

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

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

FREE RECORDING

This instrument is for the benefit of the Riverside County Flood Control and Water Conservation District and should be recorded without a fee pursuant to Govt. Code 6103.

AND WHEN RECORDED MAIL TO:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 MARKET STREET
RIVERSIDE, CA 92501-1770**

2017-0370070

09/06/2017 01:57 PM Fee: \$ 0.00

Page 1 of 33

Recorded in Official Records
County of Riverside
Peter Aidana
Assessor-County Clerk-Recorder



9					R	A	Exam: 110		
Page	DA	PCOR	Misc	Long	RFD	1st Pg	Adtl Pg	Cert	CC
33									
SIZE	NCOR	SMF	NCHGT:			NCHGCU			

THIS SPACE FOR RECORDER'S USE ONLY

D

COOPERATIVE AGREEMENT

Title of Document

PROJECT: Sunnymead – Vista Lane Storm Drain, Stage 1

PROJECT NOS.: 4-0-00364

DEVELOPER: KB Home California LLC

SUBDIVISION: Tract No. 31592

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(\$3.00 Additional Recording Fee Applies)

COOPERATIVE AGREEMENT

Sunnymead - Vista Lane Storm Drain, Stage 1

Project No. 4-0-00364

(Tract No. 31592)

The Riverside County Flood Control and Water Conservation District ("DISTRICT"), the City of Moreno Valley ("CITY") and KB Home California LLC, a Delaware limited liability company ("DEVELOPER"), hereby agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the County of Riverside. DEVELOPER has submitted for approval Tract No. 31592 located in the city of Moreno Valley. As a condition of approval, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The legal description of Tract No. 31592 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities, all as shown on District Drawing No. 4-1107, include construction of a segment consisting of approximately 1,390 lineal feet of a reinforced concrete pipe, debris basin and outlet structure ("DISTRICT DRAINAGE FACILITY"), as shown in concept in blue on Exhibit "B" attached hereto and made a part hereof; and

D. Associated with the construction of DISTRICT DRAINAGE FACILITY is the construction of (i) a multi-use trail for public recreation purposes ("TRAIL"), and (ii) certain catch basins, inlets, connector pipes, retaining wall and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located within CITY held easements or rights of way ("APPURTENANCES"). Together, TRAIL and APPURTENANCES are hereinafter called "CITY FACILITIES"; and

1 E. Also associated with the construction of DISTRICT DRAINAGE
2 FACILITY is the construction of water quality basins, fuel modification zone and concrete gutter
3 located within DEVELOPER held rights of way or easements ("DEVELOPER FACILITIES).
4 DEVELOPER FACILITIES are to be initially owned and maintained by DEVELOPER and
5 subsequently owned and maintained by the Homeowners' Association for Tract No. 31592; and

6
7 F. Together, DISTRICT DRAINAGE FACILITY, CITY FACILITIES and
8 DEVELOPER FACILITIES are hereinafter called "PROJECT"; and

9 G. CITY and DEVELOPER desire DISTRICT to accept ownership and
10 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITY.
11 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
12 DISTRICT DRAINAGE FACILITY and subsequently inspect the construction of DISTRICT
13 DRAINAGE FACILITY; and

14
15 H. DISTRICT and DEVELOPER desire CITY to accept ownership and
16 responsibility for the operation and maintenance of CITY FACILITIES. Therefore, CITY must
17 review and approve DEVELOPER'S plans and specifications for PROJECT and subsequently
18 inspect the construction of PROJECT; and

19
20 I. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
21 specifications for DISTRICT DRAINAGE FACILITY, (ii) inspect the construction of
22 DISTRICT DRAINAGE FACILITY and (iii) accept ownership and responsibility for the
23 operation and maintenance of DISTRICT DRAINAGE FACILITY, provided that DEVELOPER
24 (i) complies with this Agreement, (ii) constructs PROJECT in accordance with DISTRICT and
25 CITY approved plans and specifications, (iii) obtains and conveys to DISTRICT and the
26 necessary rights of way for the inspection, operation and maintenance of DISTRICT
27 DRAINAGE FACILITY and (iv) accepts ownership and responsibility for the operation and
28 maintenance of PROJECT following completion of PROJECT construction until such time as

1 DISTRICT accepts ownership and responsibility for the operation and maintenance of
2 DISTRICT DRAINAGE FACILITY; and

3 J. CITY is willing to (i) review and approve PROJECT plans and
4 specifications, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful
5 performance and payment bonds submitted by DEVELOPER for DISTRICT DRAINAGE
6 FACILITY, (iv) grant DISTRICT the right to inspect, operate and maintain portions of
7 DISTRICT DRAINAGE FACILITY located within CITY rights of way and (v) accept
8 ownership and responsibility for the operation and maintenance of CITY FACILITIES, provided
9 PROJECT is constructed in accordance with plans and specifications approved by DISTRICT
10 and CITY.
11

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

13 SECTION I

14 DEVELOPER shall:

15 1. Prepare PROJECT plans and specifications, hereinafter called
16 "IMPROVEMENT PLANS", including separate plans and specifications for DISTRICT
17 DRAINAGE FACILITY, in accordance with applicable DISTRICT and CITY standards, and
18 submit to DISTRICT and CITY for their respective review and approval.
19

20 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic
21 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by
22 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,
23 review and approval of right of way and conveyance documents and with the processing and
24 administration of this Agreement. Additionally, DEVELOPER shall deposit with CITY any and
25 all such amounts as are deemed reasonably necessary by CITY to cover CITY'S costs associated
26 with the review of IMPROVEMENT PLANS, the review and approval of all right of way and
27 conveyance documents and with the processing and administration of this Agreement.
28

