

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



ITEM: 11.3
(ID # 13820)

MEETING DATE:

Tuesday, November 17, 2020

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District, the March Joint Powers Authority and Meridian Park, LLC for Perris Valley MDP Line B-1, Miscellaneous No. 172 (Phase 1 for Tract No. 30857-4), Project No. 4-0-00538, Nothing Further is Required Under CEQA, District 1. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that nothing further is required under the California Environmental Quality Act (CEQA) because all potentially significant effects have been considered by a previously certified EIR as provided in Resolution No. F2019-17, adopted on March 19, 2019 and the accompanying Notice of Determination;
2. Approve the Cooperative Agreement between the Riverside County Flood Control and Conservation District (District), March Joint Powers Authority (MJPA) and Meridian Park, LLC (Developer);
3. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the Cooperative Agreement 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 Chairwoman to execute the Cooperative Agreement on behalf of the District; and
5. Direct the Clerk of the Board to return four (4) executed Cooperative Agreements to the District.

ACTION:

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

11/4/2020

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: November 17, 2020
xc: Flood

Kecia R. Harper
Clerk of the Board

By:
Deputy

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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: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Cooperative Agreement (Agreement) sets forth the terms and conditions by which certain flood control facilities constructed by Developer are to be inspected, operated and maintained by the District and MJPA.

The Agreement is necessary to formalize the transfer of necessary rights of way for the District's operation and maintenance of the Phase 1 facilities for Perris Valley MDP Line B-1. Upon completion of the drainage facilities' construction, the District will assume ownership and responsibility for the operation and maintenance of the Phase 1 facilities for Perris Valley MDP Line B-1. MJPA will assume ownership, operation and maintenance of the project's associated catch basins, connector pipes, and laterals that are 36 inches or less in diameter located within MJPA's rights of way.

County Counsel has approved the Agreement as to legal form, and MJPA and the Developer have executed the Agreement.

Environmental Findings

Resolution No. F2019-17, Considering an Environmental Impact Report For The Perris Valley MDP Line B-1 Cooperative Agreement, Making Responsible Agency Findings Pursuant to the California Environmental Quality Act (CEQA), and Issuing Certain Limited Approvals for Tract 30857-4 Environmental Impact Report, and an Accompanying Notice of Determination (NOD) was prepared by the District and adopted by the Board of Supervisors on March 19, 2019 (Agenda Item No. 11.2). The impacts of processing Tract 30857-4 have been evaluated through environmental review, and there will be no significant environmental impacts within Tract 30857-4. The Cooperative Agreement is an action in furtherance of the project, and nothing further is required for CEQA compliance because this proposed action was adequately analyzed in the earlier adopted NOD by this Board.

Impact on Residents and Businesses

As noted above, construction of these drainage improvements is a requirement for the development of Miscellaneous No. 172 (Phase 1 for Tract No. 30857-4). The principal beneficiaries are the future businesses of the tract. Ancillary benefits will accrue to the public who will utilize the roadways.

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Prev. Agn. Ref.: MT Item No. 9237, 11.2 of 03/19/19

Additional Fiscal Information

The Developer funded all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

AMR:blm
P8/234865



Gregory L. Priamos, Director County Counsel 11/5/2020

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1

Project No. 4-0-00538

Miscellaneous No. 172

(Phase 1 for Tract No. 30857-4)

This Cooperative Agreement ("Agreement"), dated as of November 17 2020, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the March Joint Powers Authority, a joint powers authority established under the laws of the State of California ("MJPA"), and Meridian Park, LLC, a Delaware limited liability company ("DEVELOPER"), (together, the "Parties"). The Parties hereto agree as follows:

RECITALS

A. DEVELOPER has submitted for approval Tract No. 30857-4 located in an unincorporated area of western Riverside County. 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. MJPA and Green Hospitality, Inc., an Arizona corporation ("GREEN") are the legal owners of record of certain real property, including Tract No. 30857-4, located within the County of Riverside. The legal description of Tract No. 30857-4 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. GREEN consent to this Agreement is required and provided herein; and

D. On or about March 25, 2014, DISTRICT and LNR Riverside II, LLC ("PREVIOUS DEVELOPER") entered into the First Addendum to Right of Entry and Inspection Agreement and on December 2, 2010 that Right of Entry and Inspection Agreement that authorized PREVIOUS DEVELOPER to construct LINE O. Pursuant to both Right of Entry and Inspection Agreements, PREVIOUS DEVELOPER has completed construction of LINE O; and

E. Pursuant to a certain Assignment of Disposition and Development

Agreement dated August 7, 2015, DEVELOPER has acquired all rights as Master Developer for the development of the certain real property from PREVIOUS DEVELOPER; and

