

# AGENDA

## OVERSIGHT BOARD (TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY) FIRST REGULAR MEETING March 21, 2012 9:00 AM

City of Irvine  
L-102  
One Civic Center Plaza  
Irvine, CA 92606

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**Speaker's Card/Request to Speak:** If you would like to address the Board on a scheduled agenda item, please complete the [Request to Speak Form](#). The card is at the table at the entrance to the meeting room. Please identify on the card your name and the item on which you would like to speak and return to the Secretary. The [Request to Speak Form](#) assists the Chair in ensuring that all persons wishing to address the Board are recognized. Your name will be called at the time the matter is heard by the Board. Public testimony is limited to three minutes per speaker (unless extended by the Chair) which includes the presentation of electronic or audio visual information.

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### CALL TO ORDER

### ROLL CALL

BOARDMEMBER:	Marian Bergeson, Chair, Foundation for the Great Park
BOARDMEMBER:	Christine Compton, Deputy Chief of Staff, Supervisor Bill Campbell's office, County of Orange
BOARDMEMBER:	Veronica Dolleschel, Senior Management Analyst, City of Irvine
BOARDMEMBER:	Lucy Dunn, President and CEO, Orange County Business Council
BOARDMEMBER:	Debra Fitzsimons, Vice Chancellor of Business Services, South OC Community College District
BOARDMEMBER:	John Fogarty, Asst. Superintendent of Business Services, CFO, Irvine Unified School District
BOARDMEMBER:	Sharon Landers, Assistant City Manager, City of Irvine

## **PLEDGE OF ALLEGIANCE**

## **ADDITIONS AND DELETIONS**

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Additions to the agenda are limited by California Government Code Section 54954.2 of the Brown Act and for those items that arise after the posting of the Agenda and must be acted upon prior to the next Board meeting.

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## **BOARD BUSINESS**

### **1. INTRODUCTIONS AND ADMINISTRATION OF OATH OF OFFICE**

#### **RECOMMENDED BOARD ACTION:**

Formal introductions of Oversight Board Members and administration of the Oath of Office by the Acting Secretary.

### **2. OVERVIEW OF LEGAL STATUS AND ROLE OF OVERSIGHT BOARD**

#### **RECOMMENDED BOARD ACTION:**

Receive and file.

### **3. ELECTION OF BOARD CHAIR AND VICE CHAIR**

#### **RECOMMENDED BOARD ACTION:**

Elect one member to serve as Chair, and elect one member to serve as Vice Chair of the Oversight Board to the Successor Agency to the Dissolved Irvine Redevelopment Agency for one-year terms.

### **4. APPROVE REGULAR MEETING SCHEDULE**

#### **RECOMMENDED BOARD ACTION:**

Adopt Resolution No. 2012-01 entitled: A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ESTABLISHING A REGULAR MEETING SCHEDULE FOR OVERSIGHT BOARD MEETINGS

### **5. DESIGNATION OF CONTACT PERSON FOR DEPARTMENT OF FINANCE INQUIRIES**

#### **RECOMMENDED BOARD ACTION:**

Designate Donna Mullally, Manager of Fiscal Services for the City of Irvine, as the official who shall serve as the contact person for the Department of Finance inquiries regarding Oversight Board actions.

### **6. ADOPTION OF BOARD RULES OF PARLIAMENTARY PROCEDURE**

**RECOMMENDED BOARD ACTION:**

Adopt, by motion, Robert's Rules of Order as the Oversight Board's rules of parliamentary procedure.

**7. ADOPTION OF BOARD CONFLICT OF INTEREST CODE**

**RECOMMENDED BOARD ACTION:**

Adopt Resolution No. 2012-02 entitled: A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE FOR THE OVERSIGHT BOARD

**8. PRESENTATION AND DISCUSSION OF ORANGE COUNTY GREAT PARK PROJECT AREA**

**RECOMMENDED BOARD ACTION:**

Receive and file.

**9. FUTURE AGENDA ITEMS**

**RECOMMENDED BOARD ACTION:**

Receive and file.

**PUBLIC COMMENTS (Limited to 3 minutes per speaker)**

**ADJOURNMENT TO MARCH 29, 2012 AT 2:00 PM.**

**NOTICE TO THE PUBLIC**

**STAFF REPORTS**

Copies of staff reports or other written documentation that have been prepared or organized with respect to each item of business listed on the agenda are on file with the Board Secretary and are available for public inspection and copying once the agenda is publicly posted, (at least 72 hours prior to a regular Board meeting). Staff reports can also be downloaded from the City of Irvine website at [www.cityofirvine.org](http://www.cityofirvine.org).

**SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA**

Any supplemental writings or documents distributed to a majority of the Board regarding any item on this agenda after the posting of the agenda will be available for public review in the Board Secretary's Office, One Civic Center Plaza, Irvine, California, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

If you have any questions regarding any item of business on the agenda for this meeting, or any of the staff reports or other documentation relating to any agenda item, please contact Board Secretary staff at (949)724-6205.

**SUBMITTAL OF INFORMATION BY MEMBERS OF THE PUBLIC FOR DISSEMINATION OR PRESENTATION AT PUBLIC MEETINGS**

Any member of the public who desires to submit documentation in hard copy form may do so prior to the meeting or at the time he/she addresses the Board. Please provide 15 copies of the information to be submitted and file with the Secretary at the time of arrival to the meeting. This information will be disseminated to the Board at the time testimony is given.

**PUBLIC COMMENT**

Any member of the public may address the Board on items within the Board's subject matter jurisdiction but which are not listed on this agenda during Public Comment; however, no action may be taken on matters that are not part of the posted agenda. If you would like to address the Board during the Public Comment portion of the Agenda, please complete the Request to Speak Form. The card is at the table at the entrance to the meeting room. Please complete the card with your name and return to the Board Secretary. The Request to Speak Form assists the Chair in ensuring that all persons wishing to address the Board are recognized. Your name will be called at the time Public Comment is taken by the Board.

**SERVICES TO FACILITATE ACCESS TO PUBLIC MEETINGS**

It is the intention of the Board to comply with the Americans With Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the Board will attempt to accommodate you in every reasonable manner. Please contact the Irvine City Clerk's Office at (949)724-6205.

Assisted listening devices are available at the meeting for individuals with hearing impairments. Notification 48 hours prior to the meeting will enable the Board to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35. 104 ADA Title II)

**CHALLENGING BOARD DECISIONS**

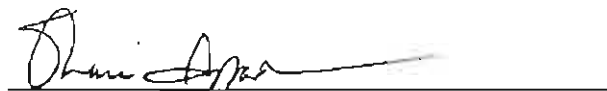
If a person wishes to challenge the nature of the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the Board, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the Interested party has not sought and exhausted all available administrative remedies.

**COMMUNICATION DEVICES**

To minimize distractions, please be sure all personal communication devices are turned off or on silent mode.

**MEETING SCHEDULE**

I hereby certify that the agenda for the Regular Board meeting was posted in the posting book located in the Public Safety Lobby of Irvine City Hall, One Civic Center Plaza, Irvine, California on MARCH 15, 2012 by 5:30 pm as well as on the City of Irvine's web page.



Sharie Apodaca, MMC

City Clerk As Acting Secretary to the Oversight Board



**ITEM 1.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** INTRODUCTIONS AND ADMINISTRATION OF OATH OF OFFICE

  
\_\_\_\_\_  
Acting Secretary

## RECOMMENDED ACTION

Formal introductions of Oversight Board Members and administration of the Oath of Office by the Acting Secretary.

## EXECUTIVE SUMMARY

The Redevelopment Dissolution Act, AB 1x26, signed by the Governor in June 2011, was upheld by the California Supreme Court on December 29, 2011. The Court set the date of February 1, 2012, for dissolution of all California redevelopment agencies. The City of Irvine has elected to serve as the Successor Agency to the Irvine Redevelopment Agency.

The Dissolution Act requires that each successor agency have an Oversight Board composed of seven members appointed by specific governmental agencies. Each member of the Oversight Board serves at the pleasure of the entity that appointed such member. The appointees to the Oversight Board, listed alphabetically by last name, are as follows:

- Marian Bergeson, Chair, Foundation for the Great Park  
(Appointed by the Orange County Board of Supervisors)
- Christine Compton, Deputy Chief of Staff, Supervisor Bill Campbell's office, County of Orange  
(Appointed by the Orange County Flood Control District)
- Veronica Dolleschel, Senior Management Analyst, City of Irvine  
(Mayoral appointee from the employee organization representing former Irvine Redevelopment Agency employees)
- Lucy Dunn, President and CEO, Orange County Business Council  
(Appointed by the Orange County Board of Supervisors)

- Debra Fitzsimons, Vice Chancellor of Business Services, South OC Community College District  
(Appointed by the Chancellor of the California Community Colleges)
- John Fogarty, Superintendent of Business Services/CFO, Irvine Unified School District  
(Appointed by the Orange County Superintendent of Schools)
- Sharon Landers, Assistant City Manager, City of Irvine  
(Appointed by the Mayor of the City that formed the Irvine Redevelopment Agency)

Following introductions of Board Members, it is recommended that the Oath of Office be administered by the City Clerk.

**REPORT PREPARED BY:** Sharie Apodaca, City Clerk as Acting Secretary to the Oversight Board

**ITEM 2.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** OVERVIEW OF LEGAL STATUS AND ROLE OF OVERSIGHT BOARD

  
\_\_\_\_\_  
Acting Secretary

## RECOMMENDED ACTION

Receive and file.

## EXECUTIVE SUMMARY

The Redevelopment Dissolution Act, AB1x26, signed by the Governor in June 2011, was upheld by the California Supreme Court on December 29, 2011. The Court set the date of February 1, 2012, for dissolution of all California redevelopment agencies. The City has elected to serve as the Successor Agency to the dissolved Irvine Redevelopment Agency.

The Dissolution Act requires that each successor agency have an Oversight Board. For your reference, attached is California Health and Safety Code section 34179 through 34181 which are the specific provisions of the Dissolution Act that regulate the formation and composition of oversight boards, the public meeting process, and fiduciary responsibilities of oversight boards.

At the March 21, 2012 meeting of the Oversight Board, the Counsel to the Successor Agency will provide an oral overview of the legal status and role of the Oversight Board.

A copy of the complete Redevelopment Dissolution Act is also attached.

## ATTACHMENTS

1. Health and Safety Code Sections 34179-34181 (Provisions of the Dissolution Act that create the Oversight Board and define its functions.)
2. Complete Redevelopment Dissolution Act (AB1x26)

**REPORT PREPARED BY:** Sharie Apodaca, City Clerk as Acting Secretary to the Oversight Board

CALIFORNIA CODES  
HEALTH AND **SAFETY CODE**  
SECTION **34179**-34181

**34179.** (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college

districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as oversight board members.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to the act adding this part. As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. Each oversight board shall designate an official to whom the department may make such requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given oversight board action, it shall have 10 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and such oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government **Code** shall apply to oversight boards. Notwithstanding Section 1099 of the Government **Code**, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or

community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government **Code**. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government **Code**, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

34180. All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part.

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former



redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the county assessor.

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding.

(i) A request by a successor agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

34181. The oversight board shall direct the successor agency to do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

## **Assembly Bill No. 26**

### **CHAPTER 5**

An act to amend Sections 33500, 33501, 33607.5, and 33607.7 of, and to add Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of, the Health and Safety Code, and to add Sections 97.401 and 98.2 to the Revenue and Taxation Code, relating to redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 28, 2011. Filed with  
Secretary of State June 29, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 26, Blumenfield. Community redevelopment.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law provides that an action may be brought to review the validity of the adoption or amendment of a redevelopment plan by an agency, to review the validity of agency findings or determinations, and other agency actions.

This bill would revise the provisions of law authorizing an action to be brought against the agency to determine or review the validity of specified agency actions.

(2) Existing law also requires that if an agency ceases to function, any surplus funds existing after payment of all obligations and indebtedness vest in the community.

The bill would suspend various agency activities and prohibit agencies from incurring indebtedness commencing on the effective date of this act. Effective October 1, 2011, the bill would dissolve all redevelopment agencies and community development agencies in existence and designate successor agencies, as defined, as successor entities. The bill would impose various requirements on the successor agencies and subject successor agency actions to the review of oversight boards, which the bill would establish.

The bill would require county auditor-controllers to conduct an agreed-upon procedures audit of each former redevelopment agency by March 1, 2012. The bill would require the county auditor-controller to determine the amount of property taxes that would have been allocated to each redevelopment agency if the agencies had not been dissolved and deposit this amount in a Redevelopment Property Tax Trust Fund in the county. Revenues in the trust fund would be allocated to various taxing entities in the county and to cover specified expenses of the former agency. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

(3) The bill would prohibit a redevelopment agency from issuing new bonds, notes, interim certificates, debentures, or other obligations if any legal challenge to invalidate a provision of this act is successful.

(4) The bill would appropriate \$500,000 to the Department of Finance from the General Fund for administrative costs associated with the bill.

(5) The bill would provide that its provisions take effect only if specified legislation is enacted in the 2011–12 First Extraordinary Session of the Legislature.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The economy and the residents of this state are slowly recovering from the worst recession since the Great Depression.

(b) State and local governments are still facing incredibly significant declines in revenues and increased need for core governmental services.

(c) Local governments across this state continue to confront difficult choices and have had to reduce fire and police protection among other services.

(d) Schools have faced reductions in funding that have caused school districts to increase class size and layoff teachers, as well as make other hurtful cuts.

(e) Redevelopment agencies have expanded over the years in this state. The expansion of redevelopment agencies has increasingly shifted property taxes away from services provided to schools, counties, special districts, and cities.

(f) Redevelopment agencies take in approximately 12 percent of all of the property taxes collected across this state.

(g) It is estimated that under current law, redevelopment agencies will divert \$5 billion in property tax revenue from other taxing agencies in the 2011–12 fiscal year.

(h) The Legislature has all legislative power not explicitly restricted to it. The California Constitution does not require that redevelopment agencies must exist and, unlike other entities such as counties, does not limit the Legislature's control over that existence. Redevelopment agencies were created by statute and can therefore be dissolved by statute.

(i) Upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment. Instead, those taxes will be deemed property tax revenues and will be allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions.

(j) It is the intent of the Legislature to do all of the following in this act:

(1) Bar existing redevelopment agencies from incurring new obligations, prior to their dissolution.

(2) Allocate property tax revenues to successor agencies for making payments on indebtedness incurred by the redevelopment agency prior to its dissolution and allocate remaining balances in accordance with applicable constitutional and statutory provisions.

(3) Beginning October 1, 2011, allocate these funds according to the existing property tax allocation within each county to make the funds available for cities, counties, special districts, and school and community college districts.

(4) Require successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.

SEC. 2. Section 33500 of the Health and Safety Code is amended to read:

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a

redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

SEC. 3. Section 33501 of the Health and Safety Code is amended to read:

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan that was adopted prior to January 1, 2011, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011.

(d) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the

county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

SEC. 4. Section 33607.5 of the Health and Safety Code is amended to read:

33607.5. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing entity, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational

facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the

Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate



against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds, or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

SEC. 5. Section 33607.7 of the Health and Safety Code is amended to read:

33607.7. (a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases, or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1)

and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance, according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

SEC. 6. Part 1.8 (commencing with Section 34161) is added to Division 24 of the Health and Safety Code, to read:

#### PART 1.8. RESTRICTIONS ON REDEVELOPMENT AGENCY OPERATIONS

##### CHAPTER 1. SUSPENSION OF AGENCY ACTIVITIES AND PROHIBITION ON CREATION OF NEW DEBTS

34161. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, no agency shall incur new or expand existing monetary or legal obligations except as provided in this

part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part.

34162. (a) Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this act, an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

(1) Issue or sell bonds, for any purpose, regardless of the source of repayment of the bonds. As used in this section, the term “bonds,” includes, but is not limited to, any bonds, notes, bond anticipation notes, interim certificates, debentures, certificates of participation, refunding bonds, or other obligations issued by an agency pursuant to Part 1 (commencing with Section 33000), and Section 53583 of the Government Code, pursuant to any charter city authority or any revenue bond law.

(2) Incur indebtedness payable from prohibited sources of repayment, which include, but are not limited to, income and revenues of an agency’s redevelopment projects, taxes allocated to the agency, taxes imposed by the agency pursuant to Section 7280.5 of the Revenue and Taxation Code, assessments imposed by the agency, loan repayments made to the agency pursuant to Section 33746, fees or charges imposed by the agency, other revenues of the agency, and any contributions or other financial assistance from the state or federal government.

(3) Refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011, including, but not limited to, any of the following:

(A) Refund bonds previously issued by the agency or by another political subdivision of the state, including, but not limited to, those issued by a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority.

(B) Exercise the right of optional redemption of any of its outstanding bonds or elect to purchase any of its own outstanding bonds.

(C) Modify or amend the terms and conditions, payment schedules, amortization or maturity dates of any of the agency’s bonds or other obligations that are outstanding or exist as of January 1, 2011.

(4) Take out or accept loans or advances, for any purpose, from the state or the federal government, any other public agency, or any private lending institution, or from any other source. For purposes of this section, the term “loans” include, but are not limited to, agreements with the community or any other entity for the purpose of refinancing a redevelopment project and moneys advanced to the agency by the community or any other entity for the expenses of redevelopment planning, expenses for dissemination of redevelopment information, other administrative expenses, and overhead of the agency.

(5) Execute trust deeds or mortgages on any real or personal property owned or acquired by it.

(6) Pledge or encumber, for any purpose, any of its revenues or assets. As used in this part, an agency's "revenues and assets" include, but are not limited to, agency tax revenues, redevelopment project revenues, other agency revenues, deeds of trust and mortgages held by the agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. As used in this part, to "pledge or encumber" means to make a commitment of, by the grant of a lien on and a security interest in, an agency's revenues or assets, whether by resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, mortgage, deed of trust, pledge agreement, or similar agreement in which the pledge is provided for or created.

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect.

(c) Notwithstanding subdivision (a), a redevelopment agency may issue refunding bonds, which are referred to in this part as Emergency Refunding Bonds, only where all of the following conditions are met:

(1) The issuance of Emergency Refunding Bonds is the only means available to the agency to avoid a default on outstanding agency bonds.

(2) Both the county treasurer and the Treasurer have approved the issuance of Emergency Refunding Bonds.

(3) Emergency Refunding Bonds are issued only to provide funds for any single debt service payment that is due prior to October 1, 2011, and that is more than 20 percent larger than a level debt service payment would be for that bond.

(4) The principal amount of outstanding agency bonds is not increased. 34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) Increasing its deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3 beyond the minimum level that applied to it as of January 1, 2011.

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness as that term is described in this part.

34164. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, engage in any of the following redevelopment activities:

(a) Prepare, approve, adopt, amend, or merge a redevelopment plan, including, but not limited to, modifying, extending, or otherwise changing the time limits on the effectiveness of a redevelopment plan.

(b) Create, designate, merge, expand, or otherwise change the boundaries of a project area.

(c) Designate a new survey area or modify, extend, or otherwise change the boundaries of an existing survey area.

(d) Approve or direct or cause the approval of any program, project, or expenditure where approval is not required by law.

(e) Prepare, formulate, amend, or otherwise modify a preliminary plan or cause the preparation, formulation, modification, or amendment of a preliminary plan.

(f) Prepare, formulate, amend, or otherwise modify an implementation plan or cause the preparation, formulation, modification, or amendment of an implementation plan.

(g) Prepare, formulate, amend, or otherwise modify a relocation plan or cause the preparation, formulation, modification, or amendment of a relocation plan where approval is not required by law.

(h) Prepare, formulate, amend, or otherwise modify a redevelopment housing plan or cause the preparation, formulation, modification, or amendment of a redevelopment housing plan.

(i) Direct or cause the development, rehabilitation, or construction of housing units within the community, unless required to do so by an enforceable obligation.

(j) Make or modify a declaration or finding of blight, blighted areas, or slum and blighted residential areas.

(k) Make any new findings or declarations that any areas of blight cannot be remedied or redeveloped by private enterprise alone.

(l) Provide or commit to provide relocation assistance, except where the provision of relocation assistance is required by law.

(m) Provide or commit to provide financial assistance.

34165. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, do any of the following:

(a) Enter into new partnerships, become a member in a joint powers authority, form a joint powers authority, create new entities, or become a member of any entity of which it is not currently a member, nor take on nor agree to any new duties or obligations as a member or otherwise of any entity to which the agency belongs or with which it is in any way associated.

(b) Impose new assessments pursuant to Section 7280.5 of the Revenue and Taxation Code.

(c) Increase the pay, benefits, or contributions of any sort for any officer, employee, consultant, contractor, or any other goods or service provider that had not previously been contracted.

(d) Provide optional or discretionary bonuses to any officers, employees, consultants, contractors, or any other service or goods providers.

(e) Increase numbers of staff employed by the agency beyond the number employed as of January 1, 2011.

(f) Bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of an agency to be taken for the authorization, issuance, sale, and delivery of the revenue bonds and for the payment of the principal thereof and interest thereon.

(g) Begin any condemnation proceeding or begin the process to acquire real property by eminent domain.

(h) Prepare or have prepared a draft environmental impact report. This subdivision shall not alter or eliminate any requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

34166. No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment

agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

34167. (a) This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

(b) For purposes of this part, "agency" or "redevelopment agency" means a redevelopment agency created or formed pursuant to Part 1 (commencing with Section 33000) or its predecessor or a community development commission created or formed pursuant to Part 1.7 (commencing with Section 34100) or its predecessor.

(c) Nothing in this part in any way impairs the authority of a community development commission, other than in its authority to act as a redevelopment agency, to take any actions in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates.

(d) For purposes of this part, "enforceable obligation" means any of the following:

(1) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 5850 of the Government Code, including the required debt service, reserve set-asides and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the redevelopment agency.

(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(3) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments.

(4) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.



(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy.

(6) Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(e) To the extent that any provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if any provision in Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that this part is restricting or eliminating, the restriction and elimination provisions of this part shall control.

(f) Nothing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations.

(g) The existing terms of any memorandum of understanding with an employee organization representing employees of a redevelopment agency adopted pursuant to the Meyers-Milias-Brown Act that is in force on the effective date of this part shall continue in force until September 30, 2011, unless a new agreement is reached with a recognized employee organization prior to that date.

(h) After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part, whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule, other than payments required to meet obligations with respect to bonded indebtedness.

(i) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(j) For purposes of this part, "auditor-controller" means the officer designated in subdivision (e) of Section 24000 of the Government Code.

34167.5. Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the

extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). Upon receiving such an order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.

34168. (a) Notwithstanding any other law, any action contesting the validity of this part or Part 1.85 (commencing with Section 34170) or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

## CHAPTER 2. REDEVELOPMENT AGENCY RESPONSIBILITIES

34169. Until successor agencies are authorized pursuant to Part 1.85 (commencing with Section 34170), redevelopment agencies shall do all of the following:

(a) Continue to make all scheduled payments for enforceable obligations, as defined in subdivision (d) of Section 34167.

(b) Perform obligations required pursuant to any enforceable obligations, including, but not limited to, observing covenants for continuing disclosure obligations and those aimed at preserving the tax-exempt status of interest payable on any outstanding agency bonds.

(c) Set aside or maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Consistent with the intent declared in subdivision (a) of Section 34167, preserve all assets, minimize all liabilities, and preserve all records of the redevelopment agency.

(e) Cooperate with the successor agencies, if established pursuant to Part 1.85 (commencing with Section 34170), and provide all records and information necessary or desirable for audits, making of payments required by enforceable obligations, and performance of enforceable obligations by the successor agencies.

(f) Take all reasonable measures to avoid triggering an event of default under any enforceable obligations as defined in subdivision (d) of Section 34167.

(g) (1) Within 60 days of the effective date of this part, adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are enforceable within the meaning of subdivision (d) of Section 34167 which includes the following information about each obligation:

(A) The project name associated with the obligation.

(B) The payee.

(C) A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.

(D) The amount of payments obligated to be made, by month, through December 2011.

(2) Payment schedules for issued bonds may be aggregated, and payment schedules for payments to employees may be aggregated. This schedule shall be adopted at a public meeting and shall be posted on the agency's Internet Web site or, if no Internet Web site exists, on the Internet Web site of the legislative body, if that body has an Internet Web site. The schedule may be amended at any public meeting of the agency. Amendments shall be posted to the Internet Web site for at least three business days before a payment may be made pursuant to an amendment. The Enforceable Obligation Payment Schedule shall be transmitted by mail or electronic means to the county auditor-controller, the Controller, and the Department of Finance. A notification providing the Internet Web site location of the posted schedule and notifications of any amendments shall suffice to meet this requirement.

(h) Prepare a preliminary draft of the initial recognized obligation payment schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170).

(i) The Department of Finance may review a redevelopment agency action taken pursuant to subdivision (g) or (h). As such, all agency actions shall not be effective for three business days, pending a request for review by the department. Each agency shall designate an official to whom the department may make these requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given agency action, the department shall have 10 days from the date of its request to approve the agency action or return it to the agency for reconsideration and this action shall not be effective until approved by the department. In the event that the department returns the agency action to the agency for reconsideration, the agency must resubmit the modified action for department approval and the modified action shall not become effective until approved by the department. This subdivision shall apply to a successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170), as a successor entity to a dissolved redevelopment agency, with

respect to the preliminary draft of the initial recognized obligation payment schedule.

CHAPTER 3. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE  
ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34169.5. (a) It is the intent of the Legislature that a redevelopment agency, that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), but that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to “January 1, 2011,” shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to a date “60 days from the effective date of this part” shall be construed to mean 60 days from the date that the redevelopment agency becomes subject to this part.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the effective date of this part and the date certain identified in statute.

SEC. 7. Part 1.85 (commencing with Section 34170) is added to Division 24 of the Health and Safety Code, to read:

PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND  
DESIGNATION OF SUCCESSOR AGENCIES

CHAPTER 1. EFFECTIVE DATE, CREATION OF FUNDS, AND DEFINITION  
OF TERMS

34170. (a) Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

34170.5. (a) The successor agency shall create within its treasury a Redevelopment Obligation Retirement Fund to be administered by the successor agency.

(b) The county auditor-controller shall create within the county treasury a Redevelopment Property Tax Trust Fund for the property tax revenues related to each former redevelopment agency, for administration by the county auditor-controller.

34171. The following terms shall have the following meanings:

(a) “Administrative budget” means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) “Administrative cost allowance” means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency for the 2011–12 fiscal year and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars (\$250,000) for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.

(c) “Designated local authority” shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) “Enforceable obligation” means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 58383 of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency.

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies’ employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement.

(D) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing

any necessary and required compensation or remediation for such termination.

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board.

(2) For purposes of this part, “enforceable obligation” does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) “Indebtedness obligations” means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) “Oversight board” shall mean each entity established pursuant to Section 34179.

(g) “Recognized obligation” means an obligation listed in the Recognized Obligation Payment Schedule.

(h) “Recognized Obligation Payment Schedule” means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

(i) “School entity” means any entity defined as such in subdivision (f) of Section 95 of the Revenue and Taxation Code.

(j) “Successor agency” means the county, city, or city and county that authorized the creation of each redevelopment agency or another entity as provided in Section 34173.

(k) “Taxing entities” means cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part.

## CHAPTER 2. EFFECT OF REDEVELOPMENT AGENCY DISSOLUTION

34172. (a) (1) All redevelopment agencies and redevelopment agency components of community development agencies created under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) A community in which an agency has been dissolved under this section may not create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100). However, a community in which the agency has been dissolved and the successor entity has paid off all of the former agency’s enforceable obligations may create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100), subject to the tax increment provisions contained in Chapter 3.5 (commencing with Section 34194.5) of Part 1.9 (commencing with Section 34192).

(b) All authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1 (commencing with Section 33000)) is hereby withdrawn from the former redevelopment agencies.

(c) Solely for purposes of Section 16 of Article XVI of the California Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the dissolved redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness,

whether funded, refunded, assumed, or otherwise incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment projects of each redevelopment agency dissolved pursuant to this part.

(d) Revenues equivalent to those that would have been allocated pursuant to subdivision (b) of Section 16 of Article XVI of the California Constitution shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Amounts in excess of those necessary to pay obligations of the former redevelopment agency shall be deemed to be property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution.

34173. (a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

(b) Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.

(c) (1) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority addresses the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part and each shall have a share of assets and liabilities based on the provisions of the joint powers agreement.

(2) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than one month prior to the effective date of this part.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on



the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

(3) If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in this part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section.

(e) The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency.

34174. (a) Solely for the purposes of Section 16 of Article XVI of the California Constitution, commencing on the effective date of this part, all agency loans, advances, or indebtedness, and interest thereon, shall be deemed extinguished and paid; provided, however, that nothing herein is intended to absolve the successor agency of payment or other obligations due or imposed pursuant to the enforceable obligations; and provided further, that nothing in the act adding this part is intended to be construed as an action or circumstance that may give rise to an event of default under any of the documents governing the enforceable obligations.

(b) Nothing in this part, including, but not limited to, the dissolution of the redevelopment agencies, the designation of successor agencies, and the transfer of redevelopment agency assets and properties, shall be construed as a voluntary or involuntary insolvency of any redevelopment agency for purposes of the indenture, trust indenture, or similar document governing its outstanding bonds.

34175. (a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on October 1, 2011, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of October 1, 2011.

34176. (a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city,

county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county.

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, excluding any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000), including, but not limited to, Section 33418.

### CHAPTER 3. SUCCESSOR AGENCIES

34177. Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after October 1, 2011, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (e) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on January 1, 2012, only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, commencing January 1, 2012, the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law.

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From October 1, 2011, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(l) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled

payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

(B) The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by December 15, 2011, for the period of January 1, 2012, to June 30, 2012, inclusive. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

34178. (a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board.

(b) Notwithstanding subdivision (a), any of the following agreements are not invalid and may bind the successor agency:

(1) A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

(3) A joint exercise of powers agreement in which the redevelopment agency is a member of the joint powers authority. However, upon assignment to the successor agency by operation of the act adding this part, the successor agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

34178.7. For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part"

shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

#### CHAPTER 4. OVERSIGHT BOARDS

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before January 1, 2012. Members shall be selected as follows:

- (1) One member appointed by the county board of supervisors.
- (2) One member appointed by the mayor for the city that formed the redevelopment agency.
- (3) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.
- (4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.
- (5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.
- (6) One member of the public appointed by the county board of supervisors.
- (7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.
- (8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.
- (9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.
- (10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by

property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by January 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as oversight board members.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to the act adding this part. As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. Each oversight board shall designate an official to whom the department may make such requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given oversight board action, it shall have 10 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and such oversight board action shall not be effective until approved by the department. In the event that the department returns the

oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.



34180. All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part.

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the county assessor.

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding.

(i) A request by a successor agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

34181. The oversight board shall direct the successor agency to do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

#### CHAPTER 5. DUTIES OF THE AUDITOR-CONTROLLER

34182. (a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by March 1, 2012.

(2) The purpose of the audits shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's passthrough payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule.

(3) The county auditor-controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the county auditor-controller pursuant to this part.

(b) By March 15, 2012, the county auditor-controller shall provide the Controller's office a copy of all audits performed pursuant to this section. The county auditor-controller shall maintain a copy of all documentation and working papers for use by the Controller.

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution and are available for allocation and distribution in accordance with the provisions of the act adding this part.

The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue and Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing agencies, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

(2) Each county auditor-controller shall administer the Redevelopment Property Tax Trust Fund for the benefit of the holders of former redevelopment agency enforceable obligations and the taxing entities that receive passthrough payments and distributions of property taxes pursuant to this part.

(3) In connection with the allocation and distribution by the county auditor-controller of property tax revenues deposited in the Redevelopment Property Tax Trust Fund, in compliance with this part, the county auditor-controller shall prepare estimates of amounts to be allocated and distributed, and provide those estimates to both the entities receiving the distributions and the Department of Finance, no later than November 1 and May 1 of each year.

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(d) By October 1, 2012, the county auditor-controller shall report the following information to the Controller's office and the Director of Finance:

(1) The sums of property tax revenues remitted to the Redevelopment Property Tax Trust Fund related to each former redevelopment agency.

(2) The sums of property tax revenues remitted to each agency under paragraph (1) of subdivision (a) of Section 34183.

(3) The sums of property tax revenues remitted to each successor agency pursuant to paragraph (2) of subdivision (a) of Section 34183.

(4) The sums of property tax revenues paid to each successor agency pursuant to paragraph (3) of subdivision (a) of Section 34183.

(5) The sums paid to each city, county, and special district, and the total amount allocated for schools pursuant to paragraph (4) of subdivision (a) of Section 34183.

(6) Any amounts deducted from other distributions pursuant to subdivision (b) of Section 34183.

(e) A county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the costs of administering the provisions of this part.

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the

county auditor-controller's action or return it to the county auditor-controller for reconsideration and such county auditor-controller action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and such modified county auditor-controller action shall not become effective until approved by the Controller.

34183. (a) Notwithstanding any other law, from October 1, 2011, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing jurisdiction that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than January 16, 2012, and no later than June 1, 2012, and each January 16 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency.

(2) Second, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, or July 1, 2012, and each January 16 and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only where the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) Fourth, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by paragraphs (1) to (3), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury that are necessary to ensure prompt payments of redevelopment agency debts.

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing jurisdictions pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the

Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

34185. Commencing on January 16, 2012, and on each January 16 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of Sections 34173 and 34183.

34186. Differences between actual payments and past estimated obligations on recognized obligation payment schedules must be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

34187. Commencing January 1, 2012, whenever a recognized obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

34188. For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to Section 97.68 of the Revenue and Taxation Code, and without the property taxes allocated pursuant to Section 97.70 of the Revenue and Taxation Code.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as

defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

34188.8. For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, a date certain identified in this chapter shall not be subject to Section 34191, except for dates certain in Section 34182 and references to “October 1, 2011,” or to the “operative date of this part.” However, for purposes of those redevelopment agencies, a date certain identified in this chapter shall be appropriately modified, as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

#### CHAPTER 6. EFFECT OF THE ACT ADDING THIS PART ON THE COMMUNITY REDEVELOPMENT LAW

34189. (a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

(b) The California Law Revision Commission shall draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.

(c) To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

(d) It is intended that the provisions of this part shall be read in a manner as to avoid duplication of payments.

#### CHAPTER 7. STABILIZATION OF LABOR AND EMPLOYMENT RELATIONS

34190. (a) It is the intent of the Legislature to stabilize the labor and employment relations of redevelopment agencies and successor agencies in furtherance of and connection with their responsibilities under the act adding this part.

(b) Nothing in the act adding this part is intended to relieve any redevelopment agency of its obligations under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Subject to the limitations set forth in Section 34165, prior to its dissolution, a

redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation.

(c) A successor agency, as defined in Sections 34171 and 34173, shall constitute a public agency within the meaning of subdivision (c) of Section 3501 of the Government Code.

(d) Subject to the limitations set forth in Section 34165, redevelopment agencies, prior to and during their winding down and dissolution, shall retain the authority to bargain over matters within the scope of representation.

(e) In recognition that a collective bargaining agreement represents an enforceable obligation, a successor agency shall become the employer of all employees of the redevelopment agency as of the date of the redevelopment agency's dissolution. If, pursuant to this provision, the successor agency becomes the employer of one or more employees who, as employees of the redevelopment agency, were represented by a recognized employee organization, the successor agency shall be deemed a successor employer and shall be obligated to recognize and to meet and confer with such employee organization. In addition, the successor agency shall retain the authority to bargain over matters within the scope of representation and shall be deemed to have assumed the obligations under any memorandum of understanding in effect between the redevelopment agency and recognized employee organization as of the date of the redevelopment agency's dissolution.

(f) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs. Furthermore, the Legislature also finds and declares that to the extent the act adding this part provides the funding with which to accomplish the obligations provided herein, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs.

(g) The transferred memorandum of understanding and the right of any employee organization representing such employees to provide representation shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms. One or more separate bargaining units shall be created in the successor agency consistent with the bargaining units that had been established in the redevelopment agency. After the expiration of the transferred memorandum of understanding, the successor agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act.

(h) Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required



to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

#### CHAPTER 8. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34191. (a) It is the intent of the Legislature that a redevelopment agency that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) Except as otherwise provided by law, for purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to “January 1, 2011,” shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to “October 1, 2011,” or to the “operative date of this part,” shall mean the date that is the equivalent to the “October 1, 2011,” identified in Section 34167.5 for that redevelopment agency as determined pursuant to Section 34169.5.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the operative date of this part and the date certain identified in statute.

SEC. 8. Section 97.401 is added to the Revenue and Taxation Code, to read:

97.401. Commencing October 1, 2011, the county auditor shall make the calculations required by Section 97.4 based on the amount deposited on behalf of each former redevelopment agency into the Redevelopment Property Tax Trust Fund pursuant to paragraph (1) of subdivision (c) of Section 34182 of the Health and Safety Code. The calculations required by Section 97.4 shall result in cities, counties, and special districts annually remitting to the Educational Revenue Augmentation Fund the same amounts they would have remitted but for the operation of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

SEC. 9. Section 98.2 is added to the Revenue and Taxation Code, to read:

98.2. For the 2011–12 fiscal year, and each fiscal year thereafter, the computations provided for in Sections 98 and 98.1 shall be performed in a manner which recognizes that passthrough payments formerly required under the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) are continuing to be made under the authority of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code and those payments shall be recognized in the TEA calculations as though they were made under the Community Redevelopment Law. Additionally, the computations provided for in Sections 98 and 98.1 shall be performed in a manner that recognizes payments to a Redevelopment Property Tax Trust Fund, established pursuant to Section 34170.5 of the Health and Safety Code as if they were payments to a redevelopment agency as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

SEC. 10. If a legal challenge to invalidate any provision of this act is successful, a redevelopment agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

SEC. 11. The sum of five hundred thousand dollars (\$500,000) is hereby appropriated to the Department of Finance from the General Fund for allocation to the Treasurer, Controller, and Department of Finance for administrative costs associated with this act. The department shall notify the Joint Legislative Budget Committee and the fiscal committees in each house of any allocations under this section no later than 10 days following that allocation.

SEC. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable. The Legislature expressly intends that the provisions of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code are severable from the provisions of Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code, and if Part 1.85 is held invalid, then Part 1.8 shall continue in effect.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 14. This act shall take effect contingent on the enactment of Assembly Bill 27 of the 2011–12 First Extraordinary Session or Senate Bill 15 of in the 2011–12 First Extraordinary Session and only if the enacted bill adds Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety Code.

SEC. 15. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 16. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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**ITEM 3.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** ELECTION OF CHAIR AND VICE CHAIR

  
\_\_\_\_\_  
Acting Secretary

## RECOMMENDED ACTION

Elect one member to serve as Chair and elect one member to serve as Vice Chair of the Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency for one-year terms.

## EXECUTIVE SUMMARY

AB1x26, the Redevelopment Dissolution Act, requires each successor agency to have an Oversight Board composed of seven members. The Oversight Board must elect one of its members as Chair to preside over the Oversight Board meetings. It is also recommended that a Vice Chair be elected to preside over meetings in the absence of the Chair. Staff recommends that one-year terms be adopted.

## Recommended Voting Procedure:

A majority of the total membership of the Oversight Board constitutes a quorum (four members) for the transaction of business. Four (4) affirmative votes are required to approve any action taken by the Oversight Board. Given the lack of a Chair or Vice Chair, it is recommended that the Acting Secretary open and close nominations to the Oversight Board for the election of Chair. Votes will be cast for the nominee(s) by roll call vote. The nominee receiving at least four affirmative votes will be elected as Chair. The same process would be facilitated by the Chair for the election of a Vice Chair.

## ALTERNATIVES CONSIDERED

The appointment of a Chair and Vice Chair is required by the Redevelopment Dissolution Act. However, the board may desire to modify the one-year term for Chair and Vice Chair as recommended by staff.

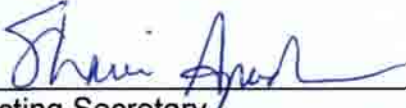
**REPORT PREPARED BY:** Sharie Apodaca, City Clerk, as Acting Secretary to the Oversight Board.

**ITEM 4.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** APPROVE REGULAR MEETING SCHEDULE

  
Acting Secretary

## RECOMMENDED ACTION

Adopt Resolution No. 2012-1 entitled: A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ESTABLISHING A REGULAR MEETING SCHEDULE FOR OVERSIGHT BOARD MEETINGS

## EXECUTIVE SUMMARY

The Redevelopment Dissolution Act, AB 1x26, signed by the Governor in June 2011, was upheld by the California Supreme Court on December 29, 2011. The Court set the date of February 1, 2012, for dissolution of all California redevelopment agencies. The City has elected to serve as the Successor Agency to the dissolved Irvine Redevelopment Agency.

The Dissolution Act requires that each successor agency have an Oversight Board composed of seven members appointed by specific governmental agencies.

The Oversight Board is subject to the Ralph M. Brown Act, California Public Records Act, and the Political Reform Act. For the Oversight Board to operate in accordance with the Brown Act, including public noticing requirements, it will need to establish a regular meeting schedule. Meetings are to be held within the City of Irvine.

Therefore, staff is recommending that regular meetings of the Oversight Board be held on the second Wednesday of May, and on the second Wednesday of November of each year, at 9:00 a.m. This year those meeting days fall on May 9 and November 14, 2012. If the May 9 meeting is not necessary it will be cancelled. The recommended meeting location is City of Irvine Civic Center, City Hall, 1 Civic Center Plaza, Room L102, Irvine, California.

## ALTERNATIVES CONSIDERED

The Brown Act requires the establishment of a regular meeting schedule. However, the Oversight Board may desire to adopt an alternative regular meeting schedule and or location within the City of Irvine.

**REPORT PREPARED BY:** Sharie Apodaca, City Clerk, as Acting Secretary to the Oversight Board

**ATTACHMENT:** Resolution



OVERSIGHT BOARD RESOLUTION NO. 2012-01

A RESOLUTION OF THE OVERSIGHT BOARD TO THE  
SUCCESSOR AGENCY TO THE DISSOLVED IRVINE  
REDEVELOPMENT AGENCY ESTABLISHING A REGULAR  
MEETING SCHEDULE FOR OVERSIGHT BOARD MEETINGS

WHEREAS, the Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency has been appointed pursuant to the provisions of Health & Safety Code Section 34179; and

WHEREAS, the Oversight Board is deemed a local entity for purposes of the Ralph M. Brown Act, and must conduct its business in accordance with the Brown Act; and

WHEREAS, the Oversight Board has met and conferred to determine a day, time and location for regular meetings of the Oversight Board.

NOW, THEREFORE, BE IT RESOLVED, by the Oversight Board as follows:

SECTION 1. All meetings of the Oversight Board shall be held in accordance with the Ralph M. Brown Act.

SECTION 2. The regular meetings of the Oversight Board shall be held on the second Wednesday of May, and on the second Wednesday of November of each year, at 9:00 a.m. The location of the meetings shall be at City of Irvine Civic Center, City Hall, 1 Civic Center Plaza, Room L 102, Irvine, California.

SECTION 3. Any regular meeting may be adjourned to a date, time and place and when so adjourned shall be considered a regular meeting. Meetings may be adjourned by the presiding officer or by the board secretary if a quorum is not present.

SECTION 4. Special meetings may be called by the Chair or by four (4) board members, and notice thereof shall be provided in accordance with the Ralph M. Brown Act.

PASSED AND ADOPTED by the Oversight Board at the first regular meeting held on the 21<sup>st</sup> day of March, 2012.

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CHAIR, OVERSIGHT BOARD

ATTEST:

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ACTING SECRETARY

STATE OF CALIFORNIA   )  
COUNTY OF ORANGE    ) SS  
CITY OF IRVINE         )

I, SHARIE APODACA, Acting Secretary to the Oversight Board, hereby certify that the foregoing resolution was duly adopted at the first regular meeting of the Oversight Board, held on the 21<sup>st</sup> day of March, 2012.

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

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ACTING SECRETARY

**ITEM 5.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** DESIGNATION OF CONTACT PERSON FOR DEPARTMENT OF  
FINANCE INQUIRIES

  
\_\_\_\_\_  
Acting Secretary

## RECOMMENDED ACTION

Designate Donna Mullally, Manager of Fiscal Services for the City of Irvine, as the official who shall serve as the contact person for Department of Finance inquiries regarding Oversight Board actions.

## EXECUTIVE SUMMARY

California Health and Safety Code Section 34179 requires that all meetings of the Oversight Board be noticed and held in accordance with the Ralph M. Brown Act, and that agendas and proposed actions of the Oversight Board be posted on the Successor Agency's website for public review. Health and Safety Code Section 34179 provides that the Department of Finance (DOF) may review Oversight Board actions, and as such, all board actions are not effective for three business days, pending review by the DOF. If the DOF exercises its right to review the action, it then has ten days to approve the action or return it to the Oversight Board for reconsideration. The Oversight Board's modified action does not become effective until approved by the DOF.

Health and Safety Code Section 34179 requires the Oversight Board to formally designate an official for the purpose of communicating with the DOF regarding Oversight Board actions. Staff recommends that Donna Mullally, Manager of Fiscal Services for the City of Irvine, be designated as the contact person for the Oversight Board. Once the Oversight Board designates an official, staff will transmit the official's contact information to the DOF.

## ALTERNATIVES CONSIDERED

The Oversight Board is required to designate an official to serve as the contact person to the Department of Finance. However, the Oversight Board may choose to designate an official other than the one recommended.

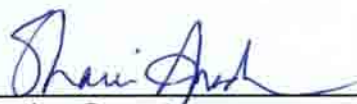
**REPORT PREPARED BY:** Sharie Apodaca, City Clerk, as Acting Secretary to the Oversight Board.

**ITEM 6.**

# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** ADOPTION OF BOARD RULES OF PARLIAMENTARY  
PROCEDURE

  
\_\_\_\_\_  
Acting Secretary

## RECOMMENDED ACTION

Adopt, by motion, Robert's Rules of Order as the Oversight Board's rules of parliamentary procedure.

## EXECUTIVE SUMMARY

The Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency has been appointed pursuant to Health and Safety Code Section 34179.

In addition to the Oversight Board's required compliance with the Ralph M. Brown Act, staff is recommending the Board, by minute motion, adopt Robert's Rules of Order as the governing parliamentary procedure for the Oversight Board. Although staff expects the Oversight Board to operate in a relatively informal manner, parliamentary rules are appropriate to guide the making of motions, taking votes and other Board procedures. For ease and simplicity, staff is recommending the Board refer to Robert's Rules for its parliamentary procedure.

## ALTERNATIVES CONSIDERED

The Oversight Board may desire to adopt an alternative form of parliamentary procedure.

**REPORT PREPARED BY:** Sharie Apodaca, City Clerk, as Acting Secretary to the Oversight Board

**ITEM 7.**



# REQUEST FOR OVERSIGHT BOARD ACTION

**MEETING DATE:** MARCH 21, 2012

**TITLE:** ADOPTION OF CONFLICT OF INTEREST CODE

  
Acting Secretary

## RECOMMENDED ACTION

Adopt Resolution No. 2012- 2 entitled: A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE FOR THE OVERSIGHT BOARD

## EXECUTIVE SUMMARY

The Redevelopment Dissolution Act, AB 1x26, signed by the Governor in June 2011, was upheld by the California Supreme Court on December 29, 2011. The Court set the date of February 1, 2012, for dissolution of all California redevelopment agencies. The City of Irvine has elected to serve as the Successor Agency to the dissolved Irvine Redevelopment Agency.

The Dissolution Act requires that each successor agency have an Oversight Board composed of seven members appointed by specific governmental agencies. The Oversight Board is subject to the Political Reform Act. For the Oversight Board to operate in accordance with the Political Reform Act and regulations promulgated thereunder by the Fair Political Practices Commission ("FPPC"), it will need to adopt a conflict of interest code.

Staff is recommending the Oversight Board adopt Resolution No. 2012- 2, which adopts the FPPC model conflict of interest code by reference. The model code requires inclusion of the designated positions subject to the code and a list of disclosure categories. The resolution proposes the designated position be the Oversight Board members and that reporting be in all disclosure categories that are applicable.

The resolution further identifies the County Board of Supervisors as the code reviewing body for the conflict of interest code and directs the Acting Secretary to submit the resolution containing the conflict of interest code to the Board of Supervisors. Form 700 statements of economic interest (Assuming, Annual and Leaving Office Statements) that are filed pursuant to the conflict of interest code are to be filed with the Clerk of the County Board of Supervisors.



**ALTERNATIVES CONSIDERED**

The Oversight Board is required to adopt a Conflict of Interest Code.

**REPORT PREPARED BY:** Sharie Apodaca, City Clerk, as Acting Secretary to the Oversight Board

**ATTACHMENT:**

1. Resolution
2. Section 18730 of Title 2 of the California Code of Regulations

## RESOLUTION NO. 2012-2

### A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSION AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE FOR THE OVERSIGHT BOARD

WHEREAS, the Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency has been appointed pursuant to the provisions of Health & Safety Code Section 34179; and

WHEREAS, the Oversight Board is deemed a local entity for purposes of the Political Reform Act; and

WHEREAS, pursuant to the Political Reform Act and regulations promulgated thereunder by the Fair Political Practices Commission ("FPPC"), a newly established local entity is required to adopt a conflict of interest code; and

WHEREAS, the Oversight Board finds and determines that it is appropriate to adopt as its conflict of interest code the model conflict of interest code promulgated by the FPPC as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

SECTION 1. Pursuant to the Political Reform Act of 1974, Government Code Section 87300 et seq., and Section 18730 of Title 2 of the California Code of Regulations, the Board adopts the model conflict of interest code promulgated by the Fair Political Practices Commission of the State of California as set forth in Section 18730 of Title 2 of the California Code of Regulations, which model conflict of interest code is incorporated herein by reference, and which, together with the list of designated positions and the disclosure categories applicable to each designated position as set forth in Sections 3 and 5 of this Resolution, collectively constitutes the Board's conflict of interest code. As the model conflict of interest code set forth in Section 18730 of Title 2 of the California Code of Regulations is amended from time to time by State law, regulatory action of the Fair Political Practices Commission, or judicial determination, the portion of the Board's conflict of interest code comprising the model conflict of interest code shall be deemed automatically amended without further action to incorporate by reference all such amendments to the model conflict of interest code so as to remain in compliance therewith. Nothing in this Resolution shall supersede the independent applicability of Government Code Section 87200.

SECTION 2. The definitions contained in the Political Reform Act of 1974 and in the regulations of the Fair Political Practices Commission, and any amendments to either of the foregoing, are incorporated by reference into this conflict of interest code.

SECTION 3. The following are the designated Board positions, the holders of which shall be required to file statements of economic interests: Oversight Board members.

SECTION 4. The code reviewing body for this conflict of interest code shall be the Board of Supervisors of the County of Orange. This conflict of interest code shall be promptly submitted after its adoption by the Acting Secretary to the Clerk of the Board of Supervisors. Statements of economic interests shall be filed by Oversight Board members with the Clerk of the Board of the Supervisors of the County of Orange.

SECTION 5. The Board finds and determines that the persons holding the positions set forth in Section 3 make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

SECTION 6. Each person holding a designated position set forth in Section 3 shall report in every disclosure category set forth in the statement of economic interests promulgated by the FPPC to the extent such category is applicable to such person pursuant to the rules and regulations of the FPPC. The disclosure categories as promulgated by the FPPC may be amended from time to time and such amendments shall not require an amendment to this code or Resolution.

SECTION 7. Sections 3 and 6 of this Resolution constitute the Appendix referred to in subdivision (b)(2) of Section 18730 of Title 2 of the California Code of Regulations.

SECTION 8. Nothing contained in this Resolution is intended to modify or abridge the provisions of the Political Reform Act of 1974, Government Code Section 87000 et seq., or FPPC the regulations, Title 2 California Code of Regulations including Sections 18700 et seq. The provisions of this Resolution are additional to the Political Reform Act and FPPC Regulations. This Resolution shall be interpreted in a manner consistent with the Political Reform Act and FPPC regulations. In the event of any inconsistency between the provisions of this Resolution, on the one hand, and the Political Reform Act and/or the FPPC regulations, on the other hand, the provisions of the Political Reform Act and FPPC regulations shall govern.

SECTION 9. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

PASSED AND ADOPTED by the Oversight Board at the first regular meeting held on the 21<sup>st</sup> day of March, 2012.

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CHAIR, OVERSIGHT BOARD

ATTEST:

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ACTING SECRETARY

STATE OF CALIFORNIA  
COUNTY OF ORANGE     ) SS  
CITY OF IRVINE            )

I, SHARIE APODACA, Acting Secretary to the Oversight Board, hereby certify that the foregoing resolution was duly adopted at the first regular meeting of the Oversight Board, held on the 21<sup>st</sup> day of March, 2012.

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

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ACTING SECRETARY

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict-of-Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict-of-interest code within the meaning of Section 87300 or the amendment of a conflict-of-interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict-of-interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict-of-interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict-of-interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict-of-interest code.

(2) Section 2. Designated Employees.

**ATTACHMENT 2**

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict-of-interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict-of-interest code.<sup>2</sup>

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making

of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the



previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she

vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
  - a. The date the loan was made.

b. The date the last payment of \$100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect,

distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

#### (9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

#### (9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any



governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

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<sup>1</sup>Designated employees who are required to file statements of economic interests under any other agency's conflict-of-interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

<sup>2</sup>See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

<sup>3</sup>For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup>Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup>A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

<sup>6</sup>Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In

addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

## HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).  
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).

11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative

5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

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SHARIE APODACA, CITY CLERK

[www.ci.irvine.ca.us](http://www.ci.irvine.ca.us)

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6205

March 23, 2012

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Susan Novak, Clerk of the Board  
Orange County Board of Supervisors  
County of Orange  
700 W. Civic Center Drive  
Santa Ana, CA 92701

RE: Adoption of Conflict of Interest Code – Oversight Board

Dear Ms. Novak:

At its meeting of March 21, 2012, the Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency adopted Resolution No. 2012-2 adopting a Conflict of Interest Code for the Oversight Board.

Per Section 4 of Oversight Board Resolution No. 2012-2, the code reviewing body for the Conflict of Interest Code is the Orange County Board of Supervisors, and Statements of Economic Interests are required to be filed with the Clerk of the Board of the Supervisors of the County of Orange. Enclosed is a certified copy of Resolution 2012-2 which adopts by reference the model conflict of interest code promulgated by the Fair Political Practices Commission. Resolution No. 2012-2 designates all Oversight Board members as designated filers of Statements of Economic Interests. Also enclosed is a roster of Oversight Board members and business addresses so that you may notify the Board members of their filing obligations.

Please contact me if you need additional information at (949) 724-6205 or [sapodaca@cityofirvine.org](mailto:sapodaca@cityofirvine.org).

Sincerely,

Sharie Apodaca, City Clerk  
Acting Secretary to the Oversight Board

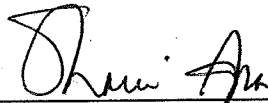
Enclosures:

- Oversight Board Resolution 2012-2
- Roster of Oversight Board Members and Business Addresses

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, Sharie Apodaca, City Clerk in and for the City of Irvine, State of California, do hereby certify the attached to be a full, true and correct copy of Oversight Board Resolution No. 2012-2 passed and adopted on March 21, 2012 by the Oversight Board to the Successor Agency to the Dissolved Irvine Redevelopment Agency as the same appears on record in my office, with the original of which said copy has been compared by me, and is a true transcript there from.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the Seal of said City, at my office in the City of Irvine, this 23rd day of March, 2012.



Sharie Apodaca, MMC  
City Clerk of the City of Irvine



## RESOLUTION NO. 2012-2

### A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE FOR THE OVERSIGHT BOARD

WHEREAS, the Oversight Board to the Successor Agency to the dissolved Irvine Redevelopment Agency has been appointed pursuant to the provisions of Health & Safety Code Section 34179; and

WHEREAS, the Oversight Board is deemed a local entity for purposes of the Political Reform Act; and

WHEREAS, pursuant to the Political Reform Act and regulations promulgated thereunder by the Fair Political Practices Commission ("FPPC"), a newly established local entity is required to adopt a conflict of interest code; and

WHEREAS, the Oversight Board finds and determines that it is appropriate to adopt as its conflict of interest code the model conflict of interest code promulgated by the FPPC as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

SECTION 1. Pursuant to the Political Reform Act of 1974, Government Code Section 87300 et seq., and Section 18730 of Title 2 of the California Code of Regulations, the Board adopts the model conflict of interest code promulgated by the Fair Political Practices Commission of the State of California as set forth in Section 18730 of Title 2 of the California Code of Regulations, which model conflict of interest code is incorporated herein by reference, and which, together with the list of designated positions and the disclosure categories applicable to each designated position as set forth in Sections 3 and 5 of this Resolution, collectively constitutes the Board's conflict of interest code. As the model conflict of interest code set forth in Section 18730 of Title 2 of the California Code of Regulations is amended from time to time by State law, regulatory action of the Fair Political Practices Commission, or judicial determination, the portion of the Board's conflict of interest code comprising the model conflict of interest code shall be deemed automatically amended without further action to incorporate by reference all such amendments to the model conflict of interest code so as to remain in compliance therewith. Nothing in this Resolution shall supersede the independent applicability of Government Code Section 87200.

SECTION 2. The definitions contained in the Political Reform Act of 1974 and in the regulations of the Fair Political Practices Commission, and any amendments to either of the foregoing, are incorporated by reference into this conflict of interest code.

SECTION 3. The following are the designated Board positions, the holders of which shall be required to file statements of economic interests: Oversight Board members.

SECTION 4. The code reviewing body for this conflict of interest code shall be the Board of Supervisors of the County of Orange. This conflict of interest code shall be promptly submitted after its adoption by the Acting Secretary to the Clerk of the Board of Supervisors. Statements of economic interests shall be filed by Oversight Board members with the Clerk of the Board of the Supervisors of the County of Orange.

SECTION 5. The Board finds and determines that the persons holding the positions set forth in Section 3 make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

SECTION 6. Each person holding a designated position set forth in Section 3 shall report in every disclosure category set forth in the statement of economic interests promulgated by the FPPC to the extent such category is applicable to such person pursuant to the rules and regulations of the FPPC. The disclosure categories as promulgated by the FPPC may be amended from time to time and such amendments shall not require an amendment to this code or Resolution.

SECTION 7. Sections 3 and 6 of this Resolution constitute the Appendix referred to in subdivision (b)(2) of Section 18730 of Title 2 of the California Code of Regulations.

SECTION 8. Nothing contained in this Resolution is intended to modify or abridge the provisions of the Political Reform Act of 1974, Government Code Section 87000 et seq., or FPPC the regulations, Title 2 California Code of Regulations including Sections 18700 et seq. The provisions of this Resolution are additional to the Political Reform Act and FPPC Regulations. This Resolution shall be interpreted in a manner consistent with the Political Reform Act and FPPC regulations. In the event of any inconsistency between the provisions of this Resolution, on the one hand, and the Political Reform Act and/or the FPPC regulations, on the other hand, the provisions of the Political Reform Act and FPPC regulations shall govern.

SECTION 9. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

PASSED AND ADOPTED by the Oversight Board at the first regular meeting held on the 21<sup>st</sup> day of March, 2012.

  
CHAIR, OVERSIGHT BOARD

ATTEST:

  
\_\_\_\_\_  
ACTING SECRETARY


STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, SHARIE APODACA, Acting Secretary to the Oversight Board, hereby certify that the foregoing resolution was duly adopted at the first regular meeting of the Oversight Board, held on the 21<sup>st</sup> day of March, 2012.

AYES: 7 BOARD MEMBERS: BERGESON, COMPTON, DOLLESCHER,  
DUNN, FITZSIMONS, FOGARTY AND  
LANDERS

NOES: 0 BOARD MEMBERS:

ABSENT: 0 BOARD MEMBERS:

  
\_\_\_\_\_  
ACTING SECRETARY

**2012 ROSTER  
OVERSIGHT BOARD  
(TO THE SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY)**

- Marian Bergeson, Chair - c/o Great Park Conservancy, 1721 Tradewinds Lane, Newport Beach, CA 92660
- Lucy Dunn , Vice Chair - c/o Orange County Business Council, 2 Park Plaza, Ste. 100, Irvine, CA 92614
- Christine Compton, Board Member - c/o County of Orange, 10 Civic Center Plaza, Santa Ana, CA 92701
- Veronica Dolleschel, Board Member – c/o City of Irvine, One Civic Center Plaza, PO Box 19575, Irvine, CA 92623
- John Fogarty, Board Member - c/o Irvine Unified School District, 5050 Barranca Pkwy, Irvine, CA 92604
- Debra Fitzsimons, Board Member - c/o South OC Community College District, 28000 Marguerite Pkwy, Mission Viejo, CA 92692
- Sharon Landers, Board Member – c/o City of Irvine, One Civic Center Plaza, PO Box 19575, Irvine, CA 92623

**ITEM 8.**

# No Staff Report

8

**ITEM 9.**

# No Staff Report

9



## **IRVINE REDEVELOPMENT AGENCY AGREEMENTS**

1. Amended and Restated Development Agreement
2. Affordable Housing Grant Agreement
3. California Housing Finance Agency Loan (Housing Enabled by Local Partnerships)
4. County Implementation Agreement No. 1
5. County Implementation Agreement No. 2
6. City of Irvine Cooperation Agreement
7. Agreement for Legal Services
8. Agreement for Auditing Services
9. Orange County Tax Collector Fee
10. City of Irvine Financing Agreement (2005)
11. City of Irvine Financing Agreement (2006)
12. Purchase and Sale and Financing Agreement (2007)

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Amended and Restated Development Agreement

DATE: December 27, 2010

PARTIES: Irvine Redevelopment Agency (Agency)  
City of Irvine (City)  
Heritage Fields El Toro, LLC (Heritage Fields)

### SUMMARY OF SUBSTANTIVE TERMS:

Heritage Fields is the developer of the Great Park Neighborhoods project, which includes approximately 5,000 residential dwelling units, and several million square feet of additional commercial development. When built, the Great Park Neighborhoods Project, combined with the Orange County Great Park, will result in the comprehensive redevelopment of the former Marine Corps Air Station, El Toro ("MCAS El Toro").

To facilitate that redevelopment, Heritage Fields, the City, and the Agency entered into the Amended and Restated Development Agreement ("ARDA"). The ARDA constitutes both a statutory development agreement as between the City and Heritage Fields, and an "RDA Agreement" as between the Agency and Heritage Fields.

One of Heritage Fields primary obligations under the agreement is to build an extensive network of backbone infrastructure that will benefit both Heritage Fields' private development and the development of the Orange County Great Park.

In exchange for its commitment to build infrastructure that facilitates the redevelopment of the former MCAS El Toro, the RDA agreed, among other things, that "the obligations of the RDA with respect to Heritage Fields' vested rights, regulation of the Property, transfers of property, designation of uses and all other provisions of this Amended and Restated Agreement shall be the same as the City." (ARDA Section 3.13)

Under Section 3.9.4, the City (and, through Section 3.13, the Agency), "acknowledges and agrees that it will construct a park on the Great Park Property substantially in compliance with the Great Park Master Plan, as it may be amended from time to time." The most recent estimates forecasted a \$1.4 billion cost of construction for the Orange County Great Park as it is defined in the Great Park Master Plan.

# CONTRACTS SCAN SHEET

CONTRACT NUMBER: 6894

CONTRACT TYPE: LETTER

DEPARTMENT: COMMUNITY DEVELOPMENT  
Department initiating contract

CONTRACT DATE: 12/27/2010  
As stated in Terms section of Contract

EXPIRATION DATE:  
As stated in Terms section of Contract

MEETING DATE:  
Date of meeting where contract was approved

ITEM NUMBER:  
Item number of meeting where contract was approved

CONTRACT AMOUNT:  
As stated in Budget section of Contract

CONTRACT NAME: HERITAGE FIELDS LLC  
As stated in 1<sup>st</sup> paragraph of contract

CONTRACT SUBJECT: AMENDED AND RESTATED MASTER  
As stated in Description of Services section of contract IMPLEMENTATION AGREEMENT  
AND AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT; ALSO  
SEE AGREEMENTS 6896 AND 6320



SEAN JOYCE, City Manager

[www.ci.irvine.ca.us](http://www.ci.irvine.ca.us)

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim  
Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, CA 92656

**RE: AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT  
AND AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("Heritage Fields") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("ARDA"). The ARDA was approved by the City Council and adopted pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or near the date of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("ARMIA"). The ARMIA was approved by the City Council and adopted pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA and/or ARMIA.

Given the Third Party Legal Challenge, the parties now desire to update the ARMIA as follows:

1. The Parties agree that (i) the date referenced in the first set of parenthesis in the first sentence of Section 4.1 of the ARMIA is changed from calendar year 2010 to calendar year 2011, and (ii) the dates referenced in the second set of parenthesis in the first sentence of Section 4.1 of the ARMIA are changed from "calendar years 2011 through 2014" to "calendar years 2012 through 2015."

2. The Parties agree that the first Quarterly Infrastructure Meeting will occur in January 2011.

Mrs. Lynn Jochim  
December 27, 2010  
Page 2 of 2

3. The Parties agree that the first Annual MPP&S Update Meeting will be held in July 2011 (as opposed to July 2010 as originally stated in the ARMLA), and every July thereafter, and that the reference to "July 2011" for the first update to the Master Phasing Plan & Schedule shall now mean and refer to "July 2012".

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE  
By: Sean Joyce  
Sean Joyce  
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
California corporation  
Its: Managing Member

By: Eric R. Hirschi  
Print Name: Eric R. Hirschi  
Vice President  
Print Title: \_\_\_\_\_

# CONTRACTS SCAN SHEET

CONTRACT NUMBER: 6895

CONTRACT TYPE: LETTER

DEPARTMENT: COMMUNITY DEVELOPMENT  
Department initiating contract

CONTRACT DATE: 12/27/2010  
As stated in Terms section of Contract

EXPIRATION DATE:  
As stated in Terms section of Contract

MEETING DATE:  
Date of meeting where contract was approved

ITEM NUMBER:  
Item number of meeting where contract was approved

CONTRACT AMOUNT:  
As stated in Budget section of Contract

CONTRACT NAME: HERITAGE FIELDS LLC  
As stated in 1<sup>st</sup> paragraph of contract

CONTRACT SUBJECT: CONFIRMATION AND  
As stated in Description of Services section of contract CLARIFICATION OF CERTAIN  
PROVISIONS UNDER AMENDED  
AND RESTATED DEVELOPMENT  
AGREEMENT AND AMENDED AND  
RESTATED MASTER  
IMPLEMENTATION AGREEMENT IN  
VIEW OF EVENTS OCCURRING  
SINCE ORIGINAL APPROVAL; ALSO  
SEE AGREEMENTS 6896 AND 6320



SEAN JOYCE, City Manager

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim  
Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, CA 92656

**RE: CONFIRMATION AND CLARIFICATION OF CERTAIN PROVISIONS UNDER  
AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND AMENDED AND  
RESTATED MASTER IMPLEMENTATION AGREEMENT IN VIEW OF EVENTS  
OCCURRING SINCE ORIGINAL APPROVAL OF AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT AND AMENDED AND RESTATED MASTER  
IMPLEMENTATION AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("Heritage Fields") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("ARDA"). The ARDA was approved by the City Council pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or about the time of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("ARMLA"). The ARMLA was approved by the City Council pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA.

Among other things, the ARDA contains the following two paragraphs:

**"7.9 Apportionment; Application to County Property.** The City covenants to request in writing that the County honor its obligations pursuant to

Section 2.2.5 of the County Agreement, and to actively pursue enforcement of that provision, which provides as follows:

"The parties acknowledge that the City seeks to create a funding mechanism whereby all Base users pay their fair share of the costs of developing the necessary infrastructure and related improvements. The County agrees to participate in such a funding mechanism and pay its fair share of the costs that are limited to infrastructure improvements directly related to servicing the properties County is to receive referenced in 2.2.3 above. Infrastructure improvements shall refer to utilities, roadways, sewer lines and other types of infrastructure needs that are necessary to service each County parcel, if any. The County will not be required to contribute, through assessments or other funding or financing methods, to the development or maintenance costs or expenses for any park or open space that will be developed and maintained on the Base under the Irvine 'Great Park Plan'. Furthermore, to the extent they qualify, County shall have the option to pay any portion of its share of infrastructure costs and expenses with Road Funds or other non-General Fund revenues."

In this regard, the City agrees to meet and confer in good faith with Heritage Fields concerning the City's efforts to secure compliance with Section 2.2.5 of the County Agreement. The City shall not enter into any agreement with the County (or other parties, including OCTA) or a modification to the terms of the County Agreement that creates a material and adverse impact on the cost of the Backbone Infrastructure and/or a material and adverse impact on the timing of construction of the Backbone Infrastructure, as that timing is specified in the Master Phasing Plan and Schedule provided as Exhibit B to the MIA<sup>1</sup>, as that schedule may be modified from time to time in accordance with the MIA. Nothing in this Section 7.9 requires that the City commence any litigation action against the County to enforce the terms of the County Agreement, provided that nothing contained herein shall be deemed to be a waiver by Heritage Fields of any rights Heritage Fields may have as against the County with respect to the County Agreement."

"9.2.1 Conveyance of ARDA Transfer Site. Heritage Fields shall, within ninety (90) days of the Second Effective Date, convey to the City the ARDA Transfer Site and deliver to City a grant deed in the form substantially the same as the form attached hereto as Exhibit Q, unless a Third-Party Legal Challenge has been brought before that date, in which

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<sup>1</sup> The term "MIA" as used in the ARDA refers to the ARMIA.



case the conveyance shall occur within ninety (90) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. The City shall not be required to pay any fee or purchase price for the ARDA Transfer Site. Notwithstanding the 90-day time periods referenced above, the timing of the conveyance of the ARDA Transfer Site shall be subject to Section 9.9 with respect to LIFOCs, the final determination of the location of "Q" Street and the preparation of a metes and bounds legal description that correspondingly shows the precise boundaries of the ARDA Transfer Site."

Subsequent to the City Council's approval of the ARDA and the ARMIA, but prior to the execution of those documents, the City and the County of Orange ("**County**") approved three documents that, among other things, implemented and further defined various rights and obligations under a document entitled PROPERTY TAX TRANSFER AND PRE-ANNEXATION AGREEMENT ("**Annexation Agreement**") between the City and the County. The Annexation Agreement is the same document described as the "County Agreement" in the ARDA. Those three documents include:

- (1) IMPLEMENTATION AGREEMENT NO. 2 BETWEEN CITY OF IRVINE, IRVINE REDEVELOPMENT AGENCY AND COUNTY OF ORANGE ("**Implementation Agreement**"), dated August 17, 2010;
- (2) SUBLEASE BETWEEN CITY OF IRVINE AND COUNTY OF ORANGE FOR INSTITUTIONAL PARCEL WITHIN EL TORO LIFOC PARCEL 3 ("**100 Acre Sublease**"), dated August 17, 2010; and
- (3) RECIPROCAL LICENSE AGREEMENT<sup>2</sup> ("**License Agreement**"), between and among the City, the County, and Heritage Fields dated December 27, 2011.

The Implementation Agreement, 100 Acre Sublease, and License Agreement are collectively referred to as the "**Annexation Agreement Implementing Documents**."

Heritage Fields acknowledges and agrees that if the County contributes the County's "Fair Share" for development the "Infrastructure" (as such terms are defined in the Implementation Agreement), the County shall have discharged its obligation under Section 2.2.5 of the County Agreement. Heritage Fields agrees further that so long as the Annexation Agreement Implementing Documents remain in effect and the City complies with such agreements and uses reasonable efforts to require compliance with the provisions of the Annexation Agreement Implementing Documents (which reasonable efforts shall not require the commencement of litigation by the City against the County), Heritage Fields shall not claim that the Annexation Agreement Implementing Documents, or the exercise of rights and performance of obligations thereunder, constitute a breach of any obligation of the City under the ARDA

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<sup>2</sup> Heritage Fields El Toro, LLC, is a party to the License Agreement, in addition to the City and the County.

and/or the ARMIA, creates any legal or equitable liability of the City under the ARDA and/or the ARMIA, and/or reduces or delays any obligation of Heritage Fields under the ARDA and/or the ARMIA.

As to Section 9.2.1 of the ARDA, the parties have agreed, in accordance with Section 9.2.1.2 of the ARDA, to adjust the precise location of the ARDA Transfer Site (as depicted on Exhibit G to the ARDA), such that the revised description of the ARDA Transfer Site shall be as depicted on **Exhibit A** attached hereto. The parties acknowledge and agree that **Exhibit A** divides the ARDA Transfer Site into two parcels ("Parcels"), one of which consists of approximately 125.5 acres (the "Northern Parcel"), and the other of which consists of approximately 5.0 acres (the "Southern Parcel"). The metes and bounds descriptions of the two Parcels shall be based upon **Exhibit A** attached hereto unless the parties hereafter mutually agree to a different location and/or area of the ARDA Transfer Site in accordance with Section 9.2.1.2 of the ARDA. The metes and bounds descriptions of the Parcels shall be completed by April 1, 2011. By May 17, 2011, a transfer of fee title to the Southern Parcel from Heritage Fields to the City (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA) shall occur. By May 17, 2011, a sublease, assignment of lease, transfer of fee title or combination of the foregoing options shall be completed in accordance with the terms of the ARDA (provided that no provision of the ARDA shall be interpreted to excuse or avoid the obligation to complete the sublease, assignment of lease, and/or fee conveyance of the Northern Parcel by May 17, 2011), such that the City shall hold a possessory interest in the entirety of the Northern Parcel (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA). Heritage Fields and the City further agree that Section 9.6, concerning modifications to property boundaries to accommodate the ultimate roadway alignments and design standards, shall apply to the ARDA Transfer Site.

The parties separately acknowledge and agree that the Index for Guaranteed Amount attached as Exhibit R-1 and R-2 to the ARDA and the Rate and Method of Apportionment attached as Exhibit S to the ARDA (the "RMA") were both developed with the assumption that the ARDA would become effective during Fiscal Year 2009-2010. Due to, among other things, the Third Party Litigation, the ARDA was not signed and will not become effective until Fiscal year 2010-2011. Accordingly, the parties agree that the obligations for payment of the Guaranteed Amount in the ARDA that are identified as being due in Fiscal Year 2009-2010 will be due in Fiscal Year 2010-2011, and that obligations identified in the ARDA and the RMA and the respective exhibits to the ARDA and RMA as being due in succeeding years (i.e. years following Fiscal Year 2009-2010) will correspondingly be due one year later than is indicated in the ARDA and RMA and respective exhibits. Given that the Second Effective Date will be deemed to be December 27, 2010 (as identified below), the first payment of the Guaranteed Amount for the current Fiscal Year (2010-2011) will be due April 10, 2011.

Finally, the parties have agreed that the Second Effective Date of the ARDA shall be December 27, 2010; provided, however, that the first payment of the Public Benefit Fee due

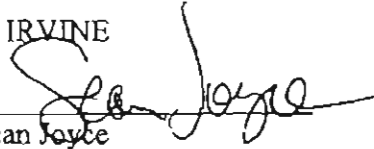
Mrs. Lynn Jochim  
December 27, 2010  
Page 5 of 5

under Section 10.1 of the ARDA shall be payable in January 2011, and all subsequent adjustments to the Public Benefit Fee shall occur in the month of January, as opposed to the month of December.

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By:

  
Sean Joyce  
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

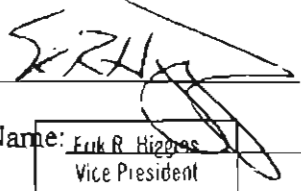
HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
California corporation  
Its: Managing Member

By:

  
Print Name: Erik R. Higgins  
Vice President

Print Title:

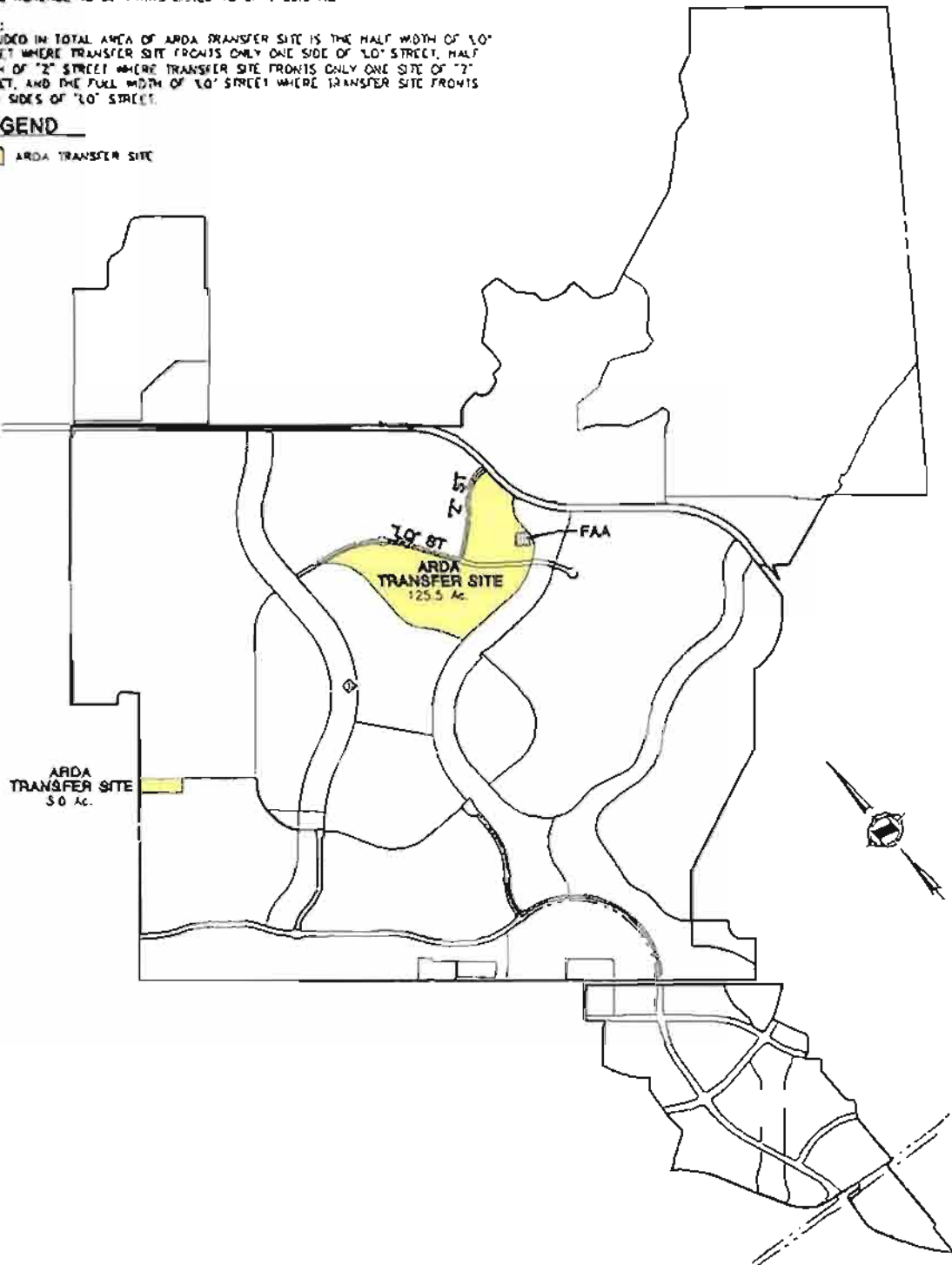
# EXHIBIT 'A'

ACREAGE SUMMARY  
TOTAL ACREAGE TO BE TRANSFERRED TO CITY: 130.5 AC.

NOTE:  
INCLUDED IN TOTAL AREA OF ARDA TRANSFER SITE IS THE HALF WIDTH OF 'LO' STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF 'LO' STREET, HALF WIDTH OF '2' STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF '2' STREET, AND THE FULL WIDTH OF 'LO' STREET WHERE TRANSFER SITE FRONTS BOTH SIDES OF 'LO' STREET.

## LEGEND

ARDA TRANSFER SITE



<b>HUNSAKER &amp; ASSOCIATES</b> LAND SURVEYING, INC. PLANNING • ENGINEERING • SURVEYING <small>Surveying • Mapping • Civil • Environmental • Photogrammetry • Remote Sensing</small>			<b>ARDA TRANSFER SITE</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA		
DATE	12/11/00	BY	W. K. LYNCH	SCALE	1"=2000'
FILE	C:\Kory\Heritage Fields\DA Exhibits\JULY 2009\EXH-G-122110.dwg				
					W.O. 1866-BOX

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:



NO FEE

2010000700065 03:57pm 12/27/10

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attention: City Clerk

93 401 A12 232  
0.00 0.00 0.00 0.00 693.00 0.00 0.00 0.00

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(Space Above For Recorder's Use Only)

This Development Agreement is recorded at the request  
and for the benefit of the City of Irvine and is exempt  
from the payment of a recording fee pursuant to  
Government Code § 27383

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

**Between**

**THE CITY OF IRVINE AND THE IRVINE REDEVELOPMENT AGENCY**

**And**

**HERITAGE FIELDS EL TORO, LLC**

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## AMENDED AND RESTATED DEVELOPMENT AGREEMENT

This AMENDED AND RESTATED DEVELOPMENT AGREEMENT (“**Amended and Restated Development Agreement**”) is entered into this ~~22~~<sup>27</sup> day of ~~December~~, 2010, by and between the CITY OF IRVINE, a California charter city (the “**City**”) and Heritage Fields El Toro LLC, a Delaware limited liability company (“**Heritage Fields**”). This AGREEMENT (“**RDA Agreement**”) is also entered into by and between the Irvine Redevelopment Agency, a redevelopment agency formed pursuant to Health and Safety Code Sections 33000 *et seq.* (“**RDA**”) and Heritage Fields. This Amended and Restated Development Agreement and RDA Agreement are collectively referred to as the “**Amended and Restated Agreement**.” The City, Heritage Fields and RDA are collectively referred to herein as the “**Parties**” and individually as a “**Party**.”

### RECITALS

All capitalized terms used in the Recitals shall have the meanings given to such terms in Section 1 of this Amended and Restated Agreement.

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted the “**Development Agreement Statute**,” Sections 65864 *et seq.*, of the California Government Code. The Development Agreement Statute authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property, to provide for the development of such property and to vest certain development rights therein. Pursuant to the authorization set forth in the Development Agreement Statute, the City adopted its Resolution No. 82-68 on July 13, 1982, establishing procedures for the consideration and approval of development agreements (“**City Development Agreement Regulations**”).

B. In accordance with the Development Agreement Statute, the City Development Agreement Regulations and applicable law, on July 8, 2003, the City Council of the City of Irvine (“**City Council**”) adopted Ordinance No. 03-19 approving a draft version of a development agreement (the “**2003 Agreement Draft Version**”) in anticipation of entering into an actual development agreement with the eventual purchaser(s) of the former Marine Corps Air Station, El Toro (“**MCAS El Toro**”).

C. On July 1, 2004, the City’s Planning Commission held a public hearing on the 2003 Agreement Draft Version, made certain findings and determinations with respect thereto and recommended to the City Council that such version be approved. On October 12, 2004, the City Council also held a public hearing on a revised draft version of a development agreement, considered the recommendations of the Planning Commission, found that the revised draft version of a development agreement (the “**2004 Agreement Draft Version**”) was consistent with the City’s General Plan, and adopted Ordinance No. 04-13 approving the 2004 Agreement Draft Version. The City again

prepared the 2004 Agreement Draft Version in anticipation of entering into a development agreement with the eventual purchaser(s) of the former MCAS El Toro.

D. Subsequently, the City determined to further revise the 2004 Agreement Draft Version to address, among other issues, completion of the bidding process for the acquisition of the former MCAS El Toro by a single bidder. On May 5, 2005, the City's Planning Commission held a public hearing on the proposed development, made certain findings and determinations with respect thereto, and recommended to the City Council that a further revised draft of a development agreement ("**Original Development Agreement**") be approved. On May 10, 2005, the City Council also held a public hearing on the Original Development Agreement, considered the recommendations of the Planning Commission, and found that the Original Development Agreement was consistent with the General Plan. In accordance with the Development Agreement Statute, the City Development Agreement Regulations, and applicable law, on May 24, 2005, the City Council adopted Ordinance No. 05-10 approving the Original Development Agreement.

E. On or about July 12, 2005, Heritage Fields LLC ("**HF**") purchased, or leased with a right to future conveyance, approximately 3,705 acres from the United States Department of the Navy ("**DON**"), which constituted a significant portion of the former MCAS El Toro ("**Property**"). The Property is depicted on Exhibit "A" attached hereto.

F. Concurrently with HF's acquisition of the Property and pursuant to the Development Agreement Statute and the City Development Agreement Regulations, the City and HF executed the Original Development Agreement dated July 12, 2005, substantially as approved by Ordinance No. 05-10, and as adopted by the City Council on May 24, 2005, which became effective on July 12, 2005 and was recorded with the Orange County Recorder's office as Document No. 2005000538136 on July 12, 2005.

G. On or about July 12, 2005, HF transferred certain real property consisting of approximately 1,117 acres in fee title or as a lease in expectation of a fee title (as described below) to the City for purposes of creating a great metropolitan park known as the Orange County Great Park (the "**Great Park**"). The portion of the Property initially conveyed to the City in July 2005 (either in fee title or as a lease in furtherance of conveyance of fee title) is hereinafter referred to as the "**Initial City Park Property**" and is depicted on Exhibit "B" attached hereto. Since July 12, 2005, the Parties have agreed to consider, pursuant to Section 8.1.4 of the Original Development Agreement, certain boundary adjustments to the properties conveyed and retained, to account for, among other things, changes in rights of way configurations, which will result in some portions of the Property currently owned by the City being re-conveyed to Heritage Fields (the "**Initial Heritage Fields Exchange Properties**") and other portions of the Property currently owned by Heritage Fields being conveyed to the City (the "**Initial City Exchange Properties**"). The Initial Heritage Fields Exchange Properties contains not less than 44 acres and are shown as Property Identification Areas ("**PIAs**") 7, 8, 31, 34, and 36 on Exhibit "I." The Initial City Exchange Properties contain approximately not less than 44 acres and are shown as PIAs 9, 32, 33 and 35 on Exhibit "I." The Initial Heritage Fields Exchange Properties and the Initial City Exchange Properties are

collectively referred to as the “**Exchange Properties**,” as further depicted on Exhibit “C.” The Parties acknowledge that some portions of the Initial City Park Property and Exchange Properties are currently held by the Parties as a lease in furtherance of conveyance (“**LIFO**”), as depicted on Exhibit “N,” and that fee title to such portions of the Initial City Park Property and Exchange Properties will be conveyed ultimately to the Party by the DON. The Parties will execute appropriate property exchange documents and approvals necessary to effectuate such adjustments. The Initial City Park Property, the Initial City Exchange Properties and, upon the conveyance of the same to the City, the ARDA Transfer Site (as defined below) are collectively referred to herein as the “**Great Park Property**.”

H. On or about July 12, 2005, HF also conveyed approximately 294 acres to the City for non-Great Park purposes (the “**Original Non-Park Property**”), as depicted on Exhibit “D.” Heritage Fields has also promised to convey to the City approximately five and one-half (5 ½) acres (the “**Police Site**”), as generally depicted on Exhibit “F.” The Original Non-Park Property and the Police Site shall be collectively referred to herein as the “**Non-Park Property**”).

I. In consideration of the covenants and agreements of the City set forth in this Amended and Restated Agreement, Heritage Fields has also agreed to commit to and execute the transfer of approximately 130.5 acres to the City, as more fully described and subject to the conditions in Section 9.2 below (hereinafter, the “**ARDA Transfer**”). The real property to be transferred to the City pursuant to the ARDA Transfer is hereinafter referred to as the “**ARDA Transfer Site**” and such property is generally depicted on Exhibit “G,” and is more fully described as PIAs 28 and 30 on Exhibit “I,” but may be subject to adjustment in accordance with Section 9.2 below. Upon transfer, the ARDA Transfer Site will become a part of the Great Park Property.

J. The Great Park Property and the Non-Park Property are collectively referred to as the “**City Property**.”

K. The portions of the Property which have been or will be retained by Heritage Fields or conveyed to Heritage Fields as part of the Initial Heritage Fields Exchange Properties will contain approximately 2,157 acres, in the aggregate, and are collectively referred to as the “**Heritage Fields Property**” as depicted on Exhibits “H,” “H-1” and “H-2,” and more fully described as PIAs 1, 5, 7, 8, 16, 21, 22, 23, 26, 27, 31, 34, 36, 38, 39, 41, 42, 45, and 48 on Exhibit “I.”

L. On or about December 22, 2005, HF conveyed all of the Property it owned at that time to Heritage Fields. Heritage Fields is the successor-in-interest to HF for all purposes under the Original Development Agreement.

M. Subsequent to the Parties’ execution of the Original Development Agreement: (i) Heritage Fields and the City entered into that certain Master Implementation Agreement dated June 27, 2006 (the “**MIA**”); (ii) the City initiated, and on October 24, 2006 approved, a General Plan Amendment and Zone Change Ordinance No. 06-18 (the “**2006 GPA/ZC**”); (iii) the City approved Tentative Parcel Map No. 2006-271, which

when recorded will constitute a Financing and Conveyance Map; (iv) Heritage Fields sought and obtained certain Agency Permits; (v) the City initiated, and on April 10, 2007 adopted, an amendment to its Affordable Housing Ordinance (Section 2-3 of the Zoning Code) pursuant to which the City updated such ordinance so that it is in compliance with the State of California's density bonus law; (vi) Heritage Fields prepared and the City approved on May 17, 2007 a Master Subdivision Map, Vesting Tentative Tract Map No. 17008, (as amended, the "**MSM**"); (vii) Heritage Fields timely paid to the City the aggregate amount of \$200,000,000.00 in Development Agreement Fees, which payments satisfy Heritage Fields Development Agreement Fee obligations; (viii) Heritage Fields prepared, and the City approved certain amendments to Tentative Parcel Map No. 2006-271; (ix) the City approved on September 27, 2007 Orange County Great Park Master Plan 00434337-PMP (the "**Great Park Master Plan**"); (x) Heritage Fields prepared and the City approved on October 16, 2008 certain amendments to the MSM, together with a Master Landscape and Trails Plan, certain modifications to the Orange County Great Park Master Streetscape Design Guidelines approved by City's Planning Commission on October 16, 2008 (including subsequent refinements mutually approved by Heritage Fields and the Director of Community Development and as further supplemented and/or amended from time to time mutually by Heritage Fields and the City, the "**Streetscape Guidelines**"), Vesting Tentative Tract Map No. 17283, and Master Plan No. 00470483-PMP; (xi) the County approved that certain San Diego Creek Flood Control Master Plan Update dated October 2, 2008 and designated County case number EC29320 (City case number 00457521-EMC); (xii) the County approved that certain Planning Area 51 Marshburn Watershed Update dated October 2, 2008 and designated County case number ED 29320 (City case number 00464843-EMC); (xiii) Heritage Fields prepared and the City's Planning Commission approved on November 6, 2008 the Master Affordable Housing Plan ("**MAHP**") for the Heritage Fields Property; (xiv) the IRWD SAMP dated March 17, 2009 was approved; and (xv) the County approved the Conceptual Project Water Quality Management Plan (WCMP), Updating the Integrated Master Plan of Drainage, Water Quality and Habitat Mitigation dated April 23, 2009.

N. The City and Heritage Fields have agreed to amend the Original Development Agreement and enter into this Amended and Restated Agreement to address, among other things, changing the assumptions and conditions for development of the Heritage Fields Property and the Parties' desire to revise development plans for the Heritage Fields Property to benefit Heritage Fields and the City and the desire to add the RDA as a Party. The Original Development Agreement and this Amended and Restated Agreement are intended to be, and shall be construed as, a development agreement within the meaning of the Development Agreement Statute. This Amended and Restated Agreement will eliminate uncertainty in planning for and secure the orderly development of the Heritage Fields Property, ensure a desirable and functional community environment, provide effective and efficient development of public facilities, infrastructure, and services appropriate for the development of the Heritage Fields Property, assure attainment of the maximum effective utilization of resources within the City, and provide other significant public benefits to the City and its residents by otherwise achieving the goals and purposes of the Development Agreement Statute. In exchange for these benefits to the City, Heritage Fields desires to receive, or if vested by the Original Development Agreement, continue to receive, the assurance that it may proceed with the development of the

Heritage Fields Property in accordance with the terms and conditions of this Amended and Restated Agreement, the Existing Land Use Regulations (defined below), and the ARDA Overlay Plan (defined below).

O. The City and Heritage Fields have agreed to amend both the MIA and that certain Agreement Regarding Hardscape Recycling dated May 3, 2006 (“**Tri-Party Agreement**”), and to memorialize said amendments in a single agreement, of near or even date herewith, entitled “Amended and Restated Master Implementation Agreement” (“**Amended MIA**”).

P. The City has determined that the development described in the ARDA Overlay Plan (defined below), the Existing Land Use Regulations (defined below) and this Amended and Restated Agreement is consistent with the goals and policies of the City’s General Plan and that the ARDA Overlay Plan imposes appropriate standards and requirements with respect to the development of the Heritage Fields Property to maintain the overall quality of life and the environment within the City.

Q. On July 3, 2008, the City’s Planning Commission held a public hearing on this Amended and Restated Agreement, made certain findings and determinations with respect thereto, and recommended to the City Council that the Amended and Restated Agreement be approved. On September 8, 2009, the RDA made certain findings and determinations with respect thereto and adopted Resolution No. 09-02 approving this Amended and Restated Agreement. The RDA has considered the environmental impacts of the ARDA Overlay Plan and completed its environmental review of the development approved in this Amended and Restated Agreement. On August 11, 2009, the City Council held a public hearing on the Amended and Restated Agreement, considered the recommendations of the Planning Commission and found that the Amended and Restated Agreement is consistent with the General Plan. In accordance with the Development Agreement Statute, the City Development Agreement Regulations, and applicable law, on August 11, 2009, the City Council adopted for first reading Ordinance No. 09-09 approving this Amended and Restated Agreement. The second reading and adoption of Ordinance No. 09-09 occurred on August 11, 2009. The City has considered the environmental impacts of the ARDA Overlay Plan and completed its environmental review of the development approved in this Amended and Restated Agreement.

## **A G R E E M E N T**

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Heritage Fields hereby agree as follows:

### **1. DEFINITIONS.**

The following terms when used in this Amended and Restated Agreement shall have the meanings set forth below:

The term “**1602 Agreement**” shall have the meaning set forth in Section 8.2.1.

The term “**2003 Agreement Draft Version**” shall have the meaning set forth in Recital “B.”

The term “**2003 Project Approvals**” refers to those approvals made by the City Council in Resolution No. 03-60, Ordinance No. 03-18, Ordinance No. 03-19 and implementing approvals.

The term “**2004 Agreement Draft Version**” shall have the meaning set forth in Recital “C.”

The term “**2006 GPA/ZC**” shall have the meaning set forth in Recital “M.”

The term “**401 Certification**” shall have the meaning set forth in Section 8.2.1.

The term “**404 Permit**” shall have the meaning set forth in Section 8.2.1.

The term “**Action**” shall have the meaning set forth in Section 20.3.

The term “**Additional Backbone Infrastructure**” means those items or actions, in addition to the Backbone Infrastructure, that the City and Heritage Fields may mutually agree to pay for in the manner set forth in Section 7.

The term “**Administrative Expenses**” shall have the meaning set forth in the RMA.

The term “**ADT**” shall have the meaning specified in Section 1-2-1 of the Irvine Zoning Code; namely “The total bi-directional volume of traffic passing through a given point during a given period of time in whole days greater than one day and less than one year, excluding Saturdays, Sundays, and holidays, divided by the number of days in that time period, excluding Saturdays, Sundays, and holidays.”

The term “**Agency Permits**” shall have the meaning set forth in Section 8.2.1.

The term “**Amended and Restated Agreement**” shall have the meaning assigned to it in the initial paragraph of this document.

The term “**Amended MIA**” shall have the meaning set forth in Recital “O.”

The term “**Annual Review**” shall have the meaning set forth in Section 15.1.

The term “**ARDA Overlay Plan**” shall have the meaning as set forth in Section 4.1.

The term “**ARDA Traffic Study**” shall have the meaning set forth in Section 3.12.1.

The term “**ARDA Transfer**” shall have the meaning set forth in Recital “I.”

The term “**ARDA Transfer Site**” shall have the meaning set forth in Recital “I.”

The term “**Assumed IRWD Assessment**” shall have the meaning set forth in Section 7.5.2.

The term “**Authorized Facilities**” means Group A Facilities, Group B Facilities, and Group C Facilities.

The term “**Authorized Services – On Park**” means work performed by the City, the OCGP Corporation, or designee, to maintain, to manage, to operate, to provide services for, or to rehabilitate the facets of the Great Park Property to the extent the work is generally consistent with the Great Park plan as it existed in 2005. Work includes but is not limited to: landscape, grass and turf, open space, agriculture, water features, buildings and facilities, parking, and drainage facilities. Work may be performed on a sports park and other sports fields and athletic facilities; on lands comprising a museum district; on utilities for the Great Park Property (to the extent not paid for directly by users/vendors/operators of improvements on the Great Park Property); on public safety and other security services for the Great Park Property; on the Agua Chinon; on the Wildlife Corridor; and on administrative costs including allocated overhead. The totality of administrative costs, overhead or other similar management costs each Fiscal Year shall not, in the aggregate, exceed the amount allocated toward overhead expense in the Full Cost Allocation Plan prepared by the City on a city-wide basis and applicable to such Fiscal Year.

The term “**Authorized Services – Off Park**” means work performed by the City, the OCGP Corporation, or designee, to provide public property maintenance, management, operations, rehabilitation, services, and utilities in the CFD Area and those areas adjacent to the CFD Area that are part of the Property (excluding the Great Park Property and County Property), including but not limited to: neighborhood parks, buildings and facilities within such parks; a fly-away remote airport terminal; street right-of-way including, public roads, bike trails, parking lots, curbs and gutters, sidewalks, drainage facilities, street lighting, street sweeping and other right-of-way care; landscape median, parkway and open space maintenance operations and rehabilitation; traffic signal operations, maintenance, rehabilitation and coordination; public safety and other safety and security services; and, administrative costs including allocated overhead. The totality of administrative costs, overhead or other similar management costs each Fiscal Year shall not, in the aggregate, exceed the amount allocated toward overhead expense in the Full Cost Allocation Plan prepared by the City on a city-wide basis and applicable to such Fiscal Year. Further, the totality of the Authorized Services – Off Park each year shall not exceed seventeen percent (17%) of the Indexed GA for each particular year.

The term “**Authorized Services**” means “**Authorized Services – On Park**” and “**Authorized Services – Off Park**,” but does not include (i) work to maintain, manage, or operate either a lake or a balloon ride feature at the Orange County Great Park, (ii) work to maintain, manage, and operate a canyon feature to the extent the costs of such work exceed the costs of landscaping and maintaining the land area consumed by said canyon feature if that feature had not been constructed, or (iii) work or costs for or related to special events on the Great Park Property.



The term “**Backbone Infrastructure**” or “**Proposed Project Facilities**” shall collectively mean the Group A Facilities, and the Group B Facilities as described, respectively, in Exhibits E-1 and E-2.

The term “**Bond Costs**” means for (i) any Non-Subordinate Bond issue and (ii) all Subordinate Bonds, all debt service payments, administrative expenses, and amounts required to establish or replenish any reserve funds, or any other use of Special Taxes for such bond issue, as required by the indenture, fiscal agent agreement, or other agreement governing the terms of such bond issue.

The term “**Bosque Site**” shall mean that site identified as PIA 11a in Exhibit “I.”

The term “**CC&Rs**” shall have the meaning set forth in Section 12.

The term “**CEQA**” or “**California Environmental Quality Act**” means the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*), as may be amended from time to time.

The term “**CFD**” shall mean the Community Facilities District allowed to be formed pursuant to the CFD Act by a Local Agency.

The term “**CFD Act**” shall mean the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 *et seq.*), as may be amended from time to time.

The term “**CFD Area**” shall mean the area within the geographic boundaries of the CFD.

The term “**CFD Administrator**” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement, and providing for the levy and collection of the Special Taxes.

The term “**CFD Bonds**” shall mean one or more series of bonds issued by a CFD on behalf of an Improvement Area, including Non-Subordinate Bonds and Subordinate Bonds.

The term “**CFD Petition**” shall have the meaning set forth in Section 7.7.1.

The term “**Change Proceedings**” shall have the meaning set forth in Section 7.7.7.

The term “**City**” shall have the meaning set forth in the opening paragraph of this Amended and Restated Development Agreement.

The term “**City Council**” shall have the meaning set forth in Recital “B.”

The term “**City Development Agreement Regulations**” shall mean the regulations establishing procedures and requirements for the consideration of

development agreements set forth in City's Resolution No. 82-68 and adopted by the City Council on July 13, 1982.

The term **"City's Designee"** shall mean: (i) the OCGP Corporation; or (ii) Heritage Fields, with regard to the performance of one or more of the responsibilities, obligations or undertakings of the City pursuant to this Amended and Restated Agreement and/or the Amended MIA; or (iii) the governmental or non-profit entity(ies) that the City in its sole and absolute discretion designates to receive all or some portion of City Property, or that the City in its sole and absolute discretion assigns to perform any one or more of the responsibilities, obligations or undertakings of the City under this Amended and Restated Agreement.

The term **"City Property"** shall have the meaning set forth in Recital "J."

The term **"Conceptual Overlay Plan"** shall mean the conceptual plan attached to the Original Development Agreement as Exhibit "B" for the development of the Property in accordance with the Overlay Plan (as defined in Exhibit "C" of the Original Development Agreement).

The term **"Construction Manager"** shall have the meaning set forth in Section 7.1.1.

The term **"County"** shall mean the County of Orange, a political subdivision of the State of California.

The term **"County Agreement"** shall mean that certain "Property Tax Transfer and Pre-Annexation Agreement Among the City of Irvine, the Irvine Redevelopment Agency, and the County of Orange, Regarding the Annexation and Reuse of Former MCAS El Toro", dated March 4, 2003.

The term **"Defaulting Party"** shall have the meaning set forth in Section 14.1.

The term **"Density Bonus Units"** shall have the meaning set forth in Section 3.11.1.

The term **"Development Agreement Fee"** or **"Development Agreement Fees"** shall mean the fees paid to the City by Heritage Fields pursuant to Section 4.2 of the Original Development Agreement.

The term **"Development Agreement Statute"** refers to Sections 65864 through 65869.5 of the California Government Code, as such sections may have been amended from time to time prior to the Second Effective Date.

The term **"Development Fees"** shall mean the monetary consideration charged by the City in connection with mitigating the Project-specific impacts of the Project and development of the public facilities related to development of the Project. Development Fees shall not include (i) the City's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site

approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection and similar fees imposed to recover the City's costs associated with processing, review and inspection of applications, plans, specifications, etc. (except for the original approval of the Master Subdivision Map); (ii) fees and charges levied by any other public agency, utility, district or joint powers authority whether or not such fees are collected by the City; or (iii) any mitigation charges or public facilities included in the Proposed Project Facilities.

The term **"DON"** shall have the meaning set forth in Recital "E."

The term **"EIR"** shall mean the Orange County Great Park Environmental Impact Report certified by the City Council on May 27, 2003 (SCH No. 2002101020; Irvine City Council Resolution No. 03-60), and any and all addenda thereto.

The term **"Excess Special Tax Capacity"** shall have the meaning set forth in Section 7.5.8.

The term **"Exchange Properties"** shall have the meaning set forth in Recital "G."

The term **"Existing Land Use Regulations"** shall mean the City's General Plan, Zoning Code and all other ordinances, resolutions, rules and regulations and written adopted policies of the City governing the development and use of the Heritage Fields Property in effect as of July 12, 2005, except that the Existing Land Use Regulations shall include: (i) those entitlements and approvals issued by the City and described in Recital "M," including all conditions and requirements imposed by the City therein, as such conditions may from time to time be amended by mutual agreement of the City and Heritage Fields (other than the Great Park Master Plan and Streetscape Guidelines), (ii) amendments approved subsequently to comply with state law in effect as of July 12, 2005 (Section 2-3 of the Zoning Code); (iii) General Plan Amendment/Zone Change No. 09-89 approved concurrently with this Amended and Restated Agreement; and (iv) amendments to the General Plan approved in Ordinance No. 08-09 (Marine/Bake intersection). The Existing Land Use Regulations shall include without limitation the permitted uses of the Heritage Fields Property, the density and intensity of use, maximum height and size of proposed buildings, development fee requirements, provisions for the reservation and dedication of land for public purposes and construction standards and specifications (not including the Uniform Construction Codes pertaining to construction adopted for general application in the City).

The term **"Financing and Conveyance Map"** shall mean any final subdivision map pursuant to the Subdivision Map Act, Government Code Sections 66410 *et seq.* which divides the Heritage Fields Property into parcels or lots for financing and conveyance purposes only and which does not authorize development of any kind.

The term **"Fiscal Year"** shall mean the period starting July 1 and ending on the following June 30.

The term **"Force Majeure"** shall have the meaning set forth in Section 14.5.

The term “**General Plan**” shall mean the General Plan of the City as it existed on the Initial Effective Date, and as expressly amended by (i) the 2006 GPA/ZC (ii) General Plan Amendment/Zone Change No. 09-89 approved concurrently with this Amended and Restated Agreement; (iii) amendments approved in Ordinance No. 08-09 (Marine/Bake intersection); and (iv) amendments applicable to the Heritage Fields Property, as approved by Heritage Fields in the manner specified in Section 3.6,

The term “**Great Park**” shall have the meaning set forth in Recital “G.”

The term “**Great Park Master Plan**” shall have the meaning set forth in Recital “M.”

The term “**Great Park Property**” shall have the meaning set forth in Recital “G.”

The term “**Group A Facilities**” shall mean those certain off-property facilities described in Exhibit “E-1,” as such list of facilities may be amended by the mutual consent of the City and Heritage Fields. A narrative description of the Group A and Group B Facilities is attached hereto as Exhibit “E-3”.

The term “**Group B Facilities**” shall mean those certain on-property facilities described in Exhibit “E-2,” as such list of facilities may be amended by the mutual consent of the City and Heritage Fields. A narrative description of the Group A and Group B Facilities is attached hereto as Exhibit “E-3”.

The term “**Group C Facilities**” shall mean those facilities depicted and/or described in the approved Master Plan for the Orange County Great Park, as that master plan may be amended from time to time.

The term “**Guaranteed Amount**” shall have the meaning set forth in the RMA.

The term “**Heritage Fields**” shall have the meaning set forth in the opening paragraph of this Amended and Restated Agreement.

The term “**Heritage Fields Property**” shall have the meaning set forth in Recital “K.”

The term “**HF**” shall have the meaning set forth in Recital “E.”

The term “**Improvement Areas**” shall have the meaning set forth in Section 7.7.

The term “**Indenture**” shall have the meaning set forth in Section 7.8.5.

The term “**Index Delta**” shall have the meaning set forth in Section 7.5.5.

The term “**Indexed GA**” shall mean the annual amount set forth on Exhibit “R-1.”

The term “**Indexed SA**” means Twenty-Six Million Dollars (\$26,000,000), which amount shall increase annually by three percent (3%), commencing as of the same Fiscal Year in which the Indexed GA commences to increase as set forth on Exhibit "R-1".

The term “**Initial City Exchange Properties**” shall have the meaning set forth in Recital “G.”

The term “**Initial City Park Property**” shall have the meaning set forth in Recital “G.”

The term “**Initial Effective Date**” shall mean July 12, 2005, the date that the Original Development Agreement was recorded in the Official Records of Orange County, California.

The term “**Initial Heritage Fields Exchange Properties**” shall have the meaning set forth in Recital “G.”

The term “**Institutional Uses**” means the following uses: agriculture, information center, outdoor vendors, parks, public park facilities, pushcarts, public schools and clubs, wireless communications facilities, child care centers, community facilities, cemeteries, funeral homes/mortuaries, government facilities, conference/convention facilities, and utility buildings and facilities.

The term “**IRWD**” means the Irvine Ranch Water District.

The term “**IRWD Bonds**” shall mean bonds issued by IRWD secured by the ad valorem assessments against the Property.

The term “**IUSD**” shall mean Irvine Unified School District.

The term “**JAMS**” shall mean the commercial service dispute resolution service known as JAMS.

The term “**JCFA**” shall mean a Joint Community Facilities Agreement, as provided in Section 53316.2 of the CFD Act.

The term “**LIFO**” shall have the meaning set forth in Recital “G.”

The term “**List of NITM Improvements**” shall have the same meaning as provided in the NITM Ordinance.

The term “**Local Agency**” shall mean any public agency authorized to levy, create or issue any form of land secured financing over all or any part of the Project, including, but not limited to, the City, the RDA and IRWD.

The term “**Lot**” shall mean any of the parcels legally created as a result of any approved final subdivision parcel or tract map or recordation of a condominium plan

pursuant to the California Civil Code Section 1352 for the Property pursuant to the Subdivision Map Act, Government Code Sections 66410 *et seq.*

The term “**Lower Priority Disbursement**” shall have the meaning set forth in Section 7.6.4.

The term “**Master Subdivision Map**” or “**MSM**” shall mean Vesting Tentative Tract Map No. 17008 approved by the City on May 17, 2007, and as amended by the City on October 16, 2008, and as more fully described in Recital “M.”

The term “**Master SWPPP**” shall have the meaning set forth in Section 8.2.1.

The term “**Maximum Special Tax**” means the maximum Special Tax that can be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

The term “**MCAS El Toro**” shall have the meaning set forth in Recital “B.”

The term “**MIA**” shall have the meaning set forth in Recital “M.”

The term “**Mortgage**” shall mean a mortgage, deed of trust, sale and leaseback arrangement, or any other form of conveyance in which the Heritage Fields Property, or a portion thereof or interest therein, is pledged as security, and contracted for in good faith and for fair value.

The term “**Mortgagee**” shall mean the holder of a beneficial interest under a Mortgage, or any successor or assignee of any such Mortgagee.

The term “**Mortgagee Successor**” shall mean a Mortgagee or any third party who acquires fee title or any rights or interest in or with respect to the Property or any portion thereof through foreclosure, trustee’s sale, deed in lieu of foreclosure, lease termination, or otherwise from or through a Mortgagee. If a Mortgagee acquires fee title or any right or interest in or with respect to the Property or any portion thereof through foreclosure or trustee’s sale or by deed in lieu of foreclosure or trustee’s sale and such Mortgagee subsequently conveys fee title to such portion of the Property to a third party, then such third party shall be deemed a Mortgagee Successor.

The term “**Municipal Code**” shall refer to the City of Irvine Municipal Code, as the same existed as of July 12, 2005 or may be further amended from time to time consistent with this Amended and Restated Agreement, or as applicable, with the Original Development Agreement, including, but not limited to, any Zoning Code amendments referenced in Recital “M.”

The term “**NITM**” or “**NITM Program**” shall mean the North Irvine Transportation Mitigation program as set forth in Section 6.1, as the same may be amended from time to time.

The term “**NITM Account**” refers to the account in which all NITM Program funds will be deposited.

The term “**NITM Ordinance**” meaning the Ordinance found at Section 6-3-701 *et seq.* of the Irvine Municipal Code.

The term “**NITM Program Implementing Agreement**” shall have the meaning set forth in Section 6.2.

The term “**Non-Defaulting Party**” shall have the meaning set forth in Section 14.1.

The term “**Non-Park Property**” shall have the meaning set forth in Recital “H.”

The term “**Non-Participating Properties**” shall have the meaning set forth in Section 6.11.

The term “**Non-Residential Value Limitation**” shall have the meaning set forth in Section 7.4.

The term “**Non-Subordinate Bonds**” means CFD Bonds that are senior to the Subordinate Bonds in priority to the Special Taxes and that are used to finance the Proposed Project Facilities and Additional Backbone Infrastructure, if any.

The term “**North Irvine Adjacent Lands**” shall mean the lands included within City Planning Areas 1, 5, 6, 8, 9 and 40, and subject to the NITM Program.

The term “**OCGP Corporation**” shall mean the Orange County Great Park Corporation, a California non-profit corporation and division of the City.

The term “**Original Development Agreement**” shall have the meaning set forth in Recital “D.”

The term “**Original Non-Park Property**” shall have the meaning set forth in Recital “H.”

The term “**Overlapping Liens**” shall mean projected ad valorem property taxes and all direct and overlapping assessments, taxes, special taxes, and charges on the secured tax-roll of the County for each parcel/unit of Taxable Property at the time of CFD formation, excluding however, the Special Taxes assessed or levied pursuant to the CFD.

The term “**Overlay Plan**” shall mean the land use development entitlements for the Property as set forth in the column entitled “Overlay Plan” in the Original Development Agreement and depicted on the Conceptual Overlay Plan. The Overlay Plan and Existing Land Use Regulations governed development of the Heritage Fields Property from the Initial Effective Date to the Second Effective Date.

The terms “**Party**” or “**Parties**” shall have the meaning set forth in the opening paragraph of this Amended and Restated Development Agreement.

The term “**PIA**” shall mean the Property Identification Areas delineated by the various lettered or numbered areas appearing on the PIM and intended solely for identification of properties referenced in this Amended and Restated Agreement.

The term “**Police Site**” shall mean a site of approximately five and one-half (5½) acres, to be used primarily as a police facility, but which may permit additional accessory City personnel, devoted to public service functions, as generally shown on Exhibit “F.”

The term “**Project**” shall mean the development of the Heritage Fields Property pursuant to this Amended and Restated Agreement, the Existing Land Use Regulations and the ARDA Overlay Plan, as depicted on Exhibit “L.”

The term “**Property**” shall mean the City Property and the Heritage Fields Property collectively.

The term “**Property Identification Map**” or “**PIM**” shall mean the map showing PIAs (as defined above), as delineated by the various lettered or numbered areas, attached hereto as Exhibit “I.” intended to be used solely to define and describe the properties referenced in this Amended and Restated Agreement.

The term “**Property Owner’s Association**” or “**POA**” shall mean an Association formed among the owners of real estate located within the Heritage Fields Property, including but not limited to industrial, residential, commercial, educational and retail property.

The term “**Proposed Project Facilities**” or “**Backbone Infrastructure**” shall collectively mean the Group A Facilities and the Group B Facilities.

The term “**Pro Rata Share**” shall have the meaning set forth in the RMA.

The term “**Public Benefit Fee**” shall have the meaning set forth in Section 10.1.

The term “**Purchaser/User**” shall have the meaning set forth in Section 2.4.

The term “**RDA**” shall mean the Irvine Redevelopment Agency.

The term “**RDA Agreement**” shall have the meaning set forth in the opening paragraph of this Amended and Restated Development Agreement.

The term “**Residential Value Limitation**” shall have the meaning set forth in Section 7.4.

The term “**RMA**” shall refer to a Rate and Method of Apportionment for each Improvement Area, the form of which is set forth in Exhibit “S” attached hereto.

The term “**Roadway Capacity Utilization**” shall have the meaning set forth in Section 3.12.1.



The term **“School Site”** refers to approximately 13 acres of land area within Parcel 2 on Exhibit “A,” the precise location and boundaries of which shall be determined in accordance with Section 9.4.

The term **“Second Effective Date”** shall mean the date that is the later of (i) forty-five (45) days after the date on which the Parties execute this Amended and Restated Agreement, or (ii) the date upon which the Parties have entered into the Amended MIA.

The term **“Secondary Amount”** means the projected amount of Special Taxes needed in the next Fiscal Year to finance Authorized Services, to the extent not prohibited by the CFD Act or applicable federal law, in excess of the Guaranteed Amount up to an annual maximum of the Indexed SA, less any and all amounts collected by any Landscape and Lighting Maintenance District from the Heritage Field’s Property utilized to fund Authorized Services.

The term **“Special Tax(es)”** means the sum of the special taxes to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property within each Improvement Area of the CFD to fund the Special Tax Requirement.

The term **“Special Tax Requirement”** shall have the meaning set forth in the RMA for each Improvement Area.

The term **“Sports Park Site”** shall mean that site identified as PIA 49 and 50 in Exhibit “I.”

The term **“Streetscape Guidelines”** shall have the meaning set forth in Recital “M.”

The term **“Subordinate Bonds”** shall have the meaning set forth in Section 7.8.8.

The term **“Tax Zones”** shall mean the different zones of taxation within each Improvement Area.

The term **“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of the CFD which are not exempt from the Special Tax pursuant to applicable law or the RMA.

The term **“Teeter Plan”** shall mean an alternative method for the distribution of secured property taxes to local agencies as set forth in the Teeter Plan Bond Law of 1994, California Government Code Sections 54773 *et seq.*, and California Revenue & Taxation Code Sections 4701 *et seq.*

The term **“Term”** shall have the meaning set forth in Section 2.3.

The term **“Third-Party Legal Challenge”** shall have the meaning set forth in Section 2.2.2.

The term “**Traffic Generation**” shall have the meaning set forth in Section 3.12.1.

The term “**Tri-Party Agreement**” shall have the meaning set forth in Recital “O.”

The term “**Uniform Construction Codes**” shall have the meaning set forth in Section 3.8.4.

The term “**Value Limitation**” shall have the meaning set forth in Section 7.4.

The term “**Wildlife Corridor**” shall mean that site identified as PIAs 20, 40, 43 and 47 in Exhibit “I.”

The term “**Zoning Code**” shall refer to the City of Irvine Zoning Code, as the same existed as of July 12, 2005, (i) as amended by the 2006 GPA/ZC and (ii) as amended by any zone change relating to the Property approved concurrently with the approval of this Amended and Restated Agreement, and (iii) as may be further amended from time to time consistent with this Amended and Restated Agreement.

## 2. EFFECT OF AGREEMENTS.

2.1 Effect Of Amended And Restated Development. The Parties intend and direct that this Amended and Restated Agreement be the full understanding between the Parties as to their respective rights and obligations with respect to development of its portion of the Property, and that any interpretation of or dispute with respect to such rights and responsibilities be resolved by reference to this Amended and Restated Agreement.

### 2.2 Effect Of Original Development Agreement.

2.2.1 Lack of Enforceability; Reinstatement. Because the Parties may not be able to anticipate or expressly provide for every future contingency, the Parties hereby state their general intention that should this Amended and Restated Agreement not be effective or become ineffective, the Original Development Agreement shall govern the Parties’ relationship, and that this Amended and Restated Agreement shall be construed to effectuate that intention.

2.2.2 Effect of a Challenge. If a referendum or third-party action or legal action is instituted which might affect or challenge the validity or enforceability of the enacting ordinance or this Amended and Restated Agreement including its Exhibits, or any provision thereof, or any document implementing the provisions contained in this Amended and Restated Agreement including its Exhibits (“**Third-Party Legal Challenge**”), this Amended and Restated Agreement shall remain in full force and effect subject to (i) any injunction issued by a court of competent jurisdiction, and/or (ii) the legal effect of any voter initiated legislative action. If a Third-Party Legal Challenge results in a temporary or preliminary order enjoining the enforcement of or performance of all or any provision under this Amended and Restated Agreement, or an adverse final

adjudication or legislative action concerning the validity or enforceability of all or any portion of this Amended and Restated Agreement, and such portion of this Amended and Restated Agreement is not severable under Section 20.7, the Original Development Agreement shall remain in full force and effect, and nothing shall impair the rights accorded and vested by the Original Development Agreement.

2.2.3 City Release As To Actions Prior To Second Effective Date. The City forever discharges, releases and expressly waives as against Heritage Fields and its partners, members, attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort, or other theories of direct and/or of agency liability (including but not limited to principles of *respondeat superior*) that it has now or has had in the past, arising out of or relating to the Original Development Agreement, the MIA, the Tri-Party Agreement and the currently existing and approved land use plans for the Property or any portion thereof.

2.2.4 Heritage Fields Release As To Actions Prior To Second Effective Date. Heritage Fields forever discharges, releases and expressly waives as against the City, the RDA, the OCGP Corporation, and their respective councils, boards, commissions, officers, attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort or other theories of direct and/or of agency liability (including but not limited to principles of *respondeat superior*) that they have now or have had in the past, arising out of or relating to the Original Development Agreement, the MIA, the Tri-Party Agreement and the currently existing and approved land use plans for the Property or any portion thereof.

2.3 Term. The term of this Amended and Restated Agreement (as extended, the “**Term**”) shall commence on the Second Effective Date and, except for those provisions in this Amended and Restated Agreement or the Amended MIA that expressly survive the expiration of this Amended and Restated Agreement, shall continue thereafter for a period of twenty-five (25) years from and after the Second Effective Date, with two (2) additional optional extensions of five (5) years at the sole discretion of any Party, unless this Amended and Restated Agreement is terminated, modified or extended by circumstances set forth in this Amended and Restated Agreement or by mutual written consent of the Parties.

2.4 Termination Upon Sale Of Individual Lots To Public And Completion Of Construction. Notwithstanding Section 2.3, the provisions of this Amended and Restated Agreement shall terminate with respect to any individual Lot and such Lot shall be released from and shall no longer be subject to this Amended and Restated Agreement (without the execution or recordation of any further document or the taking of any further action) upon the satisfaction of both of the following conditions: (i) the Lot has been

finally subdivided and sold, leased (for a period longer than one (1) year as evidenced by a lease) or otherwise conveyed to a member of the public or any other ultimate purchaser or user (collectively, a “**Purchaser/User**”) which is not Heritage Fields; and (ii) a certificate of occupancy has been issued for the building or buildings on the Lot or a final inspection of the building(s) has been approved by the City authorizing occupancy. The City shall cooperate with Heritage Fields, at no cost to the City, in executing in recordable form any document that Heritage Fields (including any successor to the title of Heritage Fields in and to any of the previously-described Lots) may submit to confirm the termination of this Amended and Restated Agreement as to any such Lot.

### 3. DEVELOPMENT OF THE PROPERTY.

3.1 Applicable Regulations; Vested Right To Develop. Other than as expressly set forth herein in Section 3.8, during the Term of this Amended and Restated Agreement, the terms and conditions of development applicable to the Heritage Fields Property, including but not limited to the permitted uses of the Heritage Fields Property, the density and intensity of use, maximum height and size of proposed buildings and provisions for the reservation and dedication of land for public purposes, shall be those set forth in the Existing Land Use Regulations and the ARDA Overlay Plan.

3.1.1 Vested Right To Develop. Subject to the terms and conditions of this Amended and Restated Agreement, Heritage Fields shall have the vested right to carry out and develop the Heritage Fields Property in accordance with the Existing Land Use Regulations and the ARDA Overlay Plan. In furtherance of the foregoing, Heritage Fields retains the right to apportion the uses, intensities and densities, and ADT between itself and any subsequent owners, upon the sale, transfer, or assignment of any portion of the Heritage Fields Property, so long as such apportionment is consistent with the ARDA Overlay Plan and the Existing Land Use Regulations, and so long as the City is provided with written notice of such apportionment within ninety (90) days following any such apportionment.

