

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



ITEM: 11.3
(ID # 22690)

MEETING DATE:

Tuesday, August 29, 2023

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the County of Riverside, on Behalf of its Transportation Department, for Woodcrest-Rinehart Acres Drainage Plan Improvements, Project No. 2-0-00406, CEQA Exempt, District 2. [\$0] (Companion Item to MT Item No. 22775)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that execution of the Cooperative Agreement ("Agreement") is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15262, Statutory Exemption for Feasibility and Planning Studies, and 15061(b)(3), the "Common Sense" exemption;
2. Approve the Agreement between the Riverside County Flood Control and Water Conservation District ("District") and the County of Riverside ("County");
3. Authorize the Chair of the District's Board of Supervisors to execute the Agreement documents on behalf of the District;
4. Authorize the General Manager-Chief Engineer or designee to approve, sign, and execute any future non-substantive amendments to the Agreement that do not increase the cost to the District and do not materially change the scope of services, subject to approval as to form by County Counsel; and,
5. Direct the Clerk of the Board to return one executed Agreement to the District and one (1) executed Agreement to the County.

ACTION:Policy


Jason Uhley, GENERAL MGR-CHIEF FLD CNTRL ENG 8/18/2023

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
Nays: None
Absent: None
Date: August 29, 2023
xc: Flood, Trans.

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

(Companion Item 3.73)

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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: N/A			Budget Adjustment: No	
			For Fiscal Year: 23/24-26/27	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Agreement sets forth the terms and conditions by which the District and County will share responsibility for planning, designing, and constructing roadway improvements and certain flood control facilities within the Woodcrest-Rinehart Acres subdivision. The Woodcrest-Rinehart Acres Drainage Plan Improvements consist of approximately 10,250 feet of street improvements and 8,000 feet of a reinforced concrete pipe storm drain system ranging in diameter from 18 inches to 66 inches to convey flows from the streets of Mariposa Avenue, Granite Avenue, Boulder Avenue, and Dallas Avenue to the southeast intersection of Wood Road and Dallas Avenue.

The project will convey the 100-year storm flows at proposed collection points that reduce street and community flooding and are necessary to convey runoff to the proposed storm drains. The Agreement is needed for the County to grant the District the necessary rights to access, construct, operate, and maintain the flood control facilities within County rights of way.

Upon construction completion of the project, the District will assume ownership, operation, and maintenance of the portions of mainline storm drain system that are greater than 36 inches in diameter for the project. The County will assume ownership and responsibility for the operation and maintenance for the flood control facilities' various street improvements, catch basins, inlets, laterals, connector pipes, and storm drains that are 36 inches or less in diameter that are located within County held easements or rights of way.

County Counsel has approved the Agreement as to legal form. A companion item appears on the Riverside County Transportation Department's Agenda this same date.

Environmental Findings

Pursuant to CEQA, the project is the execution of the Agreement. This action is exempt from CEQA pursuant to CEQA Guidelines Section 15262, the Statutory Exemption for Feasibility and Planning Studies, which provides, "A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors." The action proposed under the Agreement includes funding for studies specifically considering environmental factors. The Agreement does not authorize any construction or physical development. Such development, if it occurs at all, will

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be the result of subsequent actions subject to CEQA prior to construction. Execution of the Agreement would not have a legally binding effect on any future actions or decisions on project alternatives, as the Agreement is merely for planning purposes and does not dictate or approve any subsequent actions or projects.

Additionally, execution of the Agreement is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption), which provides, "The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Execution of the Agreement merely sets forth the terms and conditions by which the District and the County will work together to allocate responsibility for performing environmental review and designing potential facilities set forth in the Agreement. The Agreement also addresses those terms and conditions in the event a proposal for the facilities is later completed and approved by the District and the County, specifying the allocation of responsibility for ownership, construction, operation, and maintenance of the potential facilities as described in the Agreement.

Execution of the Agreement would not authorize any development, construction, maintenance, operation, or any other activity that would have the potential to result in any significant effect on the environment. The Agreement does not commit either the District or the County to any approval of any portion of the potential facilities or commitment to any decision that commits the District or the County to any definite course of action as to the facilities beyond the planning documents discussed herein. In addition, the Agreement does not foreclose any alternatives to the facilities, including a "no project" alternative, or foreclose any mitigation measures that may be necessary to reduce any impacts that could potentially result from the construction, operation, or maintenance of the facilities. The District is in the process of preparing a CEQA document that will analyze the environmental impacts of constructing, operating and maintaining the potential facilities that are the subject of the Agreement. The CEQA document will be completed and provided to the County Board of Supervisors for review and consideration prior to approving construction or any other physical activity related to the project. Accordingly, because it can be seen with certainty that there is no possibility that the execution of the subject Agreement may have a significant effect on the environment, Section 15061(b)(3) is an appropriate exemption.

Impact on Residents and Businesses

The District's financial contribution toward the project is funded by ad valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses. Upon construction completion, this project will (i) provide flood control and drainage improvements, (ii) provide adequate collection of the 100-year flow rates at the proposed collection points, and (iii) reduce street and community flooding in the Woodcrest-Rinehart Acres subdivision, thereby protecting residences and businesses in the unincorporated Western Riverside County from flooding.

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Additional Fiscal Information


The engineer's estimate for the construction of Woodcrest-Rinehart Acres Drainage Plan Improvements is estimated to be \$10,641,000; however, the final amount of the construction contract will be determined by competitive bidding through the California Public Works Contract Process. The District is funding all design, construction, and inspection costs for the flood control facility.

The District will ensure sufficient funding is secured for the project prior to construction contract award by the Board of Supervisors. Future operation and maintenance costs associated with the mainline storm drain system will accrue to the District.

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

AGR:blm
P8/252251



Jason Farin, Principal Management Analyst 8/22/2023



Aaron Gettis, Deputy County Counsel 8/16/2023

COOPERATIVE AGREEMENT
Woodcrest-Rinehart Acres Drainage Plan Improvements
Project No. 2-0-00406

This Cooperative Agreement ("Agreement"), dated as of August 29, 23, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic, ("DISTRICT") and the County of Riverside, a political subdivision of the State of California ("COUNTY") on behalf of its Transportation Department. DISTRICT and COUNTY are individually referred to herein as "Party" and collectively referred to herein as "Parties". The Parties hereto agree as follows:

RECITALS

A. DISTRICT has budgeted for and now plans to design and construct the Woodcrest-Rinehart Acres Drainage Plan Improvements Project to (i) provide flood control and drainage improvements; (ii) provide adequate collection for the 100-year flow rates at the proposed collection points, and (iii) to reduce street and community flooding in the Woodcrest Rinehart-Acres subdivision, which is located in the unincorporated Western Riverside County; and

B. Woodcrest-Rinehart Acres Drainage Plan Improvements Project consists of approximately 10,250 feet of street improvements and 8,000 feet of a reinforced concrete pipe storm drain system ranging in diameter from 18-inches to 66-inches to convey flows from the streets of Mariposa Avenue, Granite Avenue, Boulder Avenue, and Dallas Avenue to their natural outlet in the watercourse to the southeast intersection of Wood Road and Dallas Avenue. The street improvements identified for the Woodcrest-Rinehart Acres Drainage Plan Improvements Project are necessary to collect and deliver runoff to the proposed storm drains; and

C. The storm drain facilities associated with the Woodcrest-Rinehart Acres Drainage Plan Improvements Project that are greater than 36-inches in diameter hereinafter called

("DISTRICT FACILITIES"), as shown on DISTRICT Drawing No. 2-0500, and in concept in blue on Exhibit "A", attached hereto and made a part hereof; and

D. Associated with the construction of DISTRICT FACILITIES is the construction of various catch basins, inlets, connector pipes and storm drains that are 36-inches or less in diameter located within COUNTY rights of way, and as shown on DISTRICT Drawing No. 2-0500 (labeled as 'To Be Maintained By RCTD'), hereinafter called ("COUNTY APPURTENANCES"); and

E. DISTRICT FACILITIES and COUNTY APPURTENANCES are hereinafter altogether called ("PROJECT"); and

F. All Parties recognize that portions of PROJECT are within the city of Riverside ("CITY") rights of way or easements. DISTRICT and CITY will enter into a separate Cooperative Agreement that sets forth the terms and conditions for the CITY's review and approval of the plans and specifications, design, construction, inspection, and maintenance of minor drainage facilities within its jurisdiction. These minor drainage facilities associated with PROJECT and within CITY held rights of way and easements, are hereinafter called ("CITY FACILITIES"); and

G. DISTRICT and COUNTY acknowledge it is in the best interest of the public to proceed with the construction of PROJECT at the earliest possible date; and

H. The purpose of this Agreement is to memorialize the mutual understandings by and between DISTRICT and COUNTY with respect to design, construction, inspection, funding, ownership, operation, and maintenance of PROJECT.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, 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

DISTRICT shall:

1. Pursuant to the California Environmental Quality Act ("CEQA"), act as the Lead Agency and assume responsibility for the preparation, circulation, and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation, and maintenance of PROJECT.

2. Prepare, or cause to be prepared, plans and specifications for PROJECT ("IMPROVEMENT PLANS") in accordance with applicable DISTRICT, COUNTY, and CITY standards.

3. At its sole cost and expense, prepare, or cause to be prepared, all rights of way and easement documents, legal and plats, aerial topography, and survey control, including any requests for waivers and variances from policies ("RIGHTS OF WAY"), deemed necessary for the construction, operation, and maintenance of PROJECT.

