit "D", attached hereto and made a part hereof. The easement(s) or grant deed(s) shall be in a form approved by both DISTRICT and CITY and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

21. At the time of recordation of the conveyance document(s) as set forth in Section I.20., furnish DISTRICT (Attention: Real Estate Services Section) with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except those which, in the sole discretion of DISTRICT, are acceptable.

22. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as (i) DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES, (ii) CITY accepts ownership and responsibility for operation and maintenance of APPURTENANCES.

23. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT

(Attention: Construction Management Section), with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, and (iii) 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 DISTRICT FACILITIES plans "Record Drawings."

24. Ensure that all work performed pursuant to this 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.

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

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 CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT's final approval.
3. Upon execution of this Agreement, record or cause to be

recorded, a copy of this Agreement in the Official Records of the Riverside County Recorder.

4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.11.

5. Inspect construction of DISTRICT FACILITIES.

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

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

8. Provide CITY with a reproducible duplicate copy of "Record Drawings" of DISTRICT FACILITIES plans upon (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

9. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon; (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.19., (ii) DISTRICT acceptance of PROJECT construction as being complete, (iii) DISTRICT receipt of stamped and signed "Record Drawings" of PROJECT plans, as set forth in Section I.23., (iv) recordation of all conveyance documents described in Section I.20., (v) CITY acceptance of

APPURTENANCES for ownership, operation, and maintenance, (vi) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vii) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

10. 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. If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT FACILITIES is not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

11. Provide CITY reproducible duplicate copy of "Record Drawings" of constructed DISTRICT FACILITIES along with a written notice that the PROJECT is complete and requesting CITY to release bonds held for DISTRICT FACILITIES upon; (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "Record Drawings" of DISTRICT FACILITIES plans as set forth in Section I.23.

SECTION III

CITY shall:

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

2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.4., and hold said bonds as provided herein. CITY shall not release said bonds until DISTRICT provides CITY with a reproducible duplicate copy of "Record Drawings" and written notification

as set forth in Section II.11.

3. Inspect PROJECT construction.
4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the inspection, operation and maintenance of DISTRICT FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to inspect, operate and maintain DISTRICT FACILITIES.
6. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way.
7. Upon completion of PROJECT construction, but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s) including ingress and egress, to the rights of way as shown on Exhibit "D".
8. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance.
9. Upon DISTRICT and CITY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY 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 V

It is further mutually agreed:

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

2. CITY 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. DEVELOPER shall complete construction of PROJECT within twelve (12) consecutive months after execution of this Agreement and within eight (8) months after commencing work on PROJECT. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. In which case, DISTRICT or CITY on behalf of DISTRICT shall file a claim with DEVELOPER's surety to DISTRICT costs incurred.

4. If DEVELOPER fails to commence construction of PROJECT within nine (9) months after execution of this Agreement, then DISTRICT reserves the right to withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at the time DEVELOPER provides written notification to DISTRICT of the start of construction as set forth in Section I.14. In the event of a change in the existing site conditions that materially affects PROJECT function or DISTRICT's ability to operate and maintain DISTRICT FACILITIES, DISTRICT may

require DEVELOPER to modify IMPROVEMENT PLANS as deemed necessary by DISTRICT.

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

In the event DEVELOPER wishes to expedite issuance of a Notice to Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at DEVELOPER's sole cost and expense. DEVELOPER shall furnish appropriate documentation of the individual's credentials and experience to DISTRICT for review and, if appropriate, approval. DISTRICT shall review the individual's qualifications and experience, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act on DISTRICT's behalf on all DISTRICT FACILITIES construction and quality control matters. If DEVELOPER's initial construction inspection deposit furnished pursuant to Section I.5. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER's initial inspection deposit within forty-five (45) days of DISTRICT's approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand dollars (\$10,000) shall be retained on account.

6. PROJECT construction work shall be on a five (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written request for permission from DISTRICT to work the additional hours. The request shall be submitted to DISTRICT at least

seventy-two (72) hours prior to the requested additional work hours and state the reasons for the overtime and the specific time frames required. The decision of granting permission for overtime work shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

7. DEVELOPER shall indemnify and hold harmless DISTRICT, CITY, CITY Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DEVELOPER's (including its officers, employees, contractors, subcontractors and agents) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law, ordinance or regulation caused by the diversion of waters from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d) any other element of any kind or nature whatsoever arising from the performance of DEVELOPER, its officers, employees, contractors, subcontractors, agents or representatives ("Indemnitors") from this Agreement.