3.1.2 Right To Future Approvals. Subject to the City’s exercise of its police power authority as specified in Section 3.8.5, Heritage Fields shall have a vested right: (i) to receive from the City all future development approvals for the Heritage Fields Property that are consistent with, and implement, the Existing Land Use Regulations, the ARDA Overlay Plan and this Amended and Restated Agreement; (ii) not to have such approvals be conditioned or delayed for reasons which are inconsistent with the Existing Land Use Regulations, the ARDA Overlay Plan or this Amended and Restated Agreement; and (iii) to develop the Heritage Fields Property in a manner consistent with such approvals in accordance with the Existing Land Use Regulations, the ARDA Overlay Plan and this Amended and Restated Agreement.

3.1.3 Vesting of Future Approvals. Subject to Section 3.6 below, any future development approvals for the Heritage Fields Property, including without limitation general plan amendments, zone changes, or parcel maps or tract maps (except vesting maps), shall upon approval by the City be vested in the same manner as provided

in this Amended and Restated Agreement for the Existing Land Use Regulations and the ARDA Overlay Plan.

3.1.4 Relationship of Vested Rights to Traffic Estimates. The development of the Property is estimated to create 148,910 ADT, of which 117,020 ADT is controlled by the Heritage Fields Property (including 812 ADT for the School Site). The vested rights to develop the Heritage Fields Property for the uses, densities and intensities set forth in the Overlay Plan are estimated to generate 117,020 ADT or fewer overall trips. The vested rights to develop the Heritage Fields Property for the uses, densities and intensities set forth in the ARDA Overlay Plan are also estimated to generate 117,020 ADT or fewer overall trips. The transfer or other conveyance of the Police Site, the ARDA Transfer Site or other real property conveyed or transferred to the City pursuant to this Amended and Restated Agreement shall not include the conveyance of any ADT to the City, or the re-allocation of ADT between the Heritage Fields Property and the City Property. In the event Heritage Fields proposes any significant discretionary changes that would increase the uses, densities or intensities in the ARDA Overlay Plan, Heritage Fields shall provide (i) a study demonstrating that, evaluating the proposed changes under the traffic model and appropriate trip generation, capture and reduction calculations and proposed mitigation, the proposed changes will not result in overall traffic generation exceeding 117,020 ADT, or (ii) an application for a zone change to accommodate any increased traffic above 117,020 ADT.

3.2 Tentative Subdivision Maps. With respect to applications by Heritage Fields for tentative subdivision maps for all or portions of Heritage Fields Property, the City agrees that Heritage Fields may file and process vesting tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of the City's subdivision ordinance, as the same may be amended from time to time. The term of such tentative map(s) and the tentative maps which Heritage Fields has previously filed shall be extended automatically for the Term of this Amended and Restated Agreement.

3.3 Financing And Conveyance Maps. Heritage Fields may file one or more tentative tract maps or tentative parcel maps dividing the Heritage Fields Property into separate legal lots or parcels for financing and conveyance purposes only ("**Financing and Conveyance Map**"). A Financing and Conveyance Map shall not authorize any development, and shall not be subject to any condition, exactions, or restrictions other than monument and other conditions which the City commonly imposes on financing and conveyance maps.

3.4 Processing Of Applications And Permits. Upon satisfactory completion by Heritage Fields of all required preliminary actions and payment of appropriate processing fees, if any, the City shall promptly proceed to process, check, and make a determination on all applications for development and building approvals within the times set forth in the Permit Streamlining Act (Chapter 4.5 (Section 65920) of Division 1 of Title 7 of the California Government Code), the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government Code) and other applicable provisions of law, as the same may be amended from time to time.

3.5 Other Governmental Permits. Provided that Heritage Fields pays the reasonable cost of such cooperation, the City shall cooperate with Heritage Fields in its efforts to obtain such additional permits and approvals as may be required by any other governmental or quasi-governmental agencies having jurisdiction over the applicable portion of the Property for which such permit or approval is sought, provided that such permits and approvals are consistent with the Existing Land Use Regulations, the ARDA Overlay Plan and other City approvals for development of the Property; and provided further that such approvals are consistent with applicable regulatory requirements. The City does not warrant or represent that any other governmental or quasi-governmental permits or approvals will be granted.

3.6 Subsequent General Plan Amendments And Zone Changes. Given Heritage Fields' vesting of its right to the development of the Heritage Fields Property in accordance with the Existing Land Use Regulations and the ARDA Overlay Plan, any General Plan amendments or zone changes or any other regulatory approvals (including the MAHP) with respect to development of the Property will not become effective as to the Heritage Fields Property unless consented to in writing by Heritage Fields or its successors-in-interest as to their respective portions of the Heritage Fields Property. By this paragraph the City does not represent that it will accept, process or approve any General Plan, zone change or other regulatory action; provided, however, that the City shall, subject to and consistent with its police power authority, accept, process and approve all regulatory actions required in order to effectuate the vested rights and benefits to Heritage Fields contained herein.

3.7 Assurances To Heritage Fields. The Parties acknowledge that the substantial public benefits to be provided by Heritage Fields to the City pursuant to this Amended and Restated Agreement are in consideration for and reliance upon assurances that the City will permit development of the Heritage Fields Property in accordance with the terms of this Amended and Restated Agreement. Accordingly, the City agrees that it will not attempt to restrict or limit the development of the Heritage Fields Property in conflict with the provisions of this Amended and Restated Agreement. The City acknowledges that Heritage Fields cannot at this time predict the timing or rate at which the Heritage Fields Property will be developed. The timing and rate of development depend on numerous factors such as market demand, interest rates, absorption, completion schedules and other factors which are not within the control of Heritage Fields or the City. In *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance notwithstanding that the construction company and the city had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property in accordance with the zoning. The California Supreme Court reached this result on the basis that the consent judgment failed to address the timing of development. It is the intent of the Parties to avoid the result of the *Pardee* case by acknowledging and providing in this Amended and Restated Agreement that Heritage Fields shall have the vested right to develop the Heritage Fields Property in such order and at such rate and at such time as Heritage Fields deems appropriate within the exercise of Heritage Fields' sole subjective business judgment, notwithstanding the adoption of an initiative after the

Second Effective Date by the City's electorate to the contrary. In addition to and not in limitation of the foregoing, but except as set forth in the following sentence, it is the intent of the Parties that no City moratorium or other similar limitation relating to the rate or timing of the development of the Heritage Fields Property or any portion thereof, whether adopted by initiative, referendum or otherwise, shall apply to the Heritage Fields Property to the extent that such moratorium, referendum or other similar limitation is in conflict with the express provisions of this Amended and Restated Agreement. Notwithstanding the foregoing, Heritage Fields acknowledges and agrees that nothing herein is intended or shall be construed as (i) overriding any provision set forth in this Amended and Restated Agreement and/or the Amended MIA relating to the phasing of development of the Proposed Project Facilities; (ii) overriding any provision of the Existing Land Use Regulations or the ARDA Overlay Plan relating to the phasing of development of the Project; or (iii) restricting the City from exercising the powers described in Section 3.8 of this Amended and Restated Agreement to regulate development of the Heritage Fields Property. Nothing in this Section 3.7 is intended to excuse or release Heritage Fields from any obligation set forth in this Amended and Restated Agreement and/or the Amended MIA which is required to be performed on or before a specified calendar date or event without regard to whether or not Heritage Fields proceeds with the Project.

3.8 Reservations Of Authority. Notwithstanding any provision set forth in this Amended and Restated Agreement to the contrary, the laws, rules, regulations, official policies and conditions of approval set forth in this Section 3.8 shall apply to and govern development of the Heritage Fields Property:

3.8.1 Consistent Future City Regulations. City ordinances, resolutions, regulations and official policies adopted or approved after July 12, 2005 pursuant to procedures provided by law which do not conflict with the Existing Land Use Regulations, the ARDA Overlay Plan, and this Amended and Restated Agreement shall apply to and govern development of the Property. Without limitation, any future City regulations, whether adopted by voter initiative or City Council action or otherwise, which materially increase the cost of development (except future fees adopted on a city-wide basis as referenced in Section 5.1 below), reduce the density or intensity of the Project below that permitted by the Existing Land Use Regulations and the ARDA Overlay Plan or materially limit the rate, timing or sequencing of development of the Heritage Fields Property, or otherwise materially restrict any of the permitted uses, density, improvements, and construction shall be deemed inconsistent with this Amended and Restated Agreement and shall not be applicable to the development of the Heritage Fields Property, unless Heritage Fields expressly so consents. The parties understand and agree that this Section 3.8.1 applies to the City's future adoption of ordinances, resolutions, regulations and official policies, but not to the imposition of conditions on future subdivision maps, conditional use permits, master plans, or similar discretionary approvals. The extent to which the City may impose conditions in connection with the evaluation of such subordinate discretionary applications is governed by the standards set forth in Section 3.8.5, below.

3.8.2 Overriding State And Federal Laws And Regulations. State and federal laws and regulations which override Heritage Fields' vested rights set forth in this Amended and Restated Agreement shall apply to the Property, together with any City ordinances, resolutions, regulations and official policies which are necessary to enable the City to comply with such overriding State and federal laws and regulations; provided, however, that (i) Heritage Fields does not waive its right to challenge or contest the validity of any such State, federal or local laws, regulations or official policies; and (ii) in the event that any such State or federal law or regulation (or City ordinance, resolution, regulation or official policy undertaken pursuant thereto) prevents or precludes compliance with one or more provisions of this Amended and Restated Agreement, the Parties agree to consider in good faith amending or suspending such provisions of this Amended and Restated Agreement as may be necessary to comply with such State or federal laws, provided that no Party shall be bound to approve any amendment to this Amended and Restated Agreement unless this Amended and Restated Agreement is amended in accordance with the procedures applicable to the adoption and amendment of development agreements as set forth in the Development Agreement Statute and each Party retains full discretion with respect thereto.

3.8.3 Public Health And Safety. Any City ordinance, resolution, regulation, or official policy, which is necessary to protect persons on the Heritage Fields Property in the immediate community, or both, from conditions dangerous to their health, safety, or both, shall apply to the Property notwithstanding that the application of such ordinance, resolution, regulation, or official policy or other similar limitation would result in the impairment of Heritage Fields' vested rights under this Amended and Restated Agreement. To the extent possible, any such regulations shall be applied and construed consistent with this Amended and Restated Agreement so as to provide Heritage Fields with the rights and assurances provided under this Amended and Restated Agreement.

3.8.4 Uniform Construction Codes. Provisions of the building standards set forth in the Uniform Construction Codes shall apply to the Heritage Fields Property. As used herein, the term "**Uniform Construction Codes**" collectively refers to the 2007 California Building Codes, the 2007 California Electric Code, the 2007 California Plumbing Code, the 2007 California Mechanical Code, the 2006 Uniform Solar Energy Code, the 2006 Uniform Swimming Pool, Spa and Hot Tub Code, the 1997 Uniform Housing Code, the Uniform Administrative Code and the 2007 California Fire Code (including amendments thereto by the Orange County Fire Authority), as modified and amended by official action of the City, and any modifications or amendments to any such Code adopted in the future by the City.

3.8.5 Police Power. In all respects not provided for in this Amended and Restated Agreement, the City shall retain full rights to exercise its police power to regulate the development of the Property, and any uses or developments requiring a site plan, tentative tract map, master plan, or other discretionary permit or approval as required pursuant to the Existing Land Use Regulations shall require a permit or approval pursuant to this Amended and Restated Agreement, provided, however, that the City's discretion with respect to such actions shall be exercised consistent with Heritage Fields' vested rights under this Amended and Restated Agreement as set forth in Section 3.1, and



the City acknowledges pursuant to Government Code Section 65865.2 that the conditions, terms, restrictions, and requirements for subsequent discretionary actions or permits shall not prevent development of the Heritage Fields Property for the uses and to the density or intensity of development set forth in this Amended and Restated Agreement. Nothing in this provision shall preclude the City from attaching usual and customary conditions to such discretionary approvals provided such conditions (i) are applied in the same or substantially equivalent form to other similar approvals throughout the City; (ii) do not affect the use, density, or intensity of development previously approved for the Project; (iii) are not materially inconsistent with this Amended and Restated Agreement or the MSM; and (iv) do not require Heritage Fields to intensify or build or cause to be intensified or built additional joint Backbone Infrastructure.

### 3.9 Uses of City Property.

3.9.1 PIAs 2, 3, 4, 6, 14, 19, 24, 25, 37 and 44. The Parties understand and acknowledge that the land in PIAs 2, 3, 4, 6, 24 and 25, and approximately 100 acres of PIA 14 (collectively, the “**County Parcels**”) will be conveyed by the City to the County pursuant to the County Agreement. As long as the City owns the County Parcels, City may use the County Parcels only for Great Park uses and uses ancillary to park uses (e.g., ancillary food uses), provided that the foregoing is not intended to modify the provisions of Section 7.9 below. The City may use the land in PIAs 19, 37 and 44 in any manner it deems appropriate and consistent with the General Plan and Zoning Code, as those documents may be amended from time to time in the City’s sole and absolute discretion, subject to the rights granted to Heritage Fields in Section 3.9.7 below.

3.9.1.1 The City agrees to cooperate and coordinate in good faith with Heritage Fields in the design of any uses on PIA 19, PIA 37 and/or PIA 44, so as to ensure consistency and compatibility with the design of the Heritage Fields Property that is adjacent to those PIAs.

3.9.2 ARDA Transfer Site. If, when, and to the extent the City develops a use or uses on the ARDA Transfer Site, the City shall, for a period of seven (7) years from and following the Second Effective Date (the “**7-Year Period**”), limit such use or uses to Great Park uses and uses ancillary to Great Park uses (e.g. ancillary food uses), public primary, intermediate and secondary school uses. Following the expiration of the 7-Year Period, the City shall, if, when, and to the extent the City develops a use or uses on the ARDA Transfer Site, limit such uses to Great Park uses and uses ancillary to Great Park uses (e.g. ancillary food uses), which, for this purpose, also includes the following ancillary uses the City may elect, in its sole and absolute discretion, to undertake: no more than one (1) hotel (provided that there are no other hotels on any portion of the Great Park Property, the parties acknowledging and agreeing that there shall be no more than one hotel, collectively, on the ARDA Transfer Site and the remaining portion of the Great Park Property), restaurants that are of the type and nature one would find in a metropolitan park (such as Balboa Park in San Diego, California), small scale retail that is of the type and nature one would find in a metropolitan park (such as Balboa Park in San Diego, California), Institutional Uses, and cemetery/mortuary/funeral homes uses. Notwithstanding the foregoing, this Section 3.9.2 is not intended to affirmatively grant

the right to the ancillary uses described herein (the City acknowledging that the City must first comply with applicable legal processes, if any, and requirements in order to entitle or otherwise implement such uses). In addition, following the expiration of the 7-Year Period, City may also use the ARDA Transfer Site for a maximum of 250 residential units, which units may, in the City's sole and absolute discretion, be all or partially affordable and shall be no more than three (3) stories in height, but this provision is not intended to affirmatively grant the right to the foregoing use (the City acknowledging that the City must first comply with applicable legal processes and requirements, if any, in order to entitle or otherwise implement such use). Affordable units, if any, constructed on the ARDA Transfer Site shall be credited toward the City's and/or the RDA's fulfillment of its affordable housing requirements under the State Redevelopment Law, but shall not count toward Heritage Fields' obligations under the (i) City's Affordable Housing Ordinance (Section 2-3 of the Zoning Code) as amended from time to time, (ii) the affordable housing plan for the Heritage Fields Property, and/or (iii) any agreement entered into between the City and Heritage Fields pursuant to Section 2-3 of the Zoning Code. Nor shall the construction of such affordable housing units, if any, on the ARDA Transfer Site contribute to or constitute a basis for granting any right to construct additional market rate units pursuant to Government Code Section 65915 *et seq.* and/or Section 2-3 of the Zoning Code. The City agrees to cooperate and coordinate in good faith with Heritage Fields in the design of any uses on ARDA Transfer Site, so as to ensure consistency and compatibility with the design of the development the "Park District" portion and the northern part of the Lifelong Learning District of the Heritage Fields Property.

3.9.3 Remaining Great Park Property. If, when, and to the extent the City develops a use or uses on that portion of the Great Park Property that does not include the ARDA Transfer Site, the City shall limit such use or uses to Great Park uses and uses ancillary to Great Park uses (e.g. ancillary food uses), which, for this purpose, also includes the following ancillary uses the City may elect, in its sole and absolute discretion, to undertake: no more than one (1) hotel (provided that there are no other hotels on any portion of the ARDA Transfer Site, the Parties acknowledging and agreeing that there shall be no more than one hotel, collectively, on the ARDA Transfer Site and the remaining portion of the Great Park Property), restaurants that are of the type and nature one would find in a metropolitan park (such as Balboa Park in San Diego, California), small scale retail that is of the type and nature one would find in a metropolitan park (such as Balboa Park in San Diego, California), and Institutional Uses; provided, however, that the City shall not allow any private educational uses (other than public primary, intermediate and/or secondary school uses) or community facilities for non-park-like uses on the Great Park Property for a period of four (4) years following the Second Effective Date (the Parties acknowledging that educational uses, other than public primary, intermediate and secondary school uses, are not permitted on the ARDA Transfer Site until after the expiration of the 7-Year Period). Notwithstanding the foregoing, this Section 3.9.3 is not intended to affirmatively grant the right to the ancillary uses described herein (the City acknowledging that the city must first comply with applicable legal processes and requirements, if any, in order to entitle or otherwise implement such uses).

3.9.4 Construction of a Park. The City acknowledges and agrees that it will construct a park on the Great Park Property substantially in compliance with the Great Park Master Plan, as it may be amended from time to time.

3.9.5 Police Site. The City agrees to restrict the use of the Police Site as specified in Section 9.1. The City agrees to cooperate and coordinate in good faith with Heritage Fields in the design of the Police Site so as to ensure consistency and compatibility with the design of the Heritage Fields Property that is adjacent to the Police Site.

3.9.6 Construction of Specific Park Features. The City shall construct all or some portion of the Sports Park Site and the Bosque Site, and make all or some portion of the Sports Park Site and Bosque Site available to the public, prior to making any other feature on the Great Park Property available to the public. Except for those portions of the Wildlife Corridor and Agua Chinon that are described as Backbone Infrastructure on Exhibits E-1 and E-2 for which Heritage Fields is responsible to construction pursuant to Section 7 below, the City shall further construct the Wildlife Corridor and the Agua Chinon features substantially as depicted on the Great Park Master Plan, in a manner that does not materially interfere with and is calculated to meet the joint infrastructure needs inherent in those features, and City shall continue to retain the land comprising the Wildlife Corridor and Agua Chinon for such uses and purposes during the Term of this Amended and Restated Agreement. The City agrees to continue to meet and confer with Heritage Fields regarding the design of the Wildlife Corridor (including the timing, duration and amount of storm water flows designed to be diverted into the Wildlife Corridor). Nothing in this paragraph is intended to (i) limit the City's ability to build or utilize City funds for the construction of non-Backbone Infrastructure within or around the City Property or any portion thereof; or (ii) release Heritage Fields from any Backbone Infrastructure funding and/or construction obligations it may have under Section 7. Further, the Parties agree to meet and confer in good faith on applicable setbacks or other development limitations from the edge of the Wildlife Corridor prior to the imposition of any such setbacks or other development limitations, provided that such setbacks or limitations shall not in any case prevent Heritage Fields from developing to the density and intensity of use described in the ARDA Overlay Plan.

3.9.7 Right of First Negotiation for Uses on City Property. Until such time as Heritage Fields has completed development and/or sale of all of the Heritage Fields Property, if and when the City intends to sell or enter into a long term ground lease for a use or uses on the City Property other than (a) Great Park uses, (b) uses ancillary to Great Park uses (the Parties acknowledging that uses ancillary to Great Park uses would not, for example, include industrial, office, medical office, large-scale retail, hotel, educational uses except as described in clause (c) below, research and development, and/or residential developments whether for rent or for sale, and hence all such uses would be subject to the right of first negotiation granted in this Section 3.9.7), and/or (c) primary, intermediate, or secondary public school uses, then the City shall (i) present the material terms of the proposed real estate transaction to Heritage Fields, (ii) provide Heritage Fields a reasonable period of time to respond to the proposed material terms, and (iii) if Heritage Fields promptly accepts the proposed material terms, the City will

continue in a negotiation with Heritage Fields until such time as those negotiations are successful, are no longer being diligently and actively pursued by Heritage Fields, or are affirmatively abandoned by Heritage Fields. If Heritage Fields does not accept the proposed material terms or if Heritage Fields affirmatively abandons or ceases to diligently and actively pursue negotiations, the City thereafter may elect to pursue said sale or long term ground lease to conclusion, through direct negotiations with any other potential purchaser(s) or user(s) of the portion of the City Property at issue or a through a public, competitive bidding process for the portion of the City Property at issue, without having to commit and/or continue to negotiate exclusively with Heritage Fields with respect to the City Property at issue; provided, however, that if the transaction is not the subject of a public competitive bidding process and the terms negotiated with a potential purchaser or user materially change from those proposed to Heritage Fields, City shall provide Heritage Fields an additional opportunity to promptly accept or refuse the negotiated terms proposed to such other purchaser or user. In the case of a public competitive bidding process (i.e., where Heritage Fields did not accept the initially proposed material terms or where Heritage Fields affirmatively abandoned or ceased to diligently and actively pursue negotiations with respect to the initially proposed material terms), (i) Heritage Fields shall be permitted to participate as a bidding party, and (ii) the City shall utilize substantially the same terms as were presented to Heritage Fields, but need not include those terms in the public competitive bidding process that are not normally and customarily included in a competitive bidding process (e.g., price). Nothing in this Section 3.9.7 is intended to limit or waive the restrictions on the ARDA Transfer Site as specified in Section 3.9.2 and/or on that portion of the Great Park Property that does not include the ARDA Transfer Site as specified in Section 3.9.3.

3.9.7.1 Limitations on Assignability. The right of first negotiation created by Section 3.9.7 (i) is assignable under this Amended and Restated Agreement only to a successor to Heritage Fields that acts as master developer of the Heritage Fields Property, and (ii) cannot be assigned by the City to more than one entity at any one time.

3.9.8 Development of City Property. City acknowledges that if pursuant to this Section 3.9, or any other means, the City or its successor in interest propose to develop (i) the Great Park Property for any uses, densities, or intensities beyond that contemplated, studied, and approved in the Great Park Master Plan and/or (ii) the remaining City Property for any uses, densities, or intensities beyond those contemplated and studied in the EIR, the City or its successor in interest shall be responsible for the additional mitigation, if any, or increment of such mitigation, if any, required by such increased development, City shall not impose such additional mitigation, on Heritage Fields, either as project mitigation or as part of the Backbone Infrastructure for which Heritage Fields is obligated to pay pursuant to Section 7 of this Amended and Restated Agreement, nor shall City deny or delay approval of any Heritage Field project application for failure to provide such additional mitigation or increment of mitigation. Notwithstanding the foregoing, if the City pays for the additional incremental cost of increasing the size of Backbone Infrastructure facilities necessary to meet its mitigation obligations pursuant to this paragraph, Heritage Fields shall construct that modified/enlarged infrastructure in the time and manner specified in the Amended MIA.

3.10 Homeless Assistance Provider Accommodations. In order to facilitate a cooperative project between Heritage Fields and the providers of lower income and transitional housing (ETHIC), the City agrees to act expeditiously and in good faith to initiate and process for City Council consideration any amendments to the General Plan and to the Zoning Code, if necessary, to expressly authorize up to 166 residential dwelling units on an appropriate location within the Heritage Fields Property. Upon approval, such amendment to the General Plan or the Zoning Code shall be deemed vested by this Amended and Restated Agreement.

3.11 Density Bonus.

3.11.1 Vested Bonus Calculation. The City agrees that because Heritage Fields has committed that 15% (544) of the total of 3,625 residential units in the ARDA Overlay Plan will be affordable housing and that 11% (399) of the total of 3,625 residential units will be classified as Very Low Income and that Heritage Fields will otherwise comply with the provisions of 2-3-10 of the Zoning Code as it existed as of April 10, 2007, Heritage Fields is and shall be, unless otherwise determined by a court of competent jurisdiction, entitled to a density bonus calculated pursuant to state law as it existed as of April 10, 2007, which calculation yields a density bonus of 1,269 market rate units (35%) ("**Density Bonus Units**").

3.11.2 Location and Mitigation. It is understood that the location of any Density Bonus Units generally described in the MAHP will be determined during the subdivision process for any tentative map that is proposed to include the Density Bonus Units. The Density Bonus Units shall be treated as a change in the intensity of development in the relevant Future Development Areas (as defined in the NITM Ordinance) pursuant to Section 6-3-706(A) of the NITM Ordinance and may result in a change in fee allocations between the parties to the NITM Agreement. To the extent the Density Bonus Units require traffic improvements not contemplated in NITM, such mitigation improvements shall be project features. Further, at such time as a location is specified for any of the Density Bonus Units in connection with a future discretionary action, an environmental analysis that fully complies with the requirements of the California Environmental Quality Act shall be conducted, and mitigation (if any) shall be imposed in a manner consistent with the requirements and limitations of the State Density Bonus Law, California Government Code Section 65915 *et seq.*

3.11.3 Affordable Housing Obligations Under the Redevelopment Law. The City understands that, because Heritage Fields is entering into this Amended and Restated Agreement on the expectation that it will have the benefit of the Density Bonus Units as market-rate units, the City agrees it will grant Heritage Fields the full density bonus as provided in Section 3.11.1 as market rate units and that any obligations to construct additional affordable units as a result will be fulfilled by the City or the RDA.

3.12 Traffic.

3.12.1 Incorporation of Project Traffic Generation in City Traffic Model and Traffic Study. The Parties acknowledge that this Amended and Restated Agreement

contains a detailed traffic study (“**ARDA Traffic Study**”), which analyzes the future traffic that will be generated by the Project other than the Density Bonus Units (“**Traffic Generation**”), and which describes the extent to which such future Traffic Generation will utilize the capacity of existing and planned future roads, freeways/tollway mainlines, freeway/tollway ramps, and intersections in the City and the surrounding area (“**Roadway Capacity Utilization**”). The City agrees that it will incorporate this Traffic Generation based on the trip generation rates utilized in ARDA Traffic Study and Roadway Capacity Utilization by the ARDA Overlay Plan as part of the City’s current ITAM traffic model and future ITAM updates, and the City will include these same items in future traffic studies which it may prepare regarding future development or roadway planning projects. At such time as the Density Bonus Units (or portions thereof) are located by Heritage Fields and an environmental analysis conducted and mitigation (if any) imposed as set forth in Section 3.11.2 above, the traffic generated from such Density Bonus Units shall be deemed to be part of the "Traffic Generation" and "Roadway Capacity Utilization" for all purposes under this Amended and Restated Agreement.

3.12.2 Reservation of Roadway Capacity Utilization by the City. The City agrees that it shall, in the manner specified in this Section 3.12, reserve the Roadway Capacity Utilization for the implementation of the ARDA Overlay Plan except as set forth in the following sentence. After construction and occupancy of each housing unit on the Heritage Fields Property, the City may reduce the Traffic Generation attributable to such unit if the City determines that actual trip generation from such unit is less than the projected trip generation used in the ARDA Traffic Study. The City agrees that Heritage Fields has, through the ownership of existing roadways in the City it acquired and the construction of improvements specified in the project design features and mitigation measures adopted as part of the ARDA Overlay Plan, fully mitigated for the impacts of the Traffic Generation of the ARDA Overlay Plan, except as specifically noted in the ARDA Traffic Study and any findings adopted by the City therewith. The City also agrees that as part of the approval of future tentative subdivision maps or subsequent discretionary actions and permits for the ARDA Overlay Plan that it will not require Heritage Fields to provide, construct, fully fund or fair-share fund additional roadway right-of-way, capacity, or improvements, except as expressly provided in Section 3.12.5 below. In addition, Heritage Fields will not be required to lower the Traffic Generation of the ARDA Overlay Plan, based upon the trip-generation rates included in the ARDA Traffic Study, in order to reduce impacts on the surrounding roadway system.

3.12.3 Future Unanticipated Changes in Traffic Generation Rates. The ARDA Traffic Study utilized the best available information to estimate the traffic generation rate and the amount of traffic that will be generated by each residential dwelling unit of and the non-residential building entitlement for the Project. The Parties acknowledge that the City may determine that a subsequent discretionary action or permit required for the Project will require additional or supplemental environmental analysis under CEQA and such analysis may determine that the City must use different traffic generation rates to accurately reflect the Project’s traffic impact to comply with CEQA. Such analysis shall not result in any reduction or increase in the Project’s traffic mitigation requirements. Notwithstanding the above, nothing in this section shall require

the City to grant any subsequent discretionary action or permit, or make any determination under CEQA, that would result in conditions dangerous to health or safety as defined in Section 3.8.3 of this Amended and Restated Agreement.

3.12.4 Future Unanticipated Traffic from Additional Development and Unanticipated Changes in Roadways; Trip Obligations. The ARDA Traffic Study includes all of the anticipated traffic from existing and anticipated future development, including development which is authorized by the general plans and zoning codes adopted by the City and other jurisdictions. The Parties acknowledge that in the future it is possible that unanticipated new projects and changes in approved development could generate new traffic not included in the ARDA Traffic Study, which could result in an unanticipated significant adverse impact caused by those projects. Mitigation for such unanticipated traffic or traffic congestion is the responsibility of those other projects, and not the responsibility of Heritage Fields as part of the implementation and construction of the ARDA Overlay Plan. The Parties also acknowledge that as a result, in this situation the Project would not be contributing to any cumulative significant adverse impact as defined under CEQA, because the Project's contribution has already been fully mitigated, and such new adverse traffic impacts would be completely caused by such unanticipated traffic, and there would be no relationship or nexus between the ARDA Overlay Plan and any other further traffic mitigation or traffic improvements beyond those provided for in Project, the ARDA Overlay Plan, or the EIR. To the extent either Heritage Fields, the City or any other entity seeks approvals for any portion of the Property that involve a volume or distribution of traffic on the Property that (i) are not contemplated in, and exceed, those contemplated in the ARDA Traffic Study; or (ii) would modify traffic mitigation measures approved for the Property, such a modification of mitigation or change in use by one Party shall not increase the mitigation or affect the uses allocated and available to the other Party. Accordingly, if Heritage Fields or the City (or other user) were to apply for a use that would generate more traffic than is currently allocated or credited to the particular property (as initially allocated pursuant to Section 3.1.4 above and as allocated further in accordance with Section 3.1.1), it would be required to provide appropriate additional mitigation over and above the Project traffic mitigations to allow for such additional trips, notwithstanding the fact that total Project traffic trips allocated to some other source (*e.g.*, Heritage Fields) have not yet been utilized.

3.12.5 Additional Mitigation Measures. The Parties agree that if there is future unanticipated traffic from additional unanticipated development, unanticipated changes in roadways, and/or future unanticipated changes in traffic generation rates or other changed conditions, the City must approve the Subsequent Discretionary Approvals under the ARDA Overlay Plan for the Property without imposing any additional mitigation measures, conditions, or requirements relating to traffic circulation, unless future litigation determines that portions of the Amended and Restated Agreement are invalid. The Parties intend and determine that NITM, as more particularly set forth in Section 6 below, is full mitigation for transportation and traffic impacts of Heritage Fields' planned development of the Project, reserving to the City only the right to require in-tract, *i.e.*, on the Heritage Fields Property, traffic improvements at the time of submittal of future tentative subdivision maps or subsequent discretionary actions. However, if, despite the Parties' agreement under NITM and their vigorous mutual

defense of any Third-Party Challenge, a final, non-appealable determination is made by a court of competent jurisdiction that the City can and must impose additional off-site traffic mitigation before approving future tentative subdivision maps or subsequent discretionary actions for the Project, and the City in good faith and pursuit of due diligence cannot obtain other funding for such additional mitigation, Heritage Fields and the City each agree to pay one-half of the remaining unfunded cost of such additional mitigation as and when the same becomes due and payable.

3.12.6 Allocation of Cumulative Mitigation for Traffic. The Parties recognize that additional traffic may cause cumulative impacts on Project traffic mitigation which go beyond those resulting from a particular use or increase in density. For example, one Party may increase traffic at a particular intersection from .87 to .89, and then a second Party will propose an increase from .89 to .91. The second Party may be subject to increased mitigation, in addition to the .02 increase from its proposal, because the combined traffic pushes the intersection into a new level of service. The Parties agree that to the extent such additional mitigation is caused by the cumulative effects of several Parties' traffic impacts, the Parties will share such additional mitigation costs in a proportionate manner.

3.13 RDA Obligations. To the extent relevant, now or in the future, the obligations of the RDA with respect to Heritage Fields' vested rights, regulation of the Property, transfers of property, designation of uses and all other provisions of this Amended and Restated Agreement shall be the same as the City. The RDA acknowledges and agrees that the obligations set forth under this Amended and Restated Agreement are consistent with the RDA's adopted Redevelopment Plan.

3.14 Cooperation in Land Use Planning For Edge Conditions. The Parties agree to meet and confer with each other from time to time to ensure consistency in their respective land use planning efforts, particularly with respect to those areas where the City Property and the Heritage Fields Property share common boundaries.

#### 4. ARDA Overlay Plan.

4.1 ARDA Overlay Plan. Land use and development on the Heritage Fields Property shall be governed by the "**ARDA Overlay Plan**", attached hereto as Exhibit "L" and adopted as part of the approval of this Amended and Restated Agreement. The ARDA Overlay Plan supersedes the Conceptual Overlay Plan and the Overlay Plan (Table A-5) in the Original Development Agreement. Notwithstanding any other provision of this Amended and Restated Agreement, Heritage Fields shall have the right but not the obligation to build the uses specified in the ARDA Overlay Plan at the locations specified in the ARDA Overlay Plan.

4.2 Priority Of ARDA Overlay Plan. The City has determined that the ARDA Overlay Plan is consistent with the General Plan and Zoning Code. As such, the ARDA Overlay Plan shall be the primary document governing the use and development of the Heritage Fields Property. In the event of any conflict or inconsistency between the



ARDA Overlay Plan and the compliance activities required by the Agency Permits, the Agency Permits shall control.

4.3 Changes in Land Use, Circulation Access and Mitigation Requirements. The City and Heritage Fields may agree on changes to the mitigation requirements or project design features in writing without amending this Amended and Restated Agreement.

5. FEES.

5.1 Development Fees. During the Term of this Amended and Restated Agreement, the City shall not levy or require with respect to development of the Heritage Fields Property any site-specific Development Fees that are not of general application and are imposed, expressly or effectively, only on the Heritage Fields Property, except those set forth in this Amended and Restated Agreement (including but not limited to the NITM Program fees described in Section 6 and the Public Benefit Fee described in Section 10) and those in effect on July 12, 2005. It is understood that the preceding limitation on the City's imposition of Development Fees shall not limit the City from levying against the Heritage Fields Property additional Development Fees to the extent such development fees are imposed by the City on a city-wide basis and are actually applicable to and paid by a significant portion of other properties in the City.

5.2 Other Fees And Charges. Except as specifically set forth in Section 5.1, nothing set forth in this Amended and Restated Agreement is intended or shall be construed to limit or restrict the City's authority to impose new processing fees or charges, assessments, or taxes for development of the Heritage Fields Property or to increase any existing processing fees or charges which may apply to the Property, assessments or taxes, and nothing set forth herein is intended or shall be construed to limit or restrict whatever rights Heritage Fields might otherwise have to challenge any processing fee or charge either not set forth in this Amended and Restated Agreement or not in effect as of the Second Effective Date. In connection therewith, Heritage Fields agrees that it must comply with and is subject to the payment of school impact fees in accordance with Government Code §§ 65995, *et seq.* In furtherance of the foregoing, the City shall not, subsequent to the Effective Date of this Amended and Restated Agreement, impose any new fee or requirement upon the Project for the purpose of raising revenue for the provision of affordable housing not otherwise set forth in the Affordable Housing Ordinance as vested in this Agreement.

6. NORTH IRVINE TRANSPORTATION INFRASTRUCTURE.

6.1 NITM Ordinance. On or about June 10, 2003, the City adopted the NITM Ordinance establishing a fee program to be paid on all construction within the northern portion of the City (including the Property and the North Irvine Adjacent Lands) for the coordinated and phased installation of required traffic and transportation improvements (the "**NITM Program**"). The NITM Program is incorporated by reference and shall be considered part of this Amended and Restated Agreement. The NITM Ordinance and NITM Program as adopted by the City are included in the Existing Land Use Regulations

under the terms of this Amended and Restated Agreement. The City and Heritage Fields shall implement the NITM Program.

6.2 Concurrent Agreement(s) With North Irvine Adjacent Lands Owner. On or about June 10, 2003, the City adopted its Ordinance No. 03-20, approving the “**NITM Program Implementing Agreement**” by and between (i) the City and (ii) The Irvine Company and The Irvine Community Development Company LLC. The NITM Program Implementing Agreement is an agreement governed by the Development Agreement Statute, and provides that the owners and developers of the North Irvine Adjacent Lands will participate in the NITM Program.

6.3 Waiver Of Objections Due To Allocation And Apportionment Of NITM Fees. Heritage Fields acknowledges that the Property is subject to the terms and conditions of the NITM Program and that Heritage Fields shall participate in the NITM Program and perform the obligations required of it thereunder. Heritage Fields acknowledges that no NITM Program fees or costs are assessed or imposed upon (i) PIA 19, (ii) PIA 37, (iii) PIA 44, and (iv) the Great Park Property, excepting that portion of the Great Park Property that is the ARDA Transfer Site. Heritage Fields further acknowledges and agrees that the fees associated with each of these areas under the NITM Program will be paid by Heritage Fields in connection with the Parcel (as defined in the NITM Ordinance) in which the exempted area is located. Such fees have been reallocated to the various allowable uses on the Parcels, and shall be payable at such time as the fees for development of the various uses on the Parcels are otherwise due under the NITM Program, and Heritage Fields shall have the right to pay the fees imposed by the NITM Program under any of the alternative payment procedures set forth in the NITM Program. By the execution of this Amended and Restated Agreement, Heritage Fields waives any objection to, and covenants not to sue the City with respect to, any issue in any way relating to the adopted allocation of costs, expenses and fees contained in the NITM Program as of the Second Effective Date, by and among the various areas, including any and all portions of the Property. Heritage Fields does not waive any objection or make any covenant not to sue as to any subsequent allocations by the City that are inconsistent with the NITM Program.

6.4 Limitation On Heritage Fields’ Obligation To Pay NITM Fees For City Property. Notwithstanding any other provision of this Amended and Restated Agreement, Heritage Fields’ obligation to pay NITM fees for that portion of the City Property described in Section 6.3 is limited to the amount of NITM fees that would be payable for those portions of the City Property, had those portions of the City Property been developed in accordance with the assumptions in the 2003 Project Approvals. If, and to the extent, the amount of fees attributable to those portions of the City Property exceeds the fees that would have been payable for those portions of the City Property had those portions of the City Property been developed in accordance with the assumptions in the 2003 Project Approvals, the City shall be responsible for the resulting additional NITM fee increment at the time the same is due under the NITM Ordinance. The City agrees that it will process all NITM traffic studies and fee allocation plans required under NITM.

6.5 Commitment Regarding Payment Of NITM Fee Established For Each Future Development Area. Heritage Fields agrees that, except as set forth in Section 6.3 and Section 6.4, it shall pay the NITM fees as provided in the NITM Ordinance, including without limitation the fees required to be paid for each Future Development Area within the property owned by Heritage Fields under the terms and conditions of the NITM Ordinance. Pursuant to the NITM Ordinance, the Parties agree that Heritage Fields shall be regarded by the City as having remaining “developable land” within its Future Development Area so long as there is vacant land remaining (for which no building permit has been applied for and issued to Heritage Fields) which has been subdivided or which is reasonably likely to be subdivided and used for the construction of new buildings under the provisions of the Existing Land Use Regulations, and the ARDA Overlay Plan, regardless of whether or not Heritage Fields has applied for or the City has permitted such development.

6.6 Notice Of NITM Program To Heritage Fields And Purchasers Of The Property. Heritage Fields shall include notice of the NITM Program obligations pursuant to this Amended and Restated Agreement in each instrument conveying any portion of the Heritage Fields Property to a developer, merchant builder or corporate or institutional purchaser of a portion of the Heritage Fields Property.

6.7 Commitment Regarding Sale Price For Right-Of-Way Land Owned By Heritage Fields Specified In NITM Program. The NITM Program, as adopted by the City, specifies and refers to certain real property which is contemplated to be acquired by the City to construct the specified NITM traffic improvements. The City has indicated to Heritage Fields that if the City cannot acquire such real property through a voluntary sale from Heritage Fields at a price acceptable to the City, the City’s management would recommend to the City Council the adoption of a resolution of necessity for the acquisition of such real property by eminent domain, and pursuit of an action in eminent domain. Under this threat of condemnation by the City, Heritage Fields agrees to sell this specified land to the City upon reasonable terms and conditions at a sale price specified in the NITM Program, with the 5% escalation factor in the sale price as defined in the NITM Program.

6.8 NITM Account. The City shall maintain a separate account (the “**NITM Account**”) under its custody and control to hold all fees collected in trust for the benefit of the participants in the NITM Program. All fees collected under the NITM Program, all fees collected as conditions of approval or other fair share fees from Non-Participating Properties under Section 6.11 below, and all fair share fees collected from landowners and developers in the North Irvine Adjacent Lands under Section 6.10 below, shall be deposited in the NITM Account. All interest or other income earned by the funds in the NITM Account shall accrue and be deposited in such account. As set forth in the NITM Program, the City shall be reimbursed its reasonable costs for administering and maintaining this NITM Account.

6.9 Independent Nature Of Obligations. The obligations of Heritage Fields, the City, and the developers and landowners in the North Irvine Adjacent Lands are independent.

6.10 City Covenant To Obtain NITM Or Fair Share Fees From North Irvine Adjacent Lands. As of the date of this Amended and Restated Agreement, the City has already entered into the NITM Program Implementing Agreement referenced in Section 6.2 with The Irvine Company and the Irvine Community Development Company LLC to obtain from them the fees and improvements contemplated in the NITM Program. The failure of the City to obtain, enforce or otherwise implement such agreement shall not invalidate this Amended and Restated Agreement or the NITM Program, which shall remain in effect, and such failure shall not operate to increase or decrease the obligations of Heritage Fields under the NITM Program or under this Amended and Restated Agreement. The City covenants that, to the extent permitted by law, it shall make a good faith effort to approve and implement such NITM Program Implementing Agreement. Should such NITM Program Implementing Agreement not be implemented in whole or in part for the North Irvine Adjacent Lands, to the extent permitted by law, the City shall require the landowners and developers of the North Irvine Adjacent Lands to pay fees representing the fair share of such North Irvine Adjacent Lands for the traffic improvements that will be utilized by uses in the North Irvine Adjacent Lands, including any of the List of NITM Improvements that will be constructed or fully or partially financed under the NITM Program, and as specified by the NITM Ordinance, including without limitation the fees established by the NITM Ordinance for such property. The City further covenants that any fees collected from the North Irvine Adjacent Lands for NITM Program traffic improvements will be deposited in the NITM Account.

6.11 City Covenant To Obtain NITM Or Fair Share Fees From All Property Owners In The North Irvine Adjacent Lands. Certain properties in the North Irvine Adjacent Lands are not included in the NITM Program Implementing Agreement (“**Non-Participating Properties**”). Should any of these Non-Participating Properties seek to develop in a manner which will increase traffic from those properties, the City covenants that it shall, to the extent permitted by law, require the payment of fees representing such Non-Participating Properties’ fair share of the traffic improvements which will be used by this traffic, including any NITM Program traffic improvements. The City further covenants that any fees collected from Non-Participating Properties for NITM Program traffic improvements shall be deposited in the NITM Account.

6.12 City Covenant To Use NITM Fees And NITM Account For NITM Program. The City shall use the funds in the NITM Account, and all fees collected under the NITM Program, solely for the purposes authorized in the NITM Program. As set forth in the NITM Program, no funds may be used by the City for traffic improvements or other purposes which are not NITM Program traffic improvements, without the consent of Heritage Fields and the owner(s) of the North Irvine Adjacent Lands.

6.13 Certificate of NITM Compliance. Upon written request from Heritage Fields with respect to an identified legal parcel or lot, or parcels or lots, the City shall deliver within twenty (20) days a certificate confirming that this Amended and Restated Agreement is in full force and effect and whether or not NITM fees have been paid, or if there are any outstanding or future NITM fee obligations with respect to such parcel or parcels.

6.14 Satisfaction Of Mitigation Obligations Or Other Traffic Conditions. The City has adopted certain mitigation measures and conditions of approval for the transportation and traffic impacts of the development of the Property pursuant to the Existing Land Use Regulations and the ARDA Overlay Plan. The City has determined based upon a nexus fee study that the costs of the NITM Program are fairly apportioned to the Property included within the NITM Program as set forth in the NITM Ordinance, based upon calculations of average daily trips in a manner which has a nexus to, and is proportional to, the traffic which will be generated by all of the development contemplated in the ARDA Overlay Plan. The City hereby agrees that this Amended and Restated Agreement and the obligations to participate in the NITM Program contained in this Amended and Restated Agreement fully satisfy each and every existing mitigation and condition of approval set forth in the Master Subdivision Map. For future mitigation measures and conditions of approval for transportation and traffic impacts of Heritage Fields' planned development of the Project, the City has determined that the NITM Program will fully satisfy such obligations. The City intends to utilize the following mitigation measure and condition of approval for all development within the Property, including any future discretionary approvals adopted for the Property which the City intends to be applicable to the Property under this Amended and Restated Agreement: "Applicant (or property owner or developer) shall mitigate its traffic and transportation impacts by participation in the NITM Program established by Ordinance No. 03-20 and the Amended and Restated Development Agreement recorded on 12/27/2010, against the Property." Notwithstanding any other provision of the Amended and Restated Agreement, the Parties agree that in addition to this mitigation measure and condition of approval, the City may also add conditions to the approval of a subdivision tentative tract map for development of the Heritage Fields Property for site specific in-tract, i.e., on the Heritage Fields Property, traffic improvements that provide Project access drives, internal streets and traffic control measures within the area to be subdivided. Heritage Fields acknowledges that the City retains the discretion to judge the adequacy of traffic improvements and mitigation in the future, and that the City may exercise that discretion to update the NITM Program through future "Comprehensive Traffic Studies" as defined in and pursuant to the NITM Ordinance.

6.15 Independence Of Obligations. Heritage Fields shall be responsible for traffic mitigation, including payment of NITM fees, in connection with the development of the City Property, so long as development of that property remains within the overall traffic mitigation and ADT allocation assigned to the City. If, however, the City exceeds its mitigation measures (e.g., by substituting a use with higher peak hour generation) or its overall trip allocation, Heritage Fields will not be responsible for the additional increment of mitigation (if any) caused thereby, nor will it be responsible for the additional increment of NITM fees (if any) resulting therefrom.

7. CONSTRUCTION AND MAINTENANCE OF PUBLIC IMPROVEMENTS;  
FINANCING OF SAME

7.1 Heritage Fields' Obligations to Construct and Fund Construction. Heritage Fields has the obligation to construct or cause to be constructed, and to pay for the construction of, the Proposed Project Facilities, which shall not be conditioned upon

(i) the formation of the CFD, or (ii) issuance of Non-Subordinate Bonds; provided, however, (a) the obligation to construct and/or pay for the Proposed Project Facilities shall not commence to accrue until the Second Effective Date, unless a Third Party Legal Challenge has been brought before that date, in which case such obligations shall commence to accrue ten (10) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge; and (b) the status of the issuance of Non-Subordinate Bonds shall continue to be part of the Quarterly Infrastructure Meeting Items (as defined in the Amended MIA) discussed and considered as part of the meet and confer process pursuant to Section 4.2 of the Amended MIA. Construction of the Proposed Project Facilities shall be completed in accordance with the phasing and timing requirements and processes set forth in the Amended MIA. The Proposed Project Facilities shall be financed by the levy of Special Taxes, the issuance of Non-Subordinate Bonds, payments by the County to the City under Section 2.2.5 of the County Agreement toward infrastructure components that are part of the Proposed Project Facilities, contributions by Heritage Fields, as described in Sections 7.5, 7.6, 7.7, and 7.8, and possibly other sources or contributions the Parties may obtain to pay for the design and construction of the Proposed Project Facilities (for example, but without limitation, federal, state or local grants); provided, however, that, Heritage Fields shall be responsible for any costs of the Proposed Project Facilities not financed by the Special Taxes, by the Non-Subordinate Bonds, by payments from the County to the City under Section 2.2.5 of the County Agreement toward infrastructure components that are part of the Proposed Project Facilities, or by such other sources or contributions.

7.1.1 Delegation of Construction. The City acknowledges that Heritage Fields intends to delegate its duties to construct the Proposed Project Facilities to its affiliate that holds a California contractors' license ("**Construction Manager**"), and/or to delegate to IRWD, Southern California Edison ("**SCE**") or the County (or contractors engaged by, through or for IRWD, SCE or the County) construction of those portions of the Proposed Project Facilities that may be conveyed, maintained or ultimately constructed by IRWD, SCE or the County, and the City approves such delegation of duties, as more particularly described in the Amended MIA.

7.1.2 Quality Of Construction of Proposed Project Facilities. Heritage Fields agrees that it shall construct or cause the construction of the Proposed Project Facilities and the Additional Backbone Infrastructure (if any) at a level of quality, as reasonably determined by the City, that is at least equivalent to the quality of construction on similar sized master-planned projects that have been approved and/or built within the City since 2001. Such Proposed Project Facilities and Additional Backbone Infrastructure (if any) shall also be constructed in a manner consistent with the Streetscape Guidelines approved by the City's Planning Commission, and which include "green streets" standards as set forth in the Streetscape Guidelines.

7.1.3 Potential Construction of Backbone Infrastructure Initially Funded By City In Event of Third Party Legal Challenge. By mutual agreement, the Parties may elect to proceed with the construction of Backbone Infrastructure during the pendency of a Third Party Legal Challenge; provided, however, that nothing in this Section 7.1.3 shall require that Heritage Fields initially fund such Backbone Infrastructure prior to final

adjudication or legislative action rejecting such Third Party Legal Challenge; the Parties understanding that funding for such Backbone Infrastructure would not be provided by Heritage Fields and/or through Special Taxes assessed or levied through a CFD until such time as the Third Party Legal Challenge is resolved.

7.2 Authorized Services. On an annual basis, the City shall establish a budget, in its sole discretion, for the Authorized Services for the applicable Fiscal Year. The entirety of or portions of the Authorized Services, up to but not to exceed the Indexed GA, shall be paid by Heritage Fields until such time as the CFD is formed. After the formation of the CFD, the entirety of or portions of the Authorized Services shall be paid solely from the Special Taxes in accordance with the provisions of Section 7.6 below. Accordingly, after the CFD is formed, Heritage Fields shall have no obligation to pay the Indexed GA for Authorized Services separately under this Amended and Restated Agreement and rather only through its payment of Special Taxes as a landowner pursuant to the CFD. The Authorized Services shall be funded, in part, by the Indexed GA and the Secondary Amount. The City shall make available to Heritage Fields the annual budget for the Authorized Services. Prior to approval of the budget by the City, at Heritage Fields' request, the City and Heritage Fields shall meet and review the proposed budget. Until such time that the CFD is formed, the Guaranteed Amount shall be paid in two equal installments for each Fiscal Year on or before the date on which real property taxes would otherwise be delinquent (i.e., December 10 and April 10 of each Fiscal Year). The obligation of Heritage Fields to pay the Indexed GA for Authorized Services shall commence to accrue as of the Second Effective Date, unless a Third Party Legal Challenge has been brought before that date, in which case the obligation to pay shall commence to accrue ten (10) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge (as applicable, the "**Payment Commencement Date**"); provided, however, that if the City elects in its sole and absolute discretion to incur Authorized Services costs during the period between the Second Effective Date and the Payment Commencement Date ("Advanced Authorized Services"), once there has been final adjudication or legislative action rejecting any Third Party Legal Challenge, then the City may demand, and Heritage Fields shall pay to the City the amount of the Advanced Authorized Services up to the Indexed GA due, which payment shall be due on the later of (i) the Payment Commencement Date or (ii) 30 days after the delivery of such demand to Heritage Fields. The obligation of Heritage Fields to pay the Guaranteed Amount for Authorized Services for the Fiscal Year in which the CFD is formed shall be apportioned between the payment obligation under this Amended and Restated Agreement and the payment obligation from the Special Taxes such that there is no overpayment for that particular Fiscal Year.

7.3 Additional Backbone Infrastructure. If the Parties, after a good faith meet and confer process, mutually determine in writing to fund the construction of all or any part of Additional Backbone Infrastructure through the proceeds of Non-Subordinate Bonds and Special Taxes, then Heritage Fields shall have the obligation to construct or cause to be constructed such Additional Backbone Infrastructure.

7.4 Value Limitation. For each Improvement Area, the amount of the Maximum Special Taxes for the portion of the Heritage Fields Property intended to be

developed with residential units shall be established at the time of formation of the CFD in amounts determined by the City, but the amount of the Maximum Special Taxes plus the Overlapping Liens plus the Assumed IRWD Assessment shall collectively not exceed two percent (2%) of the expected base sales price (i.e. the base sale price without any optional upgrades included) of the lowest priced residential unit within each residential Land Use Class (as defined in Table 1 of the RMA) in such Improvement Area at the time of formation of the CFD, as projected in a market study prepared by a third party consultant selected by the City that assumes completion of the residential units (the “**Residential Value Limitation**”). For each Improvement Area, the amount of the Maximum Special Taxes for the portion of the Heritage Fields Property intended to be developed with non-residential improvements shall be the amount set forth in the RMA (the “**Non-Residential Value Limitation**”). The Residential Value Limitation and the Non-Residential Value Limitation are hereinafter collectively referred to as the “**Value Limitation**.” Both the Residential Value Limitation and the Non-Residential Value Limitation shall be recalculated at the time and in the manner set forth in the RMA for each Improvement Area, and, if necessary, the Maximum Special Taxes in the RMA shall be reduced so that such amounts do not exceed the respective Residential Value Limitation and Non-Residential Value Limitation, in the manner specified in the RMA.

7.5 Capacity Allocation on the Project. The Parties hereto agree and recognize that the ability to fund various capital facilities, fees, and/or the GA and the Indexed SA, through the CFD is limited by, among other things, the Value Limitation. In terms of allocating and prioritizing the leverage and/or payment of Special Taxes upon Taxable Property, the overall debt capacity of the Project up to the Value Limitation shall be allocated during the Term in the following order of priority:

7.5.1 Priority 1. Overlapping Liens at the time that the CFD is established;

7.5.2 Priority 2. A sufficient amount to pay the tax supporting IRWD Bonds based upon an assumed amount equal to 10% of the Value Limitation for the Improvement Area (“**Assumed IRWD Assessment**”).

7.5.3 Priority 3. Special Tax levy sufficient to provide the maximum annual amounts set forth on Exhibit "R-2" attached hereto.

7.5.4 Priority 4. Special Tax levy sufficient to pay debt service on one or more series of current and future Non-Subordinate Bonds and Administrative Expenses, the proceeds of which will be used to finance the Proposed Project Facilities and Additional Backbone Infrastructure, if any.

7.5.5 Priority 5. The difference between the (i) the Indexed GA set forth in Exhibit "R-1" and (ii) Guaranteed Amount set forth in Exhibit "R-2" (the difference being the “**Index Delta**”).



7.5.6 Priority 6. Special Tax levy sufficient to pay, or to reimburse amounts previously paid by Heritage Fields, for the construction of Proposed Project Facilities and Additional Backbone Infrastructure, if any.

7.5.7 Priority 7. Special Tax levy sufficient to pay the Authorized Services in excess of the Indexed GA up to a maximum of the Secondary Amount per year.

7.5.8 Priority 8. Any remaining Special Tax revenues which have not been allocated to one or more of the activities, services, or categories described above (the “**Excess Special Tax Capacity**”), shall be divided so that Heritage Fields possesses the ability to designate and/or leverage two-thirds (2/3) of said Excess Special Tax Capacity upon any and all Authorized Facilities and the City shall possess the ability to use and/or leverage one-third (1/3) of the Excess Special Tax Capacity upon any and all Authorized Facilities and all services within the CFD Area and/or those areas adjacent to the CFD Area that are part of the Property otherwise authorized under applicable law to be funded from Special Tax revenues.

7.6 Application of Special Taxes. The Parties hereto agree and recognize that all Special Taxes collected in any Fiscal Year in an Improvement Area (by payment or foreclosure), and any penalties and interest on delinquent amounts collected by foreclosure or otherwise, in any Fiscal Year, not owed to or held by the County, shall be pledged to the payment of (A) debt service on all outstanding Non-Subordinate Bonds issued for such Improvement Area due on (i) any payment dates prior to the date of collection of such Special Taxes and (ii) the next payment dates, in the calendar year commencing in such Fiscal Year, and (B) Bond Costs associated with any outstanding bonds issued for another Improvement Area of the CFD, but only if the Special Taxes were pledged to pay the Bond Costs associated with bonds issued in another Improvement Area of the CFD pursuant to the Indenture, and only in the manner, to the extent, and for the duration set forth in the Indenture, in each case only to the extent that there are insufficient funds on deposit under the Indenture to pay such debt service. After satisfying the payment of debt service on the Non-Subordinate Bonds for which the Special Taxes in such Improvement Area were pledged as set forth in (A) and (B) above in the foregoing manner, the remaining Special Taxes may be applied to finance the Authorized Facilities and Authorized Services, including Subordinate Bonds, in the priority set forth below (with all items of a higher priority being satisfied before application to items of lower priority):

7.6.1 To restore or establish any Non-Subordinate Bond reserve fund for which Special Taxes were levied.

7.6.2 To pay outstanding Administrative Expenses and to fund an account to pay for any Administrative Expenses for Non-Subordinate Bonds in the next Fiscal Year in the amount calculated as part of the Special Tax Requirement.

7.6.3 To pay the Guaranteed Amount for such Improvement Areas. The Guaranteed Amount may be used to finance the Authorized Services and debt service and related expenses on the Subordinate Bonds.

7.6.4 Subject to the City's priority of use of Special Taxes following the City's exercise of its self-help rights under Article XIII of the Amended MIA, and so long as Heritage Fields is not in material breach of this Amended and Restated Agreement or the Amended MIA beyond applicable notice and cure periods, to fund and pay for the Proposed Project Facilities in accordance with Section 7.1 either directly or in reimbursement of costs advanced by Heritage Fields, it being understood that Special Taxes may accumulate in the appropriate fund or account created for each Improvement Area (hereinafter, the "pay-as-you-go fund") to pay such Proposed Project Facilities that have not yet been constructed until actual costs of all Proposed Project Facilities are paid in full. Any shortfalls, current or past, in the payment of the Guaranteed Amount and replenishments of any bond reserve fund under any Indenture relating to the applicable Improvement Area shall be paid from the pay-as-you-go fund upon the deposit of sufficient monies. At such time that (i) the balance in the pay-as-you-go fund for all Improvement Areas, when combined with the remaining net proceeds of any bonds issued by the CFD for the financing of Proposed Project Facilities and any mutually agreed upon Additional Backbone Infrastructure, is at least as much as the projected costs of the Proposed Project Facilities and any mutually agreed upon Additional Backbone Infrastructure that have not yet been constructed (as such projected costs are determined by an independent engineer mutually selected by Heritage Fields and the City, which estimate shall include a twenty-five percent (25%) contingency), and (ii) such projected costs are equal to or less than Twenty Million Dollars (\$20,000,000), then in such Fiscal Year, the City may direct that the amount of Special Taxes collected by the City in such Improvement Area in such Fiscal Year that are not needed to be reserved to cover the projected costs be allocated, in an amount and for items specified by the City, to the lower priority set forth in Section 7.6.5 and 7.6.6 below. Because the pay-as-you-go fund in an Improvement Area may be utilized to make up delinquencies in the payment of the Guaranteed Amount or for any deficiencies in the reserve fund for such Improvement Area, the calculation in the preceding sentence shall be conducted annually, and in each subsequent year, to the extent that there is a shortfall in the amounts available to pay the Proposed Project Facilities and any mutually agreed upon Additional Backbone Infrastructure, the Special Taxes shall be deposited in the pay-as-you-go fund before allocating any Special Taxes pursuant to Section 7.6.5 and 7.6.6 below. The City shall pay amounts from the pay-as-you-go fund for Proposed Project Facilities or any mutually agreed upon Additional Backbone Infrastructure upon request by Heritage Fields, in accordance with the payment requisition procedures set forth in the Amended MIA. If the City directs that Special Taxes be allocated to a lower priority level in accordance with the preceding sentence (a "**Lower Priority Disbursement**") and if Heritage Fields is not reimbursed in full for the reimbursable costs of Proposed Project Facilities and any mutually agreed upon Additional Backbone Infrastructure in the time required under the Amended MIA, City shall remit to Heritage Fields within sixty (60) days of written demand the amount of funds disbursed for a Lower Priority Disbursement that were not paid to or for the benefit of Heritage Fields pursuant to Section 7.6.6 below, in accordance with the payment requisition procedures set forth in the Amended MIA, from

Special Taxes allocated pursuant to Section 7.6.3, Section 7.6.5, and the City's portion of Special Taxes allocated pursuant to Section 7.6.6, or other funds.

7.6.5 To City to pay the Secondary Amount.

7.6.6 For Authorized Facilities and Authorized Services as provided pursuant to Section 7.5.8.

7.7 Formation of the CFD. Subject to the provisions of this Section 7, the Authorized Facilities and Authorized Services shall be funded through the City's formation of a single CFD. Within the CFD, the City and Heritage Fields shall agree on the designation of multiple improvement areas ("**Improvement Areas**"), which may include two or more Tax Zones within each Improvement Area. The RMA for each Improvement Area shall be in the form of the RMA attached hereto as Exhibit "S", except that the following information, at a minimum, in an RMA for an Improvement Area shall be altered (by mutual written agreement of the City and Heritage Fields) to reflect Improvement Area specific information: (a) the identity of the Improvement Area; (b) the Maximum Special Taxes identified in Section C of the RMA, (c) the data identified in Table 2; (d) the amount of exempt acreage in Sections F and I of the RMA; (e) the Prepayment Portion of the Special Tax for both Residential Property and Non-Residential Property set forth in Section I of the RMA; (f) the percentages set forth in Section I; and (g) the percentages in Section J of the RMA. In addition, the City and Heritage Fields may, at any time prior to formation of the CFD, alter any terms of the RMA by mutual written agreement. Nothing in this Section 7.7 shall prevent an amendment of any RMA for an Improvement Area pursuant to the Change Proceedings, as set forth in Section 7.7.7. The City shall not form a CFD for the Property that has an RMA in form or substance different from the RMA attached hereto as Exhibit "S" (as amended in each case as set forth above).

7.7.1 Heritage Fields shall execute and deliver to the City a petition as described in Section 53318(c) of the California Government Code (the "**CFD Petition**") within ninety (90) days after the Second Effective Date, unless a Third Party Legal Challenge has been brought before that date, in which case Heritage Fields shall execute and deliver the CFD Petition to the City within ten (10) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. Upon the delivery of the CFD Petition, the City shall conduct the required proceedings as set forth in Government Code Section 53311 *et seq.*, including but not limited to, the City adopting a Resolution of Intention to establish the CFD within ninety (90) days from the submission of the CFD Petition and the payment of any applicable deposit, and then the City holding a public hearing on the establishment of the CFD within thirty (30) days to sixty (60) days after the adoption of the Resolution of Intention.

7.7.2 Subject to the limitations set forth in this Amended and Restated Agreement (including, without limitation, Sections 7.4 and 7.5), Heritage Fields agrees to cooperate with the City and take all reasonable actions to accomplish the formation of the CFD, the designation of the Improvement Areas, the imposition of Special Taxes within each Improvement Area, and the authorization of bonded indebtedness within each

Improvement Area necessary in conjunction with the bonded indebtedness authorized in all other Improvement Areas to finance the Authorized Facilities and Authorized Services, including without limitation, if required by the City as to the CFD and each and every Improvement Area, the submission of a ballot to the City in favor of the formation of the CFD, the designation of Improvement Areas, the levying of such Special Taxes, and the authorization of bonded indebtedness within each Improvement Area necessary in conjunction with the bonded indebtedness authorized in all other Improvement Areas to finance the Authorized Facilities and Authorized Services, and to require any purchaser, other than a Purchaser/User, of Heritage Fields Property to vote accordingly. While it is acknowledged that this Amended and Restated Agreement cannot require the City or the City Council to form the CFD, the City represents that it can, and does hereby, agree that it shall not refuse Heritage Fields' requests to form the CFD, except for good and reasonable cause. Good and reasonable cause includes, without limitation, an adopted City-wide policy, enacted after reasonable notice to Heritage Fields, that does not allow for or discourages the formation of a CFD.

7.7.3 Each Improvement Area shall be authorized to finance any or all of the Authorized Facilities, irrespective of the geographical location of the Authorized Facilities or the phase in which the Authorized Facilities are constructed. Each Improvement Area shall be authorized to finance any or all of the Authorized Services irrespective of the geographic location of the Authorized Services.

7.7.4 The Special Taxes set forth in an RMA shall be secured by recordation in the Official Records of the County of Orange of continuing liens against all or portions of the property included within the boundaries of the respective Improvement Area.

7.7.5 The Maximum Special Tax for each Improvement Area on all users of the Taxable Property within the CFD shall escalate as set forth in the RMA. Subject to sound municipal financing practices, market conditions, and findings of compliance with applicable law, the debt service on the CFD Bonds in such Improvement Area shall also escalate by the same percentage as the Special Taxes.

7.7.6 The City may approve one or more JCFA's with other political entities to allow the CFD or any Improvement Area to finance facilities owned and/or maintained by Local Agencies other than the City.

7.7.7 At the request of Heritage Fields, but subject to the limitations contained in this Amended and Restated Agreement, the City agrees that it shall conduct Change Proceedings pursuant to the CFD Act to (i) make any changes to an RMA for an Improvement Area, including amending the rates (either increase or decrease) and method of apportionment of special taxes, (ii) increase or decrease the authorized bonded indebtedness within an Improvement Area, (iii) annex or remove property from an Improvement Area, or (iv) to take such other actions as authorized by the CFD Act ("**Change Proceedings**"), provided, however, the City makes no commitment as to the outcome of said Change Proceedings.

7.7.8 No bonds, notes, certificates of participation or other evidence of bonded indebtedness (other than the IRWD Bonds) shall be issued by any Local Agency, other than the City, at the request of Heritage Fields, or with its affirmative vote and/or consent, secured, in whole or part, by Taxable Property, and/or taxes or other assessments thereupon, without the advance written consent of the City, except in the event the City elects not to form the CFD and issue CFD Bonds in accordance with the terms of this Amended and Restated Agreement.

7.7.9 Upon formation of the CFD, or shortly thereafter, the City and Heritage Fields shall enter a "Protocol Agreement" whereby the City Council, as the legislative body of the CFD, agrees that the requirements of Sections 7.4 through 7.8 shall bind the CFD for the Term of the Agreement.

7.7.10 The City Property shall neither be subject to the levy of the Special Taxes nor be included in the capacity analyses set forth in Section 7.5 except in the event any portion of the ARDA Transfer Site is sold or leased pursuant to a long term lease to a private third-party (other than the City, RDA, OCGP Corporation, or any public entity) for a use that is neither a Great Park use nor a use ancillary to a Great Park use (as such ancillary uses are specified further in Section 3.9.7 above), in which case such portions of the ARDA Transfer Site shall be subject to the levy of the Special Taxes as identified in the RMA and included in the capacity analyses.

7.8 Issuance of Non-Subordinate Bonds. While it is acknowledged that this Amended and Restated Agreement cannot require the City or the City Council to issue and sell Non-Subordinate Bonds, the City represents that it can, and does hereby, agree that it shall not refuse Heritage Fields' requests to issue and sell Non-Subordinate Bonds from time to time in each Improvement Area consistent with the priorities set forth in Section 7.5 above, except for good and reasonable cause. Good and reasonable cause includes, without limitation, an adopted City-wide policy, enacted after reasonable notice to Heritage Fields, that does not allow for or discourages the formation of a CFD. The issuance of the Non-Subordinate Bonds shall, in general, be subject to the following parameters:

7.8.1 Unless the City determines otherwise, for fixed rate bonds, the amount of the reserve fund for each federal tax-exempt Non-Subordinate Bond issue shall equal the lesser of (i) 10% of the bond amount, (ii) the maximum annual debt service on such bonds, or (iii) 125% of the average annual debt service on such bonds. The City may authorize that a surety bond, letter of credit, or other credit facility may be used in lieu of all or a part of a reserve fund funded by bond proceeds.

7.8.2 The minimum appraised value-to-lien ratio required for each Non-Subordinate Bond issue shall be 3:1, unless otherwise required by the CFD Act.

7.8.3 Non-Subordinate Bonds may be issued as fixed or variable rate bonds. If Heritage Fields requests that variable rate bonds be issued, Heritage Fields shall obtain appropriate credit enhancement at its sole expense.

7.8.4 The term of the Non-Subordinate Bonds for each Improvement Area shall be determined by the City.

7.8.5 Non-Subordinate Bonds for each Improvement Area shall be issued and administered pursuant to a bond indenture, fiscal agent agreement, resolution of issuance, Charter City Resolution, or similar document relating to the pledge of Special Taxes for that Improvement Area (the “**Indenture**”).

7.8.6 All statements and material related to the sale of Non-Subordinate Bonds shall state that neither the faith, credit, nor the taxing power of the City is pledged to the repayment of the Non-Subordinate Bonds, nor that there is an obligation of the City to replenish the reserve fund from revenue sources other than Special Taxes or proceeds from foreclosure proceedings. The City shall have no monetary liability, contingent or otherwise, for the debt services related to any Non-Subordinate Bonds.

7.8.7 The Special Taxes shall continue to be levied and collected in accordance with the RMA and utilized to fund Authorized Facilities and Authorized Services as determined by the City, except that upon final payment of all Non-Subordinate Bonds and the financing of all Proposed Project Facilities and any mutually agreed upon Additional Backbone Infrastructure, the City Council may, in its sole discretion determine to reduce or discontinue the collection of the Special Taxes.

7.8.8 Subject to Section 7.5, the City shall neither issue any CFD Bonds, nor any other bonds, certificates or other forms of indebtedness, secured by the Special Taxes to finance any Authorized Facilities or Authorized Services other than the Proposed Project Facilities and any Additional Backbone Infrastructure, except on a subordinated basis (the “**Subordinated Bonds**”) to any CFD Bonds issued or which may be issued in the future to fund Authorized Services or Authorized Facilities provided, however; that (i) Subordinate Bonds shall not be included in the calculation of the minimum value to lien ratio for the purpose of issuing Non-Subordinate Bonds; (ii) The Special Taxes that secure the Subordinate Bonds are subordinate to the pledge or use of the Special Taxes for any of the purposes of higher priority set forth in Section 7.6; (iii) That until all Proposed Project Facilities and any Additional Backbone Infrastructure have been financed by the CFD, the City shall be limited to pledging, on a subordinated basis, the Special Taxes not in excess of the Indexed GA for such Improvement Area, unless a supplemental levy is required as a result of Special Tax delinquencies, as denoted in Section E.2. of the RMA; (iv) Special Taxes used to pay debt service or other costs associated with the Subordinate Bonds will be derived from the Indexed GA payable to the City to the effect that amounts expended on debt service and other costs for the Subordinate Bonds when combined with amounts received will not exceed the Pro Rata Share of the Indexed GA for such Improvement Areas; (v) At Heritage Fields’ request the City and Heritage Fields shall meet and review any Subordinated Bond issue prior to public dissemination of disclosure documents, provided however, that Heritage Fields’ shall not possess a right of consent in relation to the issuance of Subordinated Bonds; and (vi) the documentation for the Subordinated Bonds explicitly allows for the issuance of Non-Subordinate Bonds in any number of series and amounts that will be secured by the Special Taxes on a basis senior to that of Subordinate Bonds.

7.9 Apportionment; Application to County Property. The City covenants to request in writing that the County honor its obligations pursuant to Section 2.2.5 of the County Agreement, and to actively pursue enforcement of that provision, which provides as follows:

"The parties acknowledge that the City seeks to create a funding mechanism whereby all Base users pay their fair share of the costs of developing the necessary infrastructure and related improvements. The County agrees to participate in such a funding mechanism and pay its fair share of the costs that are limited to infrastructure improvements directly related to servicing the properties County is to receive referenced in 2.2.3 above. Infrastructure improvements shall refer to utilities, roadways, sewer lines and other types of infrastructure needs that are necessary to service each County parcel, if any. The County will not be required to contribute, through assessments or other funding or financing methods, to the development or maintenance costs or expenses for any park or open space that will be developed and maintained on the Base under the Irvine 'Great Park Plan'. Furthermore, to the extent they qualify, County shall have the option to pay any portion of its share of infrastructure costs and expenses with Road Funds or other non-General Fund revenues."

In this regard, the City agrees to meet and confer in good faith with Heritage Fields concerning the City's efforts to secure compliance with Section 2.2.5 of the County Agreement. The City shall not enter into any agreement with the County (or other parties, including OCTA) or a modification to the terms of the County Agreement that creates a material and adverse impact on the cost of the Backbone Infrastructure and/or a material and adverse impact on the timing of construction of the Backbone Infrastructure, as that timing is specified in the Master Phasing Plan and Schedule provided as Exhibit B to the MIA, as that schedule may be modified from time to time in accordance with the MIA. Nothing in this Section 7.9 requires that the City commence any litigation action against the County to enforce the terms of the County Agreement, provided that nothing contained herein shall be deemed to be a waiver by Heritage Fields of any rights Heritage Fields may have as against the County with respect to the County Agreement.

7.10 Waiver of Challenge to Special Tax Requirement. (A) Heritage Fields hereby waives and forever relinquishes any ability it may possess to challenge, judicially, administratively, or otherwise, the imposition of the Special Tax, or any portion thereof, the levy of the Special Tax, or any portion thereof, and/or the collection of the Special Tax, or any portion thereof, on any property which it/they own and/or control. The foregoing covenant shall not prevent Heritage Fields from bringing any challenge, judicially, administratively, or otherwise to specifically enforce the obligations of the City or the CFD under the Indenture, the RMA, Amended MIA, the Protocol Agreement, this Amended and Restated Agreement or any other agreement between the City and

Heritage Fields which reasonably relates to the Special Taxes. In addition, and without limitation, Heritage Fields hereby agrees not to file, and forebears and relinquishes the right to file, a petition, of any sort, whether by way of ballot proposition, initiative, referendum, or similar device, to amend, modify, reduce or otherwise negatively affect the collection of Special Taxes or any portion thereof, contemplated by this Amended and Restated Agreement and/or the RMA, except that this covenant shall not be construed to prohibit Heritage Fields from petitioning the City or the CFD to process, or participate in, any Change Proceedings in accordance with Section 7.7.7 above. Heritage Fields shall protect and indemnify the City from any loss of Special Tax revenue based upon its breach of one or more of the covenants set forth in this Section 7.7.10 or Section 7.7.2. (B) No person or entity, other than Heritage Fields and/or a Purchaser/User, shall claim any right, entitlement, or any other benefit under this Amended and Restated Agreement unless and until it has executed a document, approved as to form and content by the City Attorney, accepting and agreeing to the waivers, releases, and covenants set forth in Subsection 7.10(A) above.

## 8. PROPERTY-WIDE ACTIVITIES.

8.1 Master Subdivision Map. Heritage Fields shall not record any final subdivision map for all or any portion of the Heritage Fields Property (a “Subsequent Map”) unless and until it has filed a final Master Subdivision Map for that portion of the Property that is subject to the Subsequent Map, and has complied with all Master Subdivision Map conditions specified by the City to be applicable to that final Master Subdivision Map.

### 8.2 Property-Wide Permits.

8.2.1 Agency Permits. The development of the Property will require various permits and entitlements from state and federal agencies including without limitation a Section 404 Permit from the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification from the California Regional Water Quality Control Board, a Fish and Game Section 1602 Permit from the California Department of Fish and Game, an Irvine Ranch Water District Subarea Master Plan, and a National Pollution Discharge Elimination System Permit (the “**Agency Permits**”). Heritage Fields shall process such Agency Permits in consultation and coordination with the City. Heritage Fields has obtained the following Agency Permits in connection with development of the Property, under which each of Heritage Fields, the City and OCGP Corporation are co-permittees: (i) Clean Water Act Section 404 Permit No. SPL-2006-1452-CJF, effective date April 30, 2007, issued by the United States Army Corps of Engineers (the “**404 Permit**”); (ii) California Fish and Game Code Section 1602 Streambed Alteration Agreement No. 1600-2006-0258-R5, effective date February 28, 2007 issued by the California Department of Fish and Game (the “**1602 Agreement**”); (iii) Section 401 Water Quality Standards Certification for the Heritage Fields and the Great Park Improvement Projects, the City of Irvine (ACOE Reference No. 200601452-CJF), effective date February 21, 2007, issued by the Santa Ana Regional Water Quality Control Board (the “**401 Certification**”). In addition, Heritage Fields has in place a Master Storm Water Pollution Prevention Plan, dated [March 2007] (the “**Master SWPPP**”) required by the 401



Certification. The City and OCGP Corporation are not co-permittees for purposes of the Master SWPPP. Instead, the City and OCGP Corporation are required to maintain separate storm water pollution prevention plans in compliance with the 401 Certification to cover any construction activity the City or OCGP Corporation undertake on the Property, and shall be separately responsible and liable for performance for their respective SWPPP.

8.2.2 Responsibility for Implementation. If either the City or Heritage Fields fails to implement its obligations under any of the Agency Permits and does not cure such failure pursuant to Section 14 of this Amended and Restated Agreement (“**Defaulting Party**”), and such failure would prevent the other Party from proceeding with its development of its property (“**Affected Party**”), the Affected Party may obtain an order for specific performance from a court providing that if such implementation is not timely commenced and diligently pursued by the Defaulting Party, the Affected Party may take responsibility for implementation of such obligations. The order may provide that the Defaulting Party shall grant the Affected Party all rights of access, construction easements, and other permits or licenses necessary to perform such work. The Affected Party shall have the right to recover the costs of performing such work from the Defaulting Party.

8.2.3 Indemnification. Each Party agrees to indemnify and defend any other Party for any violations of the Agency Permits a Party may cause, whether on that Party’s property or the other Party’s property.

8.3 City Cooperation. The City will cooperate with Heritage Fields, and assist Heritage Fields, as requested by Heritage Fields, in its efforts to obtain additional Agency Permits or to amend previously obtained Agency Permits. The City shall use reasonable efforts to provide to Heritage Fields, as soon as reasonably possible after a request for such additional information and materials reasonably needed by Heritage Fields to file sufficient applications or amendments for all applicable Agency Permits.

## 9. DEDICATIONS AND CONVEYANCES OF PROPERTY INTERESTS.

9.1 Police Site. Following the Second Effective Date and the City’s determination of its final detailed site plan that shows its proposed improvements and sets the precise boundaries upon which a metes and bounds legal description can be prepared, Heritage Fields shall execute, acknowledge, and deliver to City a grant deed in the form substantially the same as the form attached hereto as Exhibit P, conveying to City, for no additional consideration, fee title to the Police Site in consideration of the City’s performance of its obligations set forth in this Amended and Restated Agreement, unless a Third-Party Legal Challenge has been brought before that date, in which case the conveyance shall occur no earlier than ninety (90) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. The City shall not be required to pay any fee or purchase price for the Police Site. The Police Site shall be used primarily as a public police facility, which may permit additional accessory City personnel, but not including any jail or other detention facilities except for temporary holding facilities. The City shall be responsible for any traffic mitigation, NITM fees or

other traffic fees related to such use, including any cumulative traffic obligation as provided in Section 3.12.1. The conveyance of the Police Site shall not affect Heritage Fields' approved character, density or intensity of uses of its property or of the traffic mitigation required for such uses. The conveyance shall be subject to deed restrictions, effective for a twenty (20) year period, limiting the use of the Police Site to its defined uses. Conveyance of the Police Site shall be subject to Section 9.9 with respect to LIFOs.

9.1.1 Boundary Adjustments To Police Site. The Parties agree and understand that if any boundary adjustments that reduce the size of the Police Site are necessary under Section 9.6, Heritage Fields shall convey to the City, at no cost, such additional land adjacent to the Police Site as is necessary to fully offset said reduction.

9.1.2 Condition of Title; Title Insurance Policy. Heritage Fields shall cause the Police Site to be conveyed free and clear of all recorded and unrecorded monetary liens and all recorded and unrecorded non-monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the exceptions listed on Exhibit T. Heritage Fields shall pay all costs required to place title in the condition described in this Section 9.2. A condition to City's acceptance of the Police Site shall be the irrevocable commitment of the Title Company to deliver to, at City's direction, City upon the transfer of title to the Police Site, an ALTA standard or, at City's election, an extended coverage owner's policy of title insurance showing title vested in City in the condition described in this Section 9.2 with insurance coverage in the amount of the fair market value of the Police Site as determined by City, and with such title insurance to be paid by the City.

## 9.2 ARDA Transfer Site and Exchange Properties.

9.2.1 Conveyance of ARDA Transfer Site. Heritage Fields shall, within ninety (90) days of the Second Effective Date, convey to the City the ARDA Transfer Site and deliver to City a grant deed in the form substantially the same as the form attached hereto as Exhibit Q, unless a Third-Party Legal Challenge has been brought before that date, in which case the conveyance shall occur within ninety (90) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. The City shall not be required to pay any fee or purchase price for the ARDA Transfer Site. Notwithstanding the 90-day time periods referenced above, the timing of the conveyance of the ARDA Transfer Site shall be subject to Section 9.9 with respect to LIFOs, the final determination of the location of "Q" Street and the preparation of a metes and bounds legal description that correspondingly shows the precise boundaries of the ARDA Transfer Site.

9.2.1.1 Condition of Title of ARDA Transfer Site. Subject to Section 9.9, Heritage Fields shall cause the ARDA Transfer Site to be conveyed free and clear of all recorded and unrecorded monetary liens and all recorded and unrecorded non-monetary liens, encumbrances, easements, leases (other than the existing FAA lease), covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the exceptions listed on Exhibit U. Heritage Fields shall pay all costs required to

place title in the condition described in this Section 9.2. A condition to City's acceptance of the ARDA Transfer Site shall be the irrevocable commitment of the Title Company to deliver to, at City's direction, City upon the transfer of title to the ARDA Transfer Site an ALTA standard or, at City's election, an extended coverage owner's policy of title insurance showing title vested in City in the condition described in this Section 9.2 with insurance coverage in the amount of the fair market value of the ARDA Transfer Site as determined by City.

9.2.1.2 Adjustments to ARDA Transfer Site. Heritage Fields and the City may mutually agree in writing to modify or adjust the precise location and/or area or the land that comprises the ARDA Transfer Site so long as the replacement land is approximately the same acreage as that portion of the original ARDA Transfer Site as generally depicted on Exhibit "G," and more fully described as PIAs 28 and 30 on Exhibit "I."

9.2.2 Traffic Mitigation For ARDA Transfer Site. Conveyance of the ARDA Transfer Site shall not affect the character, density or intensity of uses approved for the Heritage Fields Property or the traffic mitigation required for such uses. The City shall be responsible for all maintenance of the ARDA Transfer Site and for any traffic mitigation, NITM payments or other traffic fees related to use of the ARDA Transfer Site.

9.2.3 Exchange of Exchange Properties. Subject to Section 9.9, the Parties shall, within ninety (90) days following the Second Effective Date or such later date as the Parties may mutually agree to, enter into a "land swap agreement" pursuant to which they shall convey the Exchange Properties to one another as follows: (i) Heritage Fields shall convey to City the Initial City Exchange Properties, and (ii) City shall convey to Heritage Fields the Initial Heritage Fields Exchange Properties. The failure to consummate the transaction contemplated by the land swap agreement shall not limit the effectiveness of this Amended and Restated Agreement, nor render it void or unenforceable.

### 9.3 Park Dedications.

9.3.1 Dedication Of Neighborhood Parks. Heritage Fields shall improve and offer to dedicate to the City on the subdivision maps for the Heritage Fields Property neighborhood parks, based on the rate of 3 acres/1,000 residential population of market rate housing units, and 2 acres/1,000 residential population of affordable housing units, which shall fully satisfy Heritage Fields' obligations to the City with respect to neighborhood parks.

9.3.2 Satisfaction Of Community Park Obligations. Heritage Fields' conveyance of the Great Park Property to the City shall be deemed to satisfy any requirement imposed upon Heritage Fields for the dedication or development of community parks pursuant to the City's General Plan and Municipal Code in connection with the development of the Heritage Fields Property consistent with the ARDA Overlay Plan or any development density which the City may approve for the Heritage Fields

Property in the future calculated at 2 acres/1,000 residential population or such other community parks requirement ratio the City may impose in the future.

9.4 Dedication Of School Site To IUSD. Heritage Fields acknowledges that it will be required to dedicate to IUSD fee title to the School Site at no cost to IUSD. The precise location and boundaries of the School Site shall be as determined by IUSD. From and after the Second Effective Date, Heritage Fields shall cooperate with IUSD in an effort to determine the terms for the timing and conveyance of the School Site to IUSD.

9.5 Dedication Of Streets To City. Heritage Fields acknowledges that it has offered to dedicate to the City on the Master Subdivision Map, and may offer to dedicate on subsequent subdivision maps for portions of the Heritage Fields Property, all arterials and major thoroughfares, and other secondary, collector and local roads. The City agrees that if such offers to dedicate are not accepted, the cost of maintaining such streets through a POA shall be an assessment or fee which shall be included in the calculation of the 2% Value Limitation, notwithstanding Section 7.

9.6 Modifications To Property Boundaries. The Parties acknowledge that it may be necessary to adjust the boundaries of the City Property and the Heritage Fields Property to accommodate roadway design standards, traffic mitigation requirements, and/or refinements in engineering data as it becomes available. The City and Heritage Fields shall cooperate with each other, and promptly perform such acts and execute such documents as necessary to effectuate such adjustments. The Parties agree that such adjustments may result in an uncompensated reduction of a Party's gross acreage.

9.7 Administrative Changes To Reflect Property Ownership Changes. If and to the extent the parties agree in the future to adjust the ownership of any portion of their respective properties, the Director of Community Development, with the concurrence of an authorized representative from Heritage Fields, shall have the authority to make such administrative changes to the exhibits to this Amended and Restated Agreement as may be necessary to accurately reflect the updated property ownership configuration. Nothing in this Section is intended to, nor shall it, create any amendment to the Existing Land Use Regulations and/or the ARDA Overlay Plan.

9.8 Rights of Way Reservation. With respect to any parcels conveyed by Heritage Fields to the City and including those which may be subsequently conveyed by the City to third parties (including the County), the City shall, to the extent consistent with the City's existing legal obligations, reserve all rights-of-way and easements shown on Exhibit "O."

9.9 Assignment Of LIFOCs. Notwithstanding any provision of this Amended and Restated Agreement to the contrary, with respect to those portions of the City Property which were or are to be transferred by Heritage Fields pursuant to any provision in this Amended and Restated Agreement (including, without limitation, the Police Site, and the ARDA Transfer Site and the Initial City Exchange Properties) that are covered in whole or in part by one or more LIFOCs, the Parties recognize that Heritage Fields cannot convey title to such property until the LIFOC property is transferred from the

DON. Heritage Fields shall execute and deliver to the City a proposed assignment and/or sublease of such LIFOCs in the form attached hereto as Exhibit "M" covering each LIFOC affecting the City Property within each Parcel. The City understands that such proposed assignment cannot be effective without the consent of the DON and that Heritage Fields does not and cannot guarantee such consent or its timing. In such event, Heritage Fields and the City shall mutually approve (in each Party's reasonable discretion) the form of, and shall each execute and deliver, a proposed sublease of such LIFOC.

9.10 Recordation of Restrictive Covenant. The Agency Permits require in perpetuity, protection of mitigation property as described in certain Agency Permits. The Parties will work with the appropriate federal and state agencies to finalize a restrictive covenant for the mitigation property as specified in the Agency Permits. The City shall execute and record the final restrictive covenant over such mitigation property as required under the 404 Permit and the 1602 Agreement.

## 10. PUBLIC BENEFIT FEE.

10.1 Public Benefit Fee. Heritage Fields shall pay to City a monthly public benefit fee ("**Public Benefit Fee**") as follows: (i) Twenty-Five Thousand Dollars (\$25,000.00) per month, commencing the month in which the Second Effective Date occurs to the month in which the third anniversary of the Second Effective Date occurs; (ii) One Hundred Thousand Dollars (\$100,000.00) per month, commencing the month in which the third anniversary of the Second Effective Date occurs to the month in which the sixth anniversary of the Second Effective Date occurs; and (iii) One Hundred Twenty-Five Thousand Dollars (\$125,000.00) per month, commencing the month in which the sixth anniversary of the Second Effective Date occurs to the month in which the ninth anniversary of the Second Effective Date occurs. The monthly Public Benefit Fee shall terminate and no longer be due or payable as of the ninth anniversary of the Second Effective Date. The City shall have the discretion as to the precise manner in which the Public Benefit Fees shall be used and allocated for such public benefit purposes.

10.2 Waivers Regarding Public Benefit Fee. Heritage Fields hereby consents to and waives any right of protest with regard to the establishment and enforcement of the fee described above. Heritage Fields further agrees that the Public Benefit Fee established by City pursuant to this Amended and Restated Agreement does not constitute a tax subject to the voter approval requirements of Article XIII A of the California Constitution, Article XIII C of the California Constitution or California Government Code Section 53720, *et seq.*, and, in addition, that the Public Benefit Fee is not a fee imposed "as an incident of property ownership" within the meaning of Article XIID of the California Constitution.

## 11. UTILITIES.

11.1 Utility Easements. The Parties acknowledge that the existing utility system for the Property is rudimentary. Heritage Fields and the City shall work

cooperatively, including if necessary granting reciprocal non-exclusive easements along reasonable alignments over each Party's lands for the benefit of the other, to ensure that each Party may feasibly access all utilities needed to serve such Party's lands.

11.2 Water Rights. The City shall use the water rights that accrue to or from the Property for, in order of priority, (i) a source of water supply for the City Property, and (ii) provided the parties negotiate in good faith and agree upon acceptable terms and conditions for such use, a source of water supply for the Heritage Fields Property.

12. CC&Rs.

The Parties agree that the Declaration of Covenants, Conditions and Restrictions ("CC&Rs") recorded on the Property on July 12, 2005 as Instrument No. 2005-0538145 shall be of no force and effect on the Property and the Parties shall concurrently with the Second Effective Date take actions as are necessary to remove them.

13. RUNWAY HARDSCAPE.

Heritage Fields shall complete the demolition and facilitate the recycling of the runway hardscape on the Property in the manner, and to the extent, specified in the Amended MIA.

14. DEFAULT, REMEDIES, AND TERMINATION.

14.1 Notice And Opportunity To Cure. Before this Amended and Restated Agreement may be terminated or action may be taken to obtain relief in a manner consistent with this Amended and Restated Agreement, the Party seeking relief ("**Non-Defaulting Party**") shall comply with the notice and cure provisions of this Section 14.1. A Non-Defaulting Party in its discretion may elect to declare a default under this Amended and Restated Agreement in accordance with the procedures hereinafter set forth for any failure or breach of any other Party ("**Defaulting Party**") to perform any material duty or obligation of said Defaulting Party in accordance with the terms of this Amended and Restated Agreement. However, the Non-Defaulting Party must provide written notice ("**Default Notice**") to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Non-Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in "default" of its obligations set forth in this Amended and Restated Agreement if the Defaulting Party has failed to take action and cured the default within ten (10) days after the date of such Default Notice (for monetary defaults), within thirty (30) days after the date of such Default Notice (for non-monetary defaults), or within such lesser time as may be specifically provided in this Amended and Restated Agreement. If, however, a non-monetary default cannot be cured within such thirty (30) day period, as long as the Defaulting Party does each of the following, then the Defaulting Party shall not be deemed in breach of this Amended and Restated Agreement:

- (i) within ten (10) days of the Default Notice, notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;

(ii) within ten (10) days of the Default Notice, notifies the Non-Defaulting Party of the Defaulting Party's proposed course of action to cure the default;

(iii) promptly commences to cure the default within the thirty (30) day period;

(iv) makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and

(v) diligently prosecutes such cure to completion,

#### 14.2 Default Remedies.

14.2.1 Default Procedures. Subject to Section 14.3 and Section 14.4, in the event of a default, the Non-Defaulting Party, at its option, may institute an action pursuant to Section 14.6 to cure, correct, or remedy such default, enjoin any threatened or attempted violation, enforce the terms of this Amended and Restated Agreement by specific performance (including injunctive relief), or pursue any other remedy otherwise permissible under this Amended and Restated Agreement. Furthermore, the City, in addition to or as an alternative to exercising the remedies set forth in this Section 14.2, in the event of a material default by Heritage Fields, may (i) give notice of its intent to terminate or modify this Amended and Restated Agreement, and may carry through on that notice and intent to terminate, pursuant to the City Development Agreement Regulations and/or the Development Agreement Statute, in which event the matter shall be scheduled for consideration and review by the City Council in the manner set forth in the City Development Agreement Regulations and/or the Development Agreement Statute, and/or (ii) give notice of its intent to terminate any and all restrictions on the use of City Property specified in Section 3.9 of this Amended and Restated Agreement, and to carry through on that termination.

14.3 Limitations on Defaults. Notwithstanding any provision in this Amended and Restated Agreement to the contrary, a default by Heritage Fields (or any other fee title owner of another Lot within the Project) shall not constitute a default by a Purchaser/User. Likewise, a default by a Purchaser/User with respect to a Lot (or group of Lots) it owns or leases shall not constitute a default by Heritage Fields (or any other fee title owner of another Lot within the Heritage Fields Property). Therefore, if Heritage Fields has conveyed a Lot (or group of Lots) to a Purchaser/User and this Amended and Restated Agreement has not yet been terminated as to any Lot (or group of Lots) in accordance with the provisions of Section 2.4 above, (i) no Purchaser/User shall have any liability to the City (or otherwise) for or with respect to any default of Heritage Fields or any default of any other Purchaser/User, (ii) Heritage Fields shall have no liability to the City (or otherwise) for or with respect to any default by any Purchaser/User, and (iii) the City's election to terminate this Amended and Restated Agreement as a result of a default by Heritage Fields or any such Purchaser/User shall not effect a termination of this Amended and Restated Agreement with respect to those Lots owned or leased by a Non-

Defaulting Party until such time that this Amended and Restated Agreement would otherwise terminate in accordance with its terms.

#### 14.4 Parties' Exclusive Remedies.

14.4.1 Limitation on Remedies. The Parties acknowledge that they would not have entered into this Amended and Restated Agreement if either Party were to be liable in damages under or with respect to this Amended and Restated Agreement, the Existing Land Use Regulations, or the application thereof, or any permit or approval sought by City or Heritage Fields in accordance with the Existing Land Use Regulations, except as provided in this section. Accordingly, Heritage Fields covenants on behalf of itself and its successors and assigns, not to sue the City, and the City on behalf of itself and its successors and assigns, not to sue Heritage Fields, for damages or monetary relief for any breach of this Amended and Restated Agreement or arising out of or connected with any dispute, controversy or issue regarding the application, interpretation or effect of this Amended and Restated Agreement, the Existing Land Use Regulations, or any land use permit or approval sought in connection with the development or use of the Heritage Fields Property or any portion thereof, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be their sole and exclusive judicial remedies, except as provided in Section 14.4.2 below.

14.4.2 Recovery of Out-of-Pocket Losses and Damages. Notwithstanding Section 14.4.1 above, the Parties may pursue and obtain the additional remedies set forth below:

(i) Enforcement of Monetary Obligations. In the case of a breach of an obligation to pay money or to allocate funding in the manner specified in Section 7.6, or to indemnify and defend a Party as provided in Section 8.2.3, a Party may sue to compel monetary relief to the extent such relief involves enforcement of the other Party's obligations under this Amended and Restated Agreement and not damages or other monetary penalty over and above such obligations. For example, and without limitation, a Party may seek and recover the following monetary damages: (1) the amount of any overpayments to, or improper fees levied by, the City in excess of those fees established and permitted under the NITM Program or this Amended and Restated Agreement; (2) the amount of any NITM funds which the City may apply to other uses beyond those authorized by the NITM Program; (3) the amount of interest on NITM funds not credited by the City to NITM Program accounts as provided for in the NITM Program; and (4) the amount of funds owed by Heritage Fields toward the construction of the Proposed Project Facilities in accordance with Article XIII of the Amended MIA.

(ii) Additional Costs and Measures. In the event additional mitigation measures, conditions, requirements, or affordable housing obligations are imposed on Heritage Fields or the Heritage Fields Property by the City (i.e., in addition to those provided for in the MAHP and the ARDA Overlay Plan) in



violation of this Amended and Restated Agreement (“Objectionable Conditions”), the matter shall be submitted directly to binding arbitration pursuant to Section 14.7 for resolution as a non-monetary default (the Parties acknowledging and agreeing that any disputes arising under this sub-paragraph need not comply with the requirements of Section 14.6).

(iii) Restitution of Improper Development Fees. In the event any Development Fees or taxes are imposed on Development of the Property other than those authorized pursuant to this Amended and Restated Agreement, Heritage Fields shall be entitled to recover from City restitution of all such improperly assessed fees or taxes, together with interest thereon at the rate of specified in Article XV, Section 1 of the California Constitution from the date such sums were paid to City to the date of restitution.

(iv) Restitution Arising from Other Agreements. Heritage Fields may seek and recover monetary damages arising from agreements and/or approvals granted or entered into by the City and any third parties that materially and adversely affect the rights or obligations of Heritage Fields under this Amended and Restated Agreement (“Objectionable Agreements”) subject to the following qualifications and limitations: Heritage Fields shall have no right to recover any amounts under this sub-paragraph unless and until (a) the matter shall be submitted directly to binding arbitration pursuant to Section 14.7 (the Parties acknowledging and agreeing that any disputes arising under this sub-paragraph need not comply with the requirements of Section 14.6), and (b) if the award is adverse to the City, the City fails or refuses to refrain from entering into or rescind, as the case may be, the Objectionable Agreement (the Parties acknowledging and agreeing that if the City refrains from entering into or rescinds the Objectionable Agreement, it shall not be required to pay any monetary damages under this Amended and Restated Agreement).

14.5 Force Majeure/Supervening Events. The obligations by any Party hereunder shall not be deemed to be in default, and the Term of this Amended and Restated Agreement shall not be deemed to run, where delays or failures to perform are due to any cause without the fault and beyond the reasonable control of such Party, including to the extent applicable, the following: war; insurrection; strikes; walk-outs; the unavailability or shortage of labor, material, or equipment; riots; floods; earthquakes; the discovery and resolution of hazardous waste or significant geologic, hydrologic, archaeological, paleontological, or endangered species problems on the Property; fires; casualties; acts of God; governmental restrictions imposed or mandated by other governmental entities; with regard to delays of Heritage Fields’ performance, delays caused by the City’s failure to act or timely perform its obligations set forth herein; with regard to delays of the City’s performance, delays caused by Heritage Fields’ failure to act or timely perform its obligations set forth herein; inability to obtain necessary permits or approvals from City, County, RDA, or other governmental entities; enactment of conflicting state or federal statutes or regulations; judicial decisions; or litigation not commenced by such Party (collectively, “**Force Majeure**”). Notwithstanding the

foregoing, any delay caused by the failure of the City or any agency, division, or office of the City to timely issue a license, permit, or approval required pursuant to this Amended and Restated Agreement shall not constitute an event of Force Majeure extending the time for the City's performance hereunder. If written notice of such delay or impossibility of performance is provided to the other Parties within a reasonable time after the commencement of such delay or condition of impossibility, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon by the Parties in writing, or the performance rendered impossible may be excused in writing by the Party so notified. In no event shall adverse market or financial conditions constitute an event of Force Majeure extending the time for such Party's performance hereunder.

14.6 Dispute Resolution. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, IF ANY CLAIM OR CONTROVERSY THAT ARISES OUT OF OR RELATES TO, DIRECTLY OR INDIRECTLY, THIS AMENDED AND RESTATED AGREEMENT OR ANY DEALINGS BETWEEN THE PARTIES CANNOT BE SETTLED BY THE PARTIES WITHIN THIRTY (30) DAYS AFTER EITHER PARTY IS FIRST PROVIDED WRITTEN NOTICE OF THE CLAIM OR CONTROVERSY BY THE OTHER, THE MATTER SHALL BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1, EXCEPT AS OTHERWISE MODIFIED HEREIN. THE PARTIES SHALL COOPERATE IN GOOD FAITH TO ENSURE THAT ALL NECESSARY AND APPROPRIATE PARTIES ARE INCLUDED IN THE JUDICIAL REFERENCE PROCEEDING. IN THE EVENT THAT A LEGAL PROCEEDING IS INITIATED BASED ON ANY SUCH DISPUTE, THE FOLLOWING SHALL APPLY: 1) THE PROCEEDING SHALL BE BROUGHT AND HELD IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED UNLESS THE PARTIES AGREE TO A DIFFERENT VENUE; 2) THE PARTIES SHALL USE THE PROCEDURES ADOPTED BY JAMS FOR JUDICIAL REFERENCE AND SELECTION OF A REFEREE (OR ANY OTHER ENTITY OFFERING JUDICIAL REFERENCE DISPUTE RESOLUTION PROCEDURES AS MAY BE MUTUALLY ACCEPTABLE TO THE PARTIES); 3) THE REFEREE MUST BE A RETIRED JUDGE OR LICENSED ATTORNEY WITH SUBSTANTIAL EXPERIENCE IN RELEVANT REAL ESTATE MATTERS; 4) THE PARTIES TO THE JUDICIAL REFERENCE PROCEDURE SHALL AGREE UPON A SINGLE REFEREE WHO SHALL HAVE THE POWER TO TRY AND DECIDE ANY AND ALL OF THE ISSUES RAISED, WHETHER OF FACT OR OF LAW, WHICH MAY BE PERTINENT TO THE MATTERS IN DISPUTE, AND TO ISSUE A STATEMENT OF DECISION THEREON. ANY DISPUTE REGARDING THE SELECTION OF THE REFEREE SHALL BE RESOLVED BY JAMS OR THE ENTITY PROVIDING THE REFERENCE SERVICES, OR, IF NO ENTITY IS INVOLVED, BY THE COURT IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 AND 640; 5) THE REFEREE SHALL BE AUTHORIZED TO PROVIDE ALL REMEDIES AVAILABLE IN LAW OR EQUITY APPROPRIATE UNDER THE CIRCUMSTANCES OF THE CONTROVERSY; 6) THE REFEREE MAY REQUIRE ONE OR MORE PRE-HEARING CONFERENCES; 7) THE PARTIES SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE

DISCOVERY AND MAY ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE; 8) A STENOGRAPHIC RECORD OF THE REFERENCE PROCEEDINGS SHALL BE MADE; 9) THE REFEREE'S STATEMENT OF DECISION SHALL CONTAIN FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE EXTENT APPLICABLE; 10) THE REFEREE SHALL HAVE THE AUTHORITY TO RULE ON ALL POST-HEARING MOTIONS IN THE SAME MANNER AS A TRIAL JUDGE; 11) THE PARTIES SHALL PROMPTLY AND DILIGENTLY COOPERATE WITH EACH OTHER AND THE REFEREE AND PERFORM SUCH ACTS AS MAY BE NECESSARY FOR AN EXPEDITIOUS RESOLUTION OF THE DISPUTE; 12) SUBJECT TO SECTION 20.3, EACH PARTY TO THE JUDICIAL REFERENCE PROCEEDING SHALL BEAR ITS OWN ATTORNEYS' FEES AND COSTS IN CONNECTION WITH SUCH PROCEEDING; AND 13) THE STATEMENT OF DECISION OF THE REFEREE UPON ALL OF THE ISSUES CONSIDERED BY THE REFEREE SHALL BE BINDING UPON THE PARTIES, AND UPON FILING OF THE STATEMENT OF DECISION WITH THE CLERK OF THE COURT, OR WITH THE JUDGE WHERE THERE IS NO CLERK, JUDGMENT MAY BE ENTERED THEREON. THE DECISION OF THE REFEREE SHALL BE APPEALABLE AS IF RENDERED BY THE COURT. THIS PROVISION SHALL IN NO WAY BE CONSTRUED TO LIMIT ANY VALID CAUSE OF ACTION, WHICH MAY BE BROUGHT BY ANY OF THE PARTIES. THE PARTIES ACKNOWLEDGE AND ACCEPT THAT BY EMPLOYING THIS JUDICIAL REFERENCE PROCEDURE THEY ARE WAIVING THEIR RIGHT TO A JURY TRIAL.

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14.7 Arbitration of Disputes. RECOGNIZING THAT TIMELY AND EFFECTIVE ENFORCEMENT OF THIS AGREEMENT IS CRITICAL TO THE PARTIES, IF FOR ANY REASON THE JUDICIAL REFERENCE PROCEDURES IN SECTION 14.6 ARE LEGALLY UNAVAILABLE AT THE TIME A DISPUTE WOULD OTHERWISE BE REFERRED TO JUDICIAL REFERENCE (OR DO NOT APPLY BY THE EXPRESS TERMS OF THIS AGREEMENT), THEN, UPON THE WRITTEN DEMAND OF EITHER PARTY, THE DISPUTE SHALL BE RESOLVED BY BINDING ARBITRATION IN ACCORDANCE WITH THE AMERICAN ARBITRATION ASSOCIATION'S COMMERCIAL ARBITRATION RULES, EXCEPT AS FOLLOWS. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR WHO IS A RETIRED SUPERIOR, APPELLATE OR FEDERAL COURT JUDGE OR AN ATTORNEY WITH NOT LESS THAN FIFTEEN (15) YEARS EXPERIENCE IN REAL ESTATE MATTERS; A LIST OF POTENTIAL ARBITRATORS WHO CAN ENSURE THAT ANY DISPUTE CONCERNING A NON-MONETARY DEFAULT CAN BE HEARD AND DETERMINED WITHIN

NINETY (90) DAYS OF NOTICE OF ARBITRATION SHALL BE APPROVED BY THE PARTIES AS OF THE SECOND EFFECTIVE DATE. TO THE EXTENT THE RELIEF REQUESTED IN THE ARBITRATION SEEKS TO COMPEL THE PERFORMANCE OF A LEGISLATIVE ACT AND/OR THE ISSUANCE OF A WRIT OF MANDATE NOT PROPERLY THE SUBJECT OF AN ARBITRATION AWARD, THE PARTY SEEKING SUCH RELIEF MAY PROCEED BY JUDICIAL ACTION. THE ARBITRATION AWARD SHALL BE FINAL AND BINDING UPON THE PARTIES (EXCEPT IN CASE OF FRAUD OR UNDISCLOSED CONFLICT OF INTEREST ON THE PART OF THE ARBITRATOR) AND MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THE ARBITRATOR SHALL BE EMPOWERED HEREBY TO ENTER SPECIFIC PERFORMANCE ORDERS AS SHALL, IN ITS DISCRETION, BE NECESSARY TO ENSURE THE TIMELY PERFORMANCE OF THE OBLIGATIONS OF THIS AGREEMENT BY EITHER OR BOTH OF THE PARTIES, SO AS TO AVOID THE DELAYS ASSOCIATED WITH OBTAINING SUCH RELIEF PURSUANT TO COURT ACTION. THE ARBITRATOR MAY ALLOCATE THE FEES AND COSTS OF ARBITRATION BETWEEN THE PARTIES AND MAY AWARD COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, TO THE PREVAILING PARTY IN ACCORDANCE WITH SECTION 20.3. IN THE ABSENCE OF A DETERMINATION BY THE ARBITRATOR, EACH PARTY SHALL BEAR ITS PROPORTIONATE SHARE OF THE COSTS OF THE ARBITRATION AND THE ARBITRATOR AND ALL OF ITS OWN COSTS. NOTHING CONTAINED IN THIS SECTION SHALL RESTRICT ANY PARTY FROM SEEKING PRELIMINARY EQUITABLE RELIEF FROM THE COURT SYSTEM PENDING RESOLUTION OF THE ARBITRATION.

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15. ANNUAL REVIEW.

15.1 Timing Of Annual Review. During the Term of this Amended and Restated Agreement, at least once during every twelve (12) month period from the Second Effective Date, the City shall review the good faith compliance of Heritage Fields with the terms of this Amended and Restated Agreement ("**Annual Review**"). The Annual Review shall be conducted by the City Council or its designee in accordance with the City Development Agreement Regulations.

15.2 Standards For Annual Review. During the Annual Review, Heritage Fields shall be required to demonstrate good faith compliance with the terms of this Amended and Restated Agreement. If the City or its designee finds and determines that Heritage Fields has not complied with any of the terms or conditions of this Amended

and Restated Agreement, then the City may declare a default by Heritage Fields in accordance with Section 14 herein. The City may exercise its rights and remedies relating to any such event of default only after the period for curing a default as set forth in Section 14 has expired without cure of the default. The costs incurred by the City in connection with the Annual Review process shall be paid by Heritage Fields. Nothing in this paragraph shall be construed to prohibit the City from declaring a default in accordance with Section 14 herein, without first proceeding through an Annual Review.

15.3 Certificate Of Compliance. With respect to each year in which the City approves Heritage Fields' compliance with this Amended and Restated Agreement, the City shall, upon written request by Heritage Fields, provide Heritage Fields with a written certificate of good faith compliance within thirty (30) days of the City's receipt of Heritage Fields' request for same.

16. MORTGAGEE RIGHTS.

16.1 Encumbrances On The Property. The Parties hereto agree that this Amended and Restated Agreement shall not prevent or limit Heritage Fields, in any manner, from encumbering the Property or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use, or operation of the Heritage Fields Property.

16.2 Mortgagee Protection. This Amended and Restated Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Amended and Restated Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value, and a Mortgagee Successor shall have the rights, benefits and remedies of Heritage Fields under this Amended and Restated Agreement and shall be subject to all of the terms and conditions of this Amended and Restated Agreement.

16.3 Mortgagee Not Obligated. Notwithstanding the provisions of this Section 16, a Mortgagee and a Mortgagee Successor will not have any obligation or duty pursuant to the terms set forth in this Amended and Restated Agreement to perform the obligations of Heritage Fields or other affirmative covenants of Heritage Fields hereunder, or to guarantee such performance, except that (i) the Mortgagee or Mortgagee Successor shall have the right to develop the Property under the Existing Land Use Regulations and/or the ARDA Overlay Plan provided that the Mortgagee or Mortgagee successor complies with the terms of this Amended and Restated Agreement and (ii) to the extent that any covenant to be performed by Heritage Fields is a condition to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to the City's performance hereunder. If a Mortgagee or Mortgagee Successor obtains ownership of less than the entirety of the Heritage Fields Property, said Mortgagee or Mortgagee Successor may request, and the City shall not unreasonably refuse, an apportionment of obligations under this Amended and Restated Agreement that assigns to said Mortgagee or Mortgagee Successor (i) all of the obligations of Heritage Fields that are applicable solely to that portion of the Heritage Fields Property obtained by the Mortgagee or Mortgagee Successor plus (ii) a pro-rata share of those obligations

of Heritage Fields under this Amended and Restated Agreement that are not assigned to a specific portion of the Heritage Fields Property.

16.4 Notice Of Default To Mortgagee; Right Of Mortgagee To Cure. Each Mortgagee shall, upon written request to the City, be entitled to receive written notice from the City of the results of the Annual Review and of any default by Heritage Fields of its obligations set forth in this Amended and Restated Agreement. Each Mortgagee shall have a further right, but not an obligation, to cure such default within ten (10) days after receipt of such notice (for monetary defaults), within thirty (30) days after receipt of such notice (for non-monetary defaults) or, if such default can only be remedied or cured by such Mortgagee upon obtaining possession of the Property, such Mortgagee shall have the right to seek to obtain possession with diligence and continuity through a receiver or otherwise, and to remedy or cure such default within thirty (30) days after obtaining possession, and, except in case of emergency or to protect the public health or safety, the City may not exercise any of its judicial remedies set forth in this Amended and Restated Agreement until expiration of such thirty (30) day period; provided, however, that in the case of a default which cannot with diligence be remedied or cured within such thirty (30) day period, the Mortgagee shall have such additional time as is reasonably necessary to remedy or cure such default provided Mortgagee promptly commences to cure the default within the thirty (30) day period and diligently prosecutes such cure to completion.

## 17. ASSIGNMENT.

17.1 Right To Assign. Subject to the City's consent pursuant to Section 17.3, Heritage Fields shall have the right to assign its rights and obligations under this Amended and Restated Agreement in connection with a transfer of all or any portion of Heritage Fields' interest in the Heritage Fields Property. In the event of any such assignment, the assignee shall be liable for the performance of the designated obligations of Heritage Fields after the date of the assignment solely with respect to the portion of the Heritage Fields Property so transferred.

17.2 Assignee Subject To Terms Of Agreement. Following an assignment or transfer of any of the rights and interests of Heritage Fields set forth in this Amended and Restated Agreement in accordance with Section 17.3, the assignee's exercise, use, and enjoyment of that portion of the Heritage Fields Property so transferred shall be subject to the terms of this Amended and Restated Agreement to the same extent as if the assignee or transferee were Heritage Fields, subject to the limitations set forth in Section 14.2 above.

17.3 Release Upon Transfer. Upon the written consent of the City to the partial or complete assignment of this Amended and Restated Agreement (which consent shall not be unreasonably withheld) and the express written assumption in a form approved by the City of such assigned obligations of Heritage Fields under this Amended and Restated Agreement by the assignee, Heritage Fields shall be relieved of its legal duty to perform the assigned obligations set forth in this Amended and Restated Agreement, except to the extent Heritage Fields is in default hereunder with respect to the particular assigned

obligations prior to said transfer. In connection with its exercise of reasonable approval rights over proposed assignments, the City may consider, among other things, the extent of remaining Backbone Infrastructure construction obligations under the Amended MIA and the ability of Heritage Fields to perform said construction obligations, taking into account the remaining portion of the Heritage Fields Property owned by Heritage Fields and all funding sources for the remaining Backbone Infrastructure (including, without limitation, Special Tax revenues, CFD Bonds, and Heritage Fields' equity and debt sources).

## 18. INSURANCE AND INDEMNITY.

18.1 Insurance. Heritage Fields shall procure and maintain, commencing as of the Second Effective Date and thereafter at all times during the Term of this Amended and Restated Agreement when actual work on the Project is being performed by Heritage Fields, the following policies of insurance:

(i) Comprehensive General Liability Insurance. A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than \$5,000,000 combined single limits.

(ii) Automobile Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (A) bodily injury liability limits of \$2,000,000 per person and \$2,000,000 per occurrence and property damage liability limits of Five Hundred Thousand Dollars \$500,000 per occurrence and \$500,000 in the aggregate or (B) combined single limit liability of \$2,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

(iii) Workers' Compensation Insurance. A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California.

The policies of insurance required by this Amended and Restated Agreement shall be satisfactory only if issued by companies qualified to do business in California and rated "A: VII" or better in the most recent edition of Best's Insurance Guide. All of the aforescribed policies of insurance shall be primary insurance and shall name the City, City's Designee(s), and each of their respective officers, officials and employees as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the City, the City's Designee, and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice to the City. In the event any of said policies of insurance are cancelled, Heritage Fields shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 18.1. No work to be performed by Heritage Fields pursuant to this Amended and Restated Agreement shall commence until Heritage Fields has provided the City with certificates of insurance or appropriate insurance binders evidencing the above insurance coverage and said certificates or binders are approved by the City.

18.2 Indemnity By Heritage Fields. Heritage Fields agrees to indemnify, defend, and hold harmless the City, the City's Designee, and their respective elected and appointed councils, boards, commissions, officers, agents, contractors and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions, or operations of Heritage Fields or Heritage Fields' agents, contractors, subcontractors, or employees pursuant to this Amended and Restated Agreement, but excluding any loss resulting from the intentional or active negligence of the City, the City's Designee, or each of their respective elected and appointed councils, boards, commissions, officers, agents, contractors and employees. Notwithstanding the foregoing, City shall have the right to select and retain counsel to defend any such action or actions and Heritage Fields shall pay the cost thereof. The indemnity provisions set forth in this Amended and Restated Agreement shall survive termination of this Amended and Restated Agreement.

18.3 Indemnity By City. The City agrees to indemnify, defend, and hold harmless Heritage Fields, and its respective partners, members, agents, contractors and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions, or operations of the City or the City's Designee, or either of their respective officers, officials, agents, contractors, subcontractors or employees pursuant to this Amended and Restated Agreement, but excluding any loss resulting from the intentional or active negligence of Heritage Fields, its agents, contractors or employees. Notwithstanding the foregoing, Heritage Fields shall have the right to select and retain counsel to defend any such action or actions and City shall pay the cost thereof. The indemnity provisions set forth in this Amended and Restated Agreement shall survive termination of this Amended and Restated Agreement.

## 19. THIRD-PARTY LEGAL CHALLENGE.

In the event of any Third Party Legal Challenge, City shall have the right but not the obligation to defend such Third Party Legal Challenge and Heritage Fields shall be responsible for the legal expenses incurred by City in connection therewith. Heritage Fields also shall have the right but not the obligation to defend any Third Party Legal Challenge. If Heritage Fields defends any such Third Party Legal Challenge, so long as Heritage Fields is not in default hereunder, City shall not allow any default or judgment to be taken against it or compromise the defense of the action without Heritage Field's prior written approval. The Parties shall act jointly in filing motions, briefs, trial statements, and other appropriate court documents, and in approving settlement of such action. Nothing herein shall obligate a Party to settle such Third Party Legal Challenge on terms that would constitute an amendment or modification of this Amended and Restated Agreement, the Existing Land Use Regulations, the ARDA Overlay Plan, or which would materially impact the beneficial uses of that Party's property.

In the event City elects to defend the Third Party Legal Challenge, Heritage Fields shall indemnify and hold harmless City and its officials and employees from and against



any claims, losses, or liabilities, including any award of attorneys' fees against the City, assessed or awarded against City by way of judgment, settlement, or stipulation. If Heritage Fields defends any such Third Party Legal Challenge, Heritage Fields shall indemnify and hold harmless City and its officials and employees from and against any claims, losses, or liabilities assessed or awarded, including any award of attorneys' fees, against City by way of judgment, settlement, or stipulation

20. MISCELLANEOUS.

20.1 Covenants. The provisions of this Amended and Restated Agreement shall constitute covenants and restrictions which shall run with the land comprising the Property for the benefit thereof, and the burdens and benefits hereof shall bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto.

20.2 Entire Agreement, Waivers And Amendments. This Amended and Restated Agreement, together with the other documents and agreements attached hereto, constitutes the entire understanding and agreement of the Parties and supersedes all previous negotiations, discussions, and agreements among the Parties with respect to all or part of the subject matter hereof. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Amended and Restated Agreement. Failure by a Party to insist upon the strict performance of any of the provisions of this Amended and Restated Agreement by any other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Parties with the terms of this Amended and Restated Agreement thereafter. Any amendments or modifications to this Amended and Restated Agreement must be in writing, signed by duly authorized representatives of each of the Parties hereto, and recorded in the Official Records of Orange County, California.

20.3 Legal Expenses. In any judicial proceeding, arbitration, or mediation between the City and Heritage Fields seeking enforcement of any of the terms and provisions of this Amended and Restated Agreement (collectively, "**Action**"), the prevailing Party in such Action shall recover all of its actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or Civil Code Section 1717 in the absence of this Amended and Restated Agreement), including expert witness fees, attorney's fees, and costs of investigation and preparation prior to the commencement of the Action. However, such recovery shall not exceed the dollar amount of the actual costs and expenses of the Party from whom such recovery is sought for such same Action ("Non-Prevailing Party's Expenses"), and such prevailing Party shall not recover any costs and expenses in excess of the Non-Prevailing Party's Expenses. The right to recover such costs and expenses shall accrue upon commencement of the Action, regardless of whether the Action is prosecuted to a final judgment or decision.

20.4 Constructive Notice And Acceptance. Every person who now or hereafter owns or acquires any right, title, or interest in or to any portion of the Project or the

Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Amended and Restated Agreement is contained in the instrument by which such person acquired an interest in the Project or the Property.

20.5 No Third-Party Beneficiaries. This Amended and Restated Agreement and all of its terms, conditions, and provisions are entered into only for the benefit of the Parties executing this Amended and Restated Agreement (and any successors in interest), and not for the benefit of any other individual or entity.

20.6 Relationship Of Parties. The City and Heritage Fields hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Heritage Fields joint venturers or partners.

20.7 Severability. If any term, provision, covenant, or condition of this Amended and Restated Agreement is invalidated by a timely referendum, determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Amended and Restated Agreement shall continue in full force and effect, unless and to the extent the rights and obligations or the benefits of the bargain of any Party have been materially altered or abridged by such holding or action, as determined by the Party who would have benefited, in which case, in accordance with the provisions of Section 2.2, the Original Development Agreement shall govern.

20.8 Further Actions And Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent necessary to implement this Amended and Restated Agreement. Upon the request of a Party at any time, the other Parties shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Amended and Restated Agreement or to evidence or consummate the transactions contemplated by this Amended and Restated Agreement.

20.9 Estoppel Certificate. Any Party hereunder may, at any time, deliver written notice to any other Party requesting such Party to certify in writing that, to the best knowledge of the certifying Party (i) this Amended and Restated Agreement is in full force and effect and a binding obligation of the Party; (ii) this Amended and Restated Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (iii) the requesting Party is not in default in the performance of its obligations set forth in this Amended and Restated Agreement or, if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. Any third-party including a Mortgagee shall be entitled to rely on the certificate.

20.10 Applicable Law; Venue. This Amended and Restated Agreement shall be construed and enforced in accordance with the internal laws of the State of California.

Any action at law or in equity arising under this Amended and Restated Agreement or brought by any Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Amended and Restated Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California or the United States District Court for the Central District of California, Santa Ana Division, and the Parties hereto waive all provisions of law providing for the removal or change of venue to any other court.

20.11 Non-Liability Of Officers, Employees and Other Parties. Notwithstanding anything in this Amended and Restated Agreement to the contrary, (1) no official, officer, or employee of the City shall be personally liable to Heritage Fields or its respective predecessors, successors and assigns for any loss arising out of or connected with this Amended and Restated Agreement or the Existing Land Use Regulations, and (2) no partner, member or affiliate of Heritage Fields, nor any such partner's, member's or affiliate's separate property shall be personally liable for any claim arising out of or related to this Amended and Restated Agreement. Further, the liability of Heritage Fields under this Amended and Restated Agreement shall be limited solely to the interest of Heritage Fields in the Heritage Fields Property.

