

**WHEN RECORDED RETURN TO:**

1546024868330-5-23-23--  
Sotor

First American Title Insurance Company  
2425 East Camelback Road, Suite 300  
Phoenix, Arizona 85016  
Attention: Tom Anzaldua

914910

20/20

**MEMORANDUM OF AGREEMENT  
(Zanjero Trails Phase 1C)  
Parcel 37B Tracts**

THIS MEMORANDUM OF AGREEMENT (this "**Memorandum**") is made and entered into by and between **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, a political subdivision of the State of Arizona ("**MWD**"), and **SBH ZANJERO TRAILS LP**, an Arizona limited partnership ("**Owner**"), as of the 27 day of December, 2018.

**RECITALS**

- A. Essentially concurrently with the recordation of this Memorandum, Owner has acquired from MWD fee simple title to certain common area tracts situated in Maricopa County, Arizona, and legally described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "**Property**").
- B. The Property is included in lands covered by an Analysis of Assured Water Supply (the "**Analysis**") dated and effective as of April 4, 2005, by the Arizona Department of Water Resources ("**ADWR**") for Zanjero Trails and Zanjero Pass (the lands covered by the Analysis, including the Property, are hereinafter referred to as the "**Covered Lands**").
- C. As indicated in the Analysis, ADWR determined that 5,770.44 acre feet per year of groundwater will be physically and continuously available for the Covered Lands.
- D. A Certificate of Assured Water Supply No. 27-700994.0000 ("**CAWS**") has been issued by ADWR for Zanjero Trails Parcel 37B. The CAWS is for fifty-eight (58) residential lots and associated common area and rights of way with an annual water demand at full build-out of 22.15 acre feet. Owner has agreed to accept title to the Property subject to limitations on the Owner's use of the Analysis to prove the amount of groundwater physically and continuously available for development at the Property. For such purposes, MWD and Owner are recording this Memorandum.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state, confirm and agree as follows:

**AGREEMENT**

1. Limitations on Groundwater Usage. Owner hereby acknowledges, covenants and agrees that it will not utilize the Analysis to prove more than 2.41 acre feet of groundwater to be physically and continuously available for the Property in connection with any future development thereof, nor will Owner change the proposed uses for the Property (as

identified in Recital D above) so as to increase the water demand of the Property above 2.41 acre feet per year.

2. Enforcement. Owner hereby acknowledges, covenants and agrees that any breach of Owner's covenants as set forth in this Memorandum shall be enforceable by MWD in any manner permitted by law or in equity, including, without limitation, the equitable remedies of injunction and/or specific performance. In the event that MWD finds it necessary to bring any action at law or other proceeding against Owner to enforce the terms, covenants and conditions hereof, the party prevailing in any such action or proceeding shall be paid all reasonable costs and attorneys' fees by the nonprevailing party, all such attorneys' fees and costs to be set by the court and not by a jury.
3. Successors and Assigns; Run With the Land; Termination Upon Sale of Public Lot. The benefits and burdens of the obligations and covenants of Owner as set forth in this Memorandum shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that this Memorandum is not intended to create conditions or exceptions to title or covenants running with any "Public Lot" (as hereinafter defined). Therefore, in order to alleviate any concern as to the effect of this Memorandum on the status of title to any Public Lot, this Memorandum shall terminate without the execution or recordation of any further document or instrument as to any Public Lot. As used herein, the term "Public Lot" shall mean any individual lot or parcel that (a) is the subject of a recorded subdivision plat, (b) has been improved with a residential dwelling unit or other structure for which the owner thereof has received a certificate of occupancy, and (c) is sold to a third-party purchaser, other than a purchaser who acquires all of the Property or who acquires six (6) or more lots in one single transaction or series of transactions. Each Public Lot shall automatically be released from and no longer subject to or burdened by the provisions of this Memorandum.
4. Governing Law. This Memorandum shall be governed by and construed in accordance with the laws of the State of Arizona.

**SIGNATURE PAGES FOLLOW**

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement (Zanjero Trails Phase 1C) Parcel 37B Tracts as of the day and year first above written.

"MWD"

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE, a political subdivision of the State of Arizona

By: [Signature]  
Glen Vortherms, its General Manager

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

On this 20<sup>th</sup> day of December, 2018, before me, the undersigned officer, personally appeared Glen Vortherms, who acknowledged himself to be the General Manager of **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, a political subdivision of the State of Arizona:

X whom I know personally;  
\_\_\_\_\_ whose identity was proven to me on the oath of \_\_\_\_\_, a credible witness by me duly sworn;  
\_\_\_\_\_ whose identity I verified on the basis of his/her \_\_\_\_\_,

and he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:



**TRENA MESSER**  
Notary Public - Arizona  
Maricopa County  
Expires 10/19/2021

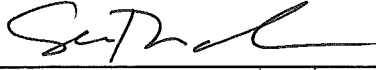
Trena Messer  
Notary Public

<b>Description of document this notarial certificate is being attached to:</b>	
Type/Title	Memorandum of Agreement
Date of Document	December <u>20</u> , 2018
Number of Pages	total (w/exhibit): 5
Add'l Signers (other than those named in this notarial certificate)	SBH ZANJERO TRAILS LP, an Arizona limited partnership

"OWNER"

**SBH ZANJERO TRAILS LP,**  
an Arizona limited partnership

By: AGS LLC, an Arizona limited liability  
company, its General Partner

By:   
Printed Name: Sean T. Walters  
Title: Manager

STATE OF ARIZONA            )  
  ) ss.  
COUNTY OF MARICOPA    )

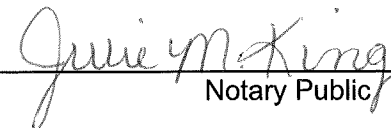
On this 20th day of December, 2018, before me, the undersigned officer, personally appeared Sean T. Walters, who acknowledged himself to be the Manager of AGS LLC, an Arizona limited liability company, the General Partner in SBH Zanjero Trails LP, an Arizona limited partnership:

whom I know personally;  
\_\_\_\_\_ whose identity was proven to me on the oath of \_\_\_\_\_, a credible witness by me duly sworn;  
\_\_\_\_\_ whose identity I verified on the basis of her/his \_\_\_\_\_,

and he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

  
Notary Public



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Date of Document	December <u>20</u> , 2018
Number of Pages	total (w/exhibit): 5
Add'l Signers (other than those named in this notarial certificate)	Maricopa County Municipal Water Conservation District Number One, a political subdivision of the State of Arizona

**Exhibit "A"**  
**to**  
**Memorandum of Agreement**

(Description of the Property)

TRACTS A, B, C, AND D, OF RE-PLAT OF ZANJERO TRAILS INFRASTRUCTURE PLAT – ZANJERO TRAILS PHASE 1C – PARCEL 37B, RECORDED IN BOOK 1436 OF MAPS, PAGE 34, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA.