

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



**ITEM: 3.41**  
(ID # 15663)

**MEETING DATE:**

Tuesday, July 27, 2021

**FROM:** TLMA-TRANSPORTATION:

**SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:**

Approval of the Cooperative Funding Agreement between County of Riverside (County), Riverside Mitland 03 LLC (Brookfield), Beazer Homes (Beazer), Global Investment Pool, LLC (IHP), City of Menifee (City), and Perris Union High School District (District) for the Scott Road and Leon Road Traffic Signal Project; Approval of the Mitigation Credit Agreement between the Wildlands SLR Holdings I, LLC (Wildlands) and the County for the Scott Road and Leon Road Traffic Signal Project; CEQA Finding of Nothing Further is Required, Districts 3 and 5. [\$1,794,000 Total Project Cost and \$161,000 Mitigation Cost - Deposit Based Fees 100%]

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

1. Find that Nothing Further is Required pursuant to the California Environmental Quality Act (CEQA);
2. Approve the Cooperative Funding Agreement between the County, Brookfield, Beazer, IHP, City, and District, for the provision of certain roadway and signal improvements at the intersection of Leon Road and Scott Road, in the amount of \$1,101,350;
3. Approve the Mitigation Credit Agreement between the Wildlands and the County for the Scott Road and Leon Road Traffic Signal Project, in the amount of \$161,000; and
4. Authorize the Chair of the Board to execute the Cooperative Funding Agreement and Mitigation Credit Agreement on behalf of the County.

**ACTION: Policy**

  
Mark Lancaster, Director of Transportation 7/20/2021

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, 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: July 27, 2021  
xc: Transp.

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$300,000	\$0	\$ 1,794,000	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b> County of Riverside \$300,000 (\$225,000 from DIF Western County Traffic Signal and \$75,000 from cash-in-lieu received from Pat Rd/Briggs Rd. Intersection), Brookfield \$406,350, Beazer \$165,000, City of Menifee \$230,000 and District \$692,650 share in funding for the project. Deposit Based Funds 100%. No General Funds will be used on this project.			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 2021/2022	

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

**BACKGROUND:**

**Summary**

A traffic signal and roadway improvements are proposed to be constructed at the intersection of Scott Road and Leon Road located within the County of Riverside and City of Menifee jurisdiction. The involved parties are the County of Riverside, City of Menifee, Perris Union High School District (District), Global Investment Pool (IHP), Beazer Homes and Riverside Mitland 03 LLC (Brookfield). The proposed project has been determined necessary to the planned construction of a high school by the District and residential developments by Brookfield, Beazer and IHP near the vicinity of the intersection. The County was designated as the lead agency for the purpose of compliance with the California Environmental Quality Act (CEQA). The District is responsible for the construction of the project.

The parties will share the cost of the proposed project and are established in the Cooperative Funding Agreement. The County has agreed to collect the amount owed by each party and retain the amounts in an interest-bearing escrow account to be reimbursed to the District. The total estimated cost of the project is \$1,794,000.00. The District will fund up to \$692,650.00 and the County will collect the remaining total of \$1,101,350.00 as follows:

- County to fund up to \$300,000.00
- Brookfield to fund up to \$406,350.00
- Beazer to fund up to \$165,000.00
- City to fund up to \$230,000.00

The District agreed to assume responsibility for IHP's share of costs under the proposed



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

**Cooperative Funding Agreement.**

In order to construct the project, compliance with the regulatory permit issued by the Regional Water Quality Control Board requires compensatory mitigation, which will be satisfied through the purchase of mitigation credits from the Wildlands SLR Holdings, a bank sponsor for the San Luis Rey Mitigation Bank. The credits in the amount of \$161,000 will be funded as a part of the project cost.

The improvement of the intersection is consistent with the County and City's Circulation Element.

Construction is expected to begin in 2021.

**Environmental Findings:**

The County of Riverside, as the lead agency, determined that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (c), Existing Facilities, and Section 15061 (b), Common Sense Exemption. Therefore, CEQA compliance has been completed, the 35 day statute of limitations expired on April 28, 2021, and no further action is required under CEQA.

**Impact on Citizens and Businesses**

The proposed project on Scott Road and Leon Road will improve traffic operations and reduce delays at the intersection.