20.12 Notices. Any notice or communication required hereunder between the City and a Heritage Fields Party must be in writing and may be given either personally, by registered or certified mail, return receipt requested, or by facsimile transmission. If given by registered or certified mail, the same shall be deemed to have been given and received on the date of actual receipt by the addressee designated herein below as the Party to whom the notice is sent. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Notices delivered by facsimile transmission shall be deemed to have been given on the first business day following the date of transmission to the facsimile number. A Party hereto may at any time, by giving ten (10) days' written notice to the other Parties hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:

City of Irvine  
City Hall  
One Civic Center Plaza  
Irvine, CA 92623-9575  
Attn: Director of Community Development  
Telephone: (949) 724-6451  
Telecopy: (949) 724-6440

With a copy to:

Rutan & Tucker, LLP  
611 Anton Blvd., Suite 1400  
Costa Mesa, CA 92626  
Attn: Irvine City Attorney  
Telephone: (714) 641-3422  
Telecopy: (714) 546-9035

If to Heritage Fields:

Heritage Fields El Toro LLC  
7130 Trabuco Road  
Irvine, CA 92618  
Attn: Lynn Jochim, Division President  
Telephone: (949) 784-4229  
Telecopy: (949) 784-4270

With a copy to:

c/o Lennar Homes of California, Inc.  
25 Enterprise  
Aliso Viejo, CA 92646  
Attn: Legal Notices  
Telephone: (949) 349-8000  
Telecopy: (949) 349-0782

With a copy to:

Robert I. McMurry, Esq.  
Paul, Hastings, Janofsky & Walker LLP  
515 South Flower Street, 25th Floor  
Los Angeles, CA 90071  
Telephone: (213) 683-6255  
Telecopy: (213) 627-0705

20.13 Representation As To Ownership. Subject to the provision in this Amended and Restated Agreement concerning LIFOCs and the Initial Heritage Fields Exchange Properties, Heritage Fields represents and warrants to the City that it is the owner in fee of the Heritage Fields Property.

20.14 Authority To Execute. Heritage Fields warrants and represents that (i) it is duly organized and existing, (ii) it is duly authorized to execute and deliver this Amended and Restated Agreement, (iii) by so executing this Amended and Restated Agreement, Heritage Fields is formally bound to the provisions of this Amended and Restated Agreement, (iv) Heritage Fields' entering into and performance of its obligations set forth in this Amended and Restated Agreement does not violate any provision of any other agreement to which Heritage Fields is bound, and (v) there is no existing or threatened litigation or legal proceeding of which Heritage Fields is aware which could prevent Heritage Fields from entering into or performing its obligations set forth in this Amended and Restated Agreement.

20.15 Execution Of Agreement; Counterparts. This Amended and Restated Agreement may be executed by the Parties in counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute

one and the same agreement. This Amended and Restated Agreement shall constitute a valid and enforceable agreement between the City and Heritage Fields.

20.16 Exhibits. This Amended and Restated Agreement contains exhibits, attached hereto and made a part hereof by this reference. Said exhibits are identified as follows:

- A The Property
- B Initial City Park Property
- C Exchange Properties
- D Original Non-Park Property
- E-1 Group A Facilities
- E-2 Group B Facilities
- E-3 Narrative Description of Group A and Group B Facilities
- F Police Site
- G ARDA Transfer Site
- H Heritage Fields Property
- H-1 Heritage Fields Property
- H-2 Heritage Fields Property
- I Property Identification Map
- J [RESERVED]
- K [RESERVED]
- L ARDA Overlay Plan
- M Form LIFO Conveyance
- N Map of LIFO Properties
- O Rights-of-way and Easements
- P Deed for Police Site
- Q Deed for ARDA Transfer Site
- R Index for Guaranteed Amount
- S Rate and Method of Apportionment
- T Police Site Title Exceptions
- U ARDA Transfer Site Title Exceptions

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

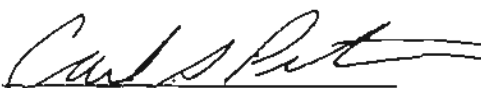
CITY:

CITY OF IRVINE  
a municipal corporation

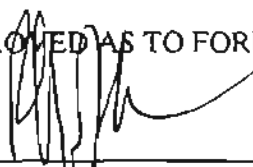
By:   
Mayor Sukhee Kang

Dated: 12/27, 2010

ATTEST:

  
Deputy City Clerk

APPROVED AS TO FORM

  
Philip D. Kohn  
City Attorney

HERITAGE FIELDS:

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company

By: Lennar Homes Of California, Inc.,  
a California corporation

By:   
Name:   
Title: 

Dated: \_\_\_\_\_, 2010

APPROVED AS TO FORM

PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: \_\_\_\_\_  
Robert I. McMurry, Esq.

Dated: \_\_\_\_\_, 2010

HERITAGE FIELDS:

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company

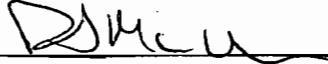
By: Lennar Homes Of California, Inc.,  
a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 2010

APPROVED AS TO FORM

PAUL, HASTINGS, JANOFSKY & WALKER LLP

By:  \_\_\_\_\_  
Robert I. McMurry, Esq.

Dated: Dec 26, 2010



RDA:

IRVINE REDEVELOPMENT AGENCY,  
a redevelopment agency formed pursuant to Health  
and Safety Code Sections 33000 *et seq.*

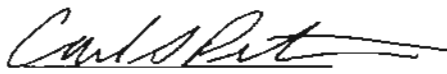
By: 

Name: Sukhee Khand

Title: Chair, Redevelopment Agency

Dated: 12/27, 2010

ATTEST:

  
Deputy Secretary of the Irvine  
Redevelopment Agency

APPROVED AS TO FORM

  
Redevelopment Agency Counsel

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

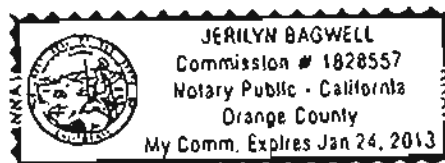
On DECEMBER 27, 2010, before me JERILYN BAGWELL  
personally appeared ERIK R. HIGGINS, who proved to me on the basis  
of satisfactory evidence to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized  
capacity, and that by his/~~her~~ signature on the instrument, the person or the entity upon  
behalf of which the person 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.

Jerilyn Bagwell

Signature of Notary Public



(SEAL)

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF Orange )

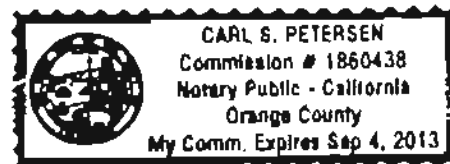
On December 27, 2010, before me Carl S. Petersen, Notary Public  
personally appeared Sukhee King, who proved to me on the basis  
of satisfactory evidence to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized  
capacity, and that by his/~~her~~ signature on the instrument, the person or the entity upon  
behalf of which the person 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.

Carl S. Petersen

Signature of Notary Public



(SEAL)

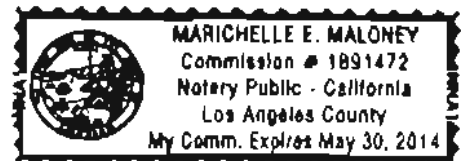
STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF Los Angeles )

On December 23, 2010, before me Marichelle E. Maloney Notary Public  
personally appeared Robert I. McHurry, who proved to me on the basis  
of satisfactory evidence to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he/she executed the same in his/her authorized  
capacity, and that by his/her signature on the instrument, the person or the entity upon  
behalf of which the person 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 of Notary Public



(SEAL)

## **CONSENT OF LIENHOLDER AND SUBORDINATION OF LIEN**

EL TORO LLC, a Delaware limited liability company (individually and as lead arranger and administrative agent for itself and certain co-lenders), as beneficiary or assignee of certain property, rights, interests, and estates granted by Owner, as more specifically described in the following instruments: (a) That certain Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Financing Statement, dated December 21, 2005 and recorded in the Official Records for Orange County, California, on December 22, 2005 as Instrument No. 2005001023684; (b) That certain Substitution of Trustee and Deed of Partial Reconveyance, dated February 9, 2006, and recorded in the Official Records for Orange County, California, on March 2, 2006 as Instrument No. 2006000141834; (c) That certain Substitution of Trustee and Deed of Partial Reconveyance, dated February 9, 2006, and recorded in the Official Records for Orange County, California, on August 24, 2006 as Instrument No. 2006000565634; (d) That certain First Amendment to Deed of Trust, dated August 10, 2006, and recorded in the Official Records for Orange County, California, on August 24, 2006 as Instrument No. 2006000565861; (e) That certain Second Amendment to Deed of Trust, dated June 26, 2007, and recorded in the Official Records for Orange County, California, on June 26, 2007 as Instrument No. 2007000405167; (f) That certain Third Amendment to Deed of Trust, dated July 15, 2008, and recorded in the Official Records for Orange County, California, on July 15, 2008 as Instrument No. 2008000338318; (g) That certain Absolute Assignment of Leases and Rents, dated December 21, 2005, and recorded in the Official Records for Orange County, California, on December 22, 2005 as Instrument No. 2005001023685; (h) That certain Amendment to Absolute Assignment of Leases and Rents, dated June 26, 2007, and recorded in the Official Records for Orange County, California, on June 26, 2007 as Instrument No. 2007000405168; (i) That certain Second Amendment to Absolute Assignment of Leases and Rents, dated July 15, 2008, and recorded in the Official Records for Orange County, California, on July 15, 2008 as Instrument No. 2008000338317; and (j) that certain Fourth Amendment to Deed of Trust, dated June 24, 2009, and recorded November 3, 2009 as Instrument No. 2009000596966 (collectively (a)-(j) above are herein referred to as the "Lienholder Deeds of Trust and Assignments"), hereby consents to the foregoing Amended and Restated Development Agreement by and between the City of Irvine and Heritage Fields El Toro, LLC (and further between Heritage Fields El Toro, LLC and the Irvine Redevelopment Agency) to which this Consent of Lienholder and Subordination of Lien is attached (the "Amended and Restated Agreement") and hereby subordinates the lien and charge of the Lienholder Deeds of Trust and Assignments to the Amended and Restated Agreement and agrees further that said Amended and Restated Agreement shall, upon its recordation in the Official Records for Orange County, California, constitute a lien on the real property affected thereby and be prior and superior to the liens imposed by the Lienholder Deeds of Trust and Assignments on said real property.

**[signature follows on next page]**

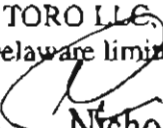


SIGNATURE PAGE TO

CONSENT OF LIENHOLDER AND  
SUBORDINATION OF LIEN

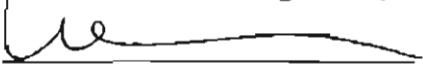
Dated: \_\_\_\_\_

EL TORO LLC  
a Delaware limited liability company

By:  Nicholas V. Colonna

Name: \_\_\_\_\_

Its: Authorized Signatory

By: 

Name: William R. Lindsay

Its: Authorized Signatory



# EXHIBIT 'A'

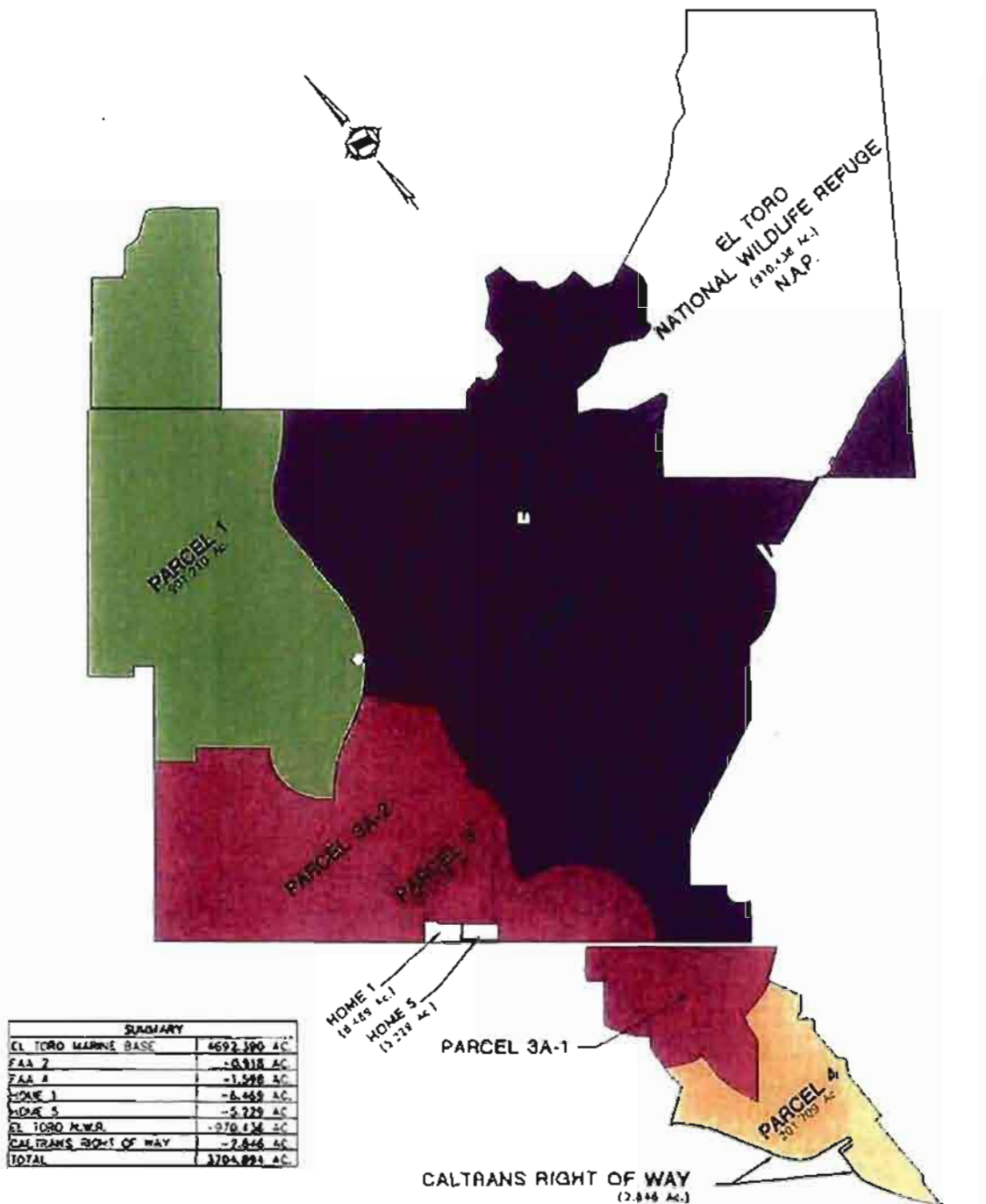
**ACREAGE SUMMARY**  
 TOTAL ACREAGE TO BE SOLD: 3,704,894 AC.  
 TOTAL ACREAGE TO BE OWNED BY USA, CALTRANS, FAA AND WILDLIFE  
 REFUGE AND HOMELESS ASSISTANCE PROVIDERS: 807,498 AC.  
 TOTAL ACREAGE: 4,692,390 AC.

**COMMENT EXPLANATION:**  
 THE ACREAGES SHOWN HEREON ARE BASED ON PARCELS 1, 2, 3A-1, 3A-2, AND 4 DESCRIBED IN THE OUTSTANDING DEEDS FROM THE USA TO HERITAGE FIELDS HOLDING THE EFFECTS OF LROC AS DEPICTED ON THE BND DOCUMENTS. THESE BND PARCELS HAD EXCEPTIONS SETTING OUT THE ACREAGES OF FAA AND WILDLIFE PARCELS SHOWN HEREON.

## LEGEND

- PARCEL 1
- PARCEL 2
- PARCEL 3A
- PARCEL 4

**NOTE:**  
 ALL ACREAGES LISTED HEREON ARE THE TOTAL ACREAGES FOR THE PARCELS AS DEPICTED BY SEPARATE COLORS. ACREAGES IN PARENTHESES ( ) INDICATE ACREAGE OF THE PARCEL INDICATED SHOWN FOR INFORMATIONAL PURPOSES ONLY.



PARCEL 3 IS COMPRISED OF PARCEL 3A-1 AND PARCEL 3A-2

<b>RUNSAXER &amp; ASSOCIATES</b> ENGINEERING & ARCHITECTURE 1000 S. GATEWAY BLVD. SUITE 100 SAN ANTONIO, TEXAS 78205		<b>FORMER EL TORO MCAS PROPERTY</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA	
DATE: 9-19-07 BY: J. WILKINSON CHECKED: R. WILLIAMS	DATE: 06-09 BY: R. WILLIAMS CHECKED: R. WILLIAMS	SCALE: 1"=2000' W.D. 1986-80X	FILE: \\HeritageFiles\El-Toro\11\DA\090-1-001\EXH-A.dwg



# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 1

In the City of Irvine, County of Orange, State of California, being those portions of Lots 359 and 370 of Block 120, Lots 360 and 369 of Block 142, Lots 241 and 242 of Block 121, Lots 271, 272, 277 and 278 of Block 141, and Lots 279 and 280 of Block 140, of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88, of Miscellaneous Maps, lying within the U.S. M.C.A.S.-El Toro property, and as shown on Record of Survey 97-1038 filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Recorders Office of said County, lying northerly, northwesterly, and westerly of the following described line:

Commencing at the southwest quarter corner of said Block 142; thence along the northeasterly line of said Lot 271, said line being also the former centerline of Irvine Boulevard as shown on said Record of Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said former centerline of Irvine Boulevard to the **True Point of Beginning**; thence leaving said centerline South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet through a central angle of 16°47'54" to the beginning of a reverse curve concave southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve bears South 32°59'43" East; thence southwesterly along said curve 1193.90 feet through a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning of a curve concave northwesterly having a radius of 2400.00 feet; thence southwesterly along said curve 2768.42 feet through a central angle of 66°05'28"; thence South 66°05'28" West 353.80 feet to the beginning of a curve concave southeasterly having a radius of 2500.00 feet; thence southwesterly along said curve 1038.99 feet through a central angle 23°48'43"; thence South 42°16'45" West 235.22 feet; thence North 49°51'20" West 281.26 feet to the being of a curve concave easterly having a radius of 1000.00 feet; thence northwesterly,

# PSOMAS

1 northerly and northeasterly along said curve 1574.20 feet through a central angle of  
2 90°11'43"; thence North 49°14'49" West 1446.32 feet; thence South 41°14'17" West  
3 275.57 feet; thence North 49°21'34" West 817.62 feet to a point on the northwesterly line  
4 of said Lot 279, said point lying distant thereon South 40°39'31" West 1675.66 feet from  
5 the most northerly corner of said Lot 279.

6  
7 Excepting therefrom that 30.00 foot wide strip of land known as former Irvine Boulevard  
8 as shown on said Record of Survey.

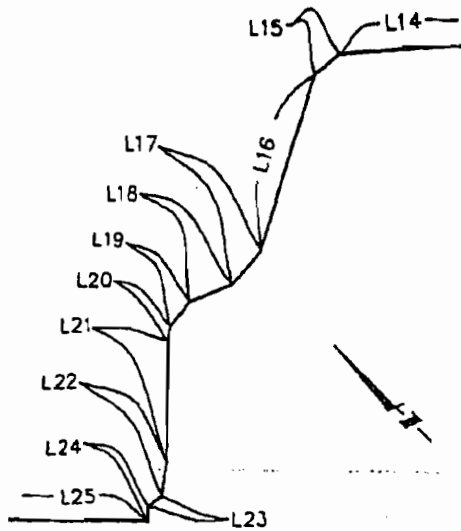
9  
10 Containing 902.13 acres, more or less.

11  
12 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
13 any.

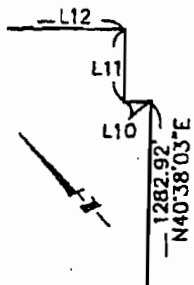
14  
15 As shown on Exhibit "B" attached hereto and made a part hereof.



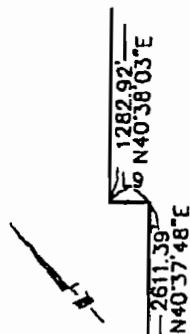
# EXHIBIT B



DETAIL 'D'  
SCALE 1"=400'

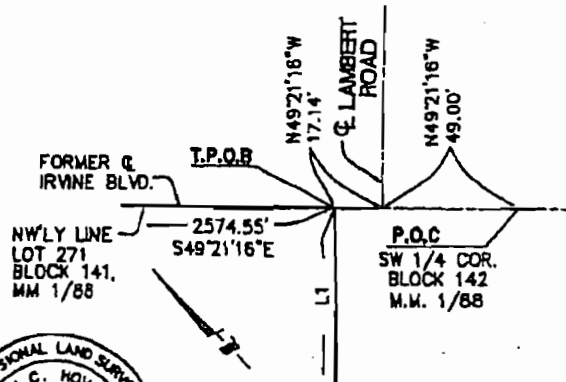


DETAIL 'C'  
SCALE 1"=100'



DETAIL 'B'  
SCALE 1"=100'

LINE TABLE		
NO.	LENGTH	BEARING
L1	208.48	S40°12'23"W
L2	353.80	S66°05'28"W
L3	235.22	S42°16'45"W
L4	281.26	N49°51'20"W
L5	275.57	S41°14'17"W
L6	817.62	N49°21'34"W
L7	400.00	N49°19'46"W
L8	217.80	S40°36'53"W
L9	30.00	N49°20'54"W
L10	20.01	N49°13'29"W
L11	53.18	N40°37'45"E
L12	690.50	N49°30'48"W
L13	151.34	N40°59'05"W
L14	512.76	N53°35'30"W
L15	95.00	N86°29'26"W
L16	525.89	S56°43'54"W
L17	127.13	S80°10'23"W
L18	134.50	N71°34'21"W
L19	91.30	S78°06'29"W
L20	45.20	S47°19'54"W
L21	351.20	S40°17'49"W
L22	100.00	S50°17'49"W
L23	48.20	S89°45'29"W
L24	41.81	S40°38'46"W
L25	627.28	N49°42'16"W
L26	217.80	N40°36'53"E



DETAIL 'A'  
SCALE 1"=50'



DESCRIPTION: These portions of Lots 359 and 370 of Block 120, Lots 380 and 388 of Block 142, Lots 241 and 242 of Block 121, Lots 271, 272, 277 and 278 of Block 141, Lots 270 and 280 of Block 140, in the unincorporated territory of the County of Orange, State of California, shown on the Irvine's Subdivision filed in Book 1, Page 88, in the Office of said County.

MCAS-EL TORO

SHEET 2 OF 2		SCALE 1"=50'
PSOMAS		DRAFTED CN
207 1st St. Suite 200		CHECKED JCH
Brea, CA 92623		DATE APRIL 2003
(949) 728-7221 Fax (949) 643-6000		JCH
		NUMBER 2N0R000100 TJ

# EXHIBIT A-I

# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 2

In the City of Irvine, County of Orange, State of California, being those portions of Lots 303 and 306 of Block 173, Lots 281 through 284 inclusive, of Block 155, Lot 280 of Block 140, Lots 271, 272 and 277 of Block 141, Lots 273 through 276 inclusive, of Block 154, Lots 299, 300 and 302 of Block 174, Lots 362, 363, 366 and 367 of Block 153, and Lot 313 of Block 175 of Irvine's Subdivision, as shown on map filed in Book 1, Page 88, of Miscellaneous Maps, lying within the U.S. M.C.A.S. El Toro property, as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above maps on file in the Recorder's Office of said County, lying easterly of the following described line:

Commencing at the southwest quarter corner of Block 142 of said Irvine's Subdivision, said quarter corner being shown on said Record of Survey; thence along the northeasterly line of said Lot 271, said line being also along the former centerline of Irvine Boulevard, as shown on said Record of Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said former centerline of Irvine Boulevard to the True Point of Beginning; thence leaving said centerline South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet through a central angle of 16°47'54" to beginning of a reverse curve concave southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve bears North 32°59'43" West; thence southwesterly along said curve 1193.90 feet through a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning of a curve concave northwesterly having a radius of 2400.00 feet; thence southerly along said curve 2226.96 feet through a central angle of 53°09'53"; thence non-tangent to said curve South 39°16'19" East 1519.69 feet to the beginning of a non-tangent curve concave southeasterly having a radius of 2100.00 feet, a radial line to the beginning of said curve

# PSOMAS

1 bears North 58°27'48" West; thence southerly along said curve 1155.88 feet through a  
2 central angle of 31°32'12"; thence non-tangent to said curve South 00°57'09" West  
3 276.56 feet; thence North 89°02'51" West 141.47 feet; thence South 00°57'09" West  
4 221.51 feet to the beginning of a curve concave northeasterly having a radius of  
5 120.00 feet; thence southerly, southeasterly and easterly along said curve 188.50 feet  
6 through a central angle of 90°00'00"; thence South 89°02'51" East 38.00 feet; thence  
7 South 00°57'09" West 396.66 feet to the beginning of a curve concave westerly having a  
8 radius of 1200.00 feet; thence southerly along said curve 813.74 feet through a central  
9 angle of 38°51'11"; thence South 39°48'20" West 226.79 feet to the beginning of a curve  
10 concave easterly having a radius of 900.00 feet; thence southerly along said curve  
11 605.19 feet through a central angle of 38°31'40"; thence South 01°16'40" West  
12 129.84 feet to the beginning of a non-tangent curve concave southwesterly having a  
13 radius of 1600.00 feet, a radial line to the beginning of said curve bears  
14 North 01°09'46" East; thence easterly, southeasterly, southerly and southwesterly along  
15 said curve 3582.01 feet through a central angle of 128°16'17" to a point on a line parallel  
16 with and distant 50.00 feet northeasterly from the southwesterly line of said Block 155,  
17 said point lying distant along said parallel line North 49°20'21" West 616.16 feet from  
18 the southeasterly line of said Lot 283; thence along said parallel line  
19 South 49°20'21" East 616.16 feet to said southeasterly line; thence along a line that is  
20 parallel with and distant 50.00 feet northeasterly from the southwesterly line of said  
21 Block 173, South 49°20'18" East 1220.06 feet to the terminus of the herein described  
22 line.

23  
24 **Excepting** therefrom the 970.435 acre parcel shown on Record of Survey 98-1077, filed  
25 in Book 173, Pages 28 through 31, inclusive, in the office of the County Recorder of said  
26 County.

27  
28 Containing 1752.43 acres, more or less.

29  
30 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
31 any.

# PSOMAS

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The distances shown hereon are ground distances.

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As shown on Exhibit "B" attached hereto and made a part hereof.

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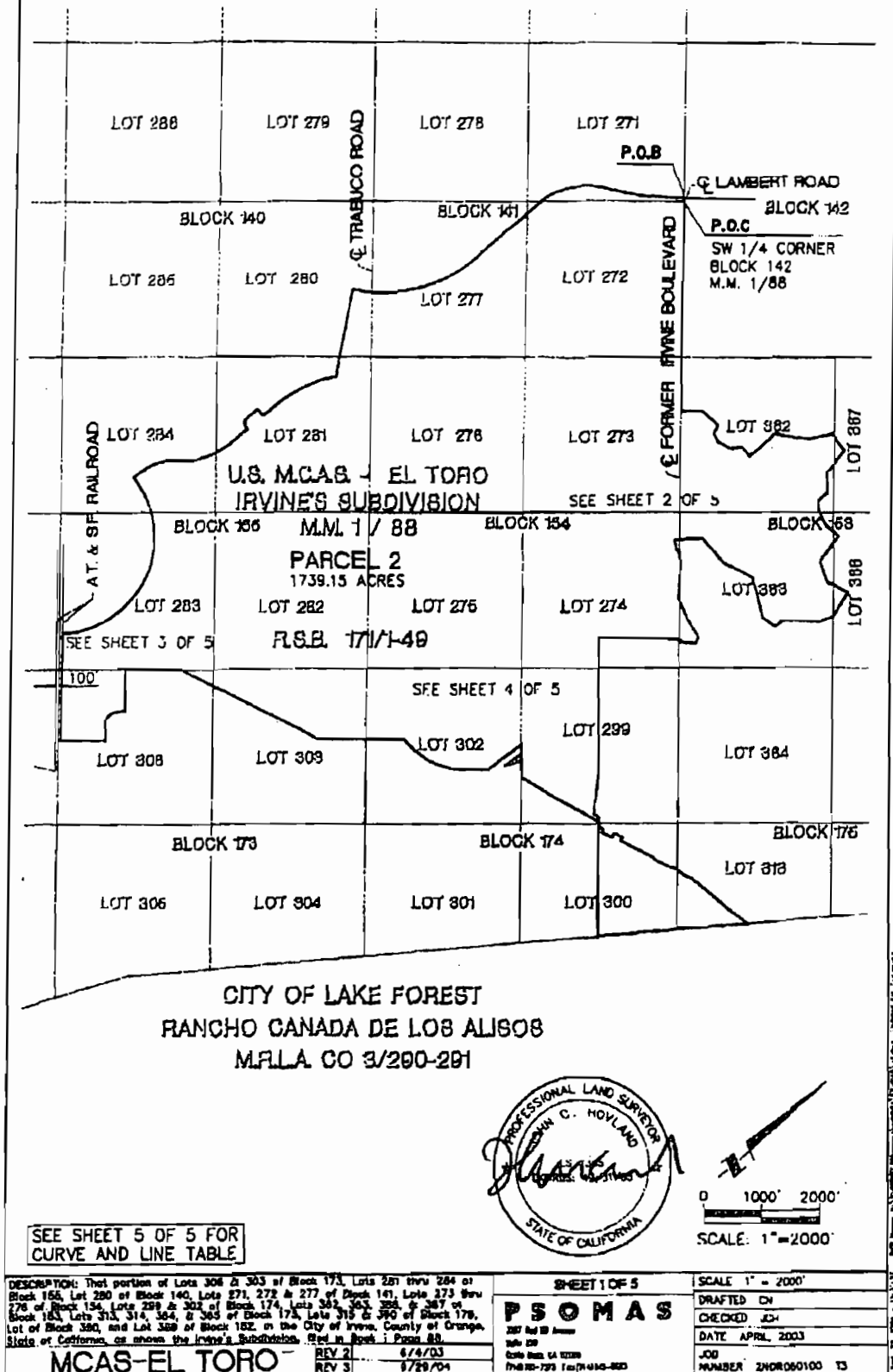
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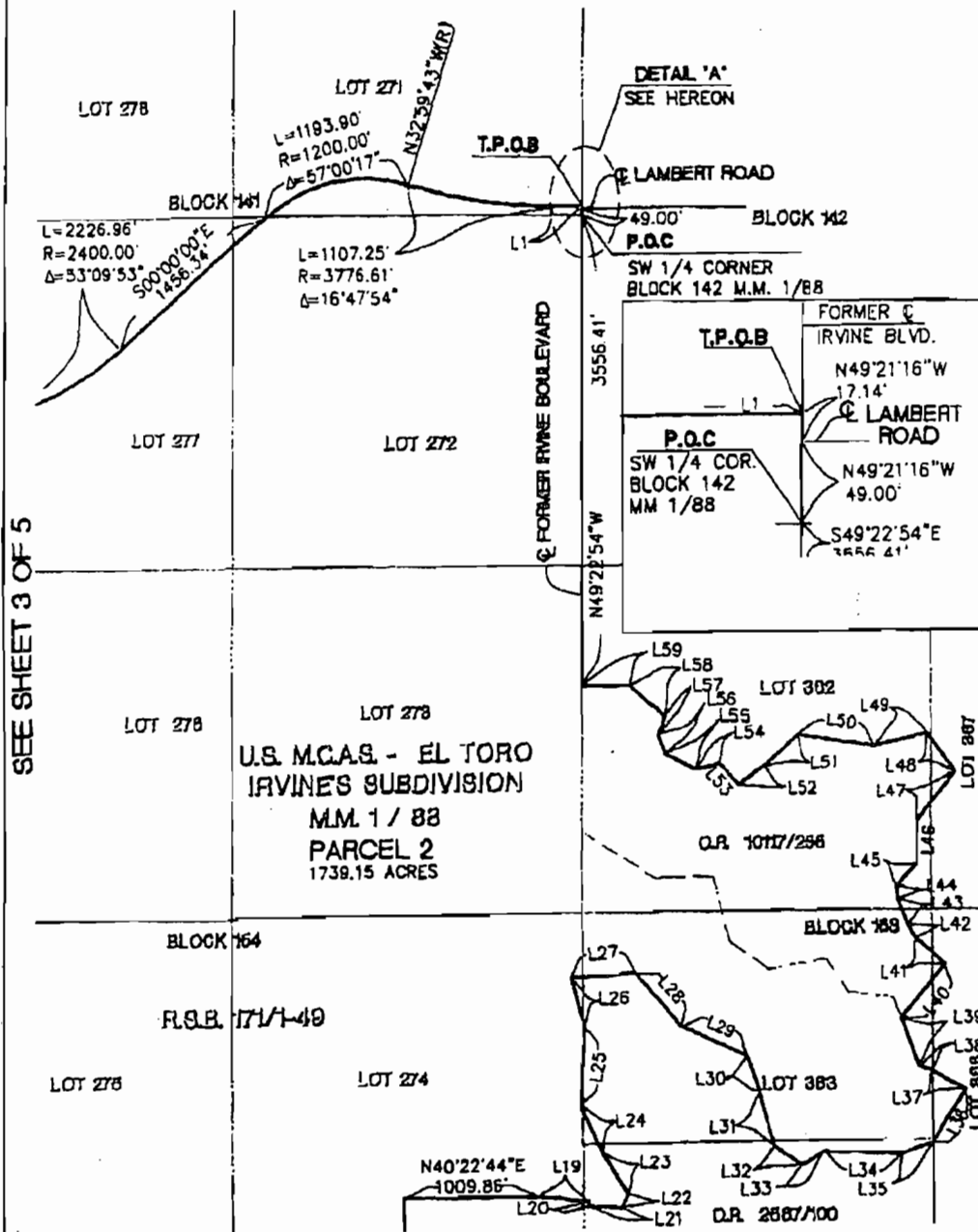
# EXHIBIT B



## EXHIBIT A-II



**EXHIBIT B**



**SEE SHEET 4 OF 5**



SEE SHEET 5 OF 5 FOR  
CURVE AND LINE TABLE

DESCRIPTION: That portion of Lots 306 & 303 of Block 173, Lots 281 thru 284 of Block 155, Lot 280 of Block 140, Lots 271, 272 & 277 of Block 141, Lots 273 thru 276 of Block 154, Lots 280 & 302 of Block 174, Lots 363, 363, 364, & 367 of Block 153, Lots 312, 314, 384, & 385 of Block 175, Lots 313 & 385 of Block 176, Lot of Block 360, and Lot 339 of Block 152, in the City of Irvine, County of Orange, State of California, as shown on the map & subdivision filed in Book 1 Page 85.

REV 2 6/4/03

# MCAS-EL TORO

REV 2	6/4/03
REV 3	9/29/04

SHEET 2 OF 5  
P S O M A S

3427 Red Hill Avenue  
Suite 210  
Crown Point, IN 46032  
(317) 341-2273 Fax: (317) 341-0000

SCALE 1" = 1000'

DRAFTED CN

CHECKED JO

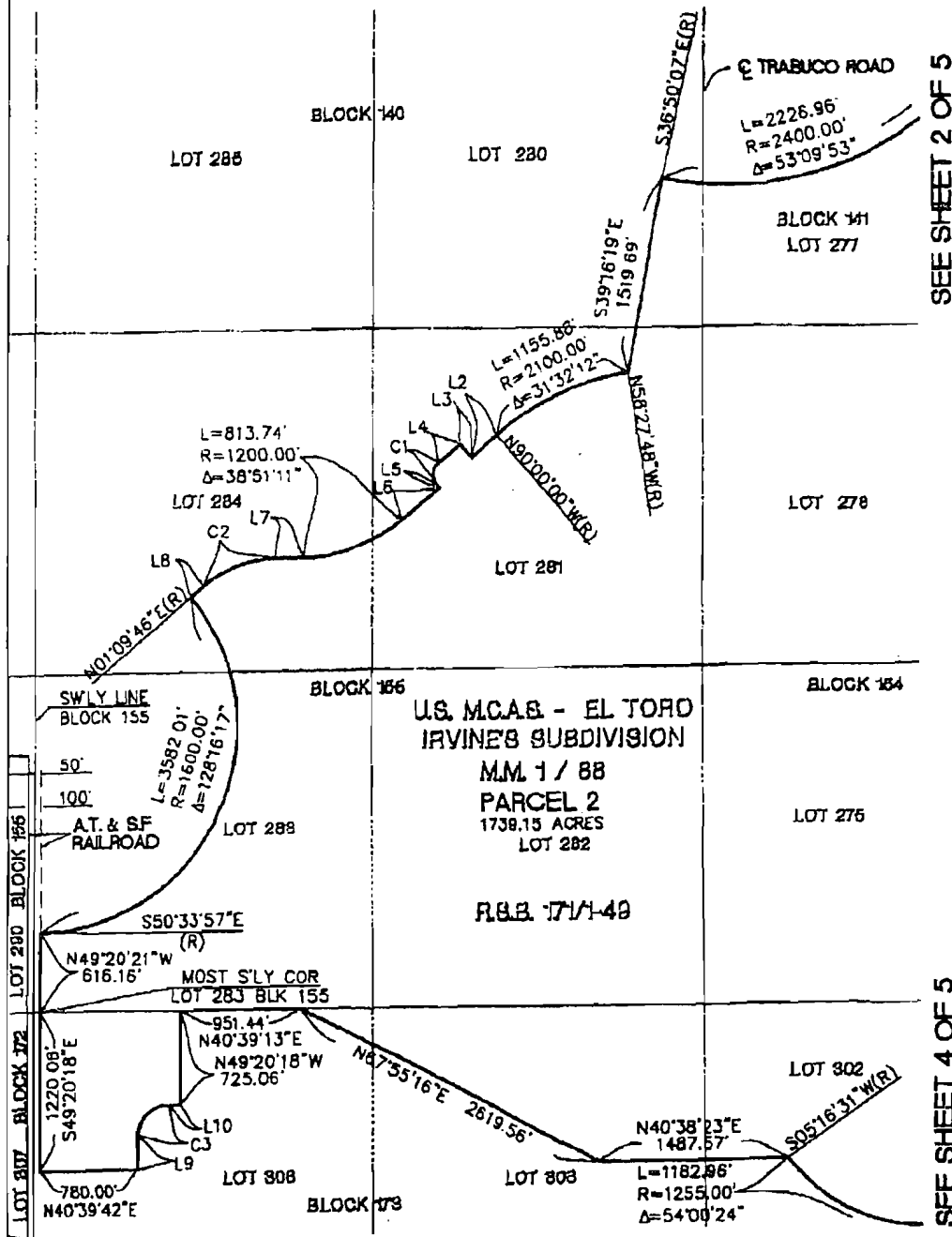
DATE APRIL 2003

108

NUMBER 240000100

EXHIBIT A-II

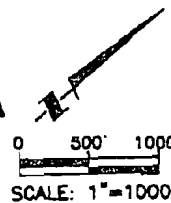
# EXHIBIT B



SEE SHEET 2 OF 5

SEE SHEET 4 OF 5

SEE SHEET 5 OF 5 FOR  
CURVE AND LINE TABLE



DESCRIPTION: That portion of Lots 308 & 303 of Block 173, Lots 281 thru 284 of Block 155, Lot 280 of Block 140, Lots 271, 272 & 277 of Block 141, Lots 273 thru 276 of Block 154, Lots 289 & 302 of Block 174, Lots 303, 302, 301 & 307 of Block 153, Lots 313, 314, 304, & 305 of Block 175, Lots 318 & 300 of Block 176, Lot of Block 300, and Lot 308 of Block 182, in the City of Irvine, County of Orange, State of California, as shown the Irvine's Subdivision Map in Book 1 Page 88.

**MCAS-EL TORO**

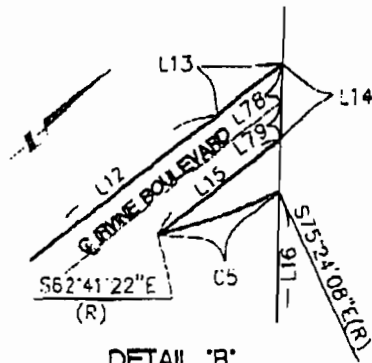
REV 2 6/4/03  
REV 3 6/23/04

**PSOMAS**  
287 East 181st Ave  
Suite 100  
Oroville, CA 95965  
(916) 928-7223 Fax (916) 916-6033

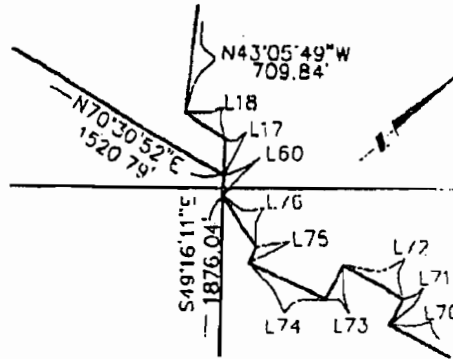
SHEET 3 OF 5  
SCALE 1" = 1000'  
DRAFTED CN  
CHECKED JCH  
DATE APRIL, 2003  
JOB  
NUMBER 21NOR080100 13

# EXHIBIT A-II

## EXHIBIT B

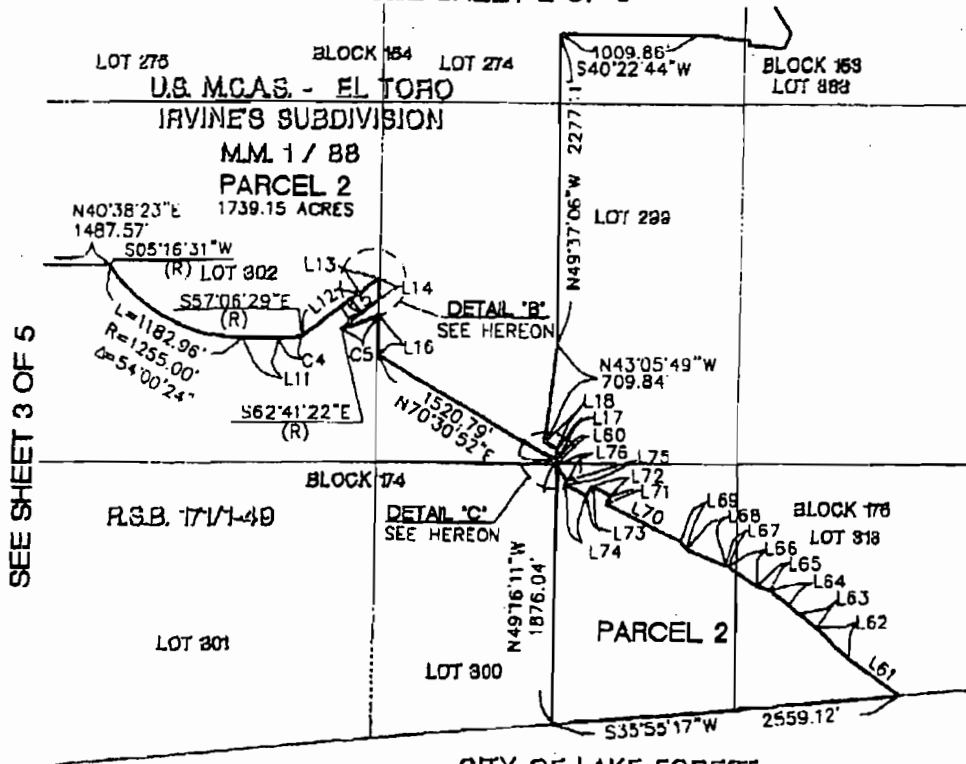


**DETAIL "B"**  
SCALE 1" = 300'



**DETAIL 'C'**  
SCALE 1" = 300'

SEE SHEET 2 OF 5



CITY OF LAKE FOREST  
RANCHO CANADA DE LOS ALISOS  
MRLA CO 3/290-291



SEE SHEET 5 OF 5 FOR  
CURVE AND LINE TABLE

0 500' 1000'

SCALE: 1" = 1000'

DESCRIPTION: That portion of Lots 308 & 303 of Block 173, Lots 281 thru 284 of Block 158, Lot 280 of Block 140, Lots 271, 272 & 277 of Block 141, Lots 273 thru 276 of Block 184, Lots 296 & 302 of Block 174, Lots 382, 383, 388, & 387 of Block 163, Lots 313, 314, 364, & 365 of Block 175, Lots 315 & 360 of Block 178, Lot of Block 390, and Lot 388 of Block 152, in the City of Irvine, County of Orange, State of California, in whom the above Subdivision, Run in Book - Page 88.

# MCAS-EL TORO

REV 2	8/4/03
REV 3	8/24/04

**PSOMAS**

JAL/ 200 000 Annual  
 Index 100  
 Costa Rica, CA 2005  
 07-01-2007 1-000-000-000

SCALE 1" = 1000'

**DRAFTED ON**

**CHE DIED JCH**

DATE APRIL 2003

JOE  
NUMBER 2000000000 73

EXHIBIT A-II

# EXHIBIT B

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L1	208.48	S40°12'23"W
L2	276.56	S00°57'09"W
L3	141.47	N89°02'51"W
L4	221.51	S00°57'09"W
L5	38.00	S89°02'51"E
L6	396.66	S00°57'09"W
L7	226.79	S39°48'20"W
L8	129.84	S01°16'40"W
L9	265.16	N49°20'18"W
L10	100.00	N40°39'42"E
L11	249.30	N41°16'07"E
L12	516.75	N03°38'44"E
L13	176.68	N02°41'27"E
L14	159.99	S49°15'52"E
L15	332.04	S02°41'27"W
L16	282.44	S49°15'52"E
L17	77.98	N49°16'11"W
L18	103.60	S74°22'29"W
L19	378.73	N47°00'59"E
L20	36.97	S43°46'25"E
L21	253.88	N44°10'35"E
L22	114.34	N27°59'45"W
L23	358.80	N80°16'46"W
L24	395.26	N73°37'35"W
L25	600.49	N46°14'31"W
L26	386.94	N84°33'36"W
L27	485.85	N37°18'55"E
L28	542.47	S89°00'03"E
L29	542.88	N65°05'59"E
L30	292.98	S67°02'19"E
L31	419.52	S84°00'47"E
L32	250.57	N77°23'57"E
L33	202.52	N08°37'42"E
L34	802.13	N43°04'22"E
L35	245.79	N19°58'15"E
L36	469.87	N17°07'55"W
L37	284.78	S69°29'32"W
L38	103.05	S58°28'51"W
L39	400.68	N69°03'15"W
L40	525.37	N09°57'17"W
L41	290.35	S81°17'11"W
L42	124.67	N78°49'46"W
L43	203.08	N88°35'40"W
L44	104.09	N56°18'27"W
L45	216.34	N06°22'01"W
L46	325.40	N49°06'35"W
L47	477.81	N11°45'54"W
L48	360.00	N84°51'40"W
L49	417.78	S27°40'18"W
L50	598.73	S48°36'32"W
L51	344.48	S02°59'41"E
L52	228.32	S03°00'59"W
L53	220.14	S87°55'12"W
L54	186.94	S26°01'09"W
L55	255.62	S69°51'58"W
L56	156.90	N72°56'54"W

CURVE TABLE			
NO.	LENGTH(FT)	RADIUS	DELTA
C1	188.50	120.00	90°00'00"
C2	605.19	900.00	38°31'40"
C3	361.28	230.00	90°00'00"
C4	183.48	1255.00	08°22'36"
C5	278.46	1255.00	12°42'46"
C6	457.83	955.00	27°28'04"
C7	506.24	845.00	34°19'33"
C8	133.34	211.96	36°02'33"
C9	603.27	646.25	53°29'05"

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L57	151.70	N24°32'07"W
L58	367.42	S83°17'33"W
L59	358.95	S40°40'32"W
L60	45.06	S49°16'11"E
L61	476.64	N76°05'15"E
L62	320.43	N82°25'15"E
L63	165.87	N78°20'15"E
L64	265.63	N79°45'15"E
L65	103.32	N55°15'15"E
L66	257.59	N75°55'15"E
L67	34.25	N44°40'15"E
L68	290.62	N84°40'15"E
L69	78.87	N88°45'15"E
L70	612.07	N67°20'15"E
L71	65.00	S21°00'30"E
L72	155.00	N88°59'30"E
L73	83.12	N21°00'30"W
L74	184.71	N65°30'27"E
L75	37.00	S23°59'33"E
L76	132.97	S84°39'33"E
L77	438.55	S19°46'09"E
L78	79.99	S49°15'52"E
L79	80.00	S49°15'52"E



0 250' 500'  
SCALE: 1"=500'

DESCRIPTION: That portion of Lots 308 & 303 of Block 173, Lots 301 thru 304 of Block 155, Lot 280 of Block 140, Lots 271, 272 & 277 of Block 141, Lots 273 thru 276 of Block 134, Lots 306 & 302 of Block 174, Lots 305, 303, 304, & 307 of Block 153, Lots 313, 314, 304 & 306 of Block 174, Lots 315 & 300 of Block 176, Lot of Block 300, and Lot 308 of Block 182 in the City of Irvine, County of Orange, State of California, as shown on the Initial Subdivision Map in Book 1 Page 88.

MCAS-EL TORO

REV 1 6/27/03  
REV 2 6/4/03

SHEET 6 OF 6  
**PSOMAS**  
300 sq ft 68 Acres  
File 03  
Irvine, CA 92618  
(714) 761-2223 Fax (714) 251-0201

SCALE 1" = 500'  
DRAFTED CH  
CHECKED JH  
DATE APRIL 2003  
JOB  
NUMBER 2400080100 T3

# EXHIBIT A-II

# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 3A-1

In the City of Irvine, County of Orange, State of California, being those portions of Lots 290 of Block 156, and Lots 307 and 310 of Block 172 of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88 of Miscellaneous Maps, and also those portions of Parcels 1A and 2, described in the deed recorded in Book 11831, Page 1062 and Book 11253, Page 959 of Official Records, lying within the U.S. M.C.A.S. El Toro property, all as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Records Office of said County, lying northerly of the following described line:

Beginning at the intersection of the centerline of Alton Parkway with the westerly line of said Parcel 2, said intersection being also the beginning of a non-tangent curve concave northeasterly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 37°36'19" West, (shown as South 37°36'05" West on said Record of Survey); thence southeasterly along said curve and said centerline 815.37 feet through a central angle of 25°57'15"; thence leaving said centerline South 04°46'49" West 323.29 feet to the beginning of a curve concave easterly having a radius of 1400.00 feet; thence southerly along said curve 616.04 feet through a central angle of 25°12'42"; thence South 20°25'53" East 490.17 feet; thence North 40°26'55" East 1130.96 feet to the beginning of a curve concave northwesterly having a radius of 417.00 feet; thence northeasterly along said curve 299.22 feet through a central angle of 41°06'48" to the beginning of a reverse curve concave southeasterly having a radius of 518.00 feet, a radial line to the beginning of said curve bears South 89°20'07" West; thence northeasterly along said curve 265.18 feet through a central angle of 29°19'55"; thence non-tangent to said curve North 09°24'49" West 60.00 feet to a point on said centerline; thence North 80°35'11" East 399.69 feet along said centerline to the beginning of a non-tangent curve concave northerly having a radius of 1800.00 feet, a radial line to the

# PSOMAS

1 beginning of said curve, bears South 08°31'46" East; thence easterly along said curve  
2 496.71 through a central angle of 15°48'39" to the easterly line of said Parcel 2.

3  
4 Together with the following described parcel:

## 5 6 Parcel 3A-2

7 In the City of Irvine, County of Orange, State of California, being those portions of Lots  
8 279, 280, 285, and 286 of Block 140, and Lots 281, 283, and 284 of Block 155 of Irvine's  
9 Subdivision, as shown on a map filed in Book 1 Page 88, of Miscellaneous Maps, lying  
10 within the U.S. M.C.A.S. El Toro property, and as shown on Record of Survey 97-1038,  
11 filed in Book 171, Pages 1 through 49, inclusive, all of the records of said County,  
12 described as follows:

13  
14 Commencing at the southwest quarter corner of Block 142 said quarter corner being  
15 shown on said Record of Survey; thence along the northeasterly line of said Lot 271, said  
16 line being also the former centerline of Irvine Boulevard, as shown on said Record of  
17 Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on  
18 said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said  
19 former centerline of Irvine Boulevard; thence leaving said former centerline  
20 South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly  
21 having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet  
22 through a central angle of 16°47'54" to beginning of a reverse curve concave  
23 southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve  
24 bears South 32°59'43" East; thence southwesterly along said curve 1193.90 feet through  
25 a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning  
26 of a curve concave northwesterly having a radius of 2400.00 feet; thence southwesterly  
27 along said curve 2226.96 feet through a central angle of 53°09'53" to the **True Point of**  
28 **Beginning**; thence South 39°16'19" East 1519.69 feet to the beginning of a non-tangent  
29 curve concave southeasterly having a radius of 2100.00 feet, a radial line to the beginning

# PSOMAS

1 of said curve bears North 58°27'48" West; thence southerly along said curve 1155.88 feet  
2 through a central angle of 31°32'12"; thence non-tangent to said curve  
3 South 00°57'09" West 276.56 feet; thence North 89°02'51" West 141.47 feet; thence  
4 South 00°57'09" West 221.51 feet to the beginning of a curve concave northeasterly  
5 having a radius of 120.00 feet; thence southeasterly along said curve 188.50 feet through  
6 a central angle of 90°00'00"; thence South 89°02'51" East 38.00 feet; thence South  
7 00°57'09" West 396.66 feet to the beginning of a curve concave westerly having a radius  
8 of 1200.00 feet; thence southerly along said curve 813.74 feet through a central angle of  
9 38°51'11"; thence South 39°48'20" West 226.79 feet to the beginning of a curve concave  
10 easterly having a radius of 900.00 feet; thence southerly along said curve 605.19 feet  
11 through a central angle of 38°31'40"; thence South 01°16'40" West 129.84 feet to the  
12 beginning of a non-tangent curve concave southwesterly having a radius of 1600.00 feet,  
13 a radial line to the beginning of said curve bears North 01°09'46" East; thence easterly,  
14 southeasterly, southerly and southwesterly along said curve 3582.01 feet through a  
15 central angle of 128°16'17" to a point on a line parallel with and distant 50.00 feet  
16 northeasterly from the southwesterly line of said Blocks 155 and 140, said point lying  
17 distant along said parallel line North 49°20'21" West 616.16 feet from the southeasterly  
18 line of said Lot 283; thence North 49°20'21" West 9954.02 feet along said parallel line to  
19 a point on the northwesterly line of said Lot 286; thence North 40°39'31" East 3554.68  
20 feet along the northwesterly line of said Lots 286 and 279 to a point lying distant thereon  
21 South 49°39'31" West 1675.66 feet from the most northerly corner of said Lot 279;  
22 thence South 49°21'34 East 817.62 feet; thence North 41°14'17" East 275.57 feet; thence  
23 South 49°14'49" East 1446.32 feet to the beginning of a non-tangent curve concave  
24 easterly having a radius of 1000.00 feet, a radial line to the beginning of said curve bears  
25 North 49°39'37" West; thence southwesterly, southerly, and southeasterly along said  
26 curve 1574.20 feet through a central angle of 90°11'43"; thence South 49°51'20" East  
27 281.26 feet; thence North 42°16'45" East 235.22 feet to the beginning of a curve concave  
28 southeasterly having a radius of 2500.00 feet; thence northeasterly along said curve  
29 1038.99 feet through a central angle of 23°48'43"; thence North 66°05'28" East  
30 353.80 feet to the beginning of a curve concave northwesterly having a radius of

# PSOMAS

1 2400 feet; thence northeasterly along said curve 541.46 feet through a central angle of  
2 12°55'35" to the True Point of Beginning.

3

4 Containing 862.84 acres, more or less.

5

6 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
7 any.

8

9 As shown on Exhibit "B" attached hereto and made a part hereof.

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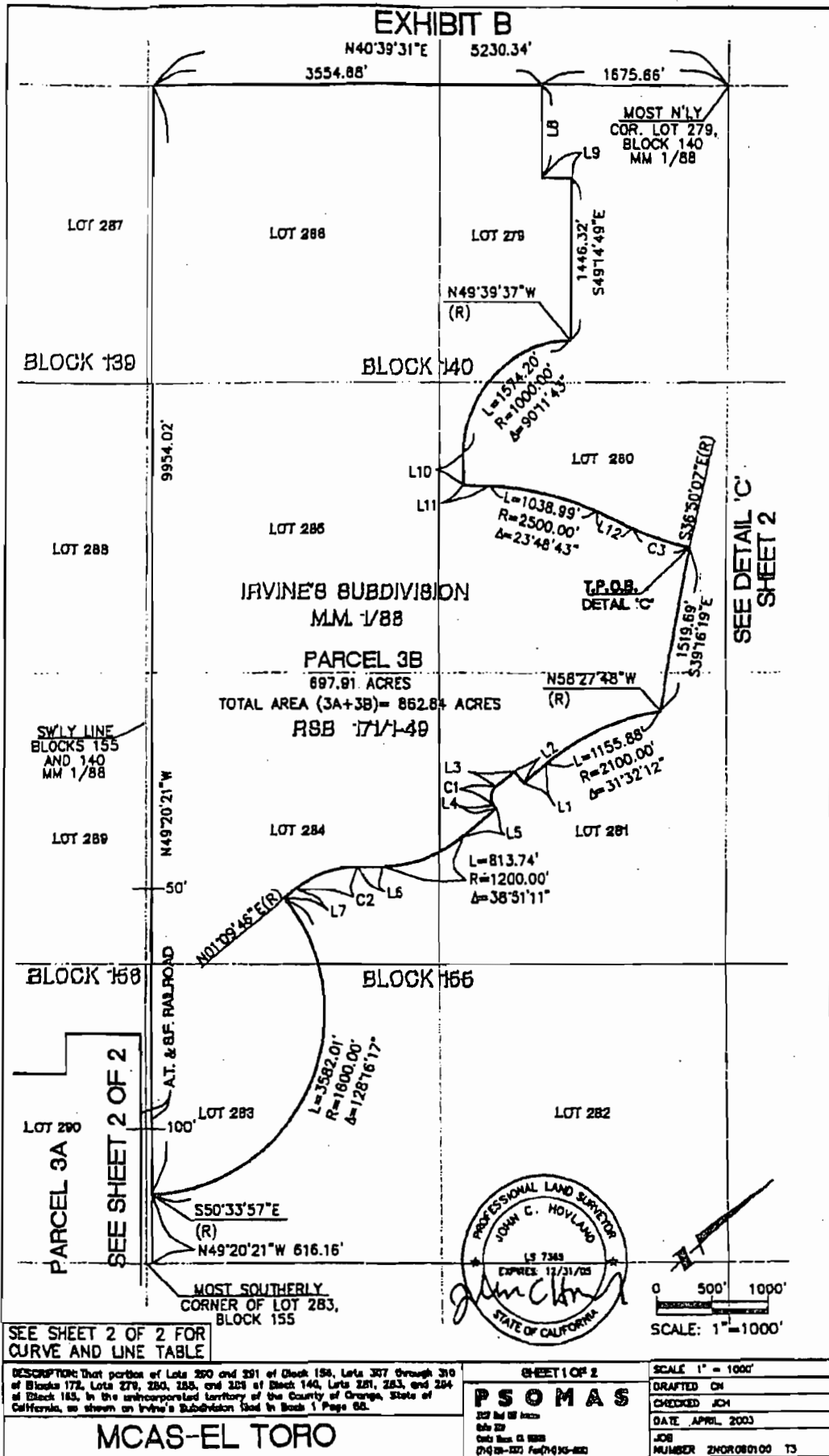
28

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**DETAIL 'A'**  
NO SCALE

**DETAIL 'B'**  
NO SCALE

**DETAIL 'C'**  
NO SCALE

LINE TABLE		
NO.	LENGTH (FT)	BEARING
L1	276.56	S00°57'09"W
L2	141.47	N89°02'51"W
L3	221.51	S00°57'09"W
L4	38.00	S89°02'51"E
L5	396.66	S00°57'09"W
L6	226.78	S39°48'20"W
L7	129.84	S01°18'40"W
L8	817.62	S49°21'34"E
L9	275.57	N41°14'17"E
L10	281.26	S49°31'20"E
L11	235.22	N42°16'45"E
L12	353.80	N68°05'28"E
L13	363.30	N55°30'00"E
L14	60.00	N24°20'25"W
L15	399.69	N80°35'11"E
L16	60.00	N09°24'49"W
L17	490.17	S20°25'53"E
L18	323.29	S04°46'49"W
L19	444.45	S05°36'08"W
L20	245.00	S40°24'26"W
L21	871.70	S40°39'39"W
L22	359.93	S49°20'21"E
L23	665.29	S40°39'39"W
L24	208.48	S40°12'23"W

CURVE TABLE			
NO.	LENGTH	RADIUS	DELTA
C1	188.50	120.00	90°00'00"
C2	605.18	900.00	38°31'40"
C3	541.46	2400.00	12°55'35"
C4	308.54	1740.00	10°09'35"
C5	495.71	1800.00	15°48'39"
C6	265.18	518.00	29°19'55"
C7	299.22	417.00	41°06'48"
C8	616.04	1400.00	25°12'42"

# PSOMAS

## LEGAL DESCRIPTION

### **Exhibit A**

#### **Parcel 4**

In the City of Irvine, County of Orange, State of California, being those portions of Lots 290 and 291 of Block 156, and Lots 307 through 310 inclusive of Block 172 of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88 of Miscellaneous Maps, and also those portions of Parcels 2 and 3, described in the deed recorded in Book 11831, Page 1062, of Official Records, all lying within the U.S. M.C.A.S. El Toro property, as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Recorders Office of said County, lying southerly of the following described line:

Beginning at the intersection of the centerline of Alton Parkway with the westerly line of said Parcel 2, said intersection being also the beginning of a non-tangent curve concave northeasterly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 37°36'19" West; thence southeasterly along said curve and said centerline 815.37 feet through a central angle of 25°57'15"; thence leaving said centerline South 04°46'49" West 323.29 feet to the beginning of a curve concave easterly having a radius of 1400.00 feet; thence southerly along said curve 616.04 feet through a central angle of 25°12'42"; thence South 20°25'53" East 490.17 feet; thence North 40°26'55" East 1130.96 feet to the beginning of a curve concave northwesterly having a radius of 417.00 feet; thence northeasterly along said curve 299.22 feet through a central angle of 41°06'48" to the beginning of a reverse curve concave southeasterly having a radius of 518.00 feet, a radial line to the beginning of said curve bears South 89°20'07" West; thence northeasterly along said curve 265.18 feet through a central angle of 29°19'55"; thence non-tangent to said curve North 09°24'49" West 60.00 feet to a point on said centerline; thence North 80°35'11" East 399.69 feet along said centerline to the beginning of a non-tangent curve concave northerly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 08°31'46" East;

# PSOMAS

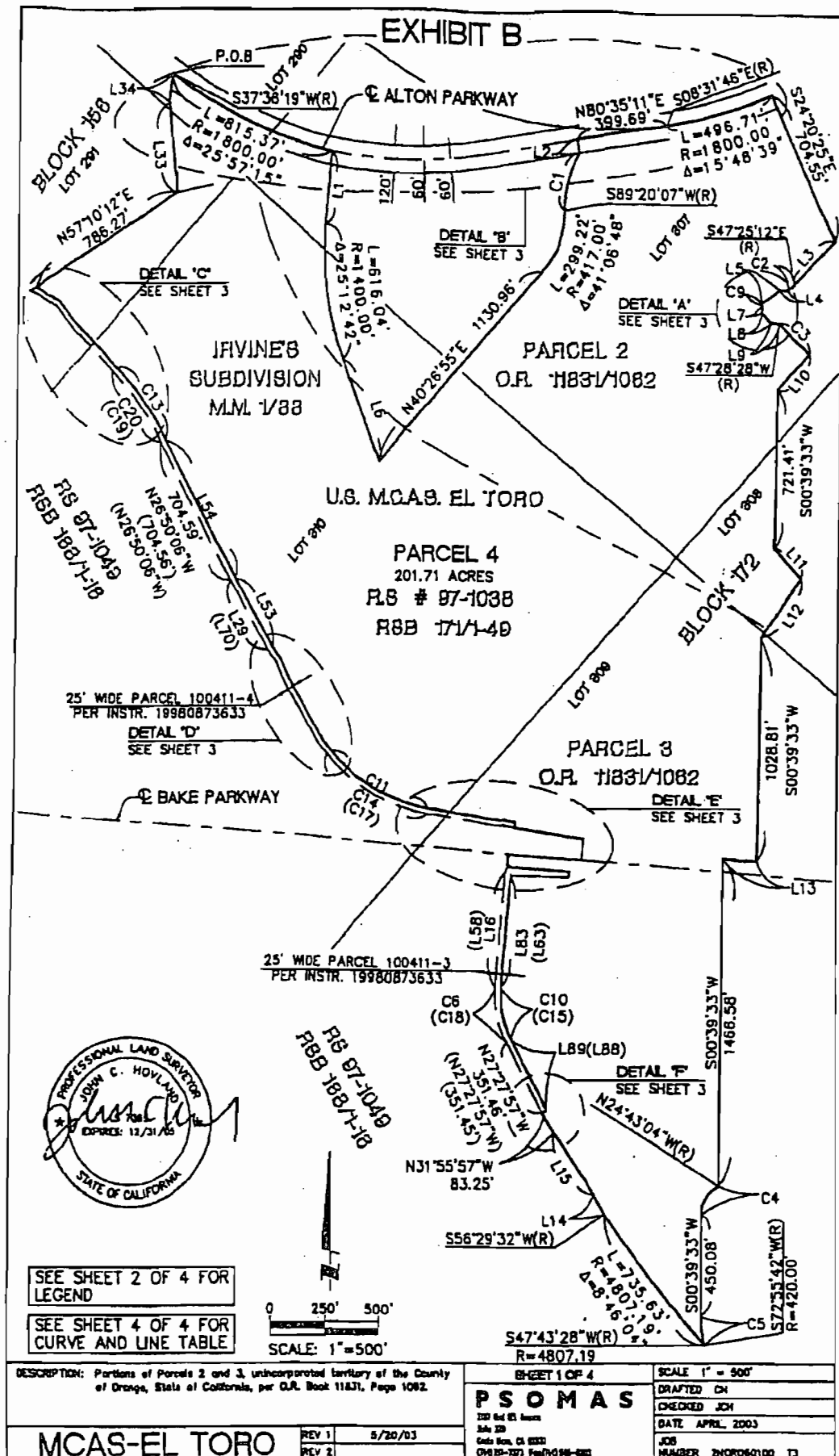
1 | thence easterly along said curve 496.71 feet through a central angle of 15°48'39" to the  
2 | easterly line of said Parcel 2.

3 |  
4 | Containing 201.71 acres, more or less.

5 |  
6 | Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
7 | any.

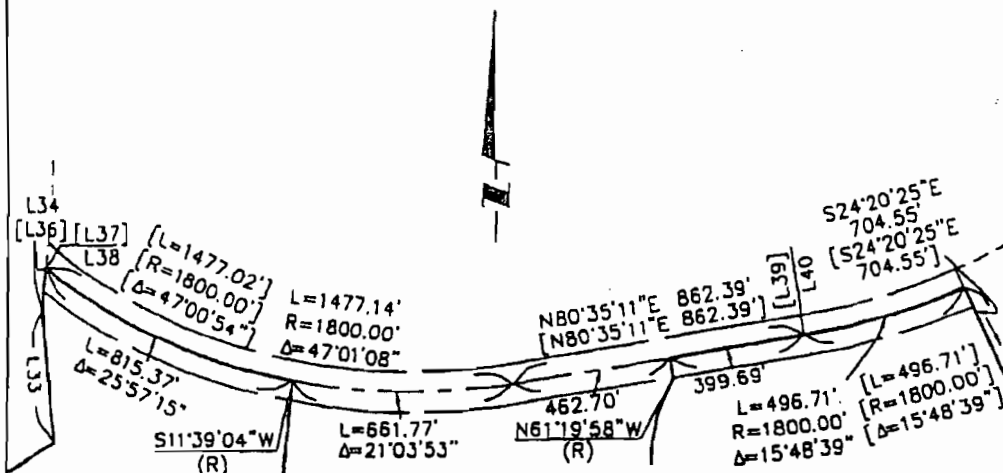
8 |  
9 | As shown on Exhibit "B" attached hereto and made a part hereof.

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30 |

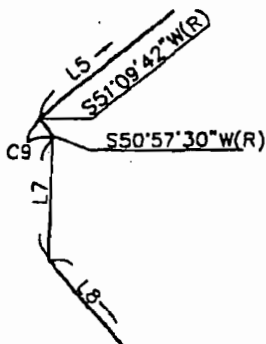


**EXHIBIT A-IV**

# EXHIBIT B



DETAIL 'B'  
SCALE 1" = 400'



DETAIL 'A'  
SCALE 1" = 40'

## LEGEND

- [ ] Record Per Record of Survey 97-1038 RSB 171/1-49.
- () Record Per Quitclaim Deed Recorded December 17, 1998, Instrument No. 19980873633, O.R. and Record of Survey 97-1049, RSB 168/1-16.



SEE SHEET 4 OF 4 FOR  
CURVE AND LINE TABLE

DESCRIPTION: Portions of Parcels 2 and 3, unincorporated territory of the County of Orange, State of California, per O.R. Book 11831, Page 1082.

MCAS-EL TORO

REV 1 5/20/03  
REV 2

SHEET 3 OF 4

PSOMAS

300 Red Hill Avenue  
Suite 300  
Costa Mesa, CA 92626  
(714) 761-2223 Fax (714) 761-2223

SCALE 1" = 500'

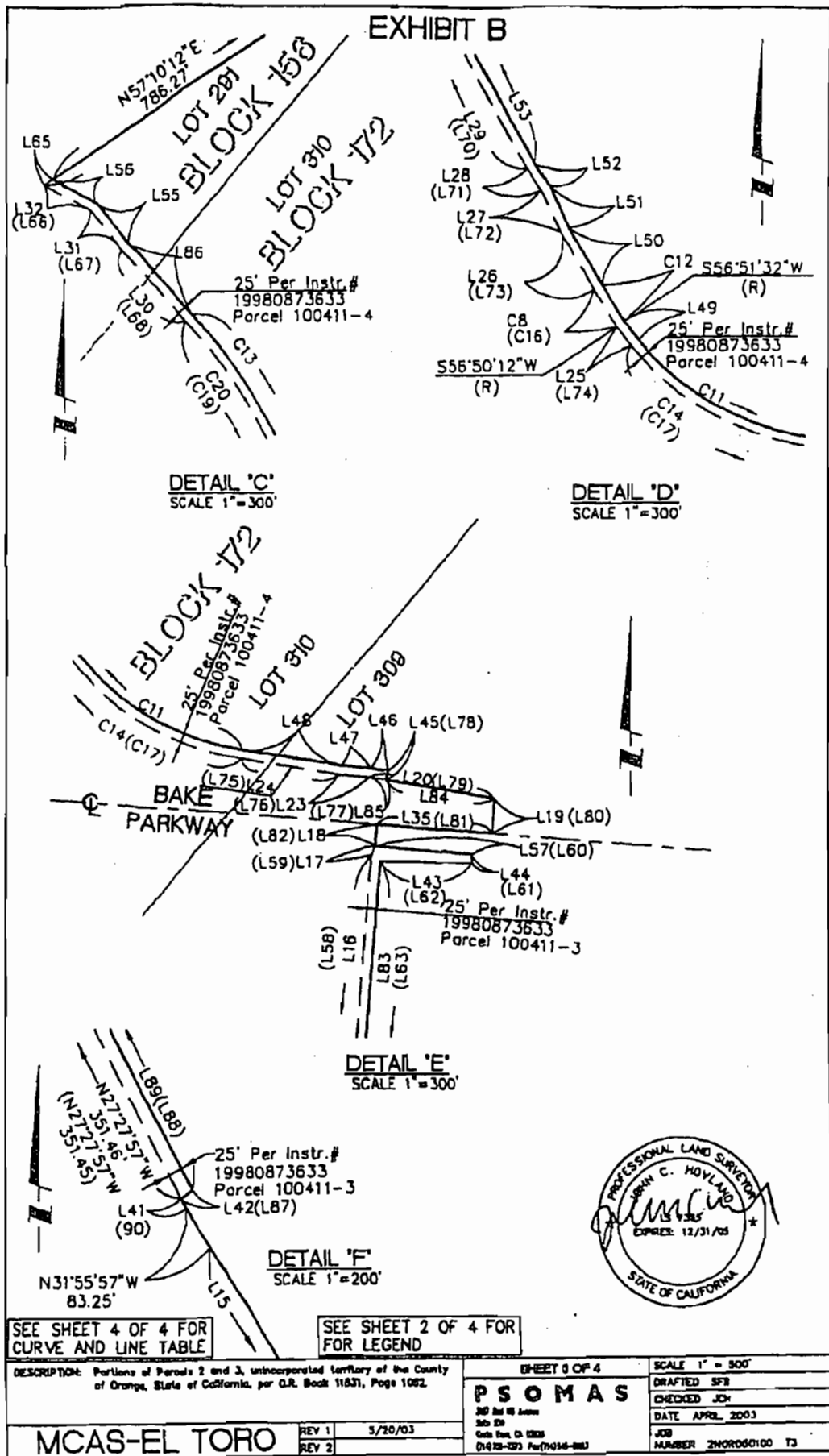
DRAFTED SFB

CHECKED JCH

DATE APRIL, 2003

JOB NUMBER 240R080100 T3

EXHIBIT A-IV



**EXHIBIT A-IV**



## EXHIBIT B

SEE SHEET 2 OF 4 FOR  
FOR LEGEND

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L1	323.29	S04°46'49"W
L2	60.00	N09°24'49"W
L3	269.60	S42°34'48"W
L4	38.56	N84°39'47"W
L5	100.00	S51°09'42"W
L6	490.17	S20°25'53"E
L7	36.23	S02°49'08"W
L8	60.00	S40°47'01"E
L9	36.23	S84°23'22"E
L10	216.54	S41°25'05"W
L11	185.84	S41°30'00"E
L12	325.00	S33°11'01"W
L13	150.37	N85°20'42"W
L14	98.64	N28°16'11"W
L15	319.56	N32°20'05"W
L16	517.15	N04°39'03"E
L17	27.92	N18°31'06"E
L18	57.50	N04°38'58"E
L19	95.79	N04°38'58"E
L20	356.12	N80°29'02"W
L23	81.08	N84°45'40"W
L24	275.40	N80°28'49"W
L25	63.38	N38°20'00"W
L26	180.06	N30°52'21"W
L27	120.81	N24°13'05"W
L28	68.69	N33°52'58"W
L29	360.05	N28°55'08"W
L30	259.71	N42°50'00"W
L31	135.82	N39°25'00"W
L32	147.34	N62°43'34"W
L33	395.85	N05°37'01"W
L34	128.46	N05°36'08"E
L35	325.78	S85°21'02"E
L36	128.17	[N05°36'08"E]
L37	RADIAL	[S37°36'05"W]
L38	RADIAL	[S37°36'19"W]
L39	RADIAL	[S08°31'46"E]
L40	RADIAL	S08°31'46"E
L41	20.64	N27°27'57"W
L42	25.06	S58°37'33"W
L43	257.70	N88°21'06"W
L44	25.00	N04°38'58"E
L45	25.09	N04°38'50"E
L46	46.02	N80°29'02"W
L47	81.08	N84°45'40"W
L48	274.47	N80°28'49"W
L49	62.25	N38°20'00"W
L50	178.58	N30°52'21"W
L51	121.47	N24°13'05"W

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L52	69.72	N33°52'58"W
L53	358.51	N28°55'06"W
L54	704.13	N26°50'06"W
L55	140.23	N39°25'00"W
L56	138.12	N62°43'34"W
L57	275.50	N85°21'02"W
L58	(517.13)	(N04°39'03"E)
L59	(27.89)	(N19°11'07"E)
L60	(275.50)	(S85°20'57"E)
L61	(25.00)	(S04°39'03"W)
L62	(257.85)	(N88°21'01"W)
L63	(505.63)	(S04°39'03"W)
L65	28.84	N57°10'12"E
L66	(147.46)	(S82°43'34"E)
L67	(135.82)	(S39°25'00"E)
L68	(259.70)	(S42°50'00"E)
L70	(360.04)	(S28°55'06"E)
L71	(68.69)	(S33°52'58"E)
L72	(120.81)	(S24°13'05"E)
L73	(180.05)	(S30°52'21"E)
L74	(63.38)	(S38°20'00"E)
L75	(275.39)	(S80°28'49"E)
L76	(81.05)	(S84°43'32"E)
L77	(47.21)	(S80°28'49"E)
L78	(25.09)	(N04°39'03"E)
L79	(356.11)	(S80°28'49"E)
L80	(95.79)	(S04°39'03"W)
L81	(325.78)	(S85°20'57"E)
L82	(57.50)	(S04°39'03"W)
L83	505.72	N04°39'03"E
L84	308.91	N80°29'02"W
L85	47.21	N80°29'02"W
L86	258.97	N42°50'00"W
L87	(25.06)	(S58°37'33"W)
L88	(349.74)	(S27°27'57"E)
L89	349.74	N27°27'57"W
L90	(20.64)	(N27°27'57"W)

CURVE TABLE			
NO.	LENGTH(FT)	RADIUS(FT)	DELTA
C1	265.18	518.00	29°19'55"
C2	39.42	770.00	02°56'00"
C3	195.55	1850.00	06°03'23"
C4	157.90	140.00	64°37'23"
C5	129.97	420.00	17°43'51"
C6	260.10	464.02	32°07'00"
C8	117.55	2940.11	02°17'27"
C9	6.57	1850.00	00°12'12"
C10	246.09	439.02	32°07'00"
C11	533.33	725.03	42°08'49"
C12	115.44	2915.11	02°16'08"
C13	397.91	1425.05	15°59'54"
C14	551.72	750.03	42°08'49"
C15	(246.08)	(439.00)	(32°07'00")
C16	(117.55)	(2940.00)	(02°17'27")
C17	(551.70)	(750.00)	(42°08'49")
C18	(260.09)	(464.00)	(32°07'00")
C19	(390.91)	(1400.00)	(15°59'54")
C20	390.93	1400.05	15°59'54"

DESCRIPTION: Portions of Parcels 2 and 3, unincorporated territory of the County of Orange, State of California, per O.R. Book 11831, Page 1032.

MCAS-EL TORO

REV 1 5/20/03  
REV 2

SHEET 4 OF 4

**PSOMAS**

302 1st St. Suite 201  
Costa Mesa, CA 92626  
(714) 761-1271 Fax (714) 444-8883

SCALE 1" = 500'

DRAFTED SFB

CHECKED JCH

DATE APRIL 2003

JOB

NUMBER 2N09080100 TJ

## EXHIBIT A-IV



# EXHIBIT 'B'

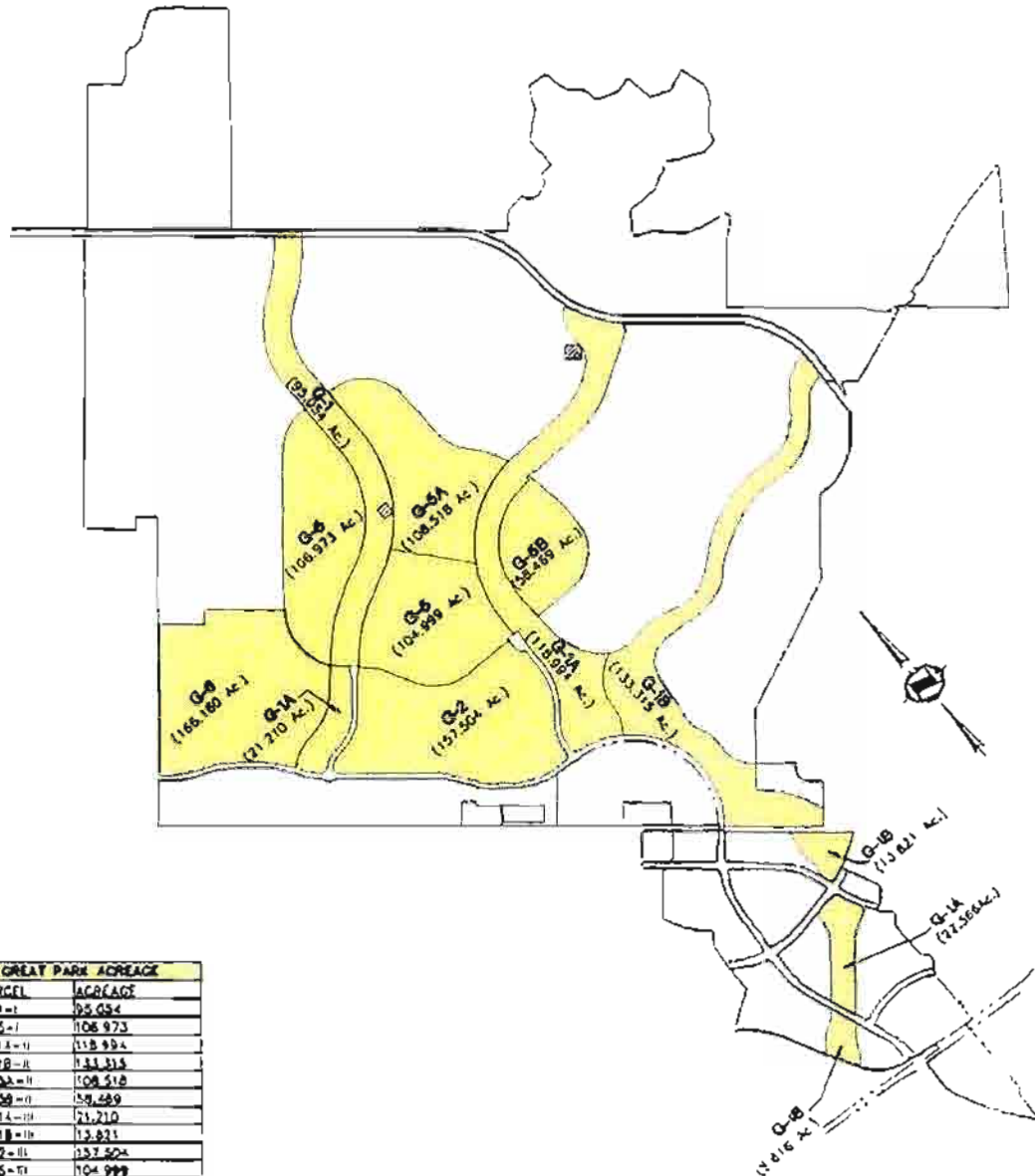
**ACREAGE SUMMARY**  
TOTAL ACREAGE OF THE GREAT PARK: 1,117,199 AC.

**DISCLOSURE EXPLANATION:**  
THE PARCELS SHOWN HEREON REPRESENT THE GREAT PARK PARCELS AS DESCRIBED IN THE DEVELOPMENT AGREEMENT RECORDED 7/12/08 AS INSTRUMENT NO. 2008000328135 OF OFFICIAL RECORDS.

THE ACREAGES SHOWN HEREON DO NOT INCLUDE FAA PARCELS WHICH ARE NOT A PART OF THE SUBJECT PROPERTY.

## LEGEND

- GREAT PARK CITY PARCELS
- INDICATES FAA PARCELS



GREAT PARK ACREAGE	
PARCEL	ACREAGE
G-1	166,180
G-2	21,210
G-3	106,973
G-4	104,999
G-5	104,999
G-6	104,999
G-7	104,999
G-8	104,999
G-9	104,999
G-10	104,999
G-11	104,999
G-12	104,999
G-13	104,999
G-14	104,999
G-15	104,999
G-16	104,999
G-17	104,999
G-18	104,999
<b>TOTAL</b>	<b>1,117,199</b>

<b>HUNSAKER &amp; ASSOCIATES</b> PLANNING • ENGINEERING • SURVEYING 10000 Wilshire Blvd., Suite 1000 • Los Angeles, CA 90024 • Tel: (310) 206-1000 • Fax: (310) 206-1001		<b>INITIAL CITY PARK PROPERTY</b> <b>ORANGE COUNTY GREAT PARK</b> IN THE CITY OF ANAHEIM, COUNTY OF ORANGE, STATE OF CALIFORNIA	
DATE: 7/28/08	BY: W. 7-29-08	FOR: K. LYNN	SCALE: 1" = 100'
C:\KORY\Heritage Fields\ROP+ Revision\EXH-B.dwg		W.D. 1846-80X	

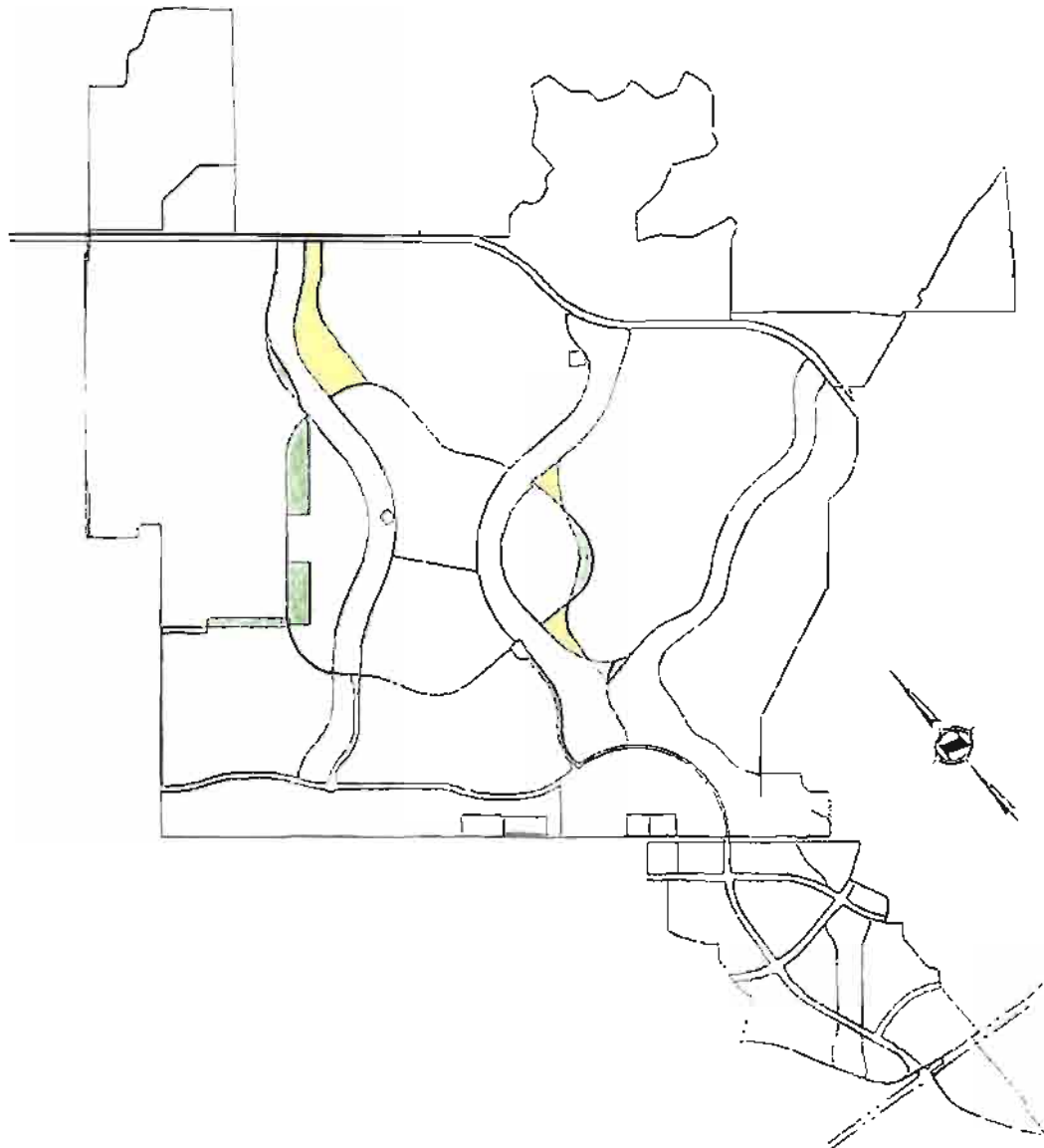
# EXHIBIT "C"

**ACREAGE SUMMARY**  
 TOTAL ACREAGE TO BE GRANTED TO HERITAGE FIELDS: 44,971 AC.  
 TOTAL ACREAGE TO BE GRANTED TO CITY: 44,971 AC.

## LEGEND

- PARCELS TO BE TRANSFERRED TO HERITAGE FIELDS
- PARCELS TO BE TRANSFERRED TO THE CITY OF RYDE

**DISSEY EXPLANATION:**  
 THE PARCELS SHOWN HEREON REPRESENT A PROPOSED EXCHANGE OF PROPERTY BASED ON THE APPROVED OCTOBER, 2008, GENERAL PLAN AMENDMENT AND ZONE CHANGE, PARCEL MAP 2008-271 AND THE AGREEMENT FOR EXCHANGE OF PROPERTY.



<b>MUNSAKER &amp; ASSOCIATES</b> PLANNING • ENGINEERING • SURVEYING 11001 Highway 1 • Suite 200 • Irvine, CA 92618 • Tel: 949.261.0700 • Fax: 949.261.0701		<b>EXCHANGE PROPERTIES</b> IN THE CITY OF RYDE, COUNTY OF ORANGE, STATE OF CALIFORNIA	
DATE: 7/25/03 BY: 03/05/09 FOR: R. VAELEER	DATE: 7/25/03 BY: 03/05/09 FOR: R. VAELEER	SCALE: 1"=2000' W.O. 1865-80X	W.O. 1865-80X

# EXHIBIT "D"

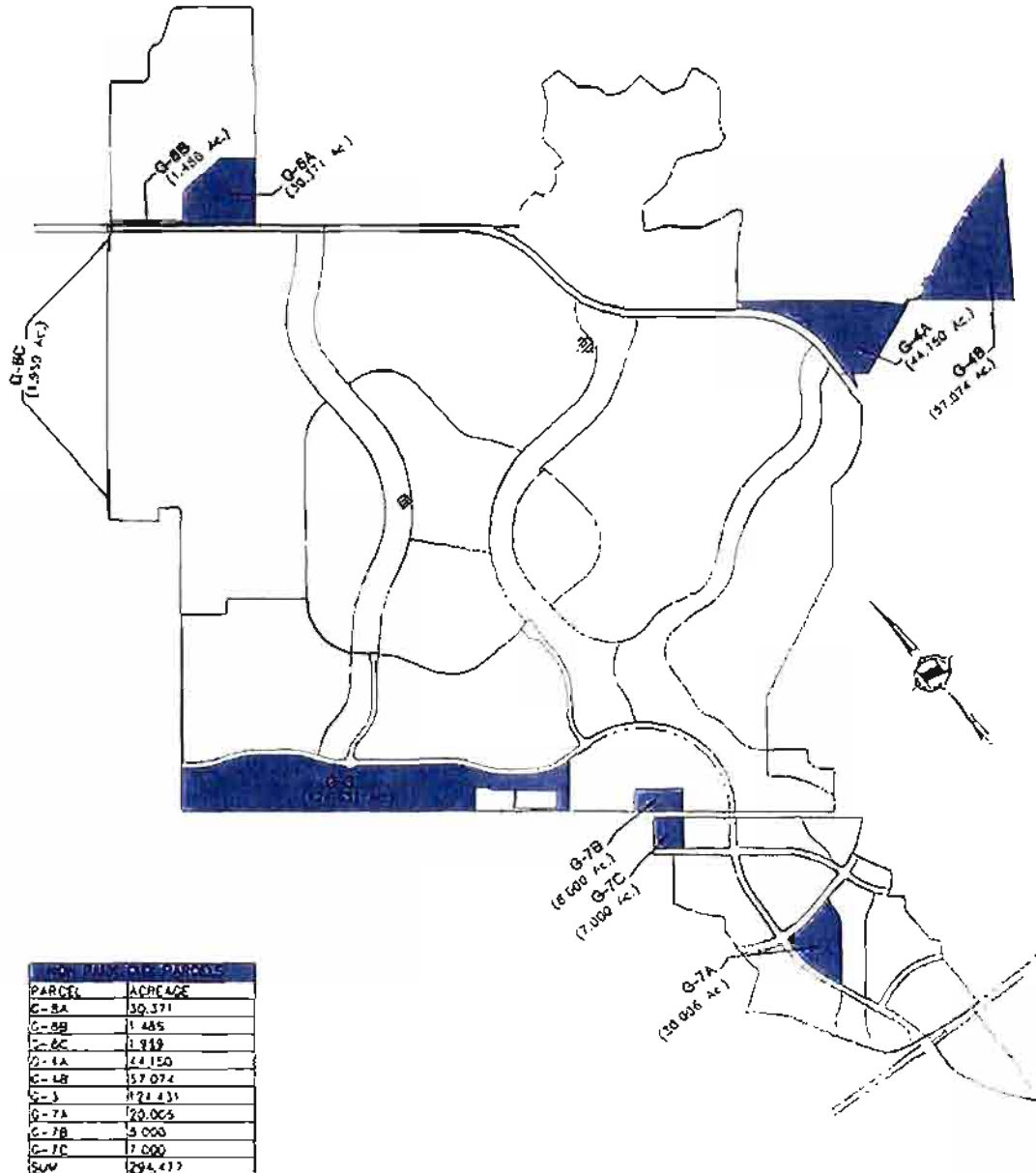
ACREAGE SUMMARY  
TOTAL ACREAGE OF NON-PARK CITY PROPERTY: 384,473 AC.

## LEGEND

- NON-PARK CITY PROPERTY
- INDICATES F&B PARCELS

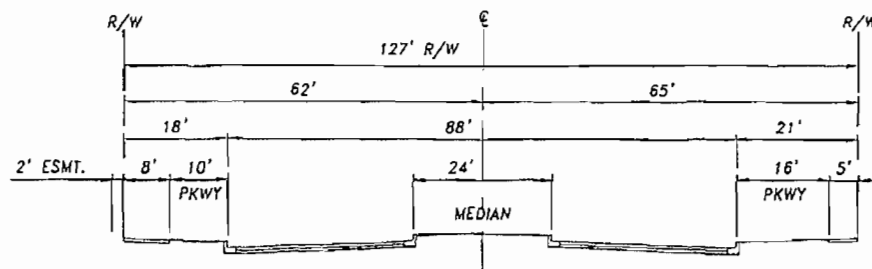
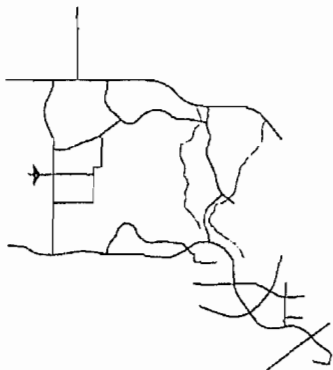
COMMIT EXPLANATION:  
THE PARCELS SHOWN HEREON REPRESENT THE CITY PARCELS AS DESCRIBED IN THE DEVELOPMENT AGREEMENT #1 (RECORDED 7/12/03) AS INSTRUMENT NO. 200500033812 OF OFFICIAL RECORDS NOT ASSOCIATED WITH THE GREAT PARK PROPERTY. THE ACREAGES REPRESENT THESE PARCELS AS DESCRIBED EXCLUDING ANY PORTION OF SAID PARCELS LYING WITHIN F&B PARCELS 7 AND 8 AND HOME PARCELS 1 AND 5. PARCEL C-8C IS SHOWN HEREON AS DESCRIBED IN CONNECTION GRANT DEED RECORDED 3/7/08 AS INSTRUMENT NO. 2008000141833 O.R.

THE ACREAGES SHOWN HEREON DO NOT INCLUDE HOME PARCELS WHICH ARE NOT A PART OF THE SUBJECT PROPERTY.

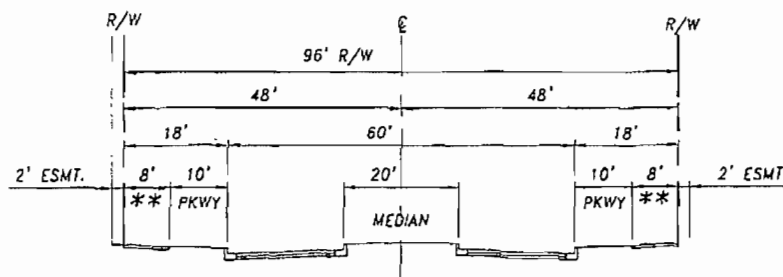
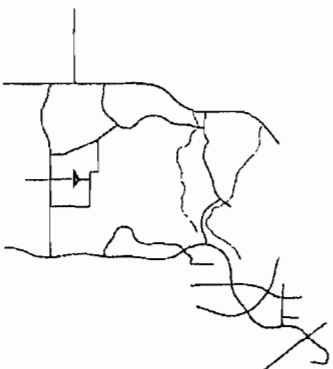


<b>HUNSAXER &amp; ASSOCIATES</b> PLANNING • ENGINEERING • SURVEYING 1000 N. GATEWAY • SUITE 100 • SAN ANTONIO, TEXAS 78205 • TEL: 214-591-1000		<b>ORIGINAL NON-PARK PROPERTY</b> IN THE CITY OF DALLAS, COUNTY OF DALLAS, STATE OF TEXAS	
DATE: 7/28/08	BY: R. WILLIAMS	SCALE: 1" = 2000'	W.O. 1866-80X
I: \HeritageFields\Exhibits\DA\0903-revised\EXH-D.dwg			

*HERITAGE FIELDS / ORANGE COUNTY GREAT PARK  
GROUP A AND GROUP B FACILITIES CROSS SECTIONS  
JULY 2009*



TRABUCO ROAD



TRABUCO ROAD

\*\* TRAIL TRANSITIONS FROM PARKWAY ADJACENT TO CURB  
ADJACENT AS REQUIRED TO PRESERVE EXISTING TREES

HUNSAKER & ASSOCIATES  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • TEL (949) 261-1210 • FAX (949) 261-0757

MAP DATE: 02/27/09  
BY: [Signature]  
CHECKED BY: [Signature]  
DATE: 02/27/09

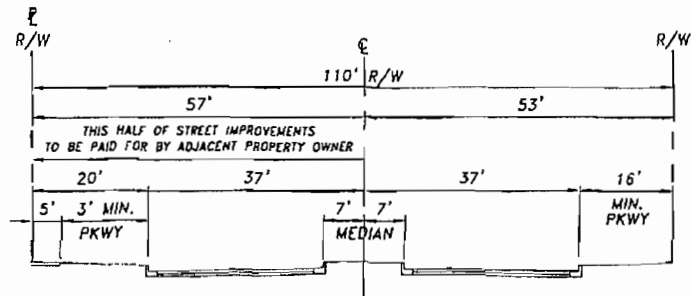
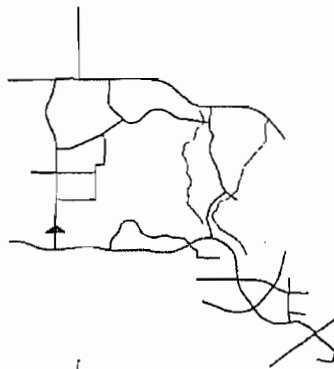
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

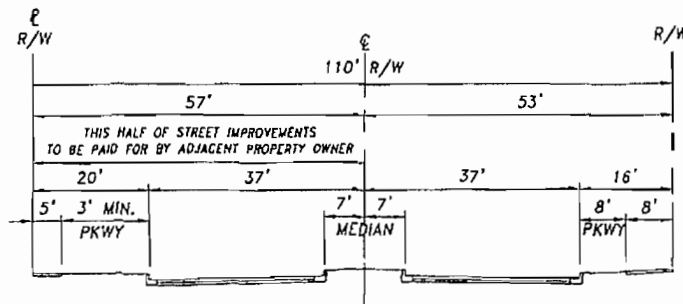
TRABUCO ROAD

PREPARED FOR

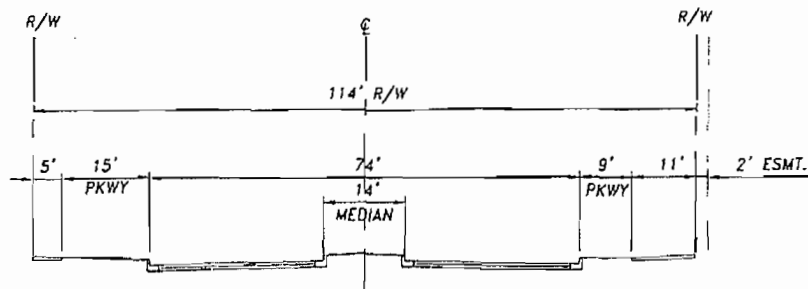
Great Park  
NEIGHBORHOODS



"O" STREET



"O" STREET



"O" STREET

**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • TEL 949 363-1010 • FAX 949 363-6777

DATE: 03/23/09  
BY: D.V.  
CHECKED: D.V.  
DATE: 03/23/09

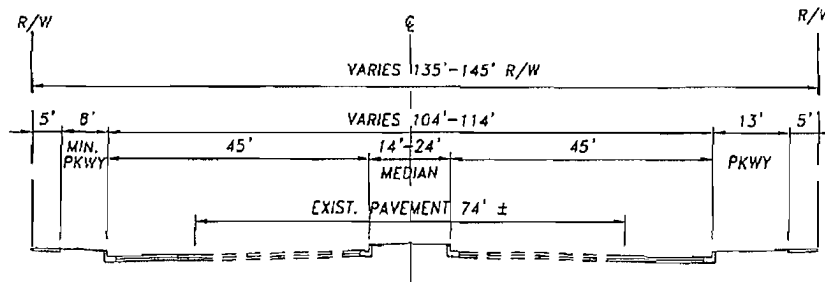
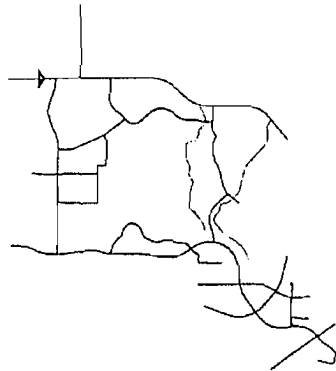
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

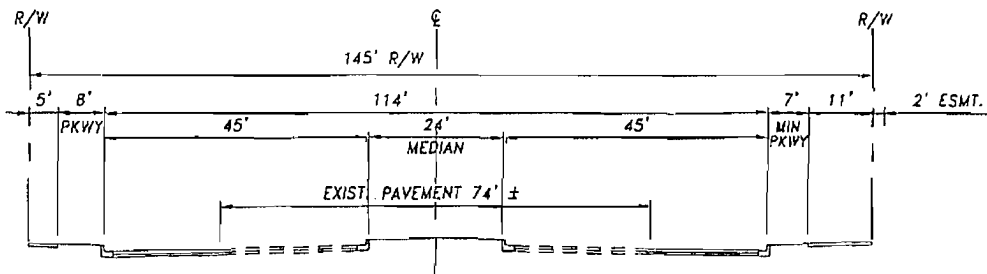
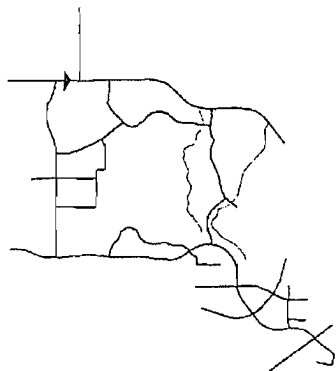
"O" STREET

PREPARED FOR

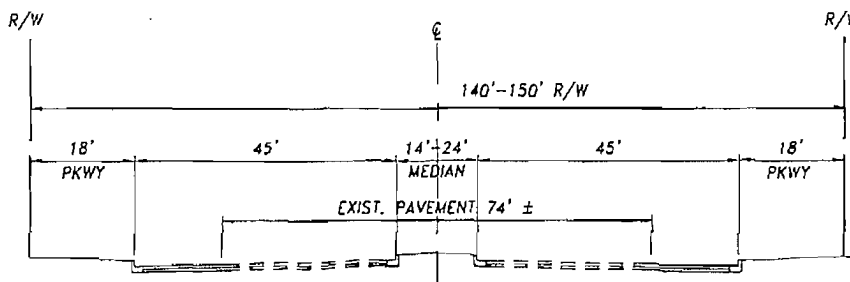
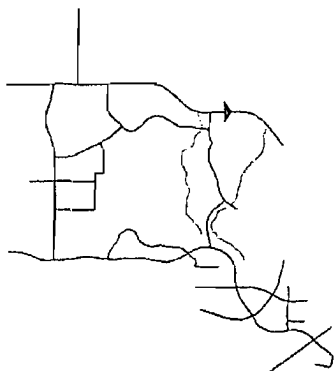
**Great Park**  
NEIGHBORHOODS



IRVINE BOULEVARD



IRVINE BOULEVARD



IRVINE BOULEVARD

**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Palms • Irvine, CA 92618 • TEL 949 363-1970 • FAX 949 363-6778

MAP DATE: 03/23/09  
BY: D.V.  
CHECKED: 03/23/09

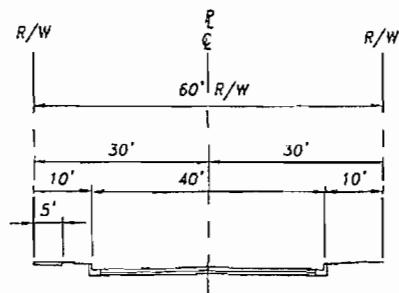
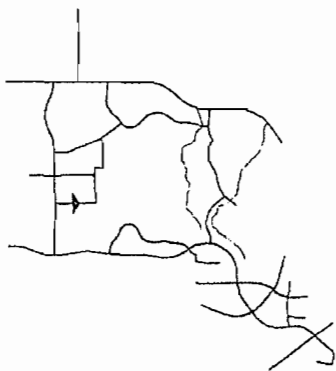
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

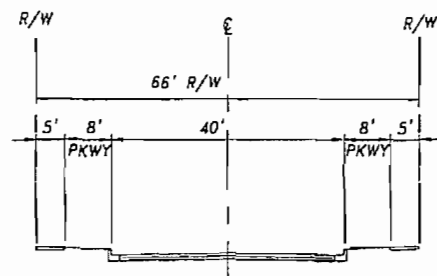
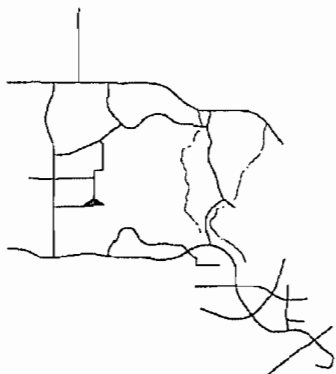
IRVINE BLVD.

PREPARED FOR

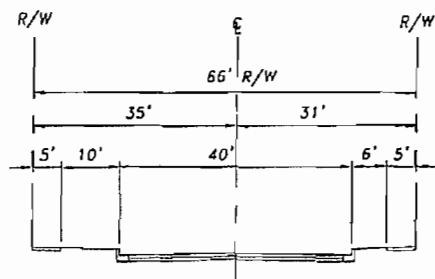
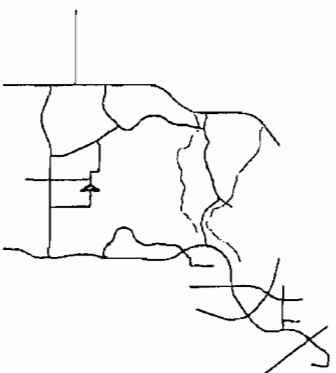
**Great Park**  
NEIGHBORHOODS



"LV" STREET



"Y" STREET



"Y" STREET

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IRVINE, CA  
PLANNING • ENGINEERING • SURVEYING  
Irvine, CA 92618 • Tel: 949.853.1000 • Fax: 949.853.0759

MAP DATE IDENTIFIER  
REV. 01/09  
DATE 03/23/09

HORIZONTAL SCALE: 1" = 30'

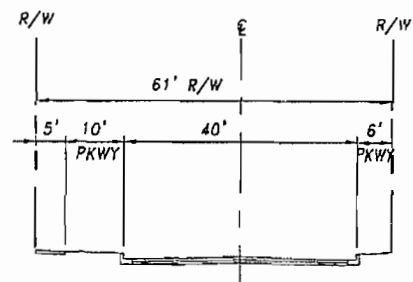
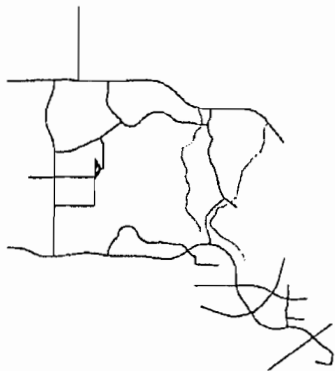
BACKBONE STREETS

"LV" STREET &  
"Y" STREET

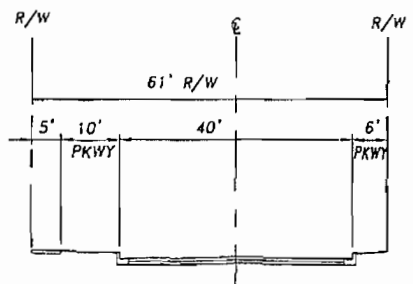
PREPARED FOR

**Great Park**  
NEIGHBORHOODS





"X" STREET



"T" STREET

**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hagler • Irvine, CA 92618 • TEL 949 261-9700 • FAX 949 261-9701

IMP. DATE: 02/23/09  
BY: D.V.  
CHECKED: D.V.  
DATE: 03/23/09

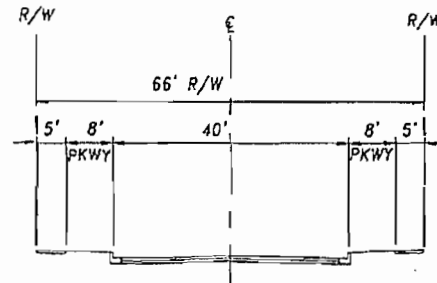
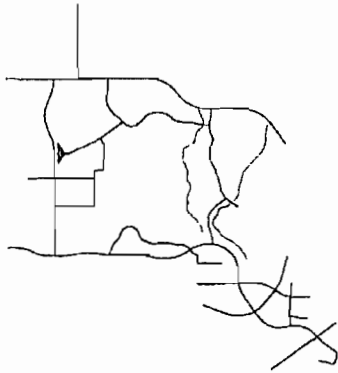
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

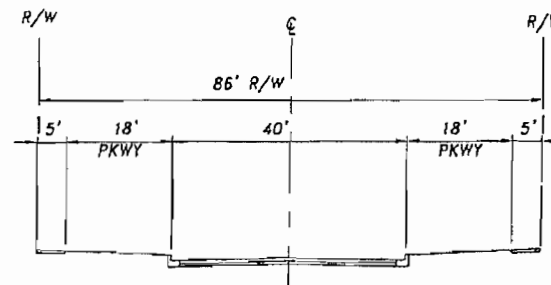
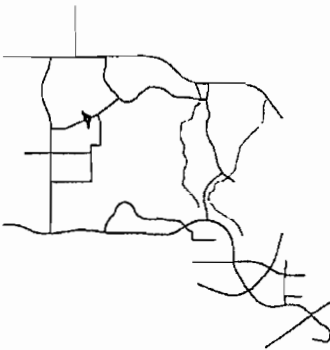
"X" STREET &  
"T" STREET

PREPARED FOR

**Great Park**  
NEIGHBORHOODS



"LQ" STREET



"LQ" STREET

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MAP DATE: 03/23/09  
 BY: D.V.  
 DATE: 03/23/09

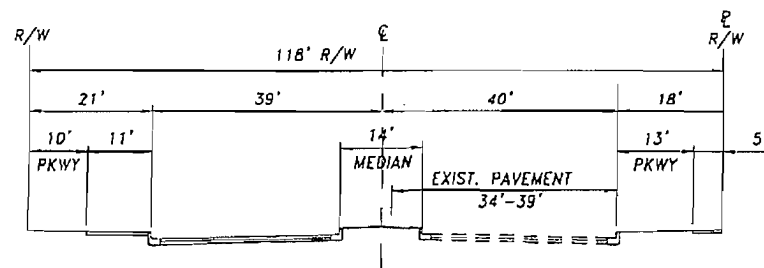
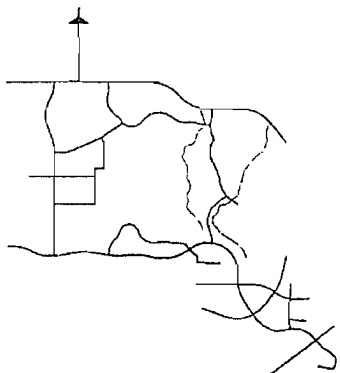
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

"LQ" STREET

PREPARED FOR

**Great Park**  
 NEIGHBORHOODS



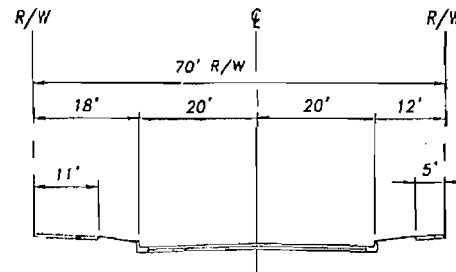
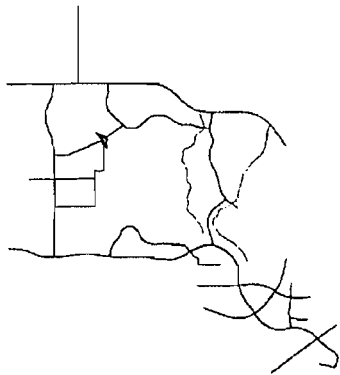
RIDGE VALLEY

**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • TEL (949) 263-9700 • FAX (949) 263-9751

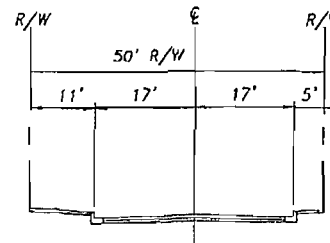
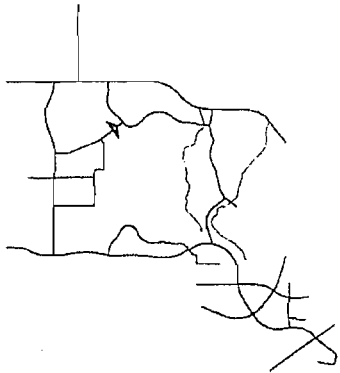
MAP DATE: 02/11/09  
BY: D.V.  
CHECKED: 03/23/09

HORIZONTAL SCALE: 1" = 30'

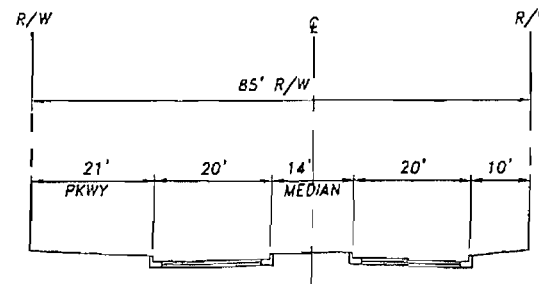
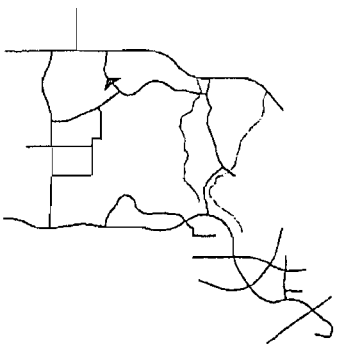
BACKBONE STREETS	PREPARED FOR
RIDGE VALLEY	Great Park NEIGHBORHOODS



**"Q" STREET**  
(APPROVED ON AMENDED VTTM 17008 AS "T" ST.)



**"Q" STREET**  
(APPROVED ON AMENDED VTTM 17008 AS "T" ST.)



**"A" STREET**

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REV. 03/23/08  
BY: SV

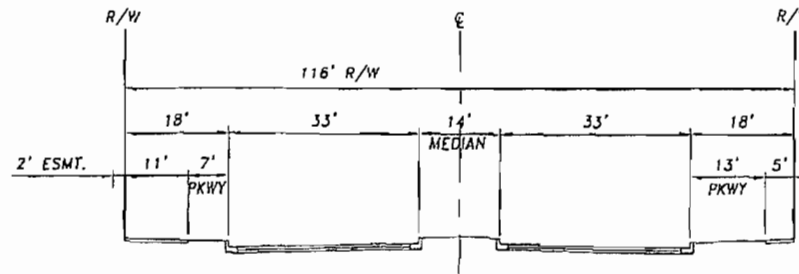
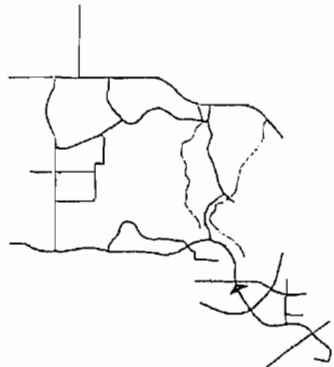
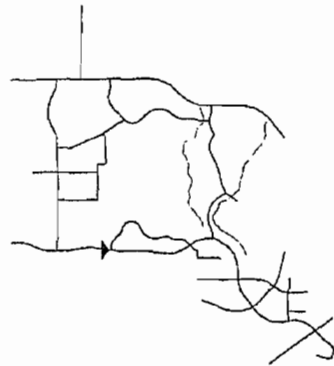
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**BACKBONE STREETS**

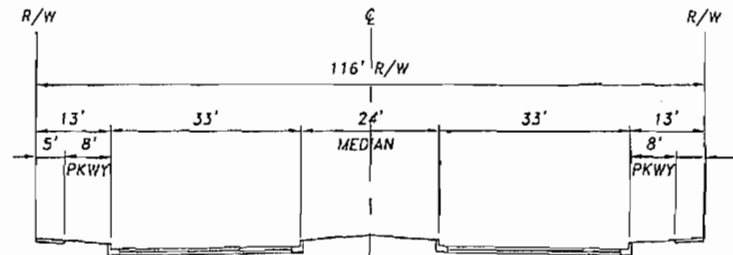
**"Q" STREET &  
"A" STREET**

**PREPARED FOR**

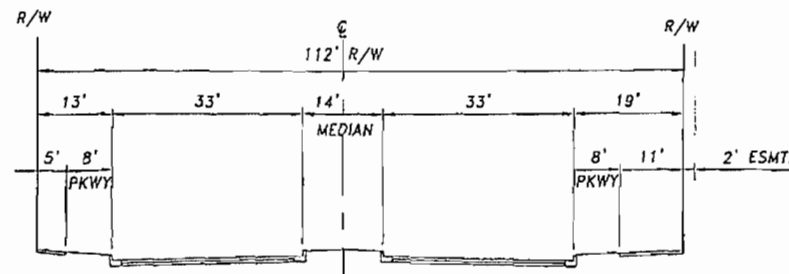
**Great Park  
NEIGHBORHOODS**



MARINE WAY



MARINE WAY



MARINE WAY

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MAP DATE: 03/23/09  
BY: B.V.  
03/23/09

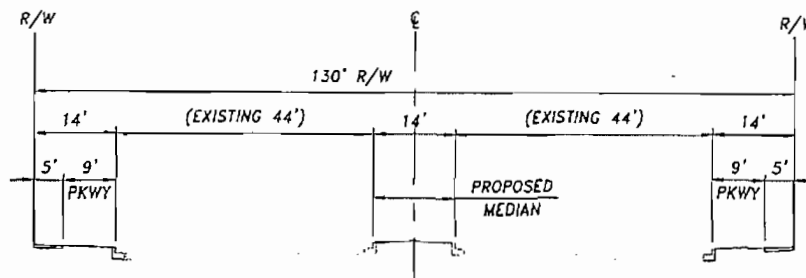
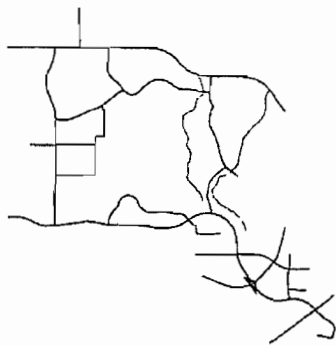
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BACKBONE STREETS

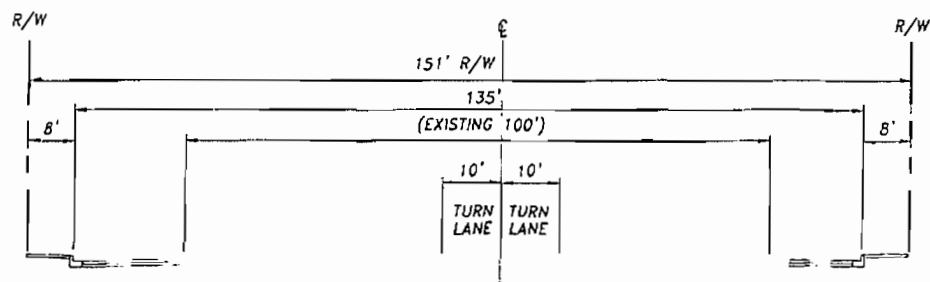
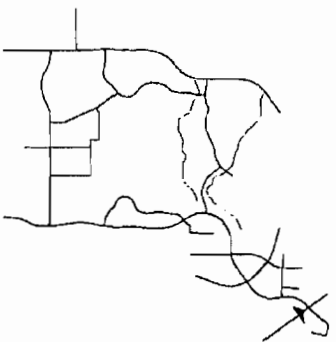
MARINE WAY

PREPARED FOR

**Great Park**  
NEIGHBORHOODS



ALTON PARKWAY



BAKE PARKWAY

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MAP DATE: 07/21/09  
DATE: 07/21/09  
BY: [Signature]

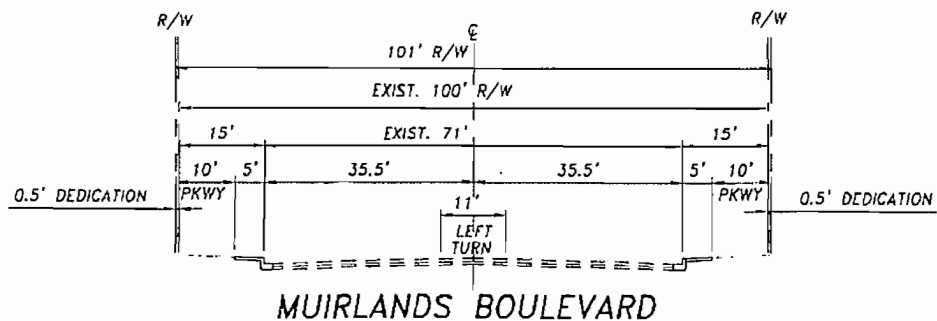
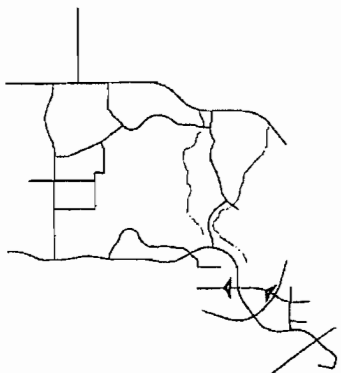
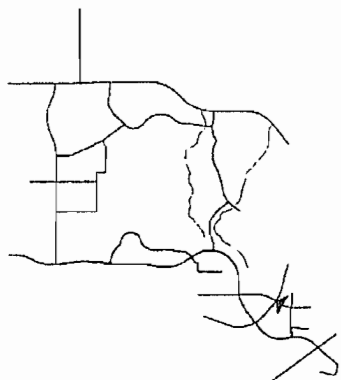
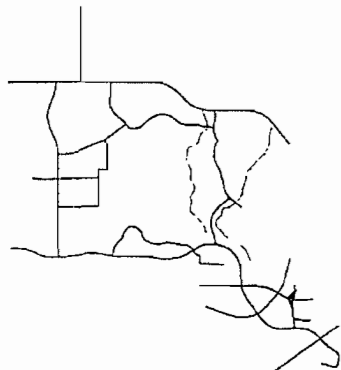
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BACKBONE STREETS

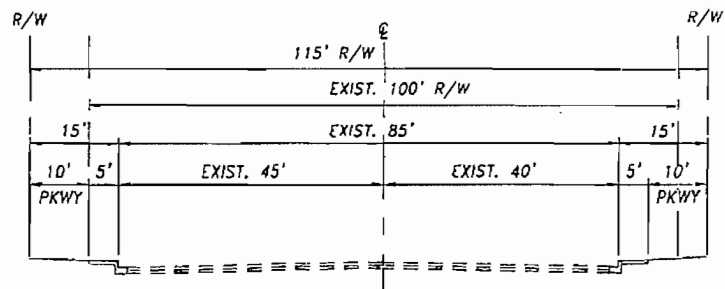
ALTON &  
BAKE PARKWAY

PREPARED FOR

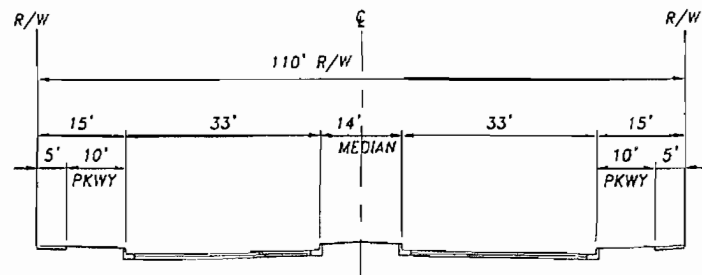
**Great Park**  
NEIGHBORHOODS



MUIRLANDS BOULEVARD



MUIRLANDS BOULEVARD



BARRANCA PARKWAY

BACKBONE STREETS

MUIRLANDS &  
BARRANCA

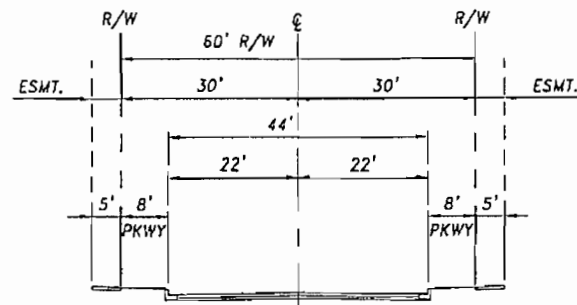
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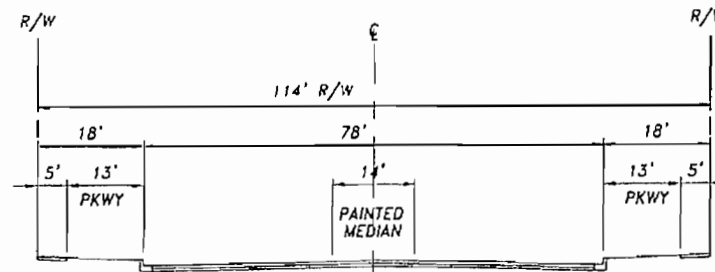
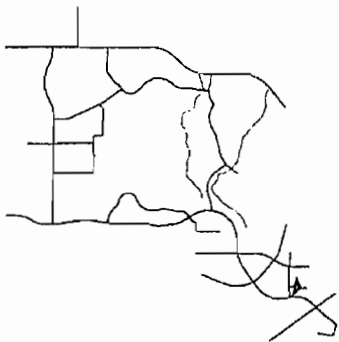
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MAP DATE: 03/23/09  
BY: D.V.  
CHECKED: D.V.  
DATE: 03/23/09

HORIZONTAL SCALE: 1" = 30'



"H" STREET



ROCKFIELD BOULEVARD

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MAP DATE: 03/23/09  
BY: [Signature]  
CHECKED: [Signature]  
DATE: 03/23/09

HORIZONTAL SCALE: 1" = 30'

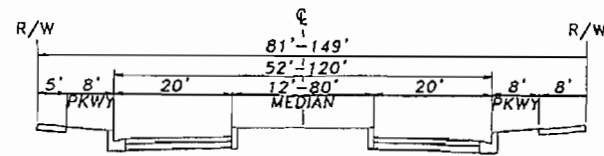
BACKBONE STREETS

"H" STREET &  
ROCKFIELD

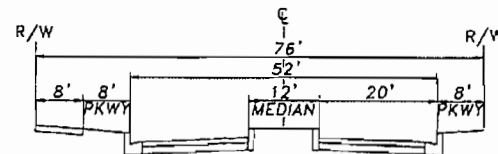
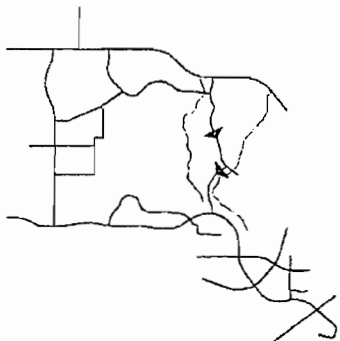
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NEIGHBORHOODS

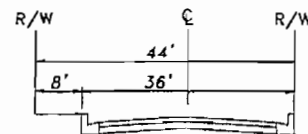
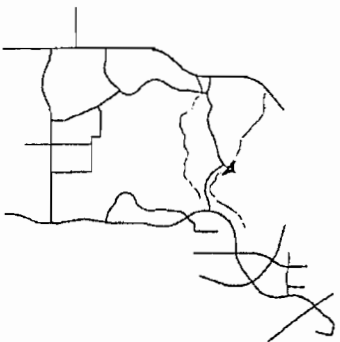




"C" STREET



"D" & "E" STREET



"PE" STREET

**RBF**

MAP DATE: 11/11/09  
DATE: 11/11/09  
BY: D.V.

