

COOPERATIVE AGREEMENT

Sun City - Encanto Drive Storm Drain, Stage 2
 Sun City - Pennywhistle Way Storm Drain, Stage 2
 Project Nos. 4-0-00333 and 4-0-00208
 Tract Map Nos. 37408 and 37409

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

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the County of Riverside. DEVELOPER has submitted for approval Tract Map Nos. 37408 and 37409 located in the city of Menifee. As a condition of approval, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER's planned development; and

B. The legal description of Tract Map Nos. 37408 and 37409 are provided in Exhibit "A", attached hereto and made a part hereof; and

C. The required flood control facilities and drainage improvements are shown on DISTRICT Drawings described in subparagraphs (i) through (ii) below, the relevant portions of which are shown in concept on Exhibit "B", attached hereto and made a part hereof, and include the construction of:

- i. DISTRICT Drawing No. 4-1196:
 - a. Approximately 1,935 lineal feet of 12'W x 4'H double reinforced concrete box ("RCB") and its associated structures ("ENCANTO DRIVE STAGE 2"). ENCANTO DRIVE STAGE 2, as shown on the plans as Line G-2 and in concept

in Exhibit "B", attached hereto and incorporated herein by reference, and as shown on DISTRICT Drawing No. 4-1196. At its downstream terminus, ENCANTO DRIVE STAGE 2 will connect to the proposed Sun City - Encanto Drive Storm Drain, Stage 1 facility. At its upstream terminus, ENCANTO DRIVE STAGE 2 terminates with a concrete bulkhead for future extension.

ii. DISTRICT Drawing No. 4-1207:

- a. Approximately 105 lineal feet of underground storm drain system, its associated structures ("PENNYWHISTLE WAY STAGE 2"). PENNYWHISTLE WAY STAGE 2, as shown on the plans as Line J-2, and in concept in the Exhibit "B", attached hereto and incorporated herein by reference, and as shown on DISTRICT Drawing No. 4-1207. At its downstream terminus, PENNYWHISTLE WAY STAGE 2 will connect to the proposed Sun City - Pennywhistle Way Storm Drain, Stage 1 facility.

- iii. All safety devices requested by DISTRICT, including, but not limited to, concrete pads, slope protection barriers, signage and fencing ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER's contractor and subject to DISTRICT inspection and approval. Together, ENCANTO DRIVE STAGE 2, PENNYWHISTLE WAY, STAGE 2 and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

D. Associated with the construction of DISTRICT FACILITIES is the construction of certain catch basins, inlets, connector pipes, curbs and gutters and various lateral storm drains that are thirty-six inches (36") or less in diameter that are located within CITY held easements or rights of way, as depicted in DISTRICT Drawing Nos. 4-1196 and 4-1207, hereinafter called "APPURTENANCES"; and

E. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

F. On or about September 29, 2022, DISTRICT and DEVELOPER entered into a Right of Entry and Inspection Agreement that authorizes DEVELOPER to construct DISTRICT FACILITIES. Pursuant to the Right of Entry and Inspection Agreement, DEVELOPER has commenced construction of the At-Risk Portions of DISTRICT FACILITIES; and

G. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore, DISTRICT must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect the construction of DISTRICT FACILITIES; and

H. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must review and approve DEVELOPER's plans and specifications for PROJECT and subsequently inspect and approve the construction of PROJECT; and

I. DISTRICT is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES and (iii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, provided DEVELOPER does all of the following: (a) complies with the terms of this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved

plans and specifications, and (c) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES and CITY accepts ownership and responsibility for the operation and maintenance of APPURTENANCES; and

J. CITY is willing to (i) review and approve DEVELOPER's plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES, (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES within CITY rights of way subject to the terms of this Agreement, and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided DEVELOPER does all of the following: (a) complies with the terms of this Agreement, (b) constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications, (c) obtains and conveys to CITY all rights of way necessary for the inspection, operation and maintenance of APPURTENANCES as set forth herein, and (d) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES and CITY accepts ownership and responsibility for the operation and maintenance of APPURTENANCES; and

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

L. 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. Prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their respective review and approval.
2. Continue to pay DISTRICT and CITY, within thirty (30) calendar 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 and CITY costs associated with the review and implementation of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this Agreement.
3. Deposit with DISTRICT (Attention: Business Office - Accounts Receivable), at the time of providing written notice to DISTRICT and CITY of the start of PROJECT construction as set forth in Section I.8, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time the inspection costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with DISTRICT, DEVELOPER shall pay such additional amount(s) as deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT FACILITIES within thirty (30) calendar days after receipt of billing from DISTRICT.