Project No. B6-0452

**Attachments:**

Project Vicinity Map  
Cooperative Agreement  
Mitigation Credit Agreement

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



Jason Farin, Principal Management Analyst

7/21/2021



Gregory L. Priamos, Director County Counsel

7/21/2021



Kristine Bell-Valdez, Supervising Deputy County Counsel

7/21/2021



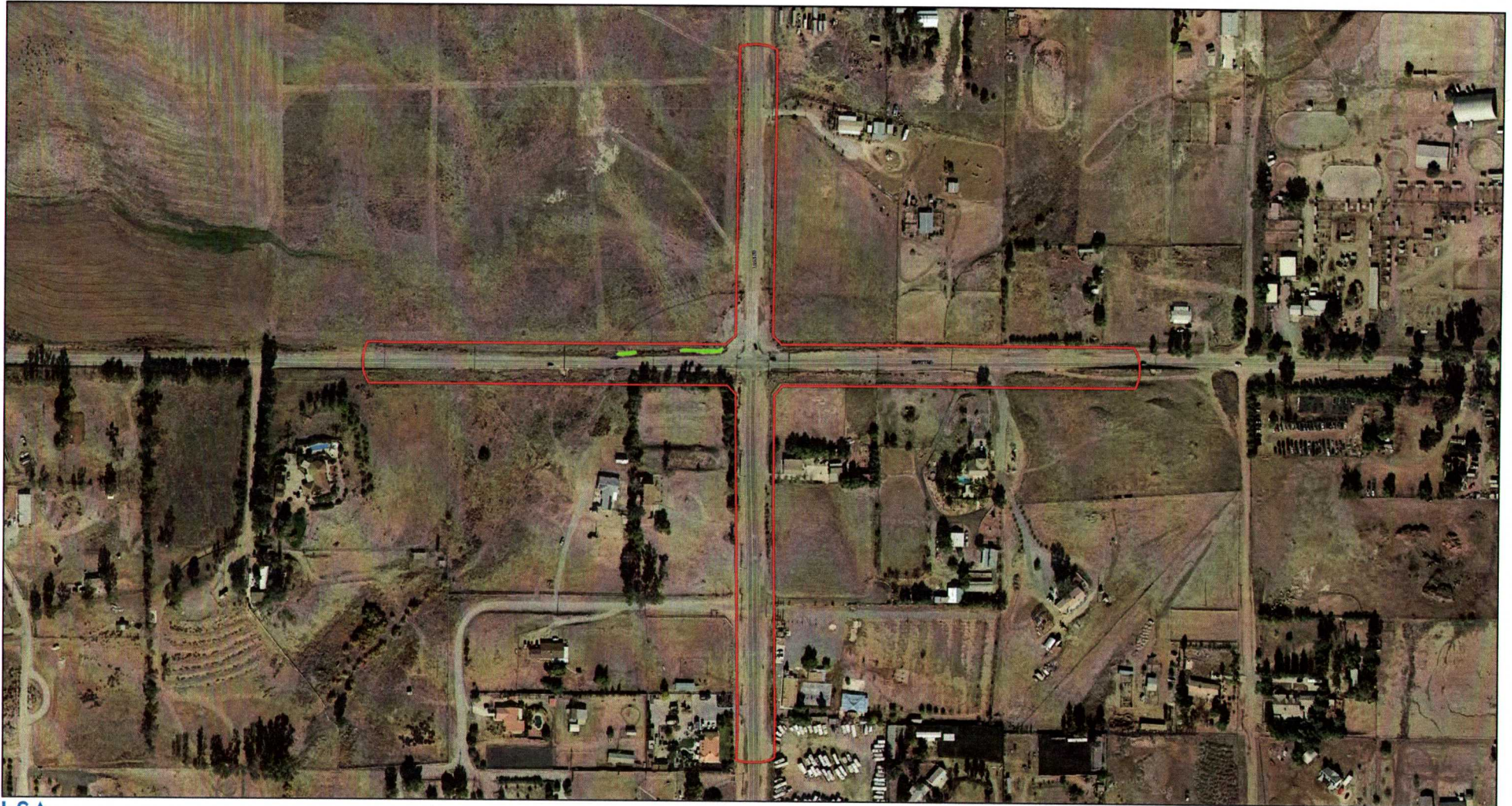


FIGURE 7

LSA



0 125 250  
FEET

SOURCE: Google (2018)  
I:\RCT1901.08\GIS\MXD\Bio\Tarplant.mxd (9/18/2020)