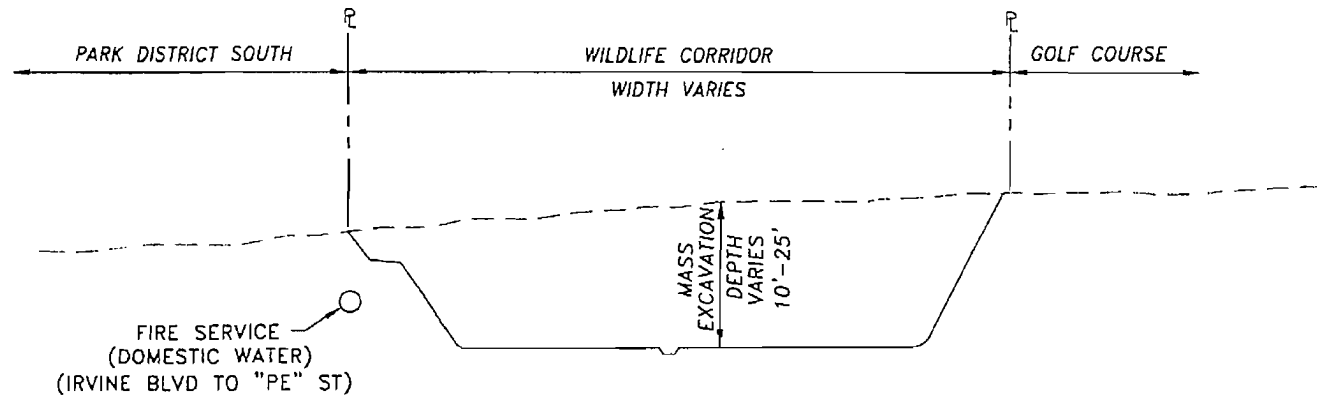
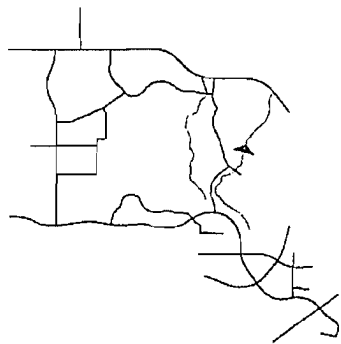
HORIZONTAL SCALE: 1" = 30'

BACKBONE STREETS

"C" STREET  
"D" & "E" STREET  
"PE" STREET

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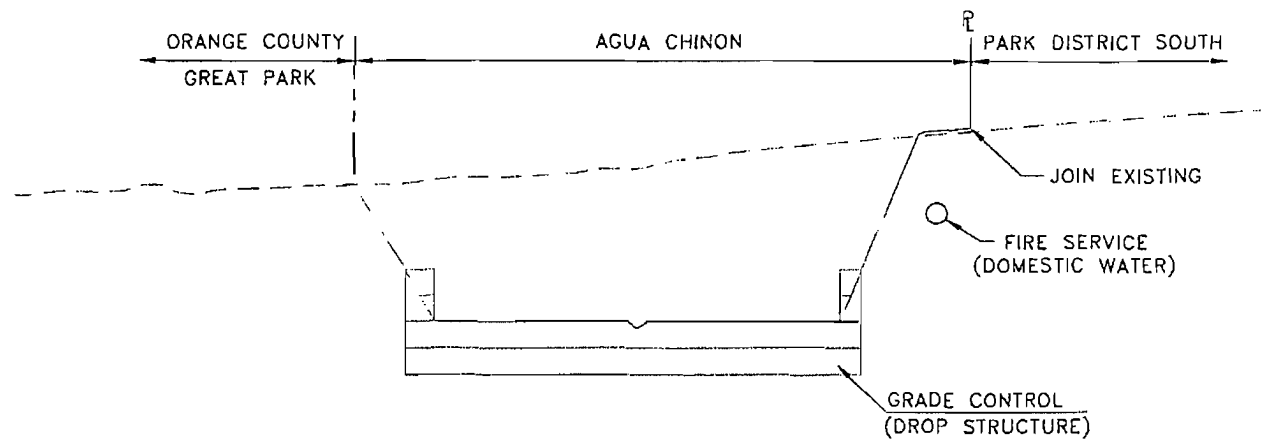
# WILDLIFE CORRIDOR MASS EXCAVATION (FROM IRVINE BLVD TO BORREGO CHANNEL)

**RBF**

MAP DATE	08/07/09
BY	07/08/09
BY	07/08/09
BY	07/08/09

HORIZONTAL SCALE: 1" = 100'

BACKBONE STREETS	PREPARED FOR
WILDLIFE CORRIDOR	Great Park NEIGHBORHOODS



AGUA CHINON  
(FROM IRVINE BLVD TO NORTH OF MARINE WAY)

**RBF**

MAP DATE CENTER  
11/17/08  
07/04/09

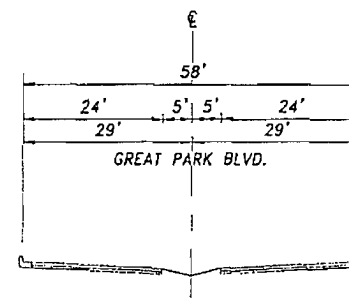
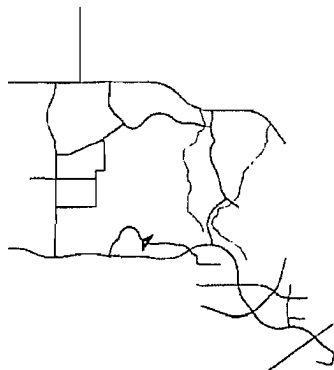
HORIZONTAL SCALE: 1" = 100'

BACKBONE STREETS

AGUA CHINON

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# **\*GREAT PARK BOULEVARD**

**\* NOTE: SECTION TAKEN FROM OCGP SCHEMATIC DESIGN**

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MAP DATE CENTER  
BY: [Signature]  
DATE: 03/23/09  
BY: [Signature]  
DATE: 03/23/09

HORIZONTAL SCALE: 1" = 30'

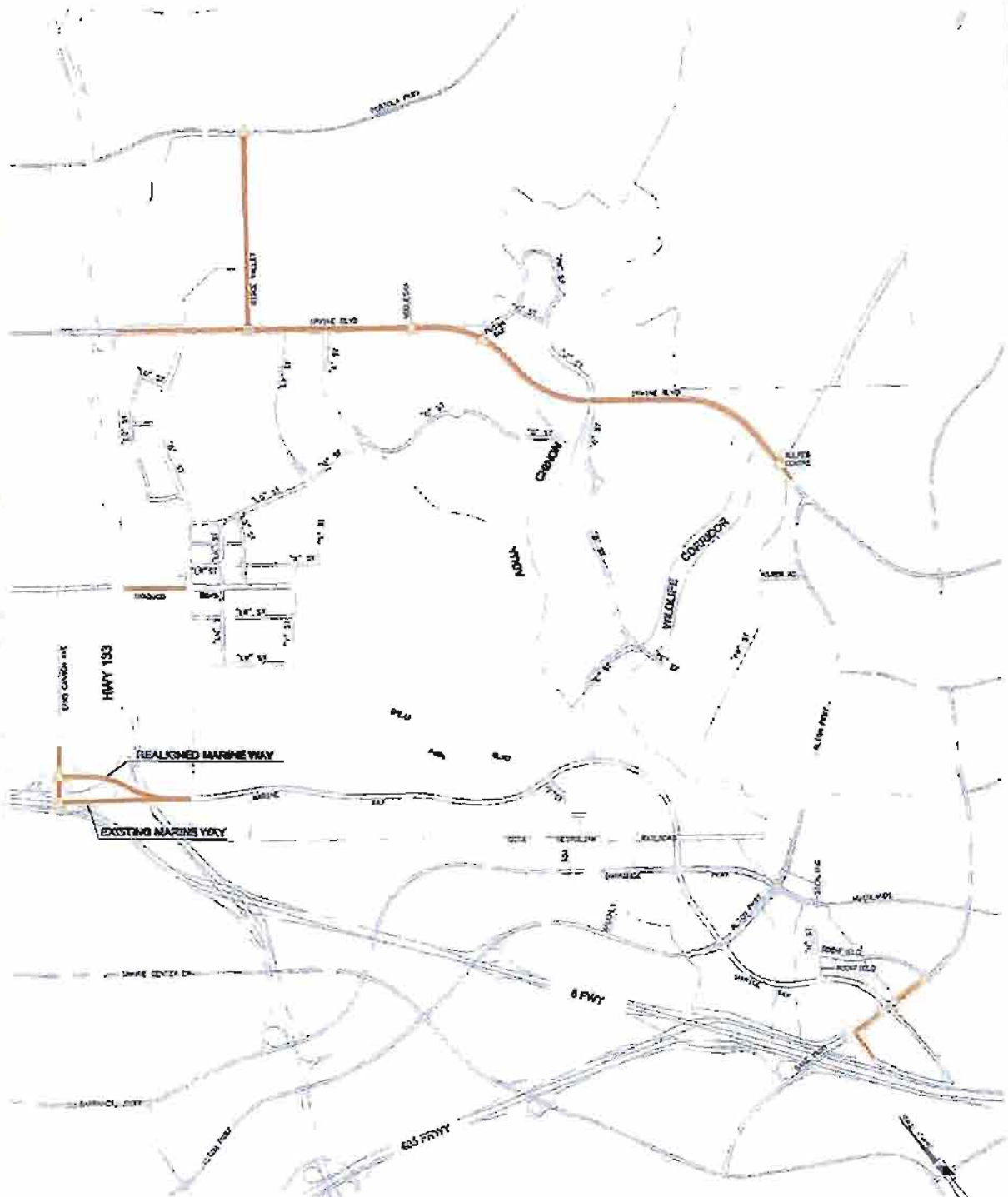
**BACKBONE STREETS**

**GREAT PARK BOULEVARD**

**PREPARED FOR**

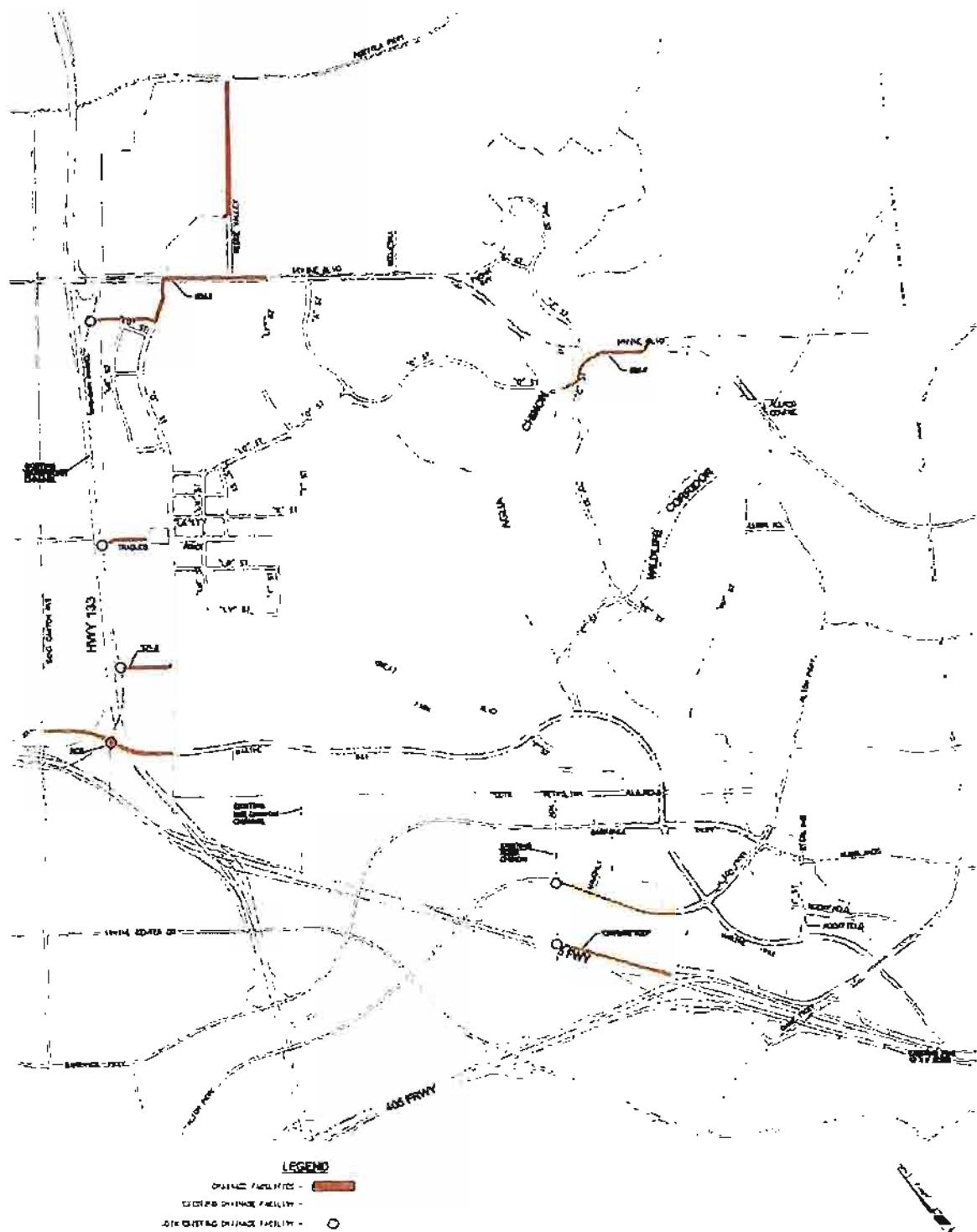
**Great Park**  
NEIGHBORHOODS

# EXHIBIT E-1



## GROUP A FACILITIES OFF-PROPERTY FACILITIES STREETS, SIGNALS AND BRIDGES

## EXHIBIT E-1



GROUP A FACILITIES  
OFF-PROPERTY FACILITIES  
STORM DRAIN

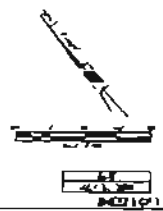
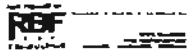


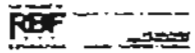
EXHIBIT E-1



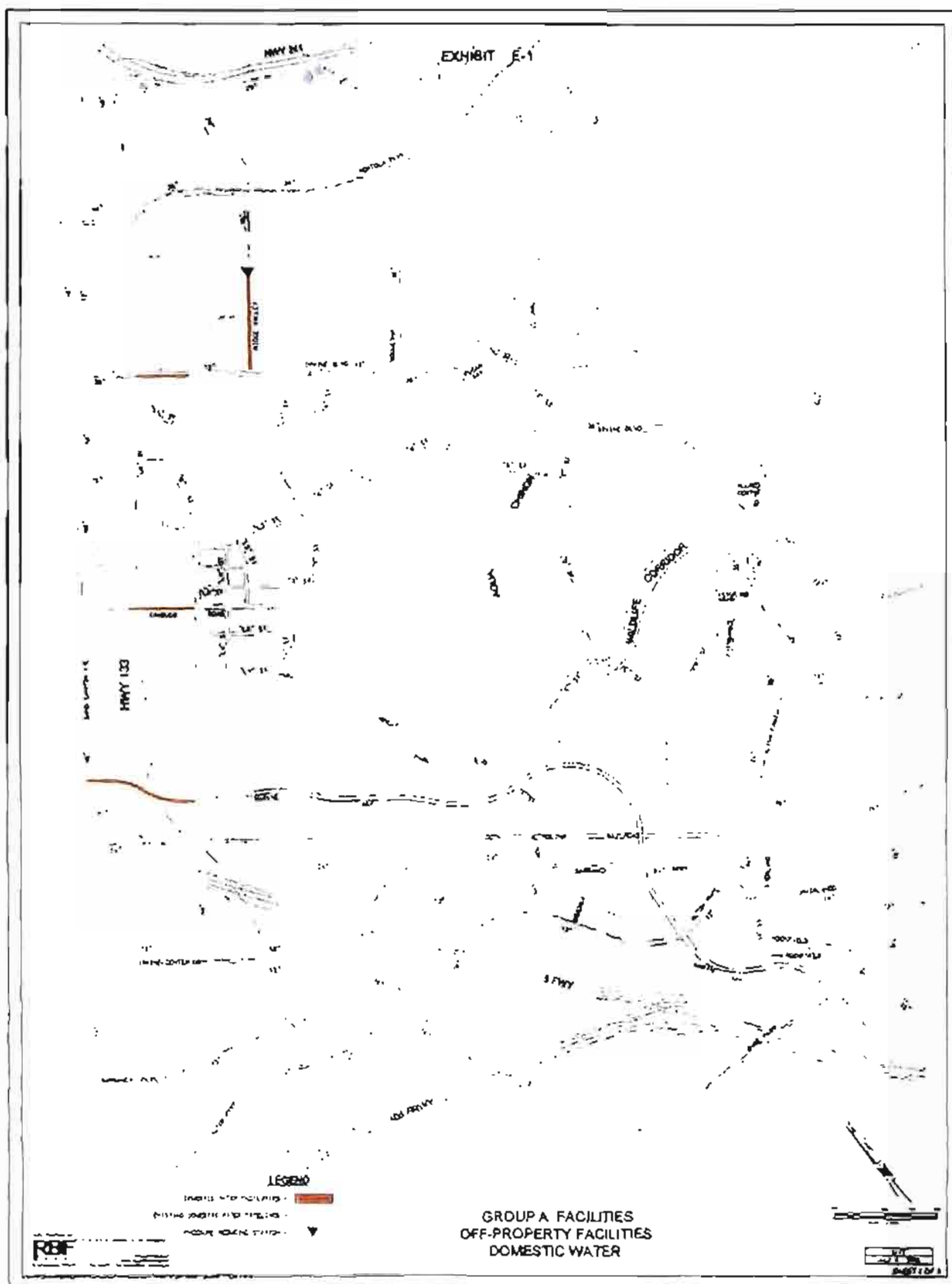
LEGEND

- SEWER FACILITIES - [Symbol]
- EXISTING PROPERTY LINE - [Symbol]

GROUP A FACILITIES  
OFF-PROPERTY FACILITIES  
SEWER



1" = 100'  
SHEET 1 OF 1





GROUP A FACILITIES  
OFF-PROPERTY FACILITIES  
RECYCLED WATER

EXHIBIT E-1

**GROUP A FACILITIES  
OFF-PROPERTY FACILITIES  
DRY UTILITY**


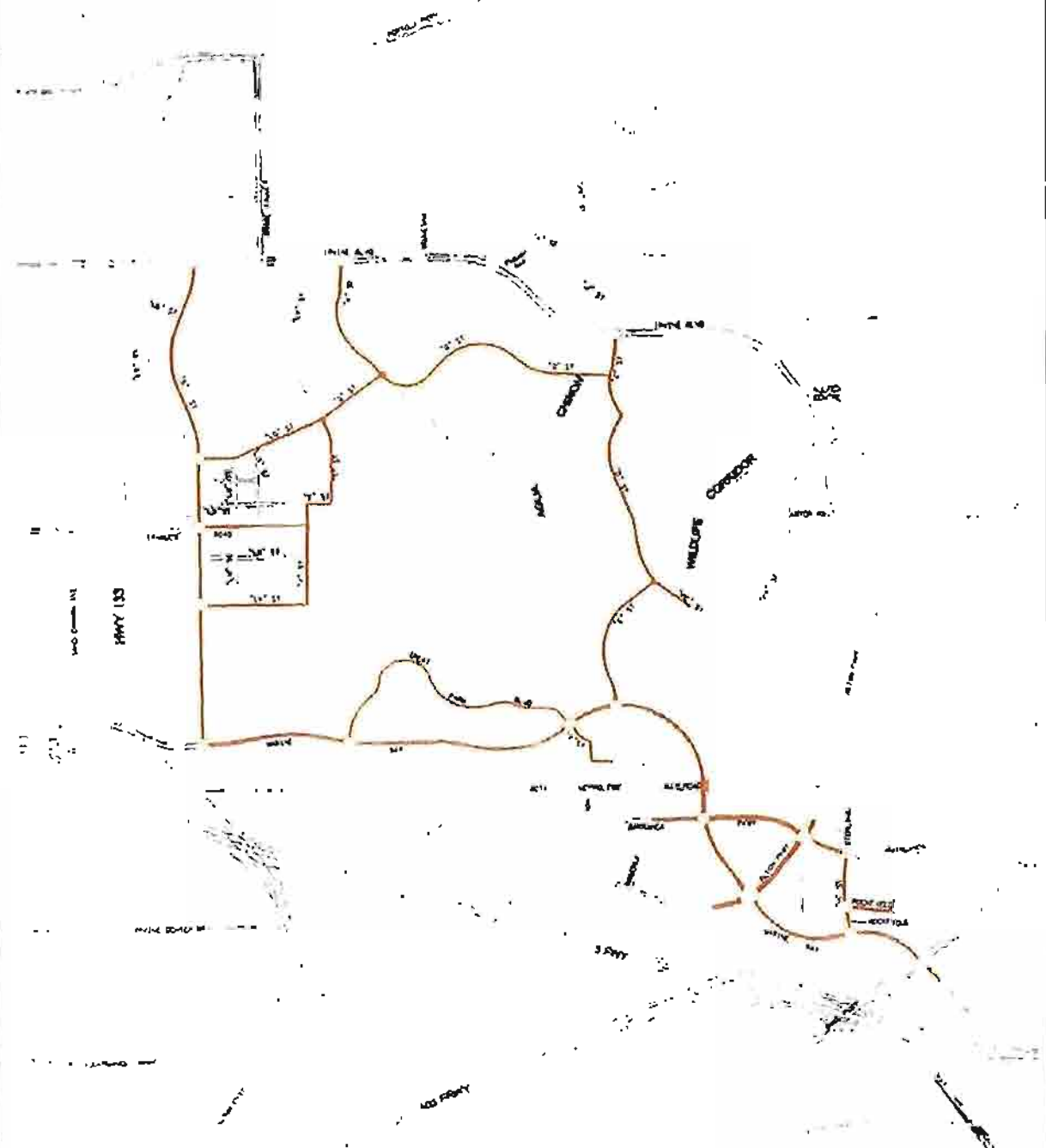
**LEGEND**

- [Symbol] OFF-PROPERTY FACILITIES
- [Symbol] DRY UTILITY

NORTH ARROW

GROUP A FACILITIES  
OFF-PROPERTY FACILITIES  
DRY UTILITY

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
STREETS, SIGNALS AND BRIDGES



RBE  
 RBE  
 RBE

$\frac{1}{2} \times 1000 = 500$   
 $\frac{1}{2} \times 1000 = 500$   
 $\frac{1}{2} \times 1000 = 500$   
 $\frac{1}{2} \times 1000 = 500$

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
STREETS, SIGNALS AND BRIDGES

EXHIBIT E-2

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
STORM DRAIN

LEGEND

- STORM DRAIN LINES
- BUILDING FOOTPRINTS
- ON-PROPERTY FACILITIES
- STORM DRAIN LINES
- STORM DRAIN LINES

SCALE

0 100 200 300 400 500 600 700 800 900 1000

0 100 200 300 400 500 600 700 800 900 1000

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
STORM DRAIN

EXHIBIT E-2

This is a detailed site plan of the Group B facilities on-property sewer system. The plan shows a network of sewer lines, including main lines and laterals, with various manholes and structures labeled. Key features include:

- Legend:** Located at the bottom left, it defines symbols for 'SEWER FACILITIES' (represented by a solid line) and 'PROPERTY LINES' (represented by a dashed line).
- Facility Labels:** Numerous structures are labeled, including 'Bldg 101', 'Bldg 102', 'Bldg 103', 'Bldg 104', 'Bldg 105', 'Bldg 106', 'Bldg 107', 'Bldg 108', 'Bldg 109', 'Bldg 110', 'Bldg 111', 'Bldg 112', 'Bldg 113', 'Bldg 114', 'Bldg 115', 'Bldg 116', 'Bldg 117', 'Bldg 118', 'Bldg 119', 'Bldg 120', 'Bldg 121', 'Bldg 122', 'Bldg 123', 'Bldg 124', 'Bldg 125', 'Bldg 126', 'Bldg 127', 'Bldg 128', 'Bldg 129', 'Bldg 130', 'Bldg 131', 'Bldg 132', 'Bldg 133', 'Bldg 134', 'Bldg 135', 'Bldg 136', 'Bldg 137', 'Bldg 138', 'Bldg 139', 'Bldg 140', 'Bldg 141', 'Bldg 142', 'Bldg 143', 'Bldg 144', 'Bldg 145', 'Bldg 146', 'Bldg 147', 'Bldg 148', 'Bldg 149', 'Bldg 150', 'Bldg 151', 'Bldg 152', 'Bldg 153', 'Bldg 154', 'Bldg 155', 'Bldg 156', 'Bldg 157', 'Bldg 158', 'Bldg 159', 'Bldg 160', 'Bldg 161', 'Bldg 162', 'Bldg 163', 'Bldg 164', 'Bldg 165', 'Bldg 166', 'Bldg 167', 'Bldg 168', 'Bldg 169', 'Bldg 170', 'Bldg 171', 'Bldg 172', 'Bldg 173', 'Bldg 174', 'Bldg 175', 'Bldg 176', 'Bldg 177', 'Bldg 178', 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**RF**

0-0071-0271

EXHIBIT E-2

LEGEND

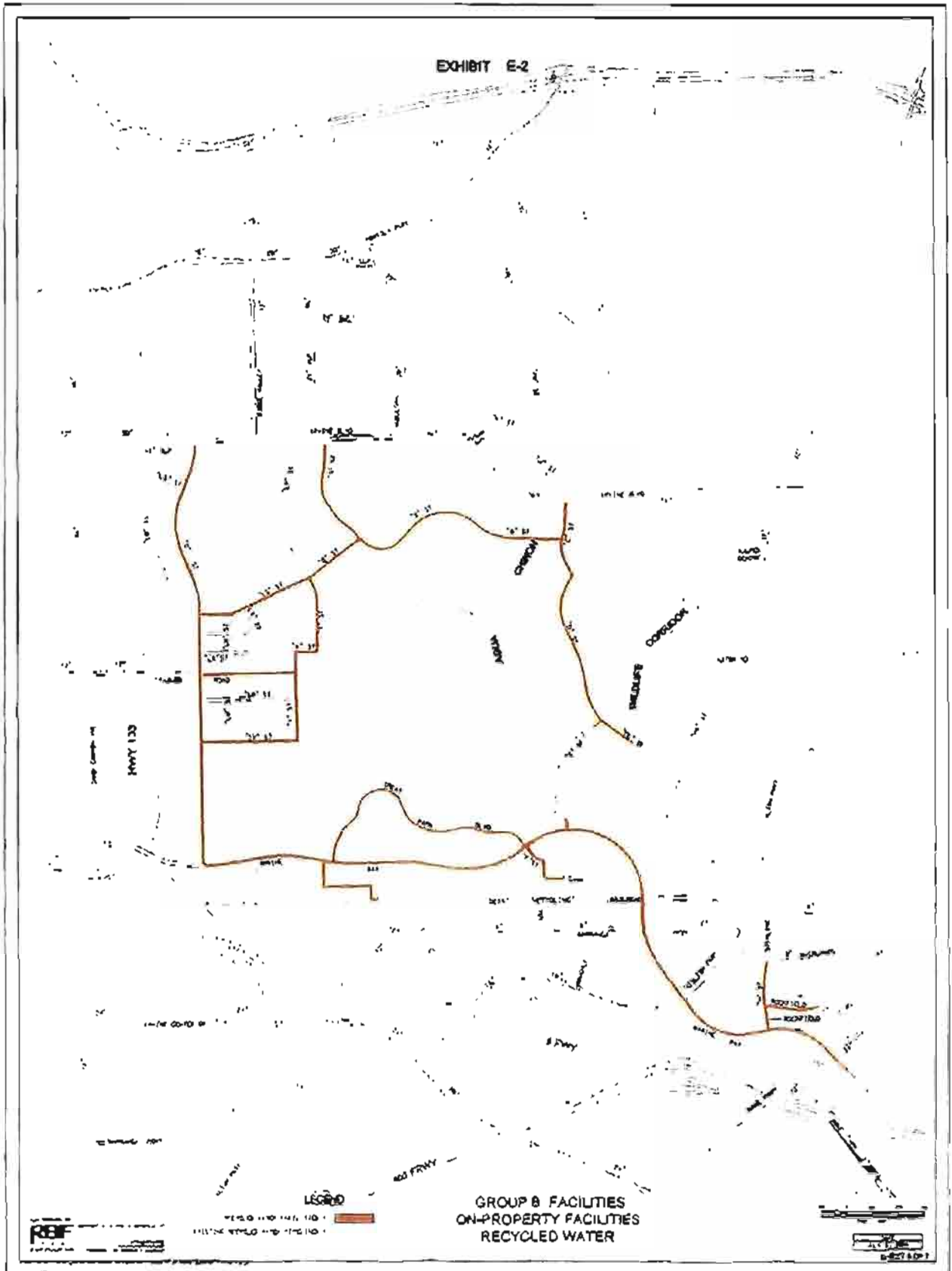
- GROUP B FACILITIES - (Red outline)
- ON-PROPERTY FACILITIES - (Yellow outline)
- EXISTING DOMESTIC WATER PIPING - (Dashed line)
- PROPOSED DOMESTIC PIPING - (Solid line)

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
DOMESTIC WATER

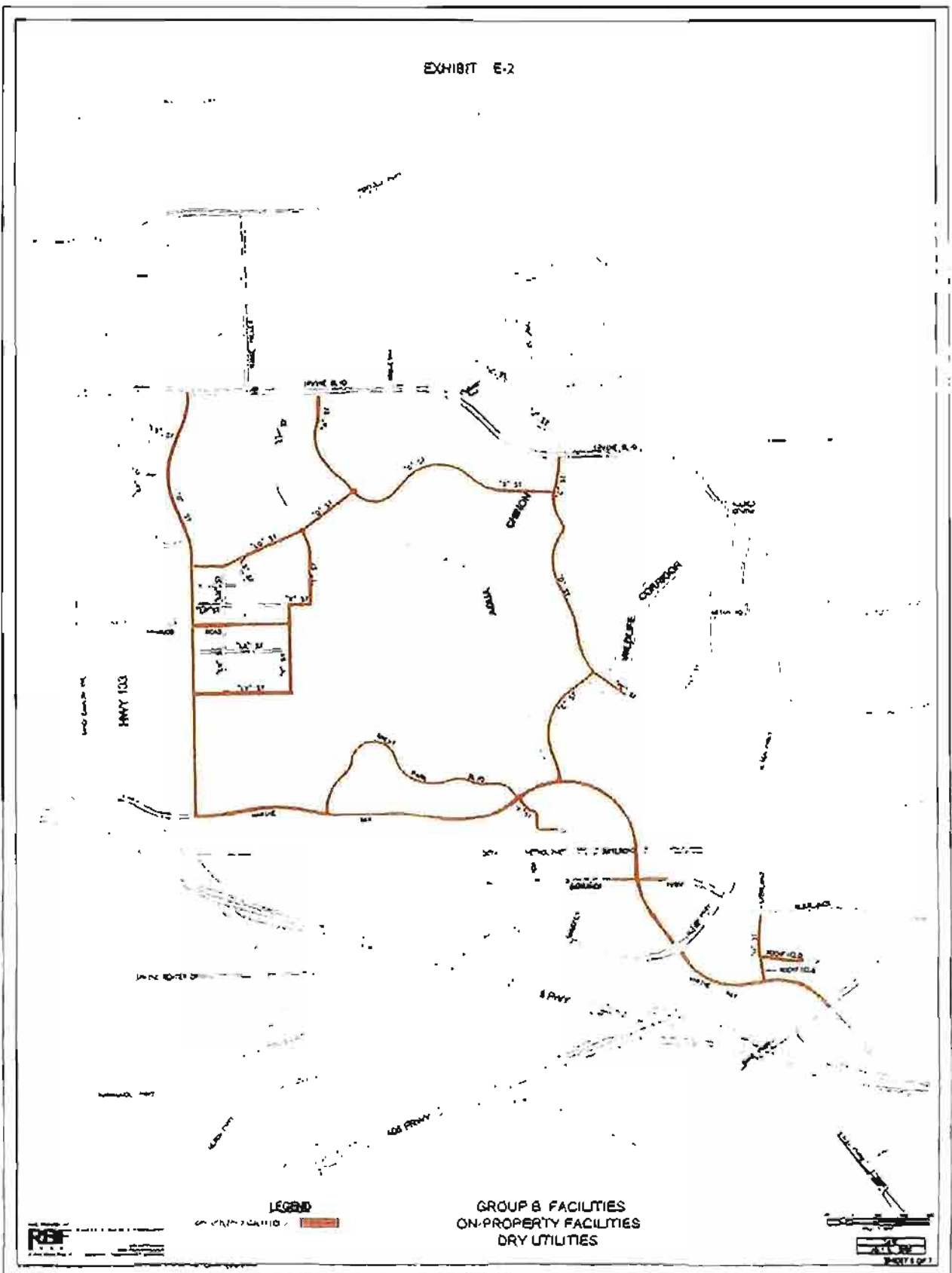
Scale: 1" = 100'

North Arrow

EXHIBIT E-2

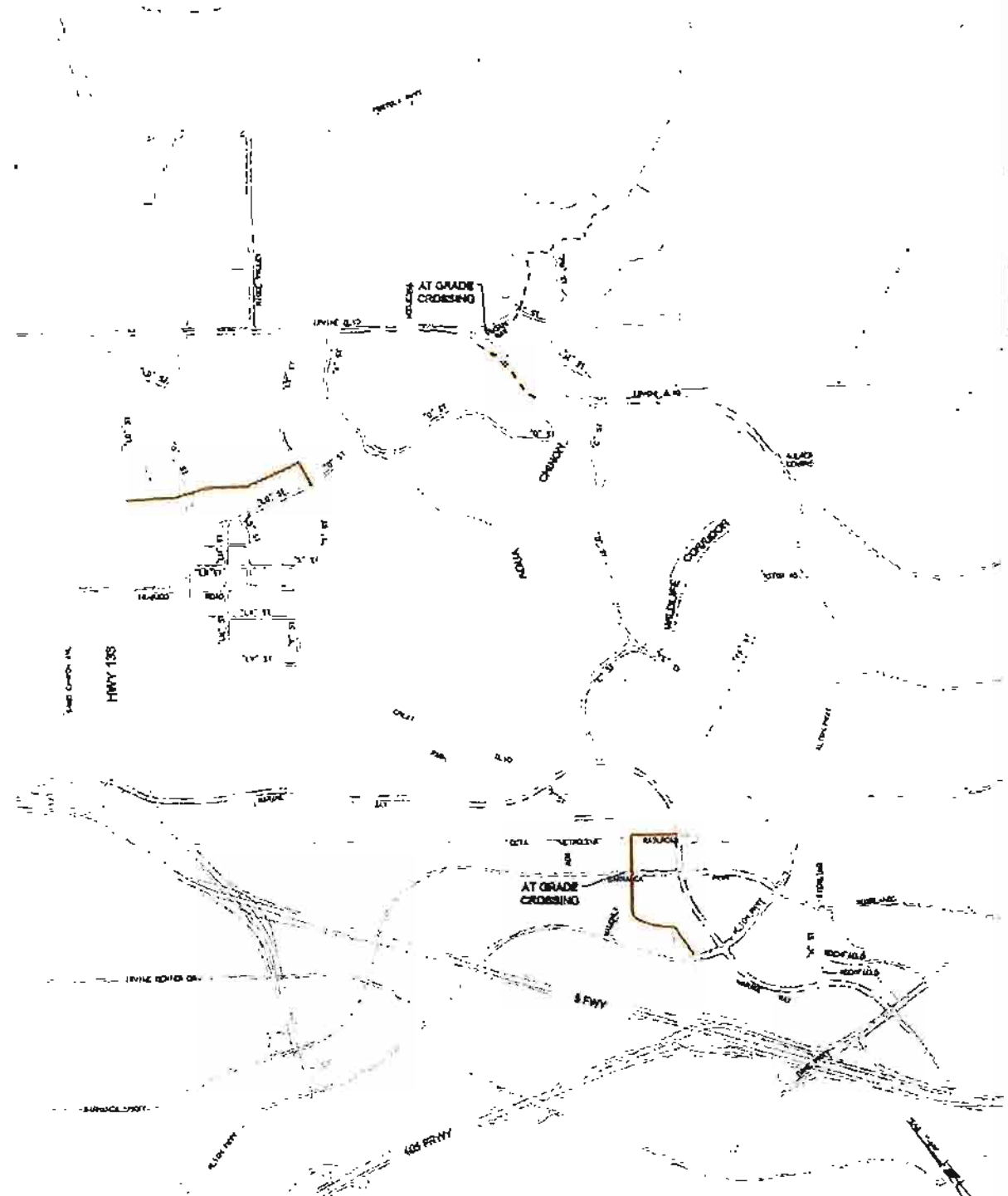


# EXHIBIT E-2





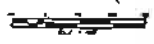
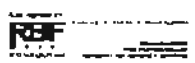
# EXHIBIT E-2



## LEGEND

- OPTIONAL TRAIL FACILITIES
- REGIONAL HIGH-CAPACITY TRAIL
- TRAIL TO BE CONSTRUCTED BY OTHER

GROUP B FACILITIES  
ON-PROPERTY FACILITIES  
OFF-STREET TRAILS  
(OUTSIDE OF STREET RIGHT OF WAY)



DATE: 10/1/00  
SHEET 1 OF 2

**Exhibit E-3**

**Heritage Fields LLC / Orange County Great Park**

**Group A and Group B Facilities**

**Narrative**

**July 2009**

## **CURRENT ENTITLEMENT AND PENDING APPROVALS**

Group A and Group B facilities described herein are based upon the following approvals and pending approvals;

- 1) Approved Amended VTTM 17008 (Reso 08-2921)
- 2) Approved Master Landscape and Trail Plan for VTTM 17008 (Reso 08-2922)
- 3) Approved Modification to OCGP Streetscape Design Guidelines (Reso 08-2923)
- 4) Approved VTTM 17283 (Reso 08-2924)
- 5) Approved LLD Non Res Master Plan and Design Guidelines (Reso 08-2925)
- 6) Pending approval TPM 2008-152 for PA 30 R & D and Auto Center
- 7) Pending approval PA 30 6 Ac Parcel
- 8) City and County approved San Diego Creek Flood Control Master Plan Update dated October 2, 2008 (County case number EC29320, City case number 00457521-EMC).
- 9) City and County approved PA 51 Marshburn Watershed Update, dated October 2, 2008 (County case number EC29320, City case number 00457521-EMC)
- 10) IRWD SAMP (March 17, 2009).
- 11) Approved Conceptual Project Water Quality Management Plan (WQMP), Updating the Integrated Master Plan of Drainage, Water Quality and Habitat Mitigation. (April 23, 2009)

## **GROUP A FACILITIES (OFF-PROPERTY FACILITIES)<sup>1 2 3 4</sup>**

### **A) OFF-PROPERTY STREETS AND SIGNALS**

- 1) **Irvine Blvd** - Street widening as required from State Highway 133 to west of Alton Parkway to include additional lanes (as required), right of way acquisition, multiple left turning lanes, right turn lanes, grading, subgrade prep, base, paving, curb and gutter, median, sidewalks, access ramps, trails (within ROW), adjust utilities to grade, remove utility poles, relocation/removal of existing utilities, underground utility lines, signing, striping, grinding, ac overlay, traffic control and street lights, slurry seal.
- 2) **Irvine Blvd Traffic Signals**- Proposed Signal at Ridge Valley, and signal modifications at Modjeska, Allred Centre and Pusan Way. Includes Signal interconnect, advance detection, easements and telemetry.

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<sup>1</sup> Street Sections as illustrated per "HF / OCGP Backbone Facility Cross Sections.

<sup>2</sup> Demolition as required to construct Backbone Infrastructure is included.

<sup>3</sup> "Green Streets" and "Sustainability" features are not considered Off or On-Property Facilities.

<sup>4</sup> City shall provide right of way and easements necessary on City or County property to implement Backbone Infrastructure when required at no cost to Heritage Fields.

- 3) **Marine Way<sup>5</sup>** – Street improvements as required from Sand Canyon to “O” Street including grading, right of way acquisition and related relocation costs, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, trails, adjust utilities to grade, access ramps, street lights and remove utility poles, relocation of existing utilities, signing, striping, and underground utility lines.
- 4) **Marine Way Traffic Signals** – Proposed Traffic Signal modification at Sand Canyon and at existing Marine Way / Sand Canyon intersection. Includes Signal interconnect, advance detections, easements and telemetry.
- 5) **Existing Marine Way at Sand Canyon** - Street improvements as required for the modifications to existing Marine Way and Sand Canyon to a “right-in and right out” entrance including existing signal pole and equipment removal, modifications on Sand Canyon and providing access to the existing users.
- 6) **Existing Sand Canyon at Marine Way / I-5 Ramps** – Restriping of the existing Sand Canyon and I-5 Ramps. As required in the approved Bake Parkway – Marine Way circulation system amendment.
- 7) **Bake Parkway** – Street-widening improvements as required including right of way acquisition, daylight grading, base, paving, curb, subgrade prep, gutter, signing, grinding, ac overlay, sidewalk, joins, striping, access ramps, traffic control, removals/relocation of existing utilities and adjust manholes and valves to grade. Includes Traffic Signal at Marine Way.
- 8) **Rockfield and Bake Parkway Intersection** – Street improvements as required including right of way acquisition for the modification to the existing intersection of Rockfield and Bake Parkway. Includes modification to the existing traffic signal.
- 9) **NB I-5 Bake Parkway Off Ramp**- Street improvements as required to the NB I-5 Bake Parkway off ramp. Includes Off Ramp widening as required including daylight grading, base, paving, joins, ac overlay, asphalt curb, signing, striping and modification to the existing signal.

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<sup>5</sup> For that portion of the Marine Way right of way affecting the area currently occupied by OCTA, Heritage Fields' contribution for such right of way acquisition costs shall not exceed \$2 million dollars and its contribution for the costs to relocate existing improvements within such right of way area shall not exceed \$500,000 (for a total of \$2.5 million dollars), provided that either the City or Heritage Fields can elect to obtain a third-party appraisal of the OCTA right of way area at the time of acquisition (from an appraiser mutually approved by both Parties) in which case Heritage Fields' contribution shall equal the valuation set forth in such appraisal. City shall contribute all amounts for the OCTA Marine Way right of way acquisition costs and costs to relocate existing improvements to the extent the same exceed Heritage Fields' contribution obligations. Notwithstanding any provision to the contrary in the Amended and Restated Agreement to which this Exhibit is attached or the Amended MIA, City shall be responsible to deliver right of way for purposes of commencement of work on such segment of Marine Way when dictated by the Master Phasing Plan & Schedule as defined in the Amended MIA.

- 10) **Ridge Valley** –Project related street improvements as required from existing Portola Parkway to Irvine Blvd including right of way acquisition, grading, removals, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, trails, adjust manhole, access ramps, street lights, grinding, ac overlay, traffic control, water quality, remove utility poles, and underground utility lines. Includes traffic signal modification to existing traffic signal on Portola Parkway at Ridge Valley.
- 11) **Trabuco Road** - Full width street improvements from State Highway 133 to "O" street including right of way acquisition, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, grinding, ac overlay, traffic control, street lights, water quality, remove utility poles, relocate existing utilities and underground of existing overhead 66 KV SCE transmission lines along Trabuco Road.

**B) OFF-PROPERTY STORM DRAIN FACILITIES: (Facilities subject to change based upon processing the final Basis of Design Reports)**

- 1) **Irvine Blvd (IRV-1, IRV-2)**- Storm Drain as required from State Highway 133 to west of Alton Parkway including laterals, catch basins, junction structures, manholes, local depressions for street drainage and connections to existing downstream facilities. Includes storm drain outside of Irvine Blvd. required to connect to existing downstream facilities.
- 2) **"O" Street (O-6)** – Storm drain as required from Marshburn Channel through PA-40 to "O" street including junction structures and connections to existing downstream facilities.
- 3) **Marine Way**-Storm Drain as required from Sand Canyon to "O" street including laterals, catch basins, junction structures, manholes and local depressions for street drainage, and connections to existing downstream facilities. Includes Raceway improvements, the Marshburn Channel and Marine Way crossing and roadway drainage improvements. Right of way required to connect to existing downstream facilities.
- 4) **Bake Parkway**- Storm Drain as required from Bake Parkway to San Diego Creek including laterals, catch basins, junction structures, manholes and local depressions for street drainage, and connections to existing downstream facilities.
- 5) **Alton Parkway**– Storm Drain as required from the T.O.D to existing Agua Chinon including laterals, junction structures, manholes, catch basins, local depressions, and connections to existing downstream facilities.
- 6) **Ridge Valley**– Storm drain as required from existing Portola Parkway to Marshburn Basin including right of way acquisition storm drain junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 7) **Trabuco Road** – Storm drain as required from Marshburn Channel along Trabuco Road to "O" street including laterals, junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 8) **"Offsite" TOD**– Regional drainage system from southeast corner of the General Industrial Zoning District Portion of PA 30 south of Marine Way and following the rear of the existing properties fronting Technology Drive, and connection to Agua Chinon. Improvements include a base level drainage infrastructure to provide flood protection, including any required modifications to the exiting downstream Caltrans drainage system. Includes land and right of way acquisition.

**C) OFF-PROPERTY SEWER FACILITIES: <sup>6</sup>**

- 1) **Marine Way**-Sewer mainline as required from Sand Canyon to Marshburn Channel Includes laterals, monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping.
- 2) **Reach "A" Sewer** -Sewer mainline as required from the existing sleeve (Under the I-5 freeway just south of Technology Drive) to the south side of the railway right of way. Includes monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping.
- 3) **Trabuco Road**– Sewer mainline as required from SR 133 to "O" Street. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.

**D) OFF-PROPERTY DOMESTIC AND RECYCLED WATER FACILITIES: <sup>6</sup>**

- 1) **Irvine Blvd**- Domestic water main as required from State Highway 133 to "O" street includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, connection to existing facilities and replacement of existing pavement and striping.
- 2) **Irvine Blvd**- Recycled water mains as required from State Highway 133 to Modjeska includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities and replacement of existing pavement and striping.
- 3) **Marine Way**- Domestic water main as required from Sand Canyon to "O" street includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, connection to existing facilities, and replacement of existing pavement and striping.
- 4) **Ridge Valley**– Domestic and recycled water mains as required from point of connection south of Portola to Irvine Blvd includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, pressure reducing, and replacement of existing pavement and striping
- 5) **Trabuco Road**– Domestic and recycled water mains as required from west of SR 133 (through Caltrans Bridge) to "O" street includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, tees, thrust blocks, concrete cap, irrigation water service and connection to existing facilities.

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<sup>6</sup> Regional IRWD Facilities are considered Off-property facilities.

- 6) **Astor Road**– Domestic water main as required from Borrego Channel to Fairbanks includes tees, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, connection to existing facilities, and pressure reducing.

**E) OFF-PROPERTY LANDSCAPE, AMENITIES, IRRIGATION SYSTEM, AND PLANTINGS IN THE FOLLOWING RIGHT-OF-WAY**

- 1) **Irvine Blvd.** from State Highway 133 to Alton Parkway.
- 2) **Marine Way** from Sand Canyon to "O" street.
- 3) **Bake Parkway.**
- 4) **Ridge Valley** from existing Portola to Irvine Blvd.
- 5) **Trabuco Road** from State Highway 133 to "O" street.

**F) OFF-PROPERTY DRY UTILITIES**

Facilities include CATV, telephone, electric, gas and may include relocation or conversion of transmission lines including trenching, shading, conduit risers, pullboxes, vaults, hand holes, etc., in the following streets:

- 1) **Irvine Blvd.** from State Highway 133 to west of Alton Parkway.
- 2) **Marine Way** from Sand Canyon to "O" street.
- 3) **Ridge Valley** from point of connection south of Portola Parkway to Irvine Blvd.
- 4) **Trabuco Road** from State Highway 133 to "O" street.



## **GROUP B FACILITIES (ON-PROPERTY FACILITIES)**<sup>1 2 3 4</sup>

### **A) ON-PROPERTY STREET AND SIGNALS**

- 1) **Marine Way** – Street improvements as required from "O" street to Bake Parkway including grading, right of way acquisition, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, trails, adjust utilities to grade, access ramps, street lights and remove utility poles, relocation of existing utilities, signing, striping, and underground utility lines.
- 2) **Marine Way at railroad bridge** – Bridge improvements including railway improvements, grading, abutments, access ramps, lighting, drainage, utility crossings, sidewalks, trails and right of way acquisition.
- 3) **Marine Way Traffic Signals** – Proposed Traffic Signals at "O", "F", "E", Great Park Blvd., Barranca, Alton, and Rockfield. Includes Signal interconnect, advance detection, easements, and telemetry.
- 4) **Irvine Blvd Traffic Signals**- Proposed Traffic Signals at "O", "A" street, "C" street. Includes Signal interconnect, advance detection, easements, and telemetry.
- 5) **Barranca Parkway/Muirlands Boulevard** - Street improvements as required from east of Ada to Sterling, including grading, base, paving, curb, median, subgrade prep, gutter, striping, access ramps, traffic control, grinding, ac overlay, sidewalk, joins and adjust existing utilities to grade. Also includes modifications to Barranca due to the Marine Way / Railway overcrossing and a modification to existing Traffic Signal on Barranca at Alton.
- 6) **Muirlands and Sterling Traffic signal** – Proposed traffic signal at Muirlands and Sterling ave. Signal interconnect, advanced detection, easements, and telemetry.
- 7) **Alton Parkway** - Street improvements, mostly comprised of widening of existing, as required from west of Marine Way to east of Barranca Parkway including base, paving, curb, medians, sidewalks, grinding, ac overlay, traffic control, subgrade prep, gutter, signing and striping, access ramps, and adjust existing utilities to grade.
- 8) **Rockfield Blvd** - Street improvements as required from existing Rockfield to Marine Way including right of way acquisition, base, paving, curb, subgrade prep, gutter, median, signing and striping, sidewalks, trails (within ROW), adjust manhole, access ramps, street lights and remove utility poles, and underground utility lines. Includes traffic signal at "H" Street.

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<sup>1</sup> Street Sections as illustrated per "HF / OCGP Backbone Facility Cross Sections.

<sup>2</sup> Demolition as required to construct Backbone Infrastructure is included.

<sup>3</sup> "Green Streets" and "Sustainability" features are not considered Off or On-Property Facilities.

<sup>4</sup> City shall provide right of way and easements necessary on City or County property to implement Backbone Infrastructure when required at no cost to Heritage Fields.

- 9) **"F" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, water quality, and underground utility lines.
- 10) **"O" Street (Trabuco to Irvine Blvd)**- Full width street improvements from Trabuco to Irvine Blvd including right of way acquisition, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, trails, adjust manhole, access ramps, street lights, water quality, remove utility poles, relocate existing utilities and underground utility lines.
- 11) **"O" Street (Trabuco to Marine Way)**- Half width street improvements from Trabuco road to Marine Way including right of way acquisition, base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, water quality, remove utility poles, relocate existing utilities and underground of 66KV SCE Transmission line from Trabuco to approximately 2500 lf south of Trabuco.
- 12) **"O" Street Traffic Signals**- Proposed traffic signals at Trabuco Road", "L-Q", and "L-V". Signal interconnect, advance detection, easements, and telemetry
- 13) **Trabuco Road** - Full width street improvements from "O" street to "Y" street including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, grinding, ac overlay, traffic control, street lights, and water quality.
- 14) **"L-V" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 15) **"A" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 16) **"Y" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 17) **"X" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 18) **"T" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 19) **"Q" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 20) **"C" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.

- 21) **"D" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 22) **"E" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 23) **"P-E" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 24) **"H" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 25) **"L-Q" Street** - Full width street improvements including base, paving, curb, subgrade prep, gutter, median, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality.
- 26) **Great Park Blvd** - Full width street improvements including base, paving, curb, subgrade prep, gutter, striping, sidewalks, adjust manhole, access ramps, street lights, and water quality for paved surface. Modification to Extraction Wells and Shallow Ground Water Unit is not included.

**B) ON-PROPERTY STORM DRAIN FACILITIES: (Facilities subject to change based upon Processing the Basis of Design Reports )**

- 1) **Marine Way**-Storm Drain as required from "O" street to Bake Parkway including laterals, catch basins, junction structures, manholes and local depressions for street drainage, and connections to existing downstream facilities. Includes storm drain outside of Marine Way.
- 2) **Barranca Parkway**- Storm Drain as required from east of Ada to east of Alton Parkway including laterals, catch basins, junction structures, manholes, and local depressions for street drainage, and connections to existing downstream facilities.
- 3) **Alton Parkway**- Storm Drain as required from west of Barranca Parkway to west property line of the T.O.D.including laterals, junction structures, manholes, catch basins, local depressions, and connections to existing downstream facilities.
- 4) **Rockfield Blvd** – Storm drain as required from Marine Way to "H" street including storm drain mainlines and connections to downstream facilities.
- 5) **"H" Street** – Storm drain as required from Rockfield Blvd to Muirlands. Includes storm drain from "H" st to existing storm drain (east property line of the TOD). Includes laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 6) **"O" Street (O-1, O-2, O-3, O-4)**– Storm drain as required from L-G street to Trabuco Road including junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 7) **"L-Q" Street**– Storm drain as required from "O" street to "L-Y" street including laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 8) **"O" Street (O-6)**– Storm drain as required from PA-40 to "L-R" street within "O" street including junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 9) **"O" Street to Marine Way**– Storm drain as required within "O" street, south of O-6, to Marine Way including junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 10) **Trabuco Road** – Storm drain as required from "O" street to "Y" street including laterals, junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 11) **"L-V" Street** – Storm drain as required between "O" street and "Y" street including laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.

- 12) **"T" Street** – Storm drain as required from south of "L-Q" street to "X" street including laterals, junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 13) **"X" Street** – Storm drain as required from "Y" street to "T" street including laterals, junction structures, manholes, catch basins, local depressions and connections to existing downstream facilities.
- 14) **"Y" Street** – Storm drain as required from "X" street to "L-V" street including laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 15) **"Bee Canyon Channel (Through OCGP)"** – Storm drain facility. Approximate limits are from Marine Way to "Y" street including laterals, junction structures, manholes, and connections to existing storm facilities and connections to downstream facilities.
- 16) **"Bee Canyon" Channel at Marine Way** – Regional storm drain facility (Double 7'x10' RCB) to facilitate storm drain connections, and construction of a regional facility from OCFCD connection south of the railway to Marine Way including laterals, junction structures, manholes, and connections to existing downstream facilities.
- 17) **"A" Street** – Storm drain as required from Irvine Blvd to "Q" street including laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 18) **"Q" Street** – Storm drain as required including laterals, junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 19) **"AC-1" Agua Chinon** – Regional storm drain facility (12'x12' RCB) as required from existing OCFCD Agua Chinon box to a proposed inlet structure, north of Marine Way. This will include required laterals, junction structures, manholes, and modification to existing downstream facilities and connections to the existing OCFCD system.
- 20) **"AC-2" Agua Chinon** – Regional drainage system as required from "AC-1" to the south edge of "Q" street consisting of open channel, soft bottom channel required to provide flood protection, grade control devices, flowline stabilization, access, maintenance, and required infrastructure for the establishment of jurisdictional habitat. Cross section as illustrated per "HF / OCGP Backbone Facility Cross Sections".
- 21) **"AC-2a" Agua Chinon** – Regional storm drain facility as required from "AC-2", under "Q" street to the existing culvert south of Irvine Blvd as required to provide flood protection, grade control devices, flowline stabilization, access, maintenance and connections to downstream facilities.
- 22) **"AC-2b" Agua Chinon** – Modifications to the existing culver under Irvine Blvd. Includes modifications to the existing entrance and outlet walls.

- 23) **"AC-3" Agua Chinon** – Regional drainage system as required from Irvine Blvd to "K" street including modification to the Irvine Blvd undercrossing required to provide flood protection, grade control devices, flowline stabilization, access, maintenance, required infrastructure for the establishment of jurisdictional habitat. and connections to downstream facilities.
- 24) **"AC-4" Agua Chinon** – Regional storm drain facility (6'x8' RCB) for the undercrossing of "K" street. Improvements include a culvert crossing to provide flood protection and connections to downstream facilities.
- 25) **"AC-5" Agua Chinon** – Regional storm drain facility (6'x8' RCB) from "K" street to "P-M" street. Improvements include a RCB channel to provide flood protection, access, maintenance, and connections to downstream facilities.
- 26) **"AC-6" Agua Chinon** – Regional storm drain facility (6'x8' RCB) from "P-M" street to north property line. Improvements include a RCB to provide flood protection, including an inlet structure north of the property line of Park District North.
- 27) **"C" Street (C-1)**– Storm drain as required within "C" street to connect to Agua Chinon including laterals junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 28) **"D" Street (D-1)**– Storm drain as required within "D" street and outside of "D" Street to connect to Agua Chinon including laterals junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 29) **"E" Street (E-1,E-2)**– Storm drain as required within "E" street and outside of "E" Street to connect to Agua Chinon including junction structures, manholes, catch basins, local depressions and connections to downstream facilities. Includes storm drain within "E" Street to Marine Way.
- 30) **"F" Street**– Storm drain as required from "F" street to Agua Chinon including junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 31) **Borrego Channel** – Regional storm drain facility as required from the Wildlife Corridor, under Marine Way, to existing Borrego Channel includes replacement of existing Borrego Channel to meet OCFCD standards and to provide flood protection, right of way acquisition, flood control maintenance and access facilities and connections to downstream facilities.
- 32) **"TOD-1"** Regional drainage system from Marine Way, through portion of the General Industrial Zoning District Portion of PA 30 south of Marine Way. Improvements include a base level drainage infrastructure to provide flood protection, including required modifications to the existing downstream Caltrans drainage system.
- 33) **"SC-1" Serrano Creek** – Regional drainage system from existing I-5 culvert to Marine Way. Improvements include a open channel with flowline stabilization, grade control devices in order to provide flood protection, including any required modifications to the existing Caltrans culvert.

- 34) **"SC-2" Serrano Creek** – Regional drainage system undercrossing at Marine Way. Improvements include culvert crossing to provide flood protection, access and maintenance facilities.
- 35) **"SC-3" Serrano Creek** – Regional drainage system from Marine Way to Alton Parkway. Improvements include a soft bottom open channel with grade control devices to provide flood protection, including required modifications to outlet structure of the culvert at Alton Parkway, access and maintenance facilities.
- 36) **Upper San Diego Creek** – Regional drainage system as required from an existing culvert at I-5 to the easterly property line. Improvements include a RCB to provide flood protection and required modifications to the existing Caltrans entrance structure.
- 37) **Bee Canyon water quality system-** Water quality treatment systems as required to protect the backbone drainage facilities. This includes base level drainage infrastructure to provide treatment, access and maintenance facilities, and outlets to downstream facilities. Final locations are subject to final approval of a detailed Water Quality Management Plan.
- 38) **Agua Chinon water quality system-** Water quality treatment systems as required to protect the backbone drainage facilities. This includes base level drainage infrastructure to provide treatment, access and maintenance facilities, and outlets to downstream facilities. Final locations are subject to final approval of a detailed Water Quality Management Plan.
- 39) **Serrano Creek water quality system-** Water quality treatment systems as required to protect the backbone drainage facilities. This includes base level drainage infrastructure to provide treatment, access and maintenance facilities, and outlets to downstream facilities. Final locations are subject to final approval of a detailed Water Quality Management Plan.
- 40) **Great Park Blvd** – Storm drain as required within Great Park Blvd. to provide conveyance of roadway runoff including laterals junction structures, manholes, catch basins, local depressions and connections to downstream facilities.
- 41) **Backbone water quality treatment systems-** Water quality treatment systems as required to protect the backbone drainage facilities. This includes base level drainage infrastructure to provide treatment, access and maintenance facilities, and outlets to downstream facilities. Final locations are subject to final approval of a detailed Water Quality Management Plan.

**C) ON-PROPERTY SEWER FACILITIES:**

- 1) **Irvine Blvd-** Sewer mainline as required from "C" street to just west of "C" street includes laterals, monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping.
- 2) **Marine Way-**Sewer mainline as required between "O" street and Bake Parkway. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 3) **Alton Parkway-** Relocation of the existing 18" sewer mainline within Serrano Creek to Alton Parkway from the southwest corner of the TOD to the intersection of Alton Parkway and Barranca Parkway. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping.
- 4) **Barranca Parkway-**Sewer mainline as required from east of Ada to Alton Parkway includes laterals, monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping. Includes offsite street connection to existing sewer in Mauchly.
- 5) **Rockfield Blvd-** Sewer mainline as required from existing Rockfield Blvd to Marine Way. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, connection to downstream facilities and replacement of existing pavement and striping.
- 6) **"TOD-1" Sewer north of railroad tracks -** Sewer mainline as required from Sewer Reach "B", adjacent to and parallel with the north side of the railroad tracks, to "F" street. Includes all-weather access, laterals, monitoring manholes, manholes, and connection to downstream facilities.
- 7) **"TOD-2" Sewer** mainline as required from "TOD-1" to Marine Way. Includes laterals, monitoring manholes, manholes, and connection to downstream facilities.
- 8) **"O" Street-** Sewer mainline as required. Includes all-weather access, laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 9) **Trabuco Road-** Sewer mainline as required between "O" street and "Y" street. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 10) **"L-V" Street-** Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.



- 11) **Sewer Reach "B" (through OCGP)** - Sewer mainline as required from existing point of connection just south of the railway to "L-V" street. Includes all-weather access, laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 12) **Sewer Reach "A" (south of Marine Way)** - Sewer mainline as required from just south of the railway to Marine Way. Includes all-weather access, laterals, monitoring manholes, manholes, adjusting rims to grade, sleeving and connection to downstream facilities.
- 13) **"A" Street**– Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 14) **"L-Y" Street**– Sewer mainline as required from "O" st to Irv Blvd, Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 15) **"Y" Street**– Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 16) **"X" Street**– Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities
- 17) **"Q" Street** – Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 18) **"T" Street** – Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 19) **"C" Street** – Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 20) **"D" Street** – Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 21) **"E" Street** – Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 22) **"P-E" Street** -Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 23) **"H" Street**– Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.

- 24) **"L-Q" Street**– Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.
- 25) **"L-M" Street**–Sewer mainline as required. Includes laterals, monitoring manholes, manholes, adjusting rims to grade, and connection to downstream facilities.

**D) ON-PROPERTY DOMESTIC AND RECYCLED WATER FACILITIES:**

- 1) **Marine Way**- Domestic and recycled water mains as required from "O" street to Bake Parkway includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, and replacement of existing pavement and striping. Includes recycled water main from a point of connection north of railroad to Marine Way.
- 2) **Barranca Parkway**- Domestic and recycled water facilities as required from east of Ada to east of Alton Parkway includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, replacement of existing pavement and striping.
- 3) **Rockfield Blvd**– Domestic and recycled water mains as required from existing Rockfield Blvd to Marine Way includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, and replacement of existing pavement and striping.
- 4) **"F" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 5) **"O" Street** – Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities, pressure reducing and boosting.
- 6) **Trabuco Road**– Domestic and recycled water mains as required from "O" street to "Y" street includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 7) **"A" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.

- 8) **"Y" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 9) **"X" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 10) **"L-V" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 11) **"T" Street**– Domestic and recycled water mains as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 12) **"P-R" Street**– Domestic water main as required includes tees and mainline stubs, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, and connection to existing facilities.
- 13) **"Q" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 14) **"C" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 15) **"D" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, and pressure reducing.
- 16) **"E" Street**– Domestic water main as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 17) **"P-E" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 18) **"H" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, connection to existing facilities, and replacement of existing pavement and striping.
- 19) **"L-Q" Street**– Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.

- 20) **"L-O" Street**– Domestic water mains as required from the TCA property to "O" street includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.
- 21) **Agua Chionon Fire service line**- Fire service main and appurtenances as required from "E" street to "Q" street per OCFA requirements.
- 22) **Great Park Blvd** - Domestic and recycled water mains as required includes laterals, valves, air vac, blow off, fittings, fire hydrant assembly, thrust blocks, concrete cap, irrigation water service, and connection to existing facilities.

**E) ON-PROPERTY LANDSCAPE, AMENITIES, IRRIGATION SYSTEM, AND PLANTINGS IN THE FOLLOWING RIGHT-OF-WAY**

- 1) **Marine Way** from "O" street to Bake Parkway.
- 2) **Barranca Parkway** from east of Ada to east of Alton Parkway.
- 3) **Alton Parkway** from south of Marine Way to Barranca Parkway.
- 4) **Rockfield Blvd.** from existing Rockfield to Marine Way.
- 5) **"F" Street**
- 6) **"O" Street (Trabuco to Irvine Blvd)**
- 7) **"O" Street (Trabuco to Marine Way)**
- 8) **Trabuco Road** from "O" street to OCGP.
- 9) **"L-V" Street**
- 10) **"A" Street**
- 11) **"Y" Street**
- 12) **"Q" Street**
- 13) **"T" Street**
- 14) **"X" Street**
- 15) **"P-E" Street**
- 16) **"C" "D" and "E" Street**
- 17) **"Off street Trail"** ( in the TOD between Barranca and Alton Parkway)
- 18) **"Off street riding/hiking Trail"** in Park District, north of Irvine Blvd.
- 19) **"Off street riding/hiking Trail"** within the LLD, south of the LLD.
- 20) **"H" Street**
- 21) **"L-Q" Street**
- 22) **Great Park Blvd (median only).**

**F) ON-PROPERTY DRY UTILITIES**

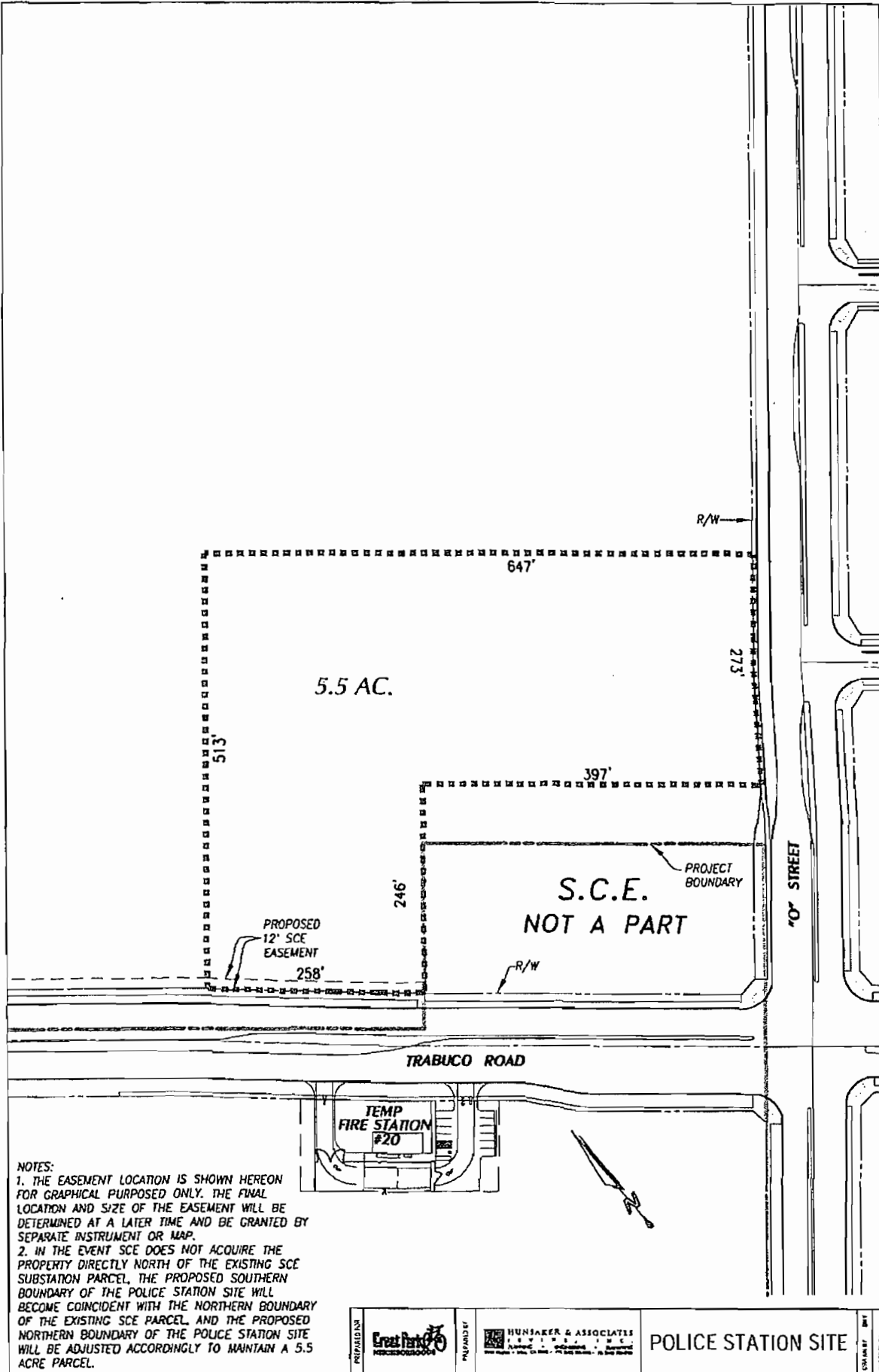
Facilities include CATV, telephone, electric, gas and may include relocation of regional or transmission lines including trenching, shading, conduit risers, pullboxes, vaults, hand holes, etc., in the following streets:

- 1) **Marine Way** from "O" street to Bake Parkway.
- 2) **Rockfield Blvd.** from existing Rockfield to Marine Way.
- 3) **"F" Street**
- 4) **"O" Street (Trabuco to Irvine Blvd)**
- 5) **"O" Street (Trabuco to Marine Way)**
- 6) **Trabuco Road** from "O" street to OCGP.
- 7) **"L-V" Street**
- 8) **"A" Street**
- 9) **"Y" Street**
- 10) **"Q" Street**
- 11) **"T" Street**
- 12) **"X" Street**
- 13) **"P-E" Street**
- 14) **"C", "D", and "E" Street**
- 15) **"H" Street**
- 16) **"L-Q" Street**
- 17) **Barranca Parkway** portion of east of Ada to east of Alton Parkway.
- 18) **Great Park Blvd**

**G) Wildlife Corridor-** Mass excavation for the Wildlife Corridor from Irvine Blvd to Borrego Channel. Improvements include required demolition and Fire service main and appurtenances as required from "P-E" street to Irvine Blvd per OCFA requirements. . (See WLC section as illustrated per the "HF / OCGP Backbone Facility Cross Sections").

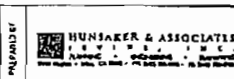
**H) Runway Demolition** – Shall include all services necessary to support and manage runway demolition and recycling services as defined in the Amended and Restated Master Implementation Agreement.

# EXHIBIT 'F'



## NOTES:

1. THE EASEMENT LOCATION IS SHOWN HEREON FOR GRAPHICAL PURPOSES ONLY. THE FINAL LOCATION AND SIZE OF THE EASEMENT WILL BE DETERMINED AT A LATER TIME AND BE GRANTED BY SEPARATE INSTRUMENT OR MAP.
2. IN THE EVENT SCE DOES NOT ACQUIRE THE PROPERTY DIRECTLY NORTH OF THE EXISTING SCE SUBSTATION PARCEL, THE PROPOSED SOUTHERN BOUNDARY OF THE POLICE STATION SITE WILL BECOME COINCIDENT WITH THE NORTHERN BOUNDARY OF THE EXISTING SCE PARCEL, AND THE PROPOSED NORTHERN BOUNDARY OF THE POLICE STATION SITE WILL BE ADJUSTED ACCORDINGLY TO MAINTAIN A 5.5 ACRE PARCEL.



POLICE STATION SITE



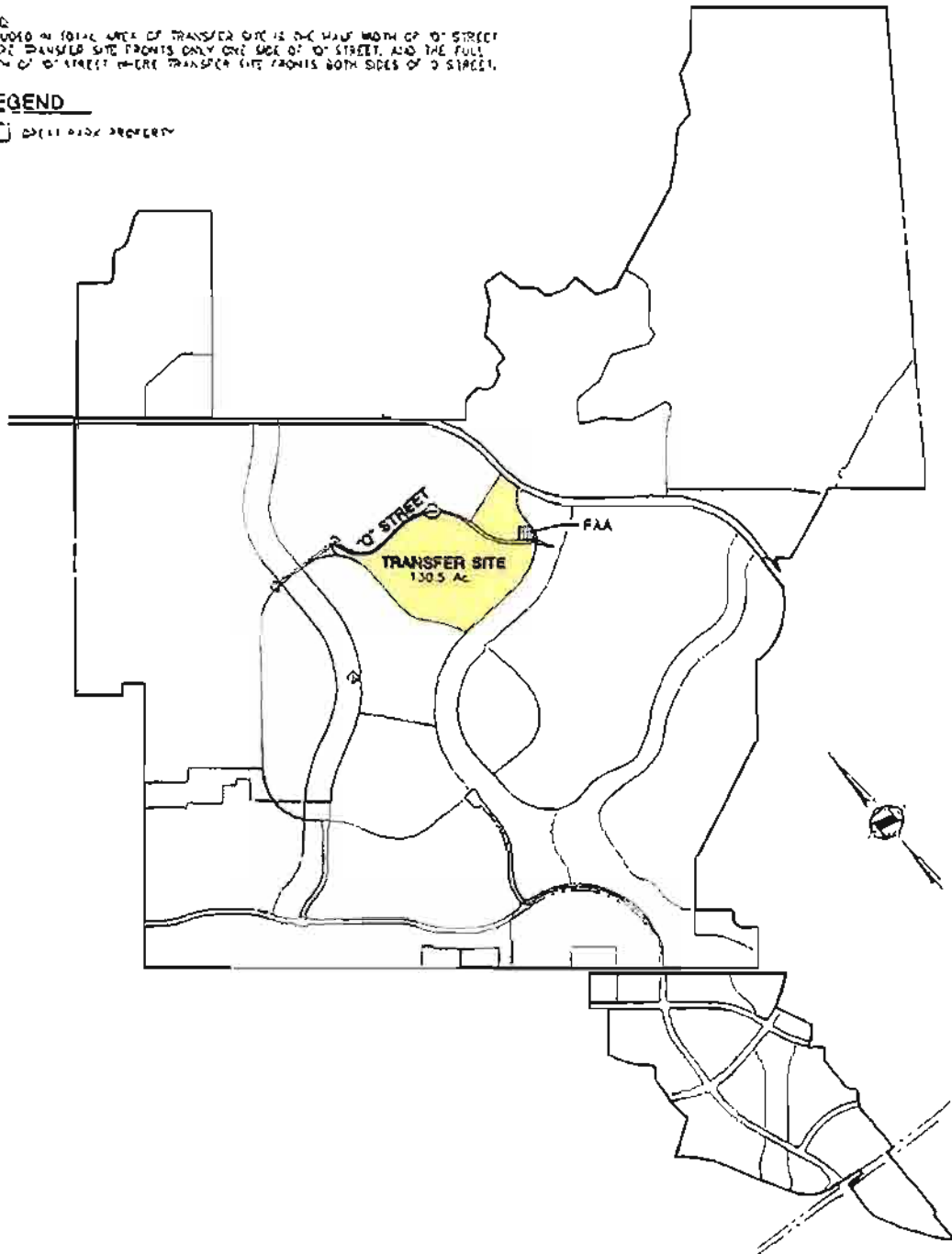
# EXHIBIT 'G'


AERIAL SUMMARY  
TOTAL ACRES TO BE TRANSFERRED TO CITY 130.5 AC

NOTE:  
INCLUDED IN TOTAL AREA OF TRANSFER SITE IS THE HALF WIDTH OF 'O' STREET  
WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF 'O' STREET, AND THE FULL  
WIDTH OF 'O' STREET WHERE TRANSFER SITE FRONTS BOTH SIDES OF 'O' STREET.

## LEGEND

 WELL RISK PROPERTY



 <b>HUNSAKER &amp; ASSOCIATES</b> P L A N N I N G • D E S I G N • C O N S T R U C T I O N <small>Over 30 years of experience in the field of land use planning and design</small>			<b>ARDA TRANSFER SITE</b>  IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA		
DATE: 3/06/08	BY: 6/04/09	BY: X LYNDI	SCALE: 1"=2000'	W.O. 1000-80X	
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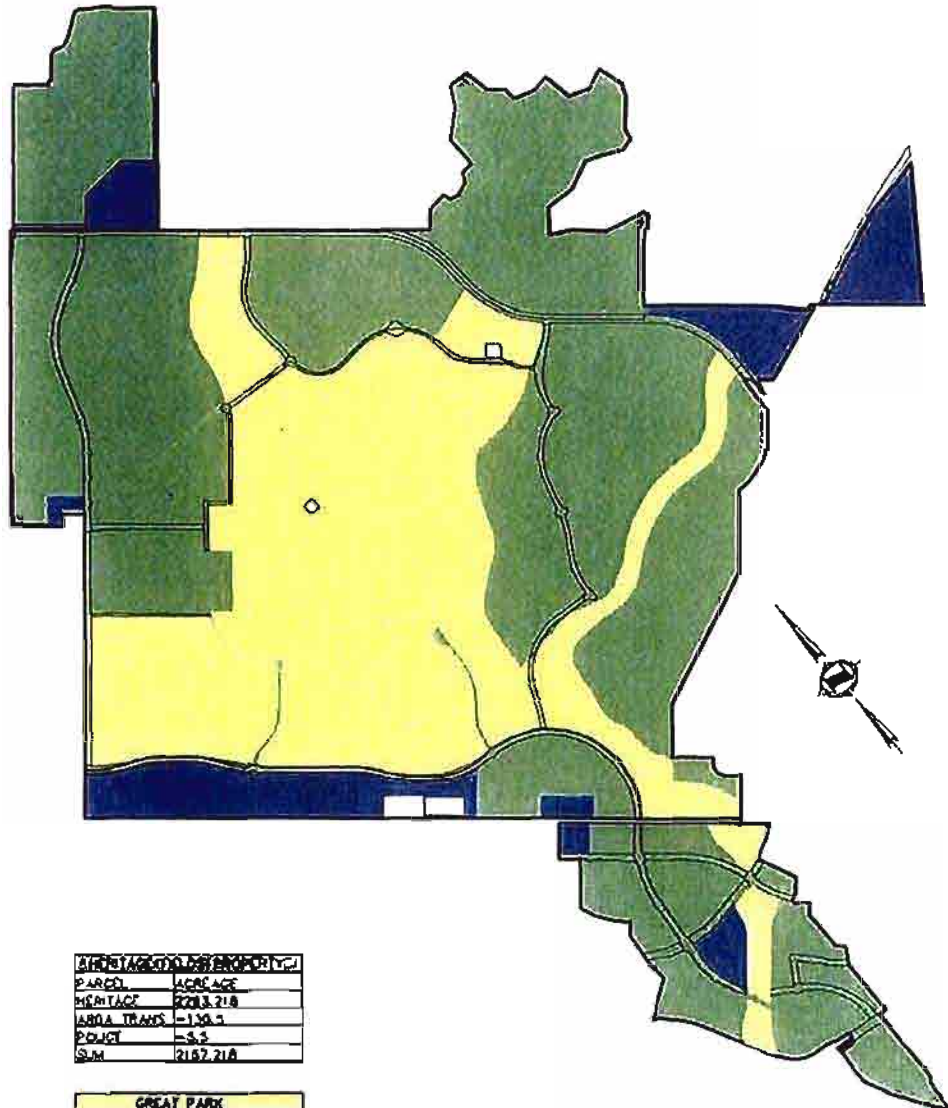
# EXHIBIT 'H'

ACREAGE SUMMARY  
 TOTAL HERITAGE FIELDS ACREAGE: 2,157,218 AC.  
 TOTAL GREAT PARK ACREAGE: 1,217,699 AC.  
 TOTAL NON-PARK ACREAGE: 294,877 AC.  
 TOTAL ACREAGE: 3,701,884 AC.

EXHIBIT EXPLANATION:  
 THIS EXHIBIT SHOWS FINAL ACREAGES AFTER PROPOSED ARDA AND  
 POLICE STATION TRANSFERS.

## LEGEND

- HERITAGE FIELDS PROPERTY
- GREAT PARK PROPERTY
- NON-PARK PROPERTY



HERITAGE FIELDS PROPERTY	
PARCEL	ACREAGE
HERITAGE	2,157,218
ARDA TRANS.	-150.5
POLICE	-5.3
SUM	2,157,218

GREAT PARK	
PARCEL	ACREAGE
EXHIBIT B	1,117,109
ARDA TRANS.	100.5
SUM	1,217,699

NON-PARK	
PARCEL	ACREAGE
EXHIBIT D	294,477
POLICE	5.3
SUM	294,877

**HUNSAKER & ASSOCIATES**  
 PLANNING • CONSULTING • SURVEYING  
 2/28/08 8/04/09 1/2 KML

## HERITAGE FIELDS PROPERTY

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

SCALE: 1"=2000'

W.D. 1555-60V

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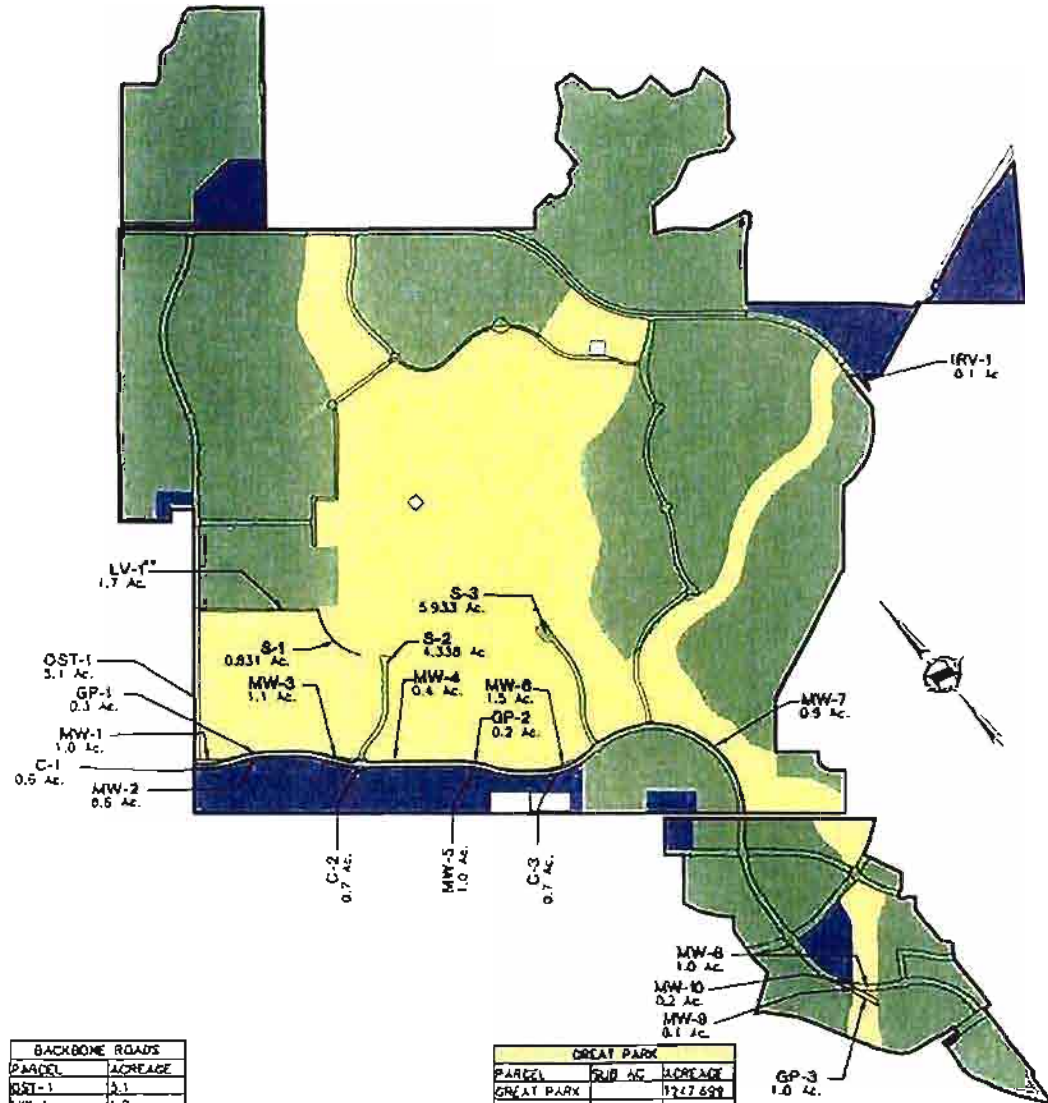
# EXHIBIT H-1

**ACREAGE SUMMARY**  
 TOTAL HERITAGE FIELDS ACREAGE: 2142.318 AC  
 TOTAL GREAT PARK ACREAGE: 1747.691 AC  
 TOTAL NON-PARK ACREAGE: 300.977 AC  
 TOTAL ACREAGE IN BACKBONE ROADS: 13.0 AC  
 TOTAL ACREAGE IN NON-BACKBONE ROADS: 1.7 AC  
 TOTAL ACREAGE: 3704.804 AC

**EXHIBIT EXPLANATION:**  
 THIS EXHIBIT SHOWS FINAL ACREAGES AFTER REALIGNMENT OF WARNE WAY, O STREET AND LV STREET FROM ORIGINAL MASTER PLAN AND GRANT OF S1, S2 AND S3 AND REMNANTS OF OLD WARNE WAY TO THE GREAT PARK AND THE CITY.

## LEGEND

- HERITAGE FIELD PROPERTY
- GREAT PARK PROPERTY
- NON-PARK PROPERTY



BACKBONE ROADS	
PARCEL	ACREAGE
OST-1	3.1
MW-1	1.0
MW-2	0.5
MW-3	1.1
MW-4	0.4
MW-5	1.0
MW-6	1.5
MW-7	0.9
MW-8	1.0
MW-9	0.1
MW-10	0.2
IRV-1	0.1
SUM	13.0

NON-BACKBONE ROADS	
PARCEL	ACREAGE
LU-1**	1.7

HERITAGE FIELDS (PROPERTY -)		
PARCEL	SUB AC	ACREAGE
HERITAGE		2142.318
S-1	-0.831	
S-2	-4.338	
S-3	-5.933	
C-1	-0.6	
C-2	-0.7	
C-3	-0.7	
GP-1	-0.3	
GP-2	-0.2	
GP-3	-1.0	
MW-9	-0.1	
NET CHANGE		-13.702
SUM		2142.318

GREAT PARK		
PARCEL	SUB AC	ACREAGE
GREAT PARK		1747.691
S-1	0.831	
S-2	4.338	
S-3	5.933	
SU-1	1.7	
OST-1	3.1	
MW-1	1.0	
MW-2	1.1	
MW-3	0.4	
MW-4	1.5	
MW-5	1.0	
MW-6	1.5	
GP-1	0.3	
GP-2	0.2	
GP-3	1.0	
NET CHANGE		-0.008
SUM		1747.691

TOTAL ACREAGE		
PARCEL	SUB AC	ACREAGE
CITY		799.977
C-1	0.6	
C-2	0.7	
C-3	0.7	
MW-2	-0.6	
MW-3	-1.0	
MW-10	-0.2	
IRV-1	-0.1	
NET CHANGE		79.100
SUM		300.977

1. THE 13 AC IS A PORTION OF THE 198.2 AC OF BACKBONE ROADS SHOWN ON EXHIBIT H-2

2. SHOWN HEREIN FOR INFORMATION ONLY

**HUNSAKER & ASSOCIATES**  
 PLANNING • ENGINEERING • SURVEYING  
 1101 N. 1ST ST. SUITE 100 • DENVER, CO 80202  
 TEL: 303.733.1100 • FAX: 303.733.1101

DATE: 1/23/09 BY: 8/04/09 FOR: K. LYNCH

## HERITAGE FIELDS PROPERTY

IN THE CITY OF WARNE, COUNTY OF ORANGE, STATE OF CALIFORNIA

SCALE: 1"=2000'

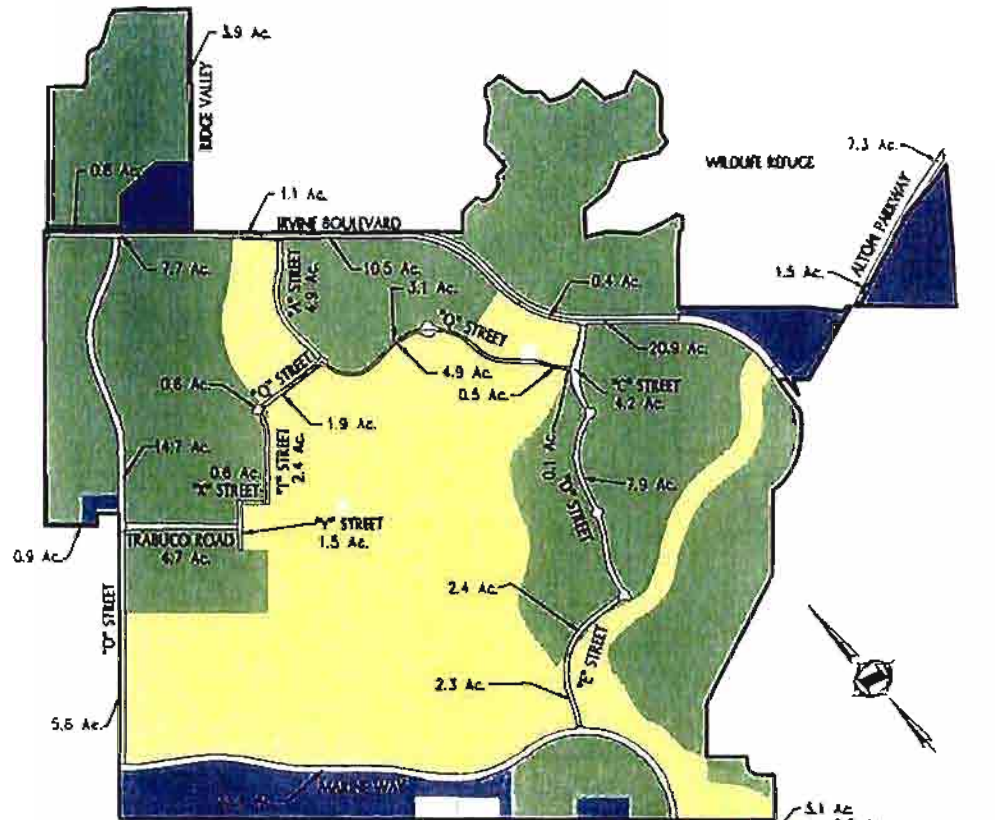
W.D. 1866-80X

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# EXHIBIT H-2

**ACREAGE SUMMARY**  
 TOTAL HERITAGE FIELDS ACREAGE: 1,979.416 AC.  
 TOTAL GREAT PARK ACREAGE: 1,238.001 AC.  
 TOTAL NON-PARK ACREAGE: 298.577 AC.  
 TOTAL ACREAGE IN BACKBONE ROADS: 188.2 AC.  
 TOTAL ACREAGE OF BACKBONE ROADS IN WILDLIFE REFUGE: = 7.3 AC.  
 TOTAL ACREAGE: 3,704.894 AC PER EXHIBIT "A"

**EXHIBIT EXPLANATIONS**  
 THIS EXHIBIT SHOWS FINAL ACREAGES LESS BACKBONE ROADS.  
 - 7.3 ACRES OF ALTON LIES WITHIN THE WILDLIFE REFUGE AND IS NOT INCLUDED IN THE 3,704.894 ACRES.  
 -- SEE EXHIBIT H-1 FOR LOCATION AND DETAILS



## LEGEND

- HERITAGE FIELD PROPERTY
- GREAT PARK PROPERTY
- NON-PARK PROPERTY

BACKBONE ROADS		
PARCEL	SUB AC	ACREAGE
ALTON WLD	7.3	
ALTON		8.4
IRVINE BLVD	41.4	
IRVINE (H-1)	0.1	
IRVINE TOTAL		41.5
BAKE PKWY	2.9	
BARRANCA	8.7	
MURLANDS	2.6	
MARINE WAY	40.0	
MARINE (H-1)	7.8	
MARINE TOT		47.8
RIDGE VALLEY	3.9	
TRABUCO	5.5	
ROCKFIELD	3.8	
D ST	20.3	
D ST (H-1)	5.1	
D ST TOTAL		25.4
A ST	4.9	
C ST	4.2	
D ST	7.9	
E ST	4.7	
F ST	11.1	
G ST	2.4	
H ST	0.8	
I ST	1.5	
SUM		188.2

HERITAGE FIELDS PROPERTY		
PARCEL	SUB AC	ACREAGE
HERITAGE		2157.218
S-1..	-0.031	
S-2..	-4.338	
S-3..	-5.933	
G-1..	-0.6	
G-2..	-0.2	
G-3..	-0.7	
GP-1..	-0.3	
GP-2..	-0.2	
GP-3..	-1.0	
TRANSFERS	-14.802	
MW-2..	-0.1	
IRVINE BLVD	-39.9	
ALTON	-7.8	
BAKE PKWY	-2.9	
BARRANCA	-8.7	
MURLANDS	-2.6	
MARINE WAY	-40.0	
RIDGE VALLEY	-3.9	
TRABUCO	-5.5	
ROCKFIELD	-3.8	
D ST	-20.3	
A ST	-4.9	
C ST	-4.2	
D ST	-7.9	
E ST	-4.7	
D ST	-3.8	
I ST	-2.4	
X ST	-0.9	
Y ST	-1.5	
ROADS	-183.2	
NET CHANGE		-177.802
SUM		1979.416



GREAT PARK		
PARCEL	SUB AC	ACREAGE
GREAT PARK		1238.001
S-1..	0.031	
S-2..	4.338	
S-3..	5.933	
GP-1..	0.3	
GP-2..	0.2	
GP-3..	1.0	
TRANSFERS	14.802	
OST-1..	-0.1	
MW-1..	-1.0	
MW-3..	-1.1	
MW-4..	-0.4	
MW-5..	-1.5	
MW-7..	-0.9	
MW-8..	-1.0	
IRVINE BLVD	-39.9	
ALTON	-7.8	
MURLANDS	-2.6	
E ST	-4.7	
D ST	-7.9	
ROADS	-27.3	
NET CHANGE		-8.698
SUM		1238.001

NON-PARK		
PARCEL	SUB AC	ACREAGE
CITY		298.577
C-1..	0.6	
C-2..	0.7	
C-3..	0.7	
TRANSFERS	2.0	
MW-2..	-0.6	
MW-4..	-1.0	
MW-10..	-0.7	
IRV-1..	-0.1	
ALTON	-1.3	
ROADS	-2.1	
NET CHANGE		-1.600
SUM		298.577

**HUNSAKER & ASSOCIATES**  
 PLANNING - ENGINEERING - SURVEYING  
 1100 N. GATEWAY BLVD. SUITE 200  
 COSTA MESA, CA 92626  
 DATE: 8/04/09 BY: K. LYNCH

## HERITAGE FIELDS PROPERTY

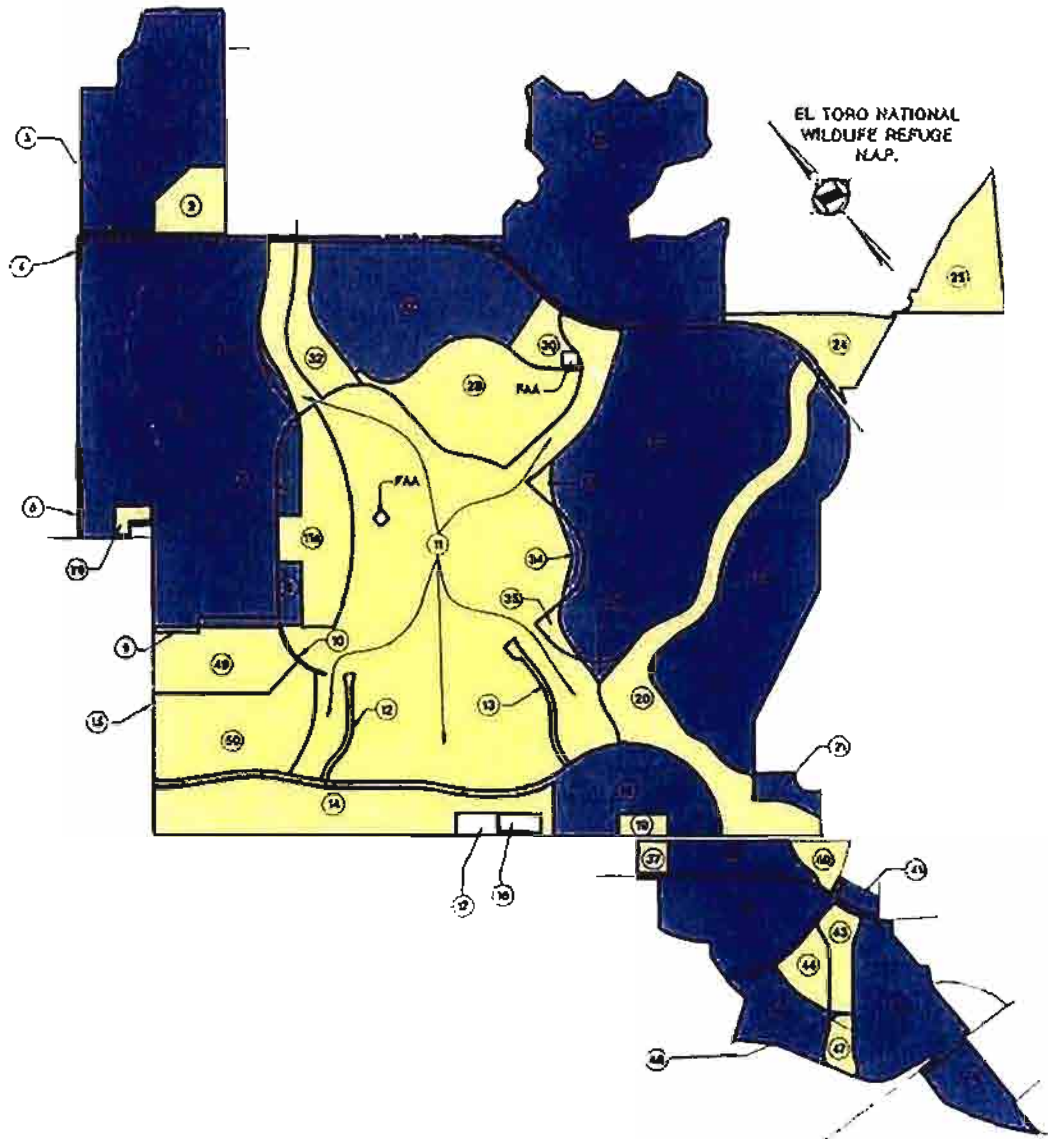
IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA

SCALE: 1"=200' W.C. 1056-B0X  
 C:\KORY\Heritage Fields\Exhibit H-2.dwg SHEET 1 OF 1

# EXHIBIT 'I'

## LEGEND

- ① INDICATES PROPERTY IDENTIFICATION NUMBERS
- INDICATES PROPERTY IDENTIFICATION PARCEL UNITS
- INDICATES PROPOSED CITY PARCELS
- INDICATES PROPOSED HERITAGE FIELDS PROPERTY



<b>HUNSAKER &amp; ASSOCIATES</b> PLANNING • ENGINEERING • SURVEYING <small>20000 Highway 100, Suite 200, El Cerrito, CA 94530 • Tel: 925.661.1100 • Fax: 925.661.1101</small>	<b>PROPERTY IDENTIFICATION MAP</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA		
DATE: 03/18/06 BY: J. LYNN	DATE: 07/27/07 BY: J. LYNN	SCALE: 1" = 2000' C:\KORY\Heritage Fields\ROP+ Revised\EXH-1.dwg	WJD 1856-BOT SHEET 1 OF 1

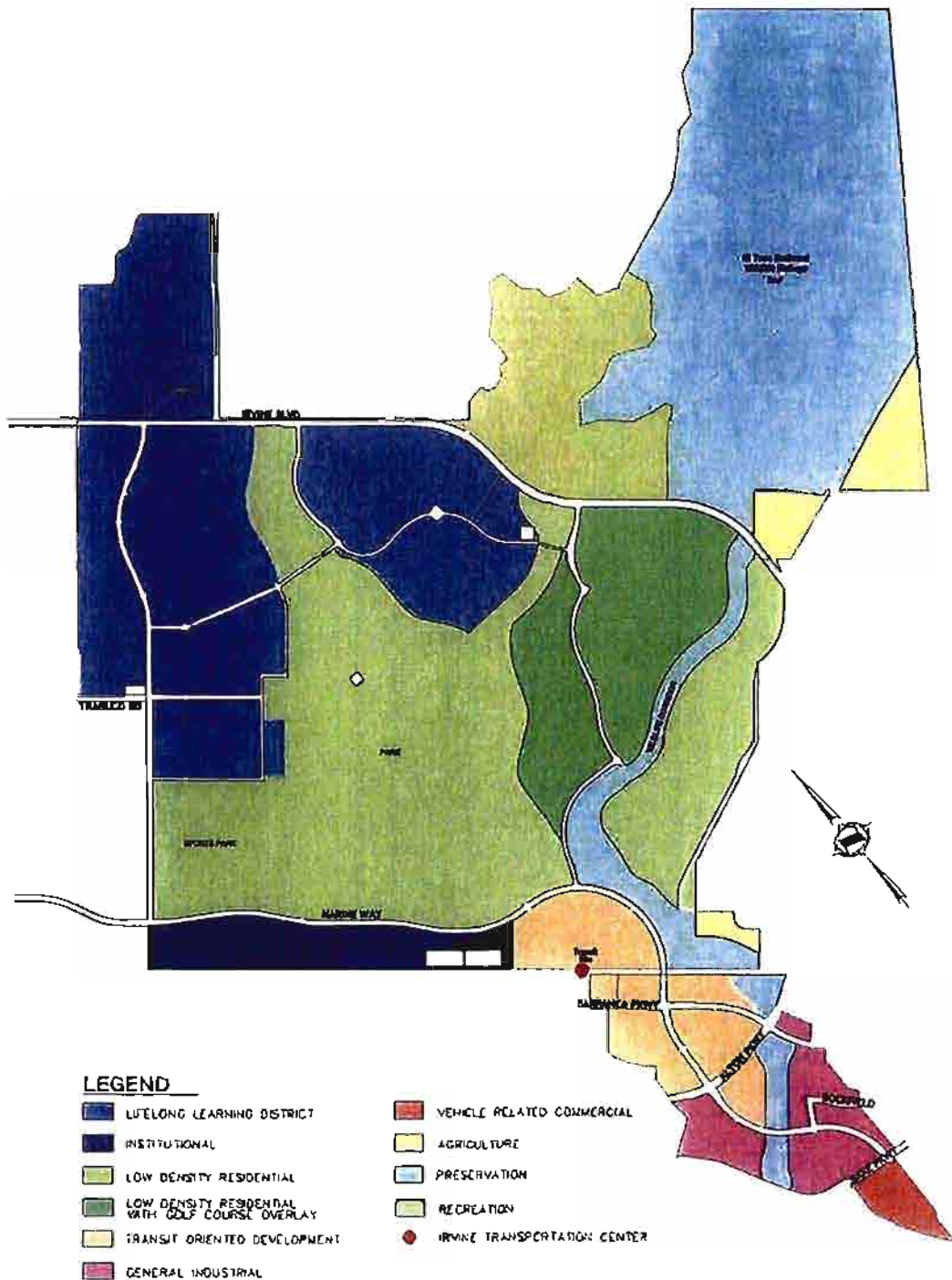
(RESERVED)

EXHIBIT J

(RESERVED)



## EXHIBIT "L"



### LEGEND

- |  |  |
|--|--|
|  LIFELONG LEARNING DISTRICT                       |  VEHICLE RELATED COMMERCIAL   |
|  INSTITUTIONAL                                    |  AGRICULTURE                  |
|  LOW DENSITY RESIDENTIAL                          |  PRESERVATION                 |
|  LOW DENSITY RESIDENTIAL WITH GOLF COURSE OVERLAY |  RECREATION                   |
|  TRANSIT ORIENTED DEVELOPMENT                     |  IRVINE TRANSPORTATION CENTER |
|  GENERAL INDUSTRIAL                               |  |


 <b>HUNSAKER &amp; ASSOCIATES</b> IRVINE, INC. PLANNING • ENGINEERING • SURVEYING <small>Three Peoples • Irvine, CA 92614 • 949.261.1100 • Fax 949.261.1099</small>		<b>ARDA OVERLAY PLAN</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA	
Date: 03/10/09 Drawn: 07/31/09 By: KUL	Scale: - W.Q. 1055-BOX	C:\KORY\Heritage Fields\EXH-L-073109.dwg	

Exhibit 'L'

ARDA OVERLAY PLAN MAXIMUM INTENSITY STANDARDS FOR THE ORANGE  
COUNTY GREAT PARK (PLANNING AREAS 30 & 51)

Land Use Type	ARDA Overlay Plan			
	Acres	Dwelling Units	Square Feet	Other Details
<b>Park District</b>				
Low Density Residential - North of Irvine	269	470		
Low Density Residential - South of Irvine	358	630		
Golf Course	211		25,000	18 Holes
<b>Lifelong Learning District</b>				
Institutional (Education)	108		1,452,600	Uses permitted by Sec. 3-37-39 8.1
Agriculture	168			
Commercial Recreation	268		708,000	Includes 130.5 Ac ARDA Transfer Site
Elementary School - Expo	13		40,000	650 Students
Retail	29		225,000	
Medical & Science	67		1,000,000	
Multi-Use Residential (Senior)	261	800		
ETHIC	10	165		
Multi-Use Residential	7	60		
			50,000	Cemetery related building development A total of 73 acres of cemetery use is conditionally permitted in 8.1A of LLD
<b>Institutional</b>				
Institutional	100		300,000	County Facilities
Institutional	25		122,500	
<b>Transit Oriented Development District:</b>				
Transit Oriented Development	173	1,500	150,000	75,000 Retail; 75,000 Office
Research & Development	118		1,600,000	
Auto Sales, Parking, & Storage	32		102,000	
Agriculture	12			
<b>Other City Uses:</b>				
Marshburn Basin & Channel	34			
Music/Allon	100			
TOD Stallon Related Public Uses	16			375 Parking Spaces
Remote Airport Terminal	10		9,000	675 Parking Spaces
Remote Airport Terminal Maintenance	9		44,500	
Police Sub-Station	5.5			
<b>Open Space &amp; Recreational Uses</b>				
Open Space / Park	348			Per OCGP Master Plan - 9/27/07
Cultural / Institutional	175		468,000	
Sports Park	154		26,000	
Drainage Corridor	262			
Wildlife Corridor	174			
<b>Other Agency Uses:</b>				
Habitat Preserve	962			
Cal Trans Right of Way	2.8			
FAA 2	0.9			
FAA 4	1.6			
Home 1	6.5		131,500	McKinney Act Warehousing
Home 2	5.2		131,500	McKinney Act Warehousing
<b>Roadways</b>				
Roadways	196			
<b>TOTAL</b>	<b>4,692</b>	<b>3,625</b>	<b>6,585,600</b>	

Form of LIFOC Conveyance

EXHIBIT "M"

ASSIGNMENT OF LEASE

RECORDED AT THE REQUESTED OF AND  
WHEN RECORDED RETURN TO

CITY OF IRVINE  
City Hall  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9525  
Attn.: City Manager

---

(Space Above Line for Recorder's Use)

**THIS ASSIGNMENT OF LEASE** (this "Assignment") is made as of \_\_\_\_\_, 2005, by Heritage Fields El Toro, LLC, a Delaware limited liability company ("Assignor"), to and in favor of the CITY OF IRVINE, a charter municipal corporation ("Assignee").

W I T N E S S E T H:

A. Assignor is the current owner of fee title to a portion of the former USMCAS El Toro ("**Former Base Project**"). Assignor also is the holder of a leasehold estate to the land more particularly described on Exhibit A attached hereto (the "**Transfer Parcel**"), which is located on the Former Base Project and has been leased under a "Lease in Furtherance of Conveyance" ("**LIFOC**") that was granted by the United States Department of Navy ("**Navy**").

B. Assignor and Assignee are parties to that certain Amended and Restated Development Agreement dated \_\_\_\_\_, 2009 and recorded in the official records of Orange County, California on \_\_\_\_\_, 2009 as Instrument No. \_\_\_\_\_ (the "**Development Agreement**"). The Development Agreement requires that Assignor convey fee title to the Transfer Parcel if and when Assignor acquires fee title from the Navy. The Development Agreement also requires that, pending Assignor's receipt of fee title from the Navy, Assignor assign its leasehold interest in and to the Transfer Parcel to Assignee, provided that the Navy consents to the assignment of the leasehold estate and that the LIFOC being assigned to the City is separate and distinct from other LIFOCs affecting other real property currently leased by the Navy to Assignor..



## ARTICLE 1 DEFINITIONS

Section 1.1 Defined Terms and Rules of Construction. All capitalized terms used herein shall have the meaning of the same defined terms set forth in the Development Agreement. Article and Section captions used in this Assignment are for convenience only and shall not affect the construction of this Assignment. The words "Assignor", "Assignee", and "lessee", wherever used herein, shall include the persons named herein and designated as such and their respective successors and assigns, and all words and phrases shall be taken to include the singular or plural and masculine, feminine or neuter gender, as may fit the case.

No rules of construction against the drafter of this Assignment shall apply in any interpretation or enforcement of this Assignment, any documents or certificates executed pursuant hereto, or any provisions of any of the foregoing.

## ARTICLE 2 TERMS AND CONDITIONS

Section 2.1 Assignment of Leases. Assignor hereby absolutely, unconditionally and irrevocably assigns, transfers, and conveys to Assignee all of Assignor's right, title and interest in and to the leasehold estate in the Transfer Parcel, which leasehold estate was created pursuant to the LIFOC described on Exhibit "B" attached hereto (the "Lease"), except to the extent it may be limited by the terms contained in the LIFOC entered into between the United States of America and Assignor (or its predecessor in interest) with respect to the Transfer Parcel.

Section 2.2 Enforcement of Assignment. Assignor does hereby empower Assignee, its agents or attorneys whether or not there has been any event of default or breach under the Development Agreement, to collect, sue for, settle, compromise and give acquittances for all of the rents that may become due under any and all subleases under the Lease, and avail itself of and pursue all remedies for the enforcement of the Lease and any and all subleases, and Assignor's rights in and under the Lease and all any subleases as Assignor might have pursued but for this Assignment.

Section 2.3 Lease Warranties. Assignor warrants that:

(a) The Lease is in full force and effect, and that a copy thereof heretofore delivered to Assignee is a true and correct copy; and

(b) Assignor has not heretofore assigned or pledged the same or any interest therein (except for such assignment or pledge that is released concurrent with the delivery of this Assignment to Assignee), and, to the actual knowledge of Assignor, no default exists on the part of the lessee under the Lease (the "Lessee"), or Assignor, as lessor, in the performance on the part of either Assignor or Lessee, of the terms, covenants, provisions or agreements in the Lease;

Section 2.4 Transfer of Conveyance Deed Rights Upon Expiration of LIFOCs. Assignor absolutely, unconditionally and irrevocably covenants that following the date on which the Navy or an affiliate agency of the United States Government, executes and delivers to Assignor a Quitclaim deed conveying the Transfer Parcel, the Assignor shall execute and deliver

to Assignee a Grant Deed for that property in substantially the same form as the Quitclaim deed delivered by the Navy. Assignee understands that the deed may include restrictions, covenants, land use controls or other encumbrances required by the Navy with respect to environmental remediation of the property.

Section 2.5 Termination Upon Conveyance. This assignment shall terminate upon conveyance by deed of any conveyed portion of the Transfer Parcel. All references in the LIFOC to the Leased Premises shall be deemed to exclude such conveyed portions and this Assignment shall continue in full force and effect with respect to the remainder of the Leased Premises.

### ARTICLE 3 MISCELLANEOUS

Section 3.1 Extension and Renewals of Leases. This Assignment shall include any extensions and renewals of the Lease and any subleases or assignments of the Lease, and any reference herein to the Lease shall be construed as including any such extensions, renewals, subleases and assignments.

Section 3.2 No Third Parties Benefited. This Assignment is made for the purpose of defining and setting forth certain obligations, rights and duties of Assignor and Assignee, and is made for the protection of Assignee. There are no third party beneficiaries under this Assignment.

Section 3.3 Notices. All notices, demands, or other communications under this Assignment shall be in writing and shall be deemed to have been given and/or received: (i) upon delivery if personally delivered; (ii) three days after deposited in the United States Mail, postage pre-paid, by certified or registered mail; or (iii) on the next business day after deposit with a nationally recognized overnight delivery service marked for delivery the next business day, addressed to the party for whom it is intended at its address hereinafter set forth:

If to Assignee:

City of Irvine City Hall  
One Civic Center Plaza  
Irvine, CA 92623-9525  
Attn.: City Manager

With a copy to:

Rutan & Tucker LLP  
611 Anton Boulevard  
14th Floor  
Costa Mesa, CA 92626  
Attn.: Jeff Melching, Esq.

If to Assignor:

Heritage Fields El Toro, LLC  
7130 Trabuco Road  
Irvine, California 92618  
Attention: Division President  
Allen Matkins Leck Gamble Mallory &  
Natsis LLP  
1900 Main Street, 5th Floor  
Irvine, California 92614-7321  
Attn.: Michael Alvarado, Esq.

Any party may designate a change of address by written notice to the others, given at least ten (10) days before such change of address is to become effective.

**Section 3.4 Attorney's Fees and Expenses; Enforcement.** In any judicial proceeding, arbitration, or mediation between Assignor and Assignee seeking enforcement of any of the terms and provisions of this Assignment (collectively, an "Action"), the prevailing Party in such Action shall recover all of its actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or Civil Code Section 1717 in the absence of this Assignment), including expert witness fees, attorney's fees, and costs of investigation and preparation prior to the commencement of the Action. However, such recovery shall not exceed the dollar amount of the actual costs and expenses of the party from whom such recovery is sought for such same Action ("Non-Prevailing Party's Expenses"), and such prevailing party shall not recover any costs and expenses in excess of the Non-Prevailing Party's Expenses. The right to recover such costs and expenses shall accrue upon commencement of the Action, regardless of whether the Action is prosecuted to a final judgment or decision.

**Section 3.5 Successors and Assigns.** This Assignment shall be binding upon and inure to the benefit of Assignor, Assignee, and their respective successors and permitted assigns.

**Section 3.6 Time.** TIME IS OF THE ESSENCE of each and every term of this Assignment.

**Section 3.7 Governing Law.** This Assignment shall be governed by, and construed and enforced in accordance with the laws of the State of California. Assignor and all persons obligated to Assignee under this Assignment consent to the jurisdiction of the Superior Court of the State of California for the County of Orange, or the United States District Court for the Central District of California, Santa Ana Division, and waive any right to change of venue or removal of the case to another jurisdiction.

Section 3.8 Entire Agreement. This Assignment and the Development Agreement embody the final, entire agreement among the Parties hereto and supersede any and all prior commitments, agreements, representations and understandings, whether written or oral, relating to the subject matter hereof and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the Parties hereto. There are no unwritten oral agreements among the Parties hereto. The Assignment shall not be modified except by written instrument executed by all Parties.