F. DEVELOPER constructed or caused to be constructed the required flood control facility as identified in DISTRICT's Perris Valley Master Drainage Plan ("MDP") and shown on DISTRICT's Drawing No. 4-1008, and as shown in concept on Exhibit "B", attached hereto and made a part hereof:

- i. LINE CCC, consisting of approximately 64 lineal feet of 66-inch reinforced concrete pipe, its associated transition structure and outlet riprap structure. At its upstream terminus, LINE CCC connects to the existing storm drain system. At its downstream terminus, LINE CCC will drain to the detention basin, operated and maintained by the MIPA Landscaping and Lighting Maintenance District ("LLMD");
- ii. LINE NNN, consisting of approximately 46 lineal of 36-inch reinforced concrete pipe;
- iii. LINE XX, consisting of approximately 108 lineal feet of 24-inch reinforced concrete pipe. At its downstream terminus, LINE XX connects to the East Basin headwall structure;
- iv. LINE YY, consisting of approximately 69 lineal feet of 18-inch reinforced concrete pipe. At its downstream terminus, LINE YY connects to the South Channel Basin headwall structure;
- v. Line ZZ, consisting of approximately 85 lineal feet of 24-inch reinforced concrete pipe. At its downstream terminus, LINE ZZ connects to the South Channel Basin headwall structure;
- vi. Two detention basins: "EAST BASIN", and "SOUTH CHANNEL

BASIN"; and

G. Together, LINE CCC, LINE NNN, LINE XX, LINE YY, LINE ZZ, EAST BASIN and SOUTH CHANNEL BASIN are hereinafter called "PHASE 1 FACILITIES". Altogether, LINE O and PHASE 1 FACILITIES are hereinafter called "DISTRICT FACILITIES"; and

H. DISTRICT FACILITIES have not been accepted by DISTRICT for ownership, operation and maintenance; and

I. Associated with DISTRICT FACILITIES, DEVELOPER constructed or caused to be constructed certain catch basins, inlets, connector pipes, and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located within MJPA held easements or rights of way ("APPURTENANCES"). Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

J. Pursuant to that certain Cooperative Agreement dated March 19, 2019 [Board Agenda Item No. 11.2], and recorded as Document No. 2019 – 0114071, in the Official Records of the County of Riverside, MJPA is willing to assume ownership, operation and maintenance responsibilities of LINE O on an interim basis until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of LINE O as set forth herein; and

K. MJPA and DEVELOPER desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES; and

L. DISTRICT and DEVELOPER desire MJPA to accept ownership and responsibility for the operation and maintenance of APPURTENANCES; and

M. DISTRICT is willing to (i) conduct a final inspection of DISTRICT FACILITIES, (ii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, provided that DEVELOPER (i) complies with this Agreement, (ii) pays

DISTRICT the amounts specified herein to cover DISTRICT's construction inspection costs for DISTRICT FACILITIES, (iii) provides compaction reports documenting that all soil compaction for DISTRICT FACILITIES were accomplished in compliance with DISTRICT standards, (iv) obtains and conveys to DISTRICT and MJPA the necessary rights of way for the inspection, operation and maintenance of DISTRICT FACILITIES and APPURTENANCES as set forth herein, (v) accepts ownership and responsibility for the operation and maintenance of PHASE 1 FACILITIES and APPURTENANCES until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES and MJPA accepts ownership and responsibility for the operation and maintenance of APPURTENANCES, and (vi) PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and MJPA.

N. MJPA is willing to (i) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES, (ii) conduct a final inspection of APPURTENANCES, (iii) grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES located within MJPA rights of way, and (iv) assume ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and MJPA.

NOW, THEREFORE, the Parties hereto mutually agree as follows:

SECTION I

DEVELOPER shall:

1. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the inspection, review and approval of right of way and conveyance documents, and with the processing and administration of this Agreement.

2. To the best of DEVELOPER's knowledge, without due diligence or inquiry, all necessary licenses, agreements, permits and rights of entry as may be needed for the inspection, operation and maintenance of DISTRICT FACILITIES have been secured.

3. Furnish DISTRICT (Attention: Plan Check Section) with final mylar PROJECT plans and assign their ownership to DISTRICT prior to DISTRICT's acceptance of DISTRICT FACILITIES.

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

5. Within two (2) weeks of execution of this Agreement, provide DISTRICT (Attention: Real Estate Services Section), with duly executed Irrevocable Offer(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the inspection, operation and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

6. Within two (2) weeks of execution of this Agreement, provide DISTRICT with a confined space entry procedure specific to PROJECT. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined Space and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to DISTRICT's final inspection of PROJECT.

7. Within two (2) weeks of execution of this Agreement, certificates of insurance evidencing the required insurance coverage and endorsements shall be provided to DISTRICT and MJPA. At minimum, the procured insurance coverages should adhere to

DISTRICT's required insurance provided in Exhibit "C", attached hereto and made a part hereof. Failure to maintain the insurance required by this paragraph shall be deemed a material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at its sole discretion, to provide written notice to DEVELOPER that DISTRICT is unable to perform its obligations hereunder, nor to accept responsibility for ownership, operation and maintenance of DISTRICT FACILITIES due, either in whole or in part, to said breach of this Agreement.

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

9. Notify DISTRICT (Attention: Construction Management Section) and MJPA, after receiving DISTRICT's clearance of PROJECT, with written notice that PROJECT construction is substantially complete and request that DISTRICT conduct a final inspection of DISTRICT FACILITIES and MJPA conduct a final inspection of APPURTENANCES.

10. Upon acceptance by DISTRICT of all rights of way deemed necessary by DISTRICT and MJPA for the operation and maintenance of PROJECT, convey, or cause to be conveyed to DISTRICT the flood control easement(s) including ingress and egress, or grant deed(s) of fee title in a form approved by DISTRICT, to the rights of way as shown in concept on Exhibit "D". The easement(s) or grant deed(s) shall be in a form approved by both DISTRICT and MJPA and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

11. Prior to the date of this Agreement, DISTRICT has obtained, reviewed and approved a preliminary commitment for title insurance covering each easement parcel to be conveyed to DISTRICT. DEVELOPER shall, at the time of recordation of the conveyance document(s), as set forth in Section I.10., furnish DISTRICT (Attention: Real Estate Services) with policies of title insurance, each in the amount of not less than fifty percent (50%) of the

estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT's interest in said property subject to all matters of record.

12. Prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT (Attention: Construction Management Section) with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, (iii) the resolution of outstanding "punch list" items applicable to PROJECT, and (iv) a redlined "record drawings" copy of PROJECT plans. After DISTRICT approval of the redlined "record drawings", DEVELOPER's engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT's original mylars at DISTRICT's office, after which the engineer shall review, stamp and sign the original PROJECT engineering plans "record drawings".

13. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as (i) DISTRICT's acceptance of DISTRICT FACILITIES construction as being complete, and (ii) MJPA accepts ownership and responsibility for the operation and maintenance of APPURTENANCES.

14. Accept all liability whatsoever associated with the ownership, operation and maintenance of DISTRICT FACILITIES until such time as DISTRICT FACILITIES are formally accepted by DISTRICT for ownership, operation and maintenance.

15. Prior to acceptance of DISTRICT FACILITIES, obtain the necessary permits, approvals or agreements as may be required by any federal, state or local resource and/or regulatory agency for the continuing operation and maintenance of DISTRICT FACILITIES ("ONGOING REGULATORY PERMITS"). Upon completion of construction, DISTRICT FACILITIES may be considered jurisdictional or may otherwise require regulatory approvals and

therefore may require ONGOING REGULATORY PERMITS in order to be maintained. ONGOING REGULATORY PERMITS 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. DISTRICT will not accept DISTRICT FACILITIES until all required regulatory permits have been issued and transferred to DISTRICT.

16. Ensure that all work performed pursuant to this Agreement by DEVELOPER, its agents or contractors is done in accordance with all applicable laws and regulations, including but not limited to all applicable provisions of the Labor Code, Business and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs associated with compliance with applicable laws and regulations.

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

SECTION II

DISTRICT shall:

1. Upon execution of this Agreement, record or cause to be recorded, a copy of this Agreement in the Official Records of the Riverside County Recorder.
2. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.5.
3. Conduct final inspection of DISTRICT FACILITIES.
4. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of right of way and conveyance documents, and the processing and administration of this Agreement.

5. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section I.1., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete. If at any time the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.

6. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of PHASE 1 FACILITIES; PHASE 1 FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT, PHASE I FACILITIES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

7. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of LINE O; LINE O shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT, LINE O is not in an acceptable condition, corrections shall be made at sole expense of MJPA.

8. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) DISTRICT final inspection of DISTRICT FACILITIES, (ii) DISTRICT receipt of compaction reports documenting that all soil compaction for DISTRICT FACILITIES were accomplished in compliance with DISTRICT standards, (iii) concrete testing report(s) – stamped and wet signed by the civil engineer of record, (iv) the resolution of outstanding "punch list" items applicable to PROJECT, (v) DISTRICT acceptance of PROJECT

construction as being complete, (vi) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans, as set forth in Section I.12., (vii) recordation of all conveyance documents described in Section I.10., (viii) DISTRICT receipt of all necessary rights of way as described in Sections I.10 and III.8, (ix) MIPA acceptance of APPURTENANCES for ownership, operation, and maintenance, (x) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT, and (xi) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

9. Provide MIPA with a reproducible duplicate copy of "record drawings" PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITIES as being complete.

SECTION III

MIPA shall:

1. Inspect APPURTENANCES construction.
2. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
3. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of DISTRICT FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to inspect, operate and maintain DISTRICT FACILITIES.
4. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate and maintain DISTRICT FACILITIES within MIPA rights of way.
5. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance.
6. Accept all liability whatsoever associated with the ownership, operation and

maintenance of LINE O until such time as LINE O is formally accepted by DISTRICT for ownership, operation and maintenance.

7. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, convey, or cause to be conveyed to DISTRICT the flood control easement(s), including ingress and egress, or grant deed(s) of fee title where appropriate, in a form approved by DISTRICT, for the rights of way as deemed necessary solely by DISTRICT for the operation and maintenance of DISTRICT FACILITIES.

8. Upon DISTRICT acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within MJPA rights of way which must be performed at such time(s) that the finished grade along and above the underground portions of DISTRICT FACILITIES are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

SECTION IV

It is further mutually agreed:

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

2. DEVELOPER for itself, its successors and assigns hereby release DISTRICT and County of Riverside (including their agencies, districts, special districts and departments, their respective directors, officer, Board of Supervisors, elected and appointed officials, employees, agents and representatives) from any and all claims, demands, actions, or suits of any kind arising out of any liability, known or unknown, present or future, including but not limited to any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California

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

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

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

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

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

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

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

4. Any waiver by DISTRICT or by MJPA 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 MJPA 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 MJPA from enforcement hereof.

5. 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: Administration Services Section

MARCH JOINT POWERS AUTHORITY
14205 Meridian Parkway, Suite 140
Riverside, CA 92518
Attn: Carey L. Allen

MERIDIAN PARK, LLC
1156 North Mountain Avenue
Upland, CA 91786
Attn: Jeff Gordon

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

7. 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.

8. 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.

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

10. DEVELOPER shall not assign or otherwise transfer any of its rights, duties or obligations hereunder to any person or entity without the written consent of the other Parties hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the

obligations and duties contained in this Agreement.

11. The individual(s) executing this Agreement on behalf of DEVELOPER hereby certify that they have the authority within their company to enter into and execute this Agreement, 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 company which have the authority to authorize or deny entering this Agreement.

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

13. 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

November 17, 2020
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer


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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

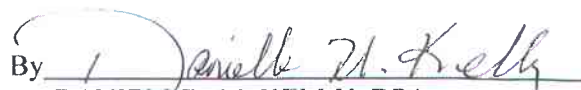
By 
LEILA MOSHREF-DANESH
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement w/ March Joint Powers Authority and Meridian Park, LLC:
Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
09/22/2020
AMR:blm

MARCH JOINT POWERS AUTHORITY

By 
DANIELLE M. KELLY, DPA
Executive Director

APPROVED AS TO FORM:

By 
BEST, BEST & KRIEGER LLP
MJPA General Counsel

ATTEST:

By 
CAREY L. ALLEN
Clerk, March Joint Powers Commission

(SEAL)

Cooperative Agreement w/ March Joint Powers Authority and Meridian Park, LLC:
Perris Valley Master Drainage Plan Line B-1 (Tract No. 30857-4)
Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
09/22/2020
AMR:blm

MERIDIAN PARK, LLC
a Delaware limited liability company

By: Meridian Park Holdings, LLC
a Delaware limited liability company
its Managing Member

By: WPG Meridian Park, LLC
a California limited liability company
its Manager

By: Waypoint Property Group, LLC
a Delaware limited liability company
its Manager

By: 

DAVID O. TEAM
President

Cooperative Agreement w/ March Joint Powers Authority and Meridian Park, LLC:
Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
09/22/2020
AMR:blm

ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On OCTOBER 8, 2020 before me, Judi Lowenthal, Notary Public
(Here insert name and title of the officer)

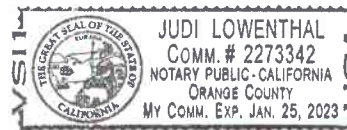
personally appeared DAVID O. TEAM,
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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.

