

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



ITEM: 11.1
(ID # 26361)

MEETING DATE:
Tuesday, December 17, 2024

FROM : FLOOD CONTROL DISTRICT

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Second Amendment to Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District, the County of Riverside and D.R. Horton Los Angeles Holding Company, Inc. for Winchester Hills Line F, Stage 1 and Salt Creek - Olive Avenue Storm Drain, Stage 1 (Tract Map No. 31100), Project Nos. 4-0-00372 and 4-0-00362, CEQA Exempt per CEQA Guidelines Section 15061(b)(3), District 3. [\$0] (Companion Item to MT Item No. 26472)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that execution of the Second Amendment to Cooperative Agreement ("Second Amendment") is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption;
2. Approve the Second Amendment between the Riverside County Flood Control and Water Conservation District ("District"), the County of Riverside ("County") and D.R. Horton Los Angeles Holding Company, Inc. ("Developer") for Winchester Hills Line F, Stage 1 and Salt Creek – Olive Avenue Storm Drain, Stage 1 (Tract Map No. 31100) ("Project");

Continued on page 2

ACTION:Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 12/3/2024

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Gutierrez seconded by Supervisor Jeffries 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: December 17, 2024
xc: Flood (Companion item 3.32)

Kimberly A. Rector
Clerk of the Board
By:
Deputy

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RECOMMENDED MOTION: That the Board of Supervisors:

3. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the Second Amendment, including, but not limited to, negotiating, approving and executing any non-substantive amendments and any assignment and assumption associated with change of ownership of the property, subject to approval by County Counsel;
4. Authorize the Chair of the District's Board of Supervisors ("Board") to execute the Second Amendment documents on behalf of the District; and
5. Direct the Clerk of the Board to return three (3) copies of the fully executed Second Amendment the District and one (1) executed Second Amendment to the County.

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: The Developer is funding all construction and construction inspection costs (100%)			Budget Adjustment: No	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On October 31, 2017 [Board Agenda Item No. 11.1], the District's Board approved the Cooperative Agreement between the District, County, and La Ventana 242 LLC ("Previous Owner"), which set forth the terms and conditions by which certain flood control facilities required as a condition of approval for Tract Map No. 31100 are to be constructed by the Developer and inspected and maintained by the District, County, and Developer.

On March 28, 2023 [Board Agenda Item No. 11.2], the District's Board approved that certain Assignment and Assumption of and Amendment to Cooperative Agreement between the District, County, Previous Owner, and Forestar (USA) Real Estate Group, Inc. ("Forestar") whereby Forestar assumed from Previous Owner all of Previous Owner's rights and obligations concerning the proposed design and construction of Tract Map No. 31100.

On December 27, 2023, the District, County, Forestar, and Developer entered into that certain Second Assignment and Assumption Agreement whereby the Developer assumed from Forestar all of Forestar's rights and obligations concerning the proposed design and construction of certain flood control and drainage facilities.

This Second Amendment to the Cooperative Agreement is necessary to reflect certain modifications to the design of the required flood control and drainage facilities and the

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associated responsibilities for the operation and maintenance of the same. The developer has commenced construction of said facilities, however, it was determined that a new lateral was necessary for the Winchester Hills Line F, Stage 1 facility. Upon completion of the modification construction, the District will assume ownership, operation, and maintenance of the mainline storm drains greater than 36 inches in diameter for the Winchester Hills Line F, Stage 1 and Salt Creek – Olive Avenue Storm Drain, Stage 1 facilities, concrete pads, slope protection barriers, signage and fencing in accordance with the terms and conditions as outlined in the Second Amendment.

The County will assume ownership and responsibility for the operation and maintenance of the project's associated certain catch basins, inlets, outlets, connector pipes, riprap, curbs and gutters, and various lateral storm drains that are 36 inches or less in diameter that are located within County held rights of way.

The Developer will retain ownership of:

1. Approximately 10 lineal feet of 42-inch RCP and inlet structure;
2. Approximately 114 lineal feet of triple cell 36-inch RCP, headwalls, and an associated low flow system;
3. Certain catch basins, inlets, outlets, connector pipes, and lateral storm drains that are 36 inches or less in diameter; and
4. Three (3) basins located within privately held easements or rights of way.

County Counsel has approved the Second Amendment as to legal form, and the Developer has executed the Second Amendment. A companion item appears on the Riverside County Transportation Department's Board agenda on this same date.

Environmental Findings

The Second Amendment is exempt from CEQA pursuant to the 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." The Second Amendment does not authorize actual physical development of the underlying property to any extent whatsoever. The Second Amendment merely establishes the terms and conditions under which the District will accept future operation and maintenance responsibilities of the facilities identified in the Second Amendment if and when they are constructed. Such development, if it occurs at all, is subject to separate CEQA review by the lead agency with land use authority over the development prior to construction. As such, execution of this Second Amendment is a separate and distinct project under CEQA from the development of the site, therefore, it can be seen with certainty that there is no possibility that executing this Second Amendment will have a significant effect on the environment.

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Impact on Residents and Businesses

As noted above, construction of these drainage improvements is a requirement for the development of Tract Map No. 31100. The principal beneficiaries are the future residents of the tract. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

Prev. Agn. Ref.: MT 5608, 11.1 of 10/31/17
MT 20881, 11.2 of 03/28/23

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. Second Amendment to Cooperative Agreement

AMR:bjj
P8/259560


Douglas Cordonez Jr. 12/11/2024


Aaron Gettis, Chief of Deputy County Counsel 12/4/2024

SECOND AMENDMENT TO COOPERATIVE AGREEMENT

Winchester Hills Line F, Stage 1
 Salt Creek - Olive Avenue Storm Drain, Stage 1
 Project Nos. 4-0-00372 and 4-0-00362
 Tract Map No. 31100

This Second Amendment to Cooperative Agreement ("SECOND AMENDMENT"), dated as of December 17, 2024, is entered into by between the Riverside County Flood Control and Water Conservation District, a body corporate and politic ("DISTRICT"), the County of Riverside, a political subdivision of the State of California ("COUNTY"), and D.R. Horton Los Angeles Holding Company, Inc., a California corporation ("DEVELOPER"), (together, referred to as the "Parties" and individually as "Party"). The Parties hereto agree as follows:

RECITALS

A. DISTRICT, COUNTY, and La Ventana 242 LLC, a California limited liability company ("PREVIOUS OWNER"), entered into that certain Cooperative Agreement, which was executed on October 31, 2017, (DISTRICT's Board Agenda Item No. 11.1; COUNTY's Board Agenda Item No. 3.27), and recorded as Document No. 2017-0495636 in the Official Records of the County of Riverside, hereinafter referred to as "ORIGINAL AGREEMENT", setting forth the respective rights and obligations concerning PREVIOUS OWNER's proposed design and construction of certain flood control and drainage facilities required as a condition of approval for Tract Map No. 31100, located in an unincorporated area of western Riverside County in the State of California; and

B. On March 28, 2023, DISTRICT, COUNTY, La Ventana 242, LLC, and Forestar (USA) Real Estate Group, Inc., a Delaware corporation ("FORESTAR"), entered into that certain Assignment and Assumption of, and Amendment to Cooperative Agreement [DISTRICT's Board Agenda Item No. 11.2; COUNTY's Board Agenda Item No. 3.38], hereinafter called "ASSIGNMENT", whereby FORESTAR assumed from PREVIOUS OWNER all of PREVIOUS

OWNER's rights and obligations concerning the proposed design and construction of PROPERTY, including, but not limited to, ORIGINAL AGREEMENT; and

C. On December 27, 2023, DISTRICT, COUNTY, FORESTAR and DEVELOPER entered into that certain Second Assignment and Assumption Agreement, hereinafter called "SECOND ASSIGNMENT", whereby DEVELOPER assumed from FORESTAR, all of FORESTAR's rights and obligations concerning the proposed design and construction of certain flood control and drainage facilities, including, but not limited to, ORIGINAL AGREEMENT; and

D. ORIGINAL AGREEMENT, ASSIGNMENT and SECOND ASSIGNMENT are hereinafter called "PREVIOUS AGREEMENTS"; and

E. PREVIOUS AGREEMENTS defined the storm drain facilities for Tract Map No. 31100 as:

- i. Winchester Hills Line F, Stage 1, located along La Ventana Road discharging to the Salt Creek Channel;
- ii. Salt Creek - Camino De Las Flores Storm Drain, Stage 1, located in Camino De Las Flores Road discharging into a water quality basin;
- iii. Salt Creek - Luga Del Sur Storm Drain, Stage 1, located in Camino Del Sur Road west of Avenida de Uvas to Camino La Brisa;
- iv. Salt Creek - Camino Santiago Storm Drain, Stage 1, located in Camino De Las Flores Road and Avenida de Uvas discharging into a water quality basin;
- v. Salt Creek-La Ventana Storm Drain, Stage 1, located in La Ventana Road and connects to the Winchester Hills Line F, Stage 1 facility; and

F. Pursuant to PREVIOUS AGREEMENTS, DEVELOPER commenced construction of these flood control and drainage facilities; and

G. Subsequent to construction, the Parties hereto have mutually agreed to certain modifications to the design of the required flood control and drainage facilities and the associated

responsibilities for the operation and maintenance of same. Said modifications include the elimination of certain DISTRICT's operation and maintenance responsibilities as described in PREVIOUS AGREEMENTS and to include the construction of a new drain facility (Line F-1) as shown in concept on Exhibit "B" attached hereto and made a part hereof, and the associated responsibilities for the operation and maintenance of same; and

H. This SECOND AMENDMENT retitles the referenced storm drain facilities in RECITALS E above to Winchester Hills Line F, Stage 1 and Salt Creek - Olive Avenue Storm Drain, Stage 1; and

I. PREVIOUS AGREEMENTS together with SECOND AMENDMENT are hereinafter collectively referred to as the "AGREEMENT"; and

J. Section IV.18 of ORIGINAL AGREEMENT specifies that AGREEMENT may be changed or modified subject to the written consent of the Parties thereto; and

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the Parties hereto mutually agree to amend AGREEMENT as follows, effective upon approval of this SECOND AMENDMENT by DISTRICT's Board of Supervisors:

1. The above Recitals are true and correct and incorporated into the terms of this SECOND AMENDMENT.

2. RECITAL C of AGREEMENT is amended to read:

"The required DISTRICT flood control facilities and drainage improvements, are shown in concept on Exhibit "B" attached hereto and a part hereof, and on District Drawing No. 4-1113, include construction of:

- (i) Approximately 125 lineal feet of 14'W x 6'H reinforced concrete box ("RCB") and 540 lineal feet of earthen trapezoidal channel, riprap structure and an associated maintenance access road ("CHANNEL"). Approximately 160 lineal feet of 18-inch reinforced concrete pipe ("RCP") ("LINE 1").

Approximately 20 lineal feet of 18-inch RCP and drop inlet ("LINE 3"). CHANNEL, LINE 1 and LINE 3 are called "LINE F". At its downstream terminus, LINE F will drain into DISTRICT's Salt Creek Channel;

- (ii) Approximately 426 lineal feet of 48-inch RCP to discharge into LINE F ("SALT CREEK OLIVE AVE");
- (iii) All safety devices requested by DISTRICT staff during the course of 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's contractor, and subject to DISTRICT's inspection and approval; and
- (iv) Together LINE F, SALT CREEK OLIVE AVE and SAFETY DEVICES called "DISTRICT FACILITIES"; and

3. RECITAL D of AGREEMENT is amended to read:

"Associated with the construction of DISTRICT FACILITIES is the construction of certain catch basins, connector pipes, and various lateral storm drains that are 36 inches or less in diameter and associated manholes that are located within COUNTY held easements or rights of way ("APPURTENANCES")"; and

4. RECITAL E of AGREEMENT is amended to read:

"Also associated with the construction of DISTRICT FACILITIES is the construction of (i) approximately 10 lineal feet of 42-inch RCP and inlet structure; (ii) approximately 114 lineal feet of triple cell 36-inch RCP, headwalls and an associated low flow system; iii) certain catch basins, inlets, outlets, connector pipes, and lateral storm drains that are 36-inches or less in diameter; and (iv) three (3) basins located within privately held easements or rights of way

("DEVELOPER FACILITIES"). DEVELOPER FACILITIES are to be initially owned and maintained by DEVELOPER and, subsequently, owned via the anticipated formation of a maintenance Community Facilities District ("CFD"). In the event (i) DEVELOPER does not transfer ownership, operation and maintenance to CFD; (ii) DEVELOPER dissolves; or (iii) CFD never forms or dissolves, COUNTY shall be responsible for the operation and maintenance of DEVELOPER FACILITIES identified on DISTRICT Drawing No. 4-1113; and"