Section 3.9 Counterparts. This Assignment, and any subsequent modifications, amendments, waivers, consents or supplements thereof, if any, may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all such counterparts together, shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date written above.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION OF TRANSFER PARCEL

[Separate metes and bounds description to be attached based upon applicable Transfer Parcel]

EXHIBIT "B"

DESCRIPTION OF LIFO DOCUMENT

[Separate LIFO document to be described here based upon applicable Transfer Parcel]

EXHIBIT "C"

NAVY CONSENT TO ASSIGNMENT

[To be attached based upon terms of consent granted by Navy]



## CERTIFICATE OF ACCEPTANCE

This to certify that the interest in real property conveyed by the foregoing Assignment of Lease, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine ("City") is hereby accepted by the undersigned officer of the City, on behalf of the City, pursuant to authority conferred by Resolution No. \_\_\_\_\_ adopted by the City on \_\_\_\_\_, 20\_\_\_\_, and City consents to the recordation thereof by its undersigned duly authorized.

CITY OF IRVINE

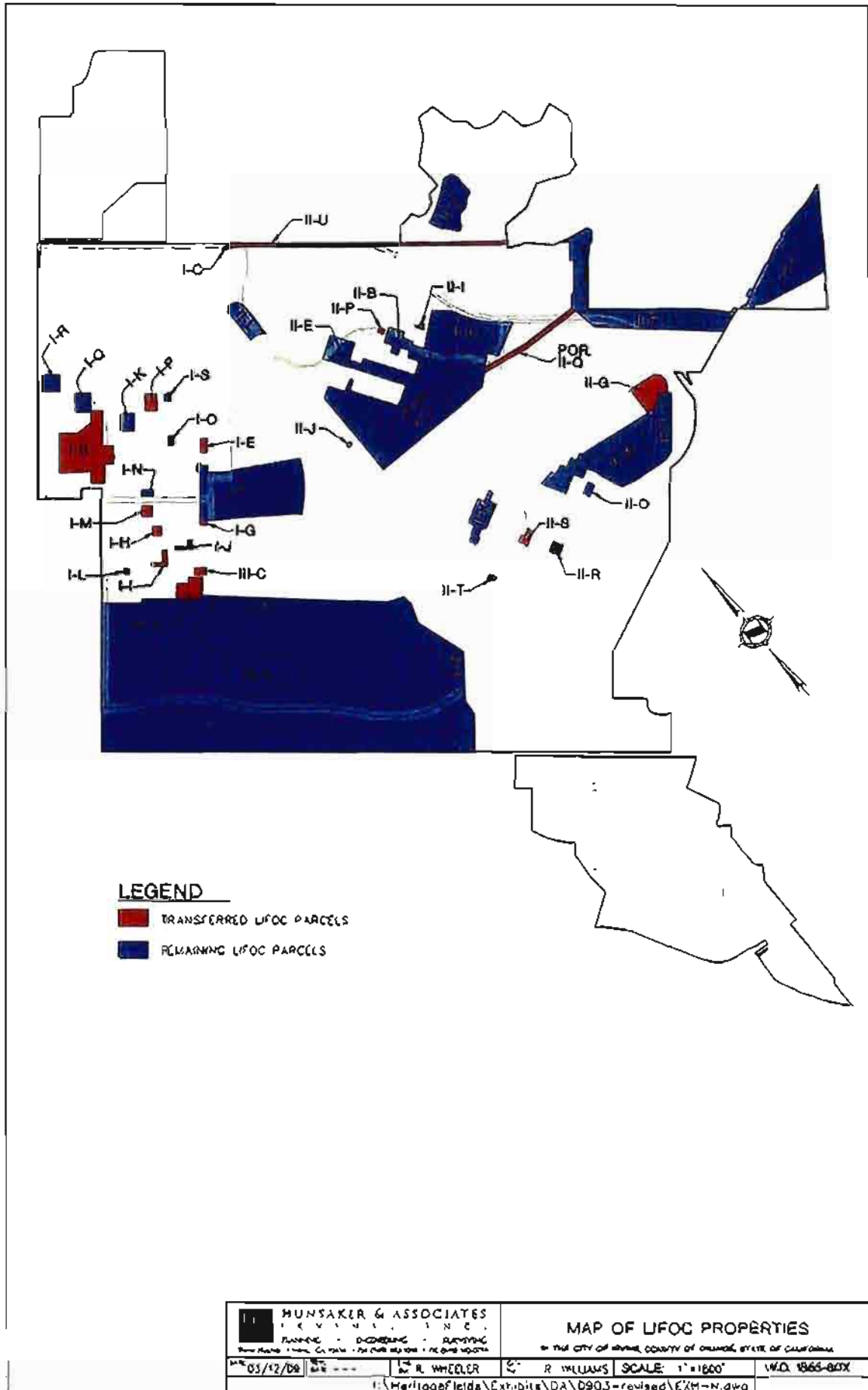
By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

# EXHIBIT 'N'



## EXHIBIT "C"





[illegible]

**CHIEF EXPLANATION:**  
 Two Chief Sales Executives and more of what for access and  
 willingness to be connected to the city to other markets.

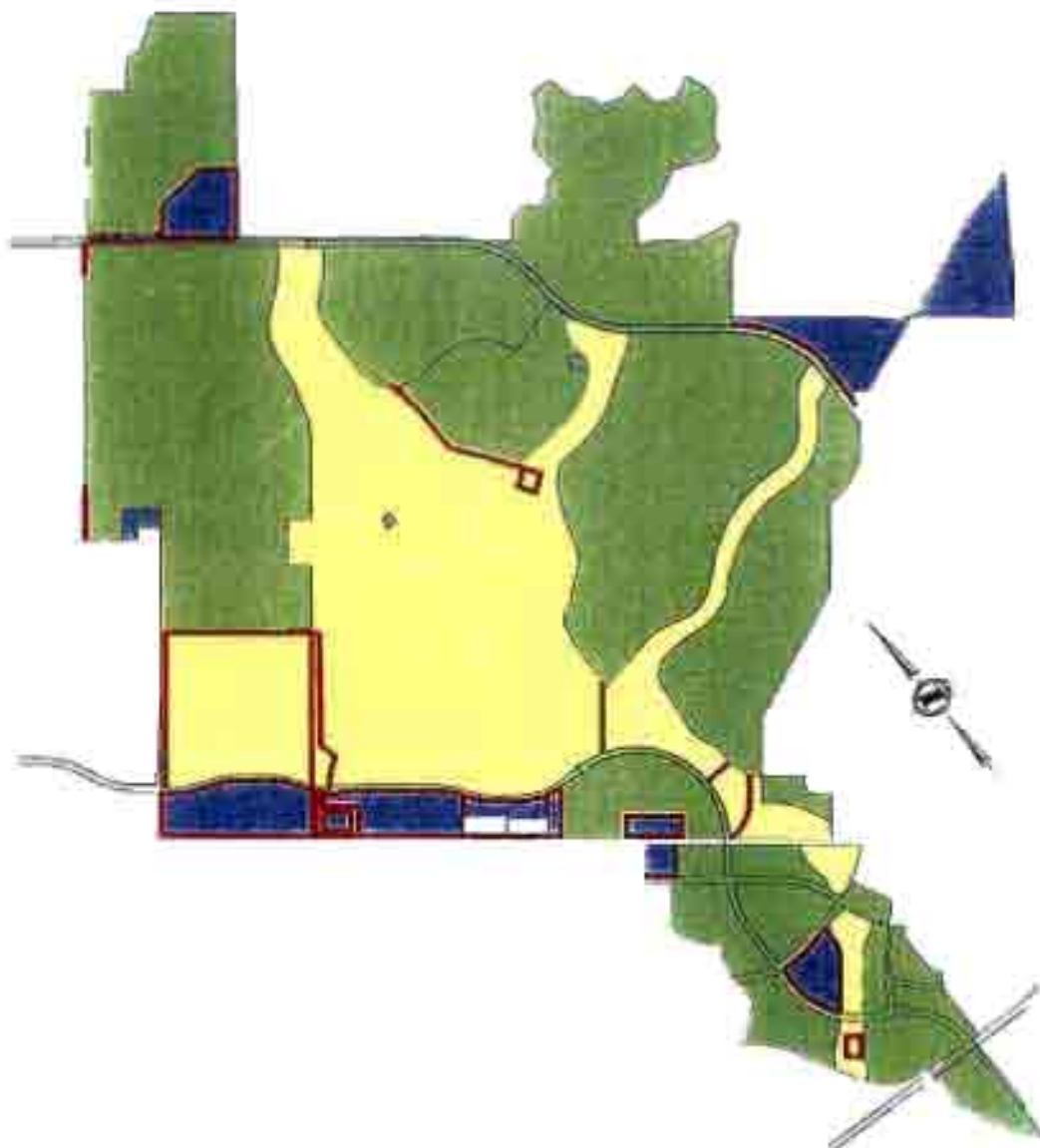
1998

THE LOCATIONS SHOWN HEREON ARE NOT INTENDED TO DEFINE  
COUNTRY BOUNDARIES BUT ARE ONLY AN INDICATION OF GENERAL AREA  
WHERE AN INCIDENT TO BE OBSERVED BY AIRCRAFT AND/OR ON THE  
GND IS POTENTIALLY POSSIBLE.

### LEGEND

-  denotes high significance
-  denotes low significance
-  denotes not significant
-  denotes not applicable

APPROXIMATE LOCATION OF PERIODIC CAUSTICS AND RAY




 <b>HUMPALE &amp; ASSOCIATES</b> INCORPORATED 10000 N. 10th Street, Suite 100 Phoenix, AZ 85020-1000		<b>PROPOSED EASEMENT AND RIGHT OF WAY</b> IN THE CITY OF PHOENIX, COUNTY OF MARICOPA, STATE OF ARIZONA	
5/14/98 10000 N. 10th Street, Suite 100 Phoenix, AZ 85020-1000	10000 N. 10th Street, Suite 100 Phoenix, AZ 85020-1000	SCALE 1"=200' Revised 5/14/98	W.O. 1886-00X

EXHIBIT P

RECORDED AT THE REQUEST OF AND  
WHEN RECORDED RETURN TO:

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: City Clerk

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section  
6103

In accordance with Section 11922 of the California  
Revenue and Taxation Code, transfer of the property to  
the City of Irvine is exempt from the payment of a  
documentary transfer tax.

GRANT DEED

*(Police Site)*

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged,  
Heritage Fields El Toro, LLC, a Delaware limited liability company, hereby grants to the CITY  
OF IRVINE, a California charter city, that certain real property located in the City of Irvine,  
County of Orange, State of California, described in the legal description attached hereto as  
Exhibit "A" and incorporated herein by this reference, subject to all matters of record (including,  
without limitation, that certain Amended and Restated Development Agreement dated  
\_\_\_\_\_, 2009 and recorded in the official records of Orange County, California on \_\_\_\_\_,  
2009 as Instrument No. \_\_\_\_\_).

Dated: \_\_\_\_\_, 20\_\_

*[signature follows on next page]*

*[signature page to Grant Deed]*

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC, a Delaware limited  
liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields LLC, a  
Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc., a  
California corporation  
Its: Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine ("City") is hereby accepted by the undersigned officer of the City, on behalf of the City, pursuant to authority conferred by Resolution No. \_\_\_\_\_ adopted by the City on \_\_\_\_\_, 20\_\_\_\_, and City consents to the recordation thereof by its undersigned duly authorized officer.

CITY OF IRVINE

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

EXHIBIT Q

RECORDED AT THE REQUEST OF AND  
WHEN RECORDED RETURN TO:

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: City Clerk

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section  
6103

In accordance with Section 11922 of the California  
Revenue and Taxation Code, transfer of the property to  
the City of Irvine is exempt from the payment of a  
documentary transfer tax.

GRANT DEED

*(ARDA Transfer Site)*

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged,  
Heritage Fields El Toro, LLC, a Delaware limited liability company, hereby grants to the CITY  
OF IRVINE, a California charter city, that certain real property located in the City of Irvine,  
County of Orange, State of California, described in the legal description attached hereto as  
Exhibit "A" and incorporated herein by this reference, subject to all matters of record (including,  
without limitation, that certain Amended and Restated Development Agreement dated  
\_\_\_\_\_, 2009 and recorded in the official records of Orange County, California on \_\_\_\_\_,  
2009 as Instrument No. \_\_\_\_\_).

Dated: \_\_\_\_\_, 20\_\_

*[signature follows on next page]*

*[signature page to Grant Deed]*

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC, a Delaware limited  
liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields LLC, a  
Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc., a  
California corporation  
Its: Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine ("City") is hereby accepted by the undersigned officer of the City, on behalf of the City, pursuant to authority conferred by Resolution No. \_\_\_\_\_ adopted by the City on \_\_\_\_\_, 20\_\_, and City consents to the recordation thereof by its undersigned duly authorized officer.

CITY OF IRVINE

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

Exhibit R-1

Indexed GA

<u>Fiscal Year</u>	<u>Amount</u>
2009-2010	\$2,000,000
2010-2011	\$3,000,000
2011-2012	\$4,000,000
2012-2013	\$4,000,000
2013-2014	\$5,000,000
2014-2015	\$9,500,000
Each Fiscal Year Thereafter, Commencing in Fiscal Year 2015-2016	Increase Amount in Prior Fiscal Year by 3%.

Exhibit R-2

Guaranteed Maintenance Amount Indexed by 2%

<u>Fiscal Year</u>	<u>Amount</u>
2009-2010	\$2,000,000
2010-2011	\$3,000,000
2011-2012	\$4,000,000
2012-2013	\$4,000,000
2013-2014	\$5,000,000
2014-2015	\$9,500,000
Each Fiscal Year Thereafter, Commencing in Fiscal Year 2015-2016	Increase Amount in Prior Fiscal Year by 2%.

**RATE AND METHOD OF APPORTIONMENT FOR  
CITY OF IRVINE COMMUNITY FACILITIES DISTRICT No. 2009-3  
IMPROVEMENT AREA No. 1 (GREAT PARK)**

A Special Tax shall be levied on all Assessor's Parcels of Taxable Property in Improvement Area No. 1 of City of Irvine Community Facilities District No. 2009-3 (Great Park) ("CFD No. 2009-3 (IA No. 1)") and collected each Fiscal Year commencing in Fiscal Year 20XX-20XX, in an amount determined through the application of this Rate and Method of Apportionment as described below. All of the real property in CFD No. 2009-3 (IA No. 1), unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area in acres of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area in acres shown on the applicable final map, parcel map, condominium plan, or other map or plan recorded with the County. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

"Act" means, collectively, the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Title 5 of the California Government Code, the City Charter, and the City Municipal Code, codified and uncoded.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2009-3 (IA No. 1), including but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2009-3 (IA No. 1) or any designee thereof of complying with arbitrage rebate requirements with respect to the Special Tax and CFD No. 2009-3 (IA No.1) Bonds; the costs to the City, CFD No. 2009-3 (IA No. 1) or any designee thereof of complying with disclosure requirements of the City, CFD No. 2009-3 (IA No. 1) or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2009-3 (IA No. 1) or any designee thereof related to an appeal of the Special Tax; the costs of the City, CFD No. 2009-3 (IA No. 1) or any designee thereof related to the recalculation of the Value Limitation in accordance with Section C.1 below and the Buydown of Outstanding Bonds in accordance with Section D.4 below; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses related to CFD No. 2009-3 (IA No.1) Bonds. Administrative Expenses shall also include amounts estimated by the CFD Administrator or advanced by the City or CFD No. 2009-3 (IA No. 1) for any other

administrative purposes of CFD No. 2009-3 (IA No. 1), including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Affordable Housing"** means residential dwelling units, located on one or more Assessor's Parcels for which a building permit for new construction was issued after January 1, 2008 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied, that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the City providing affordable housing for households with incomes below 80% of the County of Orange median income, and are therefore exempt from the Special Tax.

**"Amended and Restated Development Agreement"** means the Amended and Restated Development Agreement, dated MM/DD/YYYY, by and among the City, the Developer and the Irvine Redevelopment Agency.

**"Assessor's Parcel"** means a lot or parcel to which an assessor's parcel number is assigned as determined from an Assessor's Parcel Map or the applicable assessment roll.

**"Assessor's Parcel Map"** means an official map of the County Assessor of the County designating parcels by Assessor's Parcel number.

**"Attached Residential Property"** means Assessor's Parcels of Developed Property for which building permits have been issued for attached residential units.

**"Authorized Facilities"** means Group A Facilities, Group B Facilities, and Group C Facilities as identified in the Amended and Restated Development Agreement.

**"Authorized Services"** means those services authorized to be financed by CFD No. 2009-3.

**"Auto Center Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) permitting the construction of one or more non-residential facilities has been issued by the City which is primarily used for: selling automobiles, or for any other uses that are consistent with auto center land use designations as determined by the City.

**"Bond Costs"** means for (i) any bond issue sold by any Other Improvement Area in CFD No. 2009-3 and (ii) all Subordinate CFD No. 2009-3 (IA No. 1) Bonds, all debt service payments, administrative expenses, and amounts required to establish or replenish any bond reserve funds, and any other use of Special Taxes for such bond issues required by the indenture, fiscal agent agreement, or other agreement governing the terms of such bond issue.

**"Bond Index"** means the national Bond Buyer Revenue Bond Index, commonly referenced as the 25-Bond Revenue Index. In the event the Bond Index ceases to be published, the index used shall be based on a comparable index for revenue bonds maturing in 30 years with an average rating equivalent to Moody's A1 and S&P's A-plus, as reasonably determined by the CFD Administrator.

**"Bond Yield"** means the yield of the latest series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds issued. For purposes of this calculation, the yield on such latest series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds shall be the yield calculated at the time such last

Non-Subordinate series of CFD No. 2009-3 (IA No. 1) Bonds were issued, pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, for the purpose of the tax certificate executed in connection with the issuance of such latest series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds.

**"Buydown of Outstanding Bonds"** means a mandatory buydown of Outstanding Bonds made by a property owner to compensate for a loss of Special Tax revenues resulting from the construction of fewer residential dwelling units, smaller residential dwelling units, or a modified number of Acres anticipated for the construction of Non-Residential Property, as determined in accordance with Section D below.

**"CFD Administrator"** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement, and providing for the levy and collection of the Special Taxes.

**"CFD No. 2009-3"** means City of Irvine Community Facilities District No. 2009-3 (Great Park).

**"CFD No. 2009-3 (IA No. 1)"** means Improvement Area No. 1 of CFD No. 2009-3 as identified on the boundary map for CFD No. 2009-3 and further set forth in the Resolution of Formation.

**"CFD No. 2009-3 (IA No. 1) Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 2009-3 (IA No. 1) and secured by the Special Tax levy on property within the boundaries of CFD No. 2009-3 (IA No. 1) under the Act .

**"City"** means the City of Irvine.

**"Commercial Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) permitting the construction of one or more non-residential facilities has been issued by the City which is primarily used for: the sale of general merchandise, hard goods, personal services, and other items directly to consumers, or other uses that are consistent with commercial land use designations as determined by the City.

**"Council"** means the City Council of the City which serves at the legislative body of CFD No. 2009-3.

**"County"** means the County of Orange.

**"Debt Service Coverage"** means the debt service coverage percentage identified in the additional bonds test or parity bonds test section of the Indenture for Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds.

**"Detached Residential Property"** means Assessor's Parcels of Developed Property for which building permits have been issued for detached residential units.

**"Developed Property"** means, for each Fiscal Year, all Taxable Property, exclusive of Taxable Public Property and Taxable Property Owner Association Property, for which a building permit for construction was issued after January 1, 2009 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied.

**"Developed Property Special Tax Requirement"** means the Maximum Special Tax on Developed Property.

**"Developer"** means Heritage Fields El Toro LLC, a Delaware limited liability company, and its successors and assigns.

**"Discount Rate"** means (i) prior to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, the Bond Index, and (ii) subsequent to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, the Bond Yield.

**"Final Mapped Property"** means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property and Taxable Public Property, located in a Final Subdivision as of January 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied, but no earlier than January 1, 2009.

**"Final Mapped Property/Undeveloped Property Special Tax Requirement"** means that amount required, if any, in any Fiscal Year to (i) pay debt service on CFD No. 2009-3 (IA No. 1) Bonds payable in the calendar year commencing in such Fiscal Year, (ii) pay any amounts required to establish or replenish any reserve funds for all CFD No. 2009-3 (IA No. 1) Bonds, (iii) pay for Administrative Expenses, (iv) pay for reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax levy in the previous Fiscal Year, (v) pay the Guaranteed Amount, and (vi) pay Bond Costs for Other Improvement Area Bonds to the extent that Special Taxes secure an issue of Other Improvement Area Bonds, less (vii) an amount equal to the Developed Property Special Tax Requirement, less (viii) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator, so long as the amount required is not less than zero.

**"Final Subdivision"** means a subdivision of property which occurred prior to January 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied, by recordation of a final map, parcel map, or lot line adjustment, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code Section 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Floor Area Ratio"** means for Non-Residential – Commercial Property – 0.317; for Non-Residential – Industrial Property – 0.325; for Non-Residential – Institutional Property – 0.361; for Non-Residential – Office Property – 0.326; for Non-Residential – Auto Center – 0.084; and for Other Non-Residential Property – 0.308.

**"Future Annexation Area"** means the property designated as Future Annexation Area on the boundary map for CFD No. 2009-3 (IA No. 1), as identified in Exhibit C, and anticipated to become subject to the Special Tax.

**"Guaranteed Amount"** means for any Fiscal Year, the lesser of (i) the Pro Rata Share for CFD No. 2009-3 (IA No. 1) of the annual amounts set forth in Exhibit B, or (ii) the sum of (a) Pro

Rata Share for CFD No. 2009-3 (IA No. 1) of the amount needed to finance Authorized Services in such Fiscal Year as determined by the City, and (b) the Bond Costs associated with any Subordinate Bonds issued on behalf of CFD No. 2009-3 (IA No. 1). Notwithstanding the above, the Guaranteed Amount may exceed the Pro Rata Share for CFD No. 2009-3 (IA No. 1) as discussed in Section E.2. The Guaranteed Amount collected in CFD No. 2009-3 (IA No. 1) may be used to finance Authorized Services and to pay Bond Costs associated with Subordinate Bonds issued on behalf of CFD No. 2009-3 (IA No. 1).

**"Indenture"** means the indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which CFD No. 2009-3 (IA No. 1) Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Industrial Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) permitting the construction of one or more non-residential facilities has been issued by the City which is primarily used for: manufacturing, production, research and development, storage and/or processing of goods, or for any other uses that are consistent with industrial land use designations as determined by the City.

**"Institutional Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) permitting the construction of one or more non-residential facilities has been issued by the City which is primarily used for: education, including libraries and museums, or for any other uses that are consistent with institutional land use designations as determined by the City.

**"Intermediate Maximum Special Tax"** means the intermediate Maximum Special Tax, determined in accordance with Section C herein, that can be levied in any Fiscal Year on any Assessor's Parcel of Final Mapped Property or Undeveloped Property.

**"Land Use Class"** means any of the classes listed in Table 1, Table 2 or Exhibit A, herein.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel of Taxable Property.

**"Moderate Affordable Senior Units"** means residential development that is designed for, and restricted to, persons or couples of whom one member is age 55 or older that is located on one or more Assessor's Parcels of Residential Property that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the City providing affordable housing for households with incomes below 120% of the County of Orange median income (but not less than 80% of the County of Orange median income).

**"Moderate Affordable Units"** means dwelling units, other than Moderate Affordable Senior Units, that are located on one or more Assessor's Parcels of Residential Property that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the

City providing affordable housing for households with incomes below 120% of the County of Orange median income (but not less than 80% of the County of Orange median income).

**"Non-Residential Floor Area"** means the total building square footage of the non-residential building(s) located on an Assessor's Parcel, measured from outside wall to outside wall, not including space devoted to stairwells, public restrooms, lighted courts, vehicle parking and areas incident thereto, and mechanical equipment incidental to the operation of such building. The determination of Non-Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor's Parcel and/or to the appropriate records kept by the Department of Planning and Land Use, as reasonably determined by the CFD Administrator.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit permitting the construction of one or more non-residential units or facilities has been issued by the City or other governmental agency.

**"Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds"** means any issue(s) of CFD No. 2009-3 (IA No. 1) Bonds that are not Subordinate CFD No. 2009-3 (IA No. 1) Bonds.

**"Office Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) permitting the construction of one or more non-residential facilities has been issued by the City which is primarily used for: professional/medical offices, or for any other uses that are consistent with office land use designations as determined by the City.

**"Other Improvement Area"** means an improvement area located within CFD No. 2009-3, other than CFD No. 2009-3 (IA No.1).

**"Other Improvement Area Bonds"** means all bonds issued on behalf of Other Improvement Areas that are secured by the Special Taxes in the manner and for the duration set forth in one or more indentures, fiscal agent agreements, or other agreements governing the terms of such bonds.

**"Other Non-Residential Property"** means all Non-Residential Property, other than Auto Center Property, Commercial Property, Industrial Property, Institutional Property, and Office Property.

**"Outstanding Bonds"** means all Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds which are outstanding under an Indenture.

**"Overlapping Liens"** means projected ad valorem property taxes and all direct and overlapping assessments, taxes, special taxes, and charges on the secured tax-roll of the County for each parcel/unit of Taxable Property at the time of CFD No. 2009-1 formation, excluding however, the Special Taxes assessed or levied pursuant to this Rate and Method of Apportionment.

**"Prepayable Portion of the Special Tax"** shall have the meaning set forth in Section I.

**"Pro Rata Share"** means the ratio calculated by dividing the anticipated Maximum Special Tax to be levied at build out in CFD No. 2009-3 (IA No. 1) by the anticipated Maximum Special Tax to be levied at build out for all improvement areas within CFD No. 2009-3. So long as there are no CFD No. 2009-3 (IA No. 1) Bonds outstanding, or Special Taxes being pledged to the payment of Bond Costs for Other Improvement Area Bonds, the City may recalculate the Pro



Rata Share to reflect development assumptions which differ from those identified in Table 2 of the rate and method of apportionment for any improvement area of CFD No. 2009-3. Notwithstanding the foregoing, the City shall not recalculate the Pro Rata Share to incorporate any prepayments of the Prepayable Portion of the Special Tax.

**"Property Owner Association Property"** means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2009-3 (IA No. 1) for which the owner of record, as determined from the County Assessor's secured tax roll for the Fiscal Year in which the Special Tax is being levied, is a property owner's association, including any master or sub-association, (ii) any property located in a Final Subdivision and which, as determined from such Final Subdivision, is or will be open space, a common area recreation facility, or a private street, or (iii) any property which, as of the May 1 preceding the Fiscal Year for which the Special Tax is being levied, has been conveyed, irrevocably dedicated, or irrevocably offered to a property owner's association, including any master or sub-association, provided such conveyance, dedication, or offer is submitted to the CFD Administrator by May 1 preceding the Fiscal Year for which the Special Tax is being levied.

**"Proportionately"** means, for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property. For Final Mapped Property, "Proportionately" means that the ratio of the actual Special Tax levy per acre to the Maximum Special Tax per acre is equal for all Assessor's Parcels of Final Mapped Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per acre to the Maximum Special Tax per acre is equal for all Assessor's Parcels of Undeveloped Property. The term "Proportionately" may similarly be applied to other categories of Taxable Property as listed in Section E below. Notwithstanding the above, a disproportionate levy shall be permissible for any Assessor's Parcels in CFD No. 2009-3 (IA No. 1) to cover any delinquencies by a property owner and to cover any Guaranteed Amount shortfalls generated by delinquencies, as discussed in Section E.2.

**"Public Property"** means, for each Fiscal Year, any property within the boundaries of CFD No. 2009-3 (IA No. 1) that (i) is owned by, irrevocably offered or dedicated to, or leased to, the federal government, the State, the County, the City, or any local government or other public agency, or (ii) is encumbered by a public easement making impractical its use for any purpose other than that set forth in the easement.

**"Rate and Method of Apportionment"** means this Rate and Method of Apportionment for City of Irvine CFD No. 2009-3 (IA No. 1).

**"Residential Floor Area"** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area for an Assessor's Parcel shall be made by reference to the building permit(s) issued for such Assessor's Parcel.

**"Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit permitting the construction thereon of one or more residential dwelling units has been issued by the City, or other governmental agency.

**"Resolution of Formation"** means the resolution establishing CFD No. 2009-3.

**"Senior Housing"** means all residential development, other than Moderate Affordable Senior Units, that is designed for, and restricted to, persons or couples of whom one member is age 55 or older.

**"Special Tax" or "Special Taxes"** means the sum of the special taxes to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property within CFD No. 2009-3 (IA No. 1) to fund the Special Tax Requirement.

**"Special Tax Requirement"** means the sum of the Developed Property Special Tax Requirement, the Final Mapped Property/Undeveloped Property Special Tax Requirement and the Taxable Property Owner Association Property/ Taxable Public Property Special Tax Requirement.

**"State"** means the State of California.

**"Subordinate CFD No. 2009-3 (IA No. 1) Bonds"** means any CFD No. 2009-3 (IA No. 1) Bonds that are subordinate to any current or future CFD No. 2009-3 (IA No. 1) Bonds and that meet the requirements set forth in the Amended and Restated Development Agreement.

**"Supplemental Improvement Area"** means any Other Improvement Area that has been specifically designated as additional collateral for CFD No. 2009-3 (IA No. 1) Bonds as authorized in the Indenture. The Supplemental Improvement Area shall be retained as additional collateral and security for CFD No. 2009-3 (IA No. 1) Bonds until conditions for the release of the special taxes in the Supplemental Improvement Area, as set forth in the Indenture, are satisfied.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 2009-3 (IA No. 1) which are not exempt from the Special Tax pursuant to applicable law or Section F below.

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section F below.

**"Taxable Property Owner Association Property/Taxable Public Property Special Tax Requirement"** means that amount required, if any, in any Fiscal Year to (i) pay debt service on the CFD No. 2009-3 (IA No. 1) Bonds payable in the calendar year commencing in such Fiscal Year, (ii) pay any amounts required to establish or replenish any reserve funds for all CFD No. 2009-3 (IA No. 1) Bonds, (iii) pay for Administrative Expenses, (iv) pay for reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax levy in the previous Fiscal Year, and (v) pay Bond Costs for Other Improvement Area Bonds to the extent that Special Taxes secure an issue of Other Improvement Area Bonds, less (vi) an amount equal to the Developed Property Special Tax Requirement, less (vii) an amount equal to the Final Mapped Property/Undeveloped Property Special Tax Requirement, less (viii) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator, so long as the amount required is not less than zero.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section F below.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Property Owner Association Property, or Taxable Public Property.

**"Value Limitation"** means, collectively (i) that the amount of the Maximum Special Taxes for Residential Property within each Land Use Class, when combined with all Overlapping Liens, including a sufficient amount to pay the assumed Irvine Ranch Water District assessments (subject to the limitations set forth in the Amended and Restated Development Agreement), shall collectively not exceed two percent (2%) of the expected base sales price (i.e., the base sales price without any optional upgrades included) of the lowest priced residential unit in such Land Use Class, based upon the anticipated sales prices to end users at the time of calculation; (ii) that the amount of the special taxes for each Non-Residential Property Land Use Class identified in Table 1 and expressed as an amount per square foot of Non-Residential Floor Area, shall not exceed the product of (a) one and one hundred thirty-nine thousandths percent (1.139%) and (b) the per square foot value of land (as determined by the third-party appraisal described in Section C.1) located within CFD No. 2009-3 (IA No. 1) for each Non-Residential Property Land Use Class, divided by the Floor Area Ratio for the applicable Land Use Class, and (iii) the amount of the special taxes for each Non-Residential Property Land Use Class set forth in Table 1 herein and expressed as an amount per Acre, shall not exceed the product of (a) the amount per square foot of Non-Residential Floor Area calculated in (ii) above for each Non-Residential Property Land Use Class, (b) the Floor Area Ratio for the applicable Land Use Class, and (c) 43,560.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property within CFD No. 2009-3 (IA No. 1) shall be classified as Developed Property, Final Mapped Property, Undeveloped Property, Taxable Property Owner Association Property, or Taxable Public Property, and shall be subject to Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Sections C and E herein.

## **C. MAXIMUM SPECIAL TAX RATE**

### **1. Special Tax**

Residential Property shall be assigned to Land Use Classes 1 through 31 as listed in Table 1 herein based on the Residential Floor Area for each unit. Non-Residential Property shall be assigned to Land Use Classes 32 through 37. Prior to the issuance of the first series of CFD No. 2009-3 (IA No. 1) Bonds, the Maximum Special Taxes for Residential Property and the special taxes for Non-Residential Property (set forth in Table 1) shall be reduced in accordance with, and subject to the conditions set forth in this Section C.1, without the need for any proceedings to make changes permitted under the Act.

Upon the earlier of (i) one hundred twenty (120) calendar days before the projected execution date of a bond purchase agreement for the first series of CFD No. 2009-3 (IA No. 1) Bonds, or (ii) upon the written request of the Developer, two hundred seventy (270) calendar days before

the projected date of issuance of the first building permit permitting the construction of a non-model residential building for each Land Use Class within CFD No. 2009-3 (IA No. 1), a third-party consultant selected by the City shall be engaged to recalculate the Value Limitation for Residential Property, and, if the City determines that the Maximum Special Taxes for Residential Property for any Land Use Class (as reflected in Table 1) will cause the overall tax burden (including Overlapping Liens) on Residential Property to exceed the recalculated Value Limitation for any Residential Property Land Use Class, then the Maximum Special Tax for Residential Property for any Land Use Class (as reflected in Table 1) that exceeds its recalculated Value Limitation shall be reduced to the amount necessary to comply with its recalculated Value Limitation. The reduction shall occur within thirty (30) calendar days of the completion of the third-party consultant's report.

Upon the earlier of (i) one hundred and twenty (120) calendar days before the projected execution date of a bond purchase agreement for the first series of CFD No. 2009-3 (IA No. 1) Bonds, or (ii) upon written request of the Developer, two hundred seventy (270) calendar days before the projected date of issuance of the first building permit permitting the construction of a non-residential building for each Land Use Class within CFD No. 2009-3 (IA No. 1), a third-party appraiser selected by the City shall be engaged to recalculate the Value Limitation for Non-Residential Property within CFD No. 2009-3 (IA No. 1), and, based upon the report of the appraiser, if the City so determines that the per square foot and per Acre special taxes, as reflected in Table 1, herein, exceed the recalculated Value Limitation for Non-Residential Property for any Land Use Class, then the per square foot and per Acre special tax for each Non-Residential Property Land Use Class (as reflected in Table 1) that exceeds its recalculated Value Limitation shall be reduced to the amount necessary to comply with its recalculated Value Limitation, provided, however, that the Maximum Special Taxes for Non-Residential Property do not fall below \$0.40 per square foot of Non-Residential Floor Area. The reduction shall occur within thirty (30) calendar days of the completion of the third-party appraisal's report.

Notwithstanding the above, if, and to the extent, the recalculation of the Maximum Special Tax for Residential Property and per square foot and per Acre special taxes for Non-Residential Property is triggered by the projected issuance of a building permit, the recalculation(s) shall only be completed for those Land Use Classes for which a building permit is expected to be issued within 270 days. If, and to the extent, the recalculation of the Maximum Special Tax for Residential Property and per square foot and per Acre special taxes for Non-Residential Property is triggered by the projected execution of a bond purchase agreement within 120 days, the recalculation(s) shall be completed for all Land Use Classes within CFD No. 2009-3 (IA No. 1) that have not previously experienced a reduction in their Maximum Special Taxes (for Residential Property) or their special taxes (for Non-Residential Property).

Notwithstanding the above, the City and Developer may confer and mutually agree to reduce the Maximum Special Tax on Developed Property for Senior Housing, Moderate Affordable Senior Units, and/or Moderate Affordable Units, as identified in Table 1.

Each special tax reduction for a Land Use Class pursuant to this Section C.1., shall be calculated separately, as reasonably determined by the CFD Administrator, without regard to special tax reductions in any other Land Use Class, and it shall not be required that such reduction be proportionate to reductions among other special tax reductions. If the special taxes for a Land Use Class do not require reduction as set forth in this Section C.1., then those special taxes shall not be reduced irrespective of any reductions made to other special taxes. The reductions

required pursuant to this Section C.1 shall be reflected in an amended notice of Special Tax lien which the City shall cause to be recorded by executing a certificate in substantially the form attached herein as Exhibit A. Notwithstanding the foregoing, under no circumstances may the special taxes be reduced under this Section C.1 during the time that the Special Taxes have been pledged to the payment of Bond Costs for Other Improvement Area Bonds.

**a. Developed Property**

**(1). Maximum Special Tax**

The Maximum Special Tax that may be levied and escalated as explained further in Section C.1.a.(2) below in any Fiscal Year for each Assessor's Parcel classified as Developed Property is shown below in Table 1.

**TABLE 1**  
**Maximum Special Tax for Developed Property**  
**Improvement Area No. 1 of CFD No. 2009-3**  
**Fiscal Year 20XX-20XX**

<b>Land Use Class</b>	<b>Description</b>	<b>Maximum Special Tax</b>
1	DETACHED RESIDENTIAL PROPERTY (=> 5,700 SF)	\$XX,XXX
2	DETACHED RESIDENTIAL PROPERTY (5,450 SF - 5,699 SF)	\$ XX,XXX
3	DETACHED RESIDENTIAL PROPERTY (5,200 SF - 5,449 SF)	\$ XX,XXX
4	DETACHED RESIDENTIAL PROPERTY (4,950 SF - 5,199 SF)	\$ XX,XXX
5	DETACHED RESIDENTIAL PROPERTY (4,700 SF - 4,949 SF)	\$ XX,XXX
6	DETACHED RESIDENTIAL PROPERTY (4,450 SF - 4,699 SF)	\$ XX,XXX
7	DETACHED RESIDENTIAL PROPERTY (4,200 SF - 4,449 SF)	\$ XX,XXX
8	DETACHED RESIDENTIAL PROPERTY (3,950 SF - 4,199 SF)	\$X,XXX
9	DETACHED RESIDENTIAL PROPERTY (3,700 SF - 3,949 SF)	\$ X,XXX
10	DETACHED RESIDENTIAL PROPERTY (3,450 SF - 3,699 SF)	\$ X,XXX
11	DETACHED RESIDENTIAL PROPERTY (3,200 SF - 3,449 SF)	\$ X,XXX
12	DETACHED RESIDENTIAL PROPERTY (2,950 SF - 3,199 SF)	\$ X,XXX
13	DETACHED RESIDENTIAL PROPERTY (2,700 SF - 2,949 SF)	\$ X,XXX
14	DETACHED RESIDENTIAL PROPERTY (2,450 SF - 2,699 SF)	\$ X,XXX
15	DETACHED RESIDENTIAL PROPERTY (2,200 SF - 2,449 SF)	\$ X,XXX
16	DETACHED RESIDENTIAL PROPERTY (1,950 SF - 2,199 SF)	\$ X,XXX
17	DETACHED RESIDENTIAL PROPERTY (1,700 SF - 1,949 SF)	\$ X,XXX
18	DETACHED RESIDENTIAL PROPERTY (< 1,700 SF)	\$ X,XXX
19	ATTACHED RESIDENTIAL PROPERTY (=> 2,600 SF)	\$ X,XXX

Land Use Class	Description	Maximum Special Tax
20	ATTACHED RESIDENTIAL PROPERTY (2,400 SF - 2,599 SF)	\$ X,XXX
21	ATTACHED RESIDENTIAL PROPERTY (2,200 SF - 2,399 SF)	\$ X,XXX
22	ATTACHED RESIDENTIAL PROPERTY (2,000 SF - 2,199 SF)	\$ X,XXX
23	ATTACHED RESIDENTIAL PROPERTY (1,800 SF - 1,999 SF)	\$ X,XXX
24	ATTACHED RESIDENTIAL PROPERTY (1,600 SF - 1,799 SF)	\$ X,XXX
25	ATTACHED RESIDENTIAL PROPERTY (1,400 SF - 1,599 SF)	\$ X,XXX
26	ATTACHED RESIDENTIAL PROPERTY (1,200 SF - 1,399 SF)	\$ X,XXX
27	ATTACHED RESIDENTIAL PROPERTY (< 1,200 SF)	\$ X,XXX
28	SENIOR HOUSING	\$ X,XXX
29	MODERATE AFFORDABLE UNITS	\$ X,XXX
30	MODERATE AFFORDABLE SENIOR UNITS	\$XXX
31	AFFORDABLE	\$0
32	NON-RESIDENTIAL - COMMERCIAL PROPERTY	\$1.50 per square foot of Non-Residential Floor Area or \$20,713 per Acre, when applied, whichever is greater
33	NON-RESIDENTIAL- INDUSTRIAL PROPERTY	\$1.50 per square foot of Non-Residential Floor Area or \$21,236 per Acre, when applied, whichever is greater
34	NON-RESIDENTIAL- INSTITUTIONAL PROPERTY	\$1.50 per square foot of Non-Residential Floor Area or \$23,588 per Acre, when applied, whichever is greater
35	NON-RESIDENTIAL - OFFICE PROPERTY	\$1.50 per square foot of Non-Residential Floor Area or \$21,301 per Acre, when applied, whichever is greater

Land Use Class	Description	Maximum Special Tax
36	NON-RESIDENTIAL – AUTO CENTER	\$5.02 per square foot of Non-Residential Floor Area or \$18,368 per Acre, when applied, whichever is greater
37	OTHER NON-RESIDENTIAL PROPERTY	\$1.50 per square foot of Non-Residential Floor Area or \$20,125 per Acre, when applied, whichever is greater

(2). Increase in the Maximum Special Tax

The Fiscal Year 20XX-20XX Maximum Special Tax, identified in Table I above, as such Table may be amended and restated in full pursuant to this Rate and Method of Apportionment, shall increase thereafter (i) commencing on July 1, 20XX and on July 1 of each Fiscal Year thereafter through the Fiscal Year in which the fortieth anniversary of the date on which the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds were sold occurs, by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year; and (ii) commencing in the Fiscal Year following the fortieth anniversary of the date on which the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds were sold, by an amount equal to three percent (3%) of the Maximum Special Tax as determined following the partial termination of the Special Tax as set forth in Section J, and on July 1 of each Fiscal Year thereafter by an amount equal to three percent (3%) of the amount in effect for the previous Fiscal Year.

(3). Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax for all Land Use Classes located on that Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

**b. Final Mapped Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property**

(1). Intermediate Maximum Special Tax

The Fiscal Year 20XX-20XX Intermediate Maximum Special Tax for each Assessor's Parcel of Final Mapped Property and Undeveloped Property shall be \$[ ] per Acre, and shall increase thereafter, commencing on July 1, 20XX and on July 1 of each Fiscal

Year thereafter, by an amount equal to two percent (2%) of the Intermediate Maximum Special Tax for the previous Fiscal Year.

(2). Maximum Special Tax

The Fiscal Year 20XX-20XX Maximum Special Tax for each Assessor's Parcel of Final Mapped Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property shall be \$[ ] per Acre, and shall increase thereafter, commencing on July 1, 2010 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Maximum Special Tax for the previous Fiscal Year.

**D. BUYDOWN OF OUTSTANDING BONDS**

All of the requirements of this Section D, which describes the need for a Buydown of Outstanding Bonds ("Buydown") that may result from a change in development as determined pursuant to this Section D, shall only apply after the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds. Prior to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, the terms of the Buydown shall not apply. The terms of the Buydown shall not apply to any Subordinate CFD No. 2009-3 (IA No. 1) Bonds.

The following additional definitions apply to this Section D:

**"Buydown Requirement"** means the total amount needed to be collected to calculate and prepay Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds necessary to be prepaid in order to authorize (i) the issuance of residential building permits, or (ii) the approval of a Final Subdivision for non-residential development listed in a request for a Letter of Compliance, as calculated under this Section D.

**"Certificate of Satisfaction of Buydown"** means a certificate from the CFD Administrator stating that the property described in such certificate has met the Buydown Requirement for such property as calculated under this Section D.

**"Letter of Compliance"** means a letter from the CFD Administrator authorizing (i) the issuance of residential building permits, or (ii) the approval of a Final Subdivision for non-residential development based on the prior submittal of a request for a Letter of Compliance by a property owner.

**"Update Property"** means an Assessor's Parcel of Final Mapped Property or Undeveloped Property for which a building permit has been issued after May 1 of the Fiscal Year preceding the current Fiscal Year. For purposes of all calculations in this Section D, Update Property shall be taxed as if it were already Developed Property during the current Fiscal Year.

**1. Request for Letter of Compliance**

**A. Residential Development**



After the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, a property owner shall, as a precondition to the issuance of a building permit for construction of any residential development for a specific Assessor's Parcel or lot, submit a Letter of Compliance for the construction of the development on such Assessor's Parcel or lot. If a Letter of Compliance has not yet been issued, the property owner must first request a Letter of Compliance from the CFD Administrator. The request from the property owner shall contain a list of all building permits for which the property owner is requesting a Letter of Compliance. The property owner shall also submit the Assessor's Parcels or tract and lot numbers on which the construction is to take place, and the Residential Floor Area for each residential dwelling unit associated with each prospective building permit.

#### B. Non-Residential Development

After the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, a property owner shall, as a precondition to the approval of a Final Subdivision which includes development of any non-residential property, submit a Letter of Compliance for the development of the non-residential property on such Final Subdivision. If a Letter of Compliance has not yet been issued, the property owner must first request a Letter of Compliance from the CFD Administrator. The request from the property owner shall contain the final map, parcel map, or lot line adjustment for which the property owner is requesting a Letter of Compliance. The property owner shall also submit the Assessor's Parcels or tract and lot numbers on which non-residential development is to take place.

## 2. Issuance of Letter of Compliance

#### A. Residential Development

Upon the receipt of a request for a Letter of Compliance, the CFD Administrator shall assign each building permit identified in such request to Land Use Classes 1 through 31 as listed in Table 2 below based on the type of use and, if applicable, the Residential Floor Area identified for each such building permit. When using Table 2, if Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds are secured solely by Assessor's Parcels in the portion of CFD No. 2009-3 (IA No. 1) that does not include the Future Annexation Area, the column entitled "Expected Units/Acreage Without Future Annexation Area" shall be utilized for purposes of this analysis. If Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds are secured by all of CFD No. 2009-3 (IA No. 1), including the Future Annexation Area, the column entitled "Expected Units/Acreage Including Future Annexation Area" shall be utilized for this analysis. If the CFD Administrator determines (i) that the number of building permits requested for each Land Use Class, plus those building permits previously issued for each Land Use Class, will not cause the total number of residential dwelling units within any such Land Use Class to exceed the number of residential dwelling units for such Land Use Class identified in Table 2 below, and (ii) that the total number of residential dwelling units anticipated to be constructed pursuant to the current development plan for CFD No. 2009-3 (IA No. 1) shall not be less than 638, then a Letter of Compliance shall be submitted to the City and/or property owner by the CFD Administrator authorizing the issuance of the requested building permits for the subject property. This Letter of Compliance shall be submitted to the City and/or property owner by the CFD Administrator within ten days of the submittal of the request for a Letter of Compliance by the property owner. However, should (i) the building permits requested, plus those previously issued, cause the total number of

residential dwelling units within any such Land Use Class to exceed the number of residential dwelling units for such Land Use Class identified in Table 2 below, or (ii) the CFD Administrator determines that changes in the development plan may cause a decrease in the number of residential dwelling units within CFD No. 2009-3 (IA No. 1) to below 638 residential dwelling units, then a Letter of Compliance will not be issued and the CFD Administrator will be directed to determine if a Buydown shall be required. The number of residential dwelling units by Land Use Class, as listed in Table 2 below, shall be updated by the CFD Administrator prior to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds to reflect the current development plan for CFD No. 2009-3 (IA No. 1).

**B. Non-Residential Development**

Upon the receipt of a request for a Letter of Compliance, the CFD Administrator shall identify the Acreage of the proposed Non-Residential Property within the Final Subdivision on which such Non-Residential Property is to be located. When using Table 2, if Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds are secured solely by Assessor's Parcels in the portion of CFD No. 2009-3 (IA No. 1) that does not include the Future Annexation Area, the column entitled "Expected Units/Acreage Without Future Annexation Area" shall be utilized for purposes of this analysis. If Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds are secured by all of CFD No. 2009-3 (IA No. 1), including the Future Annexation Area, the column entitled "Expected Units/Acreage Including Future Annexation Area" shall be utilized for this analysis. If the CFD Administrator determines that the Acreage anticipated for the development of Non-Residential Property will not cause the total number of Acres identified in Table 2 for Land Use Classes 32 through 37 to exceed the number of Acres identified in Table 2 for such Land Use Classes, then a Letter of Compliance shall be submitted to the City and/or property owner by the CFD Administrator authorizing the approval of the Final Subdivision. This Letter of Compliance shall be submitted to the City and/or property owner by the CFD Administrator within ten days of the submittal of the request for a Letter of Compliance by the property owner. However, should the CFD Administrator determine that the changes in the development plan may cause a change to the Acreage anticipated for the development of Non-Residential Property within CFD No. 2009-3 (IA No. 1) to anything other than the Acreage identified for Land Use Classes 32 through 37, then a Letter of Compliance will not be issued and the CFD Administrator will determine if a Buydown shall be required. The Acreage anticipated for the development of Non-Residential Property, as listed in Table 2 below, shall be updated by the CFD Administrator prior to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds to reflect the current development plan for CFD No. 2009-3 (IA No. 1).

**TABLE 2**

**Expected Residential Dwelling Units per Land Use Class and Non-Residential Acreage  
Improvement Area No. 1 of CFD No. 2009-3**

Land Use Class	Description	Expected Units/ Acreage without Future Annexation	Expected Units/ Acreage with Future Annexation
1	DETACHED RESIDENTIAL PROPERTY (>= 5,700 SF)	[X]	[X]
2	DETACHED RESIDENTIAL PROPERTY (5,450 SF - 5,699 SF)	[X]	[X]
3	DETACHED RESIDENTIAL PROPERTY (5,200 SF - 5,449 SF)	[X]	[X]
4	DETACHED RESIDENTIAL PROPERTY (4,950 SF - 5,199 SF)	[X]	[X]
5	DETACHED RESIDENTIAL PROPERTY (4,700 SF - 4,949 SF)	[X]	[X]
6	DETACHED RESIDENTIAL PROPERTY (4,450 SF - 4,699 SF)	[X]	[X]
7	DETACHED RESIDENTIAL PROPERTY (4,200 SF - 4,449 SF)	[X]	[X]
8	DETACHED RESIDENTIAL PROPERTY (3,950 SF - 4,199 SF)	[X]	[X]
9	DETACHED RESIDENTIAL PROPERTY (3,700 SF - 3,949 SF)	[X]	[X]
10	DETACHED RESIDENTIAL PROPERTY (3,450 SF - 3,699 SF)	[X]	[X]
11	DETACHED RESIDENTIAL PROPERTY (3,200 SF - 3,449 SF)	[X]	[X]
12	DETACHED RESIDENTIAL PROPERTY (2,950 SF - 3,199 SF)	[X]	[X]
13	DETACHED RESIDENTIAL PROPERTY (2,700 SF - 2,949 SF)	[X]	[X]
14	DETACHED RESIDENTIAL PROPERTY (2,450 SF - 2,699 SF)	[X]	[X]
15	DETACHED RESIDENTIAL PROPERTY (2,200 SF - 2,449 SF)	[X]	[X]
16	DETACHED RESIDENTIAL PROPERTY (1,950 SF - 2,199 SF)	[X]	[X]
17	DETACHED RESIDENTIAL PROPERTY (1,700 SF - 1,949 SF)	[X]	[X]
18	DETACHED RESIDENTIAL PROPERTY (< 1,700 SF)	[X]	[X]
19	ATTACHED RESIDENTIAL PROPERTY (>= 2,600 SF)	[X]	[X]
20	ATTACHED RESIDENTIAL PROPERTY (2,400 SF - 2,599 SF)	[X]	[X]
21	ATTACHED RESIDENTIAL PROPERTY (2,200 SF - 2,399 SF)	[X]	[X]
22	ATTACHED RESIDENTIAL PROPERTY (2,000 SF - 2,199 SF)	[X]	[X]
23	ATTACHED RESIDENTIAL PROPERTY (1,800 SF - 1,999 SF)	[X]	[X]
24	ATTACHED RESIDENTIAL PROPERTY (1,600 SF - 1,799 SF)	[X]	[X]
25	ATTACHED RESIDENTIAL PROPERTY (1,400 SF - 1,599 SF)	[X]	[X]
26	ATTACHED RESIDENTIAL PROPERTY (1,200 SF - 1,399 SF)	[X]	[X]
27	ATTACHED RESIDENTIAL PROPERTY (< 1,200 SF)	[X]	[X]
28	SENIOR HOUSING	[X]	[X]
29	MODERATE AFFORDABLE	[X]	[X]
30	MODERATE AFFORDABLE SENIOR UNITS	[X]	[X]
31	AFFORDABLE UNITS	[X]	[X]

Land Use Class	Description	Expected Units/ Acreage without Future Annexation	Expected Units/ Acreage with Future Annexation
32	NON-RESIDENTIAL - COMMERCIAL PROPERTY	[X] Acres	[ X] Acres
33	NON-RESIDENTIAL - INDUSTRIAL PROPERTY	[X] Acres	[X ] Acres
34	NON-RESIDENTIAL – INSTITUTIONAL PROPERTY	[X] Acres	[X ] Acres
35	NON-RESIDENTIAL - OFFICE PROPERTY	[X] Acres	[X ] Acres
36	NON-RESIDENTIAL – AUTO CENTER	[X] Acres	[X ] Acres
37	OTHER NON-RESIDENTIAL PROPERTY	[X] Acre	[ X] Acres

### 3. Calculation of Buydown

If a Buydown calculation is required as determined by the CFD Administrator pursuant to paragraph 2 above, the CFD Administrator shall review the current development plan for CFD No. 2009-3 (IA No. 1) in consultation with the current property owners for all remaining Final Mapped Property and Undeveloped Property in CFD No. 2009-3 (IA No. 1), and shall prepare an updated version of Table 2 identifying the revised number of residential dwelling units anticipated within each Land Use Class and the revised Acreage anticipated for the development of Non-Residential Property, as applicable. The CFD Administrator shall not be responsible for any delays in preparing the updated Table 2 that result from a refusal on the part of one or more current property owners of Final Mapped Property or Undeveloped Property to provide information on their future development.

The CFD Administrator shall then review the updated Table 2 and determine the Buydown Requirement, if any, to be applied to the property identified in the request for Letter of Compliance to assure CFD No. 2009-3 (IA No. 1)'s ability to levy Special Taxes equal to at least the Debt Service Coverage times the debt service necessary to support the Outstanding Bonds. The calculations shall be undertaken by the CFD Administrator, based on the data in the updated Table 2, as follows:

- Step 1. Compute the sum of the Special Taxes authorized to be levied on all Developed Property and Update Property within CFD No. 2009-3 (IA No. 1), plus the sum of the Special Taxes authorized to be levied on all future development as identified in the current development plan assuming buildout, as determined by the CFD Administrator in consultation with the property owner(s).

- Step 2. Determine the amount of Special Taxes equal to the Debt Service Coverage times the debt service necessary to support the Outstanding Bonds.
- Step 3. If the total sum computed pursuant to Step 1 is greater than or equal to the amount computed pursuant to Step 2, then no Buydown will be required and a Letter of Compliance shall be issued by the CFD Administrator for all of the building permits and/or Final Subdivisions currently being requested. If the total sum computed pursuant to Step 1 is less than the amount computed pursuant to Step 2, then continue to step 4.
- Step 4. Determine the Special Tax shortfall by subtracting the total sum computed pursuant to Step 1 from the amount computed pursuant to Step 2. Divide this difference by the amount computed pursuant to Step 2.
- Step 5. Multiply the quotient computed pursuant to Step 4 by the Outstanding Bonds and round up to the nearest increment of \$5,000 to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
- Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 5 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
- Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the redemption date for the Outstanding Bonds ("Defeasance Amount").
- Step 8. The administrative fees and expenses of CFD No. 2009-3 (IA No. 1) are as calculated by the CFD Administrator and include the costs of computation of the Buydown Requirement, the costs to invest the Buydown Requirement proceeds and the costs of redeeming Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds (the "Administrative Fees and Expenses").
- Step 9. The Buydown Requirement is equal to the sum of the amounts computed pursuant to Steps 5, 6, 7 and 8 (the "Buydown Requirement").
- Step 10. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as specified in the Indenture), if any, associated with the redemption of Outstanding Bonds as a result of the Buydown, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Outstanding Bonds as a result of the Buydown from the balance in the reserve fund on the Buydown date, but in no event shall such amount be less than zero. No Reserve Fund Credit shall be granted if the amount then on deposit in the reserve fund for the Outstanding Bonds is below 100% of the reserve requirement (as defined in the Indenture).

The Buydown Requirement computed under Step 9 shall be billed directly to the property owner of each Assessor's Parcel identified in the request for Letter of Compliance and shall be due

within 30 days of the billing date. If the Buydown Requirement is not paid within 45 days of the billing date, a Letter of Compliance will not be issued to the City and/or property owner by the CFD Administrator and the authorization of the requested building permits (for residential development) or Final Subdivision (for non-residential development) for the subject property will not be approved until such Buydown Requirement is paid. Upon receipt of the Buydown Requirement, the CFD Administrator shall issue a Letter of Compliance and a Certificate of Satisfaction of Buydown for the subject property. The Reserve Fund Credit calculated pursuant to Step 10 above shall be credited to the property owner of each Assessor's Parcel identified in the request for Letter of Compliance once the CFD Administrator has confirmed receipt of all Special Taxes due for such property owner(s) in the Fiscal Year the Buydown Requirement was made.

#### **4. Costs and Expenses Related to Implementation of Buydown**

The costs of the CFD Administrator or other consultants required to review the application for building permits (for residential development) or a Final Subdivision (for non-residential development) and issue Letters of Compliance, as identified in Sections D1 and D2, above, shall be paid out of the administrative expenses account as established in the Indenture. The property owner of each Assessor's Parcel identified in the request for Letter of Compliance shall pay all costs of the CFD Administrator or other consultants required to calculate the Buydown Requirement, issue Letters of Compliance and any other actions required under Section D3. Such payments shall be due 30 days after receipt of invoice by such property owner. A deposit may be required by the CFD Administrator prior to undertaking work related to the Buydown pursuant to Section D3.

### **E. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

#### **1. Annual Levy**

Commencing with Fiscal Year 20XX-20XX and for each following Fiscal Year, the Council or its designee shall levy the Special Tax as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Maximum Special Tax for Developed Property.

Second: Determine the Final Mapped Property/Undeveloped Property Special Tax Requirement and Proportionately levy the Special Tax on each Assessor's Parcel of Final Mapped Property until the amount levied on Final Mapped Property is equal to the lesser of (i) the Final Mapped Property/Undeveloped Property Special Tax Requirement, or (ii) 100% of the Intermediate Maximum Special Tax for Final Mapped Property.

Third: If additional monies are needed to satisfy the Final Mapped Property/Undeveloped Property Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property until the amount levied on Undeveloped Property is equal to the lesser of (i) the Final Mapped Property/Undeveloped Property Special Tax Requirement less the amount levied pursuant to the second step above, or (ii) 100% of the Intermediate Maximum Special Tax for Undeveloped Property.

Fourth: If additional monies are needed to satisfy the Final Mapped Property/Undeveloped Property Special Tax Requirement after the first three steps have been completed, then the Special Tax levy on each Assessor's Parcel of Final Mapped Property and Undeveloped Property shall be increased in equal percentages from the Intermediate Special Tax up to 100% of the Maximum Special Tax for Final Mapped Property and Undeveloped Property.

Fifth: If additional monies are needed to satisfy the Final Mapped Property/Undeveloped Property Special Tax Requirement after the first four steps have been completed, then if required to satisfy the Indenture, a special tax shall be levied on each Assessor's Parcel of taxable property located within the Supplemental Improvement Areas pledged to CFD No. 2009-3 (IA No. 1) Bonds, based on the rate and method of apportionment of special taxes for these Supplemental Improvement Areas.

Sixth: Determine the Taxable Property Owner Association Property/Taxable Public Property Special Tax Requirement and Proportionately levy the Special Tax on each Assessor's Parcel of Taxable Property Owner Association Property until the amount levied on Taxable Property Owner Association Property is equal to the lesser of (i) the Taxable Property Owner Association Property/ Taxable Public Property Special Tax Requirement or (ii) 100% of the Maximum Special Tax for Taxable Property Owner Association Property.

Seventh: If additional monies are needed to satisfy the Taxable Property Owner Association Property/Taxable Public Property Special Tax Requirement after the sixth step has been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property until the amount levied on Taxable Public Property is equal to the lesser of (i) the Taxable Property Owner Association Property/ Taxable Public Property Special Tax Requirement less the amount levied pursuant to the sixth step above, or (ii) 100% of the Maximum Special Tax for Taxable Public Property.

## **2. Supplemental Levy**

On or around January 1 and June 1 of each Fiscal Year, if the CFD Administrator determines that there is a shortfall in revenues available to finance the annual amounts necessary to pay the Guaranteed Amount (the "Shortfall"), the CFD Administrator may levy additional Special Taxes Proportionately upon each Assessor's Parcel of Final Mapped Property and Undeveloped Property that are not then delinquent, or reasonably foreseen to be delinquent in the judgment of the CFD Administrator, until the amount levied is equal to the Shortfall. The supplemental levy may occur only twice each Fiscal Year, and the combined amount of the annual levy pursuant to Section E.1 and the supplemental levy pursuant to this Section E.2 on each Assessor's Parcel in any Fiscal Year shall not exceed the Maximum Special Taxes identified in Section C for such Assessor's Parcel. The Shortfall shall be collected by direct billing to owners of such Assessor's Parcels, and the levy shall be due within thirty (30) days of such supplemental levy, and shall be subject to all penalties and interest in the event of delinquency.

## **F. EXEMPTIONS**

### **1. Prior to Annexation of Future Annexation Area**

No Special Tax shall be levied on up to [ ] acres of Property Owner Association Property and up to [ ] acres of Public Property in CFD No. 2009-3 (IA No. 1). Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property in CFD No. 2009-3 (IA No. 1) becomes Public Property or Property Owner Association Property. However, should an Assessor's Parcel no longer be classified as Public Property or Property Owner Association Property, it will, from that point forward, be subject to the Special Tax.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the sixth step and seventh step in Section E above, respectively, at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property or Taxable Public Property.

## **2. After Annexation of Future Annexation Area**

No Special Tax shall be levied on up to [ ] acres of Property Owner Association Property and up to [ ] acres of Public Property in CFD No. 2009-3 (IA No. 1). Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property in CFD No. 2009-3 (IA No. 1) becomes Public Property or Property Owner Association Property. However, should an Assessor's Parcel no longer be classified as Public Property or Property Owner Association Property, it will, from that point forward, be subject to the Special Tax.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the sixth step and seventh step in Section E above, respectively, at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property or Taxable Public Property.

## **G. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the City, through the CFD Administrator may (i) directly bill the Special Tax, and/or may collect Special Taxes at a different time or in a different manner if necessary to meet financial obligations, (ii) may directly bill as a result of any Shortfall as set forth in Section E.2 above, and (iii) may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels. All direct billings shall be due within 30 days of the billing date.

## **H. APPEALS AND INTERPRETATIONS**

Any landowner who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error may submit a written appeal to the CFD Administrator. The CFD Administrator shall review the appeal and if the City concurs, no refund shall be given at that time. However, the amount of the Special Tax levied shall be appropriately modified through an adjustment to the Special Tax levy in the following Fiscal Year. The CFD Administrator may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner appeals.

## **I. PREPAYMENT OF SPECIAL TAX**



Under this Rate and Method of Apportionment, an Assessor's Parcel within CFD No. 2009-3 (IA No. 1) is permitted to prepay a portion of the Maximum Special Tax (the "Prepayable Portion of the Special Tax"). The obligation of the Assessor's Parcel to pay the Prepayable Portion of the Special Tax may be fully or partially prepaid and permanently satisfied as described herein, provided that a prepayment may be made only for Assessor's Parcels of Developed Property, or an Assessor's Parcel of Final Mapped Property or Undeveloped Property for which a building permit for construction has been issued after January 1, 2009, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to fully or partially prepay the Prepayable Portion of the Special Tax shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge such owner a reasonable fee for providing this service. If there are Outstanding Bonds, prepayment must be made not less than 30 days prior to a date that notice of redemption of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds from the proceeds of such prepayment may be given by the Trustee pursuant to the Indenture. No portion of the Maximum Special Tax other than the Prepayable Portion of the Special Tax may be prepaid. Only Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds may be redeemed as the result of any prepayment in this Section I. Prior to the issuance of the first series of CFD No. 2009-3 (IA No. 1) Bonds, the percentages identified in Section I and Section J may be changed to reflect changes in development, without the need for any proceedings to make changes permitted under the Act.

#### **1. Full Prepayment of the Prepayable Portion of the Special Tax**

The full Prepayment Amount of the Prepayable Portion of the Special Tax shall be the Prepayment Amount identified in Section A below for Residential Property, and the Prepayment Amount identified in Section B below for Non-Residential Property.

##### **A. Residential Property**

As of the proposed date of prepayment, the full Prepayment Amount for Residential Property Special Taxes shall be determined by application of the following steps:

- Step 1. Determine the number of future years remaining until the Fiscal Year in which the fortieth anniversary of the date on which the first issue of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds was sold occurs, not including the current Fiscal Year. If Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds have not yet been issued, the number shall be 40.
- Step 2. Determine the Maximum Special Tax being levied in the current Fiscal Year on the Assessor's Parcel prepaying the Special Tax.
- Step 3. Multiply the Maximum Special Tax calculated pursuant to Step 2 by XX.XX% (the "Prepayable Portion of the Residential Property Special Tax").
- Step 4. Determine the amount of Special Tax levied in the current Fiscal Year on such Assessor's Parcel which has not yet been paid and multiply this amount by XX.XX%.
- Step 5. The Prepayment Amount determined under this Section A shall be computed by calculating the sum of the following: (i) the net present value of the flow of annual

revenues from the Prepayable Portion of the Residential Property Special Tax as determined under step 3, for the number of years identified in Step 1, escalated annually by 2.0%, using a discount rate equal to the Discount Rate; and (ii) the unpaid current Fiscal Year's Prepayable Portion of the Residential Property Special Tax as determined under step 4 (collectively, the "Prepayment Amount").

#### B. Non-Residential Property

As of the proposed date of prepayment, the full Prepayment Amount for Non-Residential Property Special Taxes shall be determined by application of the following steps:

- Step 1. Determine the number of future years remaining until the Fiscal Year in which the fortieth anniversary of the date on which the first issue of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds was sold occurs, not including the current Fiscal Year. If Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds have not yet been issued, the number shall be 40.
- Step 2. Determine the Maximum Special Tax being levied in the current Fiscal Year on the Assessor's Parcel prepaying the Special Tax.
- Step 3. Multiply the Maximum Special Tax calculated pursuant to Step 2 by XX.XX% (the "Prepayable Portion of the Non-Residential Special Tax").
- Step 4. Determine the amount of Special Tax levied in the current Fiscal Year on such Assessor's Parcel which has not yet been paid and multiply this amount by XX.XX%.
- Step 5. The Prepayment Amount determined under this Section B shall be computed by calculating the sum of the following: (i) the net present value of the flow of annual revenues from the Prepayable Portion of the Non-Residential Special Tax as determined under step 3, for the number of year identified in Step 1, escalated annually by 2.0%, using a discount rate equal to the Discount Rate; and (ii) the unpaid current Fiscal Year's Prepayable Portion of the Non-Residential Special Tax as determined under step 4, (collectively, the "Prepayment Amount").

#### 2. Partial Prepayment of the Prepayable Portion of the Special Tax

The amount of the partial prepayment shall be calculated as in Section I.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = PE \times F$$

These terms have the following meaning:

- PP = the Partial Prepayment Amount of the Prepayable Portion of the Special Tax  
PE = the Prepayment Amount of the Prepayable Portion of the Special Tax calculated according to Section I.1.A (for Residential Property) or Section I.1.B (for Non-Residential Property).  
F = the percentage, expressed as a decimal, by which the owner of the Assessor's Parcel is partially prepaying the Prepayable Portion of the Special Tax.

#### 3. General Provisions Applicable to Prepayment

a. Use of Prepayments

Subsequent to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, the Prepayment Amount of the Prepayable Portion of the Special Tax shall be applied in the following order of priority: (i) to be deposited into specific funds established under the Indenture, to fully or partially retire as many Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds as possible (or as many Other Improvement Area Bonds as possible, if the Special Taxes secure Other Improvement Area Bonds), and, if amounts are less than \$5,000, to make debt service payments on the Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds (or Other Improvement Area Bonds if the Special Taxes secure Other Improvement Area Bonds), (ii) to finance Group A Facilities and/or Group B Facilities, as identified in the Amended and Restated Development Agreement, and (iii) to be remitted to the City and used for any Authorized Facilities or Authorized Services in accordance with the Amended and Restated Development Agreement. Prior to the issuance of the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds, the Prepayment Amount of the Prepayable Portion of the Special Tax shall be applied in the following order of priority: (i) to finance Group A and/or Group B Facilities, as identified in the Amended and Restated Development Agreement, and (ii) to be remitted to the City and used for any Authorized Facilities or Authorized Services in accordance with the Amended and Restated Development Agreement.

b. Full Prepayment of the Prepayable Portion of the Special Tax

Upon confirmation of the payment of the current Fiscal Year's entire Prepayable Portion of the Special Tax, the CFD Administrator shall remove the current Fiscal Year's Prepayable Portion of the Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid in accordance with Section I.1, the CFD Administrator shall indicate in the records of CFD No. 2009-3 (IA No. 1) that there has been a prepayment of the Prepayable Portion of the Special Tax and that a portion of the Maximum Special Tax with respect to such Assessor's Parcel, equal to XX.XX% of the Maximum Special Tax for Residential Property and XX.XX% of the Maximum Special Tax for Non-Residential Property, shall continue to be levied on such Assessor's Parcel pursuant to Section E.

c. Partial Prepayment of the Prepayable Portion of the Special Tax

Upon confirmation of the payment of a portion of the current Fiscal Year's Prepayable Portion of the Special Tax, the CFD Administrator shall remove a portion of the current Fiscal Year's Prepayable Portion of the Special Tax levy for such Assessor's Parcel from the County tax rolls equal to that amount included in the partial prepayment for such Assessor's Parcel determined in Section I.2. With respect to any Assessor's Parcel that is partially prepaid in accordance with Section I.2, the CFD Administrator shall indicate in the records of CFD No. 2009-3 (IA No. 1) that there has been a partial prepayment of the Prepayable Portion of the Special Tax and that a portion of the Maximum Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage  $[1.00 - (.XXXX \times F)]$  multiplied by the Maximum Special Tax for Residential Property and  $[1.00 - (.XXXX \times F)]$  multiplied by the Maximum Special Tax for Non-Residential Property shall continue to be levied on such Assessor's Parcel pursuant to Section E.

d. Debt Service Coverage

Notwithstanding the foregoing, no prepayment of the Prepayable Portion of the Special Tax shall be allowed unless, at the time of such proposed prepayment, the Special Tax that may be levied on Taxable Property within CFD No. 2009-3 (IA No. 1) in all Fiscal Years (after excluding [ ] acres of Property Owner Association Property and [ ] acres of Public Property as set forth in Section F), both prior to and after the proposed prepayment, is at least equal to the Debt Service Coverage times the debt service necessary to support the remaining Outstanding Bonds.

**J. TERM OF SPECIAL TAX**

XX.XX% of the Maximum Special Tax on Residential Property and XX.XX% of the Maximum Special Tax on Non-Residential Property shall terminate and no longer be levied or collected pursuant to this Rate and Method of Apportionment in the Fiscal Year immediately following the fortieth anniversary of the date on which the first series of Non-Subordinate CFD No. 2009-3 (IA No. 1) Bonds were sold. The remaining portion of the Special Tax for both Residential Property and Non-Residential Property shall be levied into perpetuity.

**K. NO EXTENSION OR MODIFICATION OF AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

Notwithstanding any reference to the Amended and Restated Development Agreement, nothing herein shall incorporate the Amended and Restated Development Agreement in to the Rate and Method of Apportionment, extend the term of the Amended and Restated Development Agreement, as defined therein, and/or amend or modify the provisions thereof.

*K:\CLIENTS\Irvine\Great Park\2009\RMMA\CFD No. 2009-3 (Great Park) RMA for DA FINAL - CLEAN.doc  
Revised: 8/5/09*

**EXHIBIT A**

**CERTIFICATE TO AMEND SPECIAL TAX**

# **CITY OF IRVINE AND CFD No. 2009-3 (IA No. 1) CERTIFICATE**

- Pursuant to Section C of the Rate and Method of Apportionment, as attached to the Notice of Special Tax Lien, recorded in the Official Records of the County of Orange as Instrument No. XXXXXX on MM/DD/YYYY, the City of Irvine ("City") and City of Irvine Community Facilities District No. 2009-3 ("CFD No. 2009-3 (IA No. 1)") hereby agree to a reduction in the Maximum Special Tax for Residential Property or the special taxes for Non-Residential Property set forth in Table 1 of the Rate and Method of Apportionment for CFD No. 2009-3 (IA No. 1).

The information in Table 1 relating to the Fiscal Year 20XX-20XX Maximum Special Tax for Developed Property within CFD No. 2009-3 (IA No. 1) shall be amended and restated in full as follows:

<b>Land Use Class</b>	<b>Description</b>	<b>Maximum Special Tax</b>
1	DETACHED RESIDENTIAL PROPERTY (=> 5,700 SF)	\$[ ] per unit
2	DETACHED RESIDENTIAL PROPERTY (5,450 SF - 5,699 SF)	\$[ ] per unit
3	DETACHED RESIDENTIAL PROPERTY (5,200 SF - 5,449 SF)	\$[ ] per unit
4	DETACHED RESIDENTIAL PROPERTY (4,950 SF - 5,199 SF)	\$[ ] per unit
5	DETACHED RESIDENTIAL PROPERTY (4,700 SF - 4,949 SF)	\$[ ] per unit
6	DETACHED RESIDENTIAL PROPERTY (4,450 SF - 4,699 SF)	\$[ ] per unit
7	DETACHED RESIDENTIAL PROPERTY (4,200 SF - 4,449 SF)	\$[ ] per unit
8	DETACHED RESIDENTIAL PROPERTY (3,950 SF - 4,199 SF)	\$[ ] per unit
9	DETACHED RESIDENTIAL PROPERTY (3,700 SF - 3,949 SF)	\$[ ] per unit
10	DETACHED RESIDENTIAL PROPERTY (3,450 SF - 3,699 SF)	\$[ ] per unit
11	DETACHED RESIDENTIAL PROPERTY (3,200 SF - 3,449 SF)	\$[ ] per unit
12	DETACHED RESIDENTIAL PROPERTY (2,950 SF - 3,199 SF)	\$[ ] per unit
13	DETACHED RESIDENTIAL PROPERTY (2,700 SF - 2,949 SF)	\$[ ] per unit
14	DETACHED RESIDENTIAL PROPERTY (2,450 SF - 2,699 SF)	\$[ ] per unit
15	DETACHED RESIDENTIAL PROPERTY (2,200 SF - 2,449 SF)	\$[ ] per unit
16	DETACHED RESIDENTIAL PROPERTY (1,950 SF - 2,199 SF)	\$[ ] per unit
17	DETACHED RESIDENTIAL PROPERTY (1,700 SF - 1,949 SF)	\$[ ] per unit
18	DETACHED RESIDENTIAL PROPERTY (< 1,700 SF)	\$[ ] per unit
19	ATTACHED RESIDENTIAL PROPERTY (=> 2,600 SF)	\$[ ] per unit
20	ATTACHED RESIDENTIAL PROPERTY (2,400 SF - 2,599 SF)	\$[ ] per unit
21	ATTACHED RESIDENTIAL PROPERTY (2,200 SF - 2,399 SF)	\$[ ] per unit
22	ATTACHED RESIDENTIAL PROPERTY (2,000 SF - 2,199 SF)	\$[ ] per unit
23	ATTACHED RESIDENTIAL PROPERTY (1,800 SF - 1,999 SF)	\$[ ] per unit
24	ATTACHED RESIDENTIAL PROPERTY (1,600 SF - 1,799 SF)	\$[ ] per unit

Land Use Class	Description	Maximum Special Tax
25	ATTACHED RESIDENTIAL PROPERTY (1,400 SF - 1,599 SF)	\$[ ] per unit
26	ATTACHED RESIDENTIAL PROPERTY (1,200 SF - 1,399 SF)	\$[ ] per unit
27	ATTACHED RESIDENTIAL PROPERTY (< 1,200 SF)	\$[ ] per unit
28	SENIOR HOUSING	\$[ ] per unit
29	MODERATE AFFORDABLE UNITS	\$[ ] per unit
30	MODERATE AFFORDABLE SENIOR UNITS	\$[ ] per unit
31	AFFORDABLE UNITS	\$[ ] per unit
32	NON-RESIDENTIAL - COMMERCIAL PROPERTY	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre
33	NON-RESIDENTIAL - INDUSTRIAL PROPERTY	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre
34	NON-RESIDENTIAL - INSTITUTIONAL PROPERTY	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre
35	NON-RESIDENTIAL - OFFICE PROPERTY	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre
36	NON-RESIDENTIAL - AUTO CENTER	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre
37	OTHER NON-RESIDENTIAL PROPERTY	\$[ ] per SF of Non-Residential Floor Area \$[ ] per Acre

2. Upon execution of the certificate by the City and CFD No. 2009-3 (IA No. 1), the City shall cause an amended notice of Special Tax lien for CFD No. 2009-3 (IA No. 1) to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledges, on behalf of the County and CFD No. 2009-3 (IA No. 1), receipt of this certificate and modification of the Rate and Method of Apportionment as set forth in this certificate.

CITY OF IRVINE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CFD Administrator

CITY OF IRVINE COMMUNITY FACILITIES DISTRICT NO. 2009-3

By: \_\_\_\_\_

Date: \_\_\_\_\_



## EXHIBIT B

### ANNUAL AMOUNTS FOR CFD No. 2009-3

<b>Fiscal Year</b>	<b>Amount</b>
2009-2010	\$2,000,000
2010-2011	\$3,000,000
2011-2012	\$4,000,000
2012-2013	\$4,000,000
2013-2014	\$5,000,000
2014-2015	\$9,500,000
Each Fiscal Year Thereafter, Commencing in Fiscal Year 2015-2016	Increase Amount in Prior Fiscal Year by 3%.

## **EXHIBIT C**

### **IDENTIFICATION OF FUTURE ANNEXATION AREA**



Public Finance and Urban Economics

5000 Birch Street, Ste. 6000, Newport Beach, CA 92660

## IMPLEMENTATION MEMORANDUM

August 5, 2009

To: City of Irvine CFD No. 2009-3 Administrator

From: David Taussig and Associates, Inc.

Subject: Pro Rata Share of Guaranteed Amount and Prepayment Percentages

This Implementation Memo has been prepared to explain the methodology that will be used to recalculate the Pro Rata Share<sup>1</sup> and to set the prepayment percentages for any improvement areas ("IA" or "IAs") within CFD No. 2009-3.

### I. Pro Rata Share of Guaranteed Amount

Pursuant to the Rate and Method of Apportionment ("RMA") for each of the 11 IAs within City of Irvine CFD No. 2009-3 (Great Park), the amount of Special Taxes levied to satisfy the Guaranteed Amount ("GA") for each IA cannot exceed that IA's Pro Rata Share of the amounts set forth in Exhibit B to the RMA (the "Indexed GA"), except for cases in which tax delinquencies have occurred. This serves as a mechanism to limit the amount of Special Taxes that can be levied on Final Mapped and Undeveloped Property. Once all of the Assessor's Parcels of Taxable Property within an IA have been classified as Developed Property, the actual amount of Special Taxes levied each year will be equal to the Maximum Special Taxes listed in Table 1 of the RMA, and the Pro Rata Share shall not impact the amount of Special Taxes levied (although it does impact the application of the Special Taxes).

In the RMA for each of the 11 IAs, the term GA will be defined as:

"Guaranteed Amount" means for any Fiscal Year, the lesser of (i) the Pro Rata Share for CFD No. 2009-3 (IA No. 1) of the annual amounts set forth in Exhibit B [of the RMA], or (ii) the sum of (a) the Pro Rata Share for CFD No. 2009-3 (IA No. 1) of the amount needed to finance Authorized Services in such Fiscal Year as determined by the City and (b) the Bond Costs associated with any Subordinate Bonds issued on behalf of CFD No. 2009-3 (IA No. 1). Notwithstanding the above, the Guaranteed Amount may exceed the Pro Rata Share for CFD No. 2009-3 (IA No. 1) as discussed in Section E.2 [of the RMA]. The Guaranteed Amount collected in CFD No. 2009-3 (IA No. 1) may be used to finance Authorized Services and to pay Bond Costs associated with Subordinate Bonds issued on behalf of CFD No. 2009-3 (IA No. 1).

<sup>1</sup> Please note that all capitalized terms used herein, unless otherwise indicated, shall have the meanings defined in the Rate and Method of Apportionment for all IAs.

Below is a copy of the Indexed GA, which is referred to in the GA definition above as Exhibit B of each RMA.

**Table A: Copy of Exhibit B of each  
Rate and Method of Apportionment**

<b>Fiscal Year</b>	<b>Annual Amount</b>
2009-10	\$2,000,000
2010-11	\$3,000,000
2011-12	\$4,000,000
2012-13	\$4,000,000
2013-14	\$5,000,000
2014-15	\$9,500,000
Each Fiscal Year Thereafter, Commencing in Fiscal Year 2015-2016	Increase Amount in Prior Fiscal Year by 3%

On each July 1, commencing July 1, 2015, one year after the Indexed GA will have been increased to \$9,500,000, the Indexed GA shall be increased by an amount equal to three percent (3%) of the amount in effect for the previous Fiscal Year.

In the RMA for each of the 11 IAs, the term Pro Rata Share is defined as:

**"Pro Rata Share"** means the ratio calculated by dividing the anticipated Maximum Special Tax to be levied at build out in CFD No. 2009-3 (IA No. 1) by the anticipated Maximum Special Tax to be levied at build out for all improvement areas within CFD No. 2009-3. So long as there are no CFD No. 2009-3 (IA No. 1) Bonds outstanding, or Special Taxes being pledged to the payment of Bond Costs for Other Improvement Area Bonds, the City may recalculate the Pro Rata Share to reflect development assumptions which differ from those identified in Table 2 of the rate and method of apportionment for any improvement area of CFD No. 2009-3. Notwithstanding the foregoing, the City shall not recalculate the Pro Rata Share to incorporate any prepayments of the Prepayable Portion of the Special Tax.

It is currently anticipated that at the time of formation of CFD No. 2009-3, the Pro Rata Share for each IA will equal the following percentages:

**Table B: Pro Rata Share**

<b>Improvement Area</b>	<b>FY 2014-2015 Total Estimated Maximum Special Tax</b>	<b>Pro Rata Share</b>	<b>FY 2014-2015 Maximum GA*</b>
No. 1	\$4,246,398	13.49%	\$1,281,133
No. 2	\$4,060,422	12.89%	\$1,225,025
No. 3	\$3,322,390	10.55%	\$1,002,361
No. 4	\$1,033,560	3.28%	\$311,824
No. 5	\$5,339,732	16.96%	\$1,610,991
No. 6	\$5,343,952	16.97%	\$1,612,264
No. 7	\$0	0.00%	\$0
No. 8	\$134,640	0.43%	\$40,621
No. 9	\$4,973,739	15.80%	\$1,500,571
No. 10	\$3,033,519	9.63%	\$915,209
No. 11	\$0	0.00%	\$0
<b>Total</b>	<b>\$31,488,352</b>	<b>100.00%</b>	<b>\$9,500,000</b>
*Note. The Maximum GA identified assumes the Total Maximum Special Taxes identified are for FY 2014-2015.			

Prior to bond issuance, the amounts listed in Table B above for all Non-Fixed IAs (as defined herein) shall be revised by the City whenever Table I in the RMA for any IA is amended and restated. All future changes to the Maximum Special Tax and Pro Rata Share (percentages and dollar amounts) reflected in Table B above will be based on the same methodology used at the time of IA formation. The calculations will be based on the formulas listed below, where Maximum Special Tax ("MST") for each IA will be equal to the Maximum Special Tax anticipated at buildout of that IA based on the approved changes in development assumptions:

$$\begin{aligned}
\text{Pro Rata Share for IA No. 1} &= \text{MST}_{\text{IA No. 1}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 2} &= \text{MST}_{\text{IA No. 2}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 3} &= \text{MST}_{\text{IA No. 3}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 4} &= \text{MST}_{\text{IA No. 4}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 5} &= \text{MST}_{\text{IA No. 5}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 6} &= \text{MST}_{\text{IA No. 6}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 7} &= \text{MST}_{\text{IA No. 7}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 8} &= \text{MST}_{\text{IA No. 8}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 9} &= \text{MST}_{\text{IA No. 9}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 10} &= \text{MST}_{\text{IA No. 10}} / \text{MST}_{\sum \text{IA No. 1...11}} \\
\text{Pro Rata Share for IA No. 11} &= \text{MST}_{\text{IA No. 11}} / \text{MST}_{\sum \text{IA No. 1...11}}
\end{aligned}$$

To determine the maximum GA for each IA, the CFD administrator will multiply the Pro Rata Share percentages in Table B above, by the Indexed GA for such Fiscal Year, identified in Table A, herein.

However, notwithstanding the above, the Pro Rata Share for a specific IA shall be considered final upon the issuance of bonds for such IA (herein, a "Fixed IA"). All IAs other than the Fixed IAs shall be referred to herein as "Non-Fixed IAs"). For example, if bonds have been issued on behalf of IA No. 1, the Pro Rata Share for IA No. 1 would be finalized (according to the current Table B at 13.49%). Any revisions to the Pro Rata Share amounts for all remaining Improvement Areas would be based on the formula listed below and reflected in an updated Table B:

$$\text{Pro Rata Share for a Non-Fixed IA} = \text{MST for a Non-Fixed IA} / \text{MST} \sum \text{All Non-Fixed IAs}$$

To determine the maximum GA for each Non-Fixed IA in any Fiscal Year, the CFD administrator will multiply (i) the Pro Rata Share percentages calculated pursuant to the formula above, by (ii) the difference between the Indexed GA for such Fiscal Year identified in Table A and the GA for all Fixed IAs for such Fiscal Year (calculated by multiplying the fixed Pro Rata Share of the Fixed IAs by the Indexed GA).

The new Pro Rata Share percentages for each Non-Fixed IA, as calculated by the CFD Administrator using the formula above, shall replace the amounts identified in Table B and shall be used in each Fiscal Year to determine the maximum GA for such Non-Fixed IAs. In addition, Table B shall identify the maximum Pro Rata Share of the GA for FY 2014-2015 to reflect the remaining IAs Pro Rata Share of \$9,500,000.

## II. Prepayment Percentages

Two percentage amounts are required to determine the prepayment amounts for Residential Property and Non-Residential Property under Section I of the RMA. These percentage amounts are called Property Prepayment Percentages, and they shall be calculated separately for Residential Property and Non-Residential Property as follows:

### Non-Residential Property

- Step 1. For such IA, determine the amount of the Maximum Special Tax identified in Table B above generated by Non-Residential Property or parcels anticipated to become Non-Residential Property ("Total Non-Residential Property MST")
- Step 2. Multiply the total Non-Residential Floor Area expected at buildout for such IA by \$0.25.
- Step 3. Subtract the amount calculated in Step 2 above from the Total Non-Residential Property MST for such IA as determined under Step 1 above and divide by 1.1 ("Prepayable Portion of the Total Non-Residential Property MST").
- Step 4. Divide the amount calculated in Step 3 by the Total Non-Residential Property MST as determined under Step 1 ("Non-Residential Property Prepayment Percentage").

### Residential Property

- Step 5. For such IA, determine the Maximum Special Tax expected to be levied on Residential Property (“Total Residential Property MST”).
- Step 6. Determine the GA to be paid by Residential Property or parcels anticipated to become Residential Property for such IA by subtracting the amount calculated in Step 2 above from an amount equal to the Pro Rata Share for such IA multiplied by \$9,500,000 (if this calculation is being done in Fiscal Year 2014-2015), or for each Fiscal Year beyond Fiscal Year 2014-2015 in which this calculation is being made, \$9,500,000 escalated by 2% each Fiscal Year thereafter. . If this calculation is made prior to Fiscal Year 2014-2015, the amount calculated in Step 2 shall be subtracted from an amount equal to the Pro Rata Share for such IA multiplied by \$9,500,000 discounted 2% annually for the number of years remaining until Fiscal Year 2014-2015.
- Step 7. Subtract the amount calculated in Step 6 above from the Total Residential Property MST as determined under Step 5 and divide by 1.1 (“Prepayable Portion of the Total Residential Property MST”).
- Step 8. Divide the amount calculated in Step 7 by the Total Residential Property MST as determined under Step 5 (“Residential Property Prepayment Percentage”).

The Non-Residential Property Prepayment Percentage calculated pursuant to Step 4 above shall be utilized within the RMA as the percentage amounts required in the following places:

- Step 3 and Step 4 in Section I.1.B
- Section I.3.c

In addition, in Section I.3.b of the RMA, the percentage amount that will continue to be levied on Non-Residential Property shall equal (1.0 - Non-Residential Property Prepayment Percentage calculated in Step 4).

The Residential Property Prepayment Percentage calculated pursuant to Step 8 above shall be utilized within the RMA as the percentage amounts required in the following places:

- Step 3 and Step 4 in Section I.1.A
- Section I.3.c

In addition, in Section I.3.b of the RMA, the percentage amount that will continue to be levied on Residential Property shall equal (1.0 - Residential Property Prepayment Percentage calculated in Step 8).

Lastly, in Section J of the RMA, the percentage amount that shall terminate shall equal 1.1 x Non-Residential Property Prepayment Percentage, calculated pursuant to Step 4 above, for Non-residential Property, and for Residential Property, the percentage amount that shall terminate

City of Irvine – (Great Park Implementation Memo)

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August 5, 2009

shall equal  $1.1 \times$  Residential Property Prepayment Percentage, calculated pursuant to Step 8 above.

Example:

Step 1: Non-Res SF =  $1,423,417 \times 1.32 = 1,878,910.44$

Step 2:  $1,423,417 \times 0.25 = 355,854.25$

Step 3:  $1,878,910.44 - 355,854.25 = 1,523,056.19 / 1.1 = 1,384,596.54$

Step 4:  $1,384,596.54 / 1,878,910.44 = 73.69\%$

Step 5: 638 units  $\times$  average tax of 3,710.8 = 2,367,487.56

Step 6: (Pro Rata Share:  $13.49\% \times 9,500,000$ ) - 355,854.25 = 925,279.20

Step 7:  $2,367,487.56 - 925,279.20 = 1,442,208.36 / 1.1 = 1,311,098.51$

Step 8:  $1,311,098.51 / 2,367,487.56 = 55.38\%$

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## Exhibit T

### POLICE SITE TITLE EXCEPTIONS

1. General and special taxes and assessments for the fiscal year in which the conveyance of the Police Site occurs and all subsequent fiscal years.
2. Taxes, bonds and assessments not examined.
3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
4. Water rights, claims or title to water, whether or not shown by the public records.
5. An easement for right of way for road and incidental purposes, recorded March 24, 1902 as Book 123 Page 316 of Official Records in favor of The County of Orange.

As modified by that certain easement for right of way for road and incidental purposes, recorded July 1, 1944 as Book 1263 Page 136 of Official Records, that certain Resolution of Board of Supervisors, Orange County California, recorded January 6, 1960 in Book 5050 Page 577 of Official Records, and that certain Certificate of Completion recorded January 14, 2004 as Instrument No. 2004000030076 of Official Records.

6. An easement for Electrical distribution systems and incidental purposes, recorded March 4, 1918 as Book 318 Page 240 and as amended and changed by agreement recorded July 31, 1943 in Book 1204 Page 171 both of Official Records.

In Favor of: Southern California Edison Company

Affects: A portion of the land

As modified by Final Judgment and Decree of Condemnation rendered in the District Court of the United States in and for the Southern District of California, Central District in an action entitled United States of America, Plaintiff VS. 2318.833 acres of land, and others, defendants Case No. 2504-Y Civil, a certified copy of which decree was recorded July 12, 1944 in Book 1264 Page 154 and recorded November 3, 1949 in Book 1923 Page 151, both of Official Records

7. The Terms, Provisions and Easement(s) contained in the document entitled "Quitclaim Deed" recorded July 12, 2005 as Instrument No. 2005-0536288 of Official Records.

Document(s) declaring modifications thereof recorded December 22, 2005 as Instrument No. 2005001023680 of Official Records.

8. The Terms, Provisions, Restrictions (including those set forth in Section 3.9 and 9.1) and any Easement(s) (if any) contained in that certain document entitled "Amended and Restated Development Agreement" to which this Exhibit is attached;

Which amends and restates that certain "Development Agreement" recorded July 12, 2005 as Instrument No. 2005-0538136 of Official Records.

## Exhibit T

The interest of Heritage Fields, LLC, a Delaware Limited Liability Company, under the Development Agreement recorded July 12, 2005 as Instrument No. 2005-0538136 of Official Records was assigned to Heritage Fields El Toro, LLC, a Delaware Limited Liability Company, by an instrument recorded December 22, 2005 as Instrument No. 05-1023682 of Official Records.

9. Covenants, conditions, restrictions and easements in the document recorded July 12, 2005 as Instrument No. 2005-0538145 of Official Records (the "Original CC&Rs"), which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or applicable state law. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status. [Note: This exception will be removed upon the termination of the Original CC&Rs pursuant to the provisions of Section 12 of that certain "Amended and Restated Development Agreement" to which this Exhibit is attached.]
10. The fact that the land lies within the boundaries of the Great Park Redevelopment Project Area, as disclosed by the document recorded March 31, 2005 as Instrument No. 2005000242692 and as revised by a document recorded June 19, 2007 as Instrument No. 2007000407641 of Official Records.
11. Easements for water lines and incidental purposes, as set out in decree entered August 27, 1953 and supplemental judgment entered July 7, 1960 and upon the terms and conditions contained therein, in the matter of the United States of America vs. The Irvine Company and others in the United States District Court Southern District of California, Central Division Case No. 15821-WB civil certified copies of which decrees were respectively recorded September 1, 1953 in Book 2567 Page 100; July 13, 1960 in Book 5327 Page 139 and October 31, 1978 in Book 12904 Page 1756, all of Official Records.
12. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed on Parcel Map 2006-271, upon the recordation of any final map.
13. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed on Approved Tentative Tract Map 17008 (as amended), upon the recordation of any final map.
14. Any and all offers of dedication, conditions, restrictions, easements, fenceline/boundary discrepancies, notes and/or provisions shown or disclosed on Approved Tentative Map 17283, upon the recordation of any final map.
15. An easement for underground power transmission facilities reserved for the benefit of Heritage Fields El Toro, LLC (which is assignable to SCE or any other applicable utility company) in the approximate location shown on Exhibit F to that certain document entitled "Amended and Restated Development Agreement" to which this Exhibit is attached.
16. A license to carry out the obligations of Heritage Fields under the Amended and Restated Master Implementation Agreement by and between the City of Irvine and Heritage Fields El Toro, LLC (the "Amended MIA"), as set forth in the Amended MIA.

## Exhibit T

17. With respect to those portions of the Police Site on which The United States of America retained one or more Leases in Furtherance of Conveyance, the Terms, Provisions, Restrictions and Easement(s) contained and/or reserved in one or more Quitclaim Deed(s) to be granted by The United States of America in connection with the conveyance of the Police Site (or portions thereof) to Heritage Fields El Toro, LLC following the issuance of a Finding of Suitability to Transfer, including easements and other rights for the maintenance and exclusive use of and provision and maintenance for support of structures owned by the United States of America and incidental purposes.
18. Easement rights held (or to be contained and/or reserved in one or more Quitclaim Deed(s) to be granted by The United States of America) by the United States of America relating to access/egress, installation, maintenance and removal of monitoring wells located on the property.

## Exhibit U

## ARDA TRANSFER SITE TITLE EXCEPTIONS

1. General and special taxes and assessments for the fiscal year in which the conveyance of the ARDA Transfer Site occurs and all subsequent fiscal years.
2. Taxes, bonds and assessments not examined.
3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
4. Water rights, claims or title to water, whether or not shown by the public records.
5. An easement for Sanitary sewer, storm drains, pipelines, public utilities and incidental purposes, recorded March 26, 1996 as Instrument No. 199960144770 of Official Records.

In Favor of: The County of Orange  
Affects: A portion of vacated Trabuco Road

6. The Terms, Provisions and Easement(s) contained in the document entitled "Quitclaim Deeds" recorded July 12, 2005 as Instrument No. 2005-0536290 of Official Records.

Said instrument was modified by deed recorded December 22, 2005 as Instrument No. 2005001023680 of Official Records.

7. An easement for Ingress, egress and the installation, operation, maintenance and repair of utilities and maintenance and exclusive use of and provision and maintenance for support of structures owned by the United States of America and incidental purposes, recorded July 12, 2005 as Instrument No. 2005-0536290 all of Official Records.

In Favor of: United States of America, acting by and through the  
Department of the Navy  
Affects: As provided in said instruments

8. A leasehold estate as created by that certain for the term, and upon the terms, covenants and conditions therein provided; Lessor: United States of America, acting by and through the Department of the Navy; Lessee: Heritage Fields, LLC, a Delaware Limited Liability Company; Dated: July 12, 2005; Recorded: July 12, 2005 as Instrument No. 2005-053291 of Official Records

Terms, provisions and conditions contained in an instrument entitled "Assignment and Assumption of Leases", executed by and between Heritage Fields LLC, a Delaware Limited Liability Company and Heritage Fields El Toro, LLC, a Delaware Limited Liability Company and recorded December 22, 2005 as Instrument No. 2005001023681 of Official Records.

9. The Terms, Provisions, Restrictions (including those set forth in Section 3.9) and any Easement(s) (if any) contained in that certain document entitled "Amended and Restated Development Agreement" to which this Exhibit is attached;

## Exhibit U

Which amends and restates that certain "Development Agreement" recorded July 12, 2005 as Instrument No. 2005-0538136 of Official Records.

The interest of Heritage Fields LLC, a Delaware Limited Liability Company, under the Development Agreement recorded July 12, 2005 as Instrument No. 2005-0538136 of Official Records was assigned to Heritage Fields El Toro, LLC, a Delaware Limited Liability Company, by an instrument recorded December 22, 2005 as Instrument No. 05-1023682 of Official Records.

10. Covenants, conditions, restrictions and easements in the document recorded July 12, 2005 as Instrument No. 2005-0538145 of Official Records (the "Original CC&Rs"), which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or applicable state law: Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status. [Note: This exception will be removed upon the termination of the Original CC&Rs pursuant to the provisions of Section 12 of that certain "Amended and Restated Development Agreement" to which this Exhibit is attached.]
11. The fact that the land lies within the boundaries of the Great Park Redevelopment Project Area, as disclosed by the document recorded March 31, 2005 as Instrument No. 200500242692 and as revised by a document recorded June 19, 2007 as Instrument No. 2007000407641 of Official Records both of Official Records.
12. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed by Tentative Tract Map. No. 17008 (as amended), upon the recordation of such final map.
13. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed by Parcel Map No. 2006-271, upon the recordation of such final map.
14. A license to carry out the obligations of Heritage Fields under the Amended and Restated Master Implementation Agreement by and between the City of Irvine and Heritage Fields El Toro, LLC (the "Amended MIA"), as set forth in the Amended MIA.
14. With respect to those portions of the ARDA Transfer Site on which The United States of America retained one or more Leases in Furtherance of Conveyance, the Terms, Provisions, Restrictions and Easement(s) contained and/or reserved in one or more Quitclaim Deed(s) to be granted by The United States of America in connection with the conveyance of the ARDA Transfer Site (or portions thereof) to Heritage Fields El Toro, LLC following the issuance of a Finding of Suitability to Transfer, including easements and other rights for the maintenance and exclusive use of and provision and maintenance for support of structures owned by the United States of America and incidental purposes.

# BINGHAM

1/12 RETURNED CC. CURE  
FILE

Edward S. Merrill  
Direct Phone: 415.393.2335  
Direct Fax: 415.262.9228  
doc.merrill@bingham.com  
Our File No.: 0000335426

January 5, 2011

## Via FedEx

City of Irvine  
City Hall  
One Civic Center Plaza  
Irvine, CA 92623-9675  
Attn: Sean Joyce, City Manager

## Re: Mortgagee Notice

Dear Mr. Joyce:

We represent State Street Bank & Trust Co. As you may know, State Street recently closed an acquisition and restructuring of the mortgage loan encumbering the Heritage Fields Property. Enclosed is State Street's letter notifying the City of State Street's status as Mortgagee with respect to the Amended and Restated Development Agreement concerning the Heritage Fields Property.

Please have the City of Irvine acknowledge receipt of the letter by signing and dating where indicated and returning to me at the address shown on our letterhead.

Thank you for your cooperation.

Very truly yours,

  
Edward S. Merrill

## Enclosure

cc: Rutan & Tucker, Attn: Phil Kohn, Irvine City Atty (w/encl.) (via Fed. Exp.)  
Michael Alvarado (w/encl.) (via Email)  
Michael Damast (w/encl.) (via Email)

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Washington

Bingham McCutchen LLP  
Three Embarcadero Center  
San Francisco, CA  
94111-4067

T +1.415.393.2000  
F +1.415.393.2286  
bingham.com



STATE STREET.

Global Treasury Division  
State Street  
Financial Center  
One Lincoln Street  
Boston, MA 02111-2900

January 5, 2011

City of Irvine (the "City")  
City Hall  
One Civic Center Plaza  
Irvine, California 92623-9575  
Attention: Director of Community Development

Rutan & Tucker, LLP  
611 Anton Blvd., Suite 1400  
Costa Mesa, California 92626  
Attention: Irvine City Attorney

Re: Mortgagee Notice

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Development Agreement (the "**Agreement**"), dated as of December 29, 2010, by and among the City, the Irvine Redevelopment Agency and Heritage Fields El Toro, LLC, a Delaware limited liability company ("**Heritage Fields**"). Except as otherwise defined in this letter, defined terms herein shall have the meaning given to such terms in the Agreement.

State Street Bank and Trust Company, a Massachusetts trust company ("**State Street**") is now a Mortgagee with respect to the Heritage Fields Property. Pursuant to the terms of Section 16.4 of the Agreement, upon written request to the City, a Mortgagee is entitled to receive written notice from the City of the results of the Annual Review and of any default by Heritage Fields under the Agreement.

In accordance with Section 16.4 of the Agreement, State Street hereby requests to receive the notices described in Section 16.4. All such notices or communications shall be given to State Street at addresses set forth below:

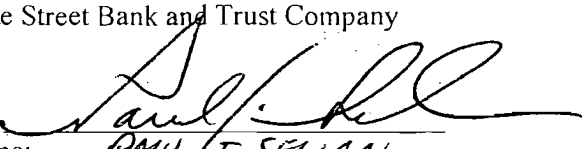
State Street Bank and Trust Company  
One Lincoln Street  
Boston, MA 02111  
Attention: Paul J. Selian, Q. Sophie Yang, and Robert S. Emslie  
Telephone: (617) 664-0374  
Facsimile: (617) 664-2637

and  
State Street Bank and Trust Company  
Copley Place, Tower 1, Floor 2  
Boston, MA 02116  
Attention: Bruce M. Denneen  
Telephone: (617) 662-7280  
Facsimile: (617) 664-5650

Please acknowledge your receipt of this notice with your countersignature below and returning an original to Mortgagee at the address set forth above.

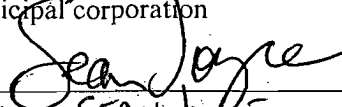
Sincerely,

State Street Bank and Trust Company

By:   
Name: PAUL J. SELIAN  
Title: E. V. PRESIDENT

Acknowledged and agreed to  
this \_\_\_ day of January, 2011:

CITY OF IRVINE,  
a municipal corporation

By:   
Name: SEAN JOYCE  
Title: CITY MANAGER



Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: Development Engineering



NO FEE

2010000700391 04:30pm 12/27/10

37 402 G02 7

0.00 0.00 0.00 0.00 18.00 0.00 0.00 0.00

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section 6103

In accordance with Section 11922 of the California Revenue  
and Taxation Code, transfer of the property to the City of  
Irvine is exempt from the payment of a documentary transfer  
tax.

**GRANT DEED**

(LIFOC Parcel I-C)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Grantor"), hereby grants to the CITY OF IRVINE, a California charter city ("Grantee"), that certain real property (the "Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "A" incorporated herein by this reference.

TOGETHER WITH all facilities, roadways, and other infrastructures, located thereon, and any other improvements on the Property, all hereditaments and tenements therein and reversions, remainders, issues, profits, privileges, and other rights belonging or related thereto, and all rights to minerals, gas, oil, and water.

GRANTEE HEREBY COVENANTS AND AGREES, for itself and on behalf of its successors and assigns as to all or any portion of the Property, that it shall be bound by the terms, reservations, easements, covenants, conditions, restrictions and agreements set forth in that certain Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Section 1471, dated October 6, 2008, from the United States of America, acting by and through the Department of the Navy ("United States"), to Grantor, recorded on January 23, 2009 as Instrument No. 2009000031346 in the Official Records of Orange County, California (the "Government Quitclaim").

GRANTOR HEREBY ASSIGNS TO GRANTEE, all rights, title and interests in and to all covenants, representations and warranties made by the United States in favor of Grantor in the Government Quitclaim, to the fullest extent such covenants, representations and warranties are assignable and apply to the Property.

Subject to all matters of record and all matters that would be disclosed by an inspection and survey of the Property.

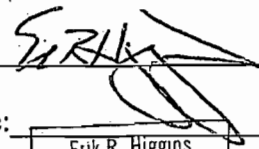
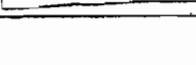
Dated: December 27, 2010.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member


By:   
Name:   
Title: 

STATE OF CALIFORNIA     )  
  ) ss.  
COUNTY OF ORANGE     )

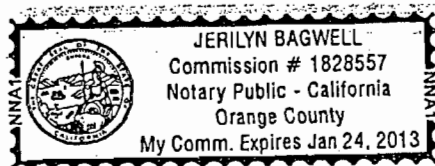
On DECEMBER 27, 2010, before me, JERILYN BAGWELL, Notary Public, personally appeared ERIK R. HIGGINS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.


  
Notary Public in and for said State

(SEAL)



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated December 27, 2010, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine, a chartered city of the state of California, is hereby accepted by the undersigned City Engineer on behalf of the City Council of the City of Irvine pursuant to authority conferred by Ordinance No. 83-4 of such City Council adopted on the 12<sup>th</sup> day of April, 1983, and revised by Ordinance No. 92-19 adopted on the 27<sup>th</sup> day of October, 1992, and the City consents to recordation thereof by its duly authorized officer.

  
\_\_\_\_\_  
Sean Joyce, City Manager  
City of Irvine

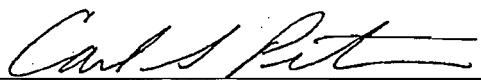
12-27-10  
\_\_\_\_\_  
Date

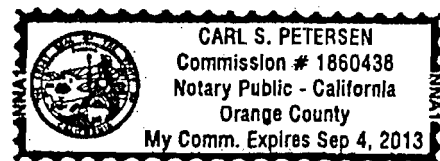
State of California  
County of Orange

On December 27 2010, before me, Carl S. Petersen, Notary Public, personally appeared Sean Joyce 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 



(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

**PARCEL I-C**

In the unincorporated territory of the County of Orange, State of California, being a portion of Lot 271 of Block 141 of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88 of Miscellaneous Maps, records of said County, lying within the U.S. M.C.A.S. El Toro property, as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49, inclusive, of Records of Survey, records of said County, described as follows:

Commencing at the southeasterly terminus of that certain course in the northeasterly boundary of said property described as "North 49°21'16" West 2640.69 feet" as shown on sheet 6 of said Record of Survey, said terminus also being the southwest quarter corner of Block 142 of said Irvine's Subdivision; thence North 49°21'16" West 66.14 feet along said line, thence leaving said line South 40°12'23" West 64.43 feet to the **True Point of Beginning**; thence continuing South 40°12'23" West 28.98 feet; thence North 63°26'06" West 106.53 feet; thence North 33°41'24" East 28.38 feet; thence South 63°26'06" East 109.84 feet the **True Point of Beginning**.

Containing 0.070 acres (3,047 square feet), more or less

Subject to covenants, conditions and restrictions, rights-of-way and easements of record, if any.

Refer to the exhibit attached hereto and made a part hereof.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyor's Act.

John C. Hovland

John C. Hovland, P.L.S. 7365

Expires 12/31/05

5/28/04

Date

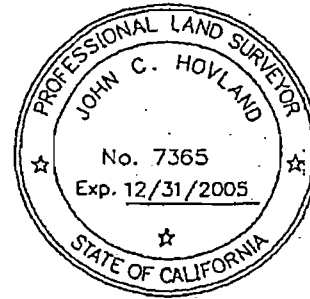


EXHIBIT "A"

# EXHIBIT

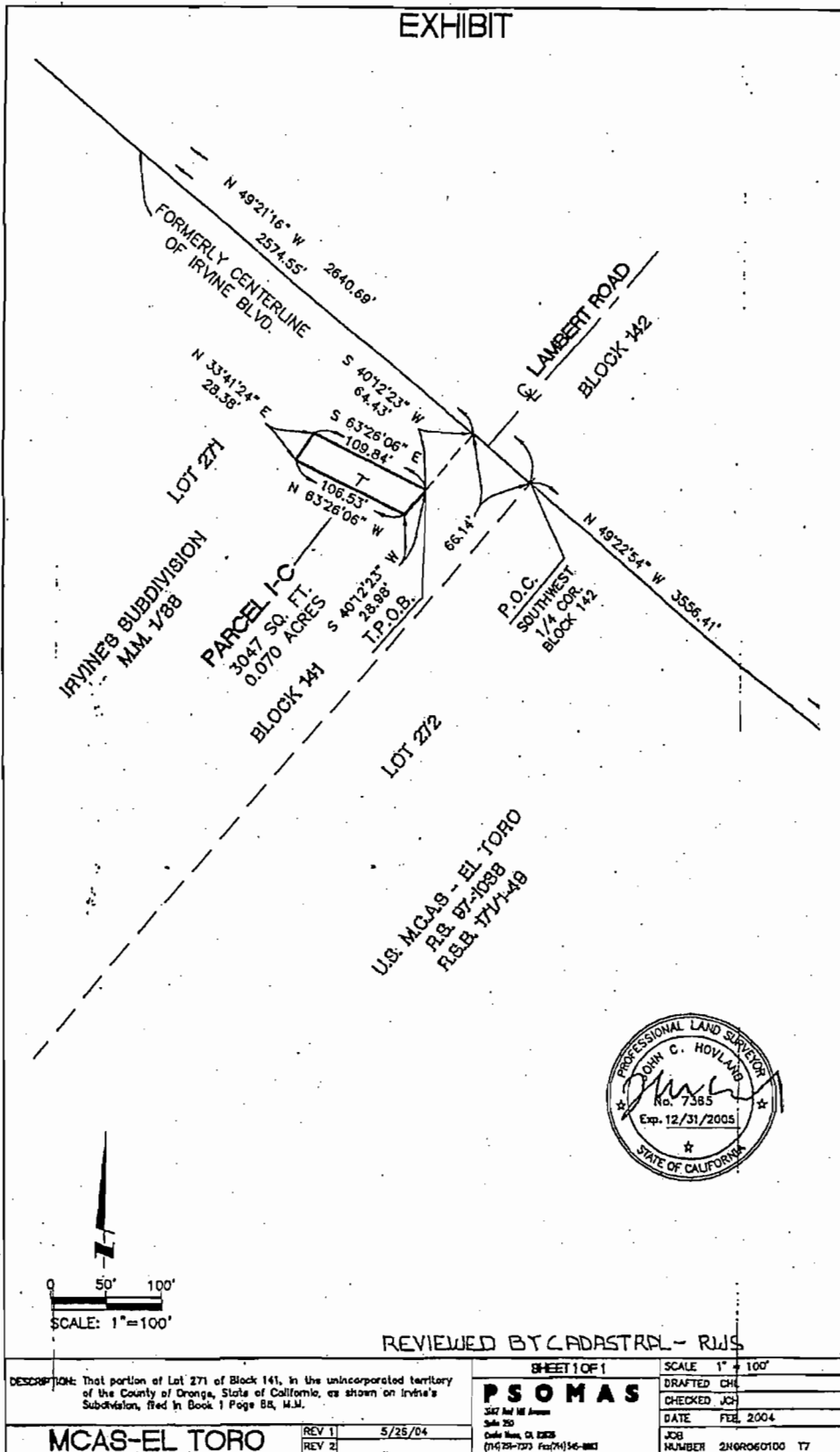


EXHIBIT "A"

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:



NO FEE

2010000700392 04:30pm 12/27/10

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: Development Engineering

37 402 G02 8  
0.00 0.00 0.00 0.00 21.00 0.00 0.00 0.00

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(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section 6103

In accordance with Section 11922 of the California Revenue  
and Taxation Code, transfer of the property to the City of  
Irvine is exempt from the payment of a documentary transfer  
tax.

**GRANT DEED**

(LIFO Portion of II-G and III-D)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Grantor"), hereby grants to the CITY OF IRVINE, a California charter city ("Grantee"), that certain real property (the "Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "A" and the depiction attached hereto as Exhibit "B", each incorporated herein by this reference.

TOGETHER WITH all buildings, facilities, roadways, rail lines, and other infrastructure, including all storm drainage systems, sewer systems, and all electrical, natural gas, telephone, and water utility distribution systems located thereon, and any other improvements on the Property; all hereditaments and tenements therein and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto; and all rights to minerals, gas, oil, and water.

GRANTEE HEREBY COVENANTS AND AGREES, for itself and on behalf of its successors and assigns as to all or any portion of the Property, that it shall be bound by the terms, reservations, easements, covenants, conditions, restrictions and agreements set forth in that certain Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Section 1471 For Parcels I-B, I-E, I-G, I-H, I-I, I-J, II-G, II-I and III-D, dated March 31, 2009, from the United States of America, acting by and through the Department of the Navy ("United States"), to Grantor, recorded on April 17, 2009 as Instrument No. 2009000191012 in the Official Records of Orange County, California (the "Government Quitclaim").



GRANTOR HEREBY ASSIGNS TO GRANTEE, all rights, title and interests in and to all covenants, representations and warranties made by the United States in favor of Grantor in the Government Quitclaim, to the fullest extent such covenants, representations and warranties are assignable and apply to the Property.

Subject to all matters of record and all matters that would be disclosed by an inspection and survey of the Property.


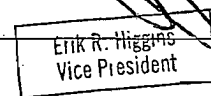
Dated: December 27, 2010.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By:   
Name:   
Title: \_\_\_\_\_

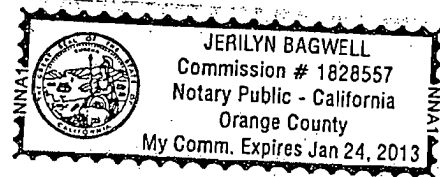
STATE OF CALIFORNIA     )  
  ) ss.  
COUNTY OF ORANGE     )

On DECEMBER 27, 2010, before me, JERILYN BAGWELL, Notary Public, personally appeared ERIK R. HIGGINS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person 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.

*Jerilyn Bagwell*  
Notary Public in and for said State



(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated December 27, 2010, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine, a chartered city of the state of California, is hereby accepted by the undersigned City Engineer on behalf of the City Council of the City of Irvine pursuant to authority conferred by Ordinance No. 83-4 of such City Council adopted on the 12<sup>th</sup> day of April, 1983, and revised by Ordinance No. 92-19 adopted on the 27<sup>th</sup> day of October, 1992, and the City consents to recordation thereof by its duly authorized officer.

Sean Joyce

Sean Joyce, City Manager  
City of Irvine

12-27-10

Date

State of California  
County of Orange

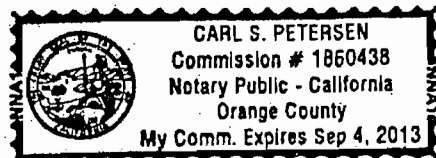
On December 27 2010, before me, Carl S. Petersen, Notary Public, personally appeared Sean Joyce who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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

Carl S. Pit



(Seal)

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL II-G-A:**

That portion of Parcel II-G, in the City of Irvine, County of Orange, State of California, as described in the Quitclaim Deed recorded April 17, 2009, as Instrument No. 2009000191012 of Official Records, lying within Parcel G-1B of Exhibit G-1-II as described in the Grant Deed recorded July 12, 2005 as Instrument No. 2005000538137 of Official Records, also being a portion of Lot 302, Block 174 of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, all in the office of the County Recorder of said county.

Contains an area of 5.119 acres, more or less.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, rights of way and easements of record, if any.

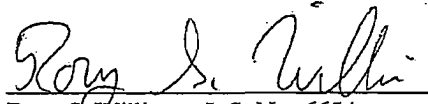
**Parcel III-D:**

Parcel III-D, in the City of Irvine, County of Orange, State of California, as described in the Quitclaim Deed recorded April 17, 2009, as Instrument No. 2009000191012 of Official Records, also being a portion of Lot 279, Block 140 of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, both in the office of the County Recorder of said county.

Contains an area of 4.784 acres, more or less.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, rights of way and easements of record, if any.

