

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



ITEM: 11.2
(ID # 17141)

MEETING DATE:
Tuesday, September 21, 2021

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District, the City of Menifee and Sutter Mitland 01 LLC for Salt Creek - Audie Murphy Ranch Line A and Laterals, Stage 1; Salt Creek Audie Murphy Ranch Line J and Laterals, Stage 1; Salt Creek Audie Murphy Ranch Line J and Laterals, Stage 2; Salt Creek Audie Murphy Ranch Line N and Laterals, Stage 1 (Tract Nos. 31390-1, 31393 and MS 3909), Project Nos. 4-0-00131, 4-0-00291 and 4-0-00297, CEQA Exempt. District 5. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that this Cooperative Agreement is exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines Section 15061(b)(3) "Common Sense" exemption;
2. Approve the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District), the City of Menifee (City) and Sutter Mitland 01 LLC (Developer);

Continued on page 2

ACTION:

A handwritten signature in blue ink, appearing to read "J. Uhley", is written over a horizontal line.

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

9/9/2021

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: September 21, 2021
xc: Flood

Kecia R. Harper
Clerk of the Board
By: Deputy

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

RECOMMENDED MOTION: That the Board of Supervisors:

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 Chair of the District's Board of Supervisors 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.

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: Developer funding (100%)			Budget Adjustment: N/A	
			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 and drainage facilities that were constructed in conjunction with the development of certain subdivisions located within the Audie Murphy Ranch Specific Plan are to be inspected by the District and City and subsequently accepted for public operation and maintenance.

Currently, the subject flood control and drainage facilities are owned, operated and maintained by Developer. The Agreement establishes the terms and conditions whereby the District and City will accept responsibility for these facilities for ownership, operation and maintenance. As stipulated, the District will assume ownership, operation and maintenance of the mainline storm drains greater than 36 inches in diameter located within Newport Road, Goetz Road, Rocking Horse Court and Murphy Ranch Road. The City will assume ownership and maintenance of the project's associated catch basins, connector pipes, road culverts, laterals and "bifurcation pipes" located within City held easements or rights of way. The Developer will retain ownership, operation and maintenance of the project's associated catch basins, connector pipes, inlets, and various lateral storm drains that are greater than and less than 36 inches in diameter located within privately held easements or rights of way.

County Counsel has approved the Agreement as to legal form, and the City and Developer have each executed their respective Agreements.

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
OF SUPERVISORS
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Environmental Findings

The storm drain alignment is located within an existing residential development. The Agreement is exempt from CEQA pursuant to Guidelines Section 15061(b)(3), which states "The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Due to the existing disturbed site conditions, it can be seen with certainty that there is no possibility that the Cooperative Agreement will have a significant effect on the environment. Therefore, nothing further is required.

Impact on Residents and Businesses

As noted above, construction of these drainage improvements is a requirement for the development of the project. The principal beneficiaries are the residents of the tract. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

Additional Fiscal Information

The Developer is funding all inspection and administrative costs. Future operation and maintenance costs of mainline storm drain facilities will accrue to the District. These costs will be paid from future Zone 4 ad valorem tax revenues and entail no new fees, taxes or bonded indebtedness to residents and businesses.

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

AMR:blm
P8/239962



Scott Bruckner

9/9/2021



Gregory I. Priamos, Director County Counsel

9/9/2021

COOPERATIVE AGREEMENT
FOR ACCEPTANCE OF DRAINAGE FACILITIES

Salt Creek – Audie Murphy Ranch Line A and Laterals, Stage 1

Salt Creek – Audie Murphy Ranch Line J and Laterals, Stage 1

Salt Creek – Audie Murphy Ranch Line J and Laterals, Stage 2

Salt Creek – Audie Murphy Ranch Line N and Laterals, Stage 1

(Project Nos. 4-0-00131, 4-0-00291 and 4-0-00297)

(Tract Map Nos. 31390-1, 31393 and Miscellaneous No. 3909)

This Cooperative Agreement ("Agreement"), dated as of SEP 21 2021, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the City of Menifee, a California municipal corporation ("CITY"), and Sutter Mitland 01 LLC, a Delaware limited liability company ("DEVELOPER") (together, "the Parties").

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located in the city of Menifee, including Tract Nos. 31390-1, 31393 and MS 3909, hereinafter called the "PROPERTY", within the County of Riverside; and

B. The initial processing of land use entitlements and associated improvement plans for said PROPERTY commenced under the authority of the County of Riverside. Following CITY's incorporation in October 2008, the processing of these land use entitlements and associated improvement plans was assumed by CITY. Final subdivision maps for the subject PROPERTY were approved by CITY on or about September 7, 2012 and recorded by the Office of the Riverside County Clerk-Recorder on or about December 7, 2012; and

C. Pursuant to the conditions of approval for the subdivision and subsequent development of PROPERTY, DEVELOPER, Brookfield AMR/FR LLC and Brookfield AMR/RG LLC, collectively "LAND DEVELOPERS", have constructed or caused to be constructed certain flood control facilities in order to provide flood protection and drainage; and

D. Brookfield AMR/FR LLC and Brookfield AMR/RG LLC have ceased operations of their business, and DEVELOPER is now the sole owner of PROPERTY; and

E. DEVELOPER plans to proceed in accordance with the terms and conditions of this Agreement for acceptance of those certain flood control and drainage improvements that are required in connection with the development of PROPERTY; and

F. The principal flood control and drainage facilities associated with PROPERTY, as shown in concept on Exhibit "A", attached hereto and made a part hereof, are as follows:

- i. Salt Creek – Audie Murphy Ranch Line A, Stage 1 ("LINE A"), consisting of approximately 478 lineal feet of underground storm drain together with appurtenant rock riprap and outlet structure as shown on DISTRICT's Drawing No. 4-0924 (Sheet 15, Sta. 10+00 to Sta. 14+78.41; approved February 2007); and
- ii. Salt Creek – Audie Murphy Ranch Line A-1 ("LINE A-1"), consisting of approximately 665 lineal feet of underground storm drain as shown on the County of Riverside's MS3909 Storm Drain Plan (Sheets 3-4 , Sta. 10+07.58 to Sta. 16+64.77); and
- iii. Salt Creek – Audie Murphy Ranch Lateral A, Stage 1 ("LATERAL A-1"), consisting of approximately 278 lineal feet of underground storm drain as shown on DISTRICT's Drawing No. 4-0924 (Sheet 3, Sta. 14+78.41 to Sta. 17+55.99; approved February 2007); and
- iv. Salt Creek – Audie Murphy Ranch Line J, Stage 1 ("LINE J-1"), consisting of approximately 2,470 lineal feet of underground storm drain together with appurtenant rock riprap and outlet structure as

shown on DISTRICT's Drawing No. 4-0928 (Sheets 2-5, Sta. 7+19.25 to Sta. 20+00; approved February 2008) and on DISTRICT's Drawing No. 4-0944 (Sheets 15-16, Sta. 20+00 to Sta. 23+58.36 and Sta. 10+00 to Sta. 18+31.44; approved September 2010); and