1 3. Deposit with DISTRICT (Attention: Business Office - Accounts
2 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
3 construction as set forth in Section I.8. herein, the estimated cost of providing construction
4 inspection for DISTRICT DRAINAGE FACILITY in an amount as determined and approved by
5 DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including
6 any amendments thereto, based upon the bonded value of DISTRICT DRAINAGE FACILITY.
7 Additionally, deposit with CITY (Attention: Public Works/Land Development), at the time of
8 providing written notice to DISTRICT of the start of PROJECT construction as set forth in
9 Section I.8., the estimated cost of providing construction inspection in an amount as determined
10 and approved by CITY in accordance with the most recent City Code and Fee Resolution of
11 CITY, including any amendments thereto.
12

13 4. Grant DISTRICT and CITY, by execution of this Cooperative Agreement,
14 the right to enter upon DEVELOPER'S property where necessary and convenient for the purpose
15 of gaining access to and performing inspection service for the construction of PROJECT as set
16 forth herein.
17

18 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
19 permits, approvals, rights of way, rights of entry and temporary construction easements as may
20 be needed for the construction, inspection, operation and maintenance of PROJECT.
21 DEVELOPER shall furnish DISTRICT, at the time of providing written notice to DISTRICT of
22 the start of construction as set forth in Section I.8. or not less than twenty (20) days prior to
23 recordation of the final map for Tract No. 31592 or any phase thereof, whichever occurs first,
24 with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements,
25 permits, approvals, rights of way, rights of entry and temporary construction easements as
26 determined and approved by DISTRICT and CITY.
27
28

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

9 7. Provide CITY, at the time of providing written notice to DISTRICT of the
10 start of construction as set forth in Section I.8. or not less than twenty (20) days prior to
11 recordation of the final map for Tract No. 31592 or any phase thereof, whichever occurs first,
12 with faithful performance and payment bonds, each in the amount of one hundred percent (100%)
13 of the estimated cost for construction of DISTRICT DRAINAGE FACILITY as determined by
14 DISTRICT. The surety, amount and form of the bonds shall be subject to the approval of
15 DISTRICT and CITY. The bonds shall remain in full force and effect until DISTRICT
16 DRAINAGE FACILITY are accepted by DISTRICT and CITY as complete; at which time the
17 bond amount may be reduced to five percent (5%) for a period of one (1) year to guarantee against
18 any defective work, labor or materials.
19
20

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

27 9. Obtain and provide DISTRICT (Attention: Right of Way Acquisition
28 Section), at the time of providing written notice to DISTRICT of the start of construction as set
forth in Section I.8. or not less than twenty (20) days prior to the recordation of the final map for

1 Tract No. 31592 or any phase thereof, whichever occurs first, with duly executed Irrevocable
2 Offer(s) of Dedication to the public for flood control and drainage purposes, including ingress
3 and egress, for the rights of way deemed necessary by DISTRICT for the construction,
4 inspection, operation and maintenance of DISTRICT DRAINAGE FACILITY, as shown in
5 concept in blue on Exhibit "B" attached hereto and made a part hereof. The Irrevocable Offer(s)
6 of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and
7 equitable owners of the property described in the offer(s).
8

9 10. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of Dedication
10 as set forth in Section I.9., with Preliminary Reports on Title dated not more than thirty (30) days
11 prior to date of submission of all the property described in the Irrevocable Offer(s) of Dedication.
12

13 11. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
14 the start of construction as set forth in Section I.8., with a complete list of all contractors and
15 subcontractors to be performing work on DISTRICT DRAINAGE FACILITY, including the
16 corresponding license number and license classification of each. At such time, DEVELOPER
17 shall further identify in writing its designated superintendent for PROJECT construction.
18

19 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
20 the start of construction as set forth in Section I.8., a construction schedule which shall show the
21 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the
22 various parts of work, including estimated start and completion dates. As construction of
23 PROJECT progress, DEVELOPER shall update said construction schedule as requested by
24 DISTRICT.
25

26 13. Furnish DISTRICT with final mylar PROJECT plans and assign their
27 ownership to DISTRICT prior to the start on any portion of PROJECT construction.
28

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

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

7 16. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
8 the start of construction as set forth in Section I.8., a confined space entry procedure specific to
9 DISTRICT DRAINAGE FACILITY. The procedure shall comply with requirements contained
10 in California Code of Regulations, Title 8 Section 5158, Other Confined Space Operations,
11 Section 5157, Permit Required Confined Space and District Confined Space Procedures, SOM-

12
13
14 18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of a
15 Notice to Proceed.

16 17. DEVELOPER shall not commence operations until DISTRICT and CITY
17 have been furnished with original certificate(s) of insurance and original certified copies of
18 endorsements and if requested, certified original policies of insurance including all endorsements
19 and any and all other attachments as required in this Section. Without limiting or diminishing
20 DEVELOPER'S obligation to indemnify or hold DISTRICT or CITY harmless, DEVELOPER
21 shall procure and maintain or cause to be maintained, at its sole cost and expense, the following
22 insurance coverage's during the term of this Agreement:

23
24 A. Workers' Compensation:

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

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

4 **B. Commercial General Liability:**

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

18 **C. Vehicle Liability:**

19 If DEVELOPER'S vehicles or mobile equipment are used in the
20 performance of the obligations under this Agreement, then
21 DEVELOPER shall maintain liability insurance for all owned, non-
22 owned or hired vehicles so used in an amount not less than \$1,000,000
23 per occurrence combined single limit. If such insurance contains a
24 general aggregate limit, it shall apply separately to this Agreement or
25 be no less than two (2) times the occurrence limit. Policy shall name
26
27
28

1 DISTRICT, the County of Riverside and CITY, its agencies, districts,
2 special districts, and departments, their respective directors, officers,
3 Board of Supervisors, employees, elected or appointed officials,
4 agents or representatives as additional insureds.