Judi Lowenthal
 Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

 (Title or description of attached document)

 (Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

_____ (Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

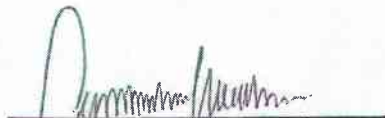
- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CONSENT TO COOPERATIVE AGREEMENT

Greens Hospitality, an Arizona Corporation, as legal part owner of record of Tract No. 30857-4, hereby consents to the foregoing Cooperative Agreement ("Agreement") by and between the Riverside County Flood Control and Water Conservation District, a body politic, the March Joint Powers Authority, a federally recognized Reuse and Land Use Authority, and Meridian Park, a Delaware Limited Liability Company. The Agreement sets forth each party's rights and obligations for the construction, operation and maintenance of certain flood control facilities required as a Condition of Approval for Tract No. 30857-4. This Greens Hospitality consent, including with respect to any future developments thereunder, is not, and will not be deemed or construed to modify, waive, or affect any of the provisions, covenants or conditions of the Agreement, waive any breach of the Agreement or any rights of the Greens Hospitality, or enlarge or increase the Greens Hospitality obligations under the Agreement.

CONSENTING PROPERTY OWNER

GREENS HOSPITALITY



[NAME] Ashutosh Kadakia
[Title] President

(ATTACH NOTARY WITH CAPACITY STATEMENT)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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 Orange }

On August 8th, 2018 before me, Erik Le, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Ashutosh Kadakia
Name(s) of Signer(s)

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.



Place Notary Seal and/or Stamp Above

Signature Erik Le
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Exhibit A

LEGAL DESCRIPTION

The land referred to in this Commitment is situated in the unincorporated area of the County of Riverside, State of California, and is described as follows:

THAT PORTION OF SECTIONS 15, 22, 23, 26 AND 27 OF TOWNSHIP 3 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, BEING PORTIONS OF LOTS 3, 6 AND 7 OF RESUBDIVISION OF ALESSANDRO, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FILED IN BOOK 18, PAGES 16 AND 17 OF MAPS, ALSO SHOWN AS PARCEL 5 ON RECORD OF SURVEY 000-135 ON FILE IN BOOK 110, PAGES 30 THROUGH 40 OF RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY TERMINUS OF THAT CERTAIN COURSE IN THE SOUTHERLY LINE OF ALESSANDRO BOULEVARD, AS SHOWN ON SHEET 6 OF 11 SHEETS OF SAID RECORD OF SURVEY, SAID COURSE BEARS NORTH 89° 53' 24" EAST 1201.72 FEET, SAID COURSE ALSO BEING SHOWN ON CALIFORNIA DEPARTMENT OF TRANSPORTATION MAP NO. 435571-7 ON FILE WITH THE COUNTY OF RIVERSIDE AS MAP NO. 205-253; THENCE ALONG SAID SOUTHERLY LINE NORTH 89° 53' 24" EAST 1,201.72 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 38° 39' 15" EAST 2,811.22 FEET;

THENCE SOUTH 30° 07' 21" EAST 1,855.76 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 70° 03' 01" WEST 183.49 FEET; THENCE SOUTH 19° 19' 30" EAST 601.03 FEET; THENCE SOUTH 70° 03' 01" WEST 977.61 FEET; THENCE SOUTH 01° 00' 36" WEST 2,375.44 FEET; THENCE SOUTH 09° 31' 07" EAST 2,716.43 FEET; THENCE NORTH 59° 56' 16" EAST 1,115.80 FEET; THENCE SOUTH 18° 47' 37" EAST 703.24 FEET; THENCE SOUTH 70° 28' 46" WEST 1,089.79 FEET; THENCE SOUTH 19° 19' 15" EAST 513.46 FEET TO A POINT ON THE SOUTHERLY LINE OF VAN BUREN BOULEVARD AS DESCRIBED IN A DOCUMENT RECORDED JUNE 8, 1973 AS INSTRUMENT NO. 74835 OF OFFICIAL RECORDS, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 2944.79 FEET, A RADIAL LINE TO SAID BEGINNING OF CURVE BEARS NORTH 22° 44' 28" WEST;

THENCE EASTERLY ALONG SAID SOUTHERLY LINE THE FOLLOWING NINE COURSES:

1. EASTERLY 517.30 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10° 03' 54";
2. NORTH 81° 41' 15" EAST 105.47 FEET;
3. NORTH 79° 11' 15" EAST 92.99 FEET;
4. NORTH 83° 31' 15" EAST 201.99 FEET;
5. NORTH 86° 23' 15" EAST 139.99 FEET;
6. SOUTH 77° 05' 45" EAST 69.00 FEET;
7. NORTH 71° 01' 15" EAST 43.00 FEET;
8. NORTH 88° 36' 05" EAST 441.29 FEET;
9. NORTH 89° 46' 06" EAST 1,414.40 FEET TO THE WESTERLY LINE OF STATE ROUTE 215 AS SHOWN ON CALIFORNIA DEPARTMENT OF TRANSPORTATION MAP NO. 443512-4 ON FILE WITH THE COUNTY OF RIVERSIDE AS MAP NO. 205-049;