- v. Salt Creek – Audie Murphy Ranch Lateral J, Stage 1 ("LATERAL J-1"), consisting of approximately 306 lineal feet of underground storm drain as shown on DISTRICT's Drawing No. 4-0944 (Sheet 12, Sta. 23+58.36 to Sta. 26+63.81; approved September 2010); and
- vi. Salt Creek – Audie Murphy Ranch Line N ("LINE N"), consisting of approximately 309 lineal feet of underground storm drain together with appurtenant rock riprap and outlet structure as shown on County of Riverside's MS3909 Storm Drain Plans (Sheet 18, Sta. 10+00 to Sta. 13+09.04); and

G. LINE N facility was approved pursuant to a set of improvement plans entitled "Newport Road Master Plan – Storm Drain Plan (MS 3909)" consisting of 41 sheets. The MS 3909 plans were approved by the Riverside County Transportation Department ("TRANSPORTATION") on or about January 30, 2006. Sheets 3, 4 and 18 together with the above referenced DISTRICT's Drawing Numbers in Recital F are hereinafter called "IMPROVEMENT PLANS"; and

H. Together, LINE A, LINE A-1, LATERAL A-1, LINE J-1, LATERAL J-1 and LINE N are hereinafter called "DISTRICT FACILITIES"; and

I. Associated with the construction of DISTRICT FACILITIES are (i) approximately 333 lineal feet and 299 lineal feet of underground storm drain system, together

with appurtenant rock riprap and outlet structures ("ROAD CULVERTS"), and (ii) associated catch basins, connector pipes, laterals and "bifurcation pipes" located within CITY held easements or rights of way ("APPURTENANCES"). Together, ROAD CULVERTS and APPURTENANCES, which are both depicted in the IMPROVEMENT PLANS, are hereinafter called "CITY FACILITIES"; and

J. Also associated with the construction of DISTRICT FACILITIES is the construction of associated catch basins, connector pipes, inlets, and various lateral storm drains that are greater than thirty-six inches (36"), and various lateral storm drains that are thirty-six inches (36") or less in diameter ("DEVELOPER FACILITIES"). DEVELOPER FACILITIES are located within privately held easements or rights of way and are to be initially owned and maintained by DEVELOPER and will subsequently be owned and maintained by the Homeowners Association for PROPERTY; and

K. Together, DISTRICT FACILITIES, CITY FACILITIES and DEVELOPER FACILITIES are hereinafter called "PROJECT"; and

L. LAND DEVELOPERS proceeded with construction of PROJECT prior to entering into a formal agreement with DISTRICT or CITY that would provide for the necessary DISTRICT or CITY construction inspection, which would dictate the terms and conditions by which DISTRICT or CITY would accept DISTRICT FACILITIES or CITY FACILITIES for ownership, operation and maintenance, respectively; and

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

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

O. DISTRICT is willing to inspect and accept DISTRICT FACILITIES for operation and maintenance provided (i) DEVELOPER and CITY comply with the terms and conditions set forth in this Agreement, and (ii) DISTRICT's General Manager-Chief Engineer determines that DISTRICT FACILITIES have been constructed in substantial compliance with the IMPROVEMENT PLANS and the applicable engineering specifications; and

P. CITY is willing to inspect and accept CITY FACILITIES for operation and maintenance provided (i) DEVELOPER and DISTRICT comply with the terms and conditions set forth in this Agreement, and (ii) the City Engineer or its designee determines that CITY FACILITIES have been constructed in substantial compliance with the IMPROVEMENT PLANS and the applicable engineering specifications; and

Q. Pursuant to this Agreement, DEVELOPER shall submit to DISTRICT and CITY (i) pipe certification reports documenting that all pipe used in the construction of PROJECT was manufactured and certified to be in compliance with IMPROVEMENT PLANS, (ii) soil compaction reports documenting that all soil compaction for PROJECT was accomplished in compliance with DISTRICT and CITY standards, (iii) copies of all daily and other inspection reports prepared by or on behalf of DEVELOPER, DEVELOPER's contractor(s), CITY, DISTRICT or any other party(ies) having performed inspections on any portion of PROJECT, (iv) complete tabulation of all contractors and subcontractors (including the corresponding license number and license classification of each) who performed work on PROJECT or segments thereof, (v) documentation fully identifying all Commercial General Liability and Workers' Compensation insurance coverages applicable to PROJECT, including identification of all Additional Insureds named on such coverages in force during the period PROJECT was constructed, (vi) a one-time payment to DISTRICT in the amount of Fifty Thousand Dollars (\$50,000) to guarantee against any defects, and (vii) videotape or digital video

files, in a format acceptable to CITY and DISTRICT, that document a complete video inspection of the inside of all pipes, manholes and other facilities installed in the construction of PROJECT; and

R. DISTRICT is willing to (i) review all of DEVELOPER's submittals furnished pursuant to this Agreement, (ii) inspect the constructed DISTRICT FACILITIES to the extent possible under existing conditions, and (iii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, provided DEVELOPER (i) complies with this Agreement, (ii) pays DISTRICT the amounts specified by DISTRICT to cover DISTRICT's review of all items required under the terms of this Agreement and construction inspection costs, (iii) satisfactorily submits all items required under the terms of this Agreement, (iv) establishes through DEVELOPER's submittals under this Agreement that PROJECT was constructed in accordance with IMPROVEMENT PLANS approved pursuant to this Agreement, (v) provides copies of all necessary permits, regulatory permits, licenses and rights of entry to accomplish the inspection, operation and maintenance of DISTRICT FACILITIES, (vi) conveys or causes to be conveyed acceptable title or easement interest for all rights of way deemed necessary for the operation and maintenance of DISTRICT FACILITIES as determined by DISTRICT, and (vii) continues to accept ownership and responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES and CITY (i) accepts ownership and responsibility for the operation and maintenance of CITY FACILITIES, (ii) secures all rights of way necessary for the operation and maintenance of PROJECT, and (iii) grants DISTRICT all rights necessary to maintain DISTRICT FACILITIES within CITY rights of way; and

S. CITY is willing to (i) review all of DEVELOPER's submittals furnished pursuant to this Agreement, (ii) inspect the constructed PROJECT to the extent possible under

existing conditions, and (iii) accept ownership and responsibility for the operation and maintenance of CITY FACILITIES, provided DEVELOPER (i) complies with this Agreement, (ii) pays CITY the amounts specified by CITY to cover CITY's review of all items required under the terms of this Agreement and construction inspection costs, (iii) satisfactorily submits all items required under the terms of this Agreement, (iv) establishes through DEVELOPER's submittals under this Agreement that PROJECT was constructed in accordance with IMPROVEMENT PLANS approved pursuant to this Agreement, (v) provides copies of all necessary permits, regulatory permits, licenses and rights of entry to accomplish the inspection, operation and maintenance of PROJECT, (vi) conveys or causes to be conveyed acceptable title or easement interest for all rights of way deemed necessary for the operation and maintenance of CITY FACILITIES as determined by CITY, and (vii) continues to accept ownership and responsibility for the operation and maintenance of PROJECT until such time as CITY accepts ownership and responsibility for the operation and maintenance of CITY FACILITIES and DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES; and

T. Pursuant to Water Code Appendix Section 10, the Board of Supervisors of the County of Riverside is designated as and is empowered to act as ex officio the Board of Supervisors of DISTRICT, therefore, the County of Riverside is included as an indemnified party; and

U. For the purposes of this Agreement, the term "CITY" shall mean and refer to the City of Menifee, including its governing bodies, agencies, districts, special districts and departments, their respective directors, councilmembers, officers, elected and appointed officials, employees, agents and representatives.

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

SECTION I

Developer shall:

1. Continue to pay DISTRICT and CITY, within thirty (30) days after receipt of periodic billings from DISTRICT and CITY, any and all such amounts as are deemed reasonably necessary by DISTRICT and CITY to cover DISTRICT's and CITY's costs associated with (i) the review and implementation of DEVELOPER's submittals furnished pursuant to the terms of this Agreement, and (ii) the processing and administration of this Agreement.

2. Pay DISTRICT and CITY for construction inspection services, which shall be performed on a fee for service basis. If at any time the cost of providing inspection services exceeds the deposit or is anticipated by DISTRICT and/or CITY to exceed the amount deposited, DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by DISTRICT and/or CITY, to complete inspection of PROJECT, within thirty (30) days after receipt of billing from DISTRICT and/or CITY.

3. As early as possible but no later than thirty (30) days following DISTRICT's execution of this Agreement, deposit with DISTRICT (Attention: Business Office – Accounts Receivable) the sum of Fifty Thousand Dollars (\$50,000) as a guarantee against potential defects in workmanship and materials in the construction of DISTRICT FACILITIES. DEVELOPER's failure to furnish the guarantee as stipulated in 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 and CITY that DISTRICT is unable to perform its obligations hereunder or to accept responsibility for ownership, operation and maintenance of DISTRICT FACILITIES due, either in whole or in part, to said breach of this Agreement.

4. Provide all necessary licenses, agreements, permits, rights of entry, easements and rights of way necessary for the inspection, operation and maintenance of PROJECT, as determined and approved by DISTRICT or CITY.

5. Provide DISTRICT and CITY with copies of all permits, approvals or agreements, and copies of all applications and materials submitted in connection therewith, required by any federal, state or local resource and/or regulatory agency authorizing the construction, operation and subsequent maintenance of PROJECT. Such documents, hereinafter called "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 and State Water Resources Control Board.

6. Grant DISTRICT and CITY, 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.

7. Furnish DISTRICT (Attention: Contract Services Section) with a copy of the faithful performance and payment bonds approved by CITY for the acceptance of PROJECT. The bonds shall remain in full force and effect until such time as PROJECT is accepted by DISTRICT and CITY as complete.

8. Furnish DISTRICT (Attention: Contract Services Section) and CITY, as early as possible but prior to requesting any final inspection of PROJECT, with a complete tabulation of all contractors and subcontractors (including the corresponding license number and license classification of each) who performed work on PROJECT or segments thereof and further identify the discrete PROJECT components that each contractor or subcontractor constructed.

9. Furnish DISTRICT (Attention: Contract Services Section) and CITY, as early as possible but prior to requesting any final inspection of PROJECT, a construction

schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor(s) constructed each discrete segment of PROJECT, including actual start and completion dates.

10. Upon execution of this Agreement and continuing until DISTRICT accepts DISTRICT FACILITIES and CITY accepts CITY FACILITIES for operation and maintenance, provide DISTRICT (Attention: Contract Services Section) and CITY with documentation fully identifying all Commercial General Liability and Workers' Compensation insurance coverages applicable to PROJECT, including identification of Additional Insureds named on such coverages, in force during the period PROJECT was constructed. At minimum, the procured insurance coverages should adhere to DISTRICT's and CITY's required insurance provided in Exhibit "B", 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 and CITY, at their individual sole discretion, to provide written notice to DEVELOPER that either DISTRICT or CITY will no longer be required to perform their obligations hereunder, nor accept responsibility for ownership, operation and maintenance of PROJECT due, either in whole or in part, to said breach of this Agreement.

11. Furnish all available contract documents, pipe certification reports, soil compaction reports, construction inspection records and insurance documentation required under the terms of this Agreement, and submit to DISTRICT (Attention: Construction Management Section) and CITY for its review and approval.

12. Provide or cause to be provided all technical and construction related documentation required under the terms of this Agreement at DEVELOPER's sole cost, and expense to both CITY and DISTRICT (Attention: Construction Management Section).

13. As early as possible but prior to requesting any final inspection of PROJECT, obtain and provide CITY and DISTRICT (Attention: Real Estate Services Section) with duly executed Irrevocable Offers(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 and/or CITY for the construction, inspection, operation and maintenance of PROJECT. The Irrevocable Offer(s) of Dedication shall be in a form approved by CITY and DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

14. Prior to DISTRICT and CITY acceptance of PROJECT for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT and/or CITY the flood control easement(s), including ingress and egress, for the rights of way, as shown in concept cross-hatched in blue on Exhibit "C", attached hereto and made a part hereof, guaranteeing DISTRICT's and CITY's interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except those which, in the sole individual discretion of either DISTRICT or CITY, are acceptable.

15. Continue to retain ownership and sole responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES and CITY accepts ownership and responsibility for operation and maintenance of CITY FACILITIES.

16. 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.

17. Ensure that all work performed pursuant to this Agreement by DEVELOPER, its agents, contractors, subcontractors, employees or other representatives 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.

SECTION II

DISTRICT shall:

1. Review and, if it deems appropriate, approve the submittals furnished by DEVELOPER pursuant to the terms of this Agreement prior to commencing any final inspection of DISTRICT FACILITIES.
2. Provide CITY an opportunity to review and, as appropriate, approve submittals furnished by DEVELOPER pursuant to the terms of this Agreement prior to DISTRICT's final approval.
3. To the extent possible under the prevailing conditions, inspect DISTRICT FACILITIES as deemed necessary and appropriate by DISTRICT.
4. Keep an accurate accounting of all DISTRICT costs associated with the (i) review and, as appropriate, approval of DEVELOPER's submittals furnished pursuant to this Agreement, and (ii) 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 (the "Construction Inspection Account"). If the aggregate of DEVELOPER's deposits submitted exceeds such costs,

DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.

6. Accept DEVELOPER's deposit as set forth in Section I.3. herein as a guarantee against potential defects in workmanship and materials in the construction of DISTRICT FACILITIES.

7. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) DISTRICT and CITY acceptance of PROJECT construction as being complete, (ii) DISTRICT determination that DEVELOPER's submittals are complete and meet all requirements set forth in this Agreement, (iii) DISTRICT determination, through its review of all submittals required under the terms of this Agreement and its inspection of DISTRICT FACILITIES, that DISTRICT FACILITIES have been constructed in substantial conformance with the IMPROVEMENT PLANS, (iv) DISTRICT determination that no defects in workmanship or materials are known to exist within PROJECT or that any known defects have been corrected, (v) all rights of way and easements necessary for the operation and maintenance of DISTRICT FACILITIES are conveyed to DISTRICT, and (vi) DISTRICT FACILITIES are found to be in a satisfactorily maintained condition as solely determined by DISTRICT.

8. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and in the sole discretion of DISTRICT, any portion of PROJECT is not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

9. DISTRICT shall provide CITY copies of all IMPROVEMENT PLANS within thirty days of CITY's written request.

10. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and construction survey services, and CITY provides DISTRICT with a written request for such services under Section III.2., DISTRICT shall provide a timely response whether or not they have the resources to perform such services. If DISTRICT wishes to provide such services, DISTRICT shall provide all necessary construction inspection, materials testing and construction survey services for PROJECT and assist CITY as needed with the administration of PROJECT's construction contract. DISTRICT hereby agrees to pay all DISTRICT costs associated with the inspection of PROJECT construction, as set forth herein.

SECTION III

CITY shall:

1. Hold the faithful performance and payment bonds submitted by DEVELOPER as provided therein.
2. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager, to be reimbursed by DEVELOPER. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and construction survey services, CITY shall provide DISTRICT (Attn: Construction Management) with a written request for such services pursuant to Section II.10 above.
3. Upon request by DISTRICT, CITY shall review any requested Irrevocable Offer(s) of Dedication in connection with PROJECT and accept any such Irrevocable Offers of Dedication on behalf of DISTRICT. In the same action, CITY shall immediately convey the property interest(s) associated with the requested Irrevocable Offer(s) of Dedication to DISTRICT via quitclaim or other similar conveyance document, which shall be prepared by DISTRICT. DISTRICT shall be deemed to have accepted the property interest(s) associated with

the requested Irrevocable Offer(s) of Dedication upon the recordation of the conveyance document.

4. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way, provided DISTRICT (including its employees, supervisors, agents, contractors and anyone else operating under their direction) exercises such right(s) in a safe and reasonable manner that does not adversely impact the public health and safety.

5. Accept ownership and sole responsibility for the operation and maintenance of CITY FACILITIES upon (i) CITY and DISTRICT acceptance of PROJECT construction as being complete, (ii) CITY determination that DEVELOPER's submittals are complete and meet all requirements set forth in this Agreement, (iii) CITY determination, through its review of all submittals required under the terms of this Agreement and its inspection of CITY FACILITIES, that CITY FACILITIES have been constructed in substantial conformance with the IMPROVEMENT PLANS, (iv) CITY determination that no defects in workmanship or materials are known to exist within PROJECT or that any known defects have been corrected, (v) all rights of way and easements necessary for the operation and maintenance of CITY FACILITIES are conveyed to CITY, and (vi) CITY FACILITIES are found to be in a satisfactorily maintained condition as solely determined by CITY. In addition to the foregoing, CITY's acceptance under this section shall not be effective until DISTRICT's acceptance of DISTRICT FACILITIES under Section II above. As such, until DISTRICT accepts DISTRICT FACILITIES, the ownership and maintenance obligations regarding CITY FACILITIES shall be the sole responsibility of DEVELOPER.

6. Notwithstanding any of the foregoing, prior to accepting (i) ownership of CITY FACILITIES, and (ii) responsibility for the inspection and maintenance of CITY

FACILITIES, PROJECT shall be in a satisfactorily maintained condition as solely determined by CITY. If, subsequent to the inspection and in the sole discretion of CITY, CITY FACILITIES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

7. Upon DISTRICT and CITY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY rights of way, which must be performed at such time(s) that the finished grade along and above the underground portion of DISTRICT FACILITIES is 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 by the parties hereto that:

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

2. CITY and DEVELOPER personnel may observe and inspect all work being done on PROJECT, but shall provide any comments to DISTRICT personnel, who shall be solely responsible for all quality control communications with DEVELOPER's contractor(s) during the construction of PROJECT. Prior to any communication with DEVELOPER under this section, DISTRICT and CITY personnel shall meet and confer and agree to all communications conveyed to DEVELOPER. If DISTRICT and CITY should disagree as to the content of any particular communication, DISTRICT personnel agree to communicate CITY comments to DEVELOPER in addition to DISTRICT comments.

3. INDEMNIFICATION OBLIGATIONS:

- i. DEVELOPER INDEMNIFICATION OF DISTRICT AND THE COUNTY OF RIVERSIDE. DEVELOPER shall indemnify and hold harmless DISTRICT and the County of Riverside, 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 "DISTRICT 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), DISTRICT 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 and the County of Riverside, provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification obligations to DISTRICT INDEMNITEES as set forth herein.

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

- ii. DEVELOPER INDEMNIFICATION OF CITY. DEVELOPER shall indemnify and hold harmless CITY (including its governing bodies, agencies, districts, special districts and departments, their respective directors, officers, councilmembers, elected and appointed officials, employees, agents and representatives [collectively, CITY INDEMNITEES]) from any liability, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to this Agreement, or DEVELOPER's (including its officers,

employees, subcontractors and agents) actual or alleged acts or omissions related to this Agreement, DEVELOPER's performance under this Agreement, or DEVELOPER's 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. 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), CITY INDEMNITEES with legal counsel reasonably satisfactory to CITY in any claim proceeding or action for which indemnification is required. If DEVELOPER fails to meet its indemnification obligation, CITY shall have the right, but not the obligation, to do so with counsel of their own choosing, with no right of approval by DEVELOPER and, if it does, DEVELOPER shall promptly pay CITY's full cost thereof, with payments made at least on a monthly basis.

DEVELOPER's indemnification obligations as to CITY INDEMNITEES shall be satisfied when DEVELOPER has provided to CITY a form of dismissal regarding any liability for the claim, proceeding or action involved, and CITY determines that the form of

dismissal is adequate in their sole and absolute discretion. Notwithstanding the foregoing, DEVELOPER shall enter into no settlement agreement or final resolution of any pending claim covered under this subsection, without CITY's prior written approval.

- iii. Should DISTRICT and CITY fail to agree with the implementation of this section, or if a pending claim pertains to only one of the two parties, DEVELOPER shall be required to comply with this section as to DISTRICT and CITY individually.
- iv. The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless DISTRICT INDEMNITEES and/or CITY INDEMNITEES from third party claims.
- v. 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 DISTRICT INDEMNITEES and/or CITY INDEMNITEES to the fullest extent allowed by law.

4. DEVELOPER for itself, its successors and assigns hereby releases DISTRICT, the County of Riverside and CITY (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 or the County of Riverside or their 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 inspection, ownership, operation and maintenance of DISTRICT FACILITIES by DISTRICT.

5. Any waiver by DISTRICT or by CITY 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 CITY 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 CITY from enforcement hereof.

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

7. 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:

To DISTRICT: RIVERSIDE COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Contract Services Section

To CITY: CITY OF MENIFEE
29844 Haun Road
Menifee, CA 92586
Attn: Yolanda Macalalad, Acting City Engineer, Land Development
Section

To DEVELOPER: SUTTER MITLAND 01, LLC
3200 Park Center Drive, Suite 1000
Costa Mesa, CA 92626
Attn: Shaun Bowen

8. 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.

9. This Agreement is the result of negotiations between the parties hereto and the advice and assistance of their respective counsel; as such, the authorship of this Agreement 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. Likewise, any uncertainty or ambiguity in this Agreement shall not be construed against CITY because CITY participated in the preparation of this Agreement.

10. The rights, obligations and releases (including the indemnification obligations) of DEVELOPER shall inure to and be binding upon all heirs, successors and assignees.

11. In the event DEVELOPER sells Tract Nos. 31390-1, 31393 or MS 3909, DEVELOPER shall notify DISTRICT and CITY of any such transfer or assignment in writing no later than 30 days from the date of the sale. 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 until DISTRICT, CITY, DEVELOPER and the new owner(s) of Tract Nos.

31390-1, 31393 or MS 3909 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties or obligations hereunder to the new owner(s) of Tract Nos. 31390-1, 31393 or MS 3909.

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

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

14. 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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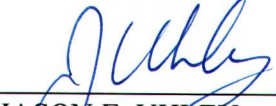
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

September 21, 2021
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer


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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By 
MICHELLE CLACK
Chief Deputy County Counsel

By 
Deputy

(SEAL)

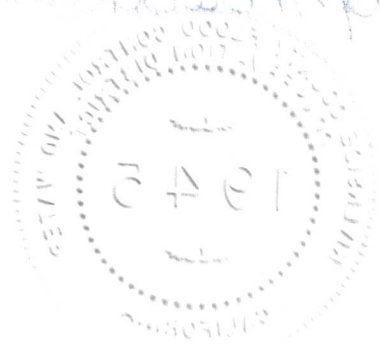
Cooperative Agreement: City of Menifee and Sutter Mitland 01, LLC
Salt Creek – Audie Murphy Ranch Line A and Laterals, Stage 1
Salt Creek – Audie Murphy Ranch Line J and Laterals, Stage 1
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(Project Nos. 4-0-00131, 4-0-00291 and 4-0-00297)
(Tract Nos. 31390-1, 31393 and MS 3909)
05/20/21
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1824, 18-20/10/21

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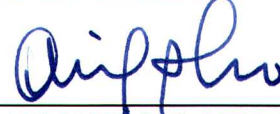
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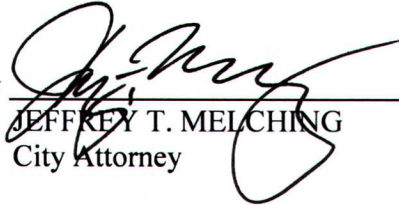
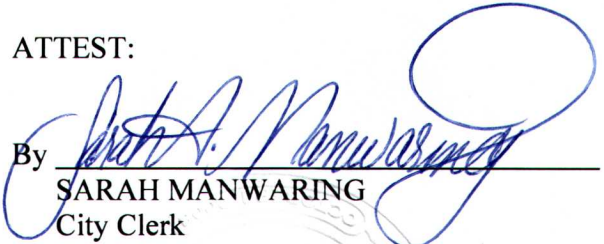
RECOMMENDED FOR APPROVAL:

CITY OF MENIFEE

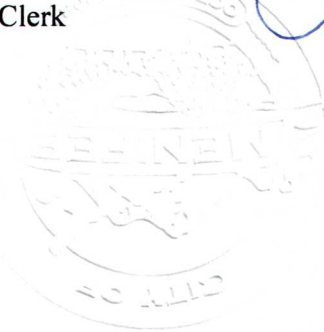
By NICOLAS FIDLER
Public Works DirectorBy ARMANDO G. VILLA
City Manager

APPROVED AS TO FORM:

ATTEST:

By JEFFREY T. MELCHING
City AttorneyBy SARAH MANWARING
City Clerk

(SEAL)



Cooperative Agreement: City of Menifee and Sutter Mitland 01, LLC
 Salt Creek – Audie Murphy Ranch Line A and Laterals, Stage 1
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 05/20/21
 AMR:blm

SUTTER MITLAND 01 LLC,
a Delaware limited liability company

By: Brookfield Southern California Land LLC,
a Delaware limited liability company,
its Sole Member

By 

DAVID E. BARTLETT
Vice President

By 

RICHARD T. WHITNEY
Chief Financial Officer

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement: City of Menifee and Sutter Mitland 01, LLC
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05/20/21
AMR:blm

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) ss.

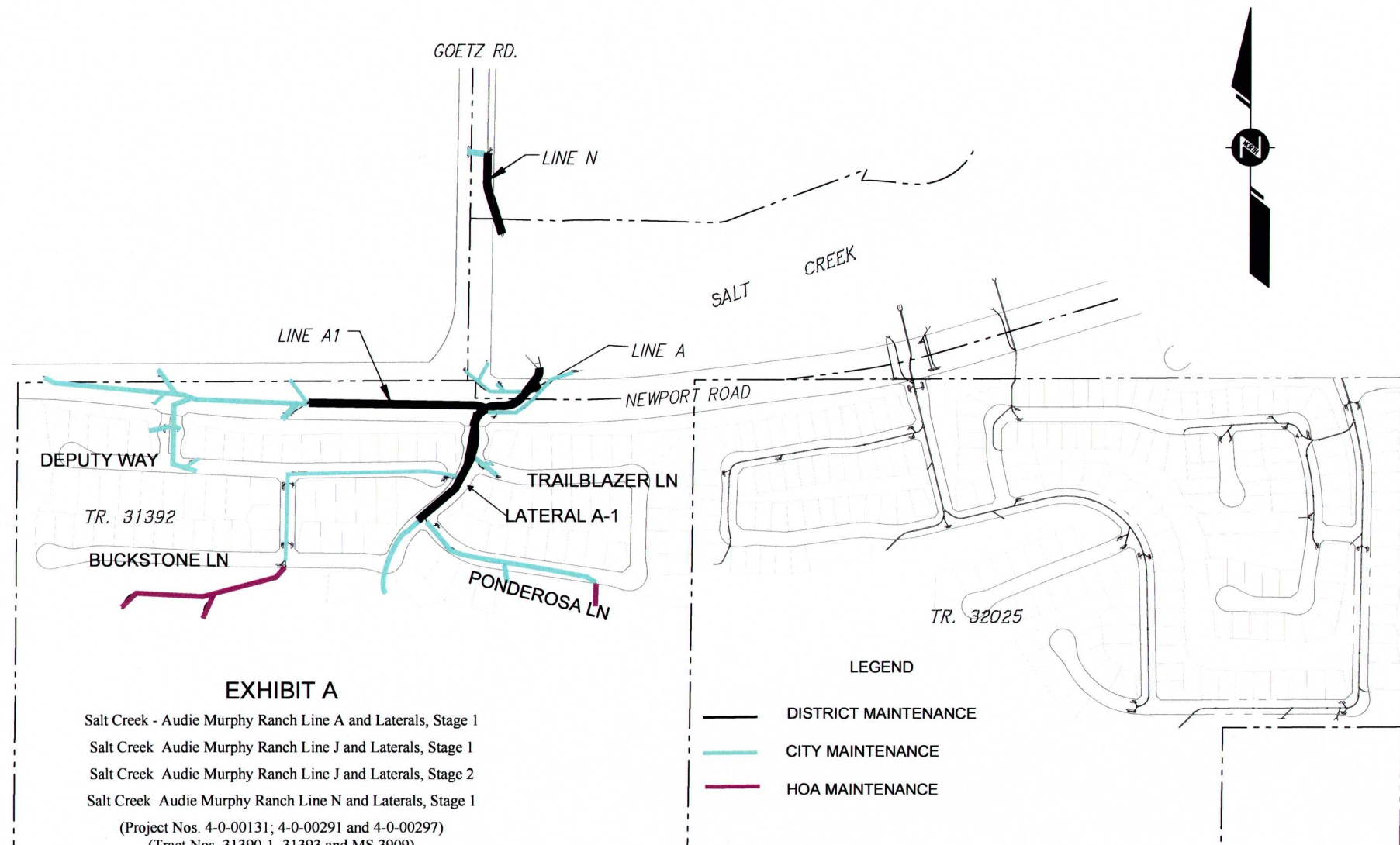
On June 11, 2021, before me, Meagan Knecht Notary Public, personally appeared Richard T. Whitney & David E. Bartlett, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/~~they~~/executed 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.




Notary Public



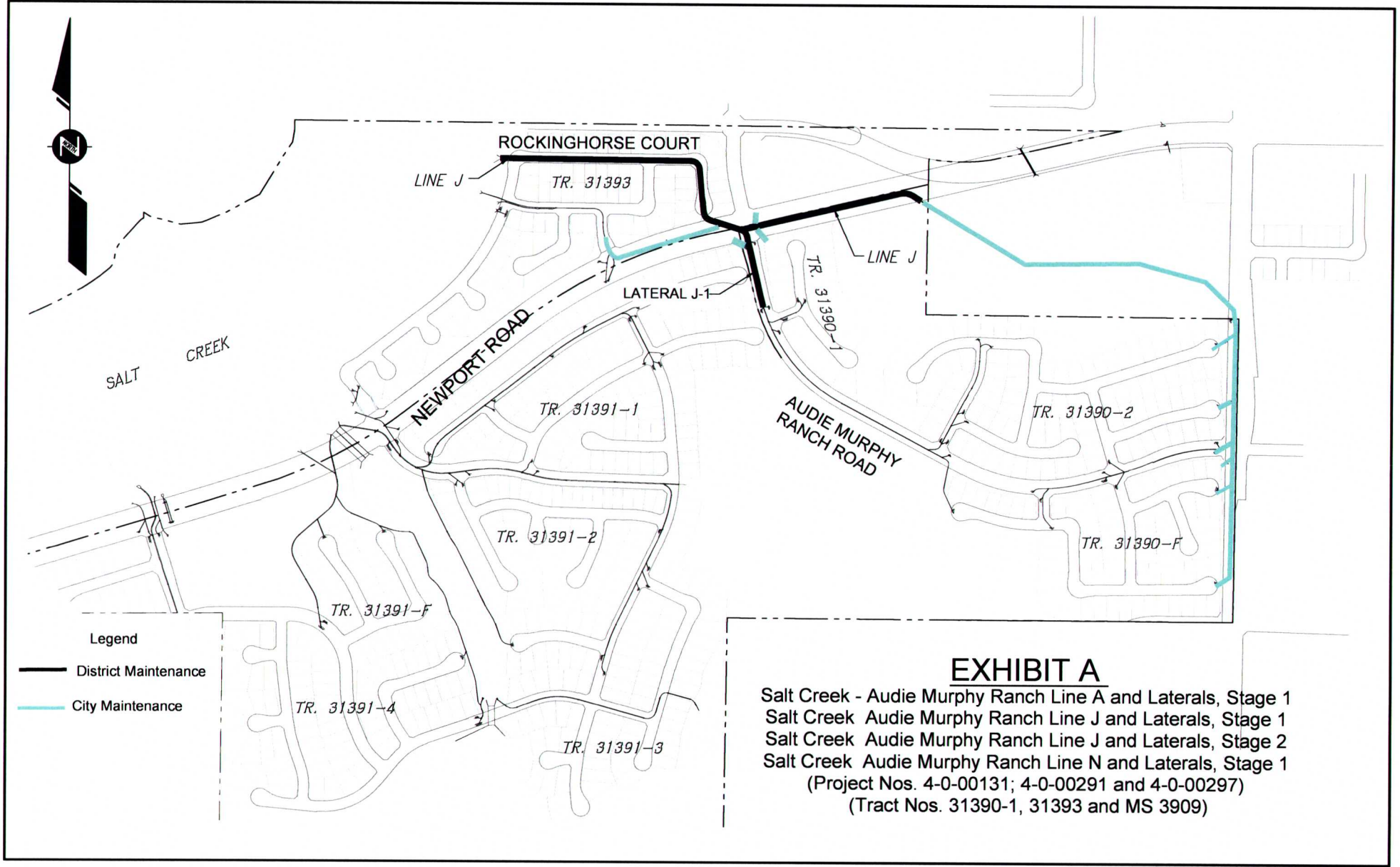


Exhibit B

DISTRICT's and CITY's Required Insurance are as follows:

Without limiting or diminishing DEVELOPER's obligation to indemnify or hold DISTRICT or CITY harmless, DEVELOPER shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages 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 the Riverside County Flood Control and Water Conservation District, the County of Riverside, and CITY.

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 DEVELOPER's performance of its obligations hereunder. Additionally, Commercial General Liability insurance no less broad than ISO form CG 00 01. Policy shall name DISTRICT and CITY and 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. Policy's limit of liability shall not be less than \$5,000,000 per occurrence combined single limit.

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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. DISTRICT and CITY must be an additional insured for liability arising out of ongoing and completed operations by or on behalf of DEVELOPER. DISTRICT and CITY shall continue to be an additional insured for completed operations for two years after completion of the work. If DEVELOPER maintains higher limits than the specified minimum limits, DISTRICT and CITY require and shall be entitled to coverage for the higher limits maintained by DEVELOPER.

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 DISTRICT and CITY and 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.

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 Agreement and that such architect or engineer shall purchase at such architect or engineer's sole expense

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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, which shall be reasonably acceptable to DISTRICT and CITY.

E. General Insurance Provisions – All Lines:

- i. 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 and CITY. If the DISTRICT's Risk Manager and CITY waive a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- ii. 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 and CITY before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to DISTRICT or CITY and at the election of CITY or the DISTRICT's Risk Manager, DEVELOPER's carriers 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.
- iii. DEVELOPER shall cause their insurance carrier(s) or its contractor's insurance carrier(s), to furnish DISTRICT and CITY with 1) a properly executed original certificate(s) of insurance and certified original copies of

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endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by CITY or 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 DISTRICT and CITY 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.

- iv. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT and CITY receive, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing 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.
- v. It is understood and agreed by the parties hereto that DEVELOPER's insurance shall be construed as primary insurance, and DISTRICT's and CITY's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- vi. 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

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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 and CITY reserve 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 CITY's or the DISTRICT Risk Manager's reasonable judgment, the amount or type of insurance carried by DEVELOPER has become inadequate.

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

DEVELOPER hereby agrees to waive rights of subrogation which any insurer of DEVELOPER may acquire from DEVELOPER by virtue of the payment of any loss. DEVELOPER agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CITY or DISTRICT has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County of Riverside, CITY, and the Riverside County Flood Control and Water Conservation District for all work performed by the DEVELOPER, its employees, agents, contractors and subcontractors.

The insurance required by this section must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the DEVELOPER must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.