5
6 **D. Professional Liability:**

7 DEVELOPER shall cause any architect or engineer retained by
8 DEVELOPER in connection with the performance of DEVELOPER's
9 obligations under this Agreement to maintain Professional Liability
10 Insurance providing coverage for the performance of their work, with
11 a limit of liability of not less than \$2,000,000 per occurrence and
12 \$4,000,000 annual aggregate. DEVELOPER shall require that, if such
13 Professional Liability Insurance is written on a claims made basis
14 rather than an occurrence basis, such insurance shall continue through
15 the term of this Agreement and that such architect or engineer shall
16 purchase at such architect or engineer's sole expense either 1) an
17 Extended Reporting Endorsement (also known as Tail Coverage), or
18 2) Prior Dates Coverage from a new insurer with a retroactive date
19 back to the date of, or prior to, the inception of this Agreement, or 3)
20 Demonstrate through Certificates of Insurance that such architect or
21 engineer has maintained continuous coverage with the same or
22 original insurer. Coverage provided under items 1), 2) or 3) shall
23 continue for the term specified in the insurance policy, which shall be
24 reasonably acceptable to DISTRICT and CITY.
25
26
27
28

1 **E. General Insurance Provisions – All Lines:**

- 2 i. Any insurance carrier providing insurance coverage hereunder
3 shall be admitted to the State of California and have an A.M.
4 BEST rating of not less than an A: VIII (A: 8) unless such
5 requirements are waived, in writing, by the County and CITY
6 Risk Managers. If the Risk Managers waives a requirement for a
7 particular insurer such waiver is only valid for that specific
8 insurer and only for one policy term.
- 9
- 10 ii. DEVELOPER must declare its insurance self-insured retention
11 for each coverage required herein. If any such self-insured
12 retention exceeds \$500,000 per occurrence each such retention
13 shall have the prior written consent of the County and CITY Risk
14 Managers before the commencement of operations under this
15 Agreement. Upon notification of self-insured retention deemed
16 unacceptable to DISTRICT, and at the election of the Risk
17 Managers, DEVELOPER'S carriers shall either 1) reduce or
18 eliminate such self-insured retention with respect to this
19 Agreement with DISTRICT, or 2) procure a bond which
20 guarantees payment of losses and related investigations, claims
21 administration and defense costs and expenses.
- 22
- 23
- 24 iii. DEVELOPER shall cause their insurance carrier(s) or its
25 contractor's insurance carrier(s), to furnish DISTRICT and CITY
26 with 1) a properly executed original certificate(s) of insurance
27 and certified original copies of endorsements effecting coverage
28 as required herein; and 2) if requested to do so orally or in writing

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

- 23
24
25
26 iv. It is understood and agreed by the parties hereto that
27 DEVELOPER'S insurance shall be construed as primary
28 insurance, and DISTRICT'S or CITY'S insurance and/or

1 deductibles and/or self-insured retentions or self-insured
2 programs shall not be construed as contributory.

3 v. If, during the term of this Agreement or any extension thereof,
4 there is a material change in the scope of services or there is a
5 material change in the equipment to be used in the performance
6 of the scope of work which will add additional exposures (such
7 as the use of aircraft, watercraft, cranes, etc.), or the term of this
8 Agreement, including any extensions thereof, exceeds five (5)
9 years, DISTRICT and CITY reserve the right to adjust the types
10 of insurance required under this Agreement and the monetary
11 limits of liability for the insurance coverages currently required
12 herein if, in the County or CITY Risk Manager's reasonable
13 judgment, the amount or type of insurance carried by
14 DEVELOPER has become inadequate.

15
16
17 vi. DEVELOPER shall pass down the insurance obligations
18 contained herein to all tiers of subcontractors working under this
19 Agreement.

20
21 vii. The insurance requirements contained in this Agreement may be
22 met with a program(s) of self-insurance acceptable to DISTRICT
23 and CITY.

24 viii. DEVELOPER agrees to notify DISTRICT and CITY of any
25 claim by a third party or any incident or event that may give rise
26 to a claim arising from the performance of this Agreement.

27 Failure to maintain the insurance required by this paragraph shall be deemed
28 a material breach of this Agreement and shall authorize and constitute authority for DISTRICT,

1 at its sole discretion, to provide written notice to DEVELOPER that DISTRICT is unable to
2 perform its obligations hereunder, nor to accept responsibility for ownership, operation and
3 maintenance of DISTRICT DRAINAGE FACILITY due, either in whole or in part, to said
4 breach of this Agreement.

5
6 18. Construct or cause to be constructed PROJECT, at DEVELOPER'S sole cost
7 and expense, in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

8
9 19. Within two (2) weeks of completing PROJECT construction, provide
10 DISTRICT (Attention: Contract Administration Section) and CITY with written notice that
11 PROJECT construction is substantially complete and request that DISTRICT conduct a final
12 inspection of DISTRICT DRAINAGE FACILITY and CITY conduct a final inspection of
13 PROJECT.