5. This SECOND AMENDMENT is to be construed in accordance with the laws of the State of California.
6. If any provision in this SECOND AMENDMENT 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.
7. Nothing in the provisions of this SECOND AMENDMENT is intended to create duties or obligations to or rights in third parties not Parties to this SECOND AMENDMENT.
8. This SECOND AMENDMENT may be changed or modified only upon the written consent of the Parties hereto.
9. The individuals executing this SECOND AMENDMENT hereby certify that they have the authority within their respective companies to enter into and execute this SECOND AMENDMENT and have been authorized to do so by any and all boards of directors, legal counsel and/or any other board, committee or other entity within their respective companies which have the authority to authorize or deny entering into this SECOND AMENDMENT.
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 SECOND AMENDMENT, 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 SECOND AMENDMENT is the result of negotiations between the Parties hereto, and the advice and assistance of their respective counsel. The fact that this SECOND AMENDMENT was prepared as a matter of convenience by DISTRICT shall have no importance or significance. Any uncertainty or ambiguity in this SECOND AMENDMENT shall not be construed against DISTRICT because DISTRICT prepared this SECOND AMENDMENT in its final form.
12. Any waiver by DISTRICT or by COUNTY of any breach of any one or more of the terms of this SECOND AMENDMENT 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 SECOND AMENDMENT shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or COUNTY from enforcement hereof.
13. This SECOND AMENDMENT 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 or written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.
14. This SECOND AMENDMENT shall not be assigned by either party, in whole or in part, without the prior written consent of the other party.

15. This SECOND AMENDMENT may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same instrument.
16. Except to the extent specifically deleted, added to, or amended herein, all of the terms, covenants and conditions of said ORIGINAL AGREEMENT executed on October 31, 2017, shall remain in full force and effect between the parties hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this SECOND AMENDMENT on December 17, 2024.
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By Edwin Quinonez
for JASON E. UHLEY
General Manager-Chief Engineer

By Karen S. Spiegel
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 [Signature]
RYAN YABKO
Deputy County Counsel

By [Signature]
Deputy

(SEAL)

Amendment to Cooperative Agreement:
Winchester Hills Line F, Stage 1
Salt Creek - Olive Avenue Storm Drain, Stage 1
Project Nos. 4-0-00372 and 4-0-00362
Tract Map No. 31100
AMR:blj
10/07/24

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By 
DENNIS ACUNA
Director of Transportation

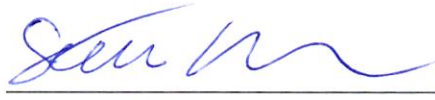
By 
CHUCK WASHINGTON, Chairman
Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

MINH C. TRAN
County Counsel

KIMBERLY RECTOR
Clerk of the Board

By 
STEPHANIE K. NELSON
Deputy County Counsel

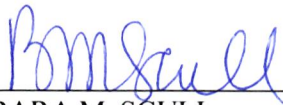
By 
Deputy

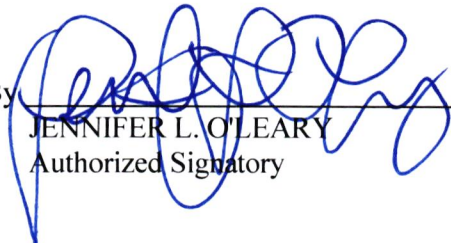
(SEAL)

Second Amendment to Cooperative Agreement:
Winchester Hills Line F, Stage 1
Salt Creek - Olive Avenue Storm Drain, Stage 1
Project Nos. 4-0-00372 and 4-0-00362
Tract Map No. 31100
AMR:blj
10/07/24

DEVELOPER

**D.R. HORTON LOS ANGELES HOLDING
COMPANY, INC.,** a California corporation

By  _____
BARBARA M. SCULL
Vice President and SoCal South Division
President

By  _____
JENNIFER L. O'LEARY
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Second Amendment to Cooperative Agreement:
Winchester Hills Line F, Stage 1
Salt Creek - Olive Avenue Storm Drain, Stage 1
Project Nos. 4-0-00372 and 4-0-00362
Tract Map No. 31100
AMR:blj
10/07/24

CALIFORNIA NOTARY ACKNOWLEDGEMENT (INDIVIDUAL)

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

State of California

County of Riverside

On October 15, 2024 before me, Parker Anthony Chorich, Notary Public (insert name and title of the officer), personally appeared Barbara M. Scull and Jennifer L. O'Leary, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/they executed the same in ~~his~~/~~her~~/their authorized capacity(ies), and that by ~~his~~/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature 

(Seal)