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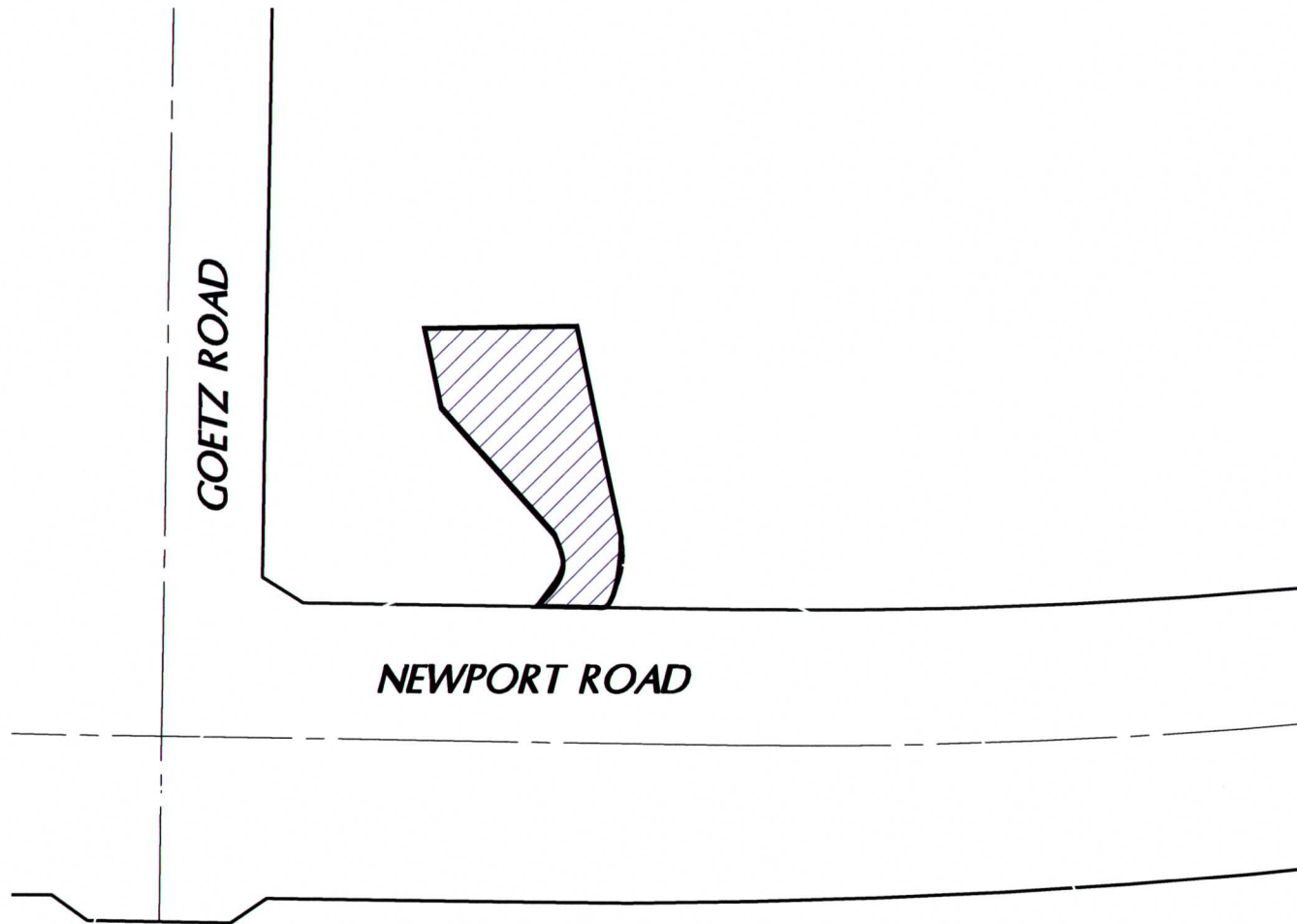


EXHIBIT C

Salt Creek - Audie Murphy Ranch Line A and Laterals, Stage 1

Salt Creek Audie Murphy Ranch Line J and Laterals, Stage 1

Salt Creek Audie Murphy Ranch Line J and Laterals, Stage 2

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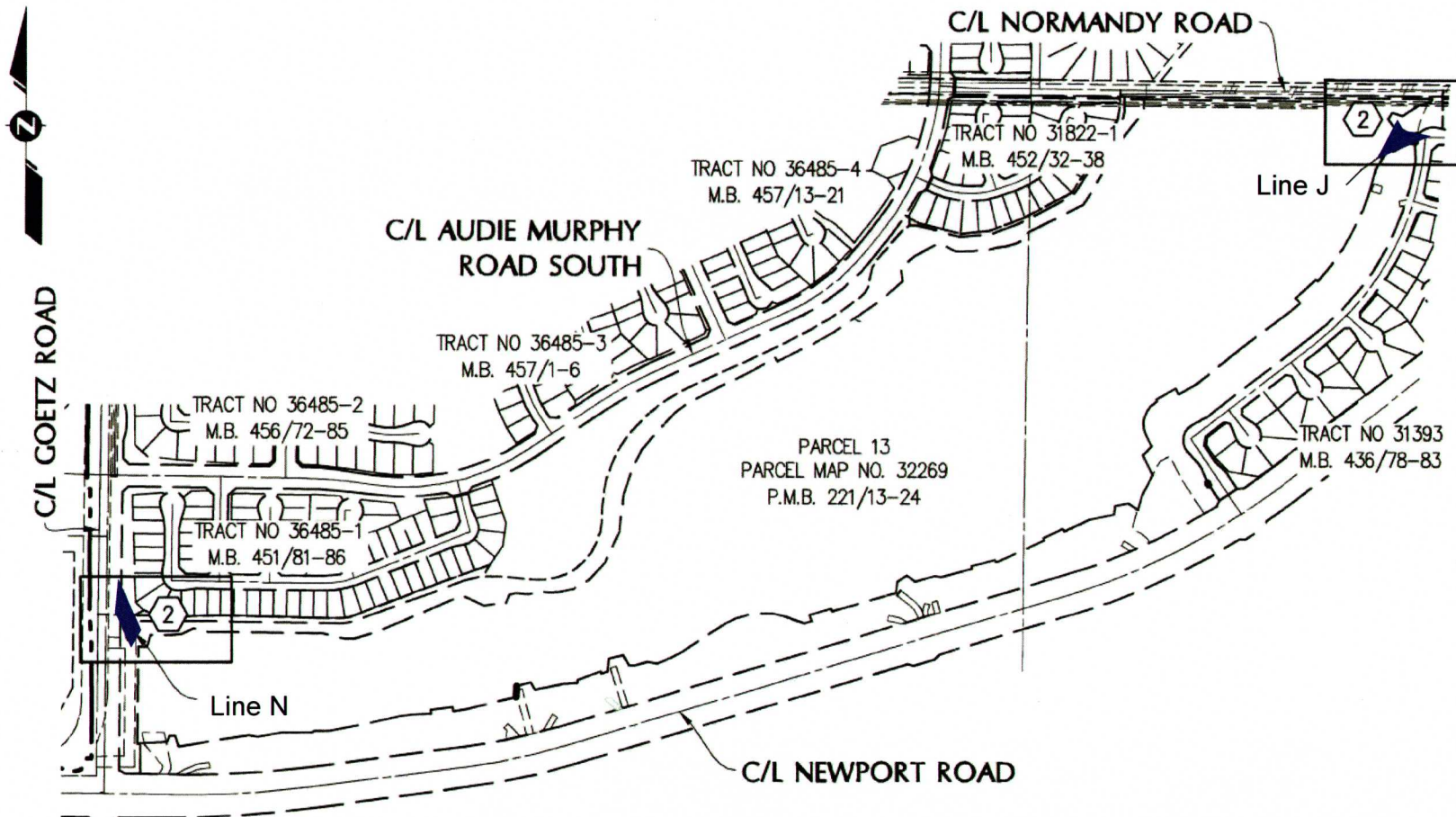