**AGREEMENT FOR SALE OF MITIGATION CREDITS  
SAN LUIS REY MITIGATION BANK**

**RWQCB File No. R9-2020-0266**

This Agreement is made and entered into this 29th day of June, 2021 by and between WILDLANDS SLR HOLDINGS I, LLC, a Delaware limited liability company ("Bank Sponsor") and COUNTY OF RIVERSIDE, on behalf of its TRANSPORTATION DEPARTMENT, a legal subdivision of the State of California ("Project Proponent") as follows:

**RECITALS**

A. Bank Sponsor has developed the San Luis Rey Mitigation Bank ("Bank") located in San Diego County, California; and

B. The Bank has been developed pursuant to a Bank Enabling Instrument entered into by and between Bank Sponsor, United States Army Corps of Engineers ("USACE"), and California Department of Fish and Wildlife ("CDFW"); and

C. Bank Sponsor has received the approval of the USACE and CDFW to operate the Bank as a mitigation bank with wetland waters of the United States/State credits, waters of the United States/State credits and buffer credits for sale as compensation for the loss of waters of the United States, waters of the State and/or State jurisdictional habitats; and

D. Project Proponent is seeking to implement the project described on Exhibit "A" attached hereto ("Project"), which would unavoidably and adversely impact waters of the United States and/or waters of the State thereon, and seeks to compensate for such impacts by purchasing compensatory credits from Bank Sponsor; and

E. Project Proponent is enrolled under the General Order No. 2004-0004-DWQ and is authorized by Regional Water Quality Control Board ("RWQCB") to purchase 0.28 acre of Re-established River: Wetland Waters of the U.S./State credits as compensatory mitigation for the permanent loss of 0.14 acre (286 linear feet) of jurisdictional waters associated with the Project, reference RWQCB File No. R9-2020-0266; and

F. Project Proponent desires to purchase from Bank Sponsor and Bank Sponsor desires to sell to Project Proponent 0.28 acre of Re-established River: Wetland Waters of the U.S./State credits.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Bank Sponsor hereby agrees to sell to Project Proponent and Project Proponent hereby agrees to purchase from Bank Sponsor 0.28 acre of Re-established River: Wetland Waters of the U.S./State credits (the "Credits") for the purchase price of \$161,000.00 ("Purchase Price"). The Purchase Price for said Credits shall be paid by wire transfer of funds according to

written instructions by Bank Sponsor to Project Proponent, or by check payable to “**Wildlands SLR Holdings I, LLC.**” Upon receipt of the Purchase Price, Bank Sponsor will deliver to Project Proponent an executed Bill of Sale in the form attached hereto as Exhibit “B.”

2. The sale and transfer herein is not intended as a sale or transfer to Project Proponent of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Project Proponent shall have no obligation whatsoever by reason of the purchase of the Credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the Credits sold, or the Bank. As required by law, Bank Sponsor shall monitor and make reports to the appropriate agency or agencies on the status of any Credits sold to Project Proponent. Bank Sponsor shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Credits, by all state or federal jurisdictional agencies.


4. The Credits sold and transferred to Project Proponent shall be nontransferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Project Proponent must deliver the Purchase Price to Bank Sponsor within 30 days of the date of this Agreement. After the 30-day period this Agreement will be considered null and void and Bank Sponsor shall have no further obligations hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**BANK SPONSOR:**  
**WILDLANDS SLR HOLDINGS I, LLC,**  
a Delaware limited liability company

By: TCP III Holdings, LLC, its Manager

By:   
8744A5EE734D4FA...

Name: Joe Sanderson

Title: Managing Director

Date: 6/29/2021

**COUNTY Approvals**

RECOMMENDED FOR APPROVAL:

Mark Lancaster  
Director of Transportation

APPROVED AS TO FORM:

Gregory P. Priamos, County Counsel

  
\_\_\_\_\_

Kristine Bell-Valdez  
Supervising Deputy County Counsel

APPROVAL BY THE BOARD OF  
SUPERVISORS

  
Karen Spiegel, Chair

JUL 27 2021

ATTEST:

  
KECIA HARPER-

Clerk of the Board (SEAL)



**Exhibit "A"**

**SCOTT ROAD AND LEON ROAD TRAFFIC SIGNAL PROJECT**

**DESCRIPTION OF PROJECT  
TO BE  
MITIGATED**

The Project involves the installation of streetlights, traffic signals, improved street, storm drains, and signing and striping along Scott Road and Leon Road, in the City of Menifee and in the unincorporated County area of Riverside County, California.