DEVELOPER shall defend, at its sole expense, including all costs and fees (including but not limited to attorney fees, cost of investigation, defense and settlements or

awards), the Indemnitees in any claim, proceeding or action for which indemnification is required.

With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, compromise any such claim, proceeding or action without the prior consent of DISTRICT and CITY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification obligations to Indemnitees as set forth herein.

DEVELOPER's indemnification obligations hereunder shall be satisfied when DEVELOPER has provided to DISTRICT and CITY the appropriate form of dismissal (or similar document) relieving DISTRICT or CITY from any liability for the claim, proceeding or action involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

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

8. DEVELOPER for itself, its successors and assigns hereby releases DISTRICT and CITY (including their agencies, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives) from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, including but not limited to any claim or liability, based or asserted, pursuant to Article

I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute a release by DEVELOPER of DISTRICT or CITY, their officers, agents and employees from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, for the negligent maintenance of PROJECT, after the acceptance of PROJECT by CITY.

9. Any waiver by any party hereto of any breach of any one or more of the terms of this 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 any party hereto to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or stopping such party from enforcement hereof.

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

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

To CITY: CITY OF RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92502
Attn: Public Works

To
DEVELOPER: AFG DEVELOPMENT, LLC
P.O Box 52049
Riverside, CA 92517
Attn: Jim Guthrie

11. 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.

12. 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 Agreement, shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other County.

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

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

15. In the event DEVELOPER sells Parcel Map No. 37475, DEVELOPER shall notify DISTRICT of any such transfer or assignment in writing no later than 30 days from the date of the sale. DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties

contained in this Agreement until DISTRICT, CITY, DEVELOPER and the new owner(s) of Parcel Map No. 37475 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties or obligations hereunder to the new owner(s) of Parcel Map No. 37475.

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

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

18. The Agreement may be executed in one of more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on


June 8, 2021

(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

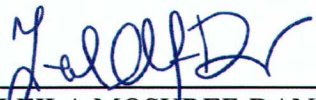
By 
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

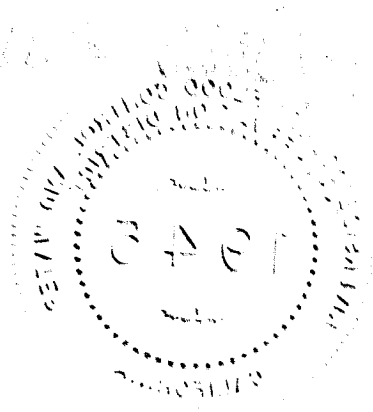
By 
LEILA MOSHREF-DANESH
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

20307



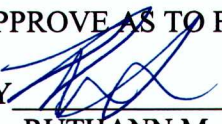
CITY OF RIVERSIDE

By


AL ZELINKA
City Manager

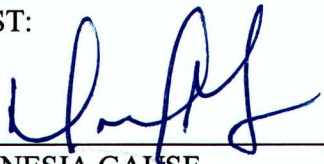
APPROVE AS TO FORM:

BY


RUTHANN M. SALERA
Deputy City Attorney

ATTEST:

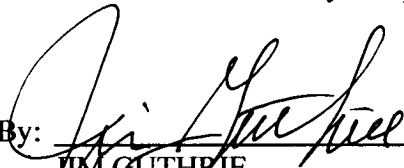
By


DONESIA GAUSE
City Clerk

(SEAL)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

AFG DEVELOPMENT, LLC,
a California limited liability company

By: 
JIM GUTHRIE
Managing Member

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement Parcel Map No. 37475
University Area Master Drainage Plan Line 8-E, Stage 2
Project No.1-0-00118
04/07/21
BB:blm

California All-Purpose Certificate of Acknowledgment

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

S.S.

On 04/14/21 before me, Isabela Marilyn Rodas Pablo, ^{Notary public,}
Name of Notary Public, Title

personally appeared Jimmy Guthrie A.K.A Jim Guthrie
Name of Signer (1)

Name of Signer (2)

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.

Isabela Rodas
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Cooperative Agreement

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s) _____
Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- ☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____