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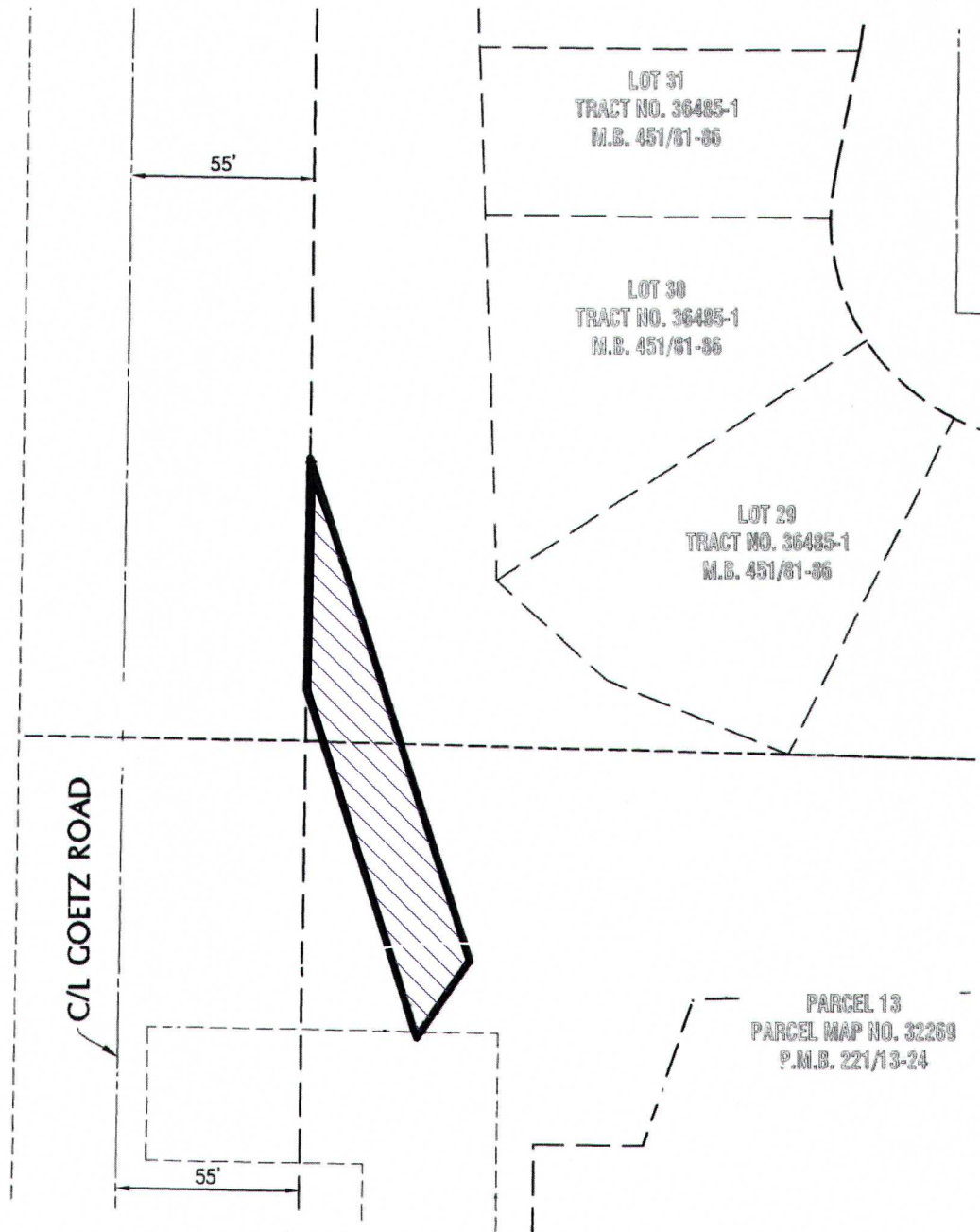


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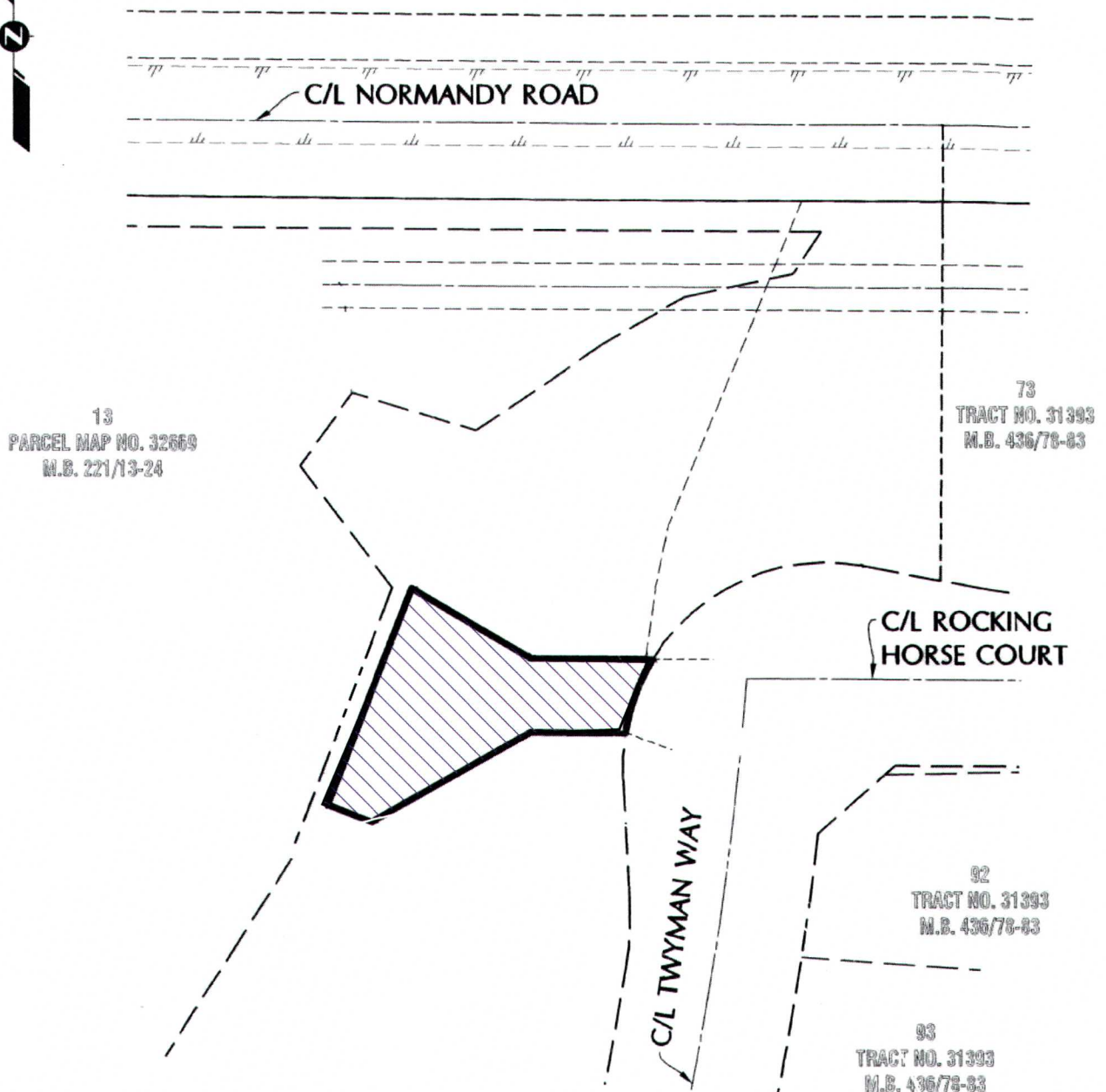


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