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1

Project No. 4-0-00538

Miscellaneous No. 172

(Phase 1 for Tract No. 30857-4)

Page 1 of 3

Exhibit A

THENCE ALONG SAID WESTERLY LINE THE FOLLOWING TWO COURSES:

1. NORTH 05° 25' 23" WEST 110.45 FEET;
2. NORTH 86° 18' 18" EAST 591.55 FEET TO THE WESTERLY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD RIGHT OF WAY, AS SHOWN ON SAID CALIFORNIA DEPARTMENT OF TRANSPORTATION MAP;

THENCE ALONG SAID WESTERLY LINE THE FOLLOWING THREE COURSES:

1. NORTH 19° 22' 37" WEST 852.18 FEET;
2. NORTH 70° 37' 23" EAST 100.00 FEET;
3. NORTH 19° 22' 37" WEST 1,615.52 FEET;

THENCE LEAVING SAID WESTERLY LINE SOUTH 59° 52' 39" WEST 211.38 FEET; THENCE NORTH 30° 07' 21" WEST 5,009.86 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO MARCH JOINT POWERS REDEVELOPMENT AGENCY, A CALIFORNIA PUBLIC AGENCY, IN A DEED RECORDED NOVEMBER 30, 2004 AS INSTRUMENT NO. 2004-0949790 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO MARCH JOINT POWERS REDEVELOPMENT AGENCY, A CALIFORNIA PUBLIC AGENCY, IN A DEED RECORDED JUNE 6, 2006 AS INSTRUMENT NO. 2006-0410008 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO MARCH JOINT POWERS REDEVELOPMENT AGENCY, A CALIFORNIA PUBLIC AGENCY, IN A DEED RECORDED JUNE 6, 2006 AS INSTRUMENT NO. 2006-0410057 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO MARCH JOINT POWERS REDEVELOPMENT AGENCY, A CALIFORNIA PUBLIC AGENCY, IN A DEED RECORDED JUNE 6, 2006 AS INSTRUMENT NO. 2006-0410247 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND LYING SOUTHERLY OF THE NORTHERLY LINE OF THE LAND DESCRIBED IN EXHIBIT "A-2" CONVEYED TO COUNTY OF RIVERSIDE, A POLITICAL SUBDIVISION, IN A DEED RECORDED AUGUST 10, 2011 AS INSTRUMENT NO. 2011-0350312 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL OIL, GAS, AND OTHER MINERAL RESOURCES OF ANY KIND OR NATURE IN THE MINERAL ESTATE OF SAID LAND, PROVIDED, HOWEVER, THAT SUCH RESERVATION SHALL NOT INCLUDE THE RIGHT OF ACCESS TO OR ANY RIGHT TO USE ANY PORTION OF THE SURFACE OF SAID LAND, AS RESERVED BY THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE SECRETARY OF THE AIR FORCE, IN A DEED RECORDED MARCH 21, 2002 AS INSTRUMENT NO. 2002-145427 OF OFFICIAL RECORDS.

APN: 294-070-037-8

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1

Project No. 4-0-00538

Miscellaneous No. 172

(Phase 1 for Tract No. 30857-4)

Page 2 of 3

Exhibit A

The land referred to in this Commitment is situated in the City of Riverside, County of Riverside, State of California, and is described as follows:

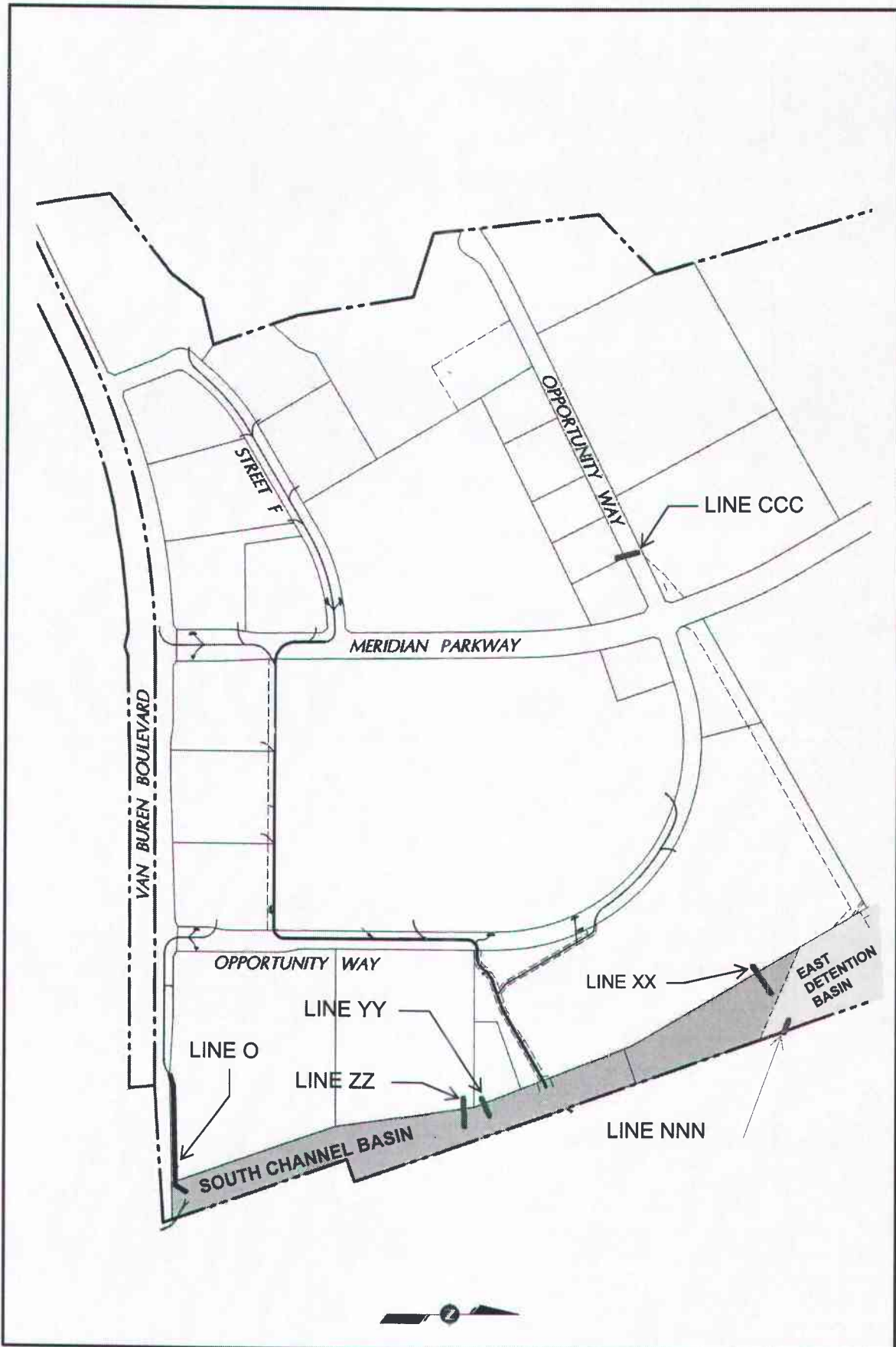
LOT 4, AS SHOWN ON THAT CERTAIN MAP ENTITLED "TRACT NO. 30857-4", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA ON SEPTEMBER 09, 2011, IN BOOK 435 OF MAPS PAGES 6 THROUGH 14.

APN: 294-070-032-3

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 3 of 3

EXHIBIT B



COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 1 of 1

EXHIBIT C

DISTRICT's Insurance Requirements is as follows:

Without limiting or diminishing DEVELOPER's obligation to indemnify or hold DISTRICT or MJPA harmless, DEVELOPER shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the DISTRICT herein refers to the Riverside County Flood Control and Water Conservation District, the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

A. Workers' Compensation:

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

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1

Project No. 4-0-00538

Miscellaneous No. 172

(Phase 1 for Tract No. 30857-4)

Page 1 of 6

EXHIBIT C

DEVELOPER's performance of its obligations hereunder. Policy shall name the DISTRICT and MJPA as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

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

D. Professional Liability:

DEVELOPER shall cause any architect or engineer retained by DEVELOPER in connection with the performance of DEVELOPER's obligations under this Agreement to maintain Professional Liability Insurance providing coverage for the performance of their work included within this Agreement, with a limit of liability of not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate. DEVELOPER shall require that, if such Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this

COOPERATIVE AGREEMENT

EXHIBIT C

Agreement and that such architect or engineer shall purchase at such architect or engineer's sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that such architect or engineer has maintained continuous coverage with the same or original insurer. Coverage provided under items: 1), 2) or 3) shall continue for the term specified in the insurance policy as long as the law allows.

E. General Insurance Provisions – All Lines:

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the DISTRICT Risk Manager. If the DISTRICT's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- b. The DEVELOPER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the DISTRICT Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to the DISTRICT, and at the election of the DISTRICT's Risk Manager, DEVELOPER's carriers

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 3 of 6

EXHIBIT C

shall either: 1) reduce or eliminate such self-insured retention with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

- c. DEVELOPER shall cause their insurance carrier(s) or its contractor's insurance carrier(s), to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by the DISTRICT Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If DEVELOPER insurance carrier(s) policies does not meet the minimum notice requirement found herein, DEVELOPER shall cause DEVELOPER's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.
- d. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly

COOPERATIVE AGREEMENT

EXHIBIT C

executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverages set forth herein and the insurance required herein is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

- e. It is understood and agreed by the parties hereto that DEVELOPER's insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- f. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverages currently required herein, if, in the DISTRICT Risk Manager's reasonable judgment, the amount or type of insurance carried by DEVELOPER has become inadequate.