14
15 20. Upon completion of PROJECT construction, and upon acceptance by CITY
16 of all rights of way deemed necessary by DISTRICT and CITY for the operation and maintenance
17 of PROJECT, but prior to DISTRICT acceptance of DISTRICT DRAINAGE FACILITY for
18 ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the flood
19 control easement(s) or grant deed(s) of fee title where appropriate. The easement(s) or grant
20 deed(s) shall be in a form approved by both DISTRICT and CITY, to the rights of way as shown
21 in concept cross-hatched in black on Exhibit "C" and shall be executed by all legal and equitable
22 owners of the property described in the easement(s) or grant deed(s).

23
24 21. At the time of recordation of the conveyance document(s) as set forth in
25 Section I.20., furnish DISTRICT with policies of title insurance, each in the amount of not less
26 than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
27 easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the
28 estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT,
guaranteeing DISTRICT'S interest in said property as being free and clear of all liens,

1 encumbrances, assessments, easements, taxes and leases (recorded or unrecorded) and except
2 those which, in the sole discretion of DISTRICT, are acceptable.

3 22. Accept ownership and sole responsibility for the operation and maintenance
4 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
5 and maintenance of DISTRICT DRAINAGE FACILITY, CITY accepts ownership and
6 responsibility for operation and maintenance of CITY FACILITIES, and the Home Owners'
7 Association for Tract No. 31592 accepts ownership and responsibility for operation and
8 maintenance of DEVELOPER FACILITIES.

9 23. Accept all liability whatsoever associated with the ownership, operation and
10 maintenance of DISTRICT DRAINAGE FACILITY until such time as DISTRICT DRAINAGE
11 FACILITY are formally accepted by DISTRICT for ownership, operation and maintenance
12

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

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

26 26. Ensure that all work performed pursuant to this Agreement by
27 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
28

1 regulations, including but not limited to all applicable provisions of the Labor Code, Business
2 and Professions Code and Water Code. DEVELOPER shall be solely responsible for all costs
3 associated with compliance with applicable laws and regulations.

4 SECTION II

5 DISTRICT shall:

6
7 1. Review and approve IMPROVEMENT PLANS prior to the start of
8 PROJECT construction.

9 2. Provide CITY an opportunity to review and approve IMPROVEMENT
10 PLANS prior to DISTRICT'S final approval.

11 3. Upon execution of this Cooperative Agreement, record or cause to be
12 recorded a copy of this Cooperative Agreement in the Official Records of the Riverside County
13 Recorder.

14 4. Record or cause to be recorded the Irrevocable Offer(s) of Dedication
15 provided by DEVELOPER pursuant to Section I.9.

16 5. Inspect DISTRICT DRAINAGE FACILITY construction.

17 6. Keep an accurate accounting of all DISTRICT costs associated with the
18 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
19 conveyance documents and the processing and administration of this Cooperative Agreement.
20

21 7. Keep an accurate accounting of all DISTRICT construction inspection costs
22 and, within forty-five (45) days after DISTRICT acceptance of DISTRICT DRAINAGE
23 FACILITY as being complete, submit a final cost statement to DEVELOPER. If the deposit, as
24 set forth in Section I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess
25 amount within sixty (60) days after DISTRICT acceptance of DISTRICT DRAINAGE
26 FACILITY as being complete. If at any time the costs exceed the deposit or are anticipated by
27 DISTRICT to exceed the deposit, DEVELOPER shall pay such additional amount(s), as deemed
28

1 personnel who shall be solely responsible for all quality control communications with
2 DEVELOPER'S contractor(s) during the construction of PROJECT.

3 3. DISTRICT acceptance of ownership and responsibility for the operation and
4 maintenance of DISTRICT DRAINAGE FACILITY shall be in a satisfactorily maintained
5 condition as solely determined by DISTRICT. If, subsequent to the inspection and in the sole
6 discretion of DISTRICT, DISTRICT DRAINAGE FACILITY is not in an acceptable condition,
7 corrections shall be made at sole expense of DEVELOPER.
8

9 4. DEVELOPER shall complete construction of PROJECT within eight (8)
10 consecutive months after execution of this Agreement and within one hundred twenty (120)
11 consecutive calendar days after commencing work on PROJECT. It is expressly understood that
12 since time is of the essence in this Agreement, failure of DEVELOPER to perform the work
13 within the agreed upon time shall constitute authority for DISTRICT to perform the remaining
14 work and require DEVELOPER'S surety to pay to CITY the penal sum of any and all bonds. In
15 which case, CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.
16

17 5. If DEVELOPER fails to commence construction of PROJECT within eight
18 (8) months after execution of this Agreement, then DISTRICT reserves the right to withhold
19 issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at
20 the time DEVELOPER provides written notification to DISTRICT of the start of construction as
21 set forth in Section I.8. In the event of a change in the existing site conditions that materially
22 affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT
23 DRAINAGE FACILITY, DISTRICT may require DEVELOPER to modify IMPROVEMENT
24 PLANS as deemed necessary by DISTRICT. In the event of a change in the existing site
25 conditions that materially affects PROJECT function or CITY'S ability to operate and maintain
26 CITY FACILITIES, CITY may require DEVELOPER to modify IMPROVEMENTS as deemed
27 necessary by CITY.
28

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

5 In the event DEVELOPER wishes to expedite issuance of a Notice to
6 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
7 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
8 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
9 approval. DISTRICT shall review the individual's qualifications and experience and, upon
10 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be
11 authorized to act on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITY construction
12 and quality control matters. If DEVELOPER'S initial construction inspection deposit furnished
13 pursuant to Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to
14 DEVELOPER up to eighty percent (80%) of DEVELOPER'S initial inspection deposit within
15 forty-five (45) days of DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum
16 balance of ten thousand dollars (\$10,000) shall be retained on account.