Project activities will result in permanent impacts to 0.14 acre (286 linear feet) of streambed waters of the State. Compensatory mitigation for the permanent loss of 0.14 acre (286 linear feet) of jurisdictional waters will be achieved through the purchase of 0.28-acre of re-established river credits from the San Luis Rey Wetland Mitigation Bank

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**Exhibit "B"**

**BILL OF SALE**

**Contract # SLRMB-21-\_\_**

**RWQCB File No. R9-2020-0266**

In consideration of \$161,000.00, receipt of which is hereby acknowledged,  
WILDLANDS SLR HOLDINGS I, LLC, a Delaware limited liability company ("Bank  
Sponsor") does hereby bargain, sell and transfer to RIVERSIDE COUNTY  
TRANSPORTATION DEPARTMENT, a department of the County of Riverside, a legal  
subdivision of the State of California ("Project Proponent") 0.28 acre of Re-established River:  
Wetland Waters of the U.S./State credits for the Scott Road and Leon Road Traffic Signal  
Project, in the San Luis Rey Mitigation Bank in San Diego County, California, developed and  
approved under the authority of the United States Army Corps of Engineers and California  
Department of Fish and Wildlife.

Bank Sponsor represents and warrants that it has good title to the Credits, has good right  
to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

DATED: \_\_\_\_\_

WILDLANDS SLR HOLDINGS I, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Its:



**COOPERATIVE AGREEMENT**

between

**COUNTY OF RIVERSIDE,**

**RIVERSIDE MITLAND 03 LLC (BROOKFIELD RESIDENTAL)**

**BEAZER HOMES – SOUTHERN CALIFORNIA,**

**INSTITUTIONAL HOUSING PARTNERS (IHP) DBA**

**GLOBAL INVESTMENT POOL, LLC,**

**CITY OF MENIFEE,**

and

**PERRIS UNION HIGH SCHOOL DISTRICT**

**for Roadway and Signal Improvements at the Intersection of**

**Leon Road and Scott Road**

This Cooperative Agreement ("Agreement") entered into this 27<sup>TH</sup> day of JULY, 2021 by and between the County of Riverside, by and through its Department of Transportation ("County"), Riverside Mitland 03 LLC (Brookfield) ("Brookfield"), Beazer Homes – Southern California ("Beazer"), Global Investment Pool, LLC ("IHP"), City of Menifee ("City") and the Perris Union High School District ("District"), for the provision of certain roadway and signal improvements at the intersection of Leon Road and Scott Road. The County, Brookfield, Beazer, IHP, the City and the District are sometimes hereinafter referred to individually as "Party" and collectively as the "Parties."

**RECITALS**

**WHEREAS**, due to the District's planned construction of a new local high school, and the residential developments planned for construction by Brookfield, Beazer and IHP in the vicinity of the intersection all contributing to the traffic and increased use of surrounding roadways, the Parties have determined that there is great need for roadway and signal improvements ("Project Components") at the intersection of Leon Road and Scott Road, as further described in Exhibit A ("Scope of Work");

**WHEREAS**, the District has already conducted a public bidding process and contracted for the work required for the construction of the roadway and signal improvements at the intersection ("Project") in connection with the planning and construction of the new high school;

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.

**WHEREAS**, the Parties desire to designate the County as the lead agency for the Project, for purposes of compliance with the California Environmental Quality Act ("CEQA");

**WHEREAS**, the Parties desire to share in the funding for the Project as defined herein; and

**WHEREAS**, the Parties desire to define herein the terms and conditions under which the Project is to be administered, coordinated, constructed, managed, maintained and funded.

### **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

#### **SECTION 1 : DISTRICT AGREES:**

1. To fund up to **\$692,650.00** toward the cost of the Project, as described in **Exhibit A** attached hereto and incorporated by this reference. The estimated cost for the Project and each Party's share of costs are provided in **Exhibit B** attached hereto and incorporated herein.
2. That it has advertised, awarded and is administering a public works contract for the construction of the Project in accordance with applicable local agency public works bidding requirements, the Public Contract Code and California Labor Code.
3. To act as the lead agency for purposes of administering, coordinating, and managing construction of the Project in accordance with the bid documents and the construction contract previously signed between the District and its contractor, Roadway Engineering ("Construction Contract"), executed on March 20, 2019.
4. To provide utility coordination for the Project construction. If any existing public and/or private utility facilities conflict with the Project construction, District shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal. In the case that any utility companies are determined to have prior rights, the cost of relocating utilities shall be borne by the Project and such costs will be divided between the Parties as specified in Section 7.4, below.
5. To take all required actions, including but not limited to, checking shop drawings, preparing estimates and reports, preparing as-built drawings, and other inspection and staff services necessary to assure that the construction is performed in accordance with the Construction Contract.
6. To construct the Project in accordance with the approved plans and specifications and Construction Contract.



7. In addition to the **\$692,650.00** share of the Project cost the District agrees to assume on its own behalf, the District also agrees to assume responsibility for the payment of IHP's share of the Project costs, as described in Section 5.1, below.
8. To furnish all Parties with a final reconciliation of the Project expenses within one hundred twenty (120) days following the filing of the notices of completion for the Project.

#### **SECTION 2 : COUNTY AGREES:**

1. To fund up to **\$300,000.00** toward the cost of the Project, which amount includes the costs attributable to CEQA review and approval described in Section 2.5, below.
2. To collect the amounts owed by each Party and retain such amounts in an interest bearing escrow account ("County Account"), until reimbursed to the District as described in Section 2.3, below. The County shall collect a total of **\$1,101,350.00**, and maintain such funds in the County Account until they are reimbursed in full to the District pursuant to Section 2.3.
3. To reimburse the District in the amount of **\$1,101,350.00** from the County Account within sixty (60) business days of receipt of full payment from the final Party to provide payment under this Agreement in accordance with Sections 7.3 and 7.4, below, and receipt of wire instructions from the District, whichever occurs later.
4. Notify Beazer within ten (10) business days of the County's receipt of this fully executed Agreement, in a letter stating that any and all conditions of approval for the traffic signal and widening improvements that are the subject of this agreement have been satisfied.
5. To serve as the lead agency for, and conduct all acts required for compliance with CEQA.
6. To provide plan check services for the plans, specifications and estimates for the portion of the Project that includes the traffic signal within the County right-of-way, prepared by the District.
7. To maintain the finished Project components that are within the County's right-of-way.

#### **SECTION 3 : BROOKFIELD AGREES:**

1. To fund up to **\$406,350.00** toward the cost of the Project, to be deposited into the County Account pursuant to Sections 7.3 and 7.4 of this Agreement. Further, Brookfield agrees that any such amounts deposited in the County Account pursuant to this Agreement shall be reimbursed to the District by the County pursuant to the terms of this Agreement.

#### **SECTION 4 : BEAZER AGREES:**

1. To fund up to **\$165,000.00** toward the cost of the Project, to be deposited into the County Account pursuant to Sections 7.3 and 7.4 of this Agreement. Further, Beazer agrees that

any such amounts it deposits in the County Account pursuant to this Agreement shall be reimbursed to the District by the County pursuant to the terms of this Agreement.

**SECTION 5 : IHP AGREES:**

1. That while it is responsible for 33% of the cost of the Project under this Agreement through its existing Condition of Approval for Tract Map 36785, pursuant to that certain Amended and Restated School Facilities Funding and Mitigation Agreement ("A&R Mitigation Agreement") executed between the District and Global Investment Pool, LLC on June 12, 2019, the District agreed to assume responsibility for IHP's share of costs under this Agreement as specified in Section 6.6 of the A&R Mitigation Agreement. The District's total costs for the Project, including its own share of cost for the Project as specified in Section 1.1 and Exhibit B to this Agreement, shall not exceed **\$692,650.00**. Should the total sum of the District's and IHP's shares of the Project costs, as shown in Exhibit B, exceed **\$692,650.00** IHP shall be responsible for depositing such additional amount into the County Account as specified in Sections 7.3 and 7.4 below.