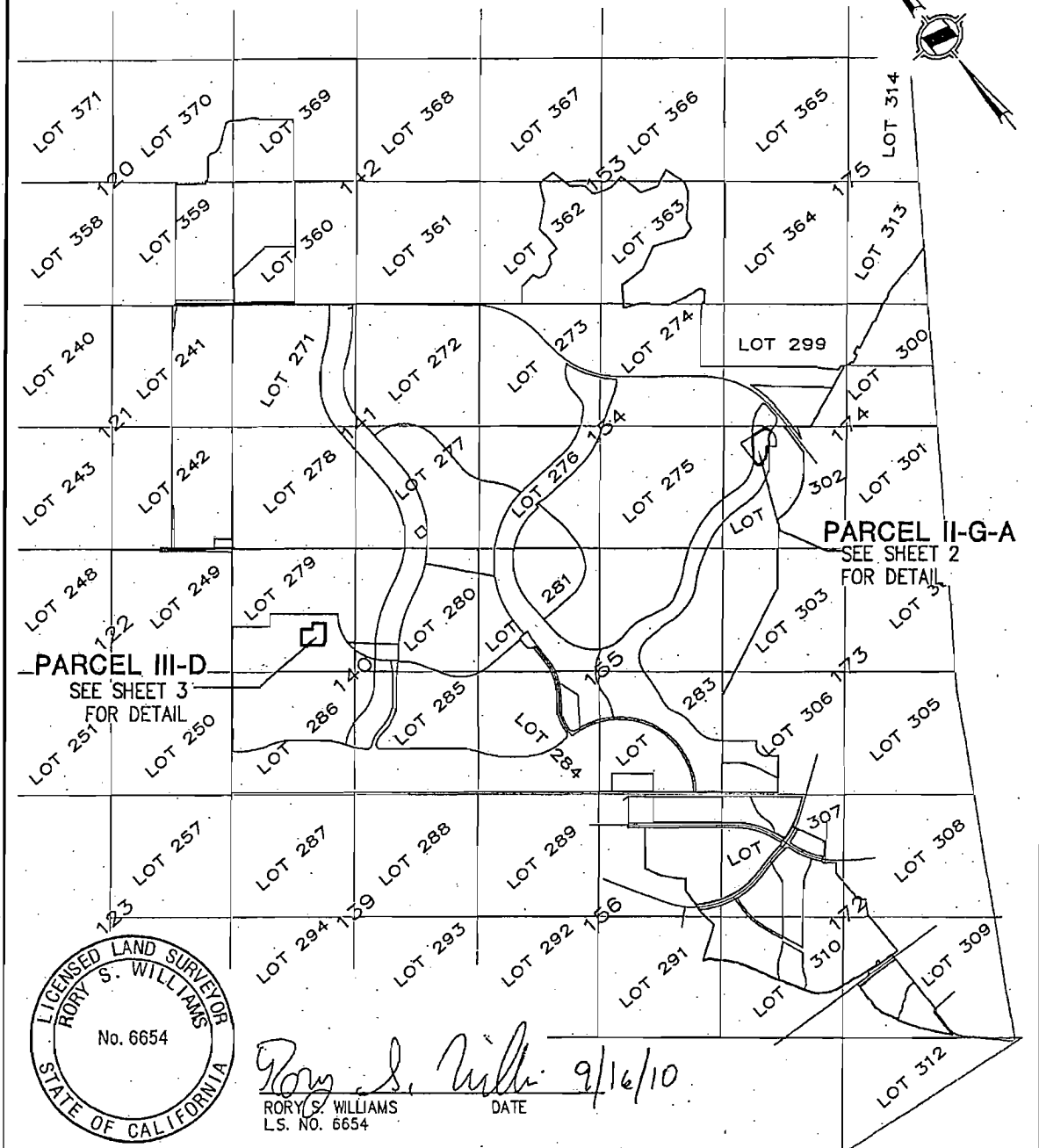
  
Rory S. Williams, L.S. No. 6654  
Date: 9/16/10



August 29, 2010  
WO No. 1855-80AX  
Page 1 of 1  
H&A Legal No. 7605  
By: R. Wheeler  
Checked By: R. Williams

# EXHIBIT "B"

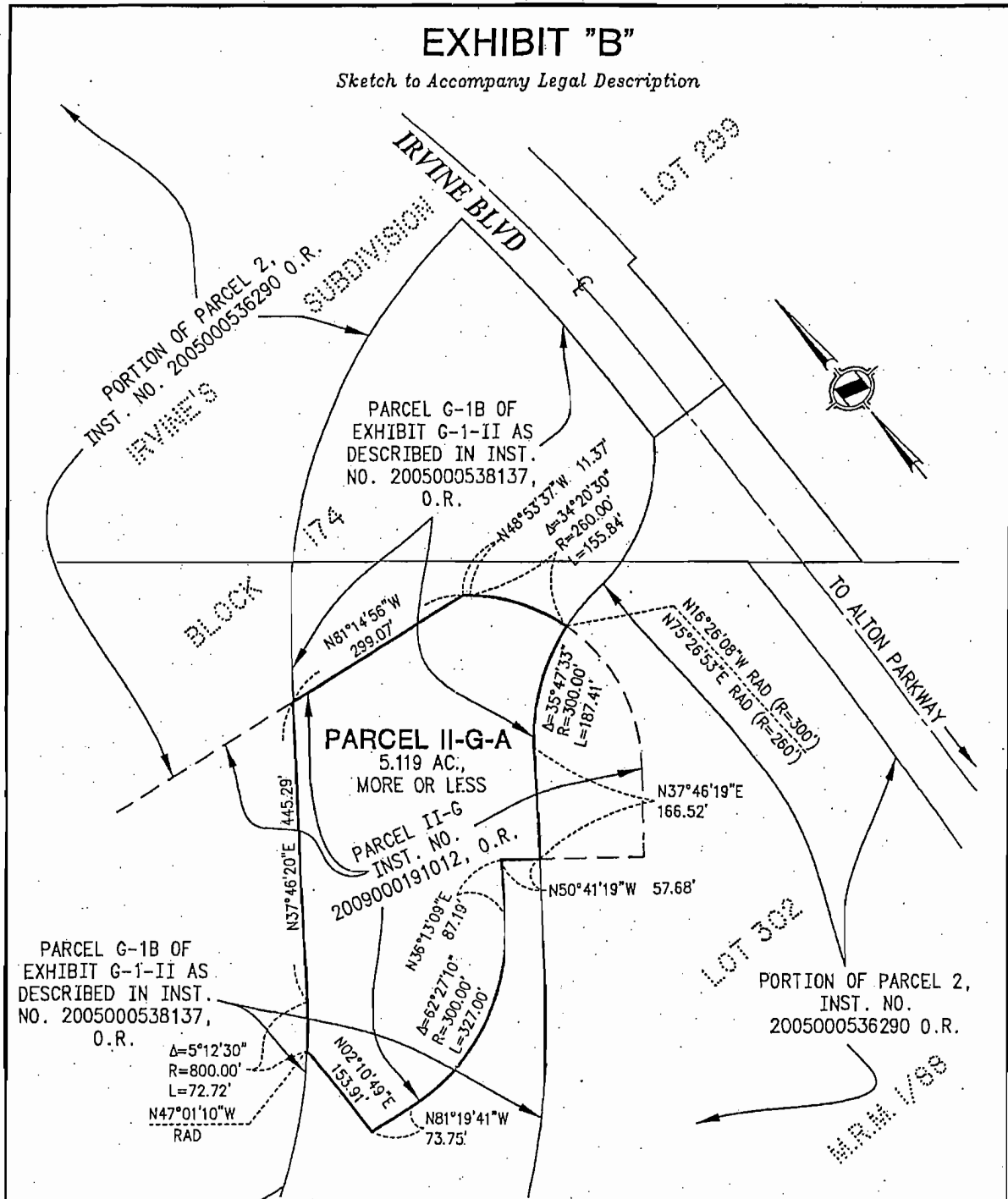
Sketch to Accompany Legal Description



<b>HUNSAKER &amp; ASSOCIATES</b> IRVINE, INC. PLANNING • ENGINEERING • SURVEYING Three Hughes • Irvine, CA 92618 • PH (949) 583-1010 • FX (949) 583-0739				<b>EXHIBIT B</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA			
DATE: 08-29-10	REV. DATE: 09-15-10	DWG By: R. WHEELER	CK'D By: R. WILLIAMS	SCALE: 1"=3000'	W.O.1855-80AX		
I:\HeritageFields\LD\7605\SHTO1.dwg				H&A LEGAL No. 7605	SHEET 1 OF 3		

# EXHIBIT "B"

Sketch to Accompany Legal Description



**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • PH: (949) 583-7010 • FX: (949) 583-0759

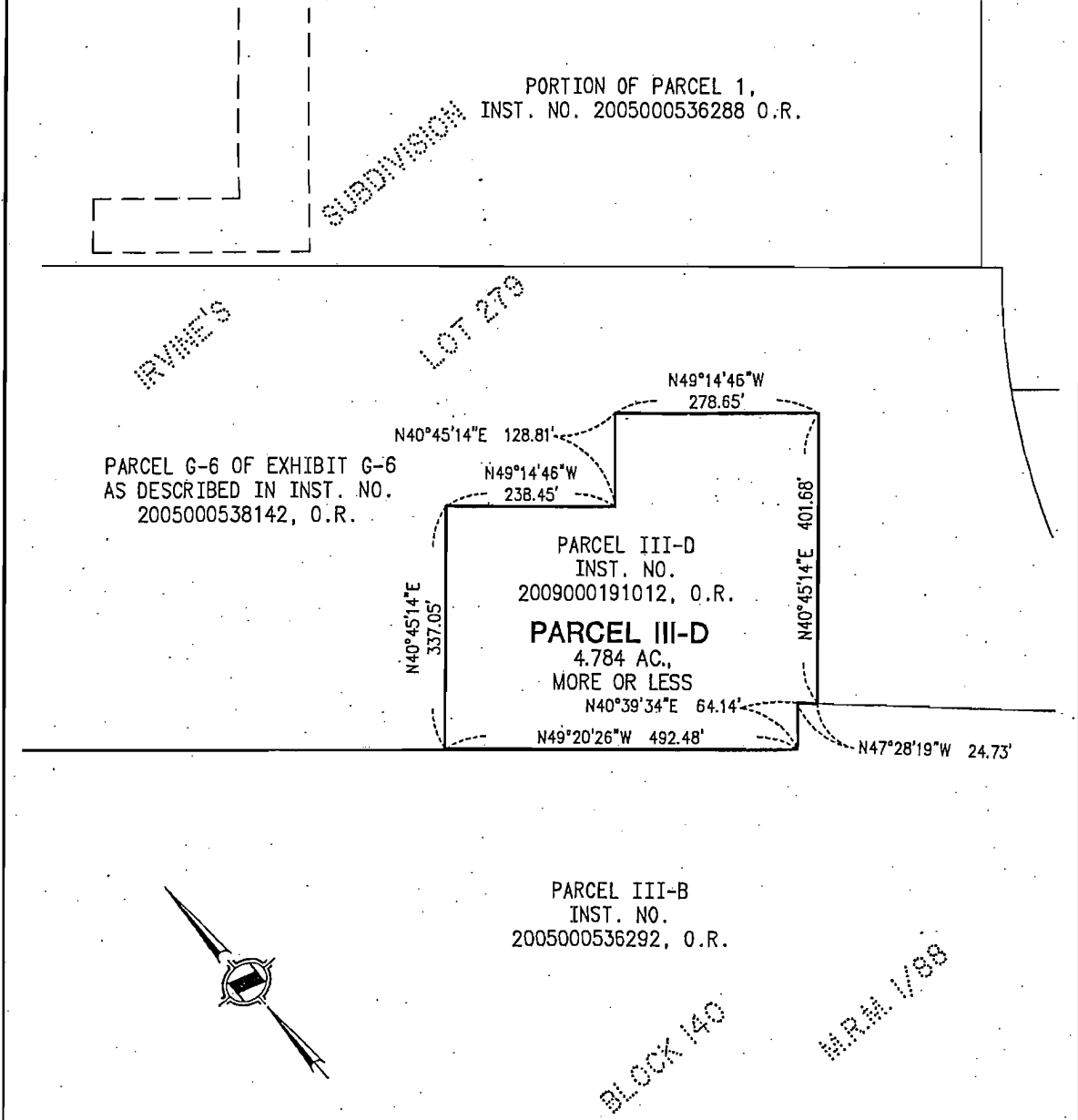
## EXHIBIT B

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

DATE: 08-29-10	REV. DATE: 09-15-10	DWG. R. WHEELER	CK'd By: R. WILLIAMS	SCALE: 1"=200'	W.O.1855-80AX
I:\HeritageFields\LD\7605\SH02.dwg				H&A LEGAL No. 7605	SHEET 2 OF 3

# EXHIBIT "B"

Sketch to Accompany Legal Description



**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • P/E (949) 583-1010 • F/X (949) 583-0759

## EXHIBIT B

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

DATE: 08-29-10	REV. DATE: 09-15-10	.DWG R. WHEELER	CK'd By: R. WILLIAMS	SCALE: 1"=200'	W.O. 1855-80AX
I:\HeritageFields\LD\7605\SH03.dwg				H&A LEGAL No. 7605	SHEET 3 OF 3

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:



NO FEE

2010000700393 04:30pm 12/27/10

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: Development Engineering

37 402 G02 7  
0.00 0.00 0.00 0.00 18.00 0.00 0.00 0.00

---

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section 6103

In accordance with Section 11922 of the California Revenue  
and Taxation Code, transfer of the property to the City of  
Irvine is exempt from the payment of a documentary transfer  
tax.

**GRANT DEED**

(LIFO Portion of II-M)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Grantor"), hereby grants to the CITY OF IRVINE, a California charter city ("Grantee"), that certain real property (the "Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "A" and the depiction attached hereto as Exhibit "B", each incorporated herein by this reference.

TOGETHER WITH all buildings, facilities, roadways, rail lines, and other infrastructure, including those MCAS El Toro storm drainage systems, sewer systems, and the electrical, natural gas, telephone, and water utility distribution systems located thereon, and any other improvements on the Property; all hereditaments and tenements therein and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto; and all rights to minerals, gas, oil, and water.

GRANTEE HEREBY COVENANTS AND AGREES, for itself and on behalf of its successors and assigns as to all or any portion of the Property, that it shall be bound by the terms, reservations, easements, covenants, conditions, restrictions and agreements set forth in that certain Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Section 1471 For Parcels I-F, II-E, II-L, II-M and II-R, dated April 30, 2010, from the United States of America, acting by and through the Department of the Navy ("United States"), to Grantor, recorded on May 10, 2010 as Instrument No. 2010000218746 in the Official Records of Orange County, California (the "Government Quitclaim").



GRANTOR HEREBY ASSIGNS TO GRANTEE, all rights, title and interests in and to all covenants, representations and warranties made by the United States in favor of Grantor in the Government Quitclaim, to the fullest extent such covenants, representations and warranties are assignable and apply to the Property.

Subject to all matters of record and all matters that would be disclosed by an inspection and survey of the Property.


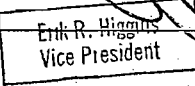
Dated: December 27, 2010.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By:   
Name:   
Title: \_\_\_\_\_

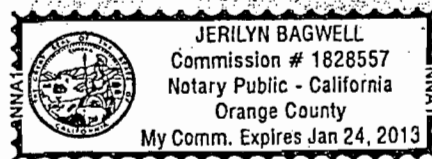
STATE OF CALIFORNIA     )  
  ) ss.  
COUNTY OF ORANGE     )

On DECEMBER 27, 2010, before me, JERILYN BAGWELL, Notary Public, personally appeared ERIK R. HIGGINS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument, the person or the entity upon behalf of which the person 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.

*Jerilyn Bagwell*  
Notary Public in and for said State



(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated December 27, 2010, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine, a chartered city of the state of California, is hereby accepted by the undersigned City Engineer on behalf of the City Council of the City of Irvine pursuant to authority conferred by Ordinance No. 83-4 of such City Council adopted on the 12<sup>th</sup> day of April, 1983, and revised by Ordinance No. 92-19 adopted on the 27<sup>th</sup> day of October, 1992, and the City consents to recordation thereof by its duly authorized officer.

Sean Joyce  
Sean Joyce, City Manager  
City of Irvine

12-27-10  
Date

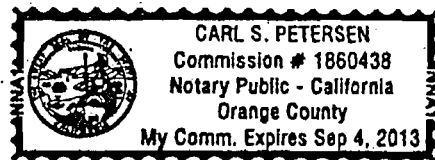
State of California  
County of Orange

On December 27<sup>th</sup> 20 10, before me, Carl S. Petersen, Notary Public, personally appeared Sean Joyce 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 Carl S. Pit



(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

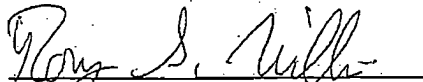
Parcel II-M-A:

That portion of Parcel II-M, in the City of Irvine, County of Orange, State of California, as described in the Quitclaim Deed recorded May 10, 2010, as Instrument No. 2010000218746 of Official Records, lying within Parcel G-1B of Exhibit G-1-II as described in the Grant Deed recorded July 12, 2005 as Instrument No. 2005000538137 of Official Records, also being a portion of Lot 302, Block 174 and Lot 275 of Block 154, both of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, all in the office of the County Recorder of said county.

Containing an area of 13.467 acres, more or less.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, rights of way and easements of record, if any.

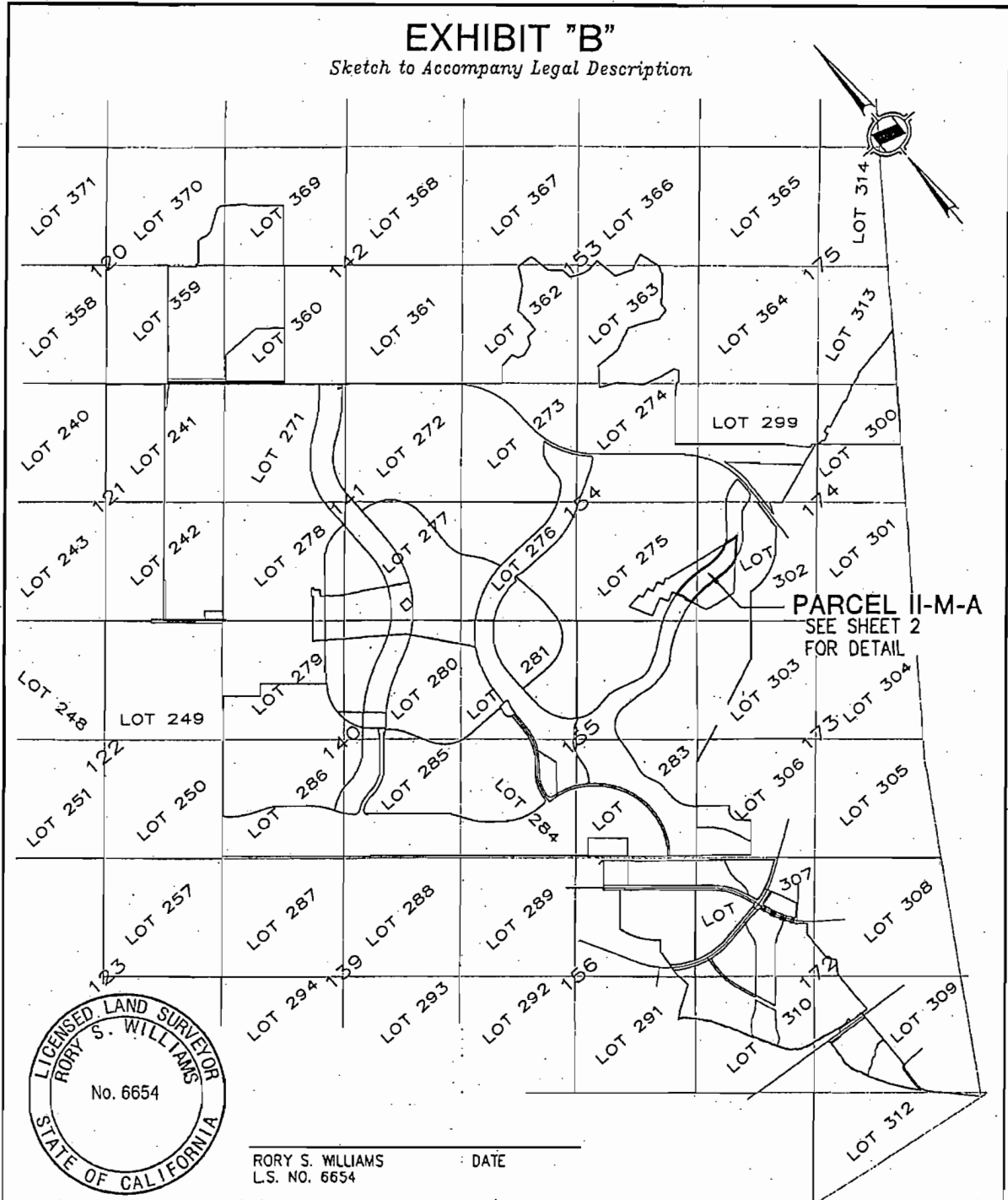
  
Rory S. Williams, L.S. No. 6654  
Date: 10/14/10



October 14, 2010  
WO No. 1855-80AX  
Page 1 of 1  
H&A Legal No. 7626  
By: R. Wheeler  
Checked By: R. Williams

# EXHIBIT "B"

Sketch to Accompany Legal Description



RORY S. WILLIAMS  
L.S. NO. 6654

DATE

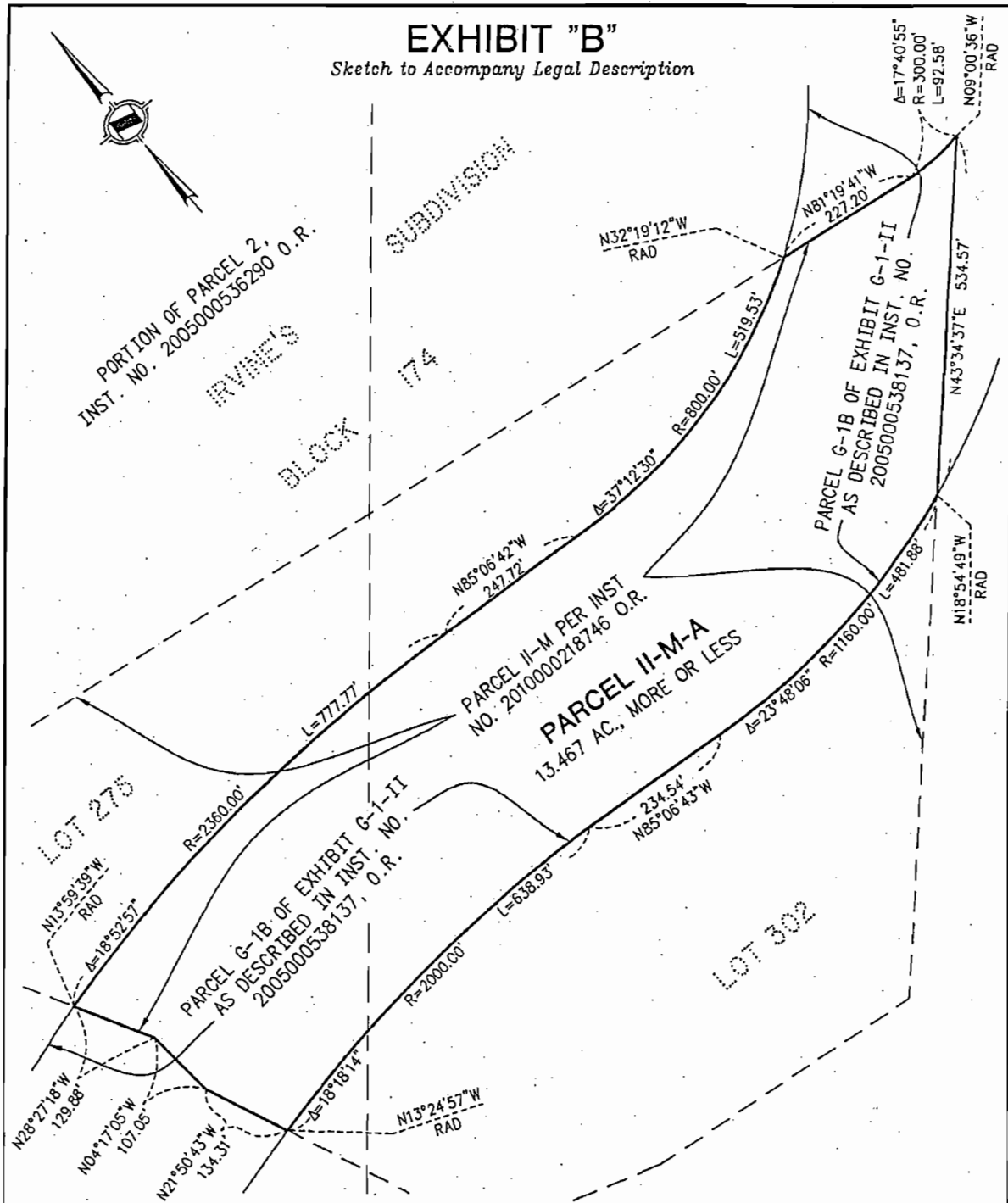



**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • PH: (949) 583-1010 • FX: (949) 583-0759

## EXHIBIT B

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

DATE: 10-14-10	REV. DATE: ---	DWG. BY: R. WHEELER	CHK'D BY: R. WILLIAMS	SCALE: 1"=3000'	W.O.1855-80AX
I:\HeritageFields\LD\7626_FOST5-II-M-A\SHT01.dwg				H&A LEGAL No. 7626	SHEET 1 OF 2



 <b>HUNSAKER &amp; ASSOCIATES</b> IRVINE, INC. PLANNING • ENGINEERING • SURVEYING Three Hughes • Irvine, CA 92618 • PH: (949) 583-1010 • FX: (949) 583-0759		<b>EXHIBIT B</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA		
DATE: 10-14-10	REV. DATE: ---	DWG. BY: R. WHEELER	CHK'D BY: R. WILLIAMS	SCALE: 1"=200'
I:\HeritageFields\LD\7626_FOST5-II-M-A\SH02.dwg			H&A LEGAL No. 7626	W.O. 1855-80AX SHEET 2 OF 2

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:



NO FEE

2010000700394 04:30pm 12/27/10

CITY OF IRVINE  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: Development Engineering

37 402 G02 7  
0.00 0.00 0.00 0.00 18.00 0.00 0.00 0.00

---

(Space Above Line for Recorder's Use)

Free recording Requested per Government Code Section 6103

In accordance with Section 11922 of the California Revenue  
and Taxation Code, transfer of the property to the City of  
Irvine is exempt from the payment of a documentary transfer  
tax.

**GRANT DEED**

(LIFOC Portion of I-F)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("Grantor"), hereby grants to the CITY OF IRVINE, a California charter city ("Grantee"), that certain real property (the "Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "A" and the depiction attached hereto as Exhibit "B", each incorporated herein by this reference.

TOGETHER WITH all buildings, facilities, roadways, rail lines, and other infrastructure, including those MCAS El Toro storm drainage systems, sewer systems, and the electrical, natural gas, telephone, and water utility distribution systems located thereon, and any other improvements on the Property; all hereditaments and tenements therein and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto; and all rights to minerals, gas, oil, and water.

GRANTEE HEREBY COVENANTS AND AGREES, for itself and on behalf of its successors and assigns as to all or any portion of the Property, that it shall be bound by the terms, reservations, easements, covenants, conditions, restrictions and agreements set forth in that certain Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Section 1471 For Parcels I-F, II-E, II-L, II-M and II-R, dated April 30, 2010, from the United States of America, acting by and through the Department of the Navy ("United States"), to Grantor, recorded on May 10, 2010 as Instrument No. 2010000218746 in the Official Records of Orange County, California (the "Government Quitclaim").

GRANTOR HEREBY ASSIGNS TO GRANTEE, all rights, title and interests in and to all covenants, representations and warranties made by the United States in favor of Grantor in the Government Quitclaim, to the fullest extent such covenants, representations and warranties are assignable and apply to the Property.

Subject to all matters of record and all matters that would be disclosed by an inspection and survey of the Property.

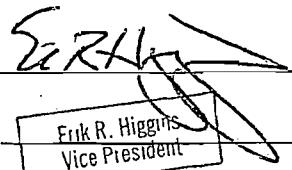
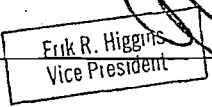
Dated: December 27, 2010.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By:   
Name:   
Title: \_\_\_\_\_



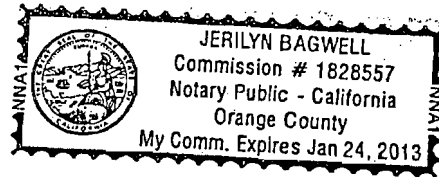
STATE OF CALIFORNIA     )  
                                      ) ss.  
COUNTY OF ORANGE     )

On DECEMBER 27, 2010, before me, JERILYN BAGWELL, Notary Public, personally appeared ERIK R. HIGGINS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person 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.

*Jerilyn Bagwell*  
Notary Public in and for said State



(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated December 27, 2010, from Heritage Fields El Toro, LLC, a Delaware limited liability company, to the City of Irvine, a chartered city of the state of California, is hereby accepted by the undersigned City Engineer on behalf of the City Council of the City of Irvine pursuant to authority conferred by Ordinance No. 83-4 of such City Council adopted on the 12<sup>th</sup> day of April, 1983, and revised by Ordinance No. 92-19 adopted on the 27<sup>th</sup> day of October, 1992, and the City consents to recordation thereof by its duly authorized officer.

Sean Joyce  
Sean Joyce, City Manager  
City of Irvine

12-27-10  
Date

State of California  
County of Orange

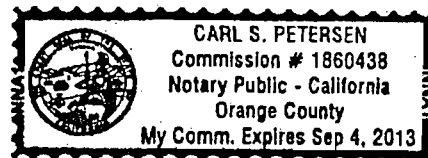
On December 27 2010, before me, Carl S. Petersen, Notary Public, personally appeared Sean Joyce who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their 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

Carl S. Petersen



(Seal)

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL I-F-A:**

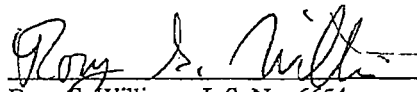
That portion of Parcel I-F, in the City of Irvine, County of Orange, State of California, as described in the Quitclaim Deed recorded May 10, 2010, as Instrument No. 2010000218746 of Official Records, lying within Parcel G-1 of Exhibit G-1-I and Parcel G-5 of Exhibit G-5-I as described in the Grant Deed recorded July 12, 2005 as Instrument No. 2005000538137 of Official Records, also being a portion of Lots 279 and 280 of Block 140 and Lots 277 and 278 of Block 141 of Irvine's Subdivision as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps, all in the office of the County Recorder of said county.

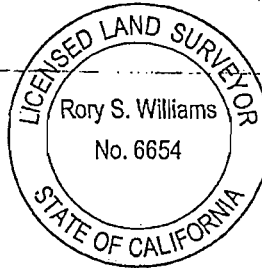
Excepting therefrom that portion of Parcel 2 (FAA Transfer, Building 399) as described in Instrument No. 2005000536288 of said Official Records.

Containing an area of 46.017 acres, more or less.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, rights of way and easements of record, if any.

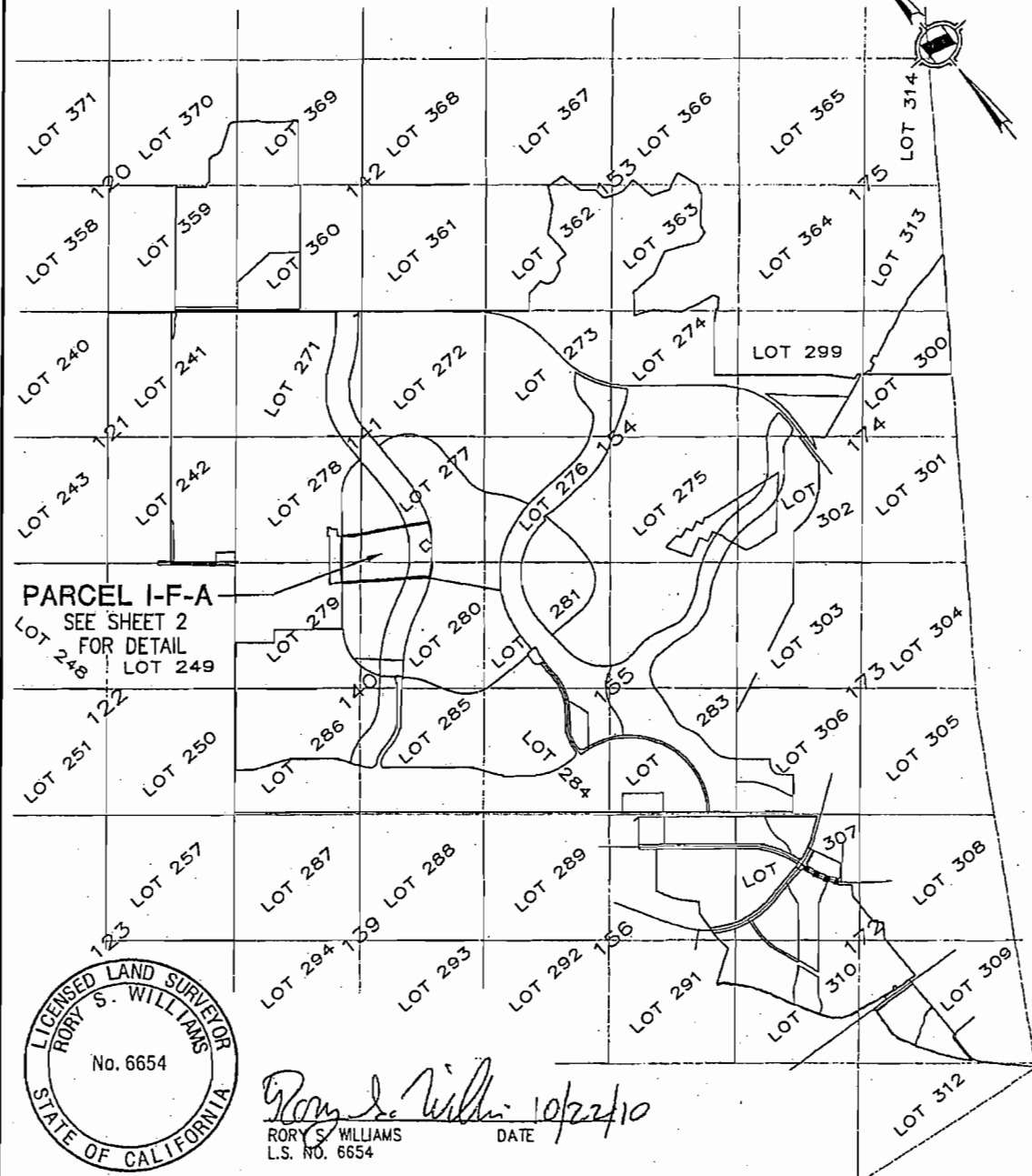
  
Rory S. Williams, L.S. No. 6654  
Date: 10/22/10



*Revised: October 22, 2010*  
September 23, 2010  
WO No. 1855-80AX  
Page 1 of 1  
H&A Legal No. 7610  
By: R. Wheeler  
Checked By: R. Williams

# EXHIBIT "B"

Sketch to Accompany Legal Description

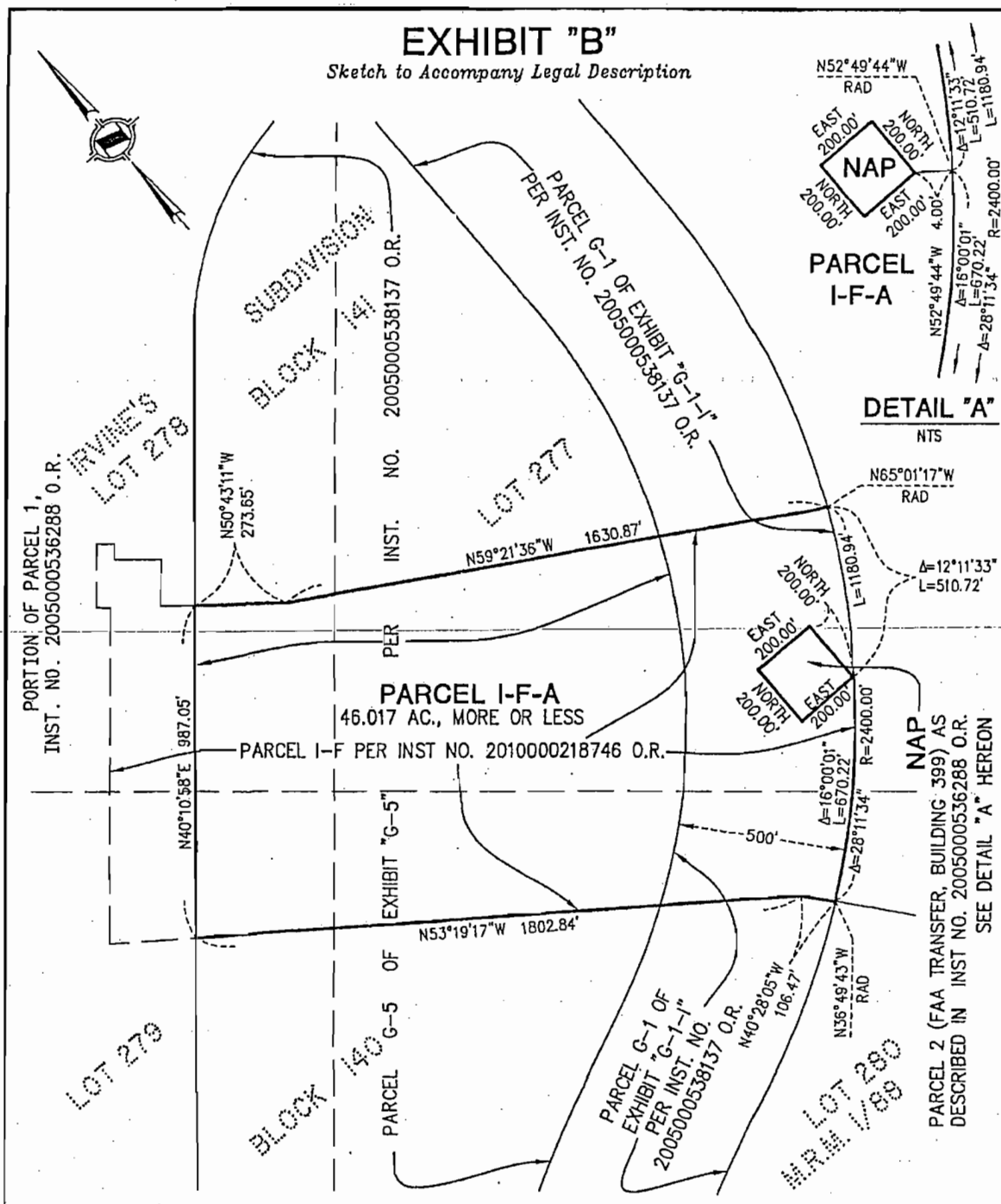


**HUNSAKER & ASSOCIATES**  
IRVINE, INC.  
PLANNING • ENGINEERING • SURVEYING  
Three Hughes • Irvine, CA 92618 • PH: (949) 583-1010 • FX: (949) 583-0759

## EXHIBIT B

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

DATE: 09-23-10	REV. DATE: ---	DWG BY: R. WHEELER	CHK'd BY: R. WILLIAMS	SCALE: 1"=3000'	W.O.1855-80AX
I:\HeritageFields\LD\7610\SH01.dwg			H&A LEGAL No. 7610		SHEET 1 OF 2



<b>HUNSAKER &amp; ASSOCIATES</b> IRVINE, INC. PLANNING • ENGINEERING • SURVEYING Three Hughes • Irvine, CA 92618 • P: (949) 583-1010 • F: (949) 583-0759				<b>EXHIBIT B</b> IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA			
DATE: 09-23-10	REV. DATE: ---	DWG. BY: R. WHEELER	CHK'D BY: R. WILLIAMS	SCALE: 1"=400'	W.O. 1855-80AX		
i:\HeritageFields\LD\7610\SH02.dwg				H&A LEGAL No. 7610	SHEET 2 OF 2		



SEAN JOYCE, City Manager

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575 (949) 724-6249

December 27, 2010

Mrs. Lynn Jochim  
Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, CA 92656

**RE: PROTOCOL FOR CONVEYANCE OF CITY PARCELS UNDER AMENDED AND  
RESTATED DEVELOPMENT AGREEMENT**

Dear Lynn:

The City of Irvine ("City") and Heritage Fields, LLC ("HF") are parties to that certain GREAT PARK DEVELOPMENT AGREEMENT, dated July 12, 2005 ("DA"), and that certain ASSIGNMENT OF LEASES, dated July 12, 2005.

At or near the date of this letter, the City, the Irvine Redevelopment Agency, and Heritage Fields El Toro, LLC ("Heritage Fields"), the successor in interest to HF, anticipate entering into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("ARDA"). The ARDA was approved by the City Council pursuant to Ordinance No. 09-09 on September 8, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA.

Among other things, Section 2.4 of the Assignment of Leases attached as Exhibit M to the ARDA requires that as portions of the Property subject to a LIFOC are conveyed by the Department of Navy ("DON") to Heritage Fields, that Heritage Fields in turn must convey those portions of the Property that constitute City Property, to the City, via a Grant Deed. The DON effectuates such conveyances through a process that includes first, the issuance of Findings of Suitability to Transfer ("FOSTs"), followed by the conveyance of the Quitclaim Deeds to Heritage Fields (hereafter, collectively the "FOST Process"). In anticipation of the conveyance by the DON of portions of the Property that have gone through the FOST Process, Heritage Fields and the City now wish to establish and agree upon a protocol/procedure for the conveyance to the City of the City Property portions of the Property covered by FOSTs 3, 4, 5 and 6 (the "FOST 3 Property", etc.), and those to be conveyed by Quitclaim Deeds from the DON ("Subsequent FOSTs"), but which have not yet been issued by the DON ("Subsequent FOST Properties"). The protocol and process agreed upon by Heritage Fields and the City by this Protocol Letter are as follows:

1. Concurrent with the execution hereof, Heritage Fields and the City shall jointly execute Grant Deeds for the FOST 3 Property, FOST 4 Property, FOST 5 Property (including a

separate Grant Deed for Parcel I-F), and Heritage Fields will cause such Grant Deeds to be recorded within three (3) business days of execution.

2. The City and Heritage Fields shall coordinate their efforts so that the recording of the Grant Deed conveying the FOST 6 Property, and all Subsequent FOST Properties to be conveyed to the City, will occur within three (3) business days following the recording of the Quitclaim Deed from the DON for such FOST Property, except, that as to any portion of a FOST Property that is required not to be conveyed by Heritage Fields to the City until the expiration of any Covenant to Restrict Use of Property ("CRUP") notification required by the Department of Toxic Substances Control ("DTSC") or other Federal Facilities Agreement signatory, the recording will occur within three (3) business days following the later of (1) the recording of the Quitclaim Deed from the DON for such FOST Property, or (2) the expiration of the CRUP notification period. Notwithstanding the foregoing sentence, however, where the legal description for the final Grant Deed in issue had not been provided to the City for its review and consideration at least seven (7) business days prior to the date the DON has conveyed such FOST Property to Heritage Fields, the three (3) business day periods set forth in the immediately foregoing sentence shall automatically be extended and shall not expire until ten (10) business days from the date the legal descriptions for such final Grant Deed have been furnished to the City by Heritage Fields. The language of the Grant Deeds for the FOST 6 Property, and for all other Subsequent FOST Property to be conveyed to the City, shall be substantially the same as the Grant Deeds conveying the FOST 3 Property, FOST 4 Property, and FOST 5 Property, except that the Grant Deed for the FOST 6 Property (and potentially the FOST 7 Property and FOST 8 Property) shall include a reservation of road and utility easements in favor of Heritage Fields in a form substantially consistent with Attachment 1 hereto to the extent the road or utility easements affect any such Subsequent FOST Properties; provided, however, that Heritage Fields agrees that the City shall retain ultimate approval of the final alignment of the roadway and utility improvements to be located within the easements described in Attachment 1, which approval shall not be unreasonably withheld.

3. With regard to each Subsequent FOST Property, Heritage Fields shall use commercially reasonable efforts to afford the City an opportunity to timely review and comment on the DON's draft FOST, all draft language of the DON's proposed Quitclaim Deed for such property, and all proposed CRUP language (including communicating with the City on all such issues through the use of electronic mail where feasible), and an opportunity to participate in discussions with the DON and the DTSC involving City Property, and shall use commercially reasonable efforts to work with the DON and the DTSC to resolve all concerns raised by the City over any draft FOST, Quitclaim Deed or CRUP language. Heritage Fields further agrees to provide copies of all communications by and between Heritage Fields and the DON, the DTSC and any other signatory to the Federal Facilities Agreement, that involve City Property, to the City, including but not limited to all CRUP notifications, at the same time as such communications are sent by Heritage Fields, or as soon as possible but not later than three (3) business days from when any such communication is received by Heritage Fields; provided, however, that Heritage Fields will deliver all such communications to the City within twenty-four (24) hours if such communications are received by Heritage Fields during the period between the recordation of the Quitclaim Deed from the DON and the recordation of the Grant Deed to the City and relate to the property to be conveyed to the City by such Grant Deed. Heritage Fields and the City both acknowledge and agree that any final decision as to the language of any FOST, Quitclaim Deed and/or CRUP, rests with the DON and the DTSC (with

respect to a CRUP) and potentially other signatories to the Federal Facilities Agreement, and that neither Heritage Fields nor the City may obtain satisfactory resolution of the concerns they may have regarding the language in these documents. Accordingly, the City and Heritage Fields, as between themselves, agree, after complying with the terms of this Protocol Letter, to accept the language of the FOST, Quitclaim Deed (including legal descriptions) and/or CRUP ultimately required by the DON, the DTSC or other Federal Facilities Agreement signatory.

4. Heritage Fields and the City further understand and agree that for any period of time between the date the DON's Quitclaim Deed to Heritage Fields is recorded for any City FOST Property, and the date Heritage Fields' Grant Deed to the City is recorded for any City FOST Property, that the City has had and shall have all of the same rights to possession and use of all such property, on the same terms and conditions as existed prior to the DON's conveyance of the Quitclaim Deed to Heritage Fields, except that any requirement imposed through the DON's Finding of Suitability to Lease process for such property to obtain permission from the DON shall no longer apply; provided, however, that the City shall be required to comply with all restrictions and requirements imposed by the Quitclaim Deed and/or any CRUP, and provided further that the City shall provide Heritage Fields with a ten (10) day written notice of the commencement of any new excavation work that requires a City grading permit on such property, but only where the grading permit had not already been obtained prior to the recordation of the DON's Quitclaim Deed or prior to the date this Protocol Letter was fully executed ("Pre-grading Notice"), Heritage Fields and the City understand and agree that notwithstanding the need for the City to provide any Pre-grading Notice to Heritage Fields (for any excavation work requiring a grading permit not already obtained on FOST Property that is City Property and which has been conveyed by the DON to Heritage Fields, but which has not yet been deeded by Heritage Fields to the City), that under no circumstances will Heritage Fields have any right or authority to approve or disapprove of any such excavation work or any other work conducted or to be conducted on any such property.

5. Heritage Fields and the City acknowledge that the DON has issued a formal letter dated November 4, 2010 ("Comfort Letter") clarifying certain issues raised by Heritage Fields and the City with respect to the DON's Quitclaim Deeds for the FOST 3 and FOST 5 Properties, but that the DON has decided not to issue formal deed amendments with respect to such properties, and has decided not to issue a formal "comfort letter" with respect to another issue raised by the City over the assignability of the covenants in the DON Quitclaim Deeds. The DON has asserted in connection with both such matters that further action on its part was unnecessary, but, in addition to the Comfort Letter issued by the DON, with respect to the issue of the assignability of the DON's covenants, the DON has provided informal communications confirming its intention with its Quitclaim deeds that the covenants made by the DON therein are enforceable by subsequent purchasers of FOST Property. (A copy of the DON's Comfort Letter on the FOST 3 and FOST 5 Property is attached hereto as Attachment 2).

6. Heritage Fields further hereby covenants and agrees that, during the term of the ARDA, if a subsequent dispute arises regarding the ability of the City to enforce any of the DON's covenants contained in any Quitclaim Deed, that Heritage Fields shall timely provide the City with all requested non-privileged documents in its possession, as well as written and/or oral testimony as to non-privileged matters, as may be requested by the City and needed in connection with any administrative or court proceeding, pertaining to such dispute over the DON's covenants, all without charge to the City. Heritage Fields' agreement to provide



documents to the City and testimony as provided herein shall not include any obligation to pay any cost or fees incurred by the City or incur any liability in resolving such dispute or enforcing the DON's covenants.

7. Heritage Fields and the City agree that compliance with the protocol and procedures established herein shall satisfy fully the obligations of Heritage Fields and the City with respect to the conveyance of the FOST 3 Property, FOST 4 Property, FOST 5 Property and FOST 6 Property and the conveyance of Subsequent FOST Property, from Heritage Fields to the City. Notwithstanding any terms or provision in this Protocol Letter to the contrary, however, nothing in this Protocol Letter is intended to in any way modify or otherwise alter the substantive terms and conditions of the DA, the ARDA, the Assignment of Leases, or any other agreement between the Parties hereto. Instead, this Protocol Letter is designed to clarify the Parties' intentions under such agreements, and to set forth a specified process for the conveyance of FOST Property to the City.

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By: 

Sean Joyce  
City Manager

THE ABOVE TERMS AND PROVISIONS ARE HEREBY ACKNOWLEDGED, ACCEPTED  
AND AGREED UPON.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
California corporation  
Its: Managing Member

By: 

Name:

Erik R. Higgins  
Vice President

Title:



SEAN JOYCE, City Manager

[www.ci.irvine.ca.us](http://www.ci.irvine.ca.us)

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim  
Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, CA 92656

**RE: AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT  
AND AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("Heritage Fields") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("ARDA"). The ARDA was approved by the City Council and adopted pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or near the date of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("ARMIA"). The ARMIA was approved by the City Council and adopted pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA and/or ARMIA.

Given the Third Party Legal Challenge, the parties now desire to update the ARMIA as follows:

1. The Parties agree that (i) the date referenced in the first set of parenthesis in the first sentence of Section 4.1 of the ARMIA is changed from calendar year 2010 to calendar year 2011, and (ii) the dates referenced in the second set of parenthesis in the first sentence of Section 4.1 of the ARMIA are changed from "calendar years 2011 through 2014" to "calendar years 2012 through 2015."

2. The Parties agree that the first Quarterly Infrastructure Meeting will occur in January 2011.

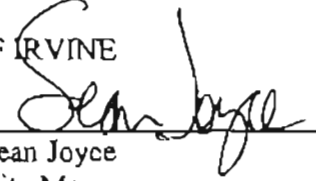
Mrs. Lynn Jochim  
December 27, 2010  
Page 2 of 2

3. The Parties agree that the first Annual MPP&S Update Meeting will be held in July 2011 (as opposed to July 2010 as originally stated in the ARMIA), and every July thereafter, and that the reference to "July 2011" for the first update to the Master Phasing Plan & Schedule shall now mean and refer to "July 2012".

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By:

  
Sean Joyce  
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

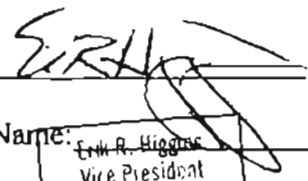
By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
California corporation  
Its: Managing Member

By:

Print Name:

  
Erik R. Higgins  
Vice President

Print Title:



SEAN JOYCE, City Manager

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim  
Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, CA 92656

**RE: CONFIRMATION AND CLARIFICATION OF CERTAIN PROVISIONS UNDER  
AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND AMENDED AND  
RESTATED MASTER IMPLEMENTATION AGREEMENT IN VIEW OF EVENTS  
OCCURRING SINCE ORIGINAL APPROVAL OF AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT AND AMENDED AND RESTATED MASTER  
IMPLEMENTATION AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("**Heritage Fields**") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("**ARDA**"). The ARDA was approved by the City Council pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or about the time of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("**ARMIA**"). The ARMIA was approved by the City Council pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA.

Among other things, the ARDA contains the following two paragraphs:

"7.9 Apportionment; Application to County Property. The City covenants to request in writing that the County honor its obligations pursuant to

Section 2.2.5 of the County Agreement, and to actively pursue enforcement of that provision, which provides as follows:

'The parties acknowledge that the City seeks to create a funding mechanism whereby all Base users pay their fair share of the costs of developing the necessary infrastructure and related improvements. The County agrees to participate in such a funding mechanism and pay its fair share of the costs that are limited to infrastructure improvements directly related to servicing the properties County is to receive referenced in 2.2.3 above. Infrastructure improvements shall refer to utilities, roadways, sewer lines and other types of infrastructure needs that are necessary to service each County parcel, if any. The County will not be required to contribute, through assessments or other funding or financing methods, to the development or maintenance costs or expenses for any park or open space that will be developed and maintained on the Base under the Irvine 'Great Park Plan'. Furthermore, to the extent they qualify, County shall have the option to pay any portion of its share of infrastructure costs and expenses with Road Funds or other non-General Fund revenues.'

In this regard, the City agrees to meet and confer in good faith with Heritage Fields concerning the City's efforts to secure compliance with Section 2.2.5 of the County Agreement. The City shall not enter into any agreement with the County (or other parties, including OCTA) or a modification to the terms of the County Agreement that creates a material and adverse impact on the cost of the Backbone Infrastructure and/or a material and adverse impact on the timing of construction of the Backbone Infrastructure, as that timing is specified in the Master Phasing Plan and Schedule provided as Exhibit B to the MIA<sup>1</sup>, as that schedule may be modified from time to time in accordance with the MIA. Nothing in this Section 7.9 requires that the City commence any litigation action against the County to enforce the terms of the County Agreement, provided that nothing contained herein shall be deemed to be a waiver by Heritage Fields of any rights Heritage Fields may have as against the County with respect to the County Agreement."

"9.2.1 Conveyance of ARDA Transfer Site. Heritage Fields shall, within ninety (90) days of the Second Effective Date, convey to the City the ARDA Transfer Site and deliver to City a grant deed in the form substantially the same as the form attached hereto as Exhibit Q, unless a Third-Party Legal Challenge has been brought before that date, in which

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<sup>1</sup> The term "MIA" as used in the ARDA refers to the ARMIA.

case the conveyance shall occur within ninety (90) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. The City shall not be required to pay any fee or purchase price for the ARDA Transfer Site. Notwithstanding the 90-day time periods referenced above, the timing of the conveyance of the ARDA Transfer Site shall be subject to Section 9.9 with respect to LIFOCs, the final determination of the location of "Q" Street and the preparation of a metes and bounds legal description that correspondingly shows the precise boundaries of the ARDA Transfer Site."

Subsequent to the City Council's approval of the ARDA and the ARMIA, but prior to the execution of those documents, the City and the County of Orange ("**County**") approved three documents that, among other things, implemented and further defined various rights and obligations under a document entitled PROPERTY TAX TRANSFER AND PRE-ANNEXATION AGREEMENT ("**Annexation Agreement**") between the City and the County. The Annexation Agreement is the same document described as the "County Agreement" in the ARDA. Those three documents include:

- (1) IMPLEMENTATION AGREEMENT NO. 2 BETWEEN CITY OF IRVINE, IRVINE REDEVELOPMENT AGENCY AND COUNTY OF ORANGE ("**Implementation Agreement**"), dated August 17, 2010;
- (2) SUBLEASE BETWEEN CITY OF IRVINE AND COUNTY OF ORANGE FOR INSTITUTIONAL PARCEL WITHIN EL TORO LIFOC PARCEL 3 ("**100 Acre Sublease**"), dated August 17, 2010; and
- (3) RECIPROCAL LICENSE AGREEMENT<sup>2</sup> ("**License Agreement**"), between and among the City, the County, and Heritage Fields dated December 27, 2011.

The Implementation Agreement, 100 Acre Sublease, and License Agreement are collectively referred to as the "**Annexation Agreement Implementing Documents**."

Heritage Fields acknowledges and agrees that if the County contributes the County's "Fair Share" for development the "Infrastructure" (as such terms are defined in the Implementation Agreement), the County shall have discharged its obligation under Section 2.2.5 of the County Agreement. Heritage Fields agrees further that so long as the Annexation Agreement Implementing Documents remain in effect and the City complies with such agreements and uses reasonable efforts to require compliance with the provisions of the Annexation Agreement Implementing Documents (which reasonable efforts shall not require the commencement of litigation by the City against the County), Heritage Fields shall not claim that the Annexation Agreement Implementing Documents, or the exercise of rights and performance of obligations thereunder, constitute a breach of any obligation of the City under the ARDA

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<sup>2</sup> Heritage Fields El Toro, LLC, is a party to the License Agreement, in addition to the City and the County.

and/or the ARMIA, creates any legal or equitable liability of the City under the ARDA and/or the ARMIA, and/or reduces or delays any obligation of Heritage Fields under the ARDA and/or the ARMIA.

As to Section 9.2.1 of the ARDA, the parties have agreed, in accordance with Section 9.2.1.2 of the ARDA, to adjust the precise location of the ARDA Transfer Site (as depicted on Exhibit G to the ARDA), such that the revised description of the ARDA Transfer Site shall be as depicted on **Exhibit A** attached hereto. The parties acknowledge and agree that **Exhibit A** divides the ARDA Transfer Site into two parcels ("Parcels"), one of which consists of approximately 125.5 acres (the "Northern Parcel"), and the other of which consists of approximately 5.0 acres (the "Southern Parcel"). The metes and bounds descriptions of the two Parcels shall be based upon **Exhibit A** attached hereto unless the parties hereafter mutually agree to a different location and/or area of the ARDA Transfer Site in accordance with Section 9.2.1.2 of the ARDA. The metes and bounds descriptions of the Parcels shall be completed by April 1, 2011. By May 17, 2011, a transfer of fee title to the Southern Parcel from Heritage Fields to the City (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA) shall occur. By May 17, 2011, a sublease, assignment of lease, transfer of fee title or combination of the foregoing options shall be completed in accordance with the terms of the ARDA (provided that no provision of the ARDA shall be interpreted to excuse or avoid the obligation to complete the sublease, assignment of lease, and/or fee conveyance of the Northern Parcel by May 17, 2011), such that the City shall hold a possessory interest in the entirety of the Northern Parcel (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA). Heritage Fields and the City further agree that Section 9.6, concerning modifications to property boundaries to accommodate the ultimate roadway alignments and design standards, shall apply to the ARDA Transfer Site.

The parties separately acknowledge and agree that the Index for Guaranteed Amount attached as Exhibit R-1 and R-2 to the ARDA and the Rate and Method of Apportionment attached as Exhibit S to the ARDA (the "RMA") were both developed with the assumption that the ARDA would become effective during Fiscal Year 2009-2010. Due to, among other things, the Third Party Litigation, the ARDA was not signed and will not become effective until Fiscal year 2010-2011. Accordingly, the parties agree that the obligations for payment of the Guaranteed Amount in the ARDA that are identified as being due in Fiscal Year 2009-2010 will be due in Fiscal Year 2010-2011, and that obligations identified in the ARDA and the RMA and the respective exhibits to the ARDA and RMA as being due in succeeding years (i.e. years following Fiscal Year 2009-2010) will correspondingly be due one year later than is indicated in the ARDA and RMA and respective exhibits. Given that the Second Effective Date will be deemed to be December 27, 2010 (as identified below), the first payment of the Guaranteed Amount for the current Fiscal Year (2010-2011) will be due April 10, 2011.

Finally, the parties have agreed that the Second Effective Date of the ARDA shall be December 27, 2010; provided, however, that the first payment of the Public Benefit Fee due

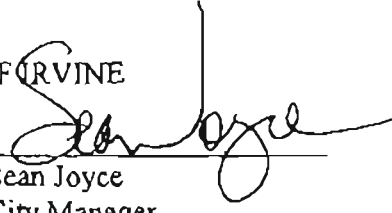
Mrs. Lynn Jochim  
December 27, 2010  
Page 5 of 5

under Section 10.1 of the ARDA shall be payable in January 2011, and all subsequent adjustments to the Public Benefit Fee shall occur in the month of January, as opposed to the month of December.

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By: \_\_\_\_\_

  
Sean Joyce  
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
California corporation  
Its: Managing Member

By: \_\_\_\_\_

Print Name:   
Erik R. Higgins

Vice President

Print Title: \_\_\_\_\_



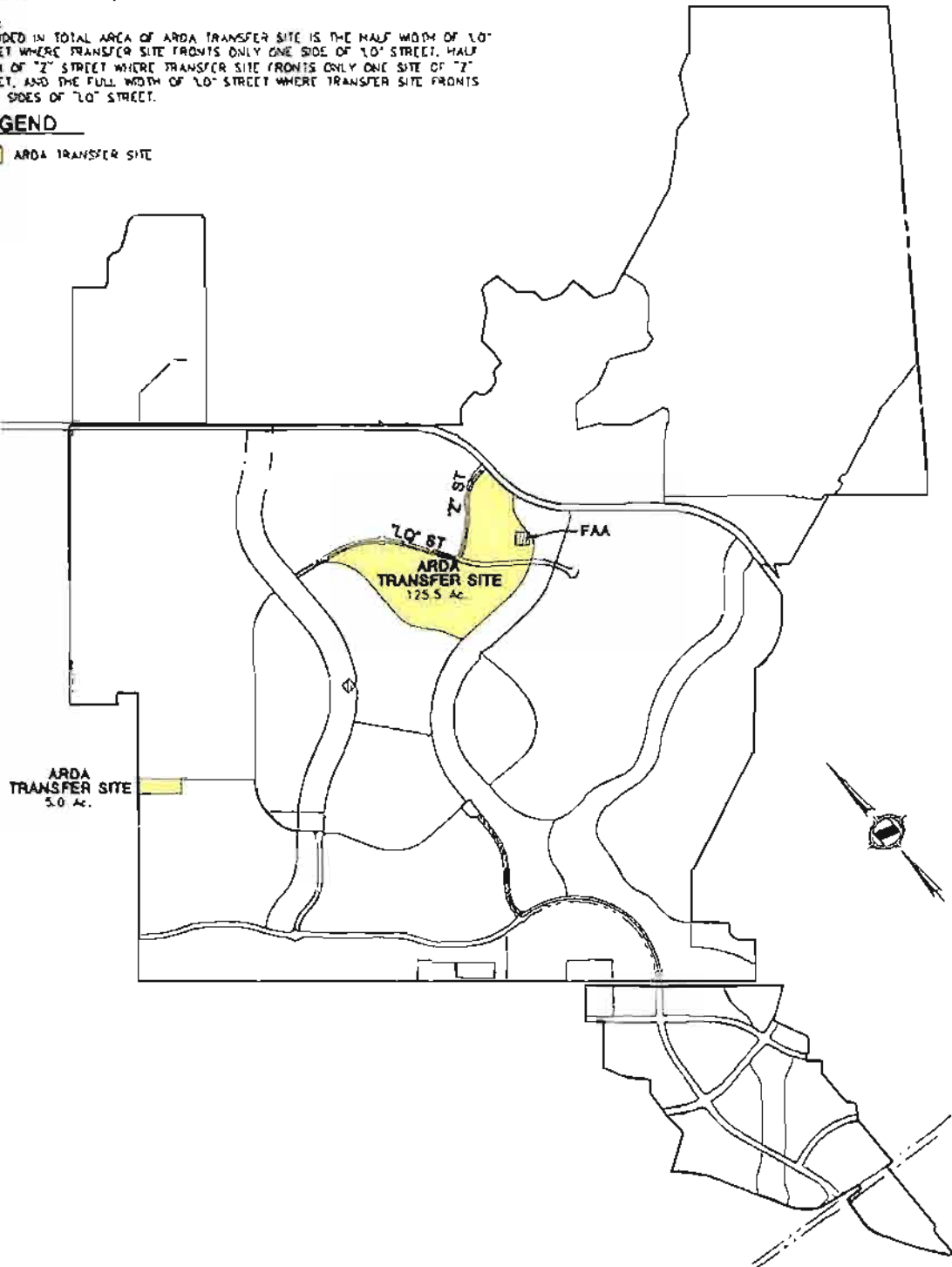
# EXHIBIT 'A'


**ACREAGE SUMMARY**  
TOTAL ACREAGE TO BE TRANSFERRED TO CITY: 130.5 AC.

**NOTE:**  
INCLUDED IN TOTAL AREA OF ARDA TRANSFER SITE IS THE HALF WIDTH OF 10' STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF 10' STREET, HALF WIDTH OF 7' STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF 7' STREET, AND THE FULL WIDTH OF 10' STREET WHERE TRANSFER SITE FRONTS BOTH SIDES OF 10' STREET.

## LEGEND

ARDA TRANSFER SITE



 <b>HUNSAKER &amp; ASSOCIATES</b> PLANNING - ENGINEERING - SURVEYING <small>THREE PLACES - IRVINE, CA 92618 - 714 951-2000 - FAX 714 951-2001</small>		<b>ARDA TRANSFER SITE</b>  <small>IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA</small>	
DATE 12/21/10	BY K. LYNCH	SCALE 1"=200'	W.D. 1865-80X
C:\Kory\Heritage Fields\DA Exhibits\JULY 2009\EXH-G-122110.dwg			

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder



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RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Heritage Fields El Toro, LLC  
25 Enterprise, Suite 400  
Aliso Viejo, California 92625  
Attn: Corporate Counsel

---

**DECLARATION OF TERMINATION  
OF  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
AND GRANT OF EASEMENTS  
FOR  
THE IRVINE GREAT PARK**

This Declaration of Termination ("Termination") is made as of December 27, 2010, by HERITAGE FIELDS LLC, a Delaware limited liability company ("Declarant"), with reference to the following facts:

A. Declarant entered into that certain Declaration of Covenants, Conditions and Restrictions and Grant of Easements for The Irvine Great Park, dated as of July 12, 2005, which was recorded on July 12, 2005, as Document No. 2005000538145, in the office of the County Recorder of Orange County, California (the "Declaration");

B. On or about December 22, 2005, Declarant transferred all of its interest in the "Property" (as defined in the Declaration) to Heritage Fields El Toro, LLC, a Delaware limited liability company ("Heritage Fields"), which Property is a portion of the property described on Attachment "1" attached hereto; however Declarant did not record a written assignment of its interests as "Declarant" under the Declaration to Heritage Fields; and

C. Declarant now desires to revoke and terminate the Declaration in accordance with the terms thereof.

For good, valuable and sufficient consideration received, Declarant declares as follows:

1. Terms. All capitalized terms used but not defined herein shall have the meaning given to them in the Declaration.

2. Termination. In accordance with Section 11 of the Declaration, Declarant hereby revokes and terminates the Declaration. Declarant certifies that Declarant has complied with all requirements for this Termination set forth in Section 11 of the Declaration, including but not limited to obtaining approval, or deemed approval, of this Termination from each Mortgagee of a first Mortgage on a Parcel in the Property.

3. Association. No Association has been formed, and, accordingly, no notice to and vote of the Members, other than Declarant, is required to approve this Termination.

4. Further Assurances. Declarant shall promptly sign and deliver all additional documents and perform all acts reasonably necessary to perform its obligations and carry out the intent expressed in this Termination.

IN WITNESS WHEREOF, Declarant has executed this Termination as of the day and year first written above.

HERITAGE FIELDS LLC,  
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By: 

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Erik R. Higgins  
Vice President

**[SIGNATURES CONTINUE ON FOLLOWING PAGE]**

CONSENT

The City of Irvine hereby consents to the foregoing Termination of Declaration.

CITY OF IRVINE,  
a California charter city

By: Sean Joyce  
Name: SEAN JOYCE  
Title: CITY MANAGER

ATTEST:

Carl S. Pitt  
Deputy City Clerk

APPROVED AS TO FORM:

[Signature]  
City Attorney

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CONSENT

Heritage Fields hereby consents to the foregoing Termination of Declaration.

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields LLC,  
a Delaware limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,  
a Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc.,  
a California corporation  
Its: Managing Member

By:  \_\_\_\_\_

Print Name: 

Erik R. Higgins
Vice President

 \_\_\_\_\_

Print Title: \_\_\_\_\_

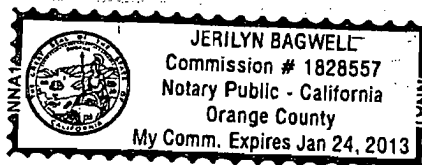
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On DECEMBER 27, 2010, before me, JERILYN BAGWELL, Notary Public, personally appeared ERIK R. HIGGINS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument, the person or the entity upon behalf of which the person 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.

*Jerilyn Bagwell*  
Signature of Notary Public



(SEAL)

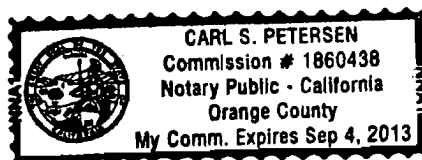
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On December 27, 10, before me, Carl S. Petersen, Notary Public, personally appeared Sean Joyce, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument, the person or the entity upon behalf of which the person 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.

*Carl S. Petersen*  
Signature of Notary Public



(SEAL)

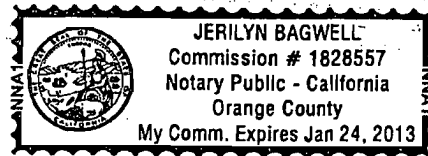
STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF ORANGE                    )

On DECEMBER 27 2010, before me, JERILYN BAGWELL, Notary Public,  
personally appeared ERIK R. HIGGINS, who proved to me on  
the basis of satisfactory evidence to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity,  
and that by his/~~her~~ signature on the instrument, the person or the entity upon behalf of which the  
person 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.

*Jerilyn Bagwell*  
Signature of Notary Public



(SEAL)

ATTACHMENT "1"  
**LEGAL DESCRIPTION OF BASE**  
**(PARCELS I - IV)**

131/048170-0488  
545693.03 2006/08/05



# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 1

In the City of Irvine, County of Orange, State of California, being those portions of Lots 359 and 370 of Block 120, Lots 360 and 369 of Block 142, Lots 241 and 242 of Block 121, Lots 271, 272, 277 and 278 of Block 141, and Lots 279 and 280 of Block 140, of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88, of Miscellaneous Maps, lying within the U.S. M.C.A.S.-El Toro property, and as shown on Record of Survey 97-1038 filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Recorders Office of said County, lying northerly, northwesterly, and westerly of the following described line:

Commencing at the southwest quarter corner of said Block 142; thence along the northeasterly line of said Lot 271, said line being also the former centerline of Irvine Boulevard as shown on said Record of Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said former centerline of Irvine Boulevard to the **True Point of Beginning**; thence leaving said centerline South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet through a central angle of 16°47'54" to the beginning of a reverse curve concave southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve bears South 32°59'43" East; thence southwesterly along said curve 1193.90 feet through a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning of a curve concave northwesterly having a radius of 2400.00 feet; thence southwesterly along said curve 2768.42 feet through a central angle of 66°05'28"; thence South 66°05'28" West 353.80 feet to the beginning of a curve concave southeasterly having a radius of 2500.00 feet; thence southwesterly along said curve 1038.99 feet through a central angle 23°48'43"; thence South 42°16'45" West 235.22 feet; thence North 49°51'20" West 281.26 feet to the being of a curve concave easterly having a radius of 1000.00 feet; thence northwesterly,

# PSOMAS

1 northerly and northeasterly along said curve 1574.20 feet through a central angle of  
2 90°11'43"; thence North 49°14'49" West 1446.32 feet; thence South 41°14'17" West  
3 275.57 feet; thence North 49°21'34" West 817.62 feet to a point on the northwesterly line  
4 of said Lot 279, said point lying distant thereon South 40°39'31" West 1675.66 feet from  
5 the most northerly corner of said Lot 279.

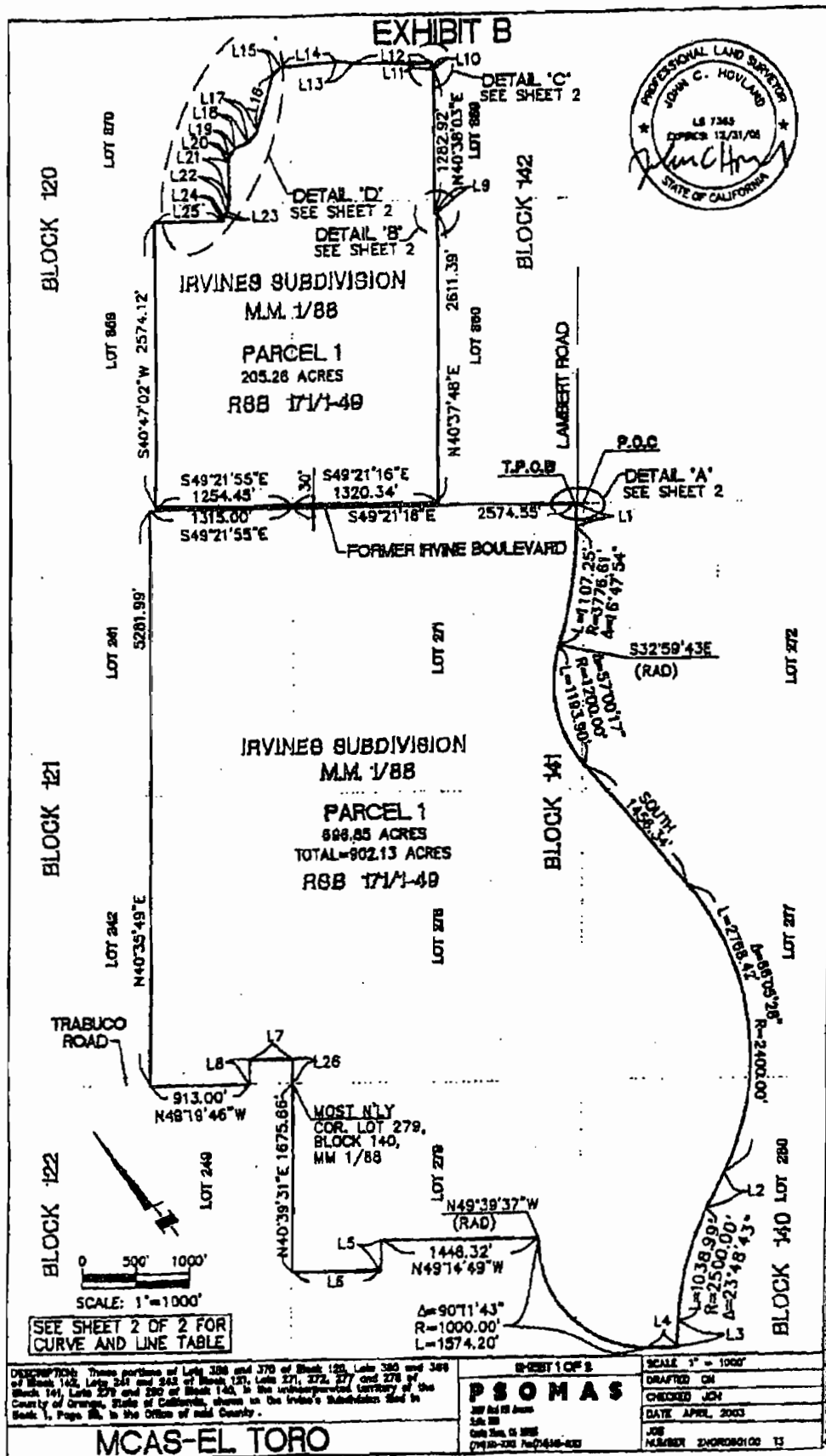
6  
7 Excepting therefrom that 30.00 foot wide strip of land known as former Irvine Boulevard  
8 as shown on said Record of Survey.

9  
10 Containing 902.13 acres, more or less.

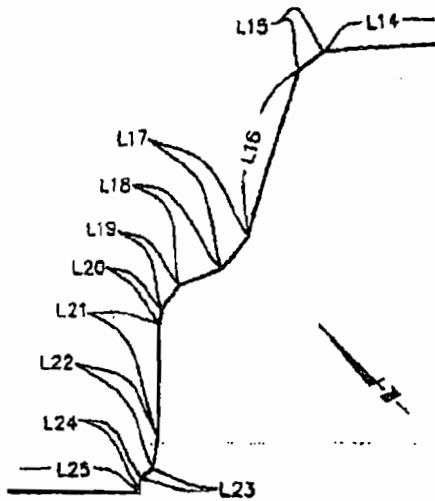
11  
12 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
13 any.

14  
15 As shown on Exhibit "B" attached hereto and made a part hereof.

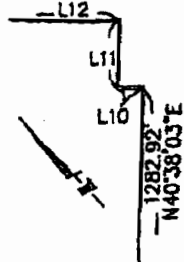
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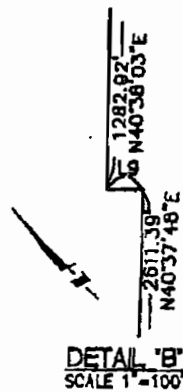
# EXHIBIT B



DETAIL 'D'  
SCALE 1"=400'

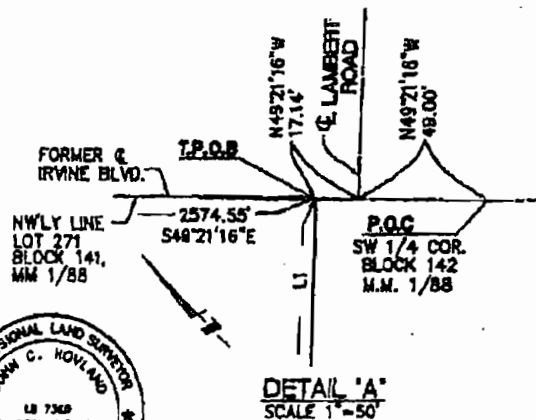


DETAIL 'C'  
SCALE 1"=100'



DETAIL 'B'  
SCALE 1"=100'

LINE TABLE		
NO.	LENGTH	BEARING
L1	208.48	S40°12'23"W
L2	353.80	S66°05'28"W
L3	235.22	S42°16'45"W
L4	281.28	N49°31'20"W
L5	275.57	S41°14'17"W
L6	817.62	N49°21'34"W
L7	400.00	N49°19'48"W
L8	217.80	S40°38'53"W
L9	30.00	N49°20'54"W
L10	20.01	N49°13'29"W
L11	53.18	N40°37'45"E
L12	890.50	N49°30'48"W
L13	151.34	N40°39'05"W
L14	512.78	N53°35'30"W
L15	95.00	N86°28'28"W
L16	525.89	S38°43'34"W
L17	127.13	S80°10'23"W
L18	134.50	N71°34'21"W
L19	91.30	S78°06'28"W
L20	45.20	S47°19'54"W
L21	351.20	S40°17'49"W
L22	100.00	S50°17'49"W
L23	48.20	S88°45'28"W
L24	41.81	S40°38'48"W
L25	627.28	N49°42'16"W
L26	217.80	N40°38'53"E



DETAIL 'A'  
SCALE 1"=50'



DESCRIPTION: These portions of Lots 260 and 370 of Block 125, Lots 260 and 370 of Block 142, Lots 241 and 242 of Block 151, Lots 271, 272, 277 and 278 of Block 141, Lots 279 and 280 of Block 142, & the unimproved territory of the County of Orange, State of California, shown on the Irvine's Subdivision Map in Book 1, Page 88, in the Office of said County.

MCAS-EL TORO

SHEET 2 OF 2		SCALE 1"=50'
P. SOMAS		DRAFTED CH
200' lot 10 lines		CHECKED JCH
Date Iss. 01/08/08		DATE APRIL 2003
07478-285 Rev 04/04-05		JOB
		NUMBER 2404000100 13

# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 2

In the City of Irvine, County of Orange, State of California, being those portions of Lots 303 and 306 of Block 173, Lots 281 through 284 inclusive, of Block 155, Lot 280 of Block 140, Lots 271, 272 and 277 of Block 141, Lots 273 through 276 inclusive, of Block 154, Lots 299, 300 and 302 of Block 174, Lots 362, 363, 366 and 367 of Block 153, and Lot 313 of Block 175 of Irvine's Subdivision, as shown on map filed in Book 1, Page 88, of Miscellaneous Maps, lying within the U.S. M.C.A.S. El Toro property, as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above maps on file in the Recorder's Office of said County, lying easterly of the following described line:

Commencing at the southwest quarter corner of Block 142 of said Irvine's Subdivision, said quarter corner being shown on said Record of Survey; thence along the northeasterly line of said Lot 271, said line being also along the former centerline of Irvine Boulevard, as shown on said Record of Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said former centerline of Irvine Boulevard to the True Point of Beginning; thence leaving said centerline South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet through a central angle of 16°47'54" to beginning of a reverse curve concave southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve bears North 32°59'43" West; thence southwesterly along said curve 1193.90 feet through a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning of a curve concave northwesterly having a radius of 2400.00 feet; thence southerly along said curve 2226.96 feet through a central angle of 53°09'53"; thence non-tangent to said curve South 39°16'19" East 1519.69 feet to the beginning of a non-tangent curve concave southeasterly having a radius of 2100.00 feet, a radial line to the beginning of said curve

# PSOMAS

1 bears North 58°27'48" West; thence southerly along said curve 1155.88 feet through a  
2 central angle of 31°32'12"; thence non-tangent to said curve South 00°57'09" West  
3 276.56 feet; thence North 89°02'51" West 141.47 feet; thence South 00°57'09" West  
4 221.51 feet to the beginning of a curve concave northeasterly having a radius of  
5 120.00 feet; thence southerly, southeasterly and easterly along said curve 188.50 feet  
6 through a central angle of 90°00'00"; thence South 89°02'51" East 38.00 feet; thence  
7 South 00°57'09" West 396.66 feet to the beginning of a curve concave westerly having a  
8 radius of 1200.00 feet; thence southerly along said curve 813.74 feet through a central  
9 angle of 38°51'11"; thence South 39°48'20" West 226.79 feet to the beginning of a curve  
10 concave easterly having a radius of 900.00 feet; thence southerly along said curve  
11 605.19 feet through a central angle of 38°31'40"; thence South 01°16'40" West  
12 129.84 feet to the beginning of a non-tangent curve concave southwesterly having a  
13 radius of 1600.00 feet, a radial line to the beginning of said curve bears  
14 North 01°09'46" East; thence easterly, southeasterly, southerly and southwesterly along  
15 said curve 3582.01 feet through a central angle of 128°16'17" to a point on a line parallel  
16 with and distant 50.00 feet northeasterly from the southwesterly line of said Block 155,  
17 said point lying distant along said parallel line North 49°20'21" West 616.16 feet from  
18 the southeasterly line of said Lot 283; thence along said parallel line  
19 South 49°20'21" East 616.16 feet to said southeasterly line; thence along a line that is  
20 parallel with and distant 50.00 feet northeasterly from the southwesterly line of said  
21 Block 173, South 49°20'18" East 1220.06 feet to the terminus of the herein described  
22 line.

23  
24 **Excepting therefrom the 970.435 acre parcel shown on Record of Survey 98-1077, filed**  
25 **in Book 173, Pages 28 through 31, inclusive, in the office of the County Recorder of said**  
26 **County.**

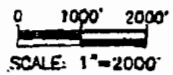
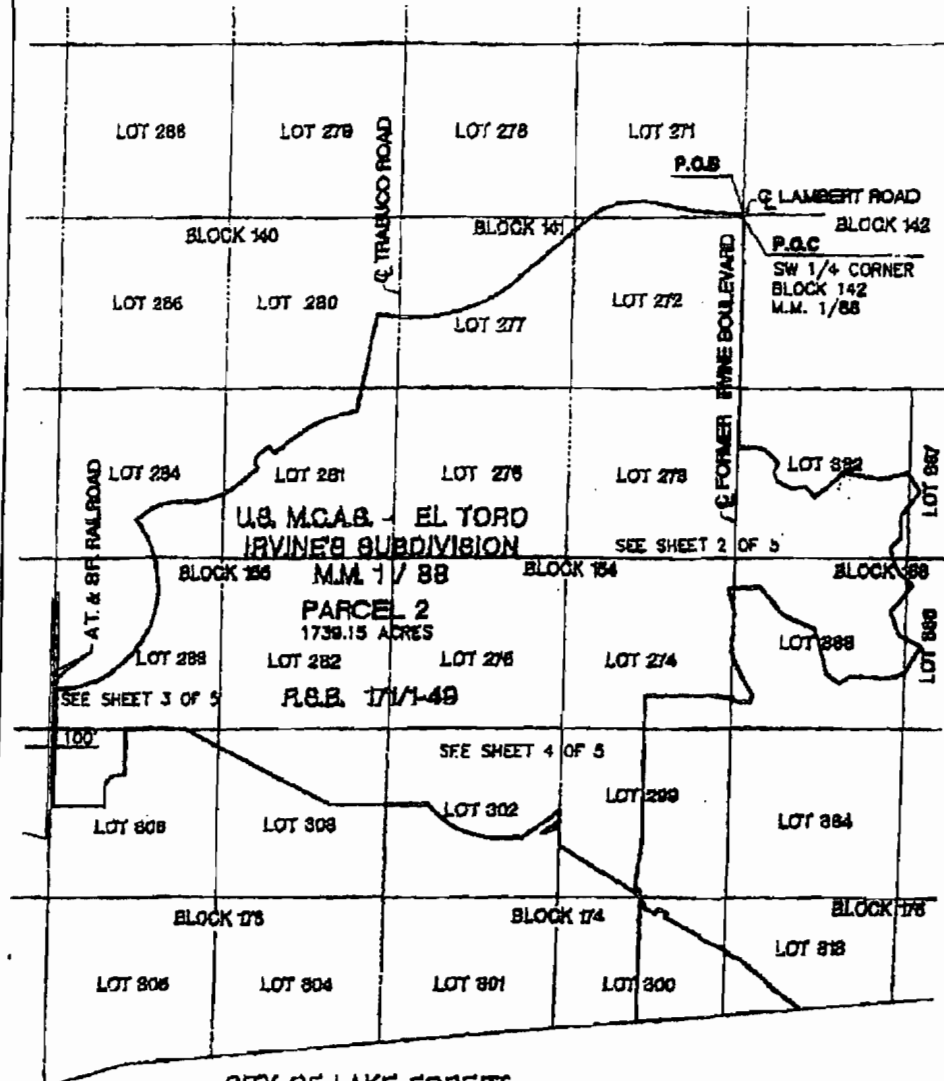
27  
28 Containing 1752.43 acres, more or less.

29  
30 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
31 any.

# PSOMAS

- )
- 1
  - 2 The distances shown hereon are ground distances.
  - 3
  - 4 As shown on Exhibit "B" attached hereto and made a part hereof.
  - 5
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# EXHIBIT B

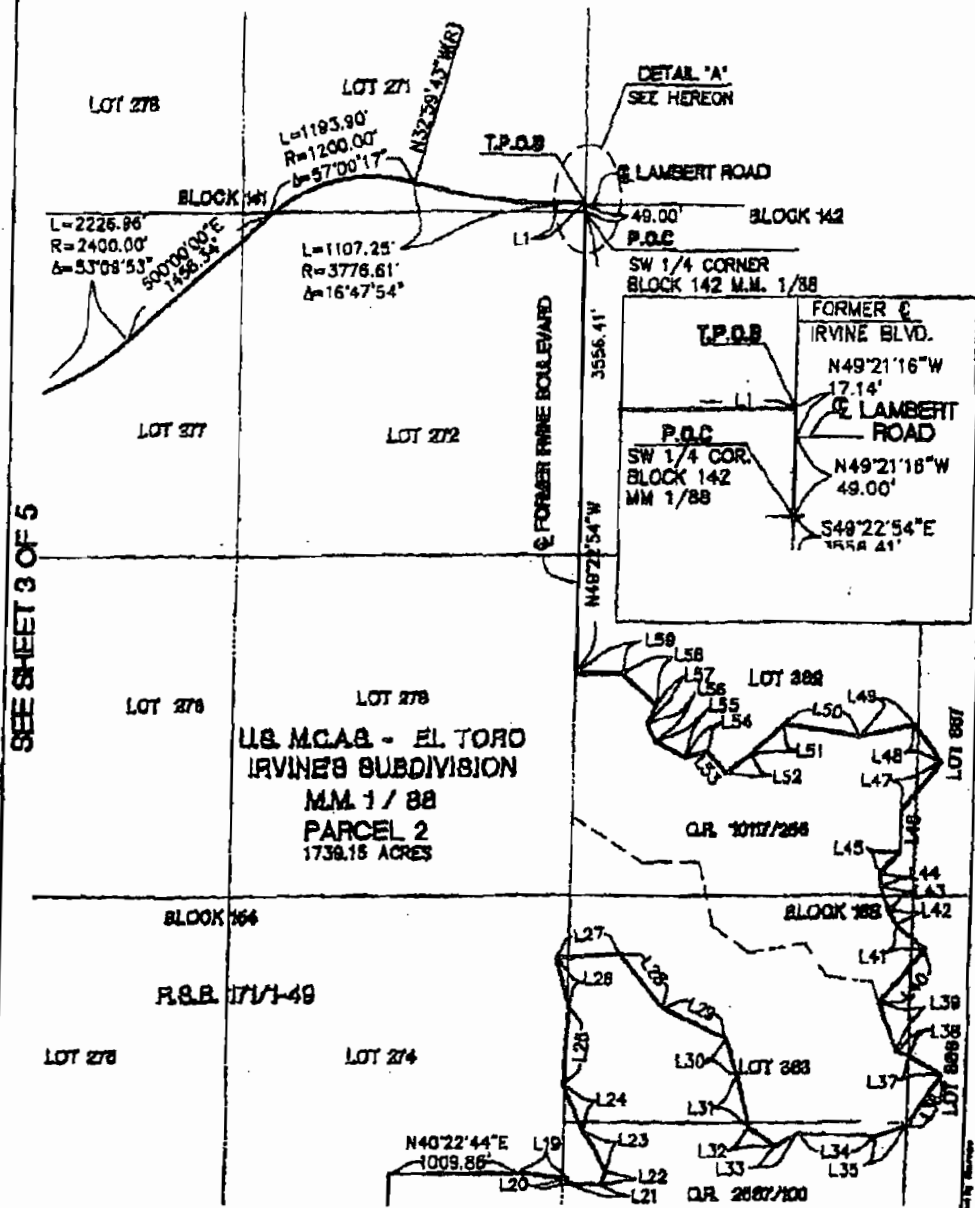


SEE SHEET 5 OF 5 FOR  
CURVE AND LINE TABLE

<p>DESCRIPTION: That portion of Lots 308 to 309 of Block 173, Lots 281 thru 284 of Block 140, Lot 280 of Block 140, Lots 271, 272 &amp; 277 of Block 141, Lots 273 thru 275 of Block 142, Lots 286 to 289 of Block 174, Lots 290, 291, 292 &amp; 297 of Block 156, Lots 274, 275 &amp; 280 of Block 173, Lots 276 &amp; 280 of Block 175, Lot of Block 158, Lots 274, 275 &amp; 280 of Block 173, Lots 276 &amp; 280 of Block 175, Lot of Block 158, and Lot 282 of Block 158, in the City of Irvine, County of Orange, State of California, as shown on the Irvin's Subdivision, Plat in Book 1 Page 28.</p>		<p>REV 2 8/4/03 REV 3 8/28/04</p>	<p>SHEET 1 OF 5 <b>PSOMAS</b> 387 6th St. Suite 200 Costa Mesa, CA 92626 Tel: 949-261-1234 Fax: 949-261-1235</p>	<p>SCALE 1" = 2000' DRAFTED CH CHECKED JCH DATE APRIL, 2003 JOB NUMBER 2300000000 TS</p>
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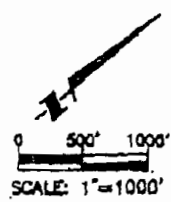


# EXHIBIT B



SEE SHEET 3 OF 5

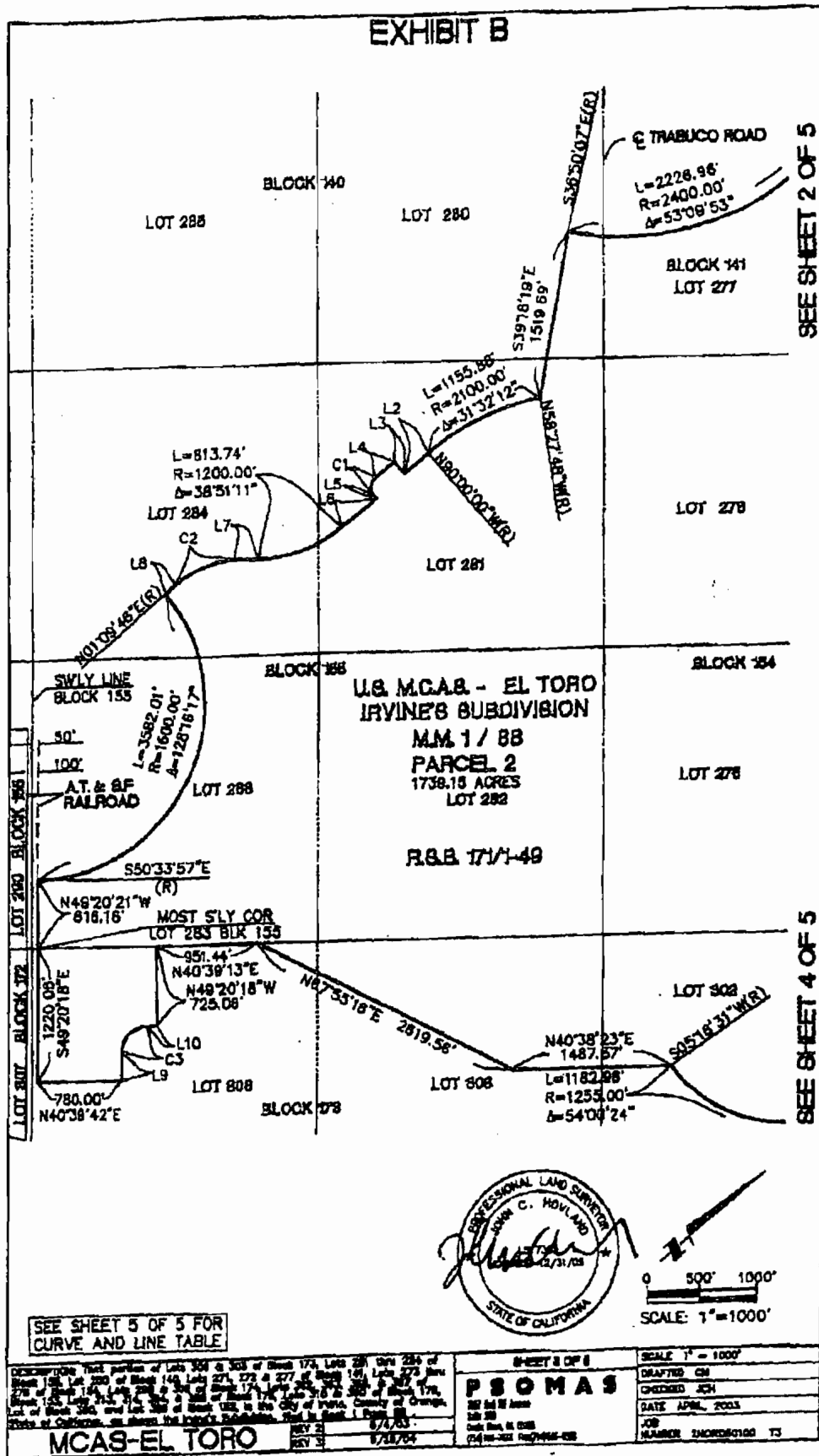
SEE SHEET 4 OF 5



SEE SHEET 5 OF 5 FOR CURVE AND LINE TABLE

DESCRIPTION: West portion of Lots 270, 271, 272 & 273 of Block 170, Lots 274 thru 284 of Block 171, Lot 285 of Block 172, Lots 277 & 278 of Block 173, Lots 279, 280, 281 & 282 of Block 174, Lots 283, 284 & 285 of Block 175, Lots 286, 287 & 288 of Block 176, Lot 289 of Block 177, and Lot 290 of Block 178 in the City of Irvine, County of Orange, State of California, as shown on John C. Hayward, and J. Paul J. Pugh, Jr.		SHEET 2 OF 6 <b>PSOMAS</b> 287 1st St Irvine 92614 City of Irvine 714-251-1221 Fax 714-251-1222		SCALE: 1" = 1000' DRAFTED: CH CHECKED: JCH DATE: APRIL 2003 JOB NUMBER: 2404030100 73	
<b>MCAS-EL TORO</b>		REV 3: 6/4/01 REV 5: 9/23/04			

# EXHIBIT B





## EXHIBIT B

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L1	208.48	S40°12'23"W
L2	276.58	S00°57'09"W
L3	141.47	N88°02'51"W
L4	221.51	S00°57'09"W
L5	38.00	S89°02'51"E
L6	396.66	S00°57'09"W
L7	228.79	S39°48'20"W
L8	129.84	S01°16'40"W
L9	265.16	N48°20'18"W
L10	100.00	N40°39'42"E
L11	249.30	N41°18'07"E
L12	516.75	N03°38'44"E
L13	176.68	N02°41'27"E
L14	159.99	S49°15'52"E
L15	532.04	S09°41'27"W
L16	282.44	S49°15'52"E
L17	77.98	N49°18'11"W
L18	103.60	S74°22'29"W
L19	376.73	N47°00'59"E
L20	38.97	S43°48'25"E
L21	253.88	N44°10'35"E
L22	114.34	N27°59'45"W
L23	358.80	N80°16'48"W
L24	395.26	N73°37'35"W
L25	600.49	N48°14'31"W
L26	386.94	N84°33'36"W
L27	485.63	N37°15'55"E
L28	542.47	S88°00'03"E
L29	542.68	N68°05'59"E
L30	292.98	S87°02'19"E
L31	419.52	S84°00'47"E
L32	250.57	N77°23'57"E
L33	202.52	N08°37'42"E
L34	802.13	N43°04'22"E
L35	245.78	N18°58'15"E
L36	489.87	N17°07'55"W
L37	284.78	S89°29'32"W
L38	103.05	S88°28'51"W
L39	400.88	N89°03'15"W
L40	525.37	N08°37'17"W
L41	290.33	S61°17'11"W
L42	124.67	N78°48'48"W
L43	203.08	N66°35'40"W
L44	104.09	N58°18'27"W
L45	218.34	N08°22'01"W
L46	323.40	N49°08'35"W
L47	477.81	N11°45'54"W
L48	380.00	N84°51'40"W
L49	417.78	S27°40'18"W
L50	598.73	S48°38'32"W
L51	344.48	S03°48'41"E
L52	228.32	S03°00'59"W
L53	220.14	S87°55'12"W
L54	186.94	S28°01'09"W
L55	235.62	S69°51'58"W
L56	156.80	N72°58'54"W

NO.	LENGTH(FT)	RADIUS	DELTA
C1	188.50	120.00	90°00'00"
C2	805.19	900.00	38°31'40"
C3	361.26	230.00	90°00'00"
C4	183.48	1255.00	08°22'38"
C5	278.48	1255.00	12°42'46"
C6	457.83	955.00	27°28'04"
C7	506.24	845.00	34°19'33"
C8	133.34	211.98	36°02'33"
C9	803.27	648.25	53°28'05"

LINE TABLE		
NO.	LENGTH (FT)	BEARING
L57	151.70	N24°32'07"W
L58	367.42	S83°17'33"W
L59	338.85	S40°40'32"W
L60	45.06	S49°16'11"E
L61	478.84	N78°25'15"E
L62	320.43	N62°25'15"E
L63	185.87	N78°20'15"E
L64	285.83	N79°45'15"E
L65	103.32	N59°16'13"E
L66	287.58	N71°35'15"E
L67	34.28	N44°40'15"E
L68	290.62	N84°40'15"E
L69	78.87	N88°45'15"E
L70	812.07	N67°20'15"E
L71	85.00	S21°00'30"E
L72	155.06	S81°58'30"E
L73	83.12	N21°00'30"W
L74	184.71	N65°30'27"E
L75	37.00	S23°59'33"E
L76	132.97	S84°39'33"E
L77	438.55	S19°48'09"E
L78	79.99	S49°15'52"E
L79	80.00	S49°15'52"E



0 250' 500'

SCALE: 1"=500'

DESCRIPTION: That portion of Lots 306 & 303 of Block 173, Lots 301 thru 320 of Block 158, Lot 280 of Block 140, Lots 271, 272 & 277 of Block 149, Lots 273 thru 276 of Block 154, Lots 291 & 302 of Block 174, Lots 320, 321, 322, & 357 of Block 153, Lots 314, 315, 316, & 317 of Block 174, Lots 318 & 360 of Block 176, Lot of Block 360, and Lot 319 of Block 180, in the City of Irvine, County of Orange, State of California, as shown the IRVINE Subdivision, Map to Book 1 Page 53.

**MCAS-EL TORO**

8-ENT 5 OF 5  
**P S O M A S**  
 NEW 1000 1000  
 1000 1000  
 1000 1000  
 1000 1000

SCALE 1" = 500'  
DRAFTED CH  
CHECKED JH  
DATE APRIL, 2003  
JOB  
NUMBER ZW0005700 TJ

# PSOMAS

## LEGAL DESCRIPTION

### Exhibit "A"

#### Parcel 3A-1

In the City of Irvine, County of Orange, State of California, being those portions of Lots 290 of Block 156, and Lots 307 and 310 of Block 172 of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88 of Miscellaneous Maps, and also those portions of Parcels 1A and 2, described in the deed recorded in Book 11831, Page 1062 and Book 11253, Page 959 of Official Records, lying within the U.S. M.C.A.S. El Toro property, all as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Recorders Office of said County, lying northerly of the following described line:

Beginning at the intersection of the centerline of Alton Parkway with the westerly line of said Parcel 2, said intersection being also the beginning of a non-tangent curve concave northeasterly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 37°36'19" West, (shown as South 37°36'05" West on said Record of Survey); thence southeasterly along said curve and said centerline 815.37 feet through a central angle of 25°57'15"; thence leaving said centerline South 04°46'49" West 323.29 feet to the beginning of a curve concave easterly having a radius of 1400.00 feet; thence southerly along said curve 616.04 feet through a central angle of 25°12'42"; thence South 20°25'53" East 490.17 feet; thence North 40°26'55" East 1130.96 feet to the beginning of a curve concave northwesterly having a radius of 417.00 feet; thence northeasterly along said curve 299.22 feet through a central angle of 41°06'48" to the beginning of a reverse curve concave southeasterly having a radius of 518.00 feet, a radial line to the beginning of said curve bears South 89°20'07" West; thence northeasterly along said curve 265.18 feet through a central angle of 29°19'55"; thence non-tangent to said curve North 09°24'49" West 60.00 feet to a point on said centerline; thence North 80°35'11" East 399.69 feet along said centerline to the beginning of a non-tangent curve concave northerly having a radius of 1800.00 feet, a radial line to the

# PSOMAS

1 beginning of said curve, bears South 08°31'46" East; thence easterly along said curve  
2 496.71 through a central angle of 15°48'39" to the easterly line of said Parcel 2.

3  
4 Together with the following described parcel:

## 5 6 **Parcel 3A-2**

7 In the City of Irvine, County of Orange, State of California, being those portions of Lots  
8 279, 280, 285, and 286 of Block 140, and Lots 281, 283, and 284 of Block 155 of Irvine's  
9 Subdivision, as shown on a map filed in Book 1 Page 88, of Miscellaneous Maps, lying  
10 within the U.S. M.C.A.S. El Toro property, and as shown on Record of Survey 97-1038,  
11 filed in Book 171, Pages 1 through 49, inclusive, all of the records of said County,  
12 described as follows:

13  
14 Commencing at the southwest quarter corner of Block 142 said quarter corner being  
15 shown on said Record of Survey; thence along the northeasterly line of said Lot 271, said  
16 line being also the former centerline of Irvine Boulevard, as shown on said Record of  
17 Survey, North 49°21'16" West 49.00 feet to the centerline of Lambert Road as shown on  
18 said Record of Survey; thence continuing North 49°21'16" West 17.14 feet along said  
19 former centerline of Irvine Boulevard; thence leaving said former centerline  
20 South 40°12'23" West 208.48 feet to the beginning of a curve concave northwesterly  
21 having a radius of 3776.61 feet; thence southwesterly along said curve 1107.25 feet  
22 through a central angle of 16°47'54" to beginning of a reverse curve concave  
23 southeasterly having a radius of 1200.00 feet, a radial line to the beginning of said curve  
24 bears South 32°59'43" East; thence southwesterly along said curve 1193.90 feet through  
25 a central angle of 57°00'17"; thence South 00°00'00" West 1456.34 feet to the beginning  
26 of a curve concave northwesterly having a radius of 2400.00 feet; thence southwesterly  
27 along said curve 2226.96 feet through a central angle of 53°09'53" to the **True Point of**  
28 **Beginning**; thence South 39°16'19" East 1519.69 feet to the beginning of a non-tangent  
29 curve concave southeasterly having a radius of 2100.00 feet, a radial line to the beginning

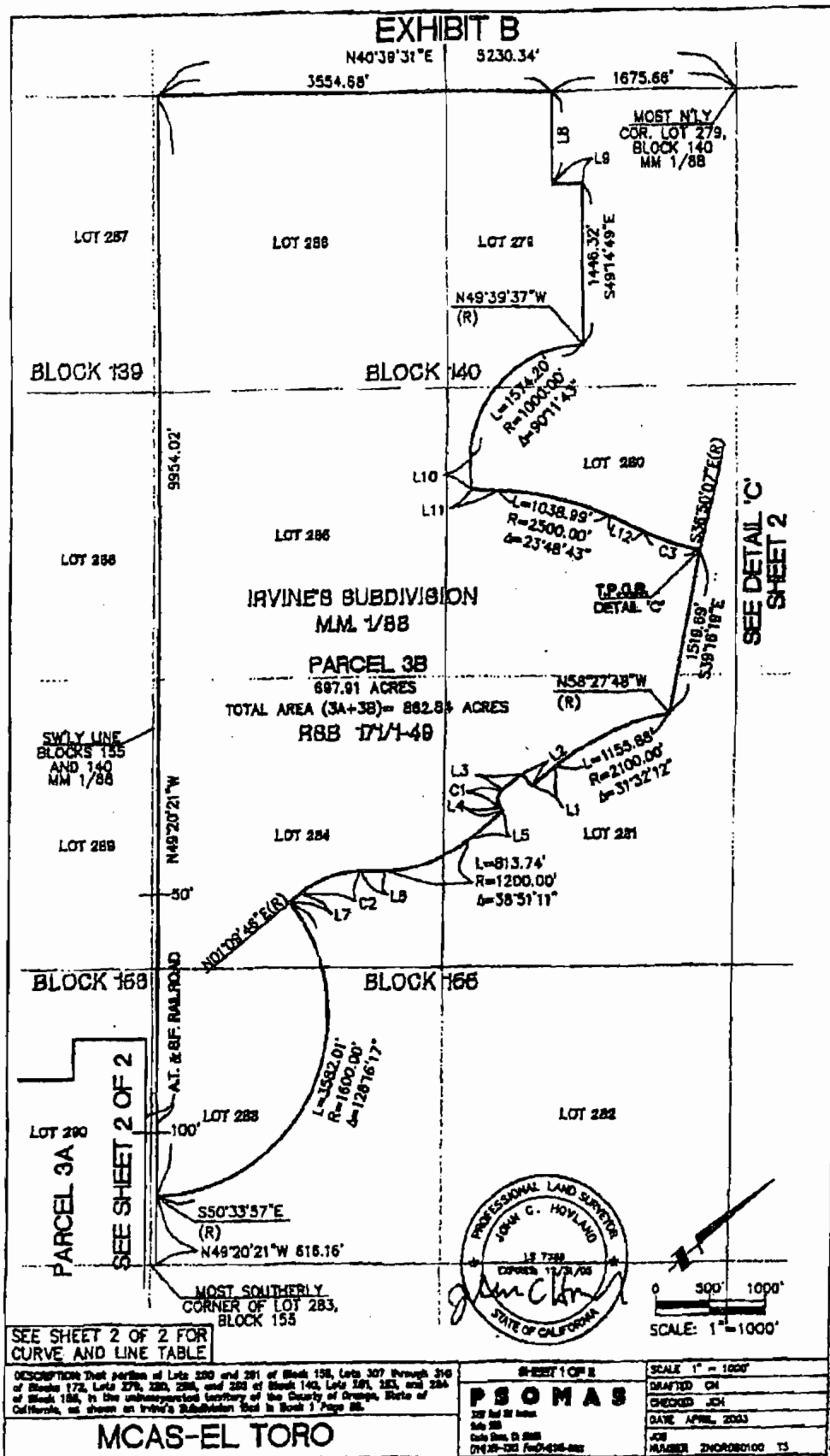
# PSOMAS

1 of said curve bears North 58°27'48" West; thence southerly along said curve 1155.88 feet  
2 through a central angle of 31°32'12"; thence non-tangent to said curve  
3 South 00°57'09" West 276.56 feet; thence North 89°02'51" West 141.47 feet; thence  
4 South 00°57'09" West 221.51 feet to the beginning of a curve concave northeasterly  
5 having a radius of 120.00 feet; thence southeasterly along said curve 188.50 feet through  
6 a central angle of 90°00'00"; thence South 89°02'51" East 38.00 feet; thence South  
7 00°57'09" West 396.66 feet to the beginning of a curve concave westerly having a radius  
8 of 1200.00 feet; thence southerly along said curve 813.74 feet through a central angle of  
9 38°51'11"; thence South 39°48'20" West 226.79 feet to the beginning of a curve concave  
10 easterly having a radius of 900.00 feet; thence southerly along said curve 605.19 feet  
11 through a central angle of 38°31'40"; thence South 01°16'40" West 129.84 feet to the  
12 beginning of a non-tangent curve concave southwesterly having a radius of 1600.00 feet,  
13 a radial line to the beginning of said curve bears North 01°09'46" East; thence easterly,  
14 southeasterly, southerly and southwesterly along said curve 3582.01 feet through a  
15 central angle of 128°16'17" to a point on a line parallel with and distant 50.00 feet  
16 northeasterly from the southwesterly line of said Blocks 155 and 140, said point lying  
17 distant along said parallel line North 49°20'21" West 616.16 feet from the southeasterly  
18 line of said Lot 283; thence North 49°20'21" West 9954.02 feet along said parallel line to  
19 a point on the northwesterly line of said Lot 286; thence North 40°39'31" East 3554.68  
20 feet along the northwesterly line of said Lots 286 and 279 to a point lying distant thereon  
21 South 49°39'31" West 1675.66 feet from the most northerly corner of said Lot 279;  
22 thence South 49°21'34 East 817.62 feet; thence North 41°14'17" East 275.57 feet; thence  
23 South 49°14'49" East 1446.32 feet to the beginning of a non-tangent curve concave  
24 easterly having a radius of 1000.00 feet, a radial line to the beginning of said curve bears  
25 North 49°39'37" West; thence southwesterly, southerly, and southeasterly along said  
26 curve 1574.20 feet through a central angle of 90°11'43"; thence South 49°51'20" East  
27 281.26 feet; thence North 42°16'45" East 235.22 feet to the beginning of a curve concave  
28 southeasterly having a radius of 2500.00 feet; thence northeasterly along said curve  
29 1038.99 feet through a central angle of 23°48'43"; thence North 66°05'28" East  
30 353.80 feet to the beginning of a curve concave northwesterly having a radius of

# PSOMAS

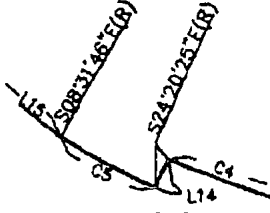
1 2400 feet; thence northeasterly along said curve 541.46 feet through a central angle of  
2 12°55'35" to the **True Point of Beginning**.  
3  
4 Containing 862.84 acres, more or less.  
5  
6 Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
7 any.  
8  
9 As shown on Exhibit "B" attached hereto and made a part hereof.  
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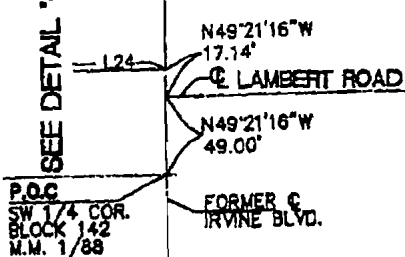
# EXHIBIT B

0 500' 1000'  
SCALE: 1"=1000'



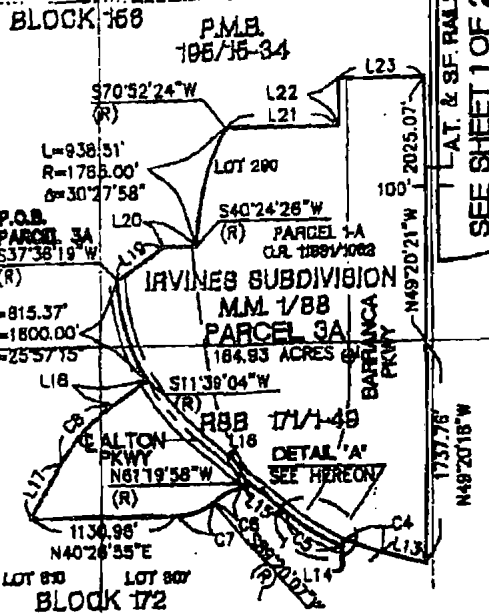
DETAIL 'A'  
NO SCALE

SEE DETAIL 'C'

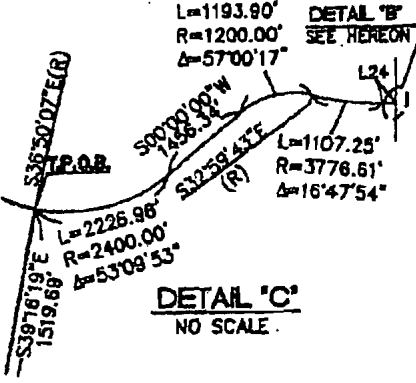


DETAIL 'B'  
NO SCALE

LINE TABLE		
NO.	LENGTH (FT)	BEARING
L1	278.58	S00°37'09"W
L2	141.47	N89°02'51"W
L3	221.51	S00°37'09"W
L4	38.00	S89°02'51"E
L5	398.88	S00°37'09"W
L6	228.79	S38°48'20"W
L7	129.84	S01°16'40"W
L8	817.82	S49°21'34"E
L9	275.57	N41°14'17"E
L10	281.28	S49°31'20"E
L11	235.22	N42°16'45"E
L12	353.80	N89°05'28"E
L13	363.30	N55°30'00"E
L14	80.00	N24°20'25"W
L15	399.89	N80°35'11"E
L16	80.00	N09°24'49"W
L17	490.17	S20°25'53"E
L18	323.28	S04°46'49"W
L19	444.45	S05°38'08"W
L20	245.00	S40°24'28"W
L21	871.70	S40°39'39"W
L22	359.93	S49°20'21"E
L23	885.29	S40°39'39"W
L24	208.48	S40°12'23"W



SEE SHEET 1 OF 2



DETAIL 'C'  
NO SCALE

CURVE TABLE			
NO.	LENGTH	RADIUS	DELTA
C1	188.50	120.00	90°00'00"
C2	805.18	900.00	38°31'40"
C3	541.48	2400.00	12°55'35"
C4	308.54	1740.00	10°09'35"
C5	498.71	1800.00	15°48'38"
C6	265.18	518.00	29°19'55"
C7	299.22	417.00	41°08'48"
C8	818.04	1400.00	25°12'42"

DESCRIPTION: That portion of Lots 290 and 291 of Block 168, Lots 307 through 310 of Block 172, Lots 279, 280, 281, and 282 of Block 140, Lots 281, 282, and 284 of Block 136, in the unincorporated territory of the County of Orange, State of California, as shown on Irvin's Subdivision Map in Book 1 Page 85.

MCAS-EL TORO

SHEET 2 OF 2		SCALE 1" = 1000'
PSOMAS		DRAFTED CH
307 and 310 Ave		CHECKED JCH
SAC		DATE APRIL 2003
Sole Rep. C. 1003		JOB
0478-202 (047444-82)		NUMBER 2003080100 13

# PSOMAS

## LEGAL DESCRIPTION

### Exhibit A

#### Parcel 4

In the City of Irvine, County of Orange, State of California, being those portions of Lots 290 and 291 of Block 156, and Lots 307 through 310 inclusive of Block 172 of Irvine's Subdivision, as shown on the map filed in Book 1, Page 88 of Miscellaneous Maps, and also those portions of Parcels 2 and 3, described in the deed recorded in Book 11831, Page 1062, of Official Records, all lying within the U.S. M.C.A.S. El Toro property, as shown on Record of Survey 97-1038, filed in Book 171, Pages 1 through 49 inclusive, all of the above documents and maps on file in the Records Office of said County, lying southerly of the following described line:

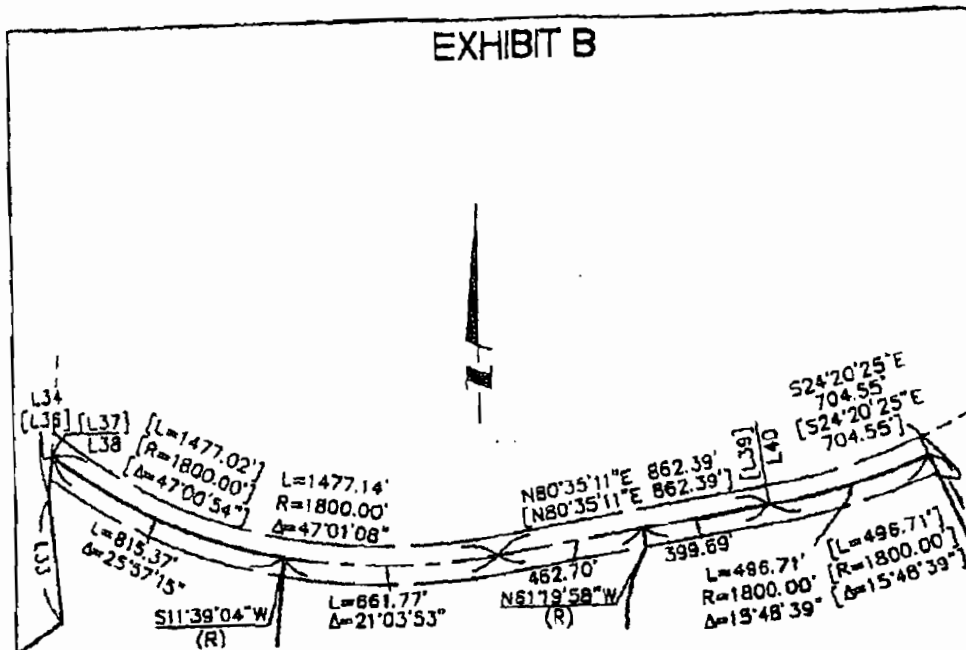
Beginning at the intersection of the centerline of Alton Parkway with the westerly line of said Parcel 2, said intersection being also the beginning of a non-tangent curve concave northeasterly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 37°36'19" West; thence southeasterly along said curve and said centerline 815.37 feet through a central angle of 25°57'15"; thence leaving said centerline South 04°46'49" West 323.29 feet to the beginning of a curve concave easterly having a radius of 1400.00 feet; thence southerly along said curve 616.04 feet through a central angle of 25°12'42"; thence South 20°25'53" East 490.17 feet; thence North 40°26'55" East 1130.96 feet to the beginning of a curve concave northwesterly having a radius of 417.00 feet; thence northeasterly along said curve 299.22 feet through a central angle of 41°06'48" to the beginning of a reverse curve concave southeasterly having a radius of 518.00 feet, a radial line to the beginning of said curve bears South 89°20'07" West; thence northeasterly along said curve 265.18 feet through a central angle of 29°19'55"; thence non-tangent to said curve North 09°24'49" West 60.00 feet to a point on said centerline; thence North 80°35'11" East 399.69 feet along said centerline to the beginning of a non-tangent curve concave northerly having a radius of 1800.00 feet, a radial line to the beginning of said curve bears South 08°31'46" East;

# PSOMAS

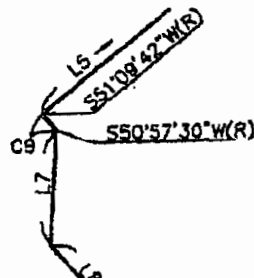
1 | thence easterly along said curve 496.71 feet through a central angle of 15°48'39" to the  
2 | easterly line of said Parcel 2.  
3 |  
4 | Containing 201.71 acres, more or less.  
5 |  
6 | Subject to covenants, conditions, restrictions, rights-of-way and easements of record, if  
7 | any.  
8 |  
9 | As shown on Exhibit "B" attached hereto and made a part hereof.  
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# EXHIBIT B



DETAIL 'B'  
SCALE 1"=400'



DETAIL 'A'  
SCALE 1"=40'

## LEGEND

- [ ] Record Per Record of Survey 97-1038 RSB 171/1-49.
- ( ) Record Per Quitclaim Deed, Recorded December 17, 1998, Instrument No. 19980873833, O.R. and Record of Survey 97-1049, RSB 168/1-18.



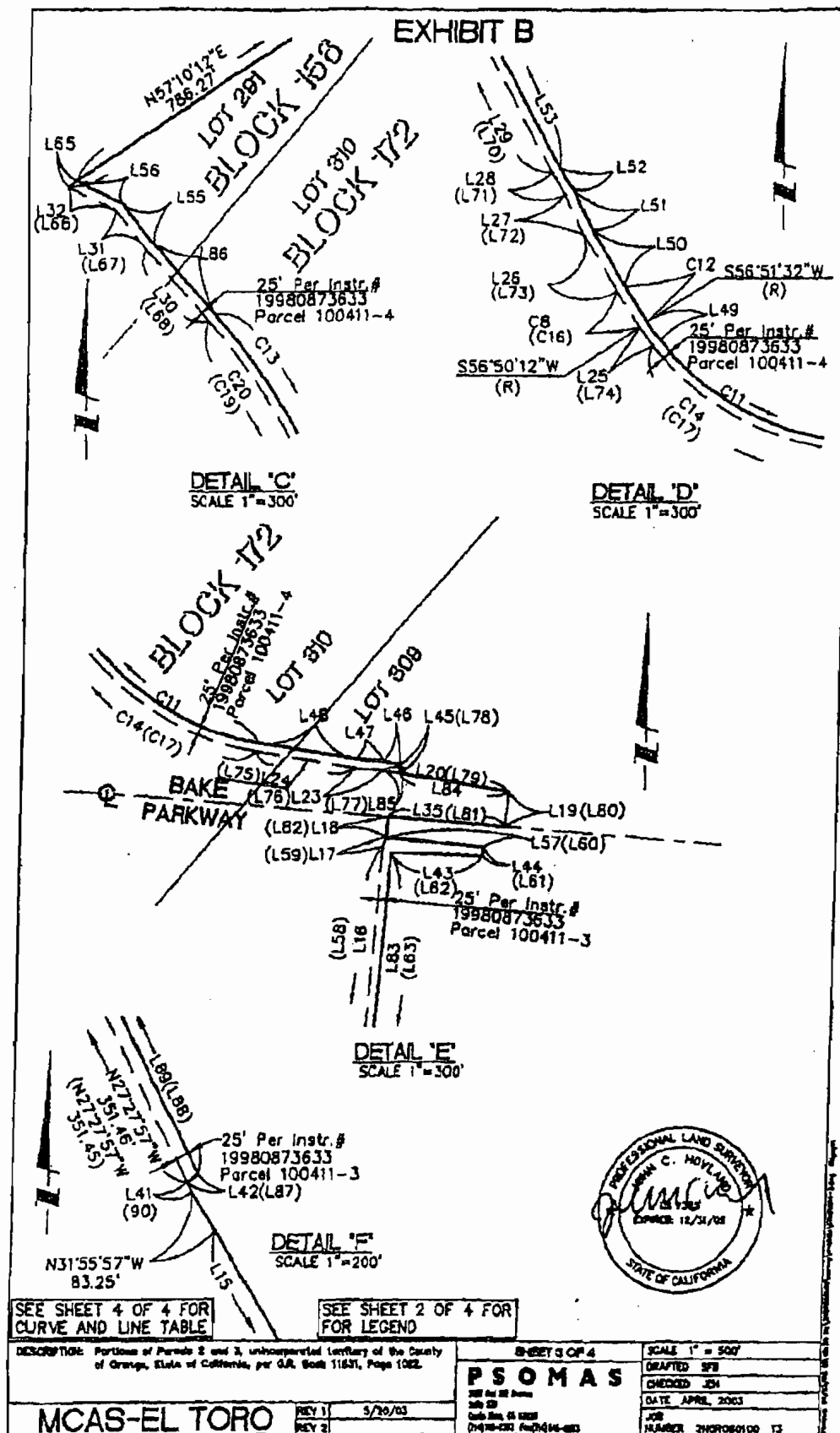
SEE SHEET 4 OF 4 FOR  
CURVE AND LINE TABLE

DESCRIPTION: Portions of Parcels 2 and 3, unincorporated territory of the County of Orange, State of California, per O.R. Book 11831, Page 1062.

MCAS-EL TORO

REV 1 3/20/03  
REV 2

SHEET 2 OF 4 <b>PSOMAS</b> 200 West 11th Avenue Suite 200 Orange, CA 92668 (714) 281-0222 Fax (714) 281-0223	SCALE 1" = 300' DRAFTED SPB CHECKED JCN DATE APRIL 2003 JOB NUMBER 210060105 T3
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# EXHIBIT B

SEE SHEET 2 OF 4 FOR  
FOR LEGEND

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L1	323.28	S04°46'49"W
L2	60.00	N08°24'49"W
L3	269.80	S42°34'48"W
L4	38.56	N84°39'47"W
L5	100.00	S51°09'42"W
L6	490.17	S20°25'53"E
L7	36.23	S02°49'08"W
L8	60.00	S40°47'01"E
L9	36.23	S84°23'22"E
L10	216.54	S41°25'05"W
L11	185.84	S41°30'00"E
L12	325.00	S33°11'01"W
L13	150.37	N85°20'42"W
L14	98.84	N28°16'11"W
L15	319.56	N32°20'05"W
L16	517.15	N04°39'03"E
L17	27.92	N18°31'06"E
L18	57.50	N04°38'58"E
L19	95.78	N04°38'58"E
L20	356.12	N80°29'02"W
L23	81.08	N84°45'40"W
L24	275.40	N80°28'49"W
L25	83.38	N38°20'00"W
L26	180.06	N30°52'21"W
L27	120.81	N24°13'05"W
L28	88.89	N33°52'58"W
L29	380.05	N28°55'08"W
L30	259.71	N42°30'00"W
L31	135.82	N39°25'00"W
L32	147.34	N82°43'34"W
L33	395.85	N05°37'01"W
L34	128.48	N05°39'08"E
L35	325.78	S85°21'02"E
L36	[128.17]	[N05°36'08"E]
L37	RADIAL	[S37°38'05"W]
L38	RADIAL	S37°38'19"W
L39	RADIAL	[S08°31'46"E]
L40	RADIAL	S08°31'46"E
L41	20.84	N27°27'57"W
L42	25.06	S58°37'33"W
L43	257.70	N88°21'06"W
L44	25.00	N04°38'58"E
L45	25.09	N04°38'50"E
L46	46.02	N80°29'02"W
L47	81.08	N84°45'40"W
L48	274.47	N80°28'49"W
L49	82.25	N38°20'00"W
L50	178.58	N30°52'21"W
L51	121.47	N24°13'05"W

LINE TABLE		
NO.	LENGTH(FT)	BEARING
L52	69.72	N33°52'58"W
L53	358.51	N28°55'06"W
L54	704.13	N26°50'08"W
L55	140.23	N39°25'00"W
L56	138.12	N82°43'34"W
L57	275.50	N85°21'02"W
L58	(517.13)	(N04°39'03"E)
L59	(27.89)	(N18°31'07"E)
L60	(275.50)	(S85°20'57"E)
L61	(25.00)	(S04°39'03"W)
L62	(257.85)	(N88°21'01"W)
L63	(505.63)	(S04°39'03"W)
L65	28.84	N57°10'12"E
L66	(147.46)	(S82°43'34"E)
L67	(135.82)	(S39°25'00"E)
L68	(259.70)	(S42°30'00"E)
L70	(360.04)	(S28°55'08"E)
L71	(68.69)	(S33°52'58"E)
L72	(120.81)	(S24°13'05"E)
L73	(180.05)	(S30°52'21"E)
L74	(83.38)	(S38°20'00"E)
L75	(275.39)	(S80°28'49"E)
L76	(81.08)	(S84°45'32"E)
L77	(47.21)	(S80°28'49"E)
L78	(25.09)	(N04°38'03"E)
L79	(356.11)	(S80°28'49"E)
L80	(85.78)	(S04°38'03"W)
L81	(325.78)	(S85°20'57"E)
L82	(57.50)	(S04°39'03"W)
L83	505.72	N04°39'03"E
L84	308.81	N80°29'02"W
L85	47.21	N80°29'02"W
L86	258.87	N42°30'00"W
L87	(25.06)	(S58°37'33"W)
L88	(349.74)	(S27°27'57"E)
L89	349.74	N27°27'57"W
L90	(20.84)	(N27°27'57"W)

CURVE TABLE			
NO.	LENGTH(FT)	RADIUS(FT)	DELTA
C1	265.18	518.00	28°19'55"
C2	38.42	770.00	02°56'00"
C3	195.55	1850.00	08°03'23"
C4	157.90	140.00	64°37'23"
C5	129.97	420.00	17°43'51"
C6	280.10	484.02	32°07'00"
C8	117.55	2940.11	02°17'27"
C9	6.57	1850.00	00°12'12"
C10	246.08	439.02	32°07'00"
C11	533.33	725.03	42°08'49"
C12	115.44	2915.11	02°16'08"
C13	397.91	1425.05	15°59'54"
C14	551.72	750.03	42°08'49"
C15	(246.08)	(439.00)	(32°07'00")
C16	(117.55)	(2940.00)	(02°17'27")
C17	(531.70)	(750.00)	(42°08'49")
C18	(260.09)	(484.00)	(32°07'00")
C19	(390.91)	(1400.00)	(15°59'54")
C20	390.93	1400.05	15°59'54"

DESCRIPTION: Portions of Parcels 2 and 3, unincorporated territory of the County of Orange, State of California, per O.R. Book 11837, Page 1042.

MCAS-EL TORO

REV 1 5/20/03  
REV 2

PSOMAS

2002 Ltd. Co. Inc.  
Suite 200  
Orange, CA 92668  
(714) 288-2071 Fax (714) 288-2002

SCALE 1" = 500'

DRAFTED SPB  
CHECKED JCH  
DATE APRIL, 2003  
JOB  
NUMBER 2408060100 T3



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
THIS AGREEMENT TO:

City of Irvine  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623  
Attention: City Manager

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder  
NO FEE  
2011000036334 2:31 pm 01/20/11  
105 415 A12 10  
0.00 0.00 0.00 0.00 27.00 0.00 0.00 30.00

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(Space Above for Recorder's Use)

**RECIPROCAL LICENSE AGREEMENT**

This RECIPROCAL LICENSE AGREEMENT (the "**Agreement**") is made as of this 17<sup>th</sup> day of AUGUST, 2010, by, between, and among the City of Irvine ("**City**"), the County of Orange, a political subdivision of the State of California ("**County**"), and Heritage Fields, El Toro, LLC, a Delaware limited liability company ("**Heritage Fields**"). The parties to this Reciprocal License Agreement are hereinafter jointly referred to as "the Parties."

**RECITALS**

A. City, County, and Heritage Fields each hold certain possessory interests, including fee interests, leasehold interests, and sub-leasehold interests, in certain land located in City of Irvine Planning Area No. 51 which is on and/or adjacent to the former Marine Corps Air Station, El Toro, and which is improved with that certain roadway that is currently referred to as "Perimeter Road" and/or "Old Marine Way" (hereinafter, "**Parties' Property**"). The current alignment of said roadway is depicted on Exhibit "1" hereto, and is hereinafter referred to as "**Perimeter Road**."

B. Concurrent with the execution of this Agreement, the City and the County have entered into (i) a "Sublease Between City of Irvine and County of Orange For Institutional Parcel Within El Toro LIFOC Parcel 3," ("**Sublease**") and (ii) an "Implementation Agreement No. 2 Between City of Irvine, Irvine Redevelopment Agency and County of Orange" ("**Implementation Agreement No. 2**"). The Sublease and Implementation Agreement No. 2 provide, *inter alia*, for the immediate transfer of a sub-leasehold interest in 100 acres of property to the County ("**Subleased County**").

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**Property**”), followed by the later transfer of fee title to at least 100 acres of property to the County (“**County Property**”).

C. The Sublease and Implementation Agreement No. 2 also contemplate the construction of a primary access road (“**Primary Access Road**”), and potentially a secondary access road (as applicable, the “**Potential Secondary Access Road**”), that will provide vehicular access to, among other properties, the Parties’ Property and the properties currently utilized by the non-profit organizations operating at the “Home 1” and “Home 5” parcels depicted on **Exhibit “1”** (the “**Non-Profits**”).

D. The timing and phasing of the construction of the Primary Access Road and Potential Secondary Access Road is uncertain, and the Parties therefore each recognize the need to preserve the ability to maintain reciprocal rights to access to the properties in which they hold possessory interests from and over the existing Perimeter Road alignment until such time as the Primary Access Road and Potential Secondary Access Road are constructed.

E. The provision of reciprocal access rights over the existing alignment of Perimeter Road is not intended by the parties to be permanent, and is not intended to delay the design, construction, and operation of the Primary Access Road and the Potential Secondary Access Road, subject to the provisions set forth below.

F. Each of the Parties desires to grant to the other Parties, their respective employees, officials, contractors, representatives, tenants, purchasers, invitees, successors and assigns, (collectively “**successors**”), and the Non-Profits a license on and over that portion of Perimeter Road depicted on **Exhibit "1"** attached hereto that is located on each such Parties’ Property for the purpose of accessing, maintaining, and traveling upon such portion of Perimeter Road.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the above Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and subject to all of the terms and conditions which follow, the Parties hereto agree as follows:

1. Grant of License. Each of the Parties hereby grants to each of the other Parties, their respective Successors, and the Non-Profits a temporary, non-exclusive, uninterrupted license (the “**License**”) upon, over, and along that portion of Perimeter Road depicted on **Exhibit "1"** attached hereto that is located on each such Parties’

---

Property, as may be required for the purpose of accessing, maintaining, and traveling upon such portion of Perimeter Road. No Party shall install any fence or other barrier that prevents the full access to and use of such portion of Perimeter Road during the term of this License. The reciprocal access rights provided herein do not include the ability to upgrade the existing Perimeter Road, except as may be necessary to facilitate continued access during construction activities related to the new alignment of the Primary Access Road and the Potential Secondary Access Road. The Parties shall not use the reciprocal access rights provided herein as a basis to delay the development of the Primary Access Road and (if applicable) the Potential Secondary Access Road. The Parties acknowledge and agree that nothing contained herein shall require the construction of the Primary Access Road and (if applicable) the Potential Secondary Access Road on any particular time period, given that the timing of the construction of such road shall continue to be governed by the contractual arrangement between the City and Heritage Fields for the construction of backbone infrastructure. The Parties further acknowledge and agree that they may, in their sole and absolute respective discretion and at their sole cost, relocate portions of Perimeter Road located on their respective properties, so long as Perimeter Road continues to connect uninterrupted with those portions of Perimeter Road located on each other Party's property.

2. Maintenance of Perimeter Road. During the term of this License, each Party shall be responsible for maintaining that portion of Perimeter Road that crosses the portion of the Parties' Property in which such Party holds a possessory interest; provided, however, that the County shall not be responsible for maintaining Perimeter Road so long as (i) it does not hold fee interest in the County Property, and (ii) the County Subleased Property is neither physically occupied by County personnel on a regular basis (not including routine inspections and provision of security) or its Successors nor undergoing actual physical development by the County or its Successors (the term "physical development" as used herein does not include routine maintenance of weeds or landscaping, pest control, trash removal or improvements made as a result of infrastructure installation not related to the County's development of the County Property). Nothing in this Agreement shall be construed as a modification to any agreement existing between the Parties, or any of them, concerning maintenance responsibilities for Perimeter Road or any other facilities on the Parties' Property. Nor shall anything in this Agreement prohibit the Parties, or any of them, from subcontracting the maintenance responsibilities set forth herein to another person or entity.

3. Termination. This Agreement, and the license provided herein, shall terminate upon the earlier of (i) parties mutual agreement, or (ii) the opening for public access of the Primary Access Road and (as necessary) the Potential Secondary Access Road.

4. Indemnification. In the event that any Party and/or its Successors use any portion of Perimeter Road located on the other Party's property (an "Access Road User") said

Access Road User shall and does hereby agree to indemnify, defend and hold the other Parties and their respective Successors harmless from all costs, expenses, attorneys' fees and court costs, liens, losses, damages, liabilities, claims and demands for property damage or bodily injury or death of any person (collectively, "Loss") arising from such Access Road User's use of Perimeter Road; provided, however, this indemnity shall not apply or extend to any Loss arising with respect to or as a result of another Party's negligence or willful misconduct.

5. Survival of Obligations. The Parties obligations pursuant to Sections 4 shall survive the termination of this Agreement.

6. Notices. No notice, request, demand, instruction or other document to be given hereunder to any party shall be effective for any purpose unless (i) personally delivered to the person at the address set forth below in which event such notice shall be deemed effective only upon delivery, or (ii) delivered by registered or certified mail at the address set forth below, return receipt requested, or (iii) sent by facsimile at the facsimile number set forth below on a business day, during business hours and provided that the original notice shall be sent by overnight courier for arrival the next business day at the address set forth below:

If to the City:

City of Irvine  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623  
Attention: City Manager

with copy to:

Orange County Great Park Corporation  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623  
Attention: Chief Executive Officer

If to the County:

County of Orange  
10 Civic Center Plaza  
P.O. Box 1379  
Santa Ana, CA 92702  
Attention: County Executive Officer

If to Heritage Fields:

Heritage Fields El Toro LLC  
25 Enterprise, Fourth Floor  
Aliso Viejo, CA 92656  
Attention: Lynn Jochim

With a copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP  
1900 Main Street, Fifth Floor  
Irvine, CA 92614-7321  
Attention: Michael Alvarado, Esq.

Notices so mailed shall be deemed to have been given seventy-two (72) hours after deposit in the United States Post Office, postage prepaid, and properly addressed, or, if sent by telefacsimile, upon completion of the transmission. The addresses and addressees for the purposes of this section may be changed by giving notice of such change in the manner herein provided for giving notice.

7. Assignment. During the term of this Agreement, the license provided herein shall remain a binding obligation upon, and inure to the benefit of, each of the Parties respective Successors.

8. No Third Party Beneficiaries. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, other than the parties hereto and their respective authorized Successors, any legal or equitable right, remedy or claim under or in respect to this Agreement or any of the provisions contained herein. This Agreement and each and every condition and provision hereof are intended to be for the sole and exclusive benefit of the Parties, and their respective Successors and for the benefit of no other person or entity.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

10. Waiver; Remedies. No failure on the part of any Party hereto to insist upon or demand the strict performance by the other party of any covenant, term, condition or promise of this Agreement, or to exercise any right or remedy as a result of any breach of the Agreement, shall constitute a continuing waiver of any such breach or of any such covenant, term, condition, promise, right or remedy. No waiver of any breach shall in any

way affect, alter or modify this Agreement, but each and every covenant, term, condition and promise of this Agreement shall continue in full force and effect. No single or partial exercise of any right, remedy, power or privilege under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege under this Agreement.

11. Status of the Parties. Nothing in this Agreement shall be construed to make the parties joint venturers or partners, or to create any relationship of principal and agent, and the parties specifically disavow such relationships.

12. Interpretation. This Agreement has been negotiated at arms' length between persons sophisticated and knowledgeable in the matters addressed herein, and both parties have had the opportunity to consult with legal counsel of such party's choosing regarding this Sublease. Accordingly, any rule of law (including California Civil Code § 1654) or legal decision that would require interpretation of this Agreement against the drafter hereof is not applicable and is waived.

13. Entire Agreement. As between the City and County, this Agreement, in conjunction with the Sublease and Implementation Agreement No. 2, is intended as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of these two Parties hereto in respect to the subject matter contained herein. As among the City, the County and Heritage Fields, this Agreement is intended as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the three Parties hereto in respect to the subject matter contained herein. It is not the intention of the Parties that this Agreement shall supersede any prior agreement. There are no restrictions, promises, warranties or undertakings relating to the subject matter of this Agreement, other than those set forth or referred to herein.

14. Warranty of Authority. Each Party represents and warrants that each officer or representative of the Parties affixing his or her signature below has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this Agreement; that his or her respective party has the full legal right, power, capacity and authority to enter into this Agreement and perform all the obligations herein; and that no other approvals or consents are necessary in connection therewith.

15. Modifications. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally or in writing, except that any provision of this Agreement may be amended by a writing signed by the Parties, in the observance of any provision of the Agreement may be waived (either generally or in a particular instance in either retroactively or prospectively) by a writing signed by the party against whom such

waiver is to be asserted.

16. Headings. The headings in this Agreement are for convenience of reference only, and shall not limit or otherwise affect the meaning of this Agreement.

17. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

IN WITNESS WHEREOF, the parties hereto have entered into this Implementation Agreement No. 2 as of the date first written above.

**CITY OF IRVINE, a charter municipal corporation**

By: \_\_\_\_\_  
Mayor



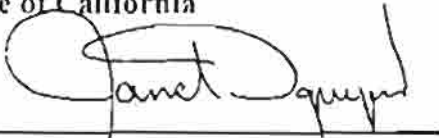
ATTEST:

  
City Clerk

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP

  
City Attorney, City of Irvine

COUNTY OF ORANGE, a political subdivision of  
the State of California

By:   
Chair, Board of Supervisors

Signed and certified that a copy of this  
document has been delivered to the  
Chair of the Board per G.C. Sec. 25103,  
Resolution 79-1535

  
Darlene J. Bloom

Clerk of the Board of Supervisors  
Orange County, California

APPROVED AS TO FORM:  
County Counsel, COUNTY of Orange



  
Deputy

HERITAGE FIELDS EL TORO, LLC,  
a Delaware limited liability company

By: Heritage Fields, LLC, a Delaware  
limited liability company  
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC, a  
Delaware limited liability company  
Its: Administrative Member

By: Lennar Homes of California, Inc., a  
California corporation  
Its: Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**COUNTY OF ORANGE, a political subdivision of  
the State of California**

By: \_\_\_\_\_  
Chair, Board of Supervisors

Signed and certified that a copy of this  
document has been delivered to the  
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\_\_\_\_\_  
Darlene J. Bloom  
Clerk of the Board of Supervisors  
Orange County, California  
APPROVED AS TO FORM:  
County Counsel, COUNTY of Orange

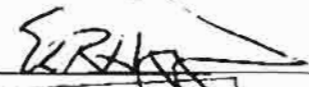
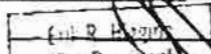
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Deputy

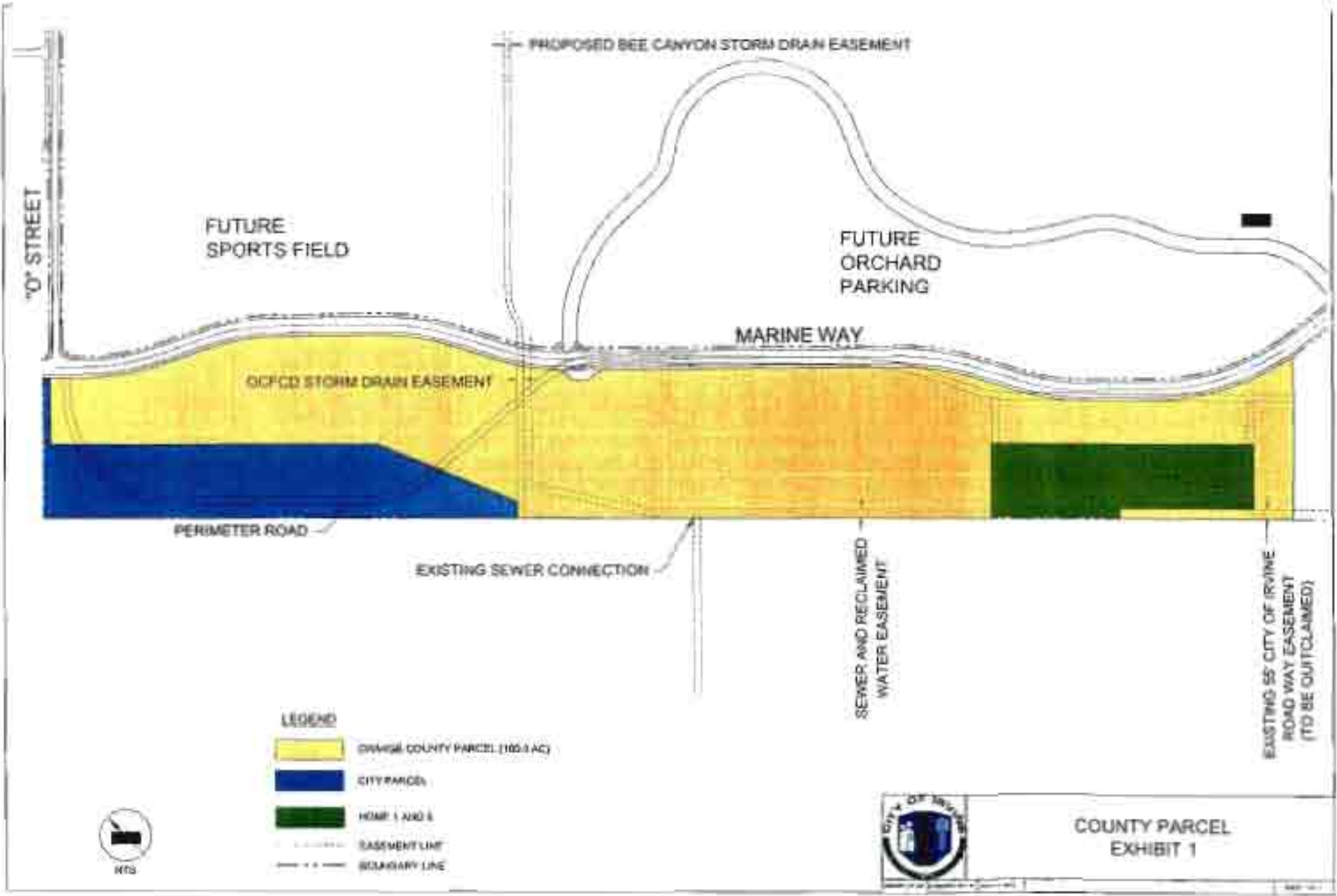
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California corporation  
Its: Managing Member**

By:   
Name:   
Title: 



## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Redevelopment Affordable Housing Funds Grant Agreement

DATE: February 8, 2011

PARTIES: Irvine Redevelopment Agency (Agency)  
Irvine Community Land Trust (Land Trust)

### SUMMARY OF SUBSTANTIVE TERMS:

The Irvine Community Land Trust is a private nonprofit 501(c)(3) corporation established to own real property and to facilitate the development thereon of affordable housing within the City of Irvine.

The Agreement commits the Agency to provide all future Low and Moderate Income Housing Fund (the 20% of the Agency's tax increment required to be set aside for affordable housing) to the Land Trust to ensure that those funds will be used to develop affordable housing in the community. In addition, the Agreement documents that initially 15 acres of land outside the redevelopment project area will be conveyed to the Land Trust from the City of Irvine for affordable housing purposes and the Land Trust requires these funds to complete development of this project. The Agreement also notes the Land Trust will use the funds in a manner that enables 10 percent of the total housing stock in the City will be affordable, which is a goal for the City of Irvine.

The amount contractually committed by the Agency to the Land Trust pursuant to the Agreement is equal to the estimated 20% of the tax increment revenue over the remaining life of the Orange County Great Park Redevelopment Project Area, which is \$731,000,000. The funds are to be paid by the Agency to the Land Trust in semi-annual installments over the life of the redevelopment project area, or to June 30, 2052. Section 2.2 of the agreement states the Agreement is intended to and shall constitute an indebtedness of the Agency within the meaning of Article XVI, Section 16 of the California Constitution and Health and Safety Code Section 33670(b).

**REDEVELOPMENT AFFORDABLE HOUSING FUNDS**  
**GRANT AGREEMENT**

This REDEVELOPMENT AFFORDABLE HOUSING FUNDS GRANT AGREEMENT ("Agreement") is entered into as of this 8<sup>th</sup> day of February, 2011 ("Effective Date"), between the IRVINE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), and the IRVINE COMMUNITY LAND TRUST, a California nonprofit public benefit corporation ("Participant"). Agency and Participant are hereinafter periodically referred to individually as a "party" and collectively as the "parties."

**R E C I T A L S**

A. Participant is a duly organized California nonprofit public benefit corporation, certified by the United States Internal Revenue Service as a public charity under Internal Revenue Code sections 501(c)(3) and 509(a)(3).

B. As set forth in Article II of Participant's Articles of Incorporation, filed on March 17, 2006 with the California Secretary of State, the specific purpose of Participant "is to lessen the burdens of government by assisting the City of Irvine, California ("City") to ensure that its residents are able to secure housing by, among other things, developing, constructing, financing, managing, selling, renting, subsidizing, and monitoring single- and multi-family housing, and to conduct or perform any ancillary or related activity in furtherance of the foregoing." Also as set forth in the Participant's Articles of Incorporation, Participant was formed to help the City ensure that its residents are able to secure decent and affordable housing.

C. As set forth in Article 4 of Participant's Bylaws, duly considered and adopted by Participant's Board of Directors, "The properties and assets of this Corporation are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of this Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any Director or Officer of this Corporation." In the event that Participant ever undergoes liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of Participant must be distributed to the City for public purposes, or must be distributed to a nonprofit fund, foundation, or corporation, designated by the City, which is organized and operated exclusively for charitable purposes and has established its tax exempt status under Internal Revenue Code section 501(c)(3).

D. As set forth in Article 5 of Participant's Bylaws, the business and affairs of Participant shall be managed, and all corporate powers shall be exercised, by or under the direction of Participant's Board of Directors ("Board"), which is comprised of a seven (7)-member Board selected as follows: Two (2) members are appointed by the City; until at least 100 individuals reside in properties owned, managed, or monitored by Participant, five (5) members are selected by the Board; and, after at least 100 individuals reside in properties owned, managed, or monitored by Participant, two (2) members are residents of housing located on land owned, managed, or monitored by Participant, and three (3) members are appointed by the remaining members of the Board. Members of the Board serve terms of two (2) years for any number of consecutive terms.

E. Agency is a duly organized redevelopment agency and authorized, under the provisions of the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.) (“CRL”), and under the provisions of the Redevelopment Plan (“Redevelopment Plan”) for the Orange County Great Park Redevelopment Project Area (“Project Area”), to undertake certain activities necessary for the implementation of the Redevelopment Plan.

F. Pursuant to the CRL, Agency has the obligation to set aside and use no less than twenty percent (20%) of its property tax revenue allocated pursuant to Article XVI, Section 16 of the California Constitution and Health and Safety Code section 33670 (“tax increment”) from the Project Area for the purpose of increasing, improving, and preserving the City’s supply of low and moderate income housing (“Housing Set Aside Funds”). In carrying out this purpose, the CRL authorizes Agency to exercise any or all of its powers for the construction, rehabilitation, or preservation of low and moderate income housing, including powers identified in Health & Safety Code § 33334.2(e), which include (and subject to limitations specified therein) the powers to: (1) acquire real property or building sites; (2) improve real property or building sites with onsite or offsite improvements; (3) donate real property to private or public persons or entities; (4) finance insurance premiums; (5) construct buildings or structures; (6) acquire buildings or structures; (7) rehabilitate buildings or structures; (8) provide subsidies to, or for the benefit of, Low and Moderate Income Households; (9) develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges; (10) maintain the City’s supply of mobilehomes; and (11) preserve the availability to lower income households of Affordable Units in housing developments that are assisted or subsidized and are threatened with imminent conversion to market rates (collectively, the “CRL Section 33334.2(e) Powers”).

G. The CRL requires that at least fifteen percent (15%) of all new and substantially rehabilitated dwelling units developed within a redevelopment project area to be available at affordable housing cost, and occupied by, low and moderate income households (the “Agency’s Inclusionary Housing Requirement”), and that not less than forty percent (40%) of these dwelling units must be available at affordable housing cost to, and occupied by, very low income households. To satisfy the Agency’s Inclusionary Housing Requirement, in whole or in part, the Agency may cause by regulation or agreement that two units outside the Project Area for each unit within the Project Area be available at affordable cost to, and occupied by, low or moderate income households. Pursuant to this authority, the City Council and Agency Board of Directors adopted resolutions allowing for the use of Housing Set Aside Funds outside the Project Area, in accordance with Health & Safety Code § 33334.2(g)(1). In addition, the CRL requires that dwelling units developed pursuant to the Agency’s Inclusionary Housing Requirement are to remain available to and occupied by low and moderate income households for the longest feasible time, but not less than forty-five (45) years for owner-occupied units and fifty-five (55) years for rental units (collectively, the “Restricted Affordability Terms”). Pursuant to the CRL (Health & Safety Code § 33334.3(d)), planning and general administrative activities may be paid with Housing Set Aside Funds so long as said payments are not disproportionate to the amount actually spent for the costs of production, improvement, or preservation of affordable housing, and the Agency annually determines that identified planning and administrative expenses are necessary for the production, improvement, or preservation of affordable housing.

H. The Redevelopment Plan was adopted under the CRL pursuant to its provisions pertaining to the redevelopment of military base closures and conversions (Health & Safety Code § 33492 et seq.) (the “CRL Military Base Closure Provisions”). In accordance therewith (Health

& Safety Code § 33492.13), Agency has 45 years from the date established pursuant to Section 33492.9 to repay indebtedness with tax increment received pursuant to Section 33670, which includes Housing Set Aside Funds. As such, Agency has until June 30, 2052 (the "Redevelopment Plan Termination Date") to repay Agency indebtedness with Housing Set Aside Funds. However, the CRL (Health & Safety Code § 33333.8) provides for the extension of the Agency's ability to receive Housing Set Aside Funds beyond the Redevelopment Plan Termination Date in the event the Agency has not completed all affordable housing obligations under the CRL, as more particularly set forth in Section 33333.8(a)(1), which includes Agency's Inclusionary Housing Requirement (the "CRL Section 33333.8 Extended Termination Date"). The date that is the later of the Redevelopment Plan Termination Date or CRL Section 33333.8 Extended Termination Date is referred to in this Agreement as the "Housing Set Aside Funds Termination Date." The period between the Effective Date and the Housing Set Aside Funds Termination Date is referred to in this Agreement as the "Grant Agreement Term."

I. On or about March 14, 2006, City and Agency adopted that certain Housing Strategy and Implementation Plan ("Housing Plan"). The Housing Plan sets forth various implementing activities, including the use of Housing Set Aside Funds for the purposes of assisting Participant with the increasing, improving, and preserving the City's supply of low and moderate income housing. The Housing Plan is attached hereto as Exhibit "A" and incorporated herein by this reference.

J. The Housing Plan identified projects and programs that would have Participant further the goal of having ten percent (10%) of the City's housing stock permanently affordable to low and moderate income households at build-out of the City. Specifically, the Housing Plan, using conservative assumptions based on the City's then-current projected revenues and inclusionary requirements, identified that a total of 7,929 Affordable Units could be produced within the timeframes established by the adoption of the Housing Plan and Redevelopment Plan without significant changes to the City's housing programs. The construction, development, rehabilitation, and/or preservation of the 7,929 Affordable Units throughout the City, as described in this paragraph and in the Housing Plan, is referred to in this Agreement as the "City's Master Affordable Housing Development Project."

K. In 2006, the City, and the Irvine Company LLC and the Irvine Community Development Company LLC (collectively, the "Irvine Company"), entered into that certain Development Agreement recorded on or about October 3, 2006, as Instrument No. 2006000657515 in the Official Records for Orange County, California, as the same may be amended from time to time (the "Development Agreement"), which, among other terms and conditions, requires Irvine Company to dedicate to City fifteen (15) acres of land for the development and use of affordable housing. As envisioned in the Housing Plan and authorized by Participant, the City will transfer the 15 acres of land to Participant for the purpose of developing and maintaining, in perpetuity, affordable housing. The first dedication of land from Irvine Company to the City, in the amount of approximately 3.5 acres, will occur by December 2011, and the remaining dedications for the balance of the 15 acres will occur by 2015. Four Hundred Fifty (450) dwelling units for low and moderate income households are expected to be developed on the 15 acres that are eventually dedicated from Irvine Company. The development of the 450 dwelling units on the 15 acres as described in this paragraph is referred to in this Agreement as the "Fifteen Acre Affordable Housing Development Project." The Fifteen Acre

Affordable Housing Development Project is part of the City's Master Affordable Housing Development Project.

L. On or about March 17, 2010, Participant and City entered into that certain Agreement For The Provision Of Administrative Services, as may be amended from time to time (the "Administrative Services Agreement"), pursuant to which City agreed to provide administrative support and services for Participant related to Participant's daily operations. Furthermore, Agency and City resources and staff, consultants, professionals, and agents have been and will continue to be used for the purposes of monitoring and ensuring the production, improvement, and preservation of Affordable Units throughout the City to ensure Agency is in compliance with its affordable housing obligations under the CRL.

M. At the time of this Agreement, the average cost to develop a dwelling unit available for low or moderate income households, based on the state-wide average used for affordable housing projects using 9% tax credits under the federal tax credit program (26 U.S.C. § 42), is \$342,400 per unit. Applying this average cost, the total estimated cost to complete the City's Master Affordable Housing Development Project is \$2,714,889,600. It is expressly acknowledged and agreed by the parties that the total amount of the Agency Housing Set Aside Funds Grant (as defined in this Agreement) may not equal the total estimated cost to complete the City's Master Affordable Housing Development Project, but nonetheless it is the expressed intent of the parties that the maximum possible number of Affordable Units shall be built and/or available in furtherance of the City's Master Affordable Housing Development Project with the actual amount of funds received by the Agency Housing Set Aside Funds Grant during the Grant Agreement Term, as more particularly set forth in this Agreement.

N. On or about March 17, 2010, per Resolution 10-010, the Participant's Board of Directors re-authorized Participant's Executive Director to solicit and enter into grants and funding agreements for the purpose of allowing Participant to provide housing for low and moderate income households, in accordance with Participant's Articles of Incorporation and Bylaws.

O. Agency and Participant desire to cooperate, pursuant to the authority granted in the CRL, including but not limited to Health and Safety Code Sections 33334.2 and 33334.3, to make available Agency's current and future Housing Set Aside Funds, which based on an independent fiscal analysis produced by the Great Park Corporation on or about July 1, 2010, is estimated to be approximately \$731,000,000, to pay for and/or assist in paying for housing for low and moderate income households in the City, and to fund ongoing administrative services for affordable housing projects and services to be carried out by Participant, as more particularly set forth in this Agreement.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Participant hereby agree as follows:

1. DEFINITIONS.

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms as used in this Agreement shall have the meanings given below:

“Administrative Services Agreement” shall mean that agreement identified in Recital L of this Agreement, as may be amended from time to time.

“Affordable Housing” and “Affordable Unit(s)” shall mean residential dwelling unit(s), of any type or tenure, including owner-occupied and rental, that are available to Low and Moderate Income Households at Affordable Rent, for rental units, and Affordable Cost, for owner-occupied units.

“Affordable Cost” shall mean the cost to purchase an owner-occupied residential dwelling unit that does not exceed the maximum percentage of income that can be devoted to the purchase of said unit under Health & Safety Code § 50052.5, or any successor statute thereto, and the implementing regulations in Title 25 of the California Code of Regulations, which are and shall for the Restricted Affordability Terms, as applicable, as follows:

- The Affordable Cost for residential units designated to be owned by extremely low households is the product of 30 percent times 30 percent of the Median Income adjusted for family size appropriate for the unit.
- The Affordable Cost for residential units designated to be owned by very low income households is the product of 30 percent times 50 percent of the Median Income adjusted for family size appropriate for the unit.
- The Affordable Cost for residential units designated to be owned by lower income households, whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the Median Income adjusted for family size, is the product of 30 percent times 70 percent of the Median Income adjusted for family size appropriate for the unit; OR, for any lower income household that has a gross income that equals or exceeds 70 percent of the Median Income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.
- The Affordable Cost for residential units designated to be owned by moderate-income households shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of Median Income adjusted for family size appropriate for the unit; OR, for any moderate-income household that has a gross income that exceeds 110 percent of the Median Income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

As used herein, “adjusted for family size appropriate to the residential unit” shall mean for a household of one person in the case of a studio unit, two persons in the



case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Affordable Rent” shall mean annual rent that does not exceed the maximum percentage of income that can be devoted to rent (including a reasonable utility allowance) under Health & Safety Code § 50053, or any successor statute thereto, and the implementing regulations in Title 25 of the California Code of Regulations, which are and shall be for the Restricted Affordability Terms, as applicable, as follows:

- The Affordable Rent for residential units designated to be occupied by extremely low income households is the product of 30 percent times 30 percent of the Median Income adjusted for family size appropriate for the unit.
- The Affordable Rent for residential units designated to be occupied by very low income households is the product of 30 percent times 50 percent of the Median Income adjusted for family size appropriate for the unit.
- The Affordable Rent for residential units designated to be occupied by lower income households, whose gross incomes exceed the maximum income for very low income households, is the product of 30 percent times 60 percent of the Median Income adjusted for family size appropriate for the unit; OR, for those lower income households with gross incomes that exceed 60 percent of the Median Income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.
- The Affordable Rent for residential units designated to be occupied by moderate-income households is the product of 30 percent times 110 percent of the Median Income adjusted for family size appropriate for the unit; OR, for those moderate-income households whose gross incomes exceed 110 percent of the Median Income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

As used herein, “adjusted for family size appropriate to the residential unit” shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Agency” shall mean the Irvine Redevelopment Agency, a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.).

“Agency Housing Set Aside Funds Grant” shall mean the grant of Housing Set Aside Funds from Agency to Participant in the amount set forth in Section 2.1 of this Agreement.

“Agency’s Inclusionary Housing Requirement” shall have the meaning set forth in Recital G of this Agreement.

“Agreement” shall mean this Redevelopment Affordable Housing Funds Grant Agreement between Agency and Participant, including all exhibits and other documents attached hereto.

“Bonds” shall have the meaning set forth in Section 2.3 of this Agreement.

“City” shall mean the City of Irvine, a California municipal corporation.

“City’s Master Affordable Housing Development Project” shall have the meaning set forth in Recital J of this Agreement.

“CRL” shall mean the California Community Redevelopment Law, Health and Safety Code section 33000 et seq.

“CRL Military Base Closure Provisions” shall have the meaning set forth in Recital H of this Agreement.

“CRL Section 33333.8 Extended Termination Date” shall have the meaning set forth in Recital H of this Agreement.

“CRL Section 33334.2(e) Powers” shall have the meaning set forth in Recital F of this Agreement.

“Effective Date” shall mean the date this Agreement is executed by the parties, which date shall be in the preamble to this Agreement.

“Fifteen Acre Affordable Housing Development Project” shall have the meaning set forth in Recital K of this Agreement.

“General Administrative Services” shall have the meaning set forth in Section 2.4(b) of this Agreement.

“Grant Agreement Term” shall have the meaning set forth in Recital H of this Agreement.

“Housing Plan” shall mean that certain Housing Strategy and Implementation Plan, adopted by City and Agency on or about March 14, 2006, and attached to this Agreement as Exhibit “A” and incorporated herein.

“Housing Set Aside Funds” shall have the meaning set forth in Recital F of this Agreement.

“Housing Set Aside Funds Termination Date” shall have the meaning set forth in Recital H of this Agreement.

“Low and Moderate Income Household(s)” and “Low or Moderate Income Household(s)” shall have the same meaning as “persons and families of low or moderate

income” as set forth in Health and Safety Code § 50093, as enacted as of the Effective Date, or any successor statute thereto. In accordance therewith, references in this Agreement to “extremely low income households,” “very low income households,” “low income households,” and “moderate income households” shall have the same meanings as set forth in Health and Safety Code §§ 50106, 50105, 50079.5, and 50093, respectively, as enacted as of the Effective Date, or any successor statutes thereto.

“Median Income” shall mean the Orange County area median income, as periodically published by the State of California Department of Housing and Community Development in Section 6932 of Title 25 of the California Code of Regulations, or successor regulation.

“Participant” shall mean the Irvine Community Land Trust, a California nonprofit public benefit corporation, and its successors and assigns.

“Participant Personnel” shall mean (a) any employee, volunteer, contractor, subcontractor, or agent of Participant or any other person under Participant’s supervision and direction, including the contractors and subcontractors constructing all or any portion of the City’s Master Affordable Housing Development Project. Participant is responsible for the full compliance of all Participant Personnel with this Agreement, including without limitation all labor standards applicable to the Project.

“Participant’s Administration and Monitoring Program” shall mean the program described in Section 4.1 of this Agreement.

“Project Area” shall mean the Orange County Great Park Redevelopment Project Area.

“Redevelopment Plan” shall mean the Redevelopment Plan for the Orange County Great Park Redevelopment Project Area, as may be amended from time to time in accordance with the CRL.

“Redevelopment Plan Termination Date” shall have the meaning set forth in Recital H of this Agreement.

“Restricted Affordability Terms” shall have the meaning set forth in Recital G of this Agreement.

## 2. AGENCY GRANT AND AUTHORIZED USE OF FUNDS.

2.1 Grant of Agency Funds. Subject to the terms and conditions set forth herein and provided Participant is not in default of this Agreement, Agency hereby pledges and agrees to pay to Participant the “Agency Housing Set Aside Funds Grant,” which shall be defined as, and is inclusive of, the following:

The entire amount of the Agency Housing Set Aside Funds Grant shall equal the current and future amount of Housing Set Aside Funds that Agency has received or would receive pursuant to the CRL, as enacted as of the Effective Date, commencing Fiscal Year (“FY”) 2010-11 until the Housing Set Aside Funds Termination Date, except that the Agency Housing Set Aside Funds Grant shall not include Housing Set Aside

Funds already encumbered as of the Effective Date or expressly subordinated pursuant to this Agreement (see Section 2.3 below).

2.2 Indebtedness of Agency. Agency's funding as set forth in this Agreement is intended to and shall constitute an indebtedness of the Agency within the meaning of Article XVI, Section 16 of the California Constitution and Health and Safety Code Section 33670(b). The Agency shall include the costs of the City's Master Affordable Housing Development Project (including the Fifteen Acre Affordable Housing Development Project) and the Participant's Administration and Monitoring Program in the Agency's annual statements of indebtedness that the Agency is required to annually file pursuant to Health and Safety Code Section 33675, and the Agency shall take all legal actions required to have sufficient property tax increment revenues allocated and paid to the Agency to enable the Agency to perform timely its payment obligations to the Participant hereunder.

2.3 Subordination to Bonds and Existing Encumbrances of Funds. In connection with the City's Master Affordable Housing Development Project, the parties expressly understand and agree that the Agency or City, or combination of both, may, either directly or through a financing conduit entity, issue taxable or tax-exempt bonds, or combination thereof, to be secured and repaid by Housing Set Aside Funds (collectively, referred to in this Agreement as "Bonds"). Agency's funding obligations in this Agreement shall be junior and subordinate to: (a) all Bonds to be secured and repaid by Agency with Housing Set Aside Funds, whether issued prior to or after the Effective Date of this Agreement; (b) all pledges by Agency of Housing Set Aside Funds for Bonds, whether issued prior to or after the Effective Date of this Agreement; (c) other financial agreements or contractual obligations of Agency that have encumbered Housing Set Aside Funds as of the Effective Date; and (d) any contingent obligations of Agency that have encumbered Housing Set Aside Funds as of the Effective Date.

2.4 Use of Grant Funds; Powers and Duties; Allocated Portions of Funds. Participant shall use the Agency Housing Set Aside Funds Grant for the purposes of increasing, improving, and preserving Affordable Housing within and throughout the City, in accordance with the CRL and the terms and conditions of this Agreement, and for no other purpose. To the maximum extent permitted by law, Participant shall use any and all powers available to it under its Articles of Incorporation, Bylaws, and other corporate documents, and, by Agency's disbursements of the Agency Housing Set Aside Funds Grant in accordance with this Agreement, Participant shall use any or all necessary and appropriate powers (with limitations applicable thereto) set forth in the CRL, including the CRL Section 33334.2(e) Powers, to further the construction, development, rehabilitation, and/or preservation of Affordable Units that are part of the City's Master Affordable Housing Development Project. Portions of the Agency Housing Set Aside Funds Grant shall be used according to the following in (a)-(c) below:

(a) A portion of the Agency Housing Set Aside Funds Grant shall be dedicated to the Fifteen Acre Affordable Housing Development Project. At the time of this Agreement, the estimated cost of the Fifteen Acre Affordable Housing Development Project is \$154,080,000 (\$342,400 x 450 units). Participant shall use its best efforts to obtain alternate funding separate from the Agency Housing Set Aside Funds Grant moneys by using its best efforts to apply for and receive separate public and/or private financing for the construction, development, and/or preservation (which may include maintenance operation) of said project. Any separate public and/or private

financing obtained shall be used to offset the estimated amount of \$154,080,000 of Agency Housing Set Aside Funds Grant money dedicated to said project. Any Agency Housing Set Aside Funds Grant money that is not used for the Fifteen Acre Affordable Housing Development Project shall be dedicated to the construction, development, rehabilitation, and/or preservation (which may include maintenance and operation) of the remaining Affordable Units that are part of the City's Master Affordable Housing Development Project, set forth in Section 2.4(c) below. Participant shall include and disclose the actual costs and actual amounts of the Agency Housing Set Aside Funds Grant contributed to the Fifteen Acre Affordable Housing Development Project as part of Participant's regular annual accounting obligations as set forth in Section 3.3 of this Agreement.

(b) For each fiscal year (or portion thereof if this Agreement terminates on a date that is not June 30 of any given fiscal year) during the Grant Agreement Term, a portion of the Agency Housing Set Aside Funds Grant shall be dedicated for planning and general administrative activities associated with the production, development, improvement, and/or preservation (which shall include maintenance and operation) of Affordable Housing in the City (collectively referred to in this Agreement as "General Administrative Services"). General Administrative Services includes, but is not limited to: all administrative services provided by City to Participant pursuant to the Administrative Services Agreement; all Agency and City resources and staff, consultants, professionals, and agents who monitor and facilitate the production, development, improvement, and/or preservation of Affordable Housing so as to comply with the CRL's affordable housing obligations; and all Participant resources and staff, consultants, professionals, and agents (which may include City and Agency staff) who administer and monitor the Affordable Units that are to be constructed, developed, rehabilitated, and/or preserved pursuant to this Agreement. The parties shall comply with the following in (i)-(v) below:

- i. For each fiscal year, Participant shall ensure that the portion of the Agency Housing Set Aside Funds Grant dedicated to General Administrative Services shall not be disproportionate to the amount actually spent during that same fiscal year for the production, improvement, or preservation of Affordable Housing throughout the City.
- ii. Prior to the commencement of any given fiscal year, Participant shall determine in writing that the anticipated amounts to be spent on General Administrative Services are necessary for the production, improvement, or preservation of Affordable Housing throughout the City for the upcoming fiscal year, and Participant shall deliver that determination to Agency.
- iii. So long as Participant's determination made pursuant to clause (ii) above is reasonable, Agency shall, prior to the commencement of that given fiscal year, accept Participant's determination that the anticipated amounts to be spent on General Administrative Services are necessary for the production, improvement, or

preservation of Affordable Housing throughout the City for the upcoming fiscal year, and, pursuant thereto, Agency shall also so determine.

- iv. In the event that, for any fiscal year, Agency does not determine, in its reasonable discretion, that Participant's anticipated amounts to be spent on General Administrative Services are necessary for the production, improvement, or preservation of Affordable Housing throughout the City for the upcoming fiscal year, the parties shall meet and confer in good faith and agree upon revised amounts to be so dedicated; provided, however, that the revised amounts shall be no less than the amounts most recently determined to be necessary for the prior fiscal year, adjusted for inflation pursuant to the greater of either the Consumer Price Index ("CPI") for the City's region or 10% of the most recently approved amounts.
- v. Participant shall include and disclose the actual costs and actual amounts dedicated to General Administrative Services as part of Participant's regular annual accounting obligations as set forth in Section 3.3 of this Agreement.

(c) All remaining portions of the Agency Housing Set Aside Funds Grant, not otherwise encumbered pursuant to Section 2.3 of this Agreement, and not otherwise dedicated as set forth in Section 2.4(a) and (b) above, shall be dedicated to the construction, development, rehabilitation, and/or preservation (which may include maintenance and operation) of the remaining Affordable Units that are part of the City's Master Affordable Housing Development Project and not part of the Fifteen Acre Affordable Housing Development Project. Participant shall use its best efforts to obtain alternate funding separate from the Agency Housing Set Aside Funds Grant moneys by using its best efforts to apply for and receive separate public and/or private financing for the construction, development, and/or preservation (which may include maintenance operation) of said remaining Affordable Units. Participant shall use its best efforts to maximize the number of Affordable Units to be constructed, developed, rehabilitated, and/or preserved under the City's Master Affordable Housing Development Project, with the goal of actually developing all 7,929 Affordable Units, with the understanding and agreement of the parties that the actual final number of Affordable Units may be less than 7,929 Affordable Units given uncertainties in market conditions, private and/or public funding availability, and other conditions beyond the control of either party. Participant shall include and disclose the actual costs and actual amounts of the Agency Housing Set Aside Funds Grant contributed to the City's Master Affordable Housing Development Project (separate from the Fifteen Acre Affordable Housing Development Project) as part of Participant's regular annual accounting obligations as set forth in Section 3.3 of this Agreement.

3. TERM OF AGREEMENT; DISBURSEMENT OF GRANT FUNDS; DEVELOPMENT OF THE CITY'S MASTER AFFORDABLE HOUSING PROJECT.

3.1 Term of Agreement. This Agreement shall be effective and binding between the parties for the Grant Agreement Term.

3.2 Disbursement of Grant Funds. Provided that Participant is not in default of this Agreement, the Agency shall disburse the Agency Housing Set Aside Funds Grant as follows:

(a) First Disbursement: Agency shall disburse to Participant currently held Housing Set Aside Funds that constitute part of the Agency Housing Set Aside Funds Grant no later than 10 days after the Effective Date of this Agreement.

(b) Subsequent Disbursements: After the first disbursement described in Section 3.2(a) above, Agency shall periodically disburse to Participant the Agency Housing Set Aside Funds Grant no later than 30 days after Agency receives an allocation of Housing Set Aside Funds from the County of Orange (or successor entity responsible for allocating tax increment and/or Housing Set Aside Funds to the Agency or to any party for which the Agency has an indebtedness to be repaid) during the Grant Agreement Term.

3.3 Annual Accounting and Adjustments; Obligation to Cooperate with Agency. Commencing in FY 2010-11, and at the end of each fiscal year (or portion thereof) thereafter, Participant shall have the obligation to perform or cause to be performed an accounting and review of moneys budgeted, received, and expended in furtherance of Participant's obligations under this Agreement. The purpose of the annual accounting is to ensure that Participant regularly monitors the receipt and expenditures of the Agency Housing Set Aside Funds Grant, and to ensure that Agency may complete any and all annual disclosure requirements, including its annual report, as required by the CRL. Participant shall cooperate with Agency in furthering the purpose of this Section 3.3 and shall cooperate with Agency in connection with Agency's completing of any and all disclosure requirements required under the CRL.

3.4 Invoices and Payment for Services. For any services to be paid with the Agency Housing Set Aside Funds Grant, Participant shall require the provider of said services to submit to Participant itemized statements, with such supporting information as may be reasonably required, documenting all the costs incurred for said services. Participant shall require and ensure that any services to be paid with the Agency Housing Set Aside Funds Grant must comply with the authorized uses of said grant funds as set forth in this Agreement. In the event that any provider of services desires to obtain an advance disbursement for development activities scheduled to be undertaken or development activities not yet completed (e.g., as a down payment, advance payment, or progress payment), Participant shall require and ensure that the provider of those services presents to Participant's Executive Director (or his or her authorized designee) a contract or other evidence that the other party performing the work is entitled to an advance payment, and the provider of services has incurred the obligation so as to merit Participant's making of an advanced payment.

3.5 Schedule of Performance. Participant shall use its best efforts to construct, develop, rehabilitate, and/or preserve, or cause the construction, development, rehabilitation,

and/or preservation, of Affordable Units in accordance with the “Projected Units Built Per Year” schedule that is set forth on the last page of Appendix A of the Housing Plan. As set forth therein, anywhere from 32 Affordable Units to 61 Affordable Units are to be added per year, with 7,929 Affordable Units to be available by 2026. Notwithstanding any provision in this Section 3.5 to the contrary, Participant shall have until the Housing Set Aside Funds Termination Date to complete Participant’s obligations as set forth in this Agreement, and the parties expressly refer to and incorporate into this Section 3.5 their understanding and agreement set forth in Section 2.4(c) above.

3.6 Rights of Inspection. For any Affordable Unit(s) constructed, developed and/or rehabilitated by the Participant with the assistance from the Agency Housing Set Aside Funds Grant, representatives of the Agency shall have a reasonable right of access to said Affordable Unit(s) under construction or rehabilitation, during normal business hours, for the purposes of ensuring compliance with this Agreement, including, but not limited to, the inspection of the work being performed and the interviewing of laborers and mechanics employed for any part of the City’s Master Affordable Housing Development Project. Participant shall cooperate with, and shall cause any consultant, contractor and/or subcontractor to cooperate with, Agency in connection with its inspection and access rights. It is understood that Agency does not by this Section 3.6 assume any responsibility or liability for a negligent inspection or failure to inspect. All inspections by Agency or on behalf of Agency, approvals of payment requests by Agency and other actions by Agency in connection therewith are not to be construed as a representation by Agency that there has been compliance with any permits or plans and specifications, legal requirements, or that the project is free of defects in materials or workmanship. Any inspections or determinations made by Agency or lien waivers, receipts, or other agreements, documents, and instruments obtained by Agency are made or obtained solely for Agency’s own benefit and not in any way for the benefit or protection of Participant. Agency has no obligation to Participant to ensure compliance by a consultant, contractor, subcontractor, or any other person in carrying out such construction. No such inspections or review will limit any of the rights and remedies of Agency pursuant to this Agreement.

4. USE RESTRICTIONS FOR PROPERTIES FUNDED WITH AGENCY GRANT: PARTICIPANT ADMINISTRATION AND MONITORING OBLIGATIONS.

4.1 Participant Administration and Monitoring. No later than one (1) year after the Effective Date, Participant shall adopt by resolution a set of specific criteria and programs that will ensure all Affordable Units within the City are available to, and occupied by, Low or Moderate Income Households in accordance with affordability restrictions appropriate for the applicable Affordable Unit based on, among other items, the source of funding for the development, rehabilitation, or preservation of the Affordable Unit (referred to herein generally as the “Participant’s Administration and Monitoring Program”). Agency shall have the right to review and approve the proposed Participant’s Administration and Monitoring Program prior to the Participant’s reviewing and adopting of said program. The Participant’s Administration and Monitoring Program shall be effective upon the Participant’s Board of Directors adopting said program by resolution. Participant’s Administration and Monitoring Program shall include, at a minimum, the following in (a)-(i) below:

- (a) For any Affordable Unit that has been developed, substantially rehabilitated, or preserved with the use of Housing Set Aside Funds, the Restricted



Affordability Terms shall be the minimum term of affordability applied to the applicable Affordable Unit;

(b) For any Affordable Unit for which Participant has provided any financial assistance towards the development, substantial rehabilitation, or preservation of affordability, including financial assistance with the use of Housing Set Aside Funds, the Participant shall cause the owner of the Affordable Unit(s) to execute and record a regulatory agreement, affordable housing covenant, or other similar recordable instrument that shall run with the land and shall preserve the Affordable Unit's use and occupancy for Low and Moderate Income Households at the applicable income level for the applicable restricted period, depending upon, among other items, the source of funding for the Affordable Unit(s). This shall apply to both rental and owner-occupied Affordable Units, such that rental Affordable Units shall be available only at the applicable Affordable Rent and owner-occupied Affordable Units shall be available only at the applicable Affordable Cost.

(c) Prior to any potential tenant's occupancy of a rental Affordable Unit, and at least annually thereafter, the Participant shall verify or cause to be verified the income of the potential or current tenant to ensure that the tenant is a Low or Moderate Income Household who is eligible to occupy the rental unit, based upon the affordability level (very low, low, or moderate income level) that must apply pursuant to, among other items, the source of funding for the applicable Affordable Unit;

(d) Prior to any potential homeowner's occupancy of an owner-occupied (for sale) Affordable Unit, the Participant shall verify or cause to be verified the income of the potential homeowner to ensure that the homeowner is a Low or Moderate Income Household who is eligible to own and occupy the unit, based upon the affordability level (very low, low, or moderate income level) that must apply pursuant to, among other items, the source of funding for the applicable Affordable Unit;

(e) The process for income verification required pursuant to subdivisions (c) and (d) above shall generally follow the income verification process used by the Agency for rental and owner-occupied Affordable Units, including the use of any income verification computation form(s) generally used by the Agency in connection therewith;

(f) All Affordable Units shall be the primary residence and occupied by the Low or Moderate Income Household that has been approved to own or rent the Affordable Unit;

(g) An inventory of all Affordable Units located within the City, which inventory shall have a unique identifier for each Affordable Unit (such as a street address or Assessor's Parcel Number);

(h) A program that provides information to the general public concerning the availability of Affordable Units, the process for applying for owning or occupying an Affordable Unit, any use and rental or resale restrictions that will apply to

an Affordable Unit, the goals and objectives of the City's Housing Plan, and other relevant marketing and general information to keep the public informed about the City's affordable housing programs;

(i) A process to assume and implement all of Agency's ongoing obligations under the CRL to monitor the status and number of Affordable Units available in the Project Area and throughout the City, including but not limited to Agency's status in obtaining the Agency's Inclusionary Housing Requirement.

4.2 Use Restrictions for Affordable Units. For any Affordable Unit(s) that either is(are) owned by Participant or has(have) been developed, substantially rehabilitated, or preserved with the use of the Agency Housing Set Aside Funds Grant, the Restricted Affordability Terms shall be the minimum term of affordability applied to the applicable Affordable Unit, and Participant shall record or cause to be recorded an executed regulatory agreement, affordable housing covenant, or similar instrument to preserve the applicable Restricted Affordability Terms.

4.3 Standard of Performance. For any Affordable Unit(s) that Participant owns or operates, Participant shall operate or cause to be operated said Affordable Unit(s) in a competent, professional, and first class manner and to the satisfaction of Agency in its reasonable discretion and in accordance with this Agreement. If requested by Agency, Participant shall provide to Agency monthly written reports on the progress of any development, substantial rehabilitation, or preservation of Affordable Unit(s) owned or operated by the Participant.

4.4 Compliance with Laws and Regulations. Participant shall carry out or cause to be carried out the design, construction and operation of the City's Master Affordable Housing Development Project, and operate or cause to be operated the City's Master Affordable Housing Development Project, in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Irvine Municipal Code, and any applicable federal and state fair labor standards or laws. Each and every provision required by law to be included in this Agreement shall be deemed to be included, and this Agreement shall be read and enforced as though all such provisions were included. Participant acknowledges and agrees that it shall be and remain, and shall cause the Participant Personnel to be and remain, fully knowledgeable and apprised of all local, state and federal laws, rules and regulations in any manner affecting the performance under this Agreement.

4.5 Maintenance. Participant shall maintain or cause to be maintained all improvements on any Affordable Unit(s) owned by Participant in first class condition and repair (and, as to landscaping, in a healthy condition) and in accordance with any approved plans for the applicable Affordable Unit(s), and all other applicable laws, rules, ordinances, orders, and regulations, including without limitation the City of Irvine Municipal Code, and all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials.

## 5. RECORDS AND REPORTS.

5.1 Records. Participant shall keep and maintain or cause any owner of any Affordable Unit(s) to keep and maintain records providing a full description of the activities undertaken pursuant to this Agreement, including the development, rehabilitation, and/or preservation of Affordable Unit(s) within the City, records demonstrating compliance with this Agreement, data demonstrating client eligibility for services provided including the name, income level, family size of each client and other information for determining eligibility and a record of the services provided to each client, and such other records as may be reasonably required by Agency to enable Agency to evaluate and progress of the development, rehabilitation and/or preservation of Affordable Units in accordance with the City's Master Affordable Housing Development Project, and to identify and account for the use of the Agency Housing Set Aside Funds Grant proceeds and the expenditures and costs pertaining to this Agreement. Books and records pertaining to the project expenses shall be kept and prepared in accordance with generally accepted accounting principles or as otherwise required by Agency.

5.2 Retention. Participant shall retain or cause to be retained the books and records required to be maintained under this Agreement for a period of 3 years following the last day of the fiscal year during which the disbursement of Agency Housing Set Aside Funds Grant moneys was made; provided, however, in the event any litigation, audit, negotiation, or other action involving the books and records is commenced prior to the expiration of the 3 year retention period, Participant shall retain the books and records until completion of the action and resolution of all issues which arise from it.

5.3 Location of Records. The books and records required to be maintained under this Agreement shall be kept at the office of Participant or such other location as approved by Agency.

5.4 Access to Records. Agency and its representatives shall have full and free access to, and the right to examine, inspect, and audit, all books and records of Participant pertaining to this Agreement at all times during normal business hours.

5.5 Regular Audit; Agency Right to Request and Review. Participant shall have the obligation to have an independent certified accounting and/or auditing firm conduct an audit of Participant's economic activities no less than annually, and Agency shall have the right to review any annual audit for a period of 3 years after the completion thereof. Additionally, Agency shall have the right to require a separate audit to be performed for any fiscal year, to be paid for at Agency's sole cost and expense. In the event that an audit performed at the requirement of the Agency and the audit performed as Participant's regular annual audit reveal a material difference in the total amount of Participant's assets or liabilities, the parties shall meet and confer in good faith to review the difference and, if necessary or appropriate, prepare a budget or revise an existing budget for Participant's anticipated expenditures to correct the material difference.

## 6. GENERAL PROVISIONS.

6.1 Notices. All notices required to be delivered under this Agreement to Agency or Participant shall be delivered to the respective parties at the address set forth next to the party's

signature to this Agreement or to such other address as the parties may hereafter designate by written notice to the other party.

6.2 Non-Recourse Obligation. No member, official, employee, or contractor of Agency shall be personally liable to Participant in the event of any default or breach by Agency or for any amount which may become due to Participant or on any obligations under this Agreement. No member, official, employee, or contractor of Participant shall be personally liable to Agency in the event of any default or breach by Participant or for any amount which may become due to Agency or on any obligations under this Agreement.

6.3 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. This Agreement shall be construed and interpreted in accordance with the laws of the State of California, without regard to conflict of law principles. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement.

6.4 Entire Agreement, Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to the Agency Housing Set Aside Funds Grant. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of Agency and Participant.

6.5 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect. In the event that all or any portion of this Agreement is found to be unenforceable, this Agreement or that portion which is found to be unenforceable shall be deemed to be a statement of intention by the parties.

6.6 Prohibition Against Assignment and Transfer. The qualifications and identity of Participant are of particular concern to Agency. It is because of those qualifications and identity that Agency has entered into this Agreement with Participant. Accordingly, Participant shall not, whether voluntarily, involuntarily, or by operation of law, undergo any change in ownership or assign, transfer or convey all or any part of this Agreement or any rights hereunder without Agency's prior written approval, which shall not be unreasonably withheld.

6.7 Contract Administration and Approvals. The Agency Executive Director or his or her designee shall have the authority to consent to any matter requiring Agency approval or consent as provided in this Agreement, and to perform and carry out any activities concerning the Agency Housing Set Aside Funds Grant, including but not limited to, the execution of any implementation agreements, addenda or amendments so long as such actions do not substantially add to the costs of Agency as specified herein or substantially alter the rights and/or duties to be carried out by Agency and Participant as specified herein. The Participant's Executive Director or his or her designee shall have the authority to consent to any matter requiring Participant approval or consent as provided in this Agreement, and to perform and carry out any activities concerning the Agency Housing Set Aside Funds Grant, including but not limited to, the

execution of any implementation agreements, addenda or amendments so long as such actions do not substantially add to the costs of Participant as specified herein or substantially alter the rights of Participant and/or duties to be carried out by Agency and Participant as specified herein.

6.8 Third Party Beneficiary. The City is an intended third party beneficiary of this Agreement and shall have the right but not the obligation to enforce any of the terms and conditions as provided herein.

6.9 Authority to Execute. The person(s) executing this Agreement on behalf of the parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said party, and (c) by so executing this Agreement, such party is formally bound to the provisions of this Agreement.

6.10 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[signatures on next page]

IN WITNESS WHEREOF, Agency and Participant have entered into this Agreement to be effective as of the date set forth above.

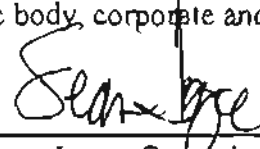
Address:

Irvine Redevelopment Agency  
Community Development Department  
Housing Division  
One Civic Center Plaza  
Irvine, CA 92623  
Attn: Housing Administrator


"AGENCY"

IRVINE REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By:

  
Sean Joyce, Executive Director

ATTEST:

  
Agency Secretary

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP

  
Agency Counsel

Address:

Irvine Community Land Trust  
c/o City of Irvine  
PO Box 19575  
Irvine, CA 92623-9575  
Attn: Executive Director

"PARTICIPANT"

IRVINE COMMUNITY LAND TRUST, a  
California nonprofit public benefit corporation

By:

  
Mark Asturias, Executive Director

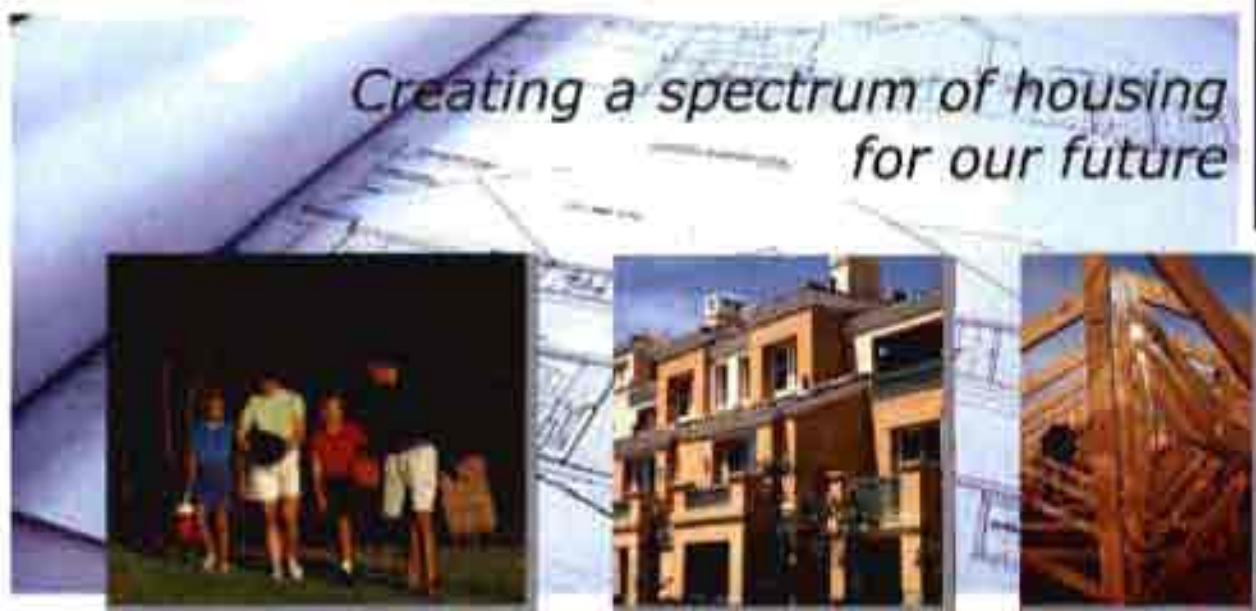
**EXHIBIT “A”**

**HOUSING STRATEGY AND IMPLEMENTATION PLAN**

[ATTACHED]

# City of Irvine Housing Strategy & Implementation Plan

March 14, 2006



Created By: CivicStone, Inc.  
Adam Eliason & John Trauth



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## **Executive Summary**

The cost of housing is very high in Orange County, and particularly so in desirable areas like the City of Irvine. The median price of a single-family home in Irvine is now \$800,000<sup>1</sup>, higher than the Orange County average (\$707,000) and much higher than the overall average for California (\$538,770).

Since its incorporation in 1971, the City of Irvine has been a leader in Orange County and in Southern California in the creation of a full spectrum of housing opportunities, including affordable housing. The City has provided inclusionary incentives locally and has also provided funding for various affordable housing projects over the years. As a result, the City now has 4,400 units of affordable housing, of which 3,155 were created through its inclusionary program and another 1,245 through HUD-assisted projects. Unfortunately, many of these affordable housing units are now at risk of losing their affordability due to expiring controls, restrictions and/or subsidies.

The recent annexation of the former El Toro Marine Corps Air Station property, and the City's subsequent creation of a Redevelopment Agency with El Toro as its project area, has created a new and significant opportunity for future affordable housing. The build-out of the residential portion of this property, together with the continuing build out of the rest of the City, will provide the City with the ability to create a significant number of new affordable housing units.

To capitalize on this opportunity, the City of Irvine hired CivicStone, Inc., a consulting firm specializing in affordable housing, to develop a housing strategy for the City. This report represents the culmination of this work.

## **Methodology**

The study methodology involved the following steps:

- a. Review of baseline data, including the City's Housing Element, the Consolidated Plan, and census and other housing data for Irvine and Orange County, produced either internally or externally.
- b. Interviews with community stakeholders to learn of their perspectives and opinions regarding affordable housing in Irvine.
- c. The creation of a Housing Task Force to work with the consultants to create a vision for future housing opportunities and a list of priority projects and programs. (See Figure 1 on the next page).
- d. City Council review and adoption of the Vision Statement.
- e. Projections of revenue sources to support affordable housing projects and programs.
- f. The creation of a unit and revenue model to estimate the feasibility of achieving the City's ambitious production goal.

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<sup>1</sup> As of January, 2006

**Figure 1**

City of Irvine Housing Strategy  
Vision Statement  
Adopted 09.27.05

By the year 2025, The City of Irvine will have a population of 250,000 and will have a full spectrum of housing types to meet the shelter needs of all income groups and special needs populations in all stages of life. Total housing units will increase from 61,800 (2005) to 97,000 (2025) and the number of affordable units will increase from 5 percent currently (3,155) to 10 percent (9,700).

Candidate Housing Priorities

Irvine's overall housing strategy will maintain the high quality of both new and existing housing, emphasizing permanent affordability whenever possible, and continue to disperse the affordable units throughout the community. Design standards will incorporate green design/sustainable development and accessible development features to improve affordability and contribute to resource conservation and accessibility in the community.<sup>2</sup>

The strategy will have the following priorities (not stated by order of priority):

- Facilitate development of additional rental housing.
- Create equity-building opportunities for first-time homebuyers by facilitating the renter-to-owner transition process and increasing the amount of for-sale affordable housing.
- Partner with Irvine's colleges and universities to create additional faculty and student housing.
- Develop housing for special needs groups (including, but not limited to, youth, seniors, single parents, developmentally disabled, SROs, people living with AIDS or chronic illnesses, supportive/transitional housing, and mobile home parks).
- Preserve existing affordable housing.
- Reduce frequency and duration of homelessness.

The implementation of the strategy will take into account the housing needs assessment as reflected in the City's updated Housing Element. The City will partner with the business community in this effort and also encourage other Orange County cities to follow its lead in creating more affordable housing.

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<sup>2</sup> Recycling construction waste, decreasing energy consumption, using durable, sustainable, recycled materials, reducing water use for landscaping, providing on-site supportive services and creating transit alternatives.

## Recommendations

As the Vision Statement indicates, the City has adopted an ambitious goal of 9,700 units of affordable housing by the year 2025, representing 10 percent of the City's total projected housing units. To meet this goal, the City will need to be highly pro-active in facilitating the creation of affordable housing over the next 20 years.

Fortunately, there are substantial resources to support that effort. According to current estimates, the City will generate \$143 million in 20 percent housing set-aside funds<sup>3</sup> generated from the development of the El Toro project area, and also an equivalent of \$125 million from in-lieu fees created through its inclusionary housing program.<sup>4</sup> Other resources are also available.<sup>5</sup>

In order to maximize the use of these resources, the Housing Strategy and Implementation Plan presents three primary recommendations:

### 1. Creation of the Irvine Community Land Trust (the "Trust")

The Trust will be the vehicle through which the City implements its affordable housing strategy. While typically small and infrequent in California, community land trusts ("CLTs") have been used in other parts of the country to create significant amounts of permanently affordable housing. CLTs do this by retaining ownership of land (either donated or purchased) and leasing the land to the owner of the improvements for the creation of affordable housing. CLTs retain both the ownership of the land and the right to repurchase the improvements in the future at a formula-determined price, enabling the units to be re-sold or re-rented at affordable prices in perpetuity. In addition to ownership and rental projects, CLTs can also facilitate the creation of affordable housing designed to serve special needs populations.

The Irvine Community Land Trust (Trust) would have the following characteristics:

- a. Approved by the IRS as a 501c3 public charity.
- b. Governed by an initial seven member Board of Directors, appointed by the City Council, including two Council representatives, three community representatives, and two resident representatives.<sup>6</sup> The Trust also includes an "Advisory Committee" which would include local developers, non-profits, bankers, and other stakeholders.

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<sup>3</sup> NPV at 6 percent.

<sup>4</sup> The current inclusionary ordinance allows developers the "menu" options of satisfying the 15 percent requirement by building affordable units, paying equivalent in-lieu fees, or donating land of equivalent value.

<sup>5</sup> Community Development Block Grants, HOME program, and federal low income housing tax credits are also available.

<sup>6</sup> The resident representatives would eventually be elected by the residents of the Trust's projects. Community representatives will eventually be elected by the Trust Board, while the Council representatives will always be appointed by the City Council.

- c. Initially staffed by City employees and later with non-City employees.
- d. Capitalized eventually with a seed grant from RDA set-aside funds (allowable expenditure) estimated at \$250,000.
- e. Self-sustaining from development fees and fees for services (projected to cover operating expenses after the Trust attains 200 units).
- f. Begin with the development of an affordable homeownership project and an affordable rental project, then expand into development of special needs projects.<sup>7</sup>
- g. City can take control, should problems arise, and resolve them.<sup>8</sup>

## 2. Modification of the City's Existing Homeownership and Rental Housing Programs

Modify the existing programs to work with the Trust would make the Trust the central implementing body of the City's housing strategy. Suggestions for various program modifications are included in the full report.

## 3. Adoption of New Design Guidelines

New design guidelines would incorporate green design/sustainable development features to improve affordability and contribute to resource conservation and accessibility in Irvine.

# Strategy Implementation

In order to achieve the ambitious goal of 10 percent (9,700 units) by 2025, the City must first establish the Irvine Community Land Trust. With the Trust in place, the City can use it to take maximum advantage of all available resources, both now and in the future, to create permanently affordable housing.

In order to project how the 10 percent (9,700 units) goal can be attained, a unit and revenue model was developed which includes a series of assumptions that influence the total unit outcome by 2025. Key assumptions include (1) estimates of per unit subsidies necessary to create affordability, (2) the various revenue sources generated over time to support the strategy, and (3) the costs of preserving affordability of existing "at risk" units. Other variables could also affect the final unit count (i.e. the use and/or transfer of density bonuses). The model summary appears on the following page and details appear in the appendix of the report.

The model demonstrates that the goal of 9,700 units is possible but will require significant changes to the City's housing programs. With conservative assumptions based on the City's currently projected revenues and inclusionary requirements, a total of 7,929 units are likely to be produced, 1,771 units short of the goal. However, the goal of 9,700 units would be achievable under slightly more aggressive assumptions. For

<sup>7</sup> Special needs projects include senior housing, assisted living projects, transitional/supportive housing, homeless shelters and programs, projects for developmentally disabled populations, etc.

<sup>8</sup> Control is maintained by agreements on land transfer.

example, if the City sets aside more than the minimum 20 percent of tax increment funds for affordable housing, increases incentives in the inclusionary ordinance, negotiates for preservation of existing affordable units, and/or increases its leverage of state and federal housing funds, 9,700 units is possible.

## City of Irvine

### Affordable Unit & Revenue Projections

March 7, 2006

#### ASSUMPTIONS (see appendix for further details)

Percent of IBC area paying an in-lieu fee	10%
Percent annual increase in construction costs	3%
Percent annual increase in land value (in-lieu fee)	5%
Total # of units at Great Park	3,625
Affordable Rental Units Built From Available Revenues	80%
Affordable Ownership Units Built From Available Revenues	20%
Existing/Approved Ownership Units *	
Previous DAP units	10
Newly funded DAP units	10
Habitat for Humanity	12
Approved For Sale Units	93
<b>Total</b>	<b>125</b>

#### PROJECTED HOUSING REVENUES

	2006	2011	2016	2021	2026
Low/Mod Housing Set-Aside	\$1,300,035	\$22,464,981	\$67,899,974	\$120,278,238	\$180,999,699
In-Lieu Fee (IBC Area)	\$2,494,200	\$13,782,029	\$13,782,029	\$13,782,029	\$13,782,029
In-Lieu Fee (Infill Projects)	\$50,000	\$340,096	\$710,339	\$710,339	\$710,339
In-Lieu Fee (Great Park)	\$0	\$0	\$0	\$0	\$0
CDBG Capital Expenditures towards subsidizing units	\$500,000	\$3,000,000	\$5,500,000	\$8,000,000	\$10,500,000
HOME less CHDO Set Aside & Admin	\$487,500	\$2,925,000	\$5,362,500	\$7,800,000	\$10,237,500
<b>Total Housing Revenues Available To Build New Units</b>	<b>\$4,831,735</b>	<b>\$37,680,371</b>	<b>\$93,254,843</b>	<b>\$150,570,607</b>	<b>\$216,229,567</b>

#### PROJECTED UNITS BUILT PER YEAR

Subsidy Per Affordable Rental Unit (see appendix for assumptions)	\$150,000	\$154,500	\$159,135	\$163,909	\$168,826
Subsidy Per Affordable Ownership Unit (110% median income buyer)	\$150,000	\$154,500	\$159,135	\$163,909	\$168,826
Agency Assisted Rental Units Built <u>Per Year</u>	26	208	422	630	835
Agency Assisted Ownership Units Built <u>Per Year</u>	6	52	105	157	209
<b>Total Agency Assisted Affordable Units Built <u>Per Year</u></b>	<b>32</b>	<b>260</b>	<b>527</b>	<b>787</b>	<b>1,044</b>

#### CUMULATIVE UNITS AVAILABLE

Existing Affordable Units (3,155 + 1,245)	4,400	2,842	1,677	1,677	1,677
Preservation of Existing Affordable Units at no cost	0	0	0	0	0
Existing/Approved Ownership Units *	18	125	125	125	125
Inclusionary Units Built per MAHP	250	2,500	3,189	3,189	3,189
Inclusionary Units Built (IBC)	0	1,350	1,350	1,350	1,350
Total Agency Assisted Units (Permanently Affordable)	32	260	527	787	1,044
Great Park Affordable Housing (15% of Total Great Park Units)	0	450	544	544	544
Inclusionary Infill Units (Non MAHP, Great Park, IBC)	0	0	0	0	0
<b>Total Affordable Units</b>	<b>4,700</b>	<b>7,527</b>	<b>7,412</b>	<b>7,672</b>	<b>7,929</b>

The model results emphasize the need for the City to be aggressively proactive to maximize the acquisition of land, together with the use and leverage of its funds, in order to achieve this goal. For example, under the City's current inclusionary housing requirements, 15 percent of all new construction projected through build-out will result in 5,459 affordable units. The remaining 4,241 units of the 9,700 goal, if built, would require approximately 170 acres of land. However, if half of the existing 4,400 affordable units could be preserved, the land requirement would be reduced to 89 acres.<sup>9</sup>

The implementation plan includes nine action steps:

1. Approve the strategy, appoint the interim Board of the Trust, and authorize the Board to file the 501c3 application with the IRS.
2. Direct City staff to serve as initial Trust staff.
3. Appoint the rest of the Board and, while awaiting IRS approval, begin organizational activities with the Trust, including the creation of the Trust's business plan, financial projections and legal documents (land lease, resale agreements, etc.).
4. Approve a seed grant based on the Trust's final business plan, which will cover the Trust's estimated capital needs to sustainability, and fund it from Redevelopment set-aside funds. The seed grant is currently estimated at \$250,000 but due to interim staffing by the City, will probably not be necessary until FY 2008 to 2010. The amount of the grant is subject to revision upon completion/adoption of the Trust's final business plan.
5. Update housing affordability standards consistent with the requirements of State law and describe how the City implements the law in its affordable housing programs.
6. Revise the City's Inclusionary Housing Program to (1) require permanent affordability for future inclusionary units created, through permanent affordability covenants dedicated to the Trust; (2) revise the inclusionary program to increase the incentives for land donations to the Trust; and (3) resist investing local subsidy funds into inclusionary units because this will diminish the ability to create more new units.
7. Develop project priorities for the Trust, beginning with an affordable homeownership project and an affordable rental project (as described above) and then proceed to develop special needs projects. Evaluate the trade-offs between preserving existing units and building new ones, particularly if the new units will be permanently affordable.

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<sup>9</sup> Assumes a density of 25 units to the acre.

8. Implement a Community Land Trust Outreach Program to inform bankers, non-profits, community groups, the County of Orange, affordable housing service providers, and other stakeholders of the creation of the Trust so that they will understand the concept and be prepared to work with and support the Trust.
9. Create and update unit production objectives every five years from 2006 through 2025, and use the model described above to track progress and manage toward the five year goals and the 20 year ten percent (9,700 units) goal. Also make the Strategy a “living” document with periodic updates to reflect future changes in housing needs, subsidy sources, changes in federal and state requirements, etc.

### **Future Possibilities**

Although not presently contemplated in this strategy, community land trusts are eligible to develop mixed-use projects, including a combination of commercial and residential space. Some CLTs use the commercial rents to cross-subsidize their affordable housing projects, thereby generating an internal on-going source of subsidy. This might be an option for Irvine in the future.

In the same context, some CLTs have also participated in the development of “non-profit villages,” for which CLTs lease land for the creation of below-market commercial space for non-profits’ offices and operations.



## **I. INTRODUCTION**

The City of Irvine is one of the most successful master planned communities in the country, and has become a community that is highly desirable for Southern California residents. Many factors make a community desirable, and one of the key factors is home affordability. An effective measuring tool of home affordability is to compare a city's median home price to that of surrounding communities, the county and the State. Although the quality of life in Irvine is reported to be high, the City struggles with how to address affordability in home prices. While the median home price in California and Orange County is \$538,770 and \$707,000 respectively, the median home price in the City of Irvine as of January 2006 is \$800,000.

Despite this disparity in regional home prices, the City of Irvine has been committed to creating opportunities for affordable housing since its incorporation in 1971. The Irvine City leaders and staff have worked diligently over the years to bring a spectrum of housing opportunities to the City, of which nearly a third serve extremely low and very low income groups. In fact, Southern California residents are often surprised to learn of the variety of affordable housing opportunities that exist in Irvine. Not only are there a variety of affordable housing projects within the City, but affordable advocacy groups have noted Irvine's high quality affordable housing stock. The City of Irvine has provided an excellent example for other communities in Orange County and Southern California.

Although so much has been accomplished over the years to create, maintain and enhance Irvine's physical environment, recent events have created new affordable housing opportunities for Irvine as it enters the final and vital stage of its development.

This Housing Strategy Report and Implementation Plan reviews the past accomplishments and presents new affordable housing opportunities. City leaders and staff are supportive of affordable housing and are open to innovative ideas for new affordable housing in Irvine. This document will present the results of extended research, propose an affordable housing strategy for the City of Irvine, and offer an implementation plan to put the strategy into action.



## II. METHODOLOGY

Several factors led to the development of the affordable housing strategy:

1. In March 2003, the City Council approved amendments to the City of Irvine's Affordable Housing Implementation Procedures. The revisions made it mandatory that 15 percent of the City's new housing development be affordable. In October 2003, the City Council approved a defined affordable housing in-lieu fee and credits program. In 2004, the City Council adopted priorities and policies for the use of in-lieu fees.
2. In March 2003, the City Council approved a Master Affordable Housing Program submitted by The Irvine Company for planning areas in the northern part of the City. Since then, changes to the zoning of other areas have increased the maximum permitted number of dwelling units in all the remaining planning areas to 21,253. The inclusionary requirements of the City will generate the following number of affordable units:

i.	Extremely Low, Very Low Income	1,063 units
ii.	Low Income	1,063 units
iii.	Moderate Income	<u>1,063 units</u>
	Total	3,189 units

3. In 2005, Irvine's recently established Redevelopment Agency established its first and only redevelopment Project Area. This created a mechanism to obtain significant revenues from housing set-aside funds, which are generated from property taxes, contingent upon future development of the project area.
4. In 2005, the El Toro Marine Corps Air Station, previously annexed to the City after base closure, was sold to Lennar Corporation. This action began the timeline to develop the housing surrounding the Great Park and also created the opportunity for tax increment financing (see Section III Redevelopment in Irvine for further explanation) for the Redevelopment Agency's Project Area.

Recognizing the resources the redevelopment project area would create for affordable housing, the City Council directed staff to develop goals and a comprehensive strategy and plan for the City's housing needs. To develop the Housing Strategy and Implementation Plan, a contract with CivicStone, Inc. was approved at the City Council and Redevelopment Agency meeting on March 15, 2005. CivicStone was selected due to their prior experience in the development of affordable housing strategies for cities, including cities with decommissioned military bases. Team members also had experience with several non-profit organizations which were operating affordable housing programs in Irvine and in Orange County.

The Housing Strategy and Implementation Plan was developed with advice and input from the Irvine City Council, members of the Planning Commission and other local commissions, and various affordable housing groups. Community involvement was also solicited from other individuals and organizations operating in and around Irvine. In all, 35 affordable housing “stakeholders” were interviewed. Their input was indispensable in structuring the direction and focus of the vision for housing and the priorities for specific affordable housing projects and programs in Irvine. This inclusive process has enabled the development of a strategy which reflects the ideas and suggestions of a broad-based constituency.

The creation of the Housing Strategy and Implementation Plan proceeded through the following steps:

1. Determining and prioritizing housing needs in the City.
2. Reviewing potential development opportunities.
3. Establishing a vision statement and priorities.
4. Designing housing programs and projects to meet the needs.
5. Adopting the overall Housing Strategy.
6. Approving the Implementation Plan for the Strategy.

In addition to the interviews described above, CivicStone consultants reviewed related available data pertinent to the creation of the Housing Strategy and Implementation Plan, including:

1. The current Housing Element.
2. City of Irvine Zoning Code - Chapter 2.3, Affordable Housing Implementation Procedure.
3. Housing Market Analysis – 2005-2009 Consolidated Plan.
4. Strategic Plan – 2005-2009 Consolidated Plan.
5. Master Affordable Housing Program – March 2003 Amended August 2004.
6. Affordable Housing Status Report – September 2004.
7. Irvine Demographic Information.
8. Renters’ Advisory Task Force Report - August 2001.

To assist the CivicStone team in the development of the strategy, a Housing Task Force was appointed by the City Council. The Housing Task Force helped develop the vision statement for the Housing Strategy, reviewed the concepts proposed, and also reviewed the Implementation Plan. Finally, the Housing Task Force voted to recommend that the City Council adopt the Housing Strategy and Implementation Plan.

The following individuals served as members of the Housing Task Force:

1. The Honorable Beth Krom, Mayor
2. Mr. Larry Agran, City Councilmember, Chair, Orange County Great Park Board

3. Ms. Mary Ann Gaido, Chair Planning Commission
4. Mr. Doug Sheldon, Planning Commissioner
5. Ms. Jeannie Luong – Community Services Commissioner
6. Dr. Thomas Parham – Past Planning Commissioner and University of California at Irvine faculty member.
7. Dr. Mary Scott – Vice President of Administration, Concordia University

The Task Force meetings were open to the public and attended by various stakeholders in affordable housing and other members of the community. These meetings helped determine the future priorities and direction of housing in Irvine.

On September 27, 2005 the City Council and Redevelopment Agency Board approved the Vision Statement of the Housing Strategy as recommended by the Housing Task Force. This Vision Statement will shape the Housing Strategy as well as future policy decisions for affordable housing in the City of Irvine. It is presented on the following page.

## **City of Irvine Housing Strategy Vision Statement Adopted 09-27-05**

By the year 2025, The City of Irvine will have a population of 250,000 and will have a full spectrum of housing types to meet the shelter needs of all income groups and special needs populations in all stages of life. Total housing units will increase from 61,800 (2005) to 97,000 (2025) and the number of affordable units will increase from 5 percent currently (3,155) to 10 percent (9,700).

### **Housing Priorities**

Irvine's overall housing strategy will maintain the high quality of both new and existing housing, emphasizing permanent affordability whenever possible, and continue to disperse the affordable units throughout the community. Design standards will incorporate green design/sustainable development and accessible development features to improve affordability and contribute to resource conservation and accessibility in the community.

<sup>1</sup>

The strategy will have the following priorities (not stated by order of priority):

Facilitate development of additional rental housing.

Create equity-building opportunities for first-time homebuyers by facilitating the renter-to-owner transition process and increasing the amount of for-sale affordable housing.

Partner with Irvine's colleges and universities to create additional faculty and student housing.

Develop housing for special needs groups (including, but not limited to, youth, seniors, single parents, developmentally disabled, SROs, people living with AIDS or chronic illnesses, supportive/transitional housing, and mobile home parks).

Preserve existing affordable housing.

Reduce frequency and duration of homelessness.

The implementation of the strategy will take into account the housing needs assessment as reflected in the City's updated Housing Element. The City will partner with the business community in this effort and also encourage other Orange County cities to follow its lead in creating more affordable housing.

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<sup>1</sup> Recycling construction waste, decreasing energy consumption, using durable, sustainable, recycled materials, reducing water use for landscaping, providing on-site supportive services and creating transit alternatives.

### **III. REDEVELOPMENT IN IRVINE**

It has been nearly 60 years since James Irvine sold 4,000 acres of land to the United States Marine Corps for \$100,000. The nation was in the midst of World War II and the land quickly became the El Toro Marine Corps Air Station.

The El Toro Marine Corps Air Station served the country from 1945 through 1993, when it was decommissioned by the Federal government. In 2005, the land returned to private ownership. Lennar Corporation, one of the nation's leading residential and commercial developers, purchased the military property through an online auction for \$645 million. Proposed development plans include the creation of the first major metropolitan park in the United States built in the 21<sup>st</sup> century. The total acreage for public uses at the Orange County Great Park represents 83 percent (3,901 acres) of the total plan. The project includes a full spectrum of residential uses and densities, including a transit-oriented development adjacent to a Metrolink/Amtrak rail station. The Great Park also includes a golf course, cemetery, commercial, agriculture, education, research & development, sports, recreation and open space land uses. The residential component of the Great Park project (3,625 units - 792 acres or 17 percent of the total plan) will include affordable housing development in partnership with the City of Irvine.

The City and its developers have a long history of creating successful affordable housing projects and programs. Together they have established 4,400 affordable housing units dispersed throughout the City of Irvine. While the City will now focus significant attention to the pursuit of affordable housing at the Great Park site, it will also continue to pursue additional affordable housing projects throughout the City.

The return of the El Toro Marine Corps Air Station to private ownership, in combination with the formation of the City's first and only redevelopment project area encompassing the military base boundaries, will now provide a major opportunity for the continued development of affordable housing.

Redevelopment in California began in 1945, around the same time that James Irvine originally sold the land to the United States Marine Corps. At that time, redevelopment agencies were given the power to assemble property and receive tax increment revenue in order to meet the city's economic goals. Redevelopment agencies issue tax increment bonds to finance city improvements without using General Fund monies or raising taxes. Tax increment is derived from the increasing value of property created by the improvements made to property and the investments of the redevelopment agency.

In 1976, the State Legislature required that 20 percent of the tax increment funds generated from project areas must be used to improve the community's supply of affordable housing. Preliminary estimates project that the Irvine Redevelopment Project Area will generate a net present value of \$143 million in housing set-aside funds.





#### **IV. AFFORDABLE HOUSING**

There are two definitions of affordability in relation to housing. First, according to the U.S. Department of Housing and Urban Development, households making less than 80 percent of the area's median income and paying more than 30 percent of their income for housing are in need of affordable housing. Using this definition, a mother and father with two children living in Irvine making up to \$61,450 (80 percent of the Orange County 2005 median income) would qualify for affordable housing.

The second definition of affordable housing comes from the State of California Redevelopment Law. It states that households making less than 120 percent of the area's median income are in need of affordable housing. Using this definition, the same family stated above would meet the affordable housing requirement if their household income was up to \$90,850 annually.

##### **Housing Crisis**

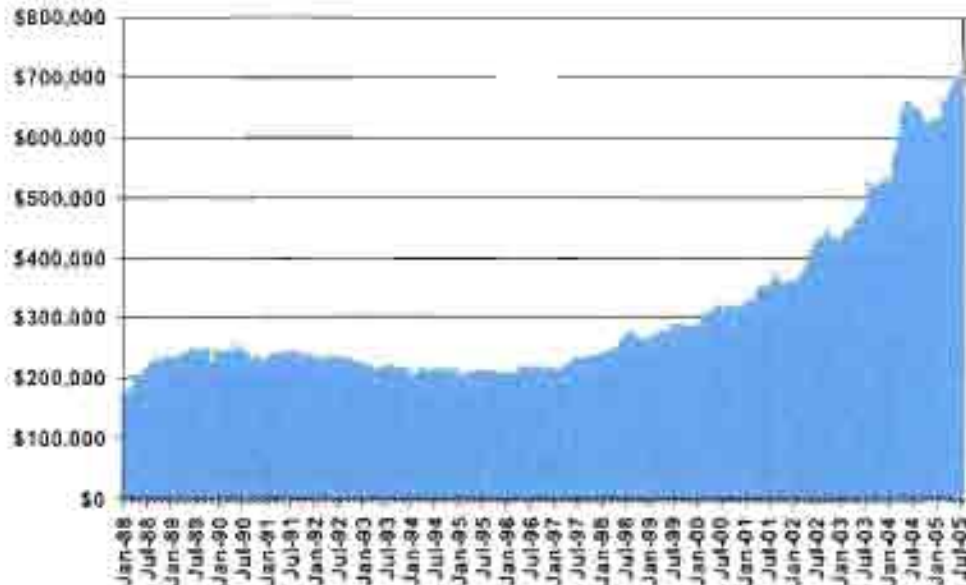
Change is one of life's guarantees. In 1950 the nation's average home was 983 square feet. Eighty-six percent of homes had only one story, 66 percent had only two bedrooms and 96 percent had 1.5 bathrooms or less. Skyrocketing housing prices were first identified as a "crisis" in California in the mid-1970s.

In October 1978, the median home price in the State climbed to \$64,424, a 24.6 percent increase in one year. In May 1979, the median home price in California hit an all time high of \$81,051.

Between the years 2000 and 2005, skyrocketing housing prices have also created a current crisis of affordability. As of July 2005, the median home price in the State of California was \$538,770, while in Orange County it was \$707,000 (Chart 1). In the City of Irvine, the median home price for a single family home sold in the last three months of 2005 was \$800,000, while the median home price of active single family homes available for sale was \$950,000. The condominium/town home sales prices are also above the State of California's single family sales prices. In the last two months of 2005, the median sales price of a condominium/town home in Irvine was \$560,000 and active homes available for sale had a median list price of \$635,000. Despite these alarming numbers, there is still hope for creating more affordable housing through implementing new and innovative programs.

**Chart 1**  
**Median Price of Existing Detached Homes**

Orange County, July 2005: \$706,820, Up 9.0% Y-T-Y

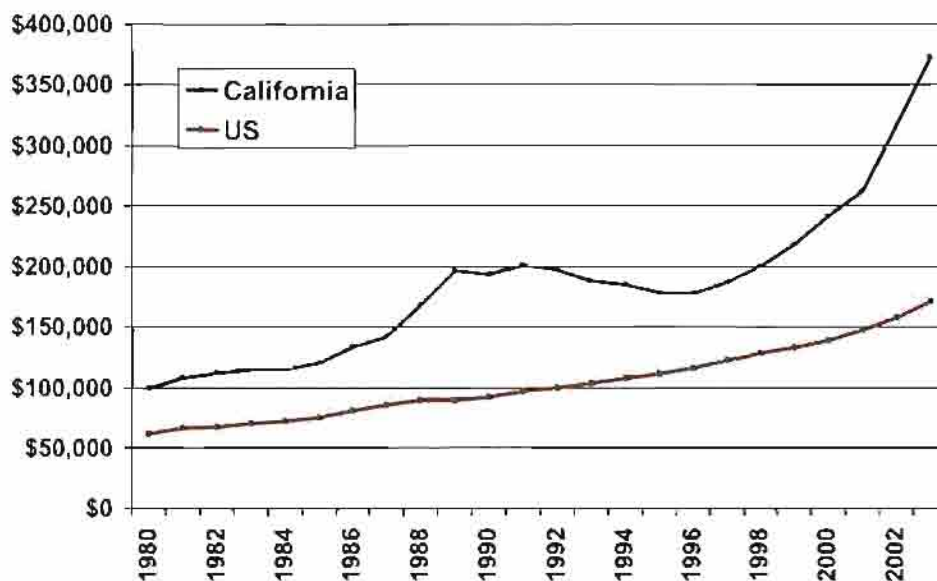


SOURCE: California Association of REALTORS®

Perhaps the greatest concern for cities attempting to offer affordable housing in their communities is the affordability gap, which continues to widen. Increases in the annual median home price are far out-pacing the increases in household income. This makes owning a home ever more difficult. On Chart 2, the California median home price increased from \$100,000 in 1980 to approximately \$375,000 in 2003, reflecting an increase of 375 percent.

**Chart 2**  
**California vs. U.S. Median Prices**

1980-2003

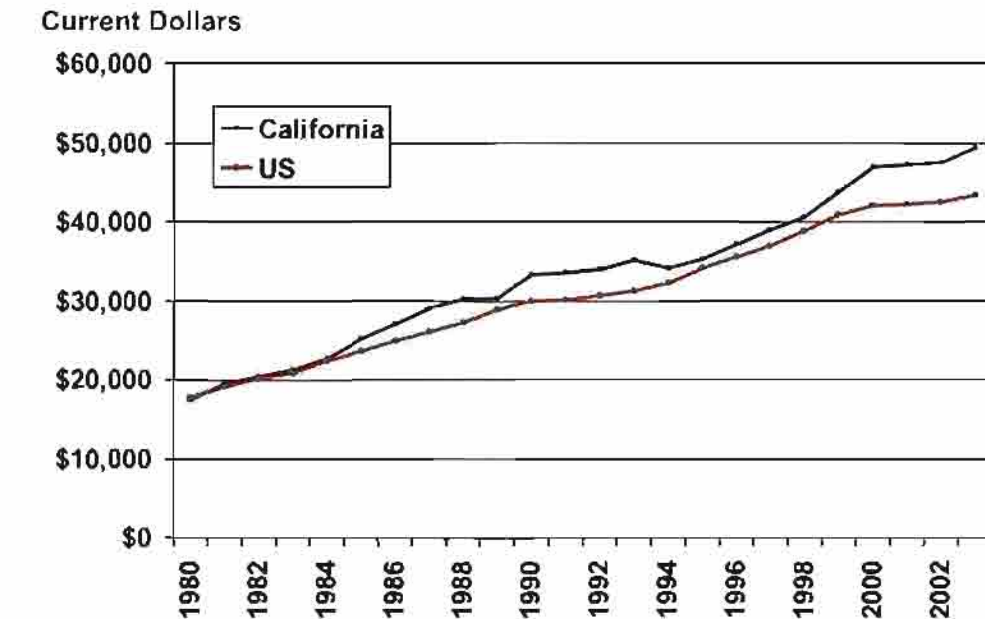


SOURCE: California Association of REALTORS®

The housing affordability crisis is visually apparent when comparing these rising home prices to the change in incomes over the same period. On Chart 3, that household income for the State of California and the United States rose from just under \$20,000 in 1980 to approximately \$50,000 in 2003, an increase of 150 percent, which is much lower than the percentage increase in housing prices. National statistics also show a more rapid increase in housing prices when compared to increases in income, but the situation in the California housing market is more extreme, leading to the affordable housing crisis that currently exists here.

### Chart 3 California vs. U.S. Household Income

1980 - 2003



SOURCE: U.S. Census Bureau, CA Dept of Finance

Home ownership is not only problematic in California, but renting is also a struggle for many. A December 13, 2005 report by the National Low Income Housing Coalition (NLIHC) cited that California was the second least affordable area in the country.

NLIHC calculates what is called the Housing Wage, which is the hourly pay rate required for rent and utilities. Orange County has a Housing Wage of \$25.69 per hour necessary to afford a modest two-bedroom apartment. Since the mean hourly wage for a renter in Orange County is \$15.00, an affordability gap of \$10.69 per hour exists. This is the wage gap which exists that is necessary to afford a modest unit. An affordable housing advocacy group further cited that 57 percent of Orange County's renters do not earn enough income to afford a two-bedroom unit at the Fair Market Rate.

In December 2005, the California Association of Realtors estimated that prospective homebuyers would have to earn approximately \$171,000 per year to afford a median-priced single-family home in Orange County. This figure assumes that buyers used a 30-year, 6 percent fixed-rate loan and made a 20 percent down payment (\$141,364).

A community requires an adequate supply of all types of housing in order to address the variety of demand from various income levels. Multifamily units tend to accommodate people who desire to live near certain businesses or public facilities. Multifamily rental housing is needed not only for those people who are at certain stages of the housing spectrum, but also for those who desire to remain mobile for employment or other reasons.

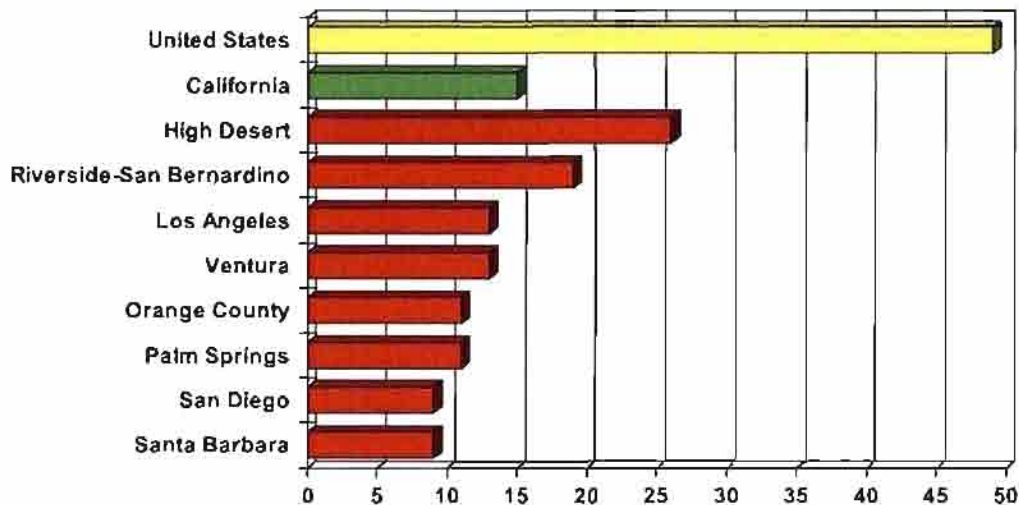
The U.S. Census Bureau's most recent American Housing Survey shows that more than 70 percent of families with incomes in the lowest quintile spend 30 percent or more of their income on housing, while an alarming 46 percent spend more than half of their income on home mortgage or rental payments. More information on the American Housing Survey can be found at [www.census.gov/hhes/www/housing/ahs/ahs.html](http://www.census.gov/hhes/www/housing/ahs/ahs.html).

In comparison to other states, California has a much smaller percentage of households who qualify to purchase a house, and Orange County has an even smaller percentage of qualifying households. Chart 4 reflects the percent of households living in a variety of cities and regions in California that would qualify to purchase the median priced home.

**Chart 4**

## **Housing Affordability**

September 2005



SOURCE: California Association of REALTORS®

California Association of REALTORS®





In 2005, many households who work in Irvine found it nearly impossible to buy or rent homes in Irvine. This not only affects the current economics of the city but the future as well. Many young educated professionals are faced with the choice to either move out of state or continue to work in Irvine but live in the Inland Empire areas of Riverside and San Bernardino where housing is much more affordable. However, this causes greater strains on the existing regional transportation system and longer commutes leading to lower employee productivity, lower quality of life, increased pollution, etc.

Chart 5 below summarizes the different income levels and the rents and mortgages they can afford.

Chart 5

INCOME CATEGORY	ANNUAL INCOME	MONTHLY RENT	MAXIMUM MORTGAGE *
Very Low Income (50%)	\$38,400	\$946	\$60,100
Low Income (80%)	\$61,450	\$1,135	\$119,100
Moderate Income (120%)	\$90,850	\$2,081	\$270,000

\* Assumes State Redevelopment Law calculations, 3 bedroom unit, Gross Monthly Rent including utilities, 30 percent income towards housing for both renters and homeowners, 6.75 percent fixed interest rate, 30 year term and minimal debt and good credit, HOA \$300 per month.

These charts visually indicate that homeownership will be a very difficult and expensive component of the Irvine Housing Strategy. A strategy that both supports rental housing and includes a provision to transition into homeownership is ideal. Without a strategy to bring renters of affordable units into homeownership, renters will likely never make that transition.

The City of Irvine continues to view affordable housing as a vital part of the community infrastructure rather than a social program. Affordable housing is essential not only to the community of Irvine, but to the surrounding communities and businesses, contributing to the health of the regional economies now and in the future.

The City of Irvine has made significant community investments in education, culture, sports, and services that all contribute to a quality lifestyle for its present and future residents. Today, young professionals in Irvine are increasingly faced with the dilemma of affordable housing. A decade ago, they would have transitioned to be part of the home-owning middle class. Affordable housing offers opportunities for the younger generation to live in the same community as their parents and grandparents. It provides an option for them to stay in the area rather than move out of the area or out of the state. It also offers the opportunities for the aging baby boomers with limited income to live near their children who are residents of Irvine. Finally, affordable housing can be designed to serve the needs of Irvine residents with special needs.

When employees are unable to find affordable housing near their places of work, it gives businesses one more reason to relocate to areas with housing that is affordable to

their employees. Aerospace engineers, school administrators, pharmacists, registered nurses and computer programmers are just a few of the occupations who don't generally earn enough to qualify for a mortgage in Irvine. Affordable housing in the City of Irvine will provide homes for these professionals and encourage businesses to remain in the City.

If the City of Irvine is to meet the housing challenges of tomorrow, it must adopt a coherent and focused set of policies and programs for its future. While Irvine has demonstrated an exemplary level of commitment to affordable housing in all categories, current circumstances demand that more must be done. Thomas Henry Huxley once said:

*"The rung of a ladder was never meant to rest upon, but only to hold a man's foot long enough to enable him to put the other somewhat higher."*

This report presents a Housing Strategy and Implementation Plan to provide future generations with affordable housing options which address the full spectrum of housing needs within the community.





## **V. STRATEGY CONSTRUCT**

Fortunately, the City of Irvine is uniquely positioned to address its future affordable housing challenges. The City has been successful in its past efforts to secure state and federal funds for housing. It will now have access to two new major sources of funds which will become available in future years.

- Inclusionary Zoning Ordinance Program: The City's inclusionary zoning ordinance program, adopted in 2003, which requires that 15 percent of all new units in Irvine be affordable. The value of the City's inclusionary requirement is estimated to be \$125 million with most of the funds generated in the next 15 to 20 years.
- Redevelopment Set-Aside Funds: Redevelopment 20 percent housing set-aside funds will be generated from the Orange County Great Park project area, which was established as a redevelopment area in 2005. It will generate approximately \$143 million over 40 years, with most of the funds generated by development in the next 15 to 20 years.

The City will, of course, also continue to qualify for other affordable housing funds from traditional sources, such as Federal Community Development Block Grants and HOME Investment Partnerships, State of California Housing and Community Development programs (including Proposition 46 Funds), Housing Tax Credits for specific projects, etc.

With respect to the two major sources of funds described above, the City currently provides "menu options" to developers for creating affordable housing to satisfy these requirements. Developers are given various alternatives:

- Build the affordable units under the City and Redevelopment inclusionary requirements (which, however, remain affordable only for a finite time period, currently 30 years);
- Pay the in-lieu fees to the City. However, if the City cannot use these funds in an expeditious manner, the value of these payments would decrease over time);
- Extend affordability on existing units or convert market units to affordable, and/or;
- Donate land of equivalent value as the calculated in-lieu fee.

From the City's perspective, land donations provide clear advantages over the other three options. First, vacant land provides the opportunity to build larger scale projects, achieving economies of scale, and through which affordable units can be integrated.

Second, land appreciates over time, so its value increases. Third, control of land provides the opportunity to create affordable housing which is permanently affordable.

There is also the issue of the City's ability to absorb and utilize large sums of money in an effective manner, particularly if land is unavailable, difficult to obtain, or rapidly increasing in value. The greatest opportunity for land donations will come from the negotiations with the land owner of the El Toro property, The Lennar Corporation. However, the same strategy can be applied to the future approvals of the remaining developments of The Irvine Company and other land owners and/or developers of land in the rest of the City.

**For all of these reasons, the City's affordable housing strategy should concentrate on land acquisition.**

#### Proposed Structure

To expedite and manage land acquisition, the foundation of the Housing Strategy proposed for the City of Irvine involves the creation of a new entity, "The Irvine Community Land Trust," ("ICLT", or "the TRUST.")

The ICLT will enable the City to have an effective and clearly articulated strategy which can be communicated to developers for obtaining land and preserving the value of this asset. The TRUST will also enable the City to use its funds effectively and leverage them with other funds to create future affordable housing which will meet the City's overall affordable housing goals, as presented in the Vision Statement. Finally, and of significant importance, the TRUST will also ensure that the housing created will remain permanently affordable for generations to come without the need to add additional subsidy.

#### What Are Land Trusts?

There are two types of land trusts: conservation trusts, which acquire and protect open space and agricultural land, such as the Irvine Ranch Land Reserve Trust; and community land trusts ("CLTs"), which focus on acquiring land for affordable housing and related uses and then facilitating the creation of permanently affordable housing on these sites.

The Community Land Trust concept was first developed in the late 1970's. One of the earliest CLTs is the Burlington Community Land Trust, in Burlington, Vermont, which is today the largest in the country. Through the efforts of the Institute for Community Economics, the CLT concept was formally incorporated into Federal law in 1992. As of August 2005, there were 144 community land trusts operating in the United States, of which 15 were in California. However, only five of the California CLTs are active, and most are boutique operations operating without significant resources. In other parts of the country, notably in the East and the Midwest, CLTs have had more resources and have played a more significant role.

The Irvine Community Land Trust would be the first CLT in California to begin operations with significant resources and its success could further demonstrate the validity of this concept for other cities in California and other states.

#### Subsidy Recycling vs. Subsidy Retention

To understand how a community land trust works, it is helpful to understand the difference between the concepts of “subsidy recycling” and “subsidy retention.”

In the more traditional subsidy recycling model, the City provides subsidies to create affordable housing (for example, providing down payment assistance to first-time homebuyers) and then recaptures the subsidy plus interest (usually at below-market rates) when the homeowner eventually sells the home. Unfortunately, in areas experiencing rapidly rising housing costs, such as Orange County, the amount of subsidy recaptured is not sufficient to help the next family, requiring that additional funds be added in order to help the same number of families in the future.

In contrast, CLTs operate on the basis of subsidy retention. Since the CLT owns the land, it can control the price of the improvements (i.e. the dwelling units). When CLTs offer homeownership opportunities, subsidy is required to help the first family. After that, the increase in the price of the home is tied to a formula based on the increase in local incomes rather than the price of other comparable housing units. Therefore, when it comes time for the homeowner to sell, the price of the home will still be affordable to the next family without the need for additional subsidy from the City.

Through its ability to control the use and price of improvements through ground leases, the CLT subsidy retention model creates permanent affordability. The CLT model can also work with rental and special needs housing. It can also pursue a preservation strategy, purchasing affordability covenants for affordable units in existing developments. Therefore, the Irvine Community Land Trust can address the full spectrum of housing needs in Irvine, as further explained in Section VII.

The CLT model is not the only one to operate on the basis of subsidy retention. Other subsidy retention models include limited-equity co-ops and condominiums (such as University Village in Irvine), mutual housing associations, non-profit-owned rental housing (such as rental projects owned and managed by Jamboree Housing in Irvine) and other deed-restricted homeownership models (such as the Habitat for Humanity program in Irvine). However, the other models are project specific, whereas a community land trust is a programmatic model which can be applied to many different projects.

CLTs work well in areas where housing prices are increasing, where the cost of land is high and where the scarcity or absence of land for affordable housing makes the development process difficult. This is why the CLT model is appropriate for Irvine.

### Organizational Structure

Community land trusts are separate charitable organizations organized under Section 501c3 of the IRS code. To obtain non-profit status, an application must be submitted to and approved by the IRS. This was previously a long and difficult process, but now that the CLT concept has been incorporated into federal law, and there are many other precedents, the approval process is easier. However, it will still take approximately six months or more for IRS approval, following the submission of the application and providing that the IRS raises no issues of concern and/or needs further clarification about the application.

As separate organizations, CLTs have their own Boards of Directors and staff. Community Land Trusts attempt to balance in their governance structure accountability to the city and the general public against accountability to the residents who live on CLT property. Therefore, the Board structure proposed initially for the ICLT is as follows:

- Two of the Board members will be appointed by the City;
- Two will (eventually) be residents of the ICLT properties (initially appointed by the Irvine City Council and eventually elected directly by the residents of the ICLT properties); and
- Three of the Board will be other residents of the community (defined here as the City of Irvine) who bring important skills or experience to the Board. These members will be initially appointed by the Irvine City Council and subsequently these seats will be filled by the Board of Directors.

The Board structure proposed above meets the intent of Federal law of actively involving public officials, community representatives and Trust residents in the governance structure of the ICLT.

The initial functions of the TRUST are to acquire and/or be the repository of land (or deed restrictions) and subsequently to develop and/or preserve affordable housing on that land or the preservation of existing affordable units. Since it is a separate organization, the creation of the TRUST allows the City to satisfy the State of California's requirement that cities not hold land over long periods of time. However, as the ICLT is being organized in Irvine, the City can be the temporary repository of any donated land and eventually transfer that land to the TRUST.

### Financial Support for CLTs

As a 501c3 public charity, the Irvine Community Land Trust would be eligible to receive property and funds from a variety of sources:

- Direct land donations from developers
- Redevelopment 20 percent Housing Set-Aside Funds

- Inclusionary in-lieu fees from developers
- CDBG Funds
- Home Funds
- Foundations
- Corporations
- Individuals
- Acquisition loans from the banks, community development financial institutions and others.

The Irvine Community Land Trust could also issue bonds in the future, using the City of Irvine as pass-through, should this be determined to be appropriate.

CLTs can become self-sustaining through fees they generate from land leases, developer fees and transaction fees (lease re-issuance, brokerage fees, etc.). Typically CLTs can become self-sufficient when they have developed and/or preserved 200 or more units (although they would need to seek additional resources to develop future affordable housing projects).

Some CLTs act as real estate development entities in addition to serving as land stewards. Generally, these CLTs are located in areas where there are no other non-profit housing developers. Since Irvine is a resource-rich community, it is recommended that the CLT work with the other non-profit affordable housing providers operating in Irvine and Southern California, with the TRUST playing more of a stewardship role, helping to make land available for affordable housing and then facilitating the development of housing projects with permanent affordability.

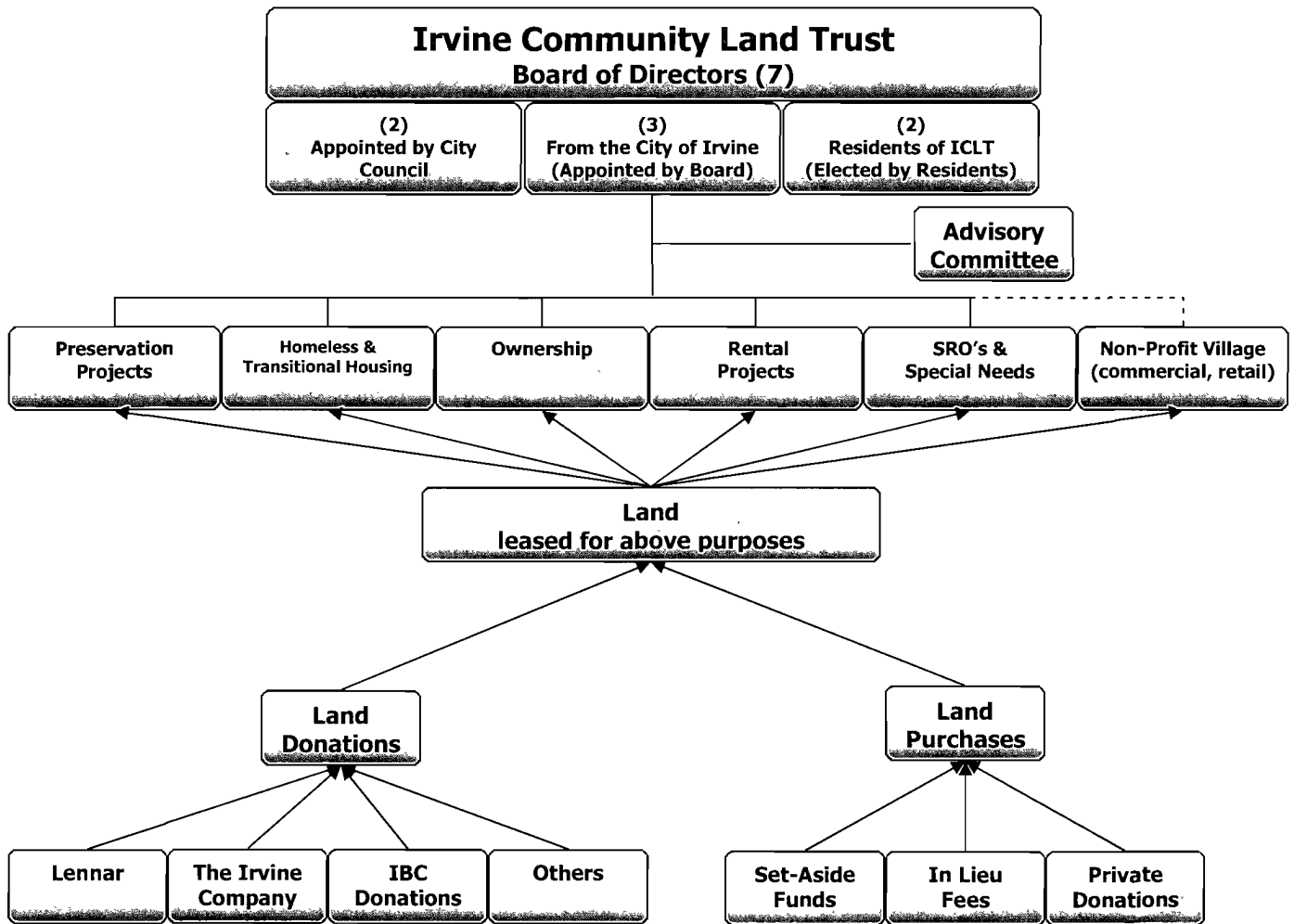
It should be noted that, by creating the CLT structure, the City will forego some future property tax revenue. Since CLT units are price-constrained to preserve affordability, future valuations will be lower than comparable market-rate units, resulting in lower property tax assessments. However, most cities with CLTs have viewed this to be of minor importance when compared with the advantages of permanent affordability.

### Design of the Trust

The creation of a community land trust in Irvine will provide the structure for the delivery of the affordable housing specified in the City's adopted Vision Statement. The chart on the following page shows schematically how the Irvine Community Land Trust will be organized, together with the various housing programs which will be offered.

As a method for satisfying their inclusionary requirements, The Lennar Company, The Irvine Company, and private landholders in the Irvine Business Complex (IBC) will be encouraged to make land donations to the ICLT. In addition, land can also be purchased by the TRUST using Redevelopment 20 percent Housing Set-Aside funds, In-Lieu Fees paid by developers who elect not to (or are unable to) donate land, and tax-advantaged private donations to the TRUST since it operates as a public charity.

By owning land, the TRUST can negotiate with affordable housing developers to create affordable units and other supportive housing projects and programs which will address the full spectrum of housing needs in Irvine.



Note: Initial Board Members will be appointed by the Irvine City Council

In summary, here is how the TRUST will address each of the Vision Statement priorities:

- Preservation: Using contributed funds, primarily from inclusionary in-lieu fees and 20 percent set-aside funds, the TRUST can enter into negotiations with apartment owners to purchase covenants which will permanently restrict the rent levels and preserve the affordability of existing affordable units. In addition, covenants for affordable units may be donated to the TRUST directly by apartment owners to fulfill their inclusionary requirements for new projects.
- Homeless and Transitional Housing: The TRUST can negotiate with developers to create facilities which can be leased to homeless and transitional housing providers. The service providers will have access to outside sources of support to operate their programs, which will enable them to make rent and/or lease payments to the TRUST.
- Homeownership: The TRUST will negotiate with developers to create affordable homeownership projects for families, and then use City funds leveraged with other funds to provide direct assistance to families who purchase these units (further discussed below). As explained above, the future appreciation of the units will be tied to the increase in incomes in Irvine, thereby permanently preserving their affordability.
- Faculty and Staff Housing: Using the homeownership model described above, the TRUST will partner with Irvine's colleges and universities to create affordable home ownership opportunities for university faculty and staff, with direct subsidies provided by the colleges and universities to qualifying families.
- Rental Housing: The TRUST will negotiate with developers to create additional affordable rental housing in Irvine. The units would be managed and maintained by the non-profits, and monitored by the TRUST. If any problems develop that cannot be resolved, the TRUST would have the right to replace the non-profit.
- SROs and Special Needs: Similar to the process described above for creating homeless and transitional housing, the TRUST will negotiate with developers to build Single-Room Occupancy and Special Needs projects (serving seniors, developmentally disabled, very-low income families, people living with AIDS, supportive housing, and mobile home parks). The projects would be run by the appropriate service providers, renting or leasing the land from the TRUST.

- Non-profit Village and Other Community Space: While not part of the vision, the TRUST could create commercial space for community purposes, and then lease that space at affordable rates to non-profits for community use. Other CLTs (such as the Burlington CLT referenced above) have developed commercial space as a part of their strategy to diversify their holdings and cross-subsidize their affordable housing projects with income derived from commercial leases.

Each of the above programs is discussed in more detail in Section VII.

#### How the TRUST Will Attain Self-Sufficiency

Like all other for-profit and non-profit businesses, community land trusts require initial seed capital to begin operations, including organizational funds and staffing support. As described above, seed capital for the TRUST will come primarily from the City, and the prime source will most likely be the Redevelopment Agency's 20 percent housing set-aside funds. Land donations will follow as a result of developer negotiations to satisfy inclusionary requirements.

As described above, CLTs earn fees to sustain their operations from lease fees on their land, lease re-issuance fees, marketing fees and service/transaction fees. The Board of the TRUST will create a business plan with the goal of obtaining self-sufficiency as soon as possible. Other CLT organizations operating in similar fashion to the proposed TRUST have achieved financial stability when they have owned and/or leased 200 or more units. Given the resources available in Irvine for affordable housing, it is expected that the TRUST can achieve self-sufficiency in a relatively short timeframe, perhaps as soon as two to three years after obtaining its first land parcels.

All of the above issues will be addressed in the TRUST's bylaws and preliminary business plan which will be adopted by the TRUST's initial Board of Directors, following approval by the City.

#### What If the TRUST Fails?

Since the City of Irvine will be establishing the TRUST and transferring resources to it, including land and money, for its affordable housing programs and projects, the City will need to insure that the TRUST is successful. When the City transfers (or causes to be transferred) property to the TRUST, the property is transferred under a grantee agreement which includes performance standards. The City then monitors the TRUST's performance, which is facilitated because city officials will sit on the Board and the Trust will be required to provide periodic reports to the City on its activities and finances. Under the performance agreement, if problems occur which cannot be resolved, the City can step in temporarily and take over the lessor function of the TRUST and restructure the organization, with the intent of correcting the problems. The



objective is not for the City to operate the TRUST over the long term, but instead to correct the problems and restore control to the TRUST.

Given the situation and circumstances in Irvine, the creation of the Irvine Community Land Trust will be the foundation of the City's affordable housing strategy.



## **VI. DESIGN STANDARDS**

The City's Vision Statement specifies that "design standards will incorporate green design/sustainable development and accessible development features to improve affordability and contribute to resource conservation and accessibility in the community." The City of Irvine has adopted a "Green Homes Program" and is allocating resources to a variety of progressive programs to expand energy efficiency, conservation, waste reduction, smart growth and sustainable development.

With respect to affordable housing, the incorporation of these standards begins with the architectural design of the project. While specific financing sources and/or commitments may not be available at the start of construction, projects need to be designed initially to incorporate as many sustainable design and energy efficient features as possible. Financing sources can be identified later, ideally during construction. If sources are not available, the project design enables these features to be retrofitted later on. Most non-profit affordable housing developers are familiar with this process.

### **Green Design**

"Green Building" features can include the following, depending on the individual project:

- **Planning, Design and Development:**
  - Select a contractor willing to explore sustainable alternatives.
  - Utilize U.S. Dept. of Housing & Urban Development's PATH program.
  - Investigate special energy conservation programs offered by local utilities.
- **Site and Community:**
  - On-site construction waste management.
  - Higher-density development, preserving more open space.
  - Provision for storage and collection of on-site recyclables.
  - Providing on-site services space, including computer training center for rental developments.
- **Foundation and Structural Frame:**
  - Using 50 percent fly-ash content "shotcrete" in mat slab foundation .
  - Using 15 percent fly-ash content shotcrete for a majority of the structural walls (requiring a lower water-cementitious material ratio).
- **Exterior Finish:**
  - Fiber Cement siding.
  - In fill projects, reusing (or recycling) existing façade, if feasible.
- **Electrical:**
  - Use of fluorescent fixtures to reduce energy consumption.
  - Cat-5 internal wiring.

- Appliances:
  - Use of energy-efficient appliances (Energy Star).
  - Building design which allows for natural ventilation, reducing need for air-conditioning.
- Photovoltaic:
  - Use of solar energy to provide alternative heating and cooling systems to reduce energy use.
- HVAC:
  - Baseboard hydronic heating.
  - Vent kitchen and range hoods to the outside to improve indoor air quality, prevent overheating and excess moisture buildup.