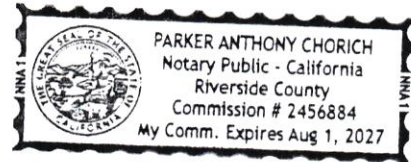
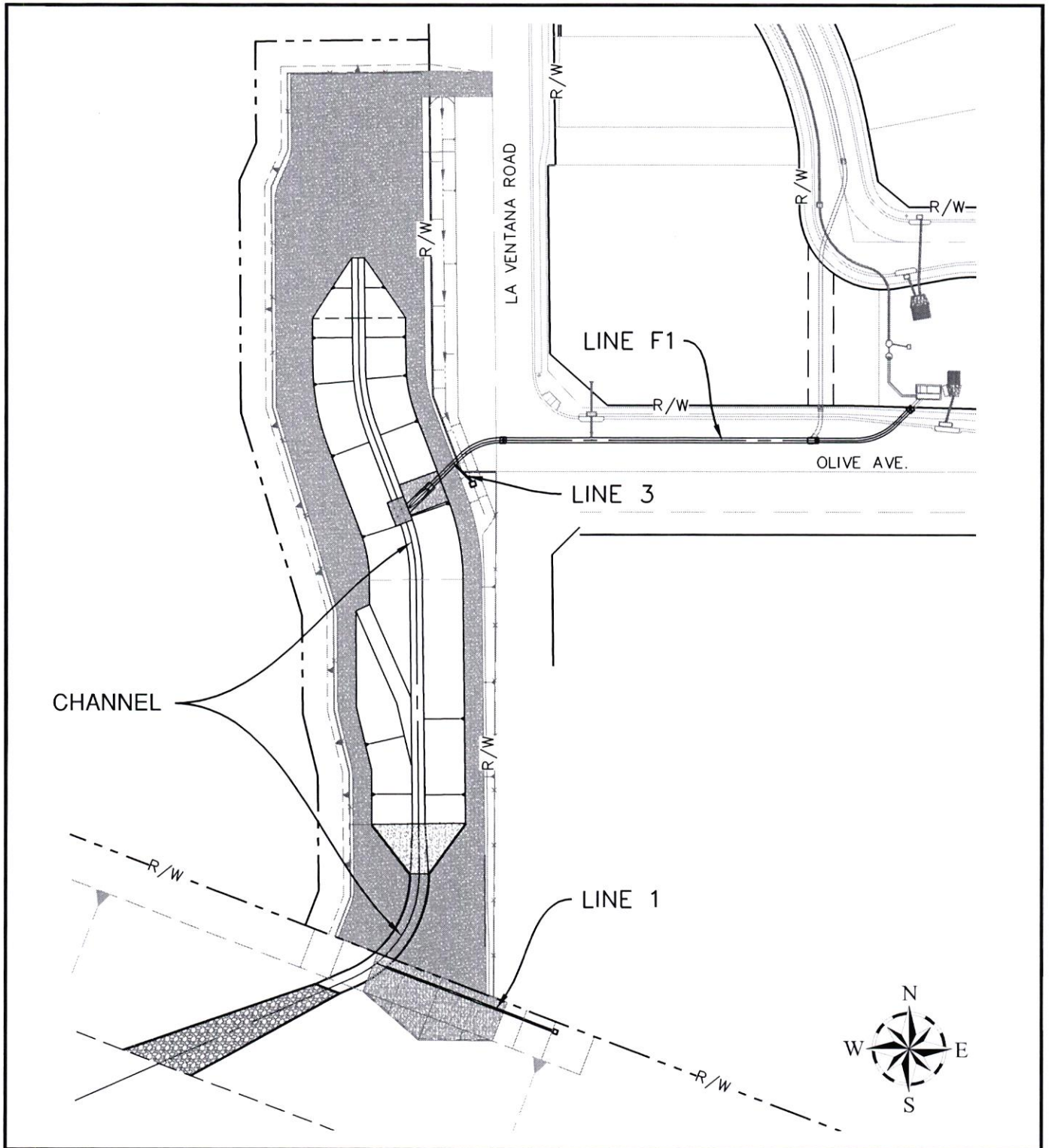


Exhibit B



AMENDMENT TO COOPERATIVE AGREEMENT
Winchester Hills Line F, Stage 1
Salt Creek - Olive Avenue Storm Drain, Stage 1
Project Nos. 4-0-00372 and 4-0-00362
Tract Map No. 31100



VICINITY MAP



Description

Winchester Hills Line F, Stage 1
 Salt Creek - Olive Avenue Storm Drain,
 Stage 1
 Project Nos. 4-0-00372 and 4-0-00362
 Tract Map No. 31100

Legend

- Supervisorial District
- Project Vicinity
- Existing Facilities
- Pending Acceptance Facilities
- City of Menifee