**SECTION 6 : CITY AGREES:**

1. To fund up to **\$230,000.00** toward the cost of the Project, to be deposited into the County Account pursuant to Sections 7.3 and 7.4 of this Agreement. Further, the City agrees that any such amounts it deposits in the County Account pursuant to this Agreement shall be reimbursed to the District by the County pursuant to the terms of this Agreement.
2. To maintain the finished Project Components that are within the City's right-of-way.

**SECTION 7: IT IS MUTUALLY AGREED AS FOLLOWS:**

1. The total cost of the Project is estimated to be **\$1,794,000.00**, including built-in contingencies, as detailed in Exhibit B.
2. Upon full execution of this Agreement by all Parties, the District will send the County a fully executed version of this Agreement by email and certified mail. Within twenty (20) business days of the County's receipt of the fully executed Agreement, it shall send wiring instructions and a fully executed copy of the Agreement to each Party.
3. Each Party agrees to deposit into the County Account its share of the Project costs, as specified in Exhibit B, within twenty (20) business days of receipt of wiring instructions from the County.
4. Each Party that fails to deposit its specified share of the Project costs in the County Account within the time specified in Section 7.3 above, shall be responsible for a late fee of \$500.00, per day, for each day, from the twentieth (20<sup>th</sup>) business day after the date the County sent the fully executed Agreement and wiring instructions, until the full amount of that Party's share of the Project costs is deposited into the County Account. The District shall not be



required to begin construction on the Project until the County has confirmed in writing the receipt of all amounts owed under this Agreement.

5. Cost Underruns and Cost Overruns

A. Cost Underruns

The Parties agree that should circumstances arise which result in a decrease in costs resulting in a surplus as compared to those costs shown in Exhibit B ("Cost Underruns"), such Cost Underruns shall be distributed among the Parties in proportion to their contributions to the Project, as set forth in Exhibit B, unless all Parties mutually agree to another distribution methodology. Cost Underruns, if any, shall be distributed from the County Account within one hundred twenty (120) days after certificates of completion are filed for the Project.

B. Cost Overruns

The District, County, Brookfield, Beazer and IHP agree that should circumstances arise which result in an excess of costs as compared to those costs shown in Exhibit B ("Cost Overruns"), such parties agree to meet in good faith to determine how such Cost Overruns will be distributed among them. The District, County, Brookfield, Beazer and IHP agree to meet within ninety (90) days of the District's remittance of its final reconciliation of the Project costs, which final reconciliation shall be provided by District to each Party within one hundred twenty (120) days after certificates of completion are filed for the Project. If there are Cost Overruns, supplemental payments from the District, County, Brookfield, Beazer, and/or IHP shall be made once a proportional distribution is agreed to by such parties. Such supplemental payments to cover Cost Overruns shall be paid within thirty (30) days of reaching agreement as to proportionate distribution. The City is under no obligation to participate in the meeting regarding Cost Overruns described above and will not be required to contribute to Cost Overruns.

6. Indemnification

A. Basic Indemnity

1. The District agrees to defend, indemnify, and hold harmless (i) the County, its Agencies, Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and each of their respective directors, members officers, employees, agents, volunteers and representatives ("County Indemnitees"), and (ii) the City, its Boards, Commissions, Committees, City Council, elected and appointed officials, and each of the City's employees, agents, volunteers and representatives ("City Indemnitees"; collectively the "City Indemnitees" and the "County Indemnitees" are referred to as the "Indemnitees") and each of them from any and all Losses (as defined below) that arise out of or relate to any act or omission constituting ordinary negligence,



recklessness, or willful misconduct on the part of District or its contractors, subcontractors or their respective employees, agents, representatives, or independent contractors.

2. "Loss" and/or "Losses" shall mean any and all economic and non-economic losses, costs, liabilities, claims, damages, actions, judgements, settlements and expenses, including, without limitation, full and actual attorney's fees and expert witness fees.

3. District further agrees to and shall indemnify and hold harmless the Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors of District for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this contract and arising out of work performed pursuant to this contract.

#### B. Indemnity for Design Professional Services

1. To the fullest extent permitted by Applicable Law, District agrees to defend the County (if the Loss is alleged against or sustained by the County) and/or the City (if the Loss is alleged against or sustained by the City), indemnify and hold harmless the Indemnitees, and each of them, against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful misconduct constituting professional negligence on the part of the District's contractors or subcontractors, or their respective employees, agents, representatives, or independent contractors.