17 7. PROJECT construction work shall be on a five (5) day, forty (40) hour work
18 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless
19 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work more
20 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written
21 request for permission from DISTRICT to work the additional hours. The request shall be
22 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work
23 hours and shall state the reasons for the overtime and the specific time frames required. The
24 decision of granting permission for overtime work shall be made by DISTRICT at its sole
25 discretion and shall be final. If permission is granted by DISTRICT, DEVELOPER will be
26
27
28

1 charged the cost incurred at the overtime rates for additional inspection time required in
2 connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including
3 any amendments thereto, of the County of Riverside.

4 8. DEVELOPER for itself, its successors and assigns hereby releases
5 DISTRICT, the County of Riverside and CITY (including their agencies, districts, special
6 districts and departments, their respective directors, officer, Board of Supervisors, elected and
7 appointed officials, employees, agents and representatives) from any and all claims, demands,
8 actions, or suits of any kind arising out of any liability, known or unknown, present or future,
9 including but not limited to any claim or liability, based or asserted, pursuant to Article I, Section
10 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any
11 other law or ordinance which seeks to impose any other liability or damage, whatsoever, for
12 damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein
13 shall constitute a release by DEVELOPER of DISTRICT, its officers, agents and employees from
14 any and all claims, demands, actions or suits of any kind arising out of any liability, known or
15 unknown, present or future, for the negligent maintenance of DISTRICT DRAINAGE
16 FACILITY, after the acceptance of ownership, operation and maintenance of DISTRICT
17 DRAINAGE FACILITY by DISTRICT.

18 9. DEVELOPER shall indemnify and hold harmless DISTRICT, the County
19 of Riverside, and CITY (including their respective agencies, districts, special districts and
20 departments, their respective directors, officers, Board of Supervisors, elected and appointed
21 officials, employees, agents and representatives) from any liability, claim, damage, proceeding
22 or action, present or future, based upon, arising out of or in any way relating to DEVELOPER'S
23 (including its officers, employees, subcontractors and agents) actual or alleged acts or omissions
24 related to this Agreement, performance under this Agreement, or failure to comply with the
25 requirements of this Agreement, including but not limited to (a) property damage, (b) bodily
26
27
28

1 injury or death, (c) liability or damage pursuant to Article I, Section 19 of the California
2 Constitution, the Fifth Amendment of the United States Constitution or any other law, ordinance
3 or regulation caused by the diversion of waters from the natural drainage patterns or the discharge
4 of drainage within or from PROJECT or (d) any other element of any kind or nature whatsoever.

5 DEVELOPER shall defend, at its sole expense, including all costs and fees
6 (including but not limited to attorney fees, cost of investigation, defense and settlements or
7 awards), DISTRICT, the County of Riverside, and CITY (including their respective agencies,
8 districts, special districts and departments, their respective directors, officers, Board of
9 Supervisors, elected and appointed officials, employees, agents and representatives) in any claim,
10 proceeding or action for which indemnification is required.
11

12 With respect to any of DEVELOPER'S indemnification requirements,
13 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
14 have the right to adjust, settle, or compromise any such claim, proceeding or action without the
15 prior consent of DISTRICT, the County of Riverside and CITY; provided, however, that any
16 such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
17 DEVELOPER'S indemnification obligations to DISTRICT, the County of Riverside, or CITY.
18

19 DEVELOPER'S indemnification obligations shall be satisfied when
20 DEVELOPER has provided to DISTRICT, the County of Riverside, and CITY the appropriate
21 form of dismissal (or similar document) relieving DISTRICT, the County of Riverside, or CITY
22 from any liability for the claim, proceeding or action involved.
23

24 The specified insurance limits required in this Agreement shall in no way
25 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT,
26 the County of Riverside and CITY from third party claims.

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

1 Such interpretation shall not relieve DEVELOPER from indemnifying DISTRICT, County of
2 Riverside or CITY to the fullest extent allowed by law.

3 10. Any waiver by DISTRICT or by CITY of any breach of any one or more of
4 the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
5 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
6 require exact, full and complete compliance with any terms of this Agreement shall not be
7 construed as in any manner changing the terms hereof or estopping DISTRICT or CITY from
8 enforcement hereof.

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

12 **RIVERSIDE COUNTY FLOOD CONTROL**
13 **AND WATER CONSERVATION DISTRICT**
14 1995 Market Street
15 Riverside, CA 92501
16 Attn: Administration Services Section

CITY OF MORENO VALLEY
14177 Frederick Street
Moreno Valley, CA 92552
Attn: Michael Lloyd, Engineering
Division Manager

17 **KB HOME CALIFORNIA, LLC**
18 36310 Inland Valley Drive
19 Wildomar, CA 92595
20 Attn: Scott Hansen

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

25 13. Any action at law or in equity brought by any of the parties hereto for the
26 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
27 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
28

1 waive all provisions of law providing for a change of venue in such proceedings to any other
2 county.