4. Prior to commencing construction, obtain at its sole cost and expense, all necessary permits, approvals, or agreements required by any federal, state, and local resource or regulatory agencies pertaining to the construction, operation, and maintenance of DISTRICT FACILITIES. Such documents may 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, and are exclusive of any permits required for water rights ("REGULATORY PERMITS").

5. Prior to commencing construction of PROJECT, secure all necessary RIGHTS OF WAY, rights of entry, temporary and temporary construction easements, necessary to construct, inspect and to operate and maintain PROJECT.

6. Secure, at its sole cost and expense, all necessary permits, approvals, licenses, or agreements required by any federal, state, or local resource or regulatory agencies pertaining to the construction, operation, and maintenance of PROJECT.

7. Prior to advertising PROJECT for public works construction contract bids, submit IMPROVEMENT PLANS to COUNTY for its review, comment, and approval, as appropriate. In addition, DISTRICT shall submit IMPROVEMENT PLANS to the City of Riverside (Attn: Public Works Department) in accordance with Recital F.

8. Advertise, award, and administer PROJECT pursuant to the applicable provisions of the California Public Contract Code.

9. Provide COUNTY with written notice that DISTRICT has awarded a construction contract for PROJECT.

10. Within thirty (30) business days of the effective date of the construction contract, pay the Western Riverside County Regional Conservation Authority for the costs associated with the Multiple Species Habitat Conservation Plan, which is either the lesser of (i) three percent (3%) of the lowest responsible bid price, or (ii) three percent (3%) of lowest responsible bid price less the value of applicable PROJECT-specific mitigation.

11. Prior to commencing PROJECT construction, schedule and conduct a pre-construction meeting between DISTRICT, COUNTY, and other affected entities. DISTRICT shall notify COUNTY at least twenty (20) days prior to conducting the pre-construction meeting.

12. Furnish COUNTY, at the time of providing written notice for the pre-construction meeting as set forth in Section I.11 with a construction schedule which shall show the order and dates in which DISTRICT or DISTRICT's contractor proposes to carry on the various parts of work, including estimated start and completion dates.

13. Construct or cause to be constructed PROJECT pursuant to a DISTRICT administered public works construction contract, in accordance with IMPROVEMENT PLANS approved by DISTRICT and COUNTY, and pay all costs associated therewith.

14. Inspect or cause to be inspected construction of PROJECT.

15. Require its construction contractor(s) to comply with all Cal/OSHA safety regulations including regulations concerning confined space and maintain a safe working environment for all DISTRICT and COUNTY employees on the site.

16. Require its construction contractor(s) to include COUNTY as an additional insured under the liability insurance coverage for PROJECT, and also require its construction contractor(s) to include COUNTY as a third-party beneficiary of any and all warranties of the contractor's work with regard to COUNTY APPURTENANCES.

17. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as COUNTY accepts ownership and responsibility for operation and maintenance of COUNTY APPURTENANCES as set forth in Section II. 8.

18. Within two (2) weeks of completing PROJECT construction, provide COUNTY with written notice that PROJECT construction is substantially complete and requesting that (i) COUNTY conduct a final inspection of PROJECT, and (ii) subsequently assume ownership and responsibility for operation and maintenance of COUNTY APPURTENANCES.

19. Upon DISTRICT's acceptance of PROJECT construction as complete, provide COUNTY with a copy of DISTRICT's Notice of Completion.

20. Upon DISTRICT's acceptance of PROJECT construction as complete, provide COUNTY with a reproducible duplicate set of "record drawings" of IMPROVEMENT PLANS.

21. Adhere to the written notices and submission of all applicable documents for CITY's inspection, and for the subsequent ownership and responsibility for the operation and

maintenance of CITY FACILITIES, as set forth in the Master Cooperative Agreement.

22. Ensure that all work performed pursuant to this Agreement by DISTRICT, 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. DISTRICT shall be solely responsible for all costs associated with compliance with applicable laws and regulations.

SECTION II

COUNTY shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review, comment and approve, as appropriate and at its sole cost, IMPROVEMENT PLANS prior to DISTRICT's advertising PROJECT for construction bids.
3. Upon execution of this Agreement, grant DISTRICT the right to enter upon COUNTY'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. Issue, at no cost to DISTRICT or DISTRICT's contractor, the necessary encroachment permit(s) required to construct PROJECT.
5. Order the relocation of all utilities within COUNTY rights of way that conflict with the construction of PROJECT and which must be relocated at the utility company's expense.
6. Inspect PROJECT construction at its sole cost but provide any comments to DISTRICT personnel who shall be solely responsible for all communications with DISTRICT's contractor(s) during the construction of PROJECT.
7. Upon receipt of DISTRICT's written notice that PROJECT construction is substantially complete as set forth in Section I.18, conduct a final inspection of PROJECT.

8. Accept ownership and sole responsibility for the operation and maintenance of COUNTY APPURTENANCES upon (i) receipt of DISTRICT's Notice of Completion as set forth in Section I.19, and (ii) receipt of a reproducible duplicate set of "record drawings" of IMPROVEMENT PLANS as set forth in Section I.20.

9. Upon DISTRICT and COUNTY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within COUNTY rights of way and jurisdiction which must be performed at such time(s) that the finished grade along and above the underground portions of PROJECT 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 III

It is further mutually agreed:

1. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by DISTRICT and shall not be deemed complete until approved and accepted as complete by DISTRICT.

2. Except as otherwise provided herein, DISTRICT shall not be responsible for any additional street repairs or improvements not shown in IMPROVEMENT PLANS and not as a result of PROJECT construction.

3. In the event COUNTY desires to include any additional work as part of PROJECT, COUNTY shall submit a written request to DISTRICT describing the additional work desired and agrees to pay DISTRICT for any agreed upon work requested. Payment for COUNTY-requested additional work shall be based upon actual quantities of materials installed at the contract unit prices bid or at the negotiated change order prices.

4. DISTRICT and COUNTY each pledge to cooperate in regard to the operation and maintenance of their respective facilities as set forth herein, and to discharge their respective maintenance responsibilities in an expeditious fashion so as to avoid the creation of any nuisance condition or undue maintenance impact upon the others' facilities.

5. DISTRICT and COUNTY agree to indemnify each other as follows:

- a. COUNTY shall indemnify, defend, save and hold harmless DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, caused by, based upon, arising out of or in any way relating to COUNTY's (including its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) negligence or willful misconduct 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) payment of attorneys' fees, or (d) any other element of any kind or nature whatsoever.
- b. DISTRICT shall indemnify, defend, save and hold harmless COUNTY (including its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) from any liabilities, claim, damage, proceeding or action,

present or future, caused by, based upon, arising out of or in any way relating to DISTRICT's (including its directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) negligence or willful misconduct 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) payment of attorneys' fees, or (d) any other element of any kind or nature whatsoever.

c. This indemnification provision shall survive termination or expiration of this Agreement until such a time as the statute of limitations shall run for any claims that may arise out of this Agreement.

6. Any waiver by DISTRICT or by COUNTY 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 DISTRICT or COUNTY 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 estopping DISTRICT or COUNTY from enforcement hereof.

7. This Agreement is to be construed in accordance with the laws of the State of California.

8. 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:

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Design II

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

9. If any provision in 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.

10. 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.

11. 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 import or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT prepared this Agreement in its final form.

12. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right or action based upon the provisions of this Agreement.

13. This Agreement is intended by the Parties hereto as a final expression of their understanding with respect to the subject matter 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 and written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the Parties hereto.

14. No alternation or variation of the terms of this Agreement shall be valid unless made in writing and signed by both Parties, and no oral understanding or agreement not incorporated herein shall be binding on either Party hereto.

15. Neither DISTRICT nor COUNTY shall assign this Agreement without the written consent of the other Party. Any attempt to delegate or assign any interest herein shall be deemed void and of no effect.

16. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement.

17. This Agreement may be executed in one or 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

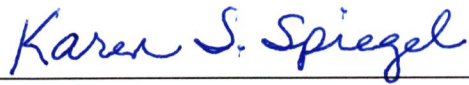
8/29/23

(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:

MINH C. TRAN
County Counsel

KIMBERLY RECTOR
Clerk of the Board

By 
AARON C. GETTIS
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement with County of Riverside
Woodcrest-Rinehart Acres Drainage Plan Improvements
Project No. 2-0-00406
07/25/23
AMR:blm

AUG 29 2023 11.31 3.73

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By *Mark Lancaster*
MARK LANCASTER
Director of Transportation

By *Kevin Jeffries*
KEVIN JEFFRIES, Chairman
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

MINH C. TRAN
County Counsel

KIMBERLY RECTOR
Clerk of the Board

By *Stephanie Nelson*
for STEPHANIE NELSON
Deputy County Counsel

By *Bruna Smit*
Deputy

(SEAL)

Cooperative Agreement with County of Riverside
Woodcrest-Rinehart Acres Drainage Plan Improvements
Project No. 2-0-00406
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AMR:blm

AUG 29 2023 11.3/3.73

COOPERATIVE AGREEMENT
WOODCREST-RINEHART ACRES
DRAINAGE PLAN IMPROVEMENTS
PROJECT NO. 2-0-00406

EXHIBIT A

LOCATION MAP
N.T.S.