2. Without affecting the rights of Indemnitees under any other provision of this Agreement, District shall not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee to the extent a Loss is determined to be due to that Indemnitee's negligence, recklessness or willful misconduct.

3. District's indemnification obligations under this Agreement shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.

#### C. CEQA Indemnity

1. The District and the County agree to defend, indemnify, and hold harmless the City and City Indemnitees from any and all Losses that arise out of or relate to any act or omission constituting negligence, recklessness, or willful misconduct on the part of County or its subcontractors or their respective employees, agents, representatives, or independent contractors, for any work arising out of or relating to the performance of any work, obligations or responsibilities under the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.).

#### 7. Insurance



- A. Without limiting or diminishing the indemnification obligations in Section 7, above, District agrees to procure and maintain or cause the Project contractor to maintain, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, (i) the County herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds, and (ii) the City herein refers to the City of Menifee its Boards, Commissions, Committees, City Council, elected and appointed officials, and each of the City's employees, agents, volunteers and representatives as Additional Insureds.

1. Workers' Compensation: If the District has employees as defined by the State of California, the District shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside and the City of Menifee.

2. Commercial General Liability: Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of District's performance of its obligations hereunder. Policy shall name the County and City as Additional Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

3. Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then District shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County and City as Additional Insureds.

4. General Insurance Provisions:

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

b. The District must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County



Risk Manager and the City Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the County or the City, and at the election of the County's Risk Manager and the City Risk Manager, District's carriers shall either; (i) reduce or eliminate such self-insured retention as respects this Agreement with the County and the City, or (ii) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

c. District shall cause the applicable insurance carrier(s) to furnish the County and the City with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager or the City's Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days' written notice shall be given to the County and the City prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County and the City each receive, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. District shall not commence operations until the County and City have each been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

d. It is understood and agreed to by the Parties hereto that the District's insurance shall be construed as primary insurance, and neither County's nor City's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; County and City each reserve the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's or the City Risk Manager's reasonable judgment, the amount or type of insurance carried by the District has become inadequate.



- f. District shall pass down the insurance obligations contained herein to all tiers of contractors and subcontractors performing work on or related to the Project.
  - g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the County and the City.
  - h. District agrees to notify County and City of any claim by a third Party or any incident or event that may give rise to a claim arising from the performance of this Agreement.
- 8. Ownership and title to all materials, equipment, and appurtenances installed as part of this Agreement will automatically be vested with the jurisdiction for which the improvements reside. No further Agreement will be necessary to transfer ownership.
  - 9. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all Parties and no oral understanding or Agreement not incorporated herein shall be binding on either Party hereto.
  - 10. All Parties shall retain, or cause to be retained, all records and accounts relating to the Project, for a period of three (3) years from the date of execution of this Agreement, for audit purposes.
  - 11. This Agreement and the exhibits herein contain the entire Agreement between the Parties, and are intended by the Parties to completely state the Agreement in full. Upon completion of this Agreement, the Parties have no further obligations to each other; provided, however, that the indemnification and insurance requirements in Sections 7.6 and 7.7 shall remain in effect for a period of one (1) year following completion of the agreement, and the records retention requirements in Section 11 shall remain in effect for a period of 3 years from the date of execution of the Agreement (regardless of the timing for completion of the Agreement). Any Agreement or representation respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, is null and void.
  - 12. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third Parties not Party to this Agreement or affect the legal liability of the Parties to this Agreement by imposing any standard of care with respect to the maintenance of roads different from the standard of care imposed by law.
  - 13. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") (Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The Parties further agree that the electronic signatures of the Parties included in this Agreement are intended to



authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

14. All notices, demands, invoices, and other communications required or permitted hereunder shall be in writing and delivered to the following addresses or such other address as the Parties may designate.

To County: Riverside County Transportation Department  
Attention: Mark Lancaster, Director of Transportation  
Address: 4080 Lemon Street, 8<sup>th</sup> Floor  
Riverside, CA 92501  
Phone: (951) 955-6740

To Brookfield: Brookfield Residential  
Attention: Shaun Bowen  
Address: 3200 Park Center Drive, Suite 1000  
Costa Mesa, CA 92626  
Phone: (714) 200-1609  
E-mail Address: [shaun.bowen@brookfieldpropertiesdevelopment.com](mailto:shaun.bowen@brookfieldpropertiesdevelopment.com)

To Beazer: Beazer Homes  
Attention: Christopher Courtney  
Address: 310 Commerce, #150  
Irvine, CA 92602  
Phone: (714) 264-1524  
E-mail Address: [chris.courtney@beazer.com](mailto:chris.courtney@beazer.com)

To IHP: IHP DBA Global Investment Pool, LLC  
Attention: Joseph Rivani  
Global Investment Pool, LLC  
Address: 3470 Wilshire Blvd, Suite 1020  
Los Angeles, CA 90010  
Phone: (213) 365-0405

Attention: Jeff Enes  
IHP Capital Partners



100 Bayview Circle, Suite 1020  
Newport Beach, CA 92660  
Phone: (949) 851-2121  
E-mail Address: [jenes@ihpinc.com](mailto:jenes@ihpinc.com)

To City: City of Menifee  
Attention: Armando Villa, City Manager  
29844 Haun Rd.  
Menifee, CA 92586  
Phone: (951) 672-6777  
E-mail Address: [avilla@cityofmenifee.us](mailto:avilla@cityofmenifee.us)

To District: Perris Union High School District  
Attention: Candace Reines, Assistant Superintendent of Business Services  
155 East 4<sup>th</sup> Street  
Perris, CA 92570  
Phone: (951)943-6369  
E-mail Address: [candace.reines@puhsd.org](mailto:candace.reines@puhsd.org)

**[Signatures of Parties on Following Page]**

## APPROVALS

### COUNTY OF RIVERSIDE:

*Mark Lancaster*  
Date: 6-3-2021  
Name: MARK LANCASTER  
Title: Director of Transportation

### APPROVED BY THE BOARD OF SUPERVISORS:

*Karen S. Spiegel*  
Date: JUL 27 2021  
Name: KAREN SPIEGEL  
Title: Chairman, County Board of Supervisors

FORM APPROVED COUNTY COUNSEL  
BY KRISTINE BELL-VALDEZ DATE \_\_\_\_\_

### BROOKFIELD:

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### BEAZER:

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### PERRIS UNION HIGH SCHOOL DISTRICT:

Date: \_\_\_\_\_  
Name: Candace Reines  
Title: Assistant Superintendent  
Business Services

### APPROVED BY THE BOARD OF TRUSTEES:

Date: \_\_\_\_\_  
Name: Dr. Jose Luis Araux  
Title: President, Board of Trustees

### IHP:

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### CITY OF MENIFEE:

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### APPROVED BY THE CITY COUNCIL:

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:  
KECIA R. HARPER, Clerk  
By *Kristine Bell-Valdez* DEPUTY



## **EXHIBIT A – SCOPE OF WORK**

The County of Riverside Transportation Department ("County"), in partnering with the Perris Union High School District ("District"), Brookfield Homes ("Brookfield"), Beazer Homes ("Beazer"), Global Investment Pool LLC ("IHP"), and City of Menifee ("City"), has taken the role to act as the Lead Agency under the California Environmental Quality Act ("CEQA") for a proposed traffic signal and roadway improvements Project within Menifee, California. All Parties involved will contribute to an agreed upon monetary sum for the development of the Project, with the District being the Party responsible for carrying out the construction of the Project. The proposed Project was determined necessary due to planned construction of a new local high school and residential developments in the vicinity of the intersection that will contribute to the traffic and increased use of surrounding roadways. The proposed Project is as defined by the scope of work within the Construction Contract (further described in Section 1.3, above).

No additional right-of-way will be required to construct the proposed improvements. No temporary construction easements ("TCEs") will be required. The Project improvements will be within the existing footprint of the roadway.

### EXHIBIT B – PROJECT COST ESTIMATE

	District	County	City	Brookfield	Beazer	IHP		Totals:
Share of Project Costs	\$692,650.00	\$300,000.00	\$230,000.00	\$406,350.00	\$165,000.00	*		\$1,794,000.00
Amount to be Deposited in County Account		\$300,000.00	\$230,000.00	\$406,350.00	\$165,000.00			\$1,101,350.00

\* Pursuant to that certain Amended and Restated School Facilities Funding and Mitigation Agreement executed June 12, 2019, between the District and Global Investment Pool, LLC the District has agreed to assume responsibility of payment of IHP's share of the costs for the Project.

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