4. Deposit with CITY, at the time of providing written notice to DISTRICT and CITY of the start of PROJECT construction as set forth in Section I.8, the estimated cost of providing construction inspection for PROJECT, in an amount as determined and approved by CITY in accordance with CITY's municipal code and regulations. If at any time the inspection costs exceed the deposit or are anticipated by CITY to exceed the deposit with CITY, DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by CITY to complete inspection of PROJECT, within thirty (30) calendar days after receipt of billing from CITY.

5. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of PROJECT. DEVELOPER shall furnish DISTRICT and CITY with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry, as determined and approved by DISTRICT and CITY, at the time of providing written notice to DISTRICT and CITY of the start of construction as set forth in Section I.8 or not less than twenty (20) calendar days prior to recordation of the final maps for Tract Map Nos. 37408 and 37409 or any phase thereof, whichever occurs first.

6. Prior to commencing construction, furnish DISTRICT and CITY with copies of all permits, approvals or agreements required by any federal, state, or local resource and/or regulatory agency for the construction, operation and maintenance of PROJECT. Such documents 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 ("REGULATORY PERMITS").

7. Provide CITY, at the time of providing written notice to DISTRICT (Attention: Contract Services Section) and DISTRICT of the start of construction as set forth in

Section I.8 or not less than twenty (20) calendar days prior to recordation of the final maps for Tract Map Nos. 37408 and 37409 or any phase thereof, whichever occurs first, with faithful performance and payment bonds, each in the amount of one hundred percent (100%) of the estimated cost for construction of DISTRICT FACILITIES and APPURTENANCES as determined by DISTRICT and CITY, respectively. The surety, amount and form of the bonds shall be subject to the approval of DISTRICT and CITY. The bonds shall remain in full force and effect until DISTRICT FACILITIES and APPURTENANCES are accepted by DISTRICT and CITY as complete; at which time, the bond amount may be reduced to ten percent (10%) for a period of one (1) year to guarantee against any defective work, labor or materials.

8. Notify DISTRICT (Attention: Contract Services Section) and CITY in writing at least twenty (20) calendar days prior to the start of construction of PROJECT. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT and CITY have issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction of PROJECT.

9. 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.

10. If applicable, obtain and provide DISTRICT (Attention: Plan Check Section) and CITY, at the time of providing written notice to DISTRICT and CITY of the start of construction as set forth in Section I.8 or not less than twenty (20) calendar days prior to the recordation of the final maps for Tract Map Nos. 37408 and 37409, 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 for the construction, inspection, operation and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be provided to CITY to accept on behalf of DISTRICT,

in a form approved by DISTRICT, and shall be executed by all legal and equitable owners of the property described in the offer(s).

11. If applicable, furnish DISTRICT (Attention: Plan Check Section), when submitting the Irrevocable Offer(s) of Dedication as set forth in Section I.10, with Preliminary Reports on Title dated not more than thirty (30) calendar days prior to date of submission of all the property described in the Irrevocable Offer(s) of Dedication.

12. Furnish DISTRICT (Attention: Contract Services Section) and CITY, at the time of providing written notice to DISTRICT and CITY of the start of construction as set forth in Section I.8, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

13. Furnish DISTRICT (Attention: Contract Services Section) and CITY, at the time of providing written notice to DISTRICT and CITY of the start of construction as set forth in Section I.8, a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor proposes to carry out the various parts of work for the PROJECT, including estimated construction start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT and/or CITY.

14. Furnish DISTRICT with final mylar plans ("RECORD DRAWINGS") for PROJECT and assign their ownership to DISTRICT prior to the start of construction on any portion of PROJECT.

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

16. Comply with all Cal/OSHA safety regulations, including, but not limited to, regulations concerning confined space and maintain a safe working environment for DEVELOPER, DISTRICT and CITY employees on the site.

17. Furnish DISTRICT (Attention: Contract Services Section) and CITY, at the time of providing written notice to DISTRICT and CITY of the start of construction as set forth in Section I.8, 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 and CITY prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT and CITY authorization to proceed, as provided in Section I.8.

18. DEVELOPER shall not commence operations until DISTRICT and CITY have been furnished with original certificate(s) of insurance and original certified copies of endorsements and, if requested, certified original policies of insurance including all endorsements and any and all other attachments. Prior to DISTRICT issuing a Notice to Proceed to DEVELOPER and/or DEVELOPER's construction contractor(s) to begin construction of PROJECT, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT (Attention: Contract Services Section) and CITY. At minimum, the procured insurance coverages should adhere to DISTRICT and CITY required insurance provided in Exhibit "C", attached hereto and made a part hereof.

Failure to maintain the insurance required by the above paragraph shall be deemed a material breach of this Agreement and shall authorize and constitute authority for DISTRICT or CITY, at their sole discretion, to provide written notice to DEVELOPER that either DISTRICT or CITY will no longer be required to perform their obligations of this Agreement, nor accept

responsibility for ownership, operation and maintenance of DISTRICT FACILITIES or APPURTENANCES due, either in whole or in part, to DEVELOPER's said breach of this Agreement.

19. Construct or cause to be constructed PROJECT at DEVELOPER's sole cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS and all terms of this Agreement.

20. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Construction Management Section) and CITY with written notice that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.

21. If right of way conveyance to DISTRICT is required, upon completion of PROJECT construction and upon acceptance by CITY of all rights of way deemed necessary by DISTRICT and CITY for the operation and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s) and/or grant deeds, including ingress and egress, for the rights of way, as shown in concept in hatching on Exhibit "D", attached hereto and made a part hereof.

22. At the time of recordation of the conveyance document(s) as set forth in Section I.21, furnish DISTRICT (Attention: Plan Check Section) with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT or (ii) one hundred percent (100%) of the estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT 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 discretion of DISTRICT, are acceptable.

23. Accept ownership and sole responsibility for the operation and maintenance of PROJECT, and all liability whatsoever associated with such ownership, operation and maintenance of PROJECT until such time as (i) DISTRICT FACILITIES are formally accepted by DISTRICT for ownership, operation and maintenance, and (ii) APPURTENANCES are formally accepted by CITY for ownership, operation and maintenance.

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

25. Upon completion of PROJECT construction, but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, and CITY acceptance of APPURTENANCES 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 and CITY with a redlined RECORD DRAWINGS copy of PROJECT plans. After DISTRICT and CITY approval of the redlined RECORD DRAWINGS, DEVELOPER's engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT's original RECORD DRAWINGS at DISTRICT's office, after which the engineer shall review, stamp and sign the original PROJECT engineering plans RECORD DRAWINGS.

26. 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.

SECTION II

DISTRICT shall:

1. Review IMPROVEMENT PLANS and approve when DISTRICT has determined that such plans meet DISTRICT standards and are found acceptable to DISTRICT prior to the start of PROJECT construction.

2. Provide CITY an opportunity to review and, if CITY deems appropriate in its sole and absolute discretion, approve IMPROVEMENT PLANS prior to DISTRICT final approval. DISTRICT shall not approve IMPROVEMENT PLANS until CITY has provided its approval pursuant to this Section.

3. Upon execution of this Agreement, record or cause to be recorded a copy of this Agreement on the property through the Official Records of the Riverside County Recorder.

4. If applicable, DISTRICT shall request CITY 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. If applicable, DISTRICT shall then record or cause to be recorded, the Irrevocable Offer(s) of Dedication pursuant to Section I.10. Neither this Section nor Section I.10 restricts CITY's ability to require any other lawful Irrevocable Offer(s) of Dedication from DEVELOPER.

5. Inspect construction of DISTRICT FACILITIES.

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

7. Keep an accurate accounting of all DISTRICT construction inspection costs and, within forty-five (45) calendar 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.3 exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) calendar days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.

8. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, DISTRICT 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, DISTRICT FACILITIES or PROJECT are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

9. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES from DEVELOPER upon (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.20, (ii) DISTRICT acceptance of DISTRICT FACILITIES construction as being complete in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS, (iii) DISTRICT receipt of stamped and signed RECORD DRAWINGS of PROJECT plans, as set forth in Section I.25, (iv) DISTRICT acceptance of all rights of way as deemed necessary by DISTRICT and CITY for the ownership, operation, and maintenance of DISTRICT FACILITIES and APPURTENANCES, (v) DISTRICT receipt of the related policies of title insurance, as set forth in Section I.22, (vi) CITY acceptance of APPURTENANCES for ownership, operation, and maintenance, and (vii) DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition. If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

10. Provide CITY with a reproducible duplicate copy of the RECORD

DRAWINGS of PROJECT plans within ten (10) calendar days of receipt.

11. In the event CITY wishes to utilize DISTRICT construction inspection, materials testing and construction survey services, and CITY provides DISTRICT with a written request for such services under Section III.3, 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 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. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.
2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.7, and hold said bonds as provided herein.
3. Inspect PROJECT construction or cause PROJECT construction to be inspected by its construction manager, to be reimbursed by DEVELOPER. In the event CITY wishes to utilize DISTRICT construction inspection, materials testing and construction survey services, CITY shall provide DISTRICT with a written request (Attn: Construction Management Section) for such services pursuant to Section II.11.
4. 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.

5. 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 public health and safety.

6. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon (i) DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, (ii) CITY inspection of PROJECT in accordance with Section I.20, (iii) CITY and DISTRICT acceptance of PROJECT construction as being complete in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS, (iv) CITY receipt of signed reproducible duplicate copy of RECORD DRAWINGS of PROJECT plans, as set forth in Section II.10, (v) CITY acceptance of all rights of way as deemed necessary by DISTRICT and CITY for the ownership, operation, and maintenance of DISTRICT FACILITIES and APPURTENANCES, and the (vi) CITY's sole determination that PROJECT is in a satisfactorily maintained condition. In addition to the foregoing, CITY acceptance under this section shall not be effective until DISTRICT acceptance of DISTRICT FACILITIES under Section II, above. As such, until DISTRICT accepts DISTRICT FACILITIES, the ownership and maintenance obligations regarding APPURTENANCES shall be the sole responsibility of DEVELOPER.

7. Release occupancy permits in accordance with the approved conditions of approval.

8. Notwithstanding any of the foregoing, prior to accepting ownership of

APPURTENANCES, 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, APPURTENANCES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

9. 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. DEVELOPER shall complete construction of PROJECT within thirty-six (36) consecutive months after execution of this Agreement and within two hundred forty (240) consecutive calendar days after commencing work on PROJECT, unless CITY and DISTRICT agree to extend the time to complete construction. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER's surety to pay to CITY the penal sum of any and all bonds. In which case, CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred from the proceeds of any funds received from DEVELOPER's surety to the extent any are received.

4. If DEVELOPER fails to commence construction of PROJECT within nine (9) months after execution of this Agreement, then DISTRICT and CITY reserve the right to withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at the time DEVELOPER provides written notification to DISTRICT and CITY of the start of construction as set forth in Section I.8. In the event of a change in the existing site conditions that materially affects PROJECT function or DISTRICT ability to operate and maintain DISTRICT FACILITIES or CITY ability to operate and maintain APPURTENANCES, DISTRICT or CITY may require DEVELOPER to modify IMPROVEMENT PLANS as deemed necessary by DISTRICT or CITY. Under no circumstances shall either DISTRICT or CITY be allowed to modify the IMPROVEMENT PLANS without the consent of the other.

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

In the event DEVELOPER wishes to expedite issuance of the Notice(s) to Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at

DEVELOPER's sole cost and expense. DEVELOPER shall furnish appropriate documentation of the individual's credentials and experience to DISTRICT and CITY for review and, if appropriate, approval as determined by DISTRICT and CITY in their reasonable discretion. DISTRICT and CITY shall review the individual's qualifications and experience and, upon approval by DISTRICT and CITY, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act on DISTRICT and CITY behalf on all PROJECT construction and quality control matters. If DEVELOPER's initial construction inspection deposit furnished pursuant to Section I.3. exceeds Ten Thousand Dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER's initial inspection deposit within forty-five (45) calendar days of DISTRICT approval of DEPUTY INSPECTOR; however, a minimum balance of Ten Thousand Dollars (\$10,000) shall be retained on account.

6. PROJECT construction work shall be on a five (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT or CITY designated legal holidays, unless otherwise approved in writing by DISTRICT and CITY. If DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written request for permission to DISTRICT and CITY to work the additional hours. The request shall be submitted to DISTRICT and CITY at least seventy-two (72) hours prior to the requested additional work hours and state the reasons for the overtime and the specific time frames required. The decision of granting permission for overtime work shall be made by DISTRICT and CITY, whose respective decisions can be given at their sole discretion and shall be final. If permission is granted by DISTRICT and CITY, DEVELOPER will be charged the cost incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside, as well as CITY applicable fee schedule and/or other related ordinance or regulation. Notwithstanding the foregoing, should DISTRICT agree to provide

inspection and management services to CITY pursuant to a request by CITY under Section II.11 and Section III.3, above, CITY can also agree to not require its consent under this section.

7. INDEMNIFICATION OBLIGATIONS:

- i. DEVELOPER INDEMNIFICATION OF DISTRICT AND COUNTY OF RIVERSIDE. DEVELOPER shall indemnify and hold harmless DISTRICT and County of Riverside including their 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 indemnification obligations to DISTRICT INDEMNITEES as set forth herein.

DEVELOPER indemnification obligations hereunder shall be satisfied when DEVELOPER has provided to DISTRICT and County of Riverside the appropriate form of dismissal (or similar document) relieving DISTRICT and 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, councilmembers, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives, (individually and 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, agents or representatives) actual or alleged acts or omissions related to this Agreement, DEVELOPER performance under this Agreement or DEVELOPER 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 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 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 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 the DEVELOPER from indemnifying DISTRICT INDEMNITEES or CITY INDEMNITEES to the fullest extent allowed by law.

