

PINK COPY

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, California 94549
Attention: City Clerk/CS

11/19/2013, 20130272471

No Recording Fee--Exempt

TRAIL EASEMENT

SOLDIER FIELD PARTNERS, LLC, a California limited liability company, the owner of the herein described real property (together with its successors and assigns, "Grantor"), is the owner in fee of that certain real property in the City of Lafayette, County of Contra Costa, State of California, as more particularly described in Exhibit "A" attached hereto and made a part hereof ("Grantor Property"). Grantor is the applicant for subdivision application TR6569 relating to Grantor Property. The City of Lafayette is a California municipal corporation (together with its successors and assigns, "Grantee").

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, by this Grant of Trail Easement (this "Easement Agreement"), Grantor does hereby GRANT to Grantee, for the benefit of Grantee, and the general public, a permanent irrevocable, non-exclusive easement, in, to, over, across, under and through only those portions of Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, Lot 8, Parcel A and Parcel B which are shown on the Map as "Trail Easement", as shown on the Final Map of Tract 6569 filed for record on October 10, 2013, in Book 518 of Maps at Pages 1 through 7, inclusive, in the Official Records of the County of Contra Costa, State of California ("Map"), and as depicted in Exhibit "B" attached hereto and incorporated by this reference (the "Trail Easement") and for the purpose of entering upon the Trail Easement to conduct activities related to the installation, maintenance, repair and replacement of pedestrian trails (collectively, the "Trails") and the use thereof by the general public for recreational purposes, together with the right to grant all or a portion thereof to third parties subject to the requirements set forth below.

1. Force Majeure Events. Notwithstanding the attached description of the Easement Area, both Grantor and Grantee acknowledge that the Easement Area consists of dirt trails and vegetation that are subject to movement, degradation, erosion and destruction from various influences including, without limitation, earthquakes, floods, wind, rain or other acts of God or events beyond the control of Grantor or Grantee (collectively, and as applicable, "Force Majeure Events"). Accordingly, Grantor and Grantee agree that the Easement Area described herein is subject to movement and relocation as a result of any such Force Majeure Events. Upon the occurrence of any Force Majeure Event that results in the movement of the Easement Area or otherwise results in the total or partial destruction of the Trail Easement granted hereby, Grantor and Grantee agree to reasonably cooperate with each other in good faith in relocating the Easement Area or otherwise establishing a new Easement Area for the Trail Easement. In furtherance of the foregoing, Grantor and Grantee agree to execute and record an amendment to this Easement Agreement identifying and establishing the revised Easement Area.

2. Use of Trail Easement. The Trail Easement shall only be used by the public for ingress and egress over the Trails by pedestrians, emergency vehicles and those vehicles and equipment necessary for the construction, repair, replacement and maintenance of the improvements to be installed on the Trail Easement by the City. The Trail Easement shall not be used to gain access to any other portion of Grantor's property; all such access is expressly prohibited. Public use of the Trails shall be limited to daylight hours—dawn to dusk—only.

3. Prohibited Uses. Any activity on or use of the Trail Easement inconsistent with the purposes of the Trail Easement is prohibited. Without limiting the generality of the foregoing, the following uses are expressly prohibited on/in the Trail Easement:

(a) The Trail Easement is not to be used for access to the property while the property is being developed or improved unless such access is first approved by the City of Lafayette Planning Services Division. Any damage to the Trail Easement or Trail Easement caused by such use is to be repaired and paid for by Grantor as specified and approved by the Planning Services Division Staff.

(b) The Trail Easement is not to be encroached upon by fences, vegetation, earth mounds, drainage ditches, sheds, animal houses or structures of any kind.

(c) There shall be no dumping of rubbish, building materials, garden clippings, run off water, etc. on the Trail Easement.

(d) Any vegetation shall be planted at sufficient distance from the Trail Easement to ensure that present or future branches do not interfere with safe passage. If said branches do interfere with safe passage and Grantor does not remove them after being requested to do so by the City, the City shall have the right to remove said branches or growth at Grantor's expense.

(e) The Trail Easement shall be marked by the Grantor with permanent survey markers as required by the City of Lafayette's Parks, Trails, & Recreation Department.

(f) If the Trail Easement is over a private road or driveway or other area which the owner wishes to post with signs indicating "Private", then trail signs shall also be posted by the Parks, Trails & Recreation Department indicating the Trail Easement and showing appropriate identification and directions including the City of Lafayette logo.

(g) Public passage over the Trail Easement shall not be restricted or obstructed in any manner whether or not there is an established trail.

4. Trails. Notwithstanding the foregoing, in exercising its easement rights, Grantee covenants to Grantor, its successors and assigns that Grantee shall pay all costs associated with the installation of the Trails except for portions that lie along Lucas Ranch Road as shown on the Map. Upon completion of the installation of the Trails, the City shall accept sole responsibility for all costs and expenses related to the maintenance, repair and replacement of the Trails. Grantor is informed by Grantee and understands that members of the general public will have access to the Trail Easement once it has been improved with the Trail and additional Trail Easements have been acquired on properties that are adjacent to the Easement Area to make the Trails usable. Until such time, Grantor

shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Easement Area.

5. Successors and Assignment. The Trail Easement granted hereby shall run with the land and all of the rights and obligations of Grantor and Grantee under this Easement Agreement shall inure to the benefit of their respective successors, transferees and assigns. Grantee shall have the right to assign its rights and obligations under this Easement Agreement, provided that such assignment shall be in writing and shall specifically recite the assignee's agreement to all of the terms and conditions of this Easement Agreement.

6. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement Agreement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Easement Agreement, to restore the portion of the Easement Area so injured. If Grantor fails to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement Agreement, to enjoin the violation by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement Agreement or injury to any protected values, including damages for any loss thereof, and to require the restoration of the Easement Area to the condition that existed prior to any such injury. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the protected values of the Easement Area, Grantee may pursue its remedies under this paragraph without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement Agreement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement Agreement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement Agreement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement Agreement against Grantor, including, without limitation, costs of suit and attorneys' fees, and any costs or restoration necessitated by Grantor's violation of the terms of this Easement Agreement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Easement Agreement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

8. Grantee's Discretion. Enforcement of the terms of this Easement Agreement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement Agreement in the event of any breach of any term of this Easement Agreement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement Agreement or of any of Grantee's rights under this Easement

Agreement. No delay or omission by Grantee in the exercise of any right or remedy on any breach by Grantor shall impair such right or remedy or be construed as a waiver.

9. Hold Harmless. Prior to the City's installation of the Trails, Grantor shall hold harmless, indemnify, and defend Grantee and its officers, officials, employees, agents, and contractors and the heirs, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, except to the extent of the adjudicated proportionate fault of any of the Indemnified Parties.

10. General Provisions.

(a) Controlling Law. The interpretation and performance of this Easement Agreement shall be governed by the laws of the State of California.

(b) Severability. If any provision of this Easement Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

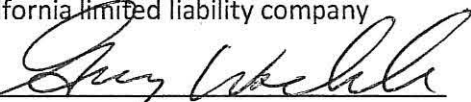
(c) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Agreement, all of which are merged herein.

**END OF EASEMENT
SIGNATURE PROVISIONS FOLLOW**

IN WITNESS WHEREOF, Grantor and Grantee have executed this Trail Easement on 9-11-2013.

"GRANTOR"*

SOLDIER FIELD PARTNERS, LLC,
a California limited liability company



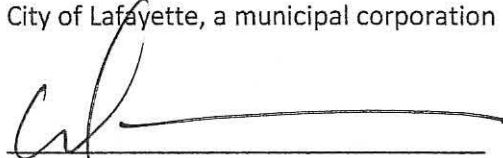
Managing Partner

Print Name: Greg Wehrle

Title: M. Member

"GRANTEE"

City of Lafayette, a municipal corporation



Mike Anderson, Mayor

*Signature must be notarized.

ATTACHMENTS:

- Exhibit "A" - Grantor Property
- Exhibit "B" - Trail Easement
- Acknowledgements

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of CONTRA COSTA

On 9/11/13 before me, MAY MUNAR "NOTARY PUBLIC"
Date Here Insert Name and Title of the Officer

personally appeared GREG WOETHRLE
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Place Notary Seal Above

Signature [Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TRAIL BASEMENT

Document Date: 9/11/13 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



EXHIBIT "A"
GRANTOR PROPERTY

The land referred to is situated in the County of Contra Costa, City of Lafayette, State of California, and is described as follows:

PARCEL ONE:

Portion of Section 4, Township 1 South, Range 2 West, Mount Diablo Base and Meridian, described as follows:

Beginning on the South line of the parcel of land described in the Deed from Garthwick, Incorporated, to E. B. M. Lafayette Co., recorded April 8, 1957, in Book 2960 of Official Records of Contra Costa County, Page 494, at the Southeast corner of the parcel of land described as Parcel One in the Deed from E. B. M. Lafayette Co., to DeWitt Investment Co., recorded July 14, 1959, in Book 3411 of Official Records of Contra Costa County, Page 381; thence from said point of beginning along the exterior lines of said E. B. M. Lafayette Co. Parcel (2690 OR 494) as follows: South 84° 41' 48" East, 1635.66 feet; North 20° 19' 45" West, 819.81 feet; North 19° 45' 16" West, 438.25 feet; North 21° 12' 40" West, 540.47 feet; North 31° 33' 03" West, 606.96 feet; North 30° 37' 50" West, 801.94 feet; North 31° 28' 49" West, 391.41 feet; North 37° 59' 35" West, 789.38 feet; North 36° 57' 16" West, 585.65 feet; North 83° 40' 28" West, 60.00 feet; South 0° 36' 22" West, 1315.64 feet and North 89° 52' 33" West, 373.97 feet to the Northeast line of Tract 2078 (Waverly Farms), filed June 3, 1955, in Book 58 of Maps, Page 28, Contra Costa County Records; thence along said Northeast line South 51° 55' 23" East, 491.69 feet and South 41° 56' 10" East, 765.88 feet to the Northeast line of Tract 2184 (Waverly Farms Unit No. 2), filed July 23, 1958, in Book 70 of Maps, Pages 21 and 22, Contra Costa County Records; thence along the exterior lines of said Tract 2184 (70 M 21 & 22), as follows: South 40° 37' East, 250.00 feet; South 31° 37' East, 132.00 feet; South 46° 37' East, 103.00 feet; South 54° 07' East, 148.00 feet; South 76° 07' East, 94.00 feet; South 65° 14' 04" East, 422.15 feet and South 23° 29' 31" West, 373.91 feet to the most Easterly corner of said DeWitt Investment Co., Parcel One (3411 OR 381); thence along the Northeast and East lines of said DeWitt Investment Co., Parcel One (3411 OR 381), South 68° 33' 21" West, 305.59 feet and South 9° 38' West, 875.00 feet to the point of beginning.

EXCEPTING THEREFROM:

1. All that portion thereof lying within Lot 15, Section 4, Township 1 South, Range 2 West, Mount Diablo Base and Meridian.
2. All that portion thereof lying within the parcel of land described as follows:

Beginning at the most Southerly corner of the 4.531 acre Parcel described as Parcel One in the Deed to Pacific Gas and Electric Company, recorded December 31, 1963, in Book 4522 of Official Records of Contra Costa County, Page 566; thence North 20° 20' 20" West, 534.78 feet along the Southwesterly line of Parcel One and Parcel Two in said Deed (4522 OR 566) said line also being the Southwesterly line of Parcel One in the Deed from Esther J. Dollar, et al, to State Mutual Life Assurance Company of America, recorded July 3, 1963, in Book 4400 of Official Records of Contra Costa County, Page 208, to the Southern line of the 40 foot easement

described in the document to Pacific Gas and Electric Company, recorded December 10, 1963, in Book 4508 of Official Records of Contra Costa County, Page 43; thence along said Southern line North 68° 30' 00" West, 93 feet; thence leaving said Southern line South 2° 43' 18" West, 160.79 feet; thence South 20° 20' 20" East, 237.00 feet; thence South 40° 20' 00" West, 137 feet; thence South 5° 19' 40" West, 113 feet to the Southern line of the property described in the Deed to E. B. M. Lafayette Company, recorded April 8, 1957, in Book 2960 of Official Records of Contra Costa County, Page 494; thence along said Southern line South 84° 40' 20" East, 333 feet to the Southwesterly line of the State Mutual Life Assurance Parcel (4400 OR 208); thence along last said line North 17° 43' 46" West, 11.28 feet and North 20° 20' 20" West, 90.05 feet, more or less, to the point of beginning.

PARCEL TWO:

A non-exclusive easement appurtenant to Parcel One above as granted from Richard Velasquez, et ux, in the instrument recorded June 28, 2004, Series No. 2004-248024, Contra Costa County Records, for the installation and maintenance of drainage facilities over the following described land:

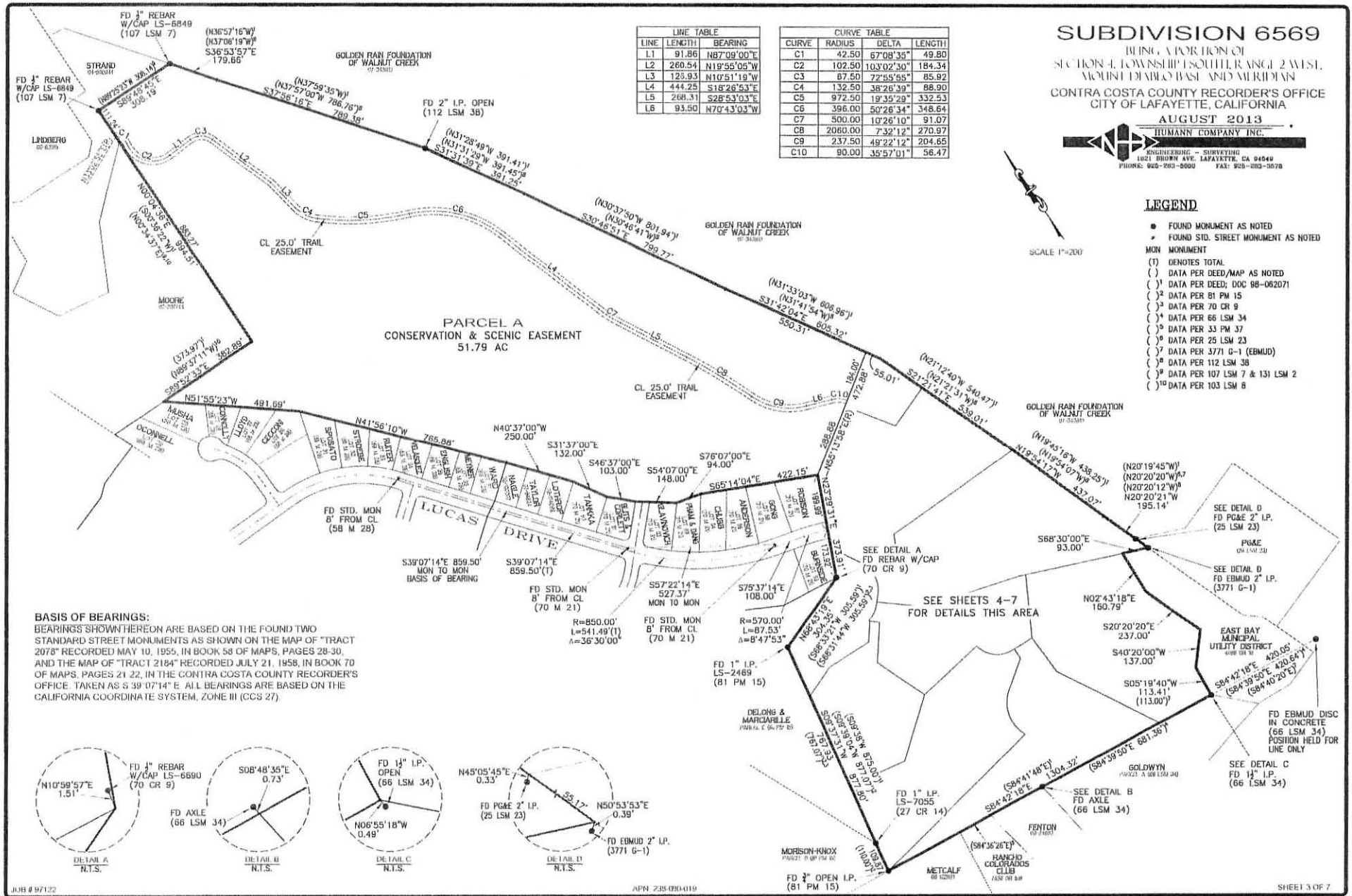
Portion of Lot 34, as said Lot is shown on Tract Map 2078, filed June 3, 1955, in Book 58 of Maps, Page 28, Contra Costa County Records, described as follows:

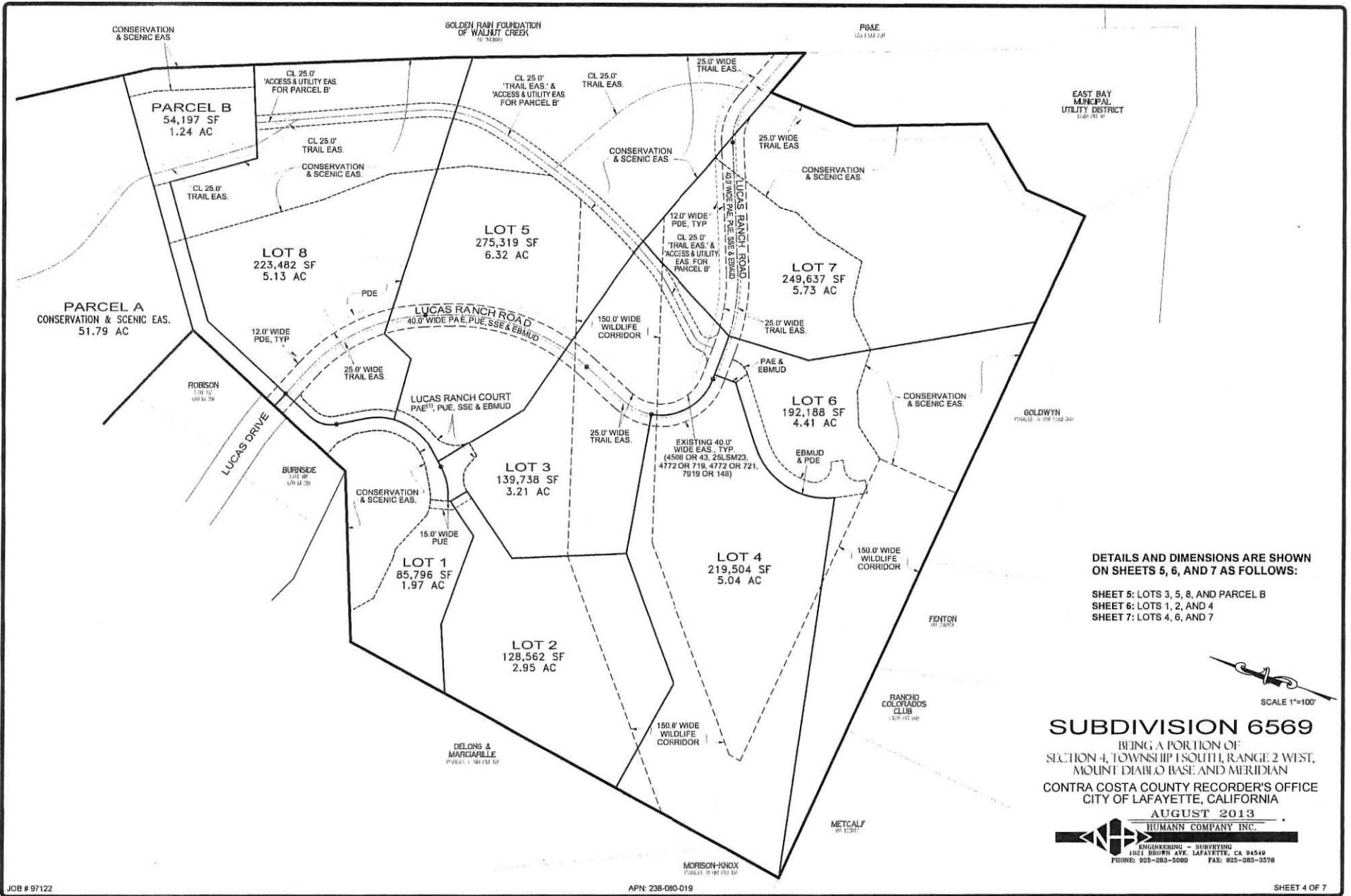
Beginning at a point on the Northern right of way line of Lucas Drive, as said drive is shown on said Tract Map 2078, said point also being the most Southern corner of said Lot 34 (58 M 28); thence from said point of beginning along the Eastern line of said Lot 34, North 50° 52' 46" East 128.12 feet; thence along the Northern line of said Lot 34, North 41° 56' 10" West, 12.01 feet; thence leaving said line South 50° 52' 46" West, 73.37 feet; thence South 74° 27' 27" West, 10.00 feet; thence South 50° 52' 46" West, 45.00 feet to a point on said Northern right of way line of Lucas Drive; thence along said Northern line South 39° 07' 14" East, 16.00 feet to the point of beginning.

APN: 238-080-019

EXHIBIT "B"
TRAIL EASEMENT

Two Sheets Behind This Page





DETAILS AND DIMENSIONS ARE SHOWN ON SHEETS 5, 6, AND 7 AS FOLLOWS:

SHEET 5: LOTS 3, 5, 8, AND PARCEL B
 SHEET 6: LOTS 1, 2, AND 4
 SHEET 7: LOTS 4, 6, AND 7



SUBDIVISION 6569
 BEING A PORTION OF:
 SECTION 4, TOWNSHIP 1 SOUTH, RANGE 2 WEST,
 MOUNT DIABLO BASE AND MERIDIAN
 CONTRA COSTA COUNTY RECORDER'S OFFICE
 CITY OF LAFAYETTE, CALIFORNIA

AUGUST 2013
HUMANN COMPANY INC.
 ENGINEERING - SURVEYING
 1021 BROWN AVE. LAFAYETTE, CA 94540
 PHONE: 925-283-0000 FAX: 925-283-0578

CERTIFICATE OF ACCEPTANCE
CITY OF LAFAYETTE

This is to certify that the interest in real property from Soldier Field Partners, LLC, a California limited liability company, to the City of Lafayette, a municipal corporation, is hereby accepted by the undersigned City Manager on behalf of the City Council pursuant to authority conferred by resolution of the City Council adopted on April 13, 1998, and the grantee consents to recordation thereof by its duly authorized officer.

Date NOV. 14, 2013

By 

Steven Falk

City Manager, City of Lafayette