3 14. This Agreement is the result of negotiations between the parties hereto, and
4 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
5 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
6 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
7 prepared this Agreement in its final form.
8

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

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

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

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

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the parties hereto have executed this Cooperative

Agreement on JUL 25 2017
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION ISTRICT

By J. Uhley
JASON E. UHLEY
General Manager-Chief Engineer

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

APPROVED AS TO FORM:
GREGORY P. PRIAMOS
County Counsel

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

By Leila Moshref-Danesh
LEILA MOSHREF-DANESH
Deputy County Counsel

By Kecia Harper-Ihem
Deputy

(SEAL)


Cooperative Agreement with City of Moreno Valley and KB Home California, LLC:
Sunnymead - Vista Land Storm Drain, Stage 1
Project No. 4-0-00364
(Tract NO. 31592)
04/25/17
CSS:AMR:blm

RECOMMENDED FOR APPROVAL:

CITY OF MORENO VALLEY


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

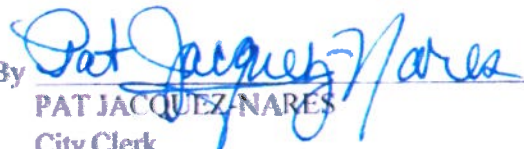
By 
AHMAD R. ANSARI
Public Works Director/City Engineer

By 
Thomas M. DeSantis
City Manager

APPROVED AS TO FORM:
MARTIN D. KOCZANOWICZ
City Attorney

ATTEST:

By 
PAUL EARLY
Assistant City Attorney

By 
PAT JACQUEZ-NARES
City Clerk

(SEAL)

Cooperative Agreement:
West End Moreno MDP Line V-3, Stage I
Project No. 4-0-00786
Tract No. 35414
AMR:blm
02/14/17

KB HOME CALIFORNIA, LLC
a Delaware limited liability company

By 
SCOTT HANSEN
Vice President, Forward Planning

(ATTACH NOTARY WITH CAPACITY STATEMENT)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Cooperative Agreement with City of Moreno Valley and KB Home California, LLC:
Sunnymead - Vista Land Storm Drain, Stage 1
Project No. 4-0-00364
(Tract NO. 31592)
04/25/17
CSS:AMR:blm

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

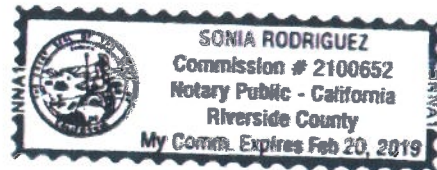
State of California }

County of Riverside }

On May 2, 2017 before me, Sonia Rodriguez, Notary Public, personally appeared Scott Hansen, 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.





Sonia Rodriguez

(SEAL)

Exhibit A

LEGAL DESCRIPTION

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

PARCEL 1:

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30;

THENCE SOUTH $00^{\circ} 45' 22''$ WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON;

THENCE NORTH $89^{\circ} 18' 10''$ WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30;

THENCE NORTH $00^{\circ} 45' 22''$ WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30;

THENCE SOUTH $88^{\circ} 43' 50''$ EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

APN: 474-490-024-0

PARCEL 2:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-0498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHERLY RECTANGULAR 1320 FEET OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

TOGETHER WITH THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

Exhibit A

EXCEPTING THEREFROM THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30; THENCE SOUTH 00° 45' 22" WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON; THENCE NORTH 89° 18' 10" WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30; THENCE NORTH 00° 45' 22" WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30; THENCE SOUTH 88° 43' 50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

APN: 474-490-025-1

PARCEL 3:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 05088 RECORDED NOVEMBER 08, 2006 AS INSTRUMENT NO. 2006-0823600 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN SAID SOUTHWEST QUARTER DESCRIBED AS FOLLOWS:

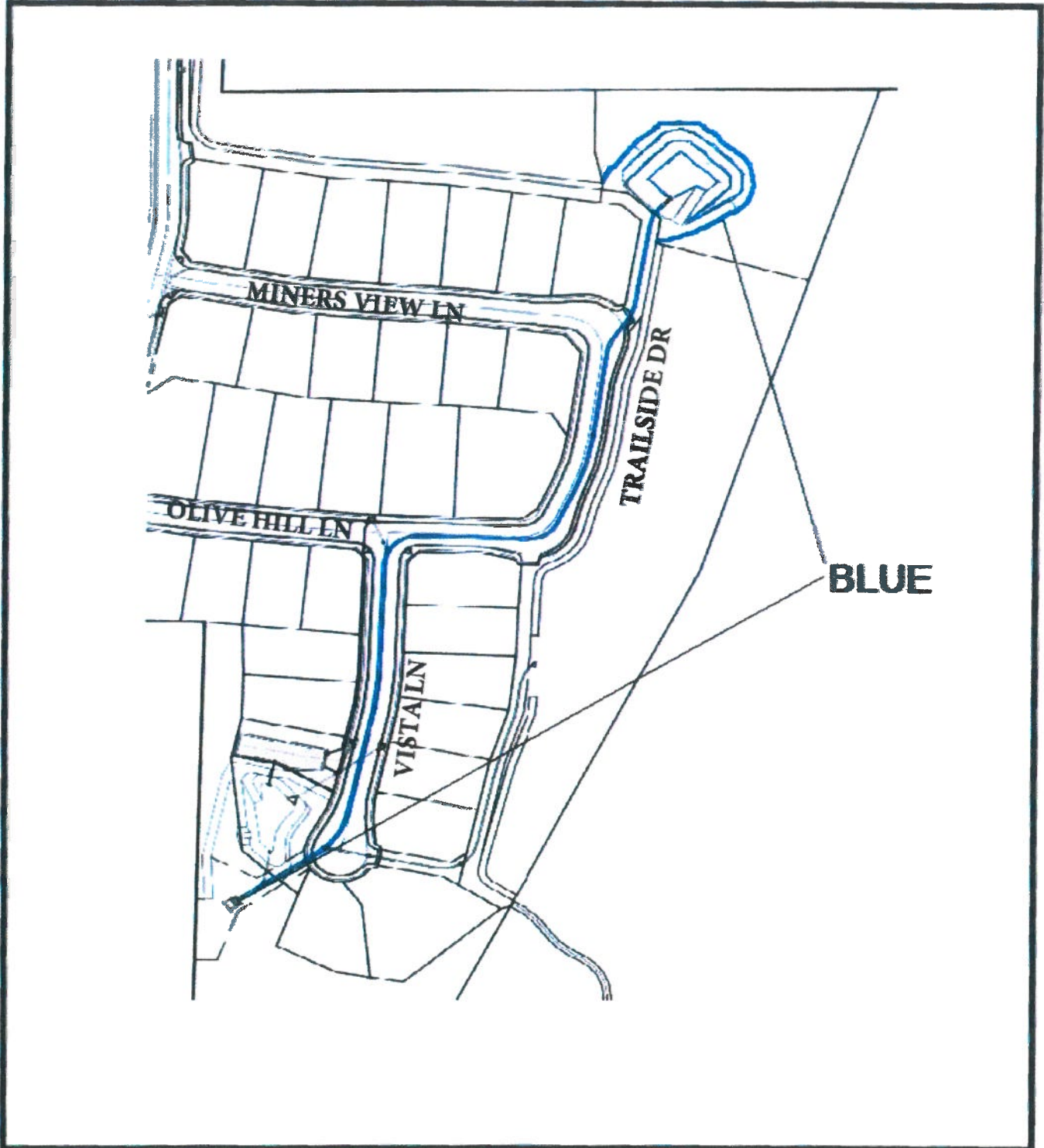
BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 45' 22" EAST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 845.25 FEET TO A POINT THEREON; THENCE NORTH 88° 53' 33" EAST, A DISTANCE OF 1303.07 FEET; THENCE SOUTH 00° 30' 13" WEST, A DISTANCE OF 1335.26 FEET; THENCE SOUTH 88° 54' 01" WEST, A DISTANCE OF 1308.84 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 44' 37" EAST, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 490.01 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON JANUARY 25, 1991 AS INSTRUMENT NUMBER 027950 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON AUGUST 08, 1995 AS INSTRUMENT NUMBER 258682 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

APN: 474-040-032-6

Exhibit B



COOPERATIVE AGREEMENT

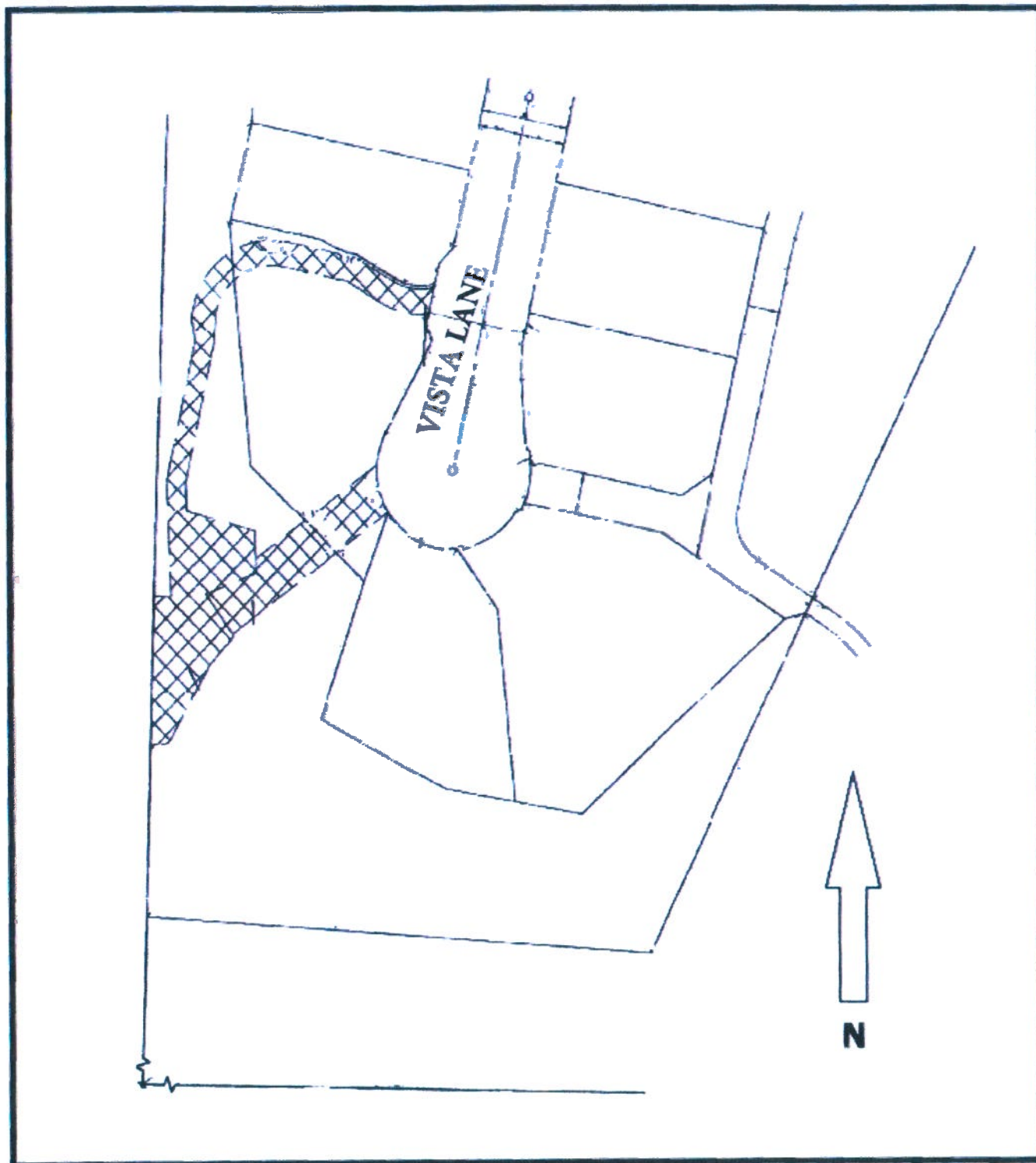
Sunnymead - Vista Lane Storm Drain, Stage 1

TR 31592

Project No. 4-0-00364

Page 1 of 1

Exhibit C



COOPERATIVE AGREEMENT

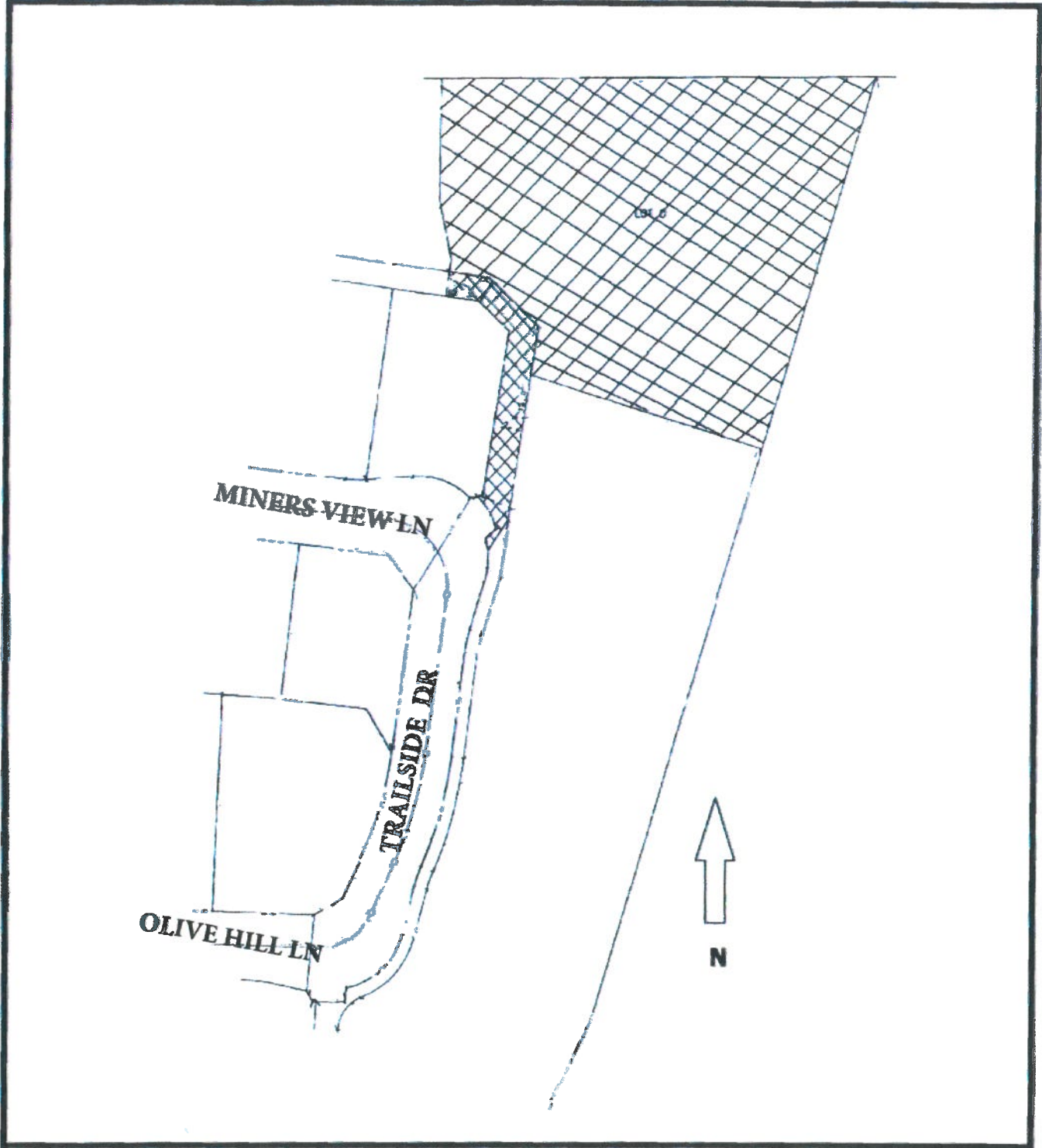
Sunnymead - Vista Lane Storm Drain, Stage 1

TR 31592

Project No. 4-0-00364

Page 1 of 2

Exhibit C



COOPERATIVE AGREEMENT

Sunnymead - Vista Lane Storm Drain, Stage 1

TR 31592

Project No. 4-0-00364

Page 2 of 2