8. DEVELOPER for itself, its successors and assigns hereby releases DISTRICT, 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 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 ownership, operation and maintenance of DISTRICT FACILITIES by DISTRICT.

9. Any waiver by any Party 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 any Party 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 any Party from enforcement hereof.

10. 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.

11. Any and all notices sent or required to be sent to 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: Daniel Padilla, City Engineer
Land Development Section

To DEVELOPER: BLC FLEMING LLC
100 Bayview Circle, Suite 240
Newport Beach, CA 92660
Attn: Noah Shih

12. 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.

13. 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.

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

15. 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.

16. 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.

17. 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.

18. 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

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT,**
a body politic

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:

MINH C. TRAN
County Counsel

ATTEST:

KIMBERLY RECTOR
Clerk of the Board

By _____
CAROLINE K. MONROY
Deputy County Counsel

By _____
Deputy

(SEAL)

[SIGNED IN COUNTERPART]

Cooperative Agreement with City of Menifee and BLC Fleming LLC:
Sun City – Storm Drains Infrastructure C
Project Nos. 4-0-00333 and 4-0-00208
Tract Map Nos. 37408 and 37409
AMR:blm
06/26/23

RECOMMENDED FOR APPROVAL: **CITY OF MENIFEE**

By _____
DANIEL PADILLA
City Engineer

By _____
ARMANDO G. VILLA
City Manager

APPROVED AS TO FORM:

ATTEST:

By _____
JEFFREY T. MELCHING
City Attorney

By _____
SARAH MANWARING
City Clerk

(SEAL)

Cooperative Agreement with City of Menifee and BLC Fleming LLC:
Sun City – Storm Drains Infrastructure C
Project Nos. 4-0-00333 and 4-0-00208
Tract Map Nos. 37408 and 37409
AMR:blm
06/26/23

BLC FLEMING LLC,
a Delaware limited liability company

By 

NAME: **Eric Koff**
Title: **Senior Vice President**

By 

NAME: **Richard S. Whiteley**
Title: **Executive Vice President**

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement with City of Menifee and BLC Fleming LLC:
Sun City – Storm Drains Infrastructure C
Project Nos. 4-0-00333 and 4-0-00208
Tract Map Nos. 37408 and 37409
AMR:blm
06/26/23

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

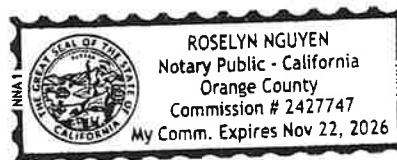
On July 7, 2023 before me, Roselyn Nguyen, Notary Public
(insert name and title of the officer)

personally appeared Eric Koff and Richard S. Whiteley,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature [Signature]



(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MENIFEE IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 2 AND LETTERED LOTS D AND I OF PARCEL MAP NO. 37379, IN THE CITY OF MENIFEE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 250, PAGES 47 THROUGH 51, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL UNDERGROUND WATER, SUBJECT ONLY TO THE RIGHT OF THE OWNER TO DIG OR DRILL WELLS AND TAKE SUCH WATER THEREFROM AS MAY BE REASONABLY NECESSARY FOR DOMESTIC USE AND WATERING OF STOCK ON SAID LAND, BUT NOT ELSEWHERE, AND FOR NO OTHER PURPOSES, AS RESERVED BY THE TEMESCAL WATER COMPANY IN DEED RECORDED JANUARY 13, 1920 IN BOOK 516, PAGE 120 OF DEEDS.

APN: 330-020-018, APN: 330-020-019, APN: 333-030-029

PARCEL B:

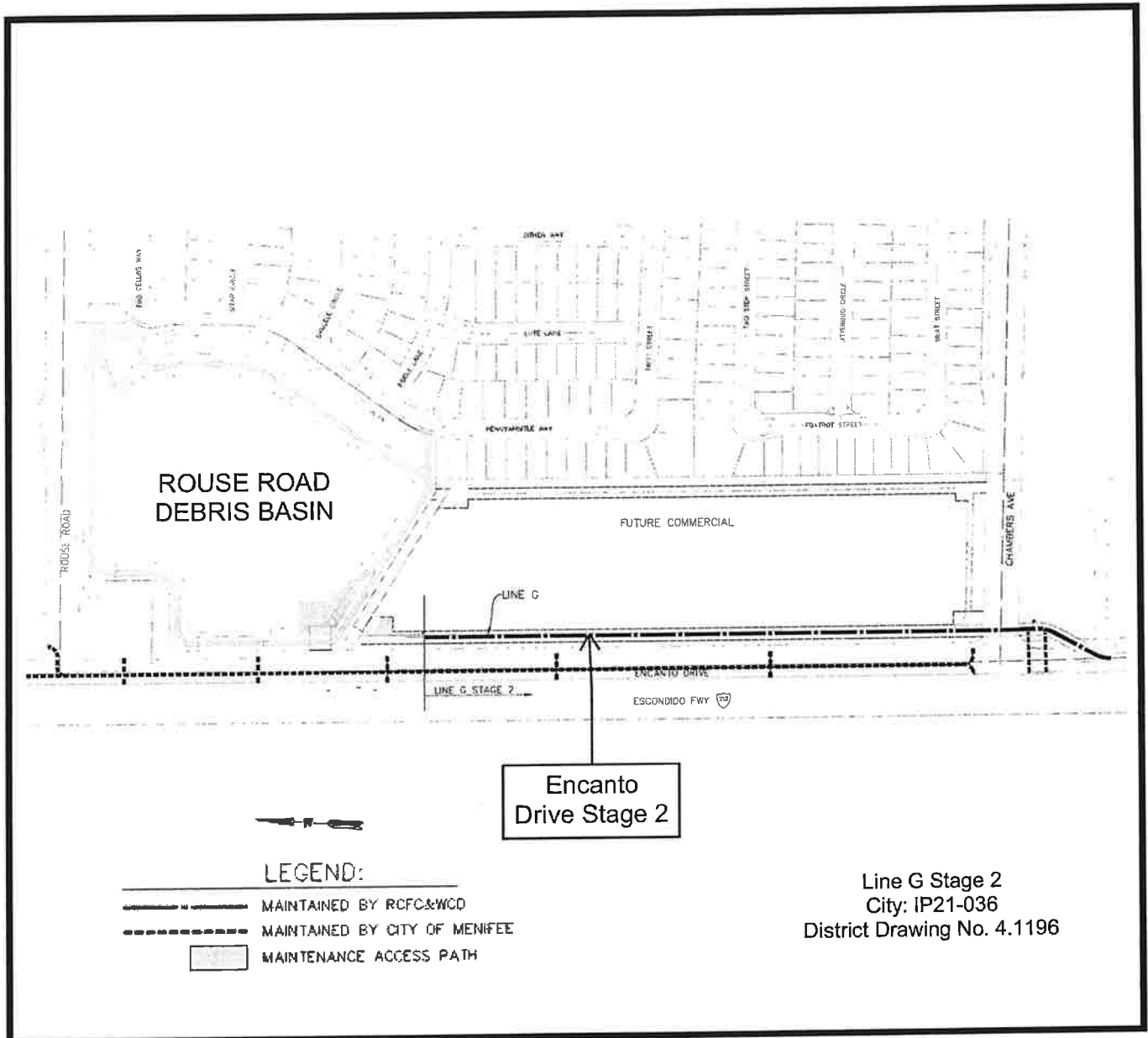
PARCEL "A" OF CERTIFICATE OF COMPLIANCE NO. COM 16-001 , RECORDED MAY 26, 2016 AS INSTRUMENT NUMBER 2016-0215840 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN THE CITY OF MENIFEE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ALSO BEING THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 22; THENCE ALONG THE EASTERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, SOUTH 00°08'25" EAST A DISTANCE OF 2694.57 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE ALONG THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, NORTH 88°30'29" WEST A DISTANCE OF 2629.49 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE ALONG THE WESTERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, NORTH 00°06'35" WEST A DISTANCE OF 2657.18 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, SOUTH 89° 19'21" EAST A DISTANCE OF 2627.27 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL UNDERGROUND WATER, SUBJECT ONLY TO THE RIGHT OF THE OWNER TO DIG OR DRILL WELLS AND TAKE SUCH WATER THEREFROM AS MAY BE REASONABLY NECESSARY FOR DOMESTIC USE AND WATERING OF STOCK ON SAID LAND, BUT NOT ELSEWHERE, AND FOR NO OTHER PURPOSES, AS RESERVED BY THE TEMESCAL WATER COMPANY IN DEED RECORDED JANUARY 13, 1920 IN BOOK 516, PAGE 120 OF DEEDS.