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 5 of 6

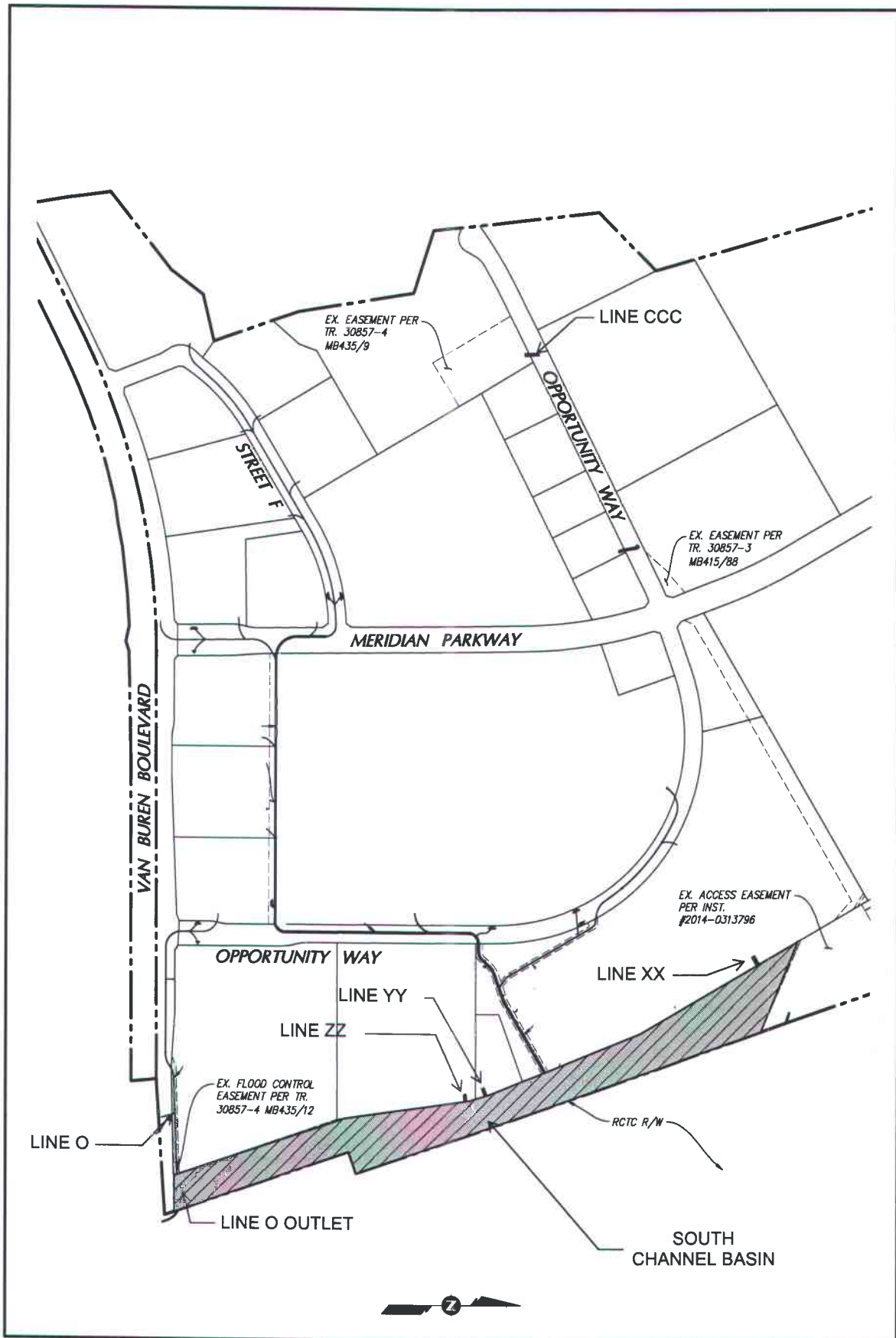
EXHIBIT C

- g. DEVELOPER shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- h. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- i. DEVELOPER agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 6 of 6

EXHIBIT D



COOPERATIVE AGREEMENT

Perris Valley MDP Line B-1
Project No. 4-0-00538
Miscellaneous No. 172
(Phase 1 for Tract No. 30857-4)
Page 1 of 1