APN: 333-020-011

Exhibit B



Sun City Storm Drains - Infrastructure Phase C
Project Nos. 4-0-00333 and 4-0-00208
Tract Map Nos. 37408 and 37409

Exhibit B

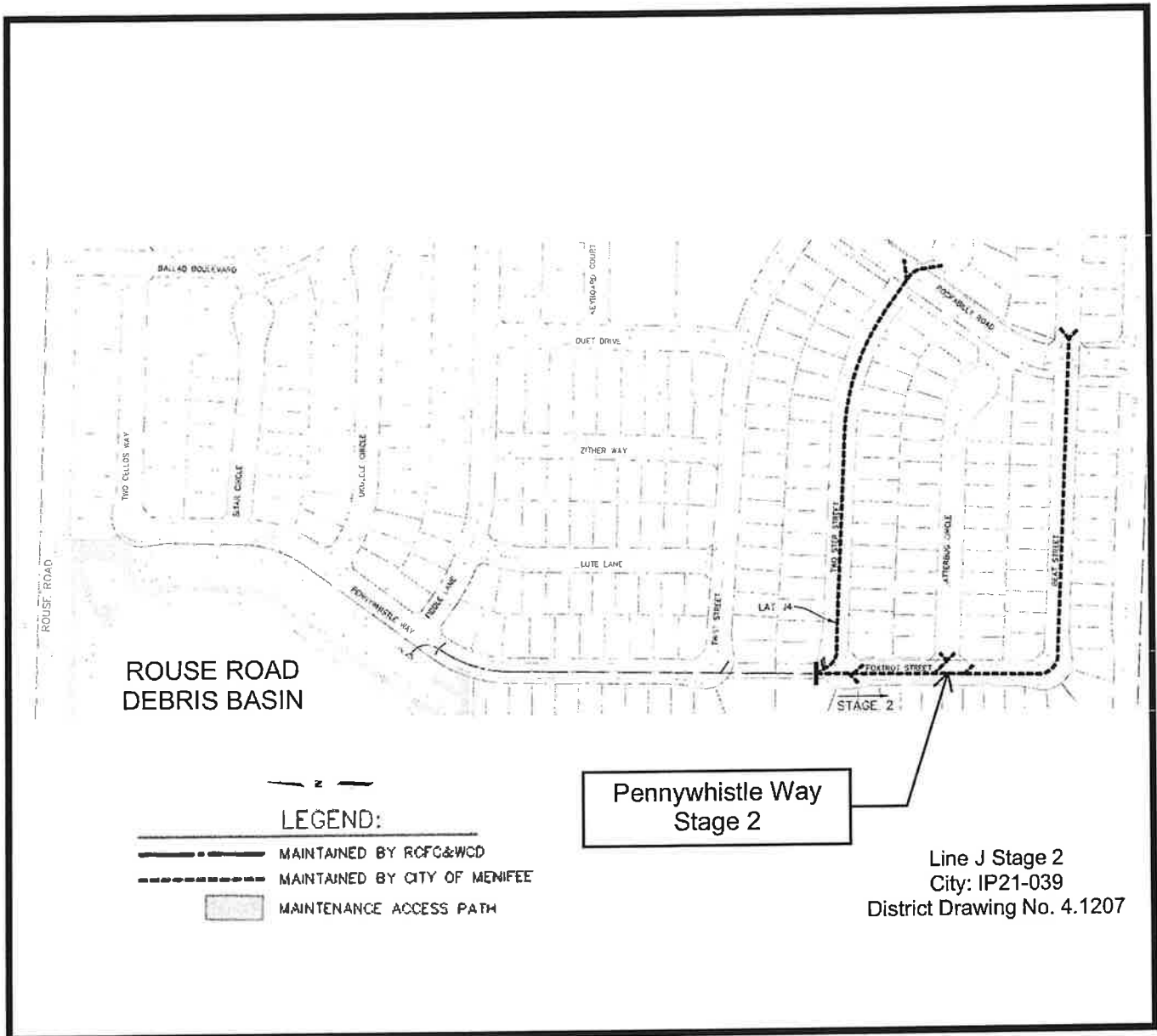


Exhibit C

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. 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.

COOPERATIVE AGREEMENT

Exhibit C

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 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. Pollution and Asbestos Liability:

DEVELOPER or its construction contractor(s) shall obtain, at its sole expense and keep in effect during the term of the contract, Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) covering DEVELOPER's or its construction contractor(s) liability for a third party bodily injury and property damage arising from pollution conditions caused by the DEVELOPER or its construction contractor(s) while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to

Exhibit C

the insurer must be accepted by the DISTRICT and CITY. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance.

DEVELOPER or its construction contractor(s) shall maintain Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this contract. Any self-insured retention/deductible amount shall be submitted to the DISTRICT and CITY for review and approval. If DEVELOPER or its construction contractor(s) maintains broader coverage and/or higher limits than the minimums shown above, the DISTRICT and CITY require and shall be entitled to the broader coverage and/or higher limits maintained by DEVELOPER or its construction contractor(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT and CITY.

In the event, DEVELOPER or its construction contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, DEVELOPER or its construction contractor(s) shall immediately stop work in the area affected and report the condition to the DISTRICT and CITY in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the DISTRICT, CITY, and DEVELOPER, if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the DISTRICT, CITY, and DEVELOPER.

DEVELOPER or its construction contractor(s) shall not be required to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

F. 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.

COOPERATIVE AGREEMENT

Exhibit C

- 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 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

COOPERATIVE AGREEMENT

Exhibit C

CITY's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

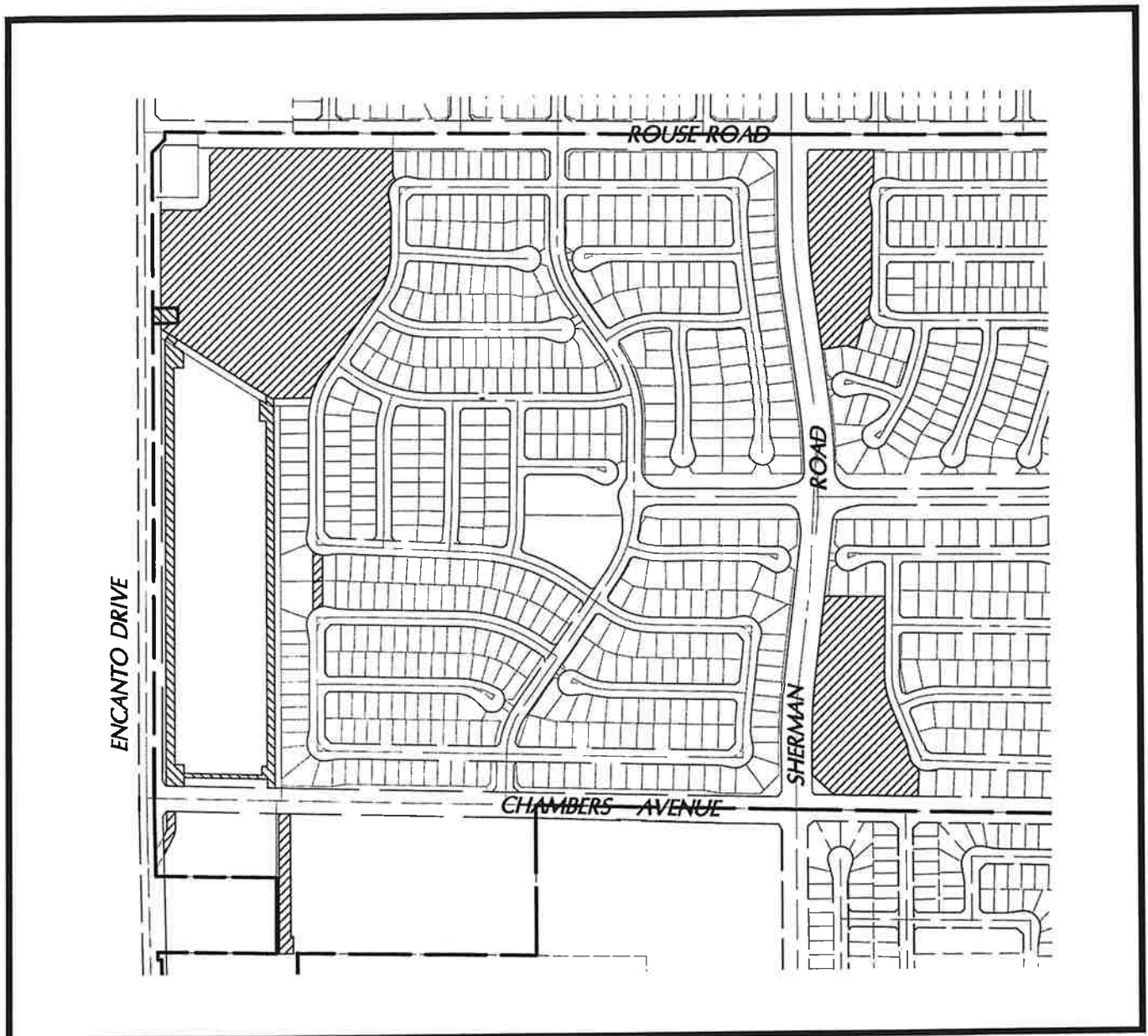
- vi. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, 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.

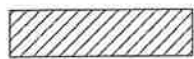
The insurance required by this section must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract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

COOPERATIVE AGREEMENT

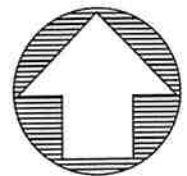
Exhibit D



LEGEND



CROSS-HATCH EASEMENT



Sun City Storm Drains
Infrastructure Phases A, B and C
Tract Map Nos. 37408 and 37409