There are and will continue to be additional green design measures developed and available for use. Of course, all green building measures will not be appropriate for all projects, and it is necessary to evaluate the use of these measures on a case-by-case basis. Budget and site constraints may limit the use of some of these features, and less-expensive alternatives may be necessary on some cases. As noted above, it is important to incorporate the appropriate possibilities into the initial design of the project, hire contractors familiar with these applications, and continue to explore specific financial assistance as the project financing structure progresses through construction.

#### Accessibility/Universal Design

Like green design and sustainable features, accessibility features should also be considered in the initial design of the project. In the past, these features were confined to senior and special needs projects. More recently, it has become common to include accessibility features and/or designs that accommodate retrofitting in new rental and homeownership projects. These standards are commonly referred to as “universal design” standards.

If the project’s initial occupants are not in immediate need of these features, the project design can still reduce the subsequent costs of retrofitting the living units to accommodate these features. Universal design/accessibility features can include:

- Exterior access to the living unit (ramps, elevators).
- Exterior and interior doors to accommodate wheelchair access.
- Grab bars in the hallways, kitchens and bathrooms.
- Bathing facilities to accommodate wheelchair access.
- Appropriate height of appliances and other fixtures.
- Closet hardware such as levers and door handles.
- Other features.

## Sustainability

Sustainability features for projects can include the following:

- Energy and Atmosphere:
  - Decrease occupants' individual energy consumption.
  - Decrease energy costs for common areas of the project.
  - Reduce off-gassing of building materials into the environment.
  - Improve insulation and use low-emissive windows to improve heating/cooling system performance.
- Material and Resources:
  - Integrate recycled-content building materials.
  - Incorporate durable and sustainable materials to decrease long-term maintenance.
- Water:
  - Reduce water use for landscaping with drought-tolerant plants.
  - Flow control mechanisms for showers, toilets, faucets.
- Health and Safety:
  - Promote healthy indoor air quality by specifying low-VOC materials and finishes.
  - Promote ducting systems which reduce leakage.
- Site and Community:
  - Transit-oriented locations.
  - Reduce reliance on automobiles (car-pooling, public transit).
  - Create durable and sustainable development designed to fit the needs of special needs tenants.
  - Support a vibrant residential community with supportive services to improve the economic and social welfare of residents.

## Implementation of Standards

To insure that these standards are prioritized, the following actions are recommended for consideration:

- The City could adopt the California green building guidelines as an official "reference guide."
- The City could develop a rating system which gives additional points for projects with sustainable development/green design components. Based on the point system, and given the availability of funds, the City could offer financial incentives, including grants, special financing, technical assistance, fee waivers and rebates.

- The City could also offer non-financial incentives, including streamlined permitting, density bonuses, etc.
- The City could promote “energy audits” of residential and commercial buildings and provide education and information regarding “green rehab” and other retrofit energy conservation opportunities in existing structures.
- The City could form a “green building team” to be selected by the Planning Manager, consisting of city staff that represent key building-related functions, and train them in promoting and/or enforcing the above techniques.
- The City could offer consumer education to create demand for green homes.

In pursuing the strategy, City staff should keep abreast of green design developments by maintaining contact with non-profit advocacy groups such as “Global Green USA” in Santa Monica, “Build It Green” in Berkeley, and with Ted Flanigan, Managing Director of The Energy Coalition, in Irvine.

## **VII. PROGRAMS TO IMPLEMENT THE STRATEGY**

This section focuses on the various housing programs recommended by the Housing Task Force, followed by an analysis of their effectiveness and suggestions for modifications and implementation under the community land trust structure.

### **Homeownership**

The City's Vision Statement identifies the creation of homeownership opportunities as a priority for the housing strategy and recommends *"creating equity-building opportunities for first-time homebuyers by facilitating the renter-to-owner transition process and increasing the amount of for-sale affordable housing."* Homeownership offers tremendous economic benefits. It is a powerful tool for building economic stability as well as individual and family self-esteem. In fact, homeownership is the single largest expenditure and the largest source of wealth for most families and individuals. It is no surprise that the nation's housing sector has been the cornerstone of economic activity over the past several decades.

Aside from being economically sound, owning a home also provides social benefits. It gives individuals and families a stronger stake in their communities, leading them to care more about their environment and making them more likely to act in ways that benefit both their families and the neighborhoods in which they live.

As discussed above, buying a home is unfortunately out of reach for many low-to-moderate income families in Orange County and particularly within the City of Irvine. California real estate has escalated an average of 17 percent every year for the past five years, while over the same period of time real personal income has increased less than two percent on average per year.<sup>12</sup>

Many households, particularly low income families, minorities and younger households are unable to buy a home due to the following barriers:

1. High property costs.
2. Insufficient funds for down-payment & closing costs.
3. High monthly payments compared to income.
4. High existing debt
5. Poor credit.

As a result, affordable homeownership programs for income-eligible households are becoming increasingly difficult to implement within the City of Irvine. To keep the flow of first-time buyers into homes, lenders have become increasingly creative about mortgage programs. Many buyers can make a purchase with relatively little or even no down payment. However, this translates into a higher principal loan amount and therefore a larger monthly housing payment. These households are then faced with

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<sup>12</sup> Source: California Association of Realtors.

interest-only and adjustable-rate mortgages that start with very low monthly payments but can soon increase beyond affordability, putting these families at risk of foreclosure.

While there is no one standard homeownership program model that works universally, the purpose of this section of the Housing Strategy is to analyze the existing programs and suggest modifications through the use of the community land trust structure that can lead to the achievement of the homeownership goals of the City of Irvine.

### Existing Homeownership Program

The City of Irvine currently uses a portion of its federal Community Development Block Grant (CDBG) funds for a First Time Home Buyer Down-Payment Assistance Program (DAP). The DAP was designed to assist families earning up to 80 percent of the median income in purchasing a home in the City of Irvine. Eligible program participants receive down payment assistance of up to \$110,200 (25 percent of a maximum sales price of \$440,800) in the form of a silent second, low-interest loan. Applicants are required to have sufficient assets to provide a minimum down payment equal to one percent of the purchase price of the home, plus closing costs. No payments on the City's loan are required until repayment of the first mortgage, sale or transfer of the property, or when equity is taken out of the home, at which time the City will recapture the loan amount with interest.

There are three priority groups qualifying for assistance. The first priority group includes full-time teachers in the Irvine Unified School District, full time employees of the City of Irvine or full time employees of the Orange County Fire Authority working in the City of Irvine. The second priority group contains households with two or more individuals working or living in the City of Irvine with a child at home. The third priority group includes two parent households with at least one child at home.

Eligible properties in the DAP are composed of new or existing single-family homes and condominiums. The property must meet local code, termite and lead-based paint requirements and pass a third party inspection. Furthermore, the program participant(s) must occupy the property as their primary residence.

Participating lenders designated by the City screen and qualify program participants for home purchase. Next, the lenders provide a 30 year fixed-rate first mortgage product that can be combined with the program's second mortgage loan. The program participant must meet credit and underwriting criteria established by the participating lender providing the first mortgage loan.

One of the significant challenges of the existing DAP is that the maximum household income is capped at 80 percent of County median income. For a household of four that equals \$61,450. Since the DAP requires the first mortgage to be a 30-year fixed interest loan, that income translates into a purchase price of slightly less than \$400,000.



A study of recent real estate activity within the City of Irvine reveals that very few properties are ever available below \$400,000 (none were available in January 2006). Consequently, finding a qualified home buyer with enough income, as well as a home with a sufficiently low purchase price is a considerable challenge for the existing DAP. Therefore, the DAP, while extremely generous made only one loan from January 2005 to February 2006.

Using tax increment funds from the redevelopment project area would allow the DAP to qualify homebuyers up to 120 percent of median income. While this seems like an appropriate use of these funds, most of the additional funding available to leverage the DAP is tied to the 80 percent maximum household income. Consequently, any co-mingling of tax increment set-aside funds and other sources would most likely still result in an 80 percent maximum household income. There may be exceptional instances when funding a homeownership project and/or unit can be accomplished entirely with set-aside funds. In this case the DAP could be made available for higher income residents, but this would also result in very low leverage of these funds, so fewer homeowners could be served.

#### Orange County Area Housing and Finance Agency Lease to Purchase Program

The City of Irvine and other cities within Orange County have formed a Joint Powers Authority in order to offer an innovative home ownership program. The Orange County Area Housing and Finance Agency (OCAHFA) is a non-profit, regional housing agency created through the membership of local governments in Orange County. OCAHFA is charged with expanding affordable housing and economic development opportunities. The government-sponsored "Public Lease-to-Purchase" program allows a participant to select a home. OCAHFA then purchases that home, and the participant subsequently takes over the monthly payments.

Public Lease-to-Purchase is one of the few affordable housing initiatives available to moderate income households. It is particularly attractive to those who can afford the monthly payment for a home and have a good rent history, but don't have the down payment, credit scores or finances to qualify for the entire loan. Public Lease-to-Purchase allows participants to get into the home today with very little cash, lock-in the purchase price, and use the lease-purchase period to establish or reestablish credit. Once the participants exercise the purchase option, they become the full owner of the home.

Public Lease-to-Purchase offers qualified participants a 30-year rate and term-reset mortgage with no down payment. The program pays all of the closing costs. The participant (or lease-purchaser) makes a lease payment equivalent to the mortgage payment plus taxes and insurance. Since the lease payment is used to pay down the mortgage, the participant effectively builds up equity during the lease period.

Participants in this program can also use the lease-option period to repair their credit. Lease-purchasers can exercise their purchase option any time after the first 12 months

of the initiation of the lease by assuming the existing mortgage or by obtaining new financing. Participants can choose any home, new or existing, including single-family homes, condominiums and town homes.

Public Lease-to-Purchase is a new home buying resource and does not use or depend on existing government subsidies or conventional lending programs. This is very important for local governments with stretched resources. Public Lease-to-Purchase also expands business opportunities for mortgage and real estate professionals as it opens up the home buying market to more households.

### Affordable Housing Clearinghouse

In 1990, an alliance called the Orange County Community Reinvestment Act Coalition was formed, comprised of community organizations, non-profit housing corporations, public agencies, non-profit housing shelters and advocates for lower income households. The Coalition was formed following the enactment of the Community Reinvestment Act, which enacted a legislative requirement that lending institutions meet the credit and affordable housing needs of low- and moderate-income households living in the localities from which they draw deposits.

The Coalition became the Orange County Affordable Housing Clearinghouse in August 1991. The Affordable Housing Clearinghouse is a network of lenders, community groups, and public agencies dedicated to the creation of quality affordable housing. The primary purpose of the Clearinghouse is to facilitate the financing of community development projects that meet Community Reinvestment Act criteria. Individual financial institutions were invited to become members of this organization with the incentive of participating in the financing opportunities identified. By December 1991, nearly \$100,000 of capitalization costs had been raised from the lending institution members and an Executive Director had been hired. Shortly thereafter, the Clearinghouse funded its first loan and began processing over \$30 million worth of affordable housing loan applications.

Working together with non-profits and lenders, the Clearinghouse provides decent housing for low- and moderate-income families, provides services to distressed communities and people with special needs, and helps to develop a well-prepared work force. By leveraging the resources of their lender member affiliates, the Clearinghouse is able to provide even more financing opportunities for low-income communities.

To promote homeownership, the Clearinghouse provides mortgage loans with no down payment and flexible credit requirements to low- and moderate-income families. In addition, to assist these families in preparing to purchase a home, the Clearinghouse provides homebuyer education as well as credit counseling. It has already funded nearly \$40 million in mortgage loans and has counseled hundreds of families.

The Clearinghouse is funded by contributions from lender members. When a project is funded, the Clearinghouse receives a small fee, as a percentage of the total loan

amount. In addition, they receive an application fee to help cover the cost of processing the application.

### Neighborhood Housing Services of Orange County

Neighborhood Housing Services of Orange County (NHSOC) is one of many local NeighborWorks organizations around the country affiliated with the Neighborhood Reinvestment Corporation (NRC). NRC is a public non-profit that was congressionally chartered to revitalize neighborhoods in cooperation with local financial institutions. NHSOC was formed from a merger of NHS of Santa Ana and NHS of La Habra, and has served Orange County for 26 years. Its mission is, *“revitalizing communities in partnership with local residents, financial institutions, the business community, and local government.”*

NeighborWorks organizations provide homeownership assistance through “Full-Cycle Lending,” a system that enables lenders, government agencies and NeighborWorks organizations to work together to help families achieve homeownership. They do this through promoting home ownership, providing home purchase and home improvement loans, constructing and rehabilitating single and multi-family homes, as well as facilitating the development of resident community leaders.

The NeighborWorks Campaign for Home Ownership helped NHSOC to become Orange County’s premier program for first time homebuyers. Over 500 families have been assisted in purchasing their first home through NHSOC and more than 1,000 others are completing their homebuyer education program. NHSOC plans to continue its efforts promoting homeownership and expanding opportunities for first time buyers. They accomplish this predominantly by sponsoring Homebuyer Clubs and Individual Development Accounts (IDA) savings programs, working with businesses to develop employer assisted homebuyer programs and working with lender partners to provide mortgage programs which work in conjunction with down payment assistance programs.

The NHSOC NeighborWorks HomeOwnership Center is designed to increase homeownership opportunities for people who have traditionally been excluded from those opportunities. It offers a program that matches buyers’ savings, employs flexible credit requirements, and reduces closing costs. In addition, NHSOC uses local banks, insurance companies, realtors, and other housing professionals to assist in the training of first-time homebuyers.

There are various levels and quality of homeownership education. The poorest level of education is represented by the prospective homebuyer watching a video in a lender’s office. With this type of training, there is no interaction between the prospective homebuyer and a housing professional. The NHS program offers a comprehensive homeownership education and counseling program which includes the following:

1. Outreach: Many potential homebuyers, particularly members of traditionally underserved populations, are unaware that homeownership is a possibility for

them. Outreach can be used to inform the community about homeownership opportunities and available programs.

2. Pre-Purchase: Pre-purchase education and counseling teaches homebuyers about the steps involved in purchasing a home.
3. Post-Purchase: Post-purchase education and counseling helps homebuyers handle on-going responsibilities of homeownership. Topics include monthly budgeting, how to handle a financial crisis, how to avoid predatory lenders' refinancing schemes, and general home maintenance and repair.
4. Intervention: Intervention counseling is conducted when a homebuyer has difficulty keeping up with scheduled mortgage payments.

It has been proven that these services materially increase the success of first-time homebuyer programs which are focused on low- and moderate-income families. The City of Irvine's program should include all of these components, discussed later under "Restructuring Recommendations.

#### Habitat for Humanity of Orange County

Habitat for Humanity of Orange County is an affiliate of the Habitat for Humanity International, a non-profit, ecumenical Christian housing ministry. Its goal is to eliminate poverty, housing and homelessness from the world and to make decent shelter a matter of conscience and action.

Habitat invites people of all backgrounds, races and religions to build houses together in partnership with families in need. Through volunteer labor and donations of money and materials, Habitat builds and rehabilitates simple, decent houses with the help of the homeowner (partner) families. Habitat houses are sold to partner families at no profit, financed with affordable, no-interest loans. The homeowners' monthly mortgage payments are used by Habitat to build additional houses.

Habitat is not a giveaway program. In addition to a down payment and the monthly mortgage payments, homeowners invest hundreds of hours of their own labor, or "sweat equity," into building their house and the houses of others. Habitat believes that owning a safe and decent home is a foundation from which families grow strong and that it is providing the blueprints and tools for revitalizing communities, neighborhoods, families and lives.

To qualify for the Habitat program, families must:

1. Have a steady income.
2. Live in sub-standard housing
3. Be legal residents of the United States
4. Agree to attend classes on budgeting, home maintenance and neighborhood/community relations.

In order to qualify for the purchase of a Habitat home, families are required to:

1. Invest 500 hours of "sweat equity" to build their own home or to help another family build their home.
2. Pay a 1 percent down payment and closing costs.
3. Pay a long term, zero-interest mortgage.
4. Maintain their homes.

One Habitat project has been successfully completed in Irvine, consisting of 12 homes, and Habitat of Orange County has expressed an interest in doing future projects in the City.

### University Hills

A similar example of a program which creates permanently affordable homeownership is the University Hills project, located on the campus of the University of California at Irvine. The development is within walking distance of academic facilities, shops, restaurants, parks, and entertainment. There are currently 738 homes and 140 rental units with varying sizes and styles in University Hills. When complete, the community is expected to cover over 200 acres and have 1,100 for-sale and rental residences. Through a special marketing process and long-term ground leases, the program provides an opportunity to share in the personal and financial benefits of homeownership. Homes remain affordable and retain their University-oriented environment through a number of resale requirements.

All homes in University Hills are located on lots owned by The Regents and leased through the Irvine Campus Housing Authority ("ICHA") to individual homeowners. The land is subleased to the home buyer who elects one of three lease payment plans. The plans vary in the amount of monthly payment and percentage of appreciation paid upon sale as deferred rent. Certain requirements are imposed upon the sale and resale of a home to assure that University Hills' homes remain available and perpetually affordable to members of UCI's academic community. The following criteria apply:

- A resale home must first be offered to the University, the faculty and then the staff.
- The resale price of a home is restricted to the sum of the seller's initial purchase price adjusted by the increase (if any) in certain indices, plus the appraised value of capital improvements.
- If the circumstances of a homeowner's University employment change, he or she may no longer be eligible to own a home in University Hills.
- A home in University Hills may only be used as a principal residence.

University Hills is a good example of how subsidy retention will create permanently affordable home ownership opportunities. However, the structure is unique to this project, and there is a separate management structure (the ICHA, mentioned above). A key advantage of permanently affordable homeownership offered through the ICLT is that many different projects can be built and managed under the same structure.

#### Employer-Assisted Housing

Employer-assisted housing programs are created and funded by employers who have difficulty recruiting or retaining employees because of a lack of affordable housing. These programs generally operate in job-rich high-cost housing markets like the Silicon Valley in Northern California, which established a Housing Trust Fund many years ago to help alleviate the problems associated with the high cost of housing.

There is currently an effort underway to do the same thing in Orange County. Employers in Orange County and Irvine have become painfully aware of the crisis of affordability. To help address this crisis, they initiated a Housing Trust Fund in 2005, and are now starting to raise money. The TRUST and Irvine Housing Staff will work closely with the Orange County Business Council (OCBC) to assist in this effort, since this will provide another source of leveraging for City funds.

The secondary mortgage market has addressed this business concern by offering a new national product. With the new product, each transaction includes a traditional first mortgage, supplemented by employer assistance in the form of a grant, loan, or loan guarantee, which can be used toward the down payment, closing costs, or monthly mortgage payment. With this type of loan product, the employer may provide down payment assistance (in addition to the employee's minimum down payment) or may finance closing costs. When employer-assisted housing is combined with a community lending product, it is subject to income limits imposed by the additional funding source.

Neighborhood Housing Services of Orange County is currently ready to implement a form of employer-assisted housing by utilizing its Individual Deposit Account ("IDA"). The IDA is money contributed by an employer to NHSOC to be used by their employees to make a down payment on a house.

#### Homeownership Program Restructuring Recommendations

It is recommended that the City phase the current down payment assistance program and incorporate its down payment assistance program ("DAP") into future homeownership projects with permanent affordability created through the ICLT.

Incremental changes to the existing down payment assistance program will not create permanently affordable housing. The existing DAP produces affordable payments to the homeowner, but repayment of the City's DAP loans will not be sufficient to help the same number of families in the future, as explained above (see Subsidy Recycling vs.

Subsidy Retention). Homeownership created through the ICLT will create permanently affordable housing.

As noted above, the foundation of the Housing Strategy is the creation of the TRUST, which will receive land donations from developers seeking to fulfill their inclusionary requirements. A portion of the Trust land will then be developed into ownership housing, with the Trust continuing to own the land and leasing it to the new homeowner, thereby reducing the purchase price. The Trust retains the right to repurchase the improvements (i.e. the home) at a price determined by a formula, which is designed to keep the home permanently affordable. The homebuyer takes out a “leasehold mortgage” to purchase the house, with down payment assistance from public funding and/or other sources.

With leasehold mortgages, the homebuyer’s lender will originate a first *leasehold* mortgage loan to the family to purchase the home. If the lender follows Fannie Mae’s underwriting standards, Fannie Mae will commit to purchase the leasehold mortgage, providing a secondary market for these loans which insures that future leasehold loans will be available. These mortgages can be combined with any of the traditional community lending products, to increase affordability.

The City will need to seek the maximum possible leverage for its funds to meet the 10 percent (9,700 units) goal, and leverage is particularly important for the homeownership program since the subsidies per family are higher than the other affordable housing programs. When new homeownership opportunities are created through the TRUST, the City will need to partner with others in order to make its money go further.

The ICLT will focus on the development of the new affordable homes, partnering with both non-profit partners, such as like Jamboree Housing Corporation and BRIDGE, and for-profit developers, such as The Lennar Company and The Irvine Company. The City should also partner with other programs to further leverage its new homeownership programs offered in conjunction with the ICLT. Below are specific recommendations:

- The City should explore offering the Lease-to-Purchase program in conjunction with its homeownership program.
- The City should partner with the Affordable Housing Clearinghouse to educate lenders about the TRUST and identify lenders willing to make leasehold mortgages.
- The City should discuss with Habitat of Orange County the possibility of doing future Habitat programs on TRUST land.
- The City and the ICLT should partner with university partners to develop a new homeownership project in which the down payment was primarily funded by university partners, perhaps with a small City match.

- The City and ICLT should participate in and support the efforts of the Orange County Business Council to raise the capital for its Housing Trust Fund which could be a source of capital to further leverage the City's homeownership program.
- The City should partner with NHS of Orange County to tap into its expertise in home buyer education and counseling, and explore ways to utilize down payment assistance funds available to them for TRUST owned properties.

Through the above partnerships, the City of Irvine and TRUST can leverage its funds and also offer homebuyer education and counseling. The result will be a first class first-time homebuyer program which expands ownership opportunities in Irvine and has the maximum possibility of success.

### New Rental Housing

The City of Irvine's Vision Statement has identified "facilitating the development of additional rental housing" as one of its priorities. Chart 6 on the following page depicts vacancy rates for apartments. The chart indicates that both LA and Orange County have seen a steadily decreasing vacancy rate among apartments in the past decade. In 1990 it was as high as 7.5 percent but steadily decreased to a low of 2.5 percent in 2000. Between 2000 and 2002 the rate actually increased slightly to 5.5 percent and now has decreased again to 3 percent in the 3rd quarter of 2005. Most developers of apartments plan for a 5 percent vacancy rate in their financial projections. Anything less than 5% is considered to be a very tight market and generally associated with rising rents.

Chart 7 on the following page depicts rental rates for apartments. This chart shows that both LA and Orange County have seen a straight line appreciation in rental rates since 1990 until 2005. The apartment rental rate average in Orange County in 1990 was \$800 (the average for apartments of all sizes) and is currently \$1,400 in the 3rd quarter of 2005.



Chart 6

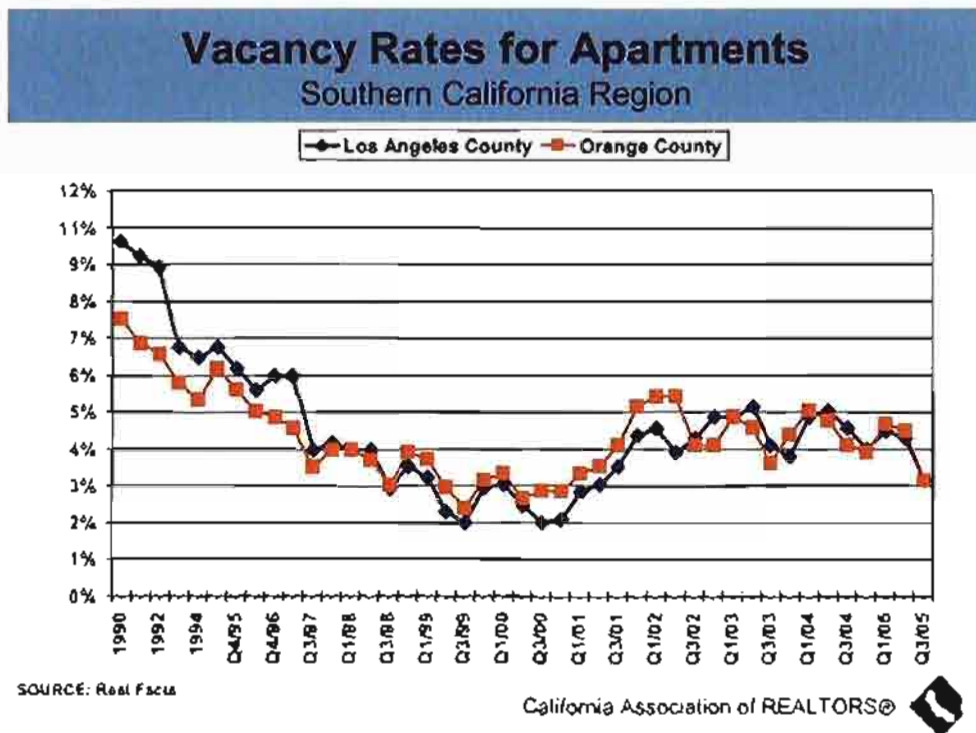
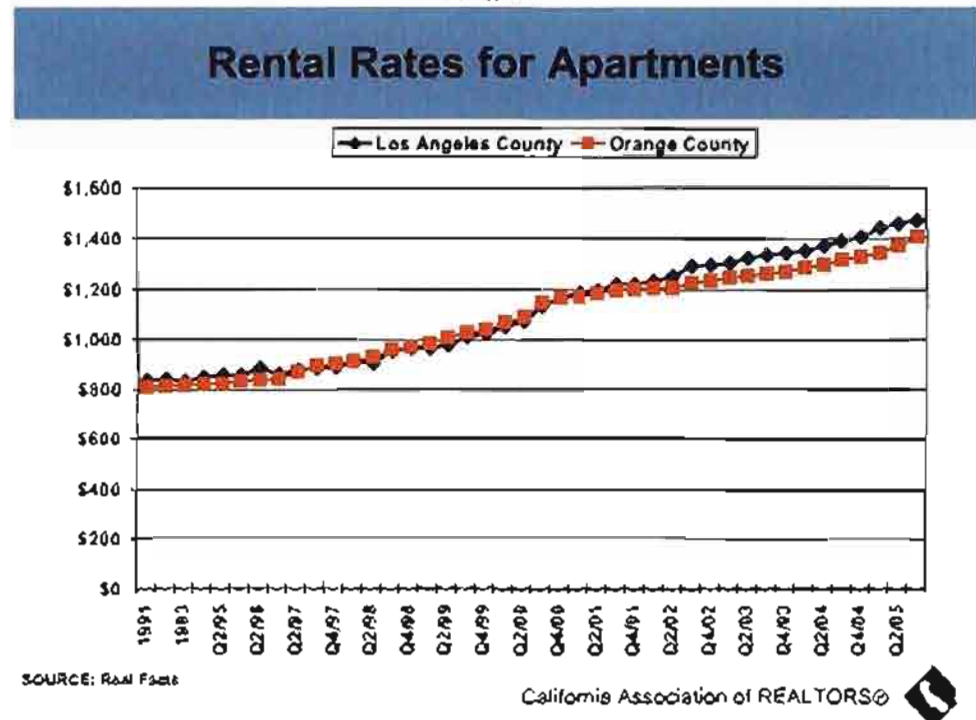


Chart 7



The City of Irvine has been no exception. Rental rates have been increasing dramatically over the past decade and supply has not kept up with demand. The latest Housing Element reports that the "Regional Housing Needs Assessment" (RHNA) numbers for years 2000 to 2005 indicated a need for an additional 3,128 rental units for lower income households. Of this need, a total of 340 have been built in this period, which confirms the fact that affordable rental housing is both expensive and limited in supply. Obviously, any new affordable rental units in Irvine will be in great demand.

Fortunately, in comparison with surrounding cities, Irvine has a considerable supply of existing affordable rental apartments. The City has 3,155 units of affordable rental housing, which has been developed in response to the City's voluntary inclusionary housing program. Most of these units are owned and operated by The Irvine Company (TIC) and have been financed with bond programs, which have provided attractive below market rate financing. Unfortunately, many of those units are now in danger of losing their affordability as the restrictions expire.

A suggested strategy for dealing with these "at-risk" units is presented on the following page and titled, "Preservation of Existing Affordable Units." In brief, the City's inclusionary policies have required that 15 percent of all new units be affordable, with 5 percent reserved for families or individuals of very low income, 5 percent for low income, and 5 percent for moderate income.

To achieve the City's goal of 9,700 affordable units by 2025, the majority of these units should be rental units, since the need for rental units is great and they are the most cost-effective to build and manage, requiring less per-unit subsidy than for-sale units. In the past, local developers have contracted with non-profit developers (specifically Jamboree Housing Corporation and BRIDGE) to build and manage these projects.

By partnering with non-profits, the City is able to leverage its contribution significantly because the non-profits are eligible to apply for funding from state and federal sources (for which for-profit developers are not eligible) and also solicit tax credit investments. In addition, the units remain affordable over the long term. For example, projects built by The Irvine Company have restrictions for 30 years. Projects built and owned by non-profits retain permanent affordability in most cases because the non-profits own the projects and control rents to affordable levels.

#### New Rental Housing Recommendations

It is in the City's interest to assure that new affordable rental housing be created with permanent affordability, like the Jamboree and BRIDGE projects. Then, later on, there will be no danger of a large supply of expiring units as is the case now. Furthermore, as explained above, the City needs a consistent strategy to employ in negotiations with its developers.

Therefore, it is recommended that, in the future, the City negotiate with its developers for land to be donated to the TRUST, or funds be given to the TRUST to purchase

parcels, or both, as a means of fulfilling the City's inclusionary requirements. The TRUST would then lease the land to for-profit and non-profits in return for their agreement to build permanently affordable rental housing on these sites to serve the prescribed income categories. Other cities, some with and some without community land trusts, have leased land to non-profits and retained both ownership of the land and control over the improvements.

Because it involves dealing with an additional entity, the TRUST land lease structure is somewhat more complicated for non-profits than a simple land donation, dedication or below-market sale, and there may be some initial concerns on working with the TRUST. However, experience in other cities suggests that, once a non-profit developer has done the first project with a community land trust, initial resistance subsides and it becomes increasingly easier to do subsequent projects.

#### Preservation of Existing Affordable Units

In California, there are approximately 149,000 multi-family rental housing units at risk of market rate conversion, plus additional tax credit and mortgage revenue bond properties, many with project-based rental assistance. These at-risk units are occupied by families and individuals with lower incomes who cannot afford to pay market rate rents and who could be displaced if the projects convert. A large percentage of these units may convert to market rate as subsidy contracts or regulatory agreements expire. Potential conversion of affordable units to market rate units is an ongoing and critical statewide problem.

In Irvine, there are 4,400 apartment units, of which approximately 2,500 belong to The Irvine Company. The remaining units are under different ownership and also have expiring subsidies, as detailed in the City's Housing Element. The Irvine Company's affordable units are scattered throughout apartment projects and are not discernable from market rate units. Starting in 2010, most of these affordability restrictions will begin to expire.

Depending on the type of financing involved, property owners may be subject to the State's "Preservation Notice Requirements", which in essence requires that a "Notice of Intent" to terminate rent restrictions must be sent by First Class mail to all affected households and to affected public agencies, which would include in this case the City of Irvine and the County of Orange. The notices must be sent twelve, then six months in advance of the expirations, unless the project is exempted (California Government Code Section 65863.10). In addition, private owners of assisted multi-family rental housing units who are contemplating lifting rental restrictions and converting restricted units to market-rate units must inform the State Department of Housing and Community Development (H&CD) of their intentions.

## Preservation Recommendations

If Irvine is to reach its goal of 9,700 affordable housing units by 2025, it is in the City's interest to try to "preserve" the affordability of these units, hopefully in perpetuity, providing that this is economically feasible. The City will need to decide whether to take actions and/or commit funds to preserve the affordability of this housing. This could take the form of providing additional subsidy funds to these projects, or, alternatively, purchasing affordability covenants on these units which would permanently preserve their affordability.

Actions which the City could take, independently of the TRUST, might include the adoption of a rent control/rent stabilization ordinance. However, the Housing Task Force does not recommend this option. Cities with rent control and/or rent stabilization programs have typically been cities that are primarily built out (unlike Irvine), and where the majority of the residents are renters (also unlike Irvine). Furthermore, rent control has proven to be a major disincentive for developers, resulting in very limited new unit creation.

Three possibilities remain:

- The City could negotiate with owners/developers of affordable housing to extend the affordability of the existing units for a future fixed period and hope to arrive at a mutually acceptable cost for such extension. With developers who propose to build new projects, this might include a combination of money plus in-lieu fee credit applied toward future developments; or
- The City could negotiate with the owner/developers to purchase permanent affordability covenants on the existing affordable units which could subsequently be transferred to the TRUST; or
- The City could use its land use policy to allow a change in zoning in vacant land owned by the City of Irvine. The change in zoning or density would have value to developers and that value could be translated into permanently preserving a number of existing affordable units.

It is recommended that the City explore the second and third options, using the TRUST, because this will create permanent affordability (which is beneficial even if the funds are only sufficient for covenants applying to fewer than the total 4,400 units). The management of the units would most likely remain under the control of the current ownership. Although the TRUST would not have a land lease, it would own the covenants and have an ongoing monitoring function.

There are several other variations on this option which might be explored. One option would be to have the TRUST issue below-market-rate mortgage revenue bonds (using the City as pass-through) on behalf of the projects and extend the unit's affordability by

extending the below-market financing. However, while this will extend affordability, it probably will not create permanent affordability.

Another option would be for the developer to donate the existing land under the existing projects with affordable units to the TRUST, thereby gaining a charitable deduction. Following the land donation, the TRUST could lease the land back to the developer. The TRUST might, at the same time, issue mortgage revenue bonds (see above), either to purchase the improvements (which would probably create a tax recapture issue for the developer) or pass through the new mortgage revenue bond financing to the developer, with the developer retaining the management contract. The advantage of this last alternative is that TRUST would not own the improvements and only hold the land lease, making the role of the TRUST clear and consistent with its other projects.

These potential alternatives and variations will need to be explored with the owners/developers of the existing affordable units in Irvine. As stated above, it is recommended that the City propose to obtain permanent affordability covenants on the existing affordable units, while also negotiating future zoning changes on undeveloped land in return for extensions of affordability on existing units. Depending on the option that the City decides to pursue and based upon its negotiations with owners/developers, legal documents will need to be developed. The TRUST will be drawing from other land trusts around the country to create these documents in order to create a clear and consistent preservation strategy for the City to implement through the TRUST.

As a context for making the above decisions, the City should calculate the tradeoffs between extending the affordability of the existing affordable units in Irvine as opposed to creating new affordable rental units under the TRUST structure which will remain permanently affordable. Once the costs of affordability preservation are known (from negotiations with developers), the creation of new permanently affordable units may turn out to be the preferred option.

Rental projects for special needs groups are described in the following section.

### Special Needs and Homelessness

As described above, the City's adopted Vision Statement calls for the development of affordable housing for special needs groups, described as "youth, seniors, single parents, developmentally disabled, Single-Room Occupancy projects (SRO's), people living with AIDS or chronic illnesses, supportive/transitional housing, and mobile home parks. The Vision Statement also calls for the reduction of the frequency and duration of homelessness.

### Special Needs Recommendations

For special needs projects, the TRUST would work with a special purpose non-profit (i.e. senior services agency, etc.) to facilitate the development of special needs housing on land that was either donated or acquired as part of a larger project.

The TRUST's role would vary considerably between different projects in this category. One key role will be in underwriting the proposed service provider to insure that the provider has a strong track record with other similar projects of the nature proposed, has continuing access to sources of funding and support, and has sufficient capital and other resources to represent a strong partner for the TRUST with minimum credit risk. In projects of this nature, it may also be necessary for the TRUST to either own or be part owner of the improvements, in cases where the service providers do not have the skills or adequate resources to construct the improvements (residential facilities). Such situations may require the TRUST to engage in fundraising from outside sources to develop the special needs projects.

The TRUST's roles will likely vary considerably between different projects in this category and it will be difficult to predict the demand on staff time or the fees that the TRUST would earn. However, these projects would all involve a ground lease similar to the one used for affordable rental projects.

#### Homeless and Supportive/Transitional Housing Recommendations

As opposed to "shelter-based" temporary solutions to address homelessness, homeless programs are now being designed in conjunction with supportive and transitional housing programs. Homelessness continues to be a problem in Southern California. However, cities have difficulty estimating the incidence of homelessness within their boundaries. It is difficult to count people through normal census procedures who have no address and are constantly moving around. In reality, most of the estimates of local homeless populations come from the agencies that serve them.

"Families Forward," the City's major homeless provider, estimates that there are more than 30,000 families in South Orange County that have no place to call home. Given these figures, it is evident that some degree of homelessness also exists in Irvine. While the 1990 census recorded only seven homeless people in shelters within Irvine, Families Forward currently manages 14 housing units (soon to double to 28 with 14 to be added on the former Tustin Marine Corp Air Station) that provide shelter and related services to the homeless. In addition, the City has a 192-unit Single-Room Occupancy (SRO) facility, called The Irvine Inn, which serves the near homeless and also serves as a shelter for victims of domestic violence. The AIDS Services Foundation in Irvine also provides limited financial assistance for HIV-disabled clients through offering funds for rent and utilities, as well as for medically-related services.

People without a place to call home need shelter, and groups like Families Forward are addressing that need. Shelters are seen as necessary and critical short-term solutions. However, for many cities, the homeless debate has turned from the creation of more and more shelters to prevention of the underlying causes of homelessness.

Recent prevention efforts have centered on two sides of the homeless issue:

1. Efforts to prevent individuals and families from becoming homeless in the first place; and
2. Efforts to diagnose the cause of existing homelessness in individual cases and provide appropriate supportive services to return the individual to being a productive member of society, whenever possible.

#### Prevention Prior to Homelessness

Services for families and individuals who are “on the brink” of becoming homeless can offer an effective prevention strategy in some cases. Strategies can include temporary shelter and/or temporary rent subsidies where homelessness is seen not as chronic but temporary (such as loss of a job, but with good prospects of finding work in a reasonable period of time). The high cost of rent in Irvine (see Rental Housing, above) is a factor which probably increases the incidence of homelessness in these cases, since rent takes a high proportion of disposable income. Families Forward and the other agencies understand this situation and offer intervention assistance.

#### Prevention After Homelessness Has Occurred

Most of the new homeless efforts today are being focused on preventing the reoccurrence of homelessness, and are directed toward temporary shelter combined with an evaluation of the underlying causes of homelessness and referral to appropriate service providers. The common name for this approach is “supportive housing”.

In supportive housing projects, longer-term shelter (six to twelve months, sometimes with extensions) is combined with intake evaluation and service referral. The diagnosis must confirm that there is an opportunity to prevent the recurrence of homelessness and return the individual to being a productive member of society. In cases where homelessness is deemed chronic (i.e. physical or mental illness not deemed treatable), other shelter options are recommended. For the rest, a short-term lease is offered, based on the individual or family’s ability to pay combined with other financial assistance. The lease requires that the individual engage actively in the services and treatment prescribed by the intake evaluation. San Diego and San Francisco are currently promoting innovative “supportive housing” projects and strategies and, as these programs proceed, the City of Irvine can evaluate them and determine their applicability to the local circumstances. While additional shelter opportunities are always needed, it is recommended that the City of Irvine pursue a homeless prevention strategy, in accord with its Vision Statement, and participate through the ICLT in the development of one or more “supportive housing” projects, as described below.

Once the TRUST has the appropriate land, and homeless has been identified as the priority use for that land, the TRUST would issue a Request for Proposal (“RFP”) for

agencies who would be willing to build and operate a supportive housing project on the site. For economies of scale, the project should have at least 40 units.

Service providers could respond to the RFP in connection with housing developers, including both for-profit and non-profit organizations. Funding sources should be identified by the TRUST, to facilitate the development of a projects, which could include the State's Multifamily Housing Program (MHP), tax credits, tax-exempt bonds, AHP funds from the Federal Home Loan Bank, HOME funds and other local sources of support.

Once the facility is built, it will be sold or leased to a service operator. The TRUST will retain the lease on the land. The TRUST will need to underwrite the proposed service provider to insure that it is likely to have the appropriate support to maintain and operate the project. Ideally, the project operator will lease the improvements by seeking funding from outside sources (foundation and/or public grants, individual contributions, etc.). The facility might be designed with commercial space for social service providers who can pay rent to the operator as well as offer on-site services to the residents.

In addition to collecting lease fees, the role of the TRUST will be to monitor the operations of the facility to assure that it is serving the needs it is intended to serve and is making a meaningful contribution toward the goal of reducing the incidence of homelessness in Irvine.



## **VIII. CREATION OF THE IRVINE COMMUNITY LAND TRUST**

As discussed above, the Irvine Community Land Trust (the “TRUST”) will provide the structure through which the City will implement its future affordable housing programs. The City’s Housing Task Force has reviewed the concept of the TRUST and has recommended its creation to the City Council. Since the TRUST must be a public charity approved by the IRS (under Section 501c3), an application must be prepared and submitted to the IRS for review and approval. This process usually takes about six months and sometimes a longer period of time.

In order to expedite the process following the City Council’s approval, city staff has requested that the supporting materials essential to the IRS application be prepared in advance of the Council’s decision. The Housing Task Force has already met with the consultants to discuss the structure of the TRUST and how it will operate.

The Housing Task Force has met three times to make the initial recommendations regarding the Trust’s structure. The issues addressed include the following:

- Reviewing incorporation documents for the TRUST in California (name, address of initial agent and contact information, charitable purpose statement, and filing).
- Finding and engaging qualified and specialized legal counsel to help prepare the IRS application.
- Reviewing the narrative overview of the TRUST and its operations and what charitable purpose it will pursue (relieving the burdens of government through facilitating the creation of affordable housing).
- Reviewing the items in the TRUST’s proposed bylaws, including:
  - Determining the initial size and structure of the Board of Directors of the TRUST.
  - Proscribing how the Board will do its business (annual, regular and special meetings, quorum requirements, fees and compensation, minutes, etc.).
  - Determining the number, role and responsibilities of TRUST committees.
  - Reviewing anticipated initial TRUST staffing (by City staff).

The Housing Task Force has also reviewed a preliminary business model and budget for the TRUST, projecting the types of initial projects, affordability mix, and sources and uses of initial income.

After City Council approval, the application will be filed with the IRS, with a decision expected in six months. When the IRS approval is received, the attorneys will prepare and file a similar document with the State of California Franchise Tax Board. The State of California's approval is usually granted quickly, following IRS approval. The implementation steps following Council approval are detailed in Section IX of this report.

## **IX. IMPLEMENTATION PLAN**

This section of the report details the steps necessary to implement the City's affordable housing strategy. The steps are not sequential, and many can proceed in concurrence with others.

Implementation Step 1: Approve the Strategy, Appoint the Interim Board of the TRUST, and authorize the Board to file the 501c3 application with the IRS.

After approval of the strategy by the City Council, the Council will also appoint two members to serve as the interim Board of Directors of the TRUST. The interim Board will meet to authorize the filing of the IRS application.

Implementation Step 2: Direct City staff to serve as initial TRUST staff.

While the TRUST will eventually have its own staff, City staff can serve as initial TRUST staff during the organizational development work and until the TRUST has obtained land and is ready to begin project development activities. It is recommended that the Housing Manager serve as the TRUST's initial staff, with assistance from other City staff as needed.

Implementation Step 3: Appoint the rest of the TRUST Board and begin organizational activities.

The City Council should appoint the rest of the TRUST Board within the next 30 to 60 days and the Board should begin its organizational activities so that it will be ready to operate when the IRS approval is received. Activities during this six-month period will include the following:

- Holding the first organizational meeting of the TRUST Board of Directors.
- Setting the priorities for types of initial projects (see recommendations below).
- Preparing the job description for the TRUST President (Executive Director). As discussed above, staff will be hired only when the TRUST is ready to begin development activities.
- Reviewing the Preliminary Business Plan (submitted with the IRS application) and preparing and adopting the final Business Plan.

- Working with attorneys to prepare the basic TRUST legal documents, including:
  - The basic ground lease for rental and homeownership projects.
  - Sale and rent-up agreements.
  - Monitoring agreements with lessees.
  - Tenure documents, including:
    - Property maintenance standards
    - Resale formulas (including inheritance issues)
    - Subletting provisions
    - Other (how to value improvements, insurance requirements of lessees, etc.)
  - Covenant documents applicable for extending the affordability of existing units in Irvine.

The City has recently hired a new Housing Manager to oversee and manage its future affordable housing projects, and is also consolidating the housing programs, staff and resources into a new Housing Division. As the timing of the resources becomes clear, it will be necessary to have the appropriate staffing under the Housing Manager so that the resources can be successfully employed. Additional positions will most likely be necessary to manage an affordable housing program of this magnitude and can be funded from a percentage of the tax increment and inclusionary housing funds generated. Once the TRUST begins to develop projects in earnest, having a separate TRUST staff will provide additional legal separation between the City and the TRUST, which will potentially avoid any future problems that may arise from development activities.

#### Implementation Step 4: Approve a Seed Capital Grant for the TRUST.

The plan is for the TRUST to become operationally self-sufficient, although it may need future support associated with the development of specific projects. As noted above, a business plan will be developed for the TRUST, which will include projected revenues versus projected income and expenses.

The experience of community land trusts established in other cities shows that the ICLT will require support in the initial two to three years of its existence until its revenues can support its operations. It is estimated that the TRUST can become self-sufficient within three years, but in the interim will need operational support from the City. As a 501c3, the organization will be eligible for this assistance and 20 percent housing set-aside funds and/or Community Development Block Grant funds are a likely financing source.

A preliminary estimate of the necessary seed grant is \$250,000, paid over two to three years and starting sometime between Fiscal Year 2008 and 2010. More accurate projections will be included in the TRUST's business plan. As in other cities which have established community land trusts, like Burlington, Vermont, the City staff and the community land trust staff will work closely together in a common effort to increase and maintain the city's affordable housing stock.

Implementation Step 5: Update housing affordability standards.

The City should adopt specific definitions and parameters as to what constitutes an affordable housing project in Irvine and what income levels will be served. The standards need to be consistent with State law. These definitions and parameters should be incorporated into the City's Housing Element and zoning codes so that developers are aware of them. Since Redevelopment Agency tax increment funds will be a major source of funding for affordable housing projects, it is recommended that the City amend Chapter 2.3 of its zoning code to include the affordable housing definitions as defined in the State of California Health and Safety Code, Section 50000. Such definitions include both income categories as well as housing costs. By doing so, there will be no misunderstandings by any parties about what constitutes affordable housing in Irvine.

Implementation Step 6: Update the City's inclusionary housing program.

The City's inclusionary housing program should be revised to require permanent affordability for future inclusionary units created, through permanent affordability covenants dedicated to the TRUST. Also, with the formation of the TRUST, it will be necessary for the City to create incentives for developers (and others) to donate land to the TRUST. The City can do this informally in discussions and entitlement negotiations with developers, but the incentives should be built into the City's inclusionary program. The City should review its inclusionary program menu options and make appropriate adjustments which add incentives for the land donation option. This might take the form of increasing present or future credit for land donations compared with the other options. This is appropriate because, with the establishment of the TRUST, the City will now have the ability to create housing which is permanently affordable, and there is an increased value in this outcome which justifies providing increased credit for land.

In the future, the City should resist investing local subsidy funds into new inclusionary units because this will diminish the City's resources necessary to create more units later. In addition, the City should remove incentives allowing developers to build fewer affordable housing units when building for-sale units and/or units with more bedrooms or deeper affordability.

Implementation Step 7: Develop Project Priorities and Standards

It will be up to the City to prioritize what types of affordable housing projects it intends to promote through the TRUST. It is recommended that the initial projects include both a

homeownership project and a multi-family rental project. Subsequently, other projects can be added to address the additional priorities identified in the Vision Statement. The City and the TRUST should continually evaluate the economic tradeoffs between preserving existing units and building new ones, particularly if the new units will be permanently affordable.

#### Implementation Step 8: Implement Community Land Trust Outreach Program

It will be necessary to inform the community about the existence of the TRUST and explain how it works. This will be of critical importance to those who will have to work with the TRUST including:

- Lenders (who will need to learn about making leasehold mortgages on TRUST-leased land).
- Fannie Mae (which has developed lender underwriting standards for these types of loans and will purchase conforming loans in the secondary market).
- Realtors (who will need to understand the TRUST's homeownership model).
- The Orange County Business Council (which may provide subsidies to the TRUST through its new Housing Trust Fund).
- The County Housing Authority (which can assist with publicity for TRUST properties).
- NHS of Orange County (which could contract for homeowner counseling)
- The Kennedy Commission (which could help promulgate the TRUST concept to other cities)
- Non-profit and for-profit developers who will potentially be developing projects in conjunction with the TRUST.

The City, together with the Board of Directors of the TRUST, should develop an outreach program to inform all the members of the community and other stakeholders about the TRUST and its stewardship function and answer any questions concerning its operations.

#### Implementation Step 9: Create and update unit production objectives every five years to 2026.

As described in the Executive Summary, a unit and revenue model was developed including the critical data and assumptions that will determine the number of affordable housing units eventually produced. The full model appears in the Appendix of this report, together with an explanation of the assumptions and the inter-relationship of the variables.

The current key assumptions are as follows:

- \$150,000 average per-unit subsidy for both rental and homeownership projects.
- 544 affordable units built at the Great Park (El Toro) site as a result of the City's inclusionary requirements.
- \$143 million of available 20 percent tax-increment set-aside funds.

The model demonstrates that the goal of 10 percent (9,700 units) is possible but will require significant changes to the City's housing programs as recommended above. With the conservative assumptions and based on the City's currently projected revenues and inclusionary requirements, a total of 7,929 units are likely to be produced. This is 1,771 units short of the goal. However, the goal of 10 percent (9,700 units) would be achievable under slightly more aggressive assumptions. For example, if the City sets aside more than the minimum 20 percent of tax increment funds for affordable housing, reduces its average subsidy per unit, increases incentives for land donation in the inclusionary ordinance, negotiates for preservation of existing affordable units and/or increases its leverage of state and federal housing funds, 9,700 units should be possible. The model results emphasize the need for the City to be aggressively proactive to maximize the use and leverage of its funds in order to achieve this goal.

The City and the TRUST should use this model to set production objectives for every five years through 2026. The City should then update the model as assumptions change and manage toward both the five-year goals and the 10 percent (9,700 units) goal.

With the adoption of this Housing Strategy, the City embarks on an ambitious plan to create a significant amount of affordable housing for future generations of Irvine residents. The existence of this housing will ensure that the City maintains a variety of housing types in sufficient volume to preserve and grow the City's diverse population.

The City should use the strategy as a "living document" and ask Housing Staff to evaluate progress (using the tracking system mentioned above). From that evaluation, the City will be able to consider updates to the strategy as conditions and opportunities change. For example, when the new Housing Element is prepared in 2008, the updated housing needs should be incorporated into the strategy. As funding sources change, as some programs disappear while others become available, the strategy should be updated to reflect these changes.

Of course, the City and the TRUST should continue to seek ways to leverage the City's funds as much as possible with other sources of funds so that the maximum number of affordable housing units can be developed with the available dollars. Whereas Irvine is fortunate to have affordable housing resources available, it will be necessary to make

highly efficient use of those funds if the City's goal of 10 percent (9,700 affordable units) is to be achieved by the end of 2025.



## **X. FUTURE POSSIBILITIES**

It should be noted that community land trusts are not limited solely to affordable housing, although this is certainly their main focus. Other community land trusts have developed mixed-use projects. The Burlington Community Land Trust owns property which includes 60,000 feet of commercial development, most of which is rented to non-profit organizations. The rent from these commercial ventures, while still below market, is used to cross-subsidize its affordable housing projects.

Similarly, community land trusts have created non-profit villages which have provided concentrated space for the offices of non-profit organizations. If the City of Irvine was interested in developing a non-profit village in association with some of the other developments in and around the Great Park, the TRUST could conceivably play a role as the landowner for these projects.

\* \* \*



## **APPENDIX A**

### **20-YEAR AFFORDABLE UNIT & REVENUE PROJECTIONS**

The analysis below presents a projection of affordable housing units and revenues over a 20-year period. What is immediately evident from this analysis is the fact that over 95 percent of the existing affordable units are at-risk of losing their affordability at some point in the future. While the next 20 years shows an overall increase in affordable units, this number would be significantly greater if the existing units had included a component of permanent affordability. The value of the Trust is better understood when comparing the large number of new units created with the significant decline in the existing affordable units as restrictions expire.

The 20 year projection of affordable units which follows this discussion is based upon the following assumptions that are critical to the outcome of total units created or preserved in Irvine:

1. \$150,000 per unit subsidy for rental units: This is a blend of tax credit projects with most of the projects receiving less assistance from the State and an average income between 45 and 50 percent. This is a rough estimate and depends upon affordability levels, building type, density, and the ability of developers to leverage other County, State and Federal dollars.
2. \$150,000 per unit subsidy for ownership units: This assumes that most of the applicants will be at 110 percent of median income and utilize low-mod housing funds.
3. 3,625 units built at the Great Park site: If this number is higher, based on negotiations, there will be an increase in the total number of affordable units built based upon the City's inclusionary requirements. However, there may also be an additional increase in affordable units created if the negotiations provide the City with either donated land or more affordable units created for the Trust.
4. \$143 million of low/mod housing set-aside funds: This is a projection based upon current real estate values. If the total number of units changes and/or the total value of real estate changes, this will alter the total number of affordable units built, and the total low to moderate housing set-aside funds that are generated.

Based upon these assumptions, at the end of the 20 years, the City of Irvine will have a total of 7,929 affordable units. Even after 20 years, some of the units will likely still be at risk of losing their affordability. However, if the City of Irvine's focus remains on creating permanent affordability for the new units, then the percent of units that are at-risk at the end of the 20 years could drop to as low as 50 percent. The other 50 percent of units will be in the Trust and permanently affordable.

Although 7,929 units is lower than the 9,700 units (10 percent) of the Housing Task Force goal, a number of critical factors will affect the actual units offered. The negotiations and decisions over the next five years are critical in influencing the total number of permanently affordable units. The examples below indicate how the number of units can change based on a number of variables.

1. If the City of Irvine works with its local non-profits to obtain Federal, State, County, and other sources of outside money with the purpose of lowering the City's per unit subsidy from \$150,000 to \$125,000 for new rental projects, the net result would be the creation of approximately 200 more permanently affordable units.
2. If the City of Irvine increases the available low-moderate set aside funds from 20 percent of the increment funding to 40 percent, and dedicates the increased funding to the construction of new units, the net result would be the creation of approximately 600 more permanently affordable units. That strategy would cost the Agency approximately an additional \$123 million dollars, drawn from the 80 percent tax increment funds.
3. If the preservation of an existing unit costs only \$75,000 per unit and the creation of a new affordable unit costs \$150,000, the net result would be the creation of approximately 772 more permanently affordable units, if funds were shifted to that priority. However, this option would not establish permanent affordability, but just extend the expiration date of an affordable unit. This may only prolong a difficult problem. At some point it may be better to create the new unit even though it may cost more in the short term. As recommended in the strategy report, the City should develop and update periodically an economic analysis showing the cost differential between preserving a unit for a finite period of time versus creating a new unit with permanent affordability. It then becomes a policy decision as to how much it is worth to create a permanently affordable unit versus preserving an existing one for a finite period of time.
4. If there are opportunities to increase density or swap existing City/RDA-owned land for more land in a different location, or swap land for more permanently affordable units, the net result would be the creation of additional affordable units at little or no net cost to the City.

The details of the model are provided on the following page.

**City of Irvine****Affordable Unit & Revenue Projections**

July 19, 2008

**ASSUMPTIONS (see appendix for further details)**

Percent of IBC area paying an in-lieu fee	10%
Percent annual increase in construction costs	3%
Percent annual increase in land value (in-lieu fee)	5%
Total # of units at Great Park	3,825
Affordable Rental Units Built From Available Revenues	80%
Affordable Ownership Units Built From Available Revenues	20%

**Existing/Approved Ownership Units \***

Previous DAP units	10
Newly funded DAP units	10
Habitat for Humanity	12
Approved For Sale Units	93
<b>Total</b>	<b>125</b>

**PROJECTED HOUSING REVENUES**

	2005	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Low/Mid Housing Set-Aside	\$1,300,035	\$1,326,054	\$1,977,295	\$4,284,914	\$6,152,831	\$7,423,852	\$8,677,762	\$8,851,335	\$9,028,379	\$9,299,257	\$9,578,261	\$9,865,635	\$10,161,630	\$10,466,505	\$10,780,526	\$11,103,968	\$11,437,114	\$11,780,253	\$12,133,687	\$12,497,724	\$12,872,682
In-Lieu Fee (IBC Area)	\$2,494,200	\$2,618,910	\$2,749,856	\$2,887,348	\$3,031,716	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
In-Lieu Fee (Infill Projects)	\$50,000	\$52,500	\$55,125	\$57,881	\$60,775	\$63,814	\$67,005	\$70,355	\$73,873	\$77,566	\$81,445	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
In-Lieu Fee (Great Park)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CDBG Capital Expenditures towards subsidizing units	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
HOME less CHDO Set Aside & Admin	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500	\$487,500
<b>Total Housing Revenues Available To Build New Units</b>	<b>\$4,831,735</b>	<b>\$4,984,964</b>	<b>\$5,769,776</b>	<b>\$8,217,644</b>	<b>\$10,232,822</b>	<b>\$8,475,166</b>	<b>\$9,732,267</b>	<b>\$9,909,190</b>	<b>\$10,089,752</b>	<b>\$10,364,323</b>	<b>\$10,647,205</b>	<b>\$10,853,135</b>	<b>\$11,149,130</b>	<b>\$11,454,005</b>	<b>\$11,768,026</b>	<b>\$12,091,468</b>	<b>\$12,424,614</b>	<b>\$12,767,753</b>	<b>\$13,121,187</b>	<b>\$13,485,224</b>	<b>\$13,860,182</b>

**PROJECTED UNITS BUILT PER YEAR**

Subsidy Per Affordable Rental Unit (see appendix for assumptions)	\$150,000	\$154,500	\$159,135	\$163,909	\$168,826	\$173,891	\$179,108	\$184,481	\$190,016	\$195,716	\$201,587	\$207,635	\$213,864	\$220,280	\$226,888	\$233,695	\$240,706	\$247,927	\$255,365	\$263,026	\$270,917
Subsidy Per Affordable Ownership Unit (110% median income buyer)	\$150,000	\$154,500	\$159,135	\$163,909	\$168,826	\$173,891	\$179,108	\$184,481	\$190,016	\$195,716	\$201,587	\$207,635	\$213,864	\$220,280	\$226,888	\$233,695	\$240,706	\$247,927	\$255,365	\$263,026	\$270,917
Agency Assisted Rental Units Built <i>Per Year</i>	26	26	29	40	48	39	43	43	42	42	42	42	42	42	41	41	41	41	41	41	41
Agency Assisted Ownership Units Built <i>Per Year</i>	6	6	7	10	12	10	11	11	11	11	11	10	10	10	10	10	10	10	10	10	10
<b>Total Agency Assisted Affordable Units Built <i>Per Year</i></b>	<b>32</b>	<b>32</b>	<b>36</b>	<b>50</b>	<b>61</b>	<b>49</b>	<b>54</b>	<b>54</b>	<b>53</b>	<b>53</b>	<b>53</b>	<b>52</b>	<b>52</b>	<b>52</b>	<b>52</b>	<b>52</b>	<b>52</b>	<b>51</b>	<b>51</b>	<b>51</b>	<b>51</b>

**CUMULATIVE UNITS AVAILABLE**

Existing Affordable Units (3,155 + 1,245)	4,400	4,400	4,400	4,400	4,400	2,842	2,626	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677	1,677
Preservation of Existing Affordable Units at no cost	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Existing/Approved Ownership Units *	18	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125
Inclusionary Units Built per MAHP	250	500	1,000	1,500	2,000	2,500	3,000	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189	3,189
Inclusionary Units Built (IBC)	0	270	540	810	1,080	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350	1,350
Total Agency Assisted Units (Permanently Affordable)	32	64	101	151	211	260	315	368	421	474	527	579	632	684	735	787	839	890	942	993	1,044
Great Park Affordable Housing (15% of Total Great Park Units)	0	0	0	150	300	450	544	544	544	544	544	544	544	544	544	544	544	544	544	544	544
Inclusionary Infill Units (Non MAHP, Great Park, IBC)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Affordable Units</b>	<b>4,700</b>	<b>5,359</b>	<b>6,166</b>	<b>7,136</b>	<b>8,116</b>	<b>7,527</b>	<b>7,959</b>	<b>7,253</b>	<b>7,308</b>	<b>7,359</b>	<b>7,412</b>	<b>7,464</b>	<b>7,516</b>	<b>7,568</b>	<b>7,620</b>	<b>7,672</b>	<b>7,724</b>	<b>7,775</b>	<b>7,826</b>	<b>7,878</b>	<b>7,929</b>

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## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: California Housing Finance Agency Loan Agreement

DATE: May 2, 2007

PARTIES: Irvine Redevelopment Agency (Agency)  
California Housing Finance Agency (State)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement documented a loan from the State to the Agency enabling the Agency to provide construction funding for the Granite Court Affordable Housing Rental project. Granite Court is a 71 unit very low income affordable multifamily rental housing project located at the corner of Kelvin and Murphy. The project will be affordable for 55 years to households whose incomes are below very low-income. Funding was provided to leverage other local and private investment in this affordable housing development.

The principal amount of the loan was \$1,350,000 and accrues simple interest at 3.5 percent (\$47,250 per year). The loan term ends 10 years from the date of the Agreement. The total loan (principal and interest) for the ten year term is \$1,822,500, however, payment is deferred for the term of the loan to May 2, 2017.

# CALIFORNIA HOUSING FINANCE AGENCY

## LOAN AGREEMENT

### Housing Enabled by Local Partnerships

CalHFA Loan No. **HELP-082506-04**

This Loan Agreement (the "Agreement") is made and entered into on May 2, 2007, by and between the Irvine Redevelopment Agency, a separate legal entity from the State of California (the "Borrower"), and the California Housing Finance Agency, a public instrumentality and political subdivision of the State of California (the "Agency").

## R E C I T A L S

A. The Agency has authorized the making of a loan (the "HELP Loan") to the Borrower for the purpose of assisting the Borrower in operating a local housing program (the "Project") as more particularly described in the Borrower's loan application to the Agency and as further described in **Exhibit A** attached hereto and incorporated herein by this reference; and

B. The Agency and the Borrower intend, by this Agreement, to provide for the funding and repayment of the HELP Loan.

NOW, THEREFORE, in consideration of the mutual promises expressed herein, the parties hereto agree as follows:

1. HELP Loan. The Agency shall lend and the Borrower shall borrow and repay the HELP Loan in accordance with the provisions of this Agreement.
2. Disbursement of Loan. The Agency shall disburse the HELP Loan to the Borrower in accordance with the purposes and provisions described in **Exhibit A** which Exhibit is incorporated herein in its entirety.
3. Repayment of Loan.
  - (a) For value received, the Borrower agrees to pay to the order of the Agency the principal amount of the HELP Loan, as described in **Exhibit A**, or so much thereof as may be disbursed by the Agency to the Borrower, or for its account, as provided herein. The Borrower also promises to pay to the order of the Agency interest and other charges in the amounts and at or before the times herein provided. Notwithstanding any provision to the contrary in the Borrower's application or other Project information submittals, this Agreement shall be a general obligation of the Borrower and the source of funds utilized for repayment shall not be limited to any particular asset(s) of the Borrower.
  - (b) The disbursements made pursuant to this Agreement shall accrue simple interest at the percentage rate per annum as specified in **Exhibit A** from the date that they are disbursed to the Borrower or for its account, until repaid.



(c) Any balance owed pursuant to this Agreement, whether principal, interest or otherwise, if not sooner due and payable as provided herein, shall be due and payable at the end of the HELP Loan term as specified in **Exhibit A**.

4. Interest Rate Adjustment. In addition to any other default remedies that the Agency may have as provided herein, the Agency may, upon thirty (30) days written notice to the Borrower, increase the rate of interest charged on any outstanding principal amount disbursed to the Borrower and not used in accordance with the terms of this Agreement, or not paid back when due, to a rate not to exceed ten percent (10%) per annum. Such rate adjustment shall occur commencing on the first (1st) day of the first (1st) month following expiration of such thirty (30) day notice. Such increased interest rate shall only be charged so long as the Borrower remains in default.

5. Place and Manner of Payment. All amounts due and payable under this Agreement are payable at the principal office of the Agency as set forth herein, or at such other place or places as the Agency may designate to the Borrower in writing from time to time, in any coin or currency of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts and which on the respective dates on which such payments are due shall be immediately available funds.

6. Application of Payments. All payments received by the Agency from the Borrower on account of this Agreement shall be applied first to charges due under this Agreement other than interest and principal (i.e., attorneys fees and enforcement costs, if applicable), then to accrued interest and then to a reduction of the outstanding principal amount.

7. Timely Progress.

(a) The Borrower shall diligently commence and proceed with the implementation of the Project in a timely manner, and shall report such progress to the Agency, as specified in **Exhibit A**.

(b) In the event that the Borrower experiences any delay in the timely commencement of or progress in the implementation of the Project, the Borrower shall immediately notify the Agency of same. Failure of the Borrower to timely commence or proceed with the implementation of the Project shall (i) release the Agency from the obligation to make any further disbursements under this Agreement, and (ii) entitle the Agency to recapture from the Borrower all disbursed funds which have not been timely used, provided that the Agency shall have given the Borrower at least fifteen (15) days written notice of its intent to take such actions(s) and shall have given the Borrower a reasonable opportunity to correct such failure.

8. Default. The Borrower agrees that the unpaid balance of the then principal amount of this Agreement, together with all accrued interest thereon and charges owing, shall, at the option of the Agency, become immediately due and payable, upon:

- a) the failure of the Borrower to make any payment hereunder as and when due,
- b) the Agency's discovery of any misrepresentation of material facts as stated in the Borrower's application or other Project information submittals,
- c) the use of HELP Loan funds for purposes not approved by the Agency,
- d) the Project's lack of compliance with the occupancy and rent requirements as stated in **Exhibit A**,

e) the failure of the Borrower to perform or observe any other term or provision of this Agreement or

f) the occurrence of any other event (whether termed default, event of default or otherwise) which under the terms of this Agreement shall entitle the Agency to exercise rights or remedies hereunder, provided that the Agency shall give written notice to the Borrower of any of the foregoing events and the Borrower shall have thirty (30) days to cure before any acceleration of the unpaid balance. In the event that the Borrower uses disbursed HELP Loan funds for a purpose which is not authorized or approved under this Agreement, or otherwise by the Agency in writing, the Agency may demand and the Borrower shall immediately repay such funds to the Agency.

9. Right to Inspect. The Borrower shall allow the Agency, on written request, to have reasonable access to and the right to inspect all records that pertain to the Project and this HELP Loan. The Borrower shall also permit the Agency to enter, at reasonable times, upon the Project to inspect the work progress. All records, accounts, documentation and other material relevant to a fiscal audit or examination, as specified by the Agency, shall be retained and made available to the Agency for a period of not less than three (3) years from the date of the termination of this Agreement.

10. Periodic Reports.

(a) Within fifteen (15) business days after the end of each reporting period as described in **Exhibit A**, the Borrower shall submit to the Agency a status report describing the Project's progress and detailing compliance with the requirements of the Agency. The format of the report shall be as provided or approved by the Agency.

(b) The Borrower agrees to establish and maintain fiscal control and accounting procedures which assure that funds loaned to it pursuant to this Agreement are properly disbursed, adequately controlled and reasonably accounted for. Adequate documentation of each transaction shall be maintained to permit the determination, through an audit if requested by the Agency, of the accuracy of the records and the allowability of expenditures payable with HELP Loan funds. If the allowability of any expenditure cannot be determined, the questionable expenditure may be disallowed by the Agency in its sole discretion. Upon demand by the Agency, the Borrower shall immediately repay the Agency for any disallowed expenditures.

11. Fair Employment Practices. The Borrower shall provide, and require that any contractor or subcontractor engaged in work on the Project shall provide, equal opportunity for employment without discrimination as to race, sex, marital status, color, religion, sexual orientation, source of income, national origin or ancestry.

12. Use of Funds. The Borrower agrees that it shall hold, in trust, any funds received by it pursuant to this Agreement and apply them only for the purpose for which such funds were approved by the Agency. Approved use of funds may include the Borrower's reasonable administrative costs in administering the Project and HELP Loan to the extent, but only to the extent, provided for in **Exhibit A**.

13. Time. Time shall be of the essence in this Agreement.

14. Term of Agreement. The term for this Agreement shall commence upon execution and shall continue until all terms hereof, including but not limited to affordability covenants and requirements, shall have been completed.

15. Communications. All notices, and other communications made pursuant to this Agreement shall be effective upon personal delivery or, if mailed, on the date which is three (3) business days after deposit with the United States Postal Service, postage prepaid, and addressed to the applicable party as follows:

To the Borrower:	At the Borrower's address as described on <b>Exhibit A.</b>
To the Agency:	California Housing Finance Agency
	Attn: HELP Program
Mail-	PO Box 4034
	Sacramento, CA 95812-4034
Delivery-	1415 L Street, Suite 650
	Sacramento, CA 95814

16. Successors and Assigns. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no assignment of the Borrower's rights hereunder shall be made, voluntarily or by operation of law, without the prior written consent of the Agency. The Borrower is the only entity which the Agency intends to benefit by this Agreement.

17. Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

18. Integration. This Agreement, together with the exhibits hereto, incorporating references herein, and enclosures herewith, sets forth all of the promises, agreements and understandings to date among the parties hereto with respect to the Project and HELP Loan, and there are no other promises, agreements or understandings, oral or written, express or implied.

19. Compliance with Laws. The Borrower shall comply with all applicable federal, state and local laws. Borrower hereby warrants such legal compliance and agrees to indemnify the Agency against any damages, costs or attorneys fees incurred by the Agency as a result of any such noncompliance.

20. Amendment. This Agreement shall not be amended except by a written agreement signed by the parties hereto.

21. Remedies. Waiver.

(a) If the Borrower fails to comply with the terms of this Agreement, the Agency may, at its election, terminate its obligation to make any further loan disbursements hereunder. No remedy herein contained or conferred upon the Agency is intended to be exclusive of any other remedy or remedies afforded by law, by equity or by the terms hereof to the Agency but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No exercise of any right or remedy by the Agency hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law, and no delay by the Agency in exercising any such right or remedy hereunder shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any breach hereunder.

No waiver by the Agency of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

23. Attorneys Fees, Costs. In any action to enforce or relating to this Agreement, the prevailing party shall be entitled to recover from the other party, its costs and expenses including attorney fees. The term "costs and expenses" as used herein shall include all costs and expenses actually and reasonably incurred. Such costs and expenses shall be recoverable whether the services were rendered by a salaried employee of the party or by an independent contractor.

24. Representations and Warranties. The persons who are executing this Agreement on behalf of the Borrower and the Borrower represent and warrant to the Agency as follows:

(a) The Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted. The copies of the documents evidencing the organization of the Borrower delivered to the Agency are true and current copies of the originals including any amendments.

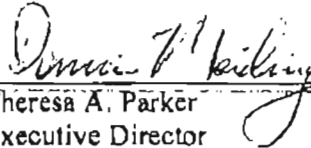
(b) The Borrower has the full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been and will continue to be executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of the Borrower and all actions required under the Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered or to be executed and delivered, pursuant to this Agreement, have been and will continue to be duly taken.

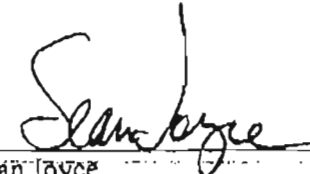
(d) This Agreement and all other documents or instruments which have been executed and delivered pursuant to this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

**CALIFORNIA HOUSING  
FINANCE AGENCY**

By:   
for Theresa A. Parker  
Executive Director

**IRVINE REDEVELOPMENT  
AGENCY**

By:   
Sean Joyce  
Executive Director

**EXHIBIT:**

Exhibit A: Project Specific Terms and Conditions

APPROVED AS TO FORM:  
  
CITY ATTORNEY OF THE CITY OF IRVINE

**ATTEST**

  
CITY CLERK OF THE CITY OF IRVINE

  
Chair, Irvine Redevelopment Agency

## Project Specific Terms and Conditions

Borrower: Irvine Redevelopment Agency  
One Civic Center Plaza  
Irvine, CA 92623

Attn: Executive Director

CalHFA Loan No.: HELP--082506-04

### HELP Loan Terms:

Principal Amount:	\$1,350,000
Interest Rate:	3.5% simple per annum Interest to be charged only on funds disbursed
Term:	10 years from date of this Agreement
Payment:	Deferred for term of HELP Loan

Loan is subject to the following conditions:

1. Authorizing Resolution. Prior to the disbursement of any HELP Loan funds, the Borrower shall issue a resolution that authorizes the signor, on behalf of the Borrower, to execute this Agreement, incur the HELP Loan indebtedness, commit specific resources to implement the Project, and take any other actions necessary to facilitate the Project.
2. Project Purpose. Pursuant to the terms of the application package submitted by the Borrower to the Agency and dated October 19, 2006, which is incorporated herein in its entirety, the Borrower shall use the HELP Loan funds exclusively to assist with a gap financing loan program for development of multifamily rental housing projects (the "Project"). The interest rate for a loan made under the Project shall not exceed 3.5% compounded per annum.

For a minimum of 10 years, the Borrower shall ensure that a minimum of 20% of the units of each rental development under this Project, are restricted to occupancy such that each such unit shall be restricted to and affordable to households earning at or below 60% of the area median income as defined in California Health and Safety Code Section 50079.5.

The Borrower shall ensure that reasonable support services for the residents of this Project are provided, such as, but not limited to, life skills training, social and

recreational programs, educational, health and nutritional programs, and computer training.

3. Funds Repaid or Returned. HELP Loan funds which are repaid to the Borrower (by the Borrower's borrower), and are not re-lent within six (6) months of said repayment or which are not utilized within 30 days of their disbursement by the Agency shall be returned to the Agency immediately. With the Agency's consent, in its sole discretion, and upon such conditions as the Agency may impose, and subject to the limitations of paragraphs 5. and 6. below, the funds so returned shall be available for re-distribution to Borrower, upon written application, for Borrower's use in accordance with this Agreement.
4. Interest Accrual on Repaid or Returned Funds. Should the Agency elect to accept a return of funds from the Borrower for re-distribution at a later date, interest shall accrue on the sums being returned for the period said funds were held by Borrower, but interest shall cease to accrue on said sums until the funds are re-distributed to Borrower. Notwithstanding any other provision of this Agreement, any accrued interest shall not be due until the end of the HELP Loan period.
5. Timely Use of Funds (2 Year Requirement). If the Borrower does not draw any funds within 2 years from the date of this Agreement, then the Agency shall have the option, in its sole discretion, to cancel the Borrower's right to receive future draws from the undisbursed HELP Loan funds.
6. Timely Use of Funds (4 Year Requirement). The Borrower shall draw and utilize its entire allocation of HELP Loan funds within 4 years from the date of this Agreement. Any disbursed HELP Loan funds which are not utilized within this period, at the Agency's option, in its sole discretion, shall be immediately repaid and the Borrower's right to receive future draws from the undisbursed HELP Loan funds shall terminate.
7. Draw Procedure. The Borrower shall request draws from the undisbursed HELP Loan proceeds by submitting a certification to the Agency which represents that the Borrower intends to use the funds within 30 days of the draw. The Borrower shall provide the following information in its certification:
  - 1) the HELP Loan Agreement number;
  - 2) the property location where the funds will be used;
  - 3) the specific dollar amount of the draw requested;
  - 4) the specific proposed use of the draw;
  - 5) the date (allow for a minimum of 10 working days) on which the Agency is requested to disburse the draw either by wired funds (provide wiring instructions) or check; and
  - 6) the name and title of the individual making the draw request. If the requestor is someone other than the individual identified in the resolution required by paragraph 1. of this Exhibit A, the certification must be accompanied by a delegation letter or other evidence of authority to execute the certification.

8. Semi-annual Report. The Borrower shall provide a semi-annual report of the status of the Project, in accordance with the requirements of the Agency, commencing on the date which is 6 months from the date of this Agreement and continuing thereafter at 6-month intervals.



## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: County Implementation Agreement No. 1

DATE: March 8, 2005

PARTIES: Irvine Redevelopment Agency (Agency)  
County of Orange (County)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement defines the terms of the Agency's annual payments to the County, based on the County's share of the tax increment paid to the Agency from the redevelopment project area. This agreement is based on the 2003 Property Tax Transfer and Pre-Annexation Agreement among the City of Irvine, the Irvine Redevelopment Agency, and the County of Orange, requiring the County to receive 100% of the property tax revenues the County would have received if the former Marine Corps Air Station, El Toro was not in a redevelopment project area.

**CONTRACTS  
SCAN SHEET**

CONTRACT NUMBER:	<b>4972</b>
AMENDMENT:	
CONTRACT TYPE:	<b>IMPLEMENTATION</b>
CONTRACT NAME:	<b>IRVINE REDEVELOPMENT AGENCY; CITY OF IRVINE</b>
CONTRACT DATE:	<b>03-08-05</b>
EXPIRATION DATE:	
ENTRY DATE:	
CONTRACT SUBJECT:	<b>IMPLEMENTATION AGREEMENT &amp; ACKNOWLEDGEMENT AND WAIVER</b>
ITEM NUMBER:	<b>CC 3.2; RDA 2.1</b>
CONTRACT AMOUNT:	
MEETING DATE:	<b>03-08-05</b>
COUNCIL ACTION:	<b>APPROVED</b>

## **IMPLEMENTATION AGREEMENT NO. 1**

THIS IMPLEMENTATION AGREEMENT NO. 1 ("Implementation Agreement") is made and entered into as of the 8<sup>th</sup> day of March, 2005, by and between the IRVINE REDEVELOPMENT AGENCY (the "Agency") and the COUNTY OF ORANGE (the "County"). Agency and County may sometimes individually be referred to herein as a "party" and collectively as the "parties."

### ***RECITALS:***

A. Agency, County, and the City of Irvine ("City") entered into that certain Property Tax Transfer and Pre-Annexation Agreement, dated March 4, 2003 (the "2003 Agreement"), regarding the annexation and reuse of the former Marine Corp Air Station El Toro (the "Base").

B. Section 2.2.8(ii) of the 2003 Agreement provides that prior to the City and Agency placing the Base or any part thereof into a redevelopment project area the Agency and County shall enter into an agreement reasonably satisfactory to the County providing for the Agency to annually pay to the County an amount equal to one hundred percent (100%) of the County's share of tax increment paid to the Agency from the Base or portion thereof included within a redevelopment project area for use by the County for legally allowable County infrastructure, facilities, and development needs on or related to the Base, including certain uses identified in Section 2.2.3 of the 2003 Agreement, as determined by the County. The foregoing described agreement is also to include a payment structure for such tax increment that would permit the County to issue bonds that are secured by and paid from such Agency payments of tax increment to the County.

C. Agency and City have initiated proceedings which may lead to adoption of an ordinance approving and adopting a Redevelopment Plan ("Plan") for the Orange County Great Park Redevelopment Project Area ("Project Area"). If such ordinance is adopted, the Project Area would include all of the Base now located within the territorial boundaries of the City, with the exception, due to the existing pattern of assessor parcels, of a portion of the area known as the Habitat Reserve Area.

D. The Parties desire to enter into this Implementation Agreement as the agreement between the Agency and County as described in Section 2.2.8(ii) of the 2003 Agreement.

### ***AGREEMENT:***

NOW, THEREFORE, in consideration of the foregoing Recitals and the covenants and promises hereinafter contained, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated The foregoing Recitals are incorporated herein and made a part hereof.

2. Definitions. In addition to terms defined elsewhere in this Implementation Agreement, the following definitions shall apply:

2.1 "Auditor-Controller" means the office of the Auditor-Controller of the County.

2.2 "Agency" means the Irvine Redevelopment Agency, a public body, corporate and politic, organized and existing under the CRL.

2.3 "Agency Payments" shall have the meaning ascribed in Section 3.

2.4 "City" means the City of Irvine, a charter city organized and existing under the Constitution of the State of California. City is not a party to this Implementation Agreement and shall have no obligation hereunder.

2.5 "County" means the County of Orange, California, which for purposes of this Implementation Agreement is defined, collectively as the following, each of which levies property taxes on property in the Project Area: (a) County General Fund; (b) County Library; and (c) County Harbors, Beaches, and Parks.

2.6 "County Account" shall mean an account established with the Orange County Treasurer into which the Agency Payments shall be deposited. The County shall establish the County Account prior to the first Agency Payment.

2.7 "County Parcels" shall mean the parcels defined in Section 2.2.3 of the 2003 Agreement.

2.8 "County Tax Increment Portion" means the percentage of the property taxes generated by property in the Project Area that the County would have received but for the adoption of the Plan which are paid to the Agency as Property Tax Increment, as computed by the County Auditor-Controller (subject to the right of Agency to challenge such computation) in accordance with the applicable provisions of the Revenue and Taxation Code. In calculating the County Tax Increment Portion, the percentage shall be the same as the percentage of the property taxes generated by property in the Project Area that the County General Fund, the County Library, and the County Harbor, Beaches and Parks would have received but for the adoption of the Plan.

2.9 "County Share" means the County Tax Increment Portion of the Property Tax Increment less the Statutory Pass-Through Payment.

2.10 "CRL" means the Community Redevelopment Law of the State of California, Part 1 of Division 24 (commencing with Section 33000) of the California Health and Safety Code.

2.11 "Fiscal Year" means the period from July 1 to, and including, the following June 30.

2.12 "Plan" means the Redevelopment Plan for the Orange County Great Park Redevelopment Project Area, adopted or which may be adopted by ordinance of the City.

2.13 "Project Area" means the Orange County Great Park Redevelopment Project Area which is defined in the Plan.

2.14 "Property Tax Increment" means the full amount of property tax revenues generated from within the Project Area that are allocated to and paid to the Agency pursuant to Health and Safety Code Section 33670(b), which amounts are attributable to increases in assessed valuation of property in the Project Area above the valuation shown on the last equalized assessment roll prior to the effective date of the ordinance adopting the Plan. Property Tax Increment refers to those taxes collected as a result of the 1% levy allowed under Article XIII A of the California Constitution and shall not include those taxes levied in excess of the 1% general levy.

2.15 "Statutory Pass-Through Payment" means the payment from Property Tax Increment required to be paid by the Agency to the County (i.e., the County General Fund, County Library, and County Harbors, Beaches and Parks) pursuant to Health and Safety Code Section 33607.5.

3. Agency Payment.

3.1 The Agency Payment for each Fiscal Year shall consist of two components: (a) the County Share and (b) the Statutory Pass-Through Payment.

3.2 Agency, within thirty (30) days after the end of each Fiscal Year, shall calculate and deposit into the County Account or pay to the County, in accordance with this Section 3.2, the following amounts with respect to that Fiscal Year's Property Tax Increment payments to the Agency by the Auditor-Controller: (i) the County Share with respect to that Fiscal Year's Property Tax Increment payment to the Agency by the Auditor-Controller, and (ii) the Statutory Pass-Through Payment with respect to that Fiscal Year's Property Tax Increment payment to the Agency by the Auditor-Controller (the foregoing two components are collectively defined herein as the "Agency Payment"). The County Share portion of the Agency Payment shall be deposited into the County Account. The Statutory Pass-Through Payment portion of the Agency Payment shall be paid to the County, unless the County notifies the Agency in writing that the Statutory Pass-Through Payment portion of the Agency Payment should be deposited into the County Account. At least five (5) days prior to making a deposit to the County Account, the Agency shall notify the County in writing of the amount of the deposit and the expected date of the deposit. The Agency shall, within ten (10) days after it makes the annual deposit into the County Account, notify the County in writing of the deposit to the County Account and provide the County with a detailed written explanation of the calculation of the Agency Payment and the components thereof; provided, however, that Agency's failure to provide such notice or explanation without having received a written request therefor from County shall not be a default of Agency hereunder. The parties acknowledge that, from time to time, lesser or greater Agency Payments may need to be made to reconcile any inadvertent underpayments or overpayments. The parties shall cooperate on periodic audits or reconciliations of the Agency Payments.

3.3 Notwithstanding anything in this Implementation Agreement to the contrary, if the Agency and the County agree to Agency funding, directly or indirectly, from Agency's own Property Tax Increment (which shall not include Agency Payments or funds on deposit in the County Account), pursuant to Health and Safety Code Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than Health and Safety Code Section 33607.5, for or in connection with the cost of a public facility owned or leased by the County, then the agreement between the Agency and County for that funding may provide that the Agency shall be permitted to withdraw from the County Account, and to deduct from subsequent Agency Payments if the amount withdrawn from the County Account is insufficient to cover all such amounts paid by the Agency.

3.4 The Orange County Treasurer is authorized to invest the funds in the County Account in the same manner that other similar funds established with the Orange County Treasurer are invested. Any interest earned on funds in the County Account shall accrue to the benefit of, and be deposited in, the County Account. Any loss incurred in the County Account incurred as a result of such investment shall not be the responsibility of Agency. If the Treasurer is authorized by law to charge, assess, or levy any fees or other charges for administering the County Account, including but not limited to in connection with the receipt, deposit, custody, investment, payment, or disbursement of funds to or from the County Account, performing any accounting, or issuing any statements or reports, those fees or charges shall be paid from the County Account or by the County. The Agency shall not be responsible for paying such fees and charges.

3.5 The parties acknowledge and agree that (a)(i) all funds payable to the County by application of Health and Safety Code Section 33670(a), and (ii) any funds payable to the County which may result in the future by virtue of the application of Health and Safety Code Section 33607.7, are not subject to this Implementation Agreement, and (b) this Implementation Agreement is not an "agreement" referred to in Health and Safety Code Section 33607.7(b)(1).

3.6 The parties agree that if there is any court or other legal determination that requires the Statutory Pass-Through Payment component of the Agency Payment to be reduced by the amount of the County Share component of the Agency Payment, then this Implementation Agreement shall be deemed amended as follows:

(i) The County, at the County's sole option, may notify the Agency in writing that the Agency shall not be required to make the Statutory Pass-Through Payment with respect to any or all of the County General Fund, County Library, County Harbors, Beaches and Parks. If the County so notifies the Agency, then (1) Agency shall not make, and shall be entitled to retain as its own funds, the Statutory Pass-Through Payment component of the Agency Payment with respect to the County fund specified in the notice and (2) the County Share component of the Agency Payment shall be increased by a corresponding amount.

(ii) Should the court or other legal determination that causes the County to issue the written notice specified in clause (i) of this Section 3.6 not permit the parties to calculate the County Share in the manner specified in clause (i) of this

Section 3.6, the Agency and the County shall meet and confer in good faith in an attempt to resolve the issue in a manner that implements the intent of the parties that the Agency Payment for a Fiscal Year be the sum of the County Share plus the Statutory Pass-Through Payment.

4. Use of County Account.

4.1 After County's written notification to the Agency as required by Section 4.2, the County shall withdraw funds from the County Account to pay for the cost of County infrastructure, facilities, and development needs within the Project Area, or outside the Project Area but serving the Project Area, as determined by the County. As used herein, the term "infrastructure, facilities, and development needs" includes, but is not limited to, buildings, structures, utilities, roadways, sewer lines, and other types of infrastructure needs that are necessary to service one or more of the County Parcels and the uses described in Section 2.2.4 of the 2003 Agreement. At the request of the Agency, the County shall provide to the Agency or cause the Treasurer to provide to the Agency an accounting of the amount in and the withdrawals from the County Account.

4.2 The written notification from the County to the Agency regarding withdrawal of funds from the County Account shall be given at least ten (10) days prior to the expected date of withdrawal and shall specify the amount of funds to be withdrawn and precise payment to be made with such withdrawn funds. Such withdrawn funds from the County Account shall then promptly be paid as specified in the written notification given to the Agency to the contractor or other person as County has directed.

4.3 County acknowledges that prior to making any payments from the County Account, Agency, City, and County may each be required to comply with Health and Safety Code Sections 33445 and 33679 or other provisions of the CRL to the extent applicable. County and Agency agree, and Agency agrees to cooperate in causing City, to act diligently to hold any hearings or take any actions required to comply with Health and Safety Code Sections 33445 and 33679 or other provisions of the CRL to the extent applicable, including, if necessary amendment of the Agency's implementation plan adopted pursuant to Health and Safety Code Section 33490.

4.4 County shall protect, defend, indemnify, and hold harmless Agency and the City and their respective officers, officials, members, employees, agents, and representatives, and each of them, jointly and severally, against and from any and all claims, demands, causes of action, damages, costs, expenses, losses and liabilities, at law or in equity, of every kind or nature whatsoever, and including but not limited to attorneys' fees and expert witness fees, arising out of or in any manner directly or indirectly connected with the disbursement or payment from the County Account as directed by the County.

5. County Bonds. Agency acknowledges that County may wish to pledge the Agency Payments or a portion thereof as security for repayment on bonds to be issued by the County, including for the purposes set forth in Section 2.2.5 of the 2003 Agreement. Agency shall reasonably cooperate with the County in the County's issuance of such bonds, provided: (i) the proceeds of any bonds issued by or on behalf of the County, the repayment of which or the

security for the payment of which shall come from Agency Payments or portion thereof, shall be used for the same purposes that the County Account may be used under this Implementation Agreement; and (ii) if bonds issued by or on behalf of the County are to be repaid from sources in addition to the Agency Payments or portion thereof, or the security for repayment is from sources in addition to the Agency Payments, the proceeds of such bonds to be devoted to the same purposes for which the County Account may be used under this Implementation Agreement shall not be less than the proportional amount the Agency Payments or portion thereof providing repayment or security for the bonds is to the total of all sources of repayment or security for the bonds.

6. Agency Bonds & Other Indebtedness. Nothing in this Implementation Agreement shall be construed to give the County the right to approve any Agency bonded or other indebtedness. Notwithstanding the foregoing, Agency shall not pledge as repayment, or as security for repayment, for any Agency bonded or other indebtedness any Agency Payment or any unused or unencumbered amount in the County Account unless otherwise authorized in writing by the County.

7. Subordination Under Health & Safety Code Section 33607.5(e). Nothing in this Implementation Agreement shall supersede the right of the Agency to request the County subordinate the Statutory Pass-Through Payment portion of the Agency Payment, pursuant to Health and Safety Code Section 33607.5(e).

8. Agreement Is Agency Indebtedness; Tax Increment Limit. Unless otherwise required by law: (a) Agency's obligations under this Implementation Agreement constitute an indebtedness of Agency within the meaning of Health and Safety Code Section 33670(b); and (b) amounts paid by Agency to County under this Implementation Agreement shall not count against the limit on the total number of dollars to be allocated as Property Tax Increment to the Agency under the Plan. The Agency shall claim its obligations under this Implementation Agreement as a debt of the Agency on its statements filed pursuant to Health and Safety Code Section 33675.

9. Covenant Not to Sue.

9.1 County, on behalf of itself and all County-controlled entities, hereby expressly waives any and all causes of action, claims, demands, counts, actions, losses, breaches of equitable duty, claims for equitable relief, and/or complaints, known or unknown, suspected or unsuspected, fixed or contingent, related to, and agrees not to challenge, (i) the validity of the Plan, or (ii) the ordinance(s) adopting the Plan including but not limited to the findings set forth therein, or (iii) the validity of bonds to finance or refinance, in whole or in part, the Plan on the grounds of the invalidity of the Plan, including without limiting the generality of the foregoing clauses (i), (ii) or (iii), the legality and validity of all proceedings taken or in any way connected with the designation of the survey area, the Project Area, findings under Health and Safety Code Section 33492.18, the formulation of the Preliminary Plan, the adoption of the Plan, and the future preparation and certification of the environmental impact report for the redevelopment of the Base pursuant to Health and Safety Code Section 33492.18 and the California Environmental Quality Act. County further agrees not to promote, fund, or assist any other person in any claim or challenge related to any of the foregoing.



9.2 County acknowledges that it is familiar with Civil Code Section 1542 which provides:

**"A general release does not extend to claims a creditor does not know or suspect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor."**

County expressly WAIVES any rights it may have under Civil Code Section 1542 with respect to the matters specified in Section 9.1 above. By initialing below, County acknowledges that it has read the above waiver and understands its effect and has been advised by County Counsel regarding its effect, and agrees to it with advice of counsel.

County's Initials

*Bill Campbell* SN

10. City and Agency Obligations. City shall have no financial or other liabilities or obligations by virtue of this Implementation Agreement. Agency shall have no financial or other liabilities by virtue of this Implementation Agreement other than the obligations set forth in this Implementation Agreement.

11. Defaults. Subject to the extensions of time set forth in Section 16, failure or delay by either party to perform any term or provision of this Implementation Agreement constitutes a default under this Implementation Agreement. A party claiming a default shall give written notice of default to the other party, specifying the default complained of and the actions required to correct such default. The claimant shall not institute proceedings against the other party if the other party, within thirty (30) days from receipt of such notice, immediately and with due diligence commences to cure, correct or remedy such failure or delay and completes such cure, correction or remedy as soon as reasonably practicable after receipt of such notice. If the default is not cured or commenced to be cured by the defaulting party within said thirty (30) day period, the defaulting party shall be entitled to pursue whatever remedies at law or in equity to which such party may be entitled.

12. Notices. All notices required to be delivered under this Implementation Agreement or under applicable law shall be personally delivered, or delivered by United States mail, prepaid, certified, return receipt requested, or by reputable document delivery service that provides a receipt showing date and time of delivery. Notices personally delivered or delivered by a document delivery service shall be effective upon receipt. Notices delivered by mail shall be effective as of the earlier of (i) actual receipt, or (ii) Noon on the third business day following dispatch. Notices shall be delivered to the following addresses:

If to Agency: Irvine Redevelopment Agency  
Attn: Executive Director  
Irvine City Hall  
One Civic Center Plaza  
Irvine, CA 92623

With copy to: Joel D. Kuperberg  
Rutan & Tucker  
611 Anton Blvd., Suite 1400  
Costa Mesa, CA 92626

If to County: County of Orange  
Attn: County Executive Officer  
10 Civic Center Plaza  
Santa Ana, CA 92701

With copy to: Office of County Counsel  
Attn: Benjamin de Mayo, County Counsel  
10 Civic Center Plaza  
Santa Ana, CA 92701

Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section.

13. Non-liability of Public Officers and Employees.

13.1 No officer, official, member, employee, agent, or representative of Agency shall be personally liable to County, or any successor or assign of same, in the event of any default or breach by Agency, or for any amount which may become due to County, or any successor or assign of same, or for breach of any obligation of the terms of this Implementation Agreement.

13.2 No officer, official, member, employee, agent, or representative of County shall be personally liable to Agency, or any successor or assign of same, in the event of any default or breach by County, or for any amount which may become due to Agency, or any successor or assign of same, or for breach of any obligation of the terms of this Implementation Agreement.

14. Binding Effect; Assignment Prohibited Without Prior Consent of Other Party. This Implementation Agreement, and all covenants and releases set forth herein, shall be binding upon and shall inure to the benefit of the respective parties and their respective legal representatives, successors and assigns. Neither party to this Implementation Agreement may assign its rights or obligations under this Implementation Agreement without the prior written approval of the other party hereto.

15. Satisfaction of Section 2.2.8 of 2003 Agreement. This Implementation Agreement satisfies in full the requirements set forth in Section 2.2.8 of the 2003 Agreement concerning an agreement to be entered into between the Agency and County with respect to the portion of the Base (as defined in the 2003 Agreement) included in the Project Area. County, on behalf of itself and County-controlled entities, and Agency on behalf of itself and Agency-controlled entities, hereby knowingly, voluntarily, and expressly waive any right to challenge the validity of the 2003 Agreement or this Implementation Agreement. County and Agency, on behalf of themselves and their respective controlled entities, further agree (i) to include in any agreements pertaining to use or development of the Project Area a similar provision whereby the parties to the agreement waive any right to challenge the validity of the 2003 Agreement or this Implementation Agreement, and (ii) not to promote, fund, or assist any other person in any claim or challenge related to any of the foregoing.

16. Enforced Delay. In addition to specific provisions of this Implementation Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance under this Implementation Agreement shall be extended, where delays or defaults are due to war; terrorism; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor; subcontractor or supplier; acts or omissions of the other party; acts or failures to act of any other public or governmental agency or entity other than the Agency or County; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

17. Interpretation; Governing Law. This Implementation Agreement shall be construed according to its fair meaning and as if prepared by all of the parties hereto. This Implementation Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Implementation Agreement.

18. Rights and Remedies Are Cumulative; Inaction Not Waiver of Default. Except as may otherwise be expressly stated in this Implementation Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

19. Further Assurances. Each party hereto agrees, without further consideration, to execute such other and further documents, and to perform such other and further acts, as may be necessary or proper, in order to consummate the transactions set forth in and contemplated by this Implementation Agreement.

20. Representations and Warranties by Parties. Each party represents and warrants to the other that:

20.1 such party has the power and capacity to enter into this Implementation Agreement;

20.2 such party lacks actual knowledge of any agreement that would be violated by such party's entry into this Implementation Agreement;

20.3 such party lacks actual knowledge of any agreement, obligation, pending litigation, or asserted claim that would materially affect such party's obligation to enter into this Implementation Agreement or to perform its obligations hereunder;

20.4 such party has been represented by legal counsel in the preparation and execution of this Implementation Agreement; and

20.5 such party acknowledges and agrees that it enters into this Implementation Agreement based upon its own investigation, knowledge, and voluntary assumption of all of the risks associated with the transactions contemplated hereby, and that such party has read and understands this Implementation Agreement and has been advised by its legal counsel as to its effects.

21. Representations and Warranties by Signatories. Each signatory of a party to this Implementation Agreement represents and warrants to the other party hereto that:

21.1 the signatory has actual authority to execute this Agreement on behalf of the party for which the signatory has signed; and

21.2 the signatory is duly authorized to execute and deliver this Implementation Agreement on behalf of said party for whom the signatory has signed.

22. Conditions to Effectiveness, Effect of Litigation. This Implementation Agreement, even if signed by all the parties hereto, shall not be effective unless and until all of the following have occurred:

(i) The City has adopted an ordinance approving and adopting the Redevelopment Plan for the Orange County Great Park Redevelopment Project Area, and such ordinance has become effective in accordance with applicable law.

(ii) Approval of this Implementation Agreement by the parties and its execution by the parties, and the initialing of Section 9.2 by the County.

(iii) Approval and execution of the attached Acknowledgment and Waiver by the City of Irvine.

If litigation challenging the approval and adoption of the Plan or of the ordinance adopting the Plan is filed, the parties' obligations under this Implementation Agreement shall remain in full force and effect until a final judgment or settlement agreement. If, during the

pendency of such litigation, the Agency receives Property Tax Increment, the terms of this Implementation Agreement shall be implemented but the County shall not withdraw or pledge any funds from the County Account or direct Agency to make any payments from the County Account until the litigation has been resolved or the parties otherwise agree, each in their sole discretion, to the withdrawal. If such litigation results in validation of the Plan, this Implementation Agreement shall remain in full force and effect. If such litigation results in invalidation of the Plan, this Implementation Agreement shall be void *ab initio*, and in such case the parties shall cooperate in good faith to implement Section 2.2.8 of the 2003 Agreement if the City thereafter proposes to adopt a new redevelopment plan, the adoption of which would be subject to the 2003 Agreement.

23. Cooperation in Event of Challenge to Agreement. In the event any third party files any claim or litigation challenging the approval and adoption of this Implementation Agreement, or its validity, the parties hereto agree to cooperate in the defense of such challenge.

24. Inadmissibility of Agreement. In the event this Implementation Agreement fails to become effective, or ceases to be effective, for any reason, then, notwithstanding anything to the contrary in Evidence Code Sections 1152 and 1600, neither this Implementation Agreement nor any prior drafts or negotiations with respect to this Implementation Agreement shall be admissible as evidence in any proceeding or litigation for any purpose, except to prove the terms of this Implementation Agreement.

25. Fees Incurred. Each party shall be responsible for its own costs and fees incurred with the negotiation and preparation of this Implementation Agreement, including but not limited to attorneys fees.

26. Section Headings. The section headings in this Implementation Agreement are included for convenience and reference only. They do not form a part hereof, and do not in any way codify, interpret, or reflect the intent of the parties. Said headings shall not be used to construe or interpret any provision of this Agreement.

27. Entire Agreement. This Implementation Agreement and the 2003 Agreement reflect the entire agreement between the parties with respect to the subject matter hereof, and integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

28. Severability. If any section or portion of this Implementation Agreement shall be held, found, or determined by a court of competent jurisdiction to be unenforceable or invalid for any reason, the parties declare that they would have approved this Implementation Agreement without such unenforceable or invalid section or portion and the parties hereto, in such event, agree to take such further actions as may be reasonably necessary, proper, and available to them to effectuate the intent of the parties as to all provisions set forth in this Implementation Agreement.


29. Amendments. This Implementation Agreement may be amended by the parties by written instrument approved and signed by the parties.

30. Counterparts. This Implementation Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same agreement.

31. Effective Date. The Effective Date of this Implementation Agreement shall be the latest of the dates set next to the signatures of the parties hereto after both parties hereto have signed this Implementation Agreement. That latest date shall be inserted into the preamble of this Implementation Agreement.

[end—signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Implementation Agreement as of the Effective Date.

	<b>IRVINE REDEVELOPMENT AGENCY</b>
DATED: <u>3/18/05</u>	By: <u>[Signature]</u> Chairperson
ATTEST: By: <u>[Signature]</u> Jeri Stately, Agency Secretary	
APPROVED AS TO FORM: RUTAN & TUCKER, LLP By: <u>[Signature]</u> Joel D. Kuperberg Agency General Counsel	 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD ATTEST: <u>[Signature]</u> DARLENE J. BLOOM CLERK OF THE BOARD OF SUPERVISORS ORANGE COUNTY, CALIFORNIA
	<b>COUNTY OF ORANGE</b>
DATED: _____	By: <u>[Signature]</u> Chairman of the Board of Supervisors
<del>ATTEST: By: _____ Clerk of the Board of Supervisors</del>	
APPROVED AS TO FORM: By: <u>[Signature]</u> Benjamin de Mayo 2/24/05 County Counsel	

**ACKNOWLEDGMENT AND WAIVER BY CITY OF IRVINE**

The defined terms used hereinbelow shall have the same meaning as set forth in the foregoing Implementation Agreement No. 1 to which this Acknowledgment and Waiver is attached. By action of the City Council of the City of Irvine, taken on March 8, 2005, (i) the City hereby acknowledges the foregoing Implementation Agreement by and between the Agency and the County; (ii) the City, on behalf of itself and its respective controlled entities, knowingly, voluntarily, and expressly waives any right to challenge the validity of the 2003 Agreement or the Implementation Agreement; (iii) the City, on behalf of itself and its respective controlled entities, agrees to include in any agreements pertaining to use or development of the Project Area a similar provision whereby the parties to the agreement waive any right to challenge the validity of the 2003 Agreement or the Implementation Agreement; (iv) the City, on behalf of itself and its respective controlled entities, agrees not to promote, fund, or assist any other person in any claim or challenge related to any of the foregoing; and (v) the City agrees to act diligently to hold any hearings or take any actions required to comply with Health and Safety Code Sections 33445 and 33679 or other provisions of the CRL in connection with any payments or funding from the County Account.

Dated: 3/18, 2005

CITY OF IRVINE

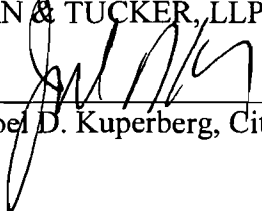
By: 

MAYOR OF THE CITY OF IRVINE

ATTEST:

By:   
Jeri Stately, City Clerk

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP

By:   
Joel D. Kuperberg, City Attorney



## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: County Implementation Agreement No. 2

DATE: August 17, 2010

PARTIES: City of Irvine (City)  
Irvine Redevelopment Agency (Agency)  
County of Orange (County)

### SUMMARY OF SUBSTANTIVE TERMS:

The 2003 Property Tax Transfer and Pre-Annexation Agreement among the City of Irvine, the Irvine Redevelopment Agency, and the County of Orange, required the City to convey 100 acres of the former Marine Corps Air Station, El Toro land to the County. A portion of the Bee Canyon Channel that crosses County land will be improved as a reinforced concrete box by Heritage Fields as part of the backbone infrastructure. This County Implementation Agreement No. 2 requires the Agency to fund the future reconstruction, repair, or replacement of the reinforced concrete box up to \$650,000, if and when necessary, so long as the County is still the owner of the land.

**IMPLEMENTATION AGREEMENT NO. 2  
BETWEEN CITY OF IRVINE, IRVINE REDEVELOPMENT AGENCY AND COUNTY  
OF ORANGE**

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This IMPLEMENTATION AGREEMENT NO. 2 BETWEEN CITY OF IRVINE, IRVINE REDEVELOPMENT AGENCY AND COUNTY OF ORANGE ("Implementation Agreement No. 2") is entered into as of August 17, 2010 (the "Effective Date"), by and between the **City of Irvine**, a California charter city ("City"), the **Irvine Redevelopment Agency** ("Agency") and the **County of Orange**, a political subdivision of the State of California ("County").

RECITALS

A. The City, Agency and County entered into a written "Property Tax Transfer and Pre-Annexation Agreement Regarding the Annexation and Re-Use of Former MCAS El Toro" ("Pre-Annexation Agreement"), dated March 4, 2003, and that agreement titled "Implementation Agreement No.1", ("Implementation Agreement No.1"), dated March 8, 2005, regarding the former United States Marine Corps Air Station El Toro ("El Toro"), which was then located immediately adjacent to but outside the jurisdictional boundaries of the City. A copy of the Pre-Annexation Agreement is attached hereto as **Exhibit "A,"** and a copy of the Implementation Agreement No.1 is attached hereto as **Exhibit "B."** Section 2.2.3 of the Pre-Annexation Agreement provides, among other things, that the City will provide the County with a one hundred (100) acre parcel of property located in the southwesterly corner of El Toro for County's use (the "Premises").

B. In accordance with the Pre-Annexation Agreement, the County and City have entered into a Sublease Agreement, of even date herewith ("Sublease"), attached hereto as **Exhibit "C,"** by which the City has subleased a portion of the Premises (the "Subleased Property") to the County as a precursor to transfer of fee title to the Premises, all as set forth in the Sublease.

C. The County, Agency and City now desire to enter into this Implementation Agreement No. 2 to set forth the agreements among the parties with respect to the long-term development and use of the Premises by the County.

AGREEMENT

NOW, THEREFORE, based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Agency and the County hereby agree as follows:

1. Use and Improvements on Premises

1.1 The terms of the Sublease set forth the terms of the County's use and possession of the Subleased Property during the term of the Sublease, as well as the circumstances of the eventual transfer of the Premises to the County in fee.

1.1.1 The City and County acknowledge and agree that modifications to the precise boundaries of the Subleased Property/Premises may be necessary to accommodate the ultimate alignment of the roadway that ultimately will be used as the primary access road to the Subleased Property/Premises. The current alignment of the roadway is shown on City of Irvine Master Subdivision Map 17008 (as amended) (as amended, the "MSM") and is referred to as Marine Way on said MSM, and is currently designed as a "Primary" four-lane arterial highway ("Primary Access Road"). The parties further acknowledge that the roadway could, and likely will, ultimately undergo a name change, realignment and/or redesign from what is depicted on the MSM. The parties agree that if the roadway is realigned or redesigned from that shown on the MSM, the Subleased Property/Premises shall continue to have access to and abut a roadway along the entire frontage of the Subleased Property/Premises which frontage (and abutment to the Primary Access Road) is conceptually depicted on the attached **Exhibit "D."** The parties acknowledge that in the event that significant realignment takes place to the Primary Access Road, such that a minor exchange or re-conveyance of property, as set forth more completely in this paragraph, is not feasible, the County may be provided access to portions of the Subleased Property/Premises by a secondary access road ("Secondary Access Road"), such that 100% of the Subleased Property/Premises frontage shall be abutted and have access to either the Primary Access Road or the Secondary Access Road (provided that, at a minimum, no less than approximately 90% of the linear frontage of the Subleased Property/Premises shall abut the Primary Access Road). Said abutment shall be continuous such that no non-County landowners or other non-County land interests (including but not limited to easements, licenses, etc.), other than those reflected on **Exhibit "D"** (as they may be modified or amended to correspond with any realignment or redesign of the Primary Access Road), shall exist between the Subleased Property/Premises and either the Primary Access Road or the Secondary Access Road as the case may be. Should a realignment or redesign of the Primary Access Road occur at any time after conveyance of the Subleased Property/Premises to the County, the parties intend to adjust the boundaries of the Subleased Property/Premises in accordance with the provisions set forth in this paragraph. In doing so, the parties agree to cooperate in good faith to implement the redesign and/or realignment, including an exchange or re-conveyance of property as necessary to effectuate such redesign and/or realignment, provided that the County shall be left with no less, and not materially more, than a 100 acre parcel. The parties agree that no additional consideration shall be required of either party to the other as a result of said boundary line adjustment. The parties further agree that the cost for the design and construction of the Secondary Access Road, should it be required, shall be done at no additional cost to the County other than County's agreed "Fair Share" contribution as is set forth herein and in **Exhibit "E,"** attached hereto.

1.2 . The parties acknowledge that City, through Heritage Fields El Toro LLC, a Delaware limited liability company ("HF" or "Heritage Fields"), intends to construct, or cause to be constructed, certain infrastructure adjacent to or within portions of the Subleased Property and/or the Premises, including Marine Way (including the roadway, parkway, sidewalks, sewer lines, water lines, storm drains, electrical lines, and other utility lines) and the Bee Canyon Channel, as well as certain additional sewer and reclaimed water improvements. The final sewer and final reclaimed water improvements, and Bee Canyon Channel (storm drain) are intended to be constructed beneath the Premises within the "easement areas" generally described on

**Exhibit "D"** (the parties recognize and acknowledge that interim infrastructure improvements may be constructed partially above ground but shall be relocated or removed at no cost to County if necessary for County use of the Premises as deemed necessary by County in its sole discretion), provided that the City, Agency, and County agree and acknowledge that modifications to the precise boundaries of the easement areas may be necessary to accommodate the technical, logistic and/or design requirements of the applicable infrastructure component and/or the applicable utility provider and easement holder and each such party agrees to reasonably cooperate in effectuating the necessary adjustments to the boundaries of the easement areas as required by such utility providers and easement holders. The Marine Way improvements (i.e., the roadway, parkway, sidewalks, sewer lines, water lines, electrical lines, and other utility lines) will be constructed outside the Premises. The portion of Bee Canyon Channel which crosses the Premises ("County Channel Portion") shall be improved as a reinforced concrete box ("RCB") at no cost to the County (as indicated in that certain Master Plan for Drainage prepared by City and HF and approved by the County pursuant to County's approval letter dated November 25, 2008) capable of withstanding a vehicular parking lot on the surface of the ground, and shall be included within the Premises. Such RCB shall be designed and constructed to Orange County Flood Control District's standards. The cost to construct the RCB on the Premises shall be at HF's cost, with no additional deposit required by the Orange County Flood Control District ("OC Flood") for future repairs or replacement (as part of the backbone infrastructure work described in the Amended MIA, as defined below). The future cost to reconstruct, repair, or replace the RCB shall be paid by the Agency up to a maximum of six hundred and fifty thousand dollars (\$650,000) or its successor, provided the County is still the owner of the Premises at the time, and if not, then the current owner of the Premises at that time according to OC Flood's policy then in effect. When the County Channel Portion is improved as a RCB and the sewer and reclaimed water improvements are made, regardless of who causes and pays for said improvements, County shall be granted the sole and exclusive right to use the surface area over the said County Channel Portion and any easement areas that fall within the boundaries of the Subleased Property/Premises, subject to such rights of access as are required by The Irvine Ranch Water District ("IRWD") and/or the OC Flood for maintenance, repair and other activities for which IRWD and/or OC Flood typically retain access rights. To the extent reasonably possible, and subject to the requirements of the applicable utility providers and easement holders, the City, Agency, and County agree to work together so as to mitigate the size of any required easements on the Premises, provided that the parties agree and acknowledge that modifications to the precise boundaries of the easement areas may be necessary to accommodate the requirements of the applicable utility provider and easement holder and each such party agrees to reasonably cooperate in effectuating the necessary adjustments to the boundaries of the easement areas as required by such utility providers and easement holders. Once the easement areas have been approved by the applicable utility provider and easement holder, then the easements may be recorded, with prior County approval as to the form of such easement documents, which approval shall not be unreasonably withheld, conditioned, or delayed, in the official records so long as the easement areas substantially conform to the areas shown on **Exhibit "D."** Concurrently herewith, the City, County, and Heritage Fields each shall enter into a non-exclusive license for reciprocal access purposes ("Reciprocal License Agreement") for the County, the City, and Heritage Fields, and their respective employees, officials, contractors, representatives, tenants, purchasers, invitees, successors and assigns, and to the non-profit organizations utilizing the "Home 1" and "Home 5" parcels that are adjacent to the

Subleased Property, over the alignment reflected on **Exhibit "1"** to the Reciprocal License Agreement, which is attached hereto as **Exhibit "G."**

1.3 [RESERVED]

1.4 The County hereby grants to the City, HF and/their respective contractors, subcontractors, and agents temporary construction access rights and licenses over portions of the Premises in order to construct Marine Way, Bee Canyon Channel improvements, and the remaining sewer and reclaimed water and other utility improvements, as well as appropriate access rights to allow for the access necessary to install and/or maintain the utility lines in the existing easement areas on the Subleased Property and/or the Premises. As necessary, upon or after conveyance of a deed to the Premises from the City to the County, the County shall convey appropriate utility easements to HF and their respective applicable utility providers in compliance with **Exhibit "D,"** to the extent that such easements have not been granted and recorded prior to such conveyance in accordance with the Section 1.2, above.

1.5 The County acknowledges and agrees that, to the extent that it does, the County shall connect to the roadways, utilities, and other Infrastructure (as that term is defined in Paragraph 2.1) not located on the Subleased Property and/ or the Premises, as well as any utilities, and Infrastructure that crosses the Premises, in a manner that complies with standard City requirements and standards. City shall permit such connection at no additional charge by the City to the County (i.e., no charge beyond that described as the County's fair share contribution in Section 2, below) provided that County shall be solely responsible for any connection fees of any utility provider, and provided further that County shall be responsible for any alterations to the alignment of Infrastructure necessary to accommodate County's site plan(s) for use of the Subleased Property.

1.6 An approved water quality management plan ("WQMP") has been completed that includes the Subleased Property and Premises, and County may use such plan, at no cost to the City, to the extent permitted by applicable regulatory authorities, for development of the Subleased Property and Premises. The City makes no representation, warranty or guaranty that any entity other than the City may use the WQMP, nor does the City make any representation, warranty and/or guaranty concerning whether the County's use of the WQMP will be opposed by any other regulatory or private party or body.

1.7 The County acknowledges that the Premises are adjacent to an entrance to the proposed "Orange County Great Park" to be developed by or on behalf of the City, and that the maintenance of the Subleased Property and the Premises may influence the perception of the "Orange County Great Park" by the public. It is the intention of the parties hereto that the County's future development or use of the Premises (not including interim use of existing facilities or any buildings or improvements that exist on the Premises as of the date of this Implementation Agreement No. 2) will not materially visually detract from the properties that are immediately adjacent to the Premises. To that end, the County has every intention of being a "good neighbor" to the City and the Orange County Great Park. Therefore, in the event City determines that it has a legitimate concern that the County's development or proposed development visually detracts from properties that are immediately adjacent to the County's roadway frontage along the Premises (viewed from Marine Way along said roadway frontage,

and no other elevation), County agrees to meet with the City and discuss City's concerns and take those steps that County deems to be reasonable and necessary to address City's concerns. In addressing City's concerns, County agrees to employ similar types of screening techniques used by properties adjacent to the County's roadway frontage along the Premises. For the purposes of this Section 1.7 only, "City" shall refer to the City Manager or the City Council and no other City staff.

1.8 The County and City mutually acknowledge that the Program EIR (State Clearinghouse No. 2002101020) prepared and certified by the City in connection with the City's annexation of El Toro and the City's approval of a general plan amendment, zone change and adoption of the "Great Park Development Agreement" for the reuse of the Base Property (the "Great Park EIR") analyzes the proposed development of the Base Property by HF and the City at a general plan and zoning level, but does not analyze any specific development plan or project for the Subleased Property and/or the Premises. The County understands and agrees both that it is solely responsible for all compliance with the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA") that is necessary in connection with any future uses or improvements within the Subleased Property and/or the Premises. The County and the City shall confer with one another concerning CEQA compliance activities and throughout the CEQA process for uses of County parcels and the Orange County Great Park parcels, and the County's CEQA compliance will be conducted as though the Subleased Property and/or the Premises remained unincorporated. The County acknowledges that it is responsible for any impacts it may cause as a result of the intensification or alteration of uses on the Subleased Property and/or the Premises beyond those studied in the Great Park EIR, and shall mitigate any such impacts in accordance with CEQA. The City reserves its rights to comment on the environmental analysis of such proposed land uses, including but not limited to the impacts of such proposed uses, the thresholds of significance and impact analysis methodology utilized, the execution of the impact analysis methodology utilized, and the sufficiency of the mitigation proposed to address identified impacts. In the event either party intends to prepare and circulate an EIR or amendment to an existing EIR (including addendums or supplements to an existing EIR), that would increase the current average daily trip ("ADT") generation (based on a total of 30,000 ADTs for Marine Way under the City's existing Great Park EIR), said party will give the other party 30 days notice prior to circulating said document(s).

## 2. Fair Share Formula.

2.1 The County, in accordance with the Fair Share Formula set forth in **Exhibit "E"** of this Implementation Agreement No. 2, shall pay its fair share of the costs ("Fair Share") for developing and installing the infrastructure improvements directly related to servicing the Premises more particularly described in **Exhibit "E-1"** ("Infrastructure"). The parties understand and acknowledge that to the extent additional or expanded infrastructure above and beyond that described in **Exhibit "E-1"** is required to serve the level of development of the Premises described in the Great Park EIR, any additional contribution required by the City of the County toward the costs of that additional and expanded infrastructure shall, as set forth in Section 2.2.5 of the Pre-Annexation Agreement, be limited to costs associated with those utilities, roadways, sewer lines and other types of infrastructure needs that are necessary to service the Premises, if any. The Infrastructure shall be designed and constructed in accordance with applicable City and OC Flood standards. City shall be the lead agency for the development

and installation of the Infrastructure and may provide for the installation of the Infrastructure in the manner set forth in that certain Amended and Restated Master Implementation Agreement by and between the City and HF ("Amended MIA"). County shall not be a member of, nor shall the Premises be subject, while under County ownership, to any assessment through any Community Facility Districts ("CFD"), assessment districts, landowners associations, or similar infrastructure financing or construction programs, and shall not be required to pay dues or assessments for the City's/Great Park's or Base maintenance costs other than as specified in this Implementation Agreement No. 2 and the exhibits attached hereto.

2.2 The parties hereto may enter into subsequent agreements on timing, design, costs, construction, and other Infrastructure issues affecting the Premises, and these agreements may include the City, the County, the Orange County Transportation Authority, the OC Flood and HF, as necessary. If the County decides that it is necessary to accelerate the construction of the portion of Marine Way that would access the Premises ("Marine Way Portion") and/or the County Channel Portion, (*i.e.*, to provide for the installation of the Marine Way Portion and/or the County Channel Portion sooner than it would otherwise be constructed by the City and/or HF) the County may propose an agreement with the City and/or HF, as necessary, designating the County as the lead agency for the construction of such infrastructure and the City shall cooperate with the County to approve such agreement and shall cooperate with the County in attempting to secure the approval of HF, if necessary, as well as the relocation or termination of the temporary road across the Premises (as more fully described in the Reciprocal Access License), as necessary. In the event that the City or HF decides to perform such infrastructure construction on County's accelerated time-table, County shall agree to the extent that it does not delay the County's use of the Premises. In the event that the County constructs the Marine Way Portion and/or the County Channel Portion, the City shall credit any amounts spent by the County to construct said infrastructure toward the County's Fair Share of the County's Infrastructure costs (such amounts may include County actual administrative costs, including but not limited to actual County charges and overhead, in an amount not to exceed twenty percent (20%) of the costs for any design and construction). In the event the County's cost to construct the Marine Way Portion and/or the County Channel Portion exceeds County's Fair Share of the Infrastructure costs, the City and County, prior to commencement of work, will meet and enter into a funding and phased reimbursement plan that will reimburse the County for said excess cost by remitting to the County, with interest, funds that would otherwise have been paid to a third party for Marine Way Portion and/or County Channel Portion construction.

2.3 County's Fair Share of Infrastructure costs shall be paid from funds deposited in the County Account established pursuant to Implementation Agreement No. 1, a copy of which is attached hereto marked **Exhibit "B,"** unless the County, in its reasonable discretion, chooses to pay such costs with other available funds, and County pursuant to Implementation Agreement No. 1 may, among other things, use the amounts in the County Account to issue bonds or authorize payment by the Agency from said County Account for each invoice submitted by the City within thirty (30) days of receipt of the invoice. In the event there are insufficient funds in the County Account to pay, in full, any invoice when due, then said unpaid invoice(s) or portion thereof, shall – together with interest on the unpaid portion at a rate equal to what the County Treasurer received on its pooled investment for the period said amount(s) remained unpaid, or at the rate of interest City is required to pay on the unpaid amount(s), whichever amount is greater – be deducted from the next available funds deposited

into the County Account, and, in the event the next available funds deposited into the County Account are insufficient to pay said invoice(s), said unpaid amounts with interest shall continue to be deducted in like manner until such time as the full Fair Share amount owing has been recouped by the City, unless the County chooses to pay such outstanding invoices with other County funds. Notwithstanding the foregoing, County agrees, to the degree that sufficient funds are deposited annually into the County Account, to maintain an amount in the County Account sufficient to pay an annual debt service payment on a bond issue of no more than Fifteen Million Six Hundred Thousand Dollars (\$15,600,000) once the construction of Marine Way (as it may be renamed, realigned or redesigned) commences, and until the County's Infrastructure "Fair Share" contribution is paid in full.

2.4 The County's Fair Share responsibility for the maintenance of the existing alignment of Marine Way (also known as "Perimeter Road") shall be as set forth in Reciprocal License Agreement.

### 3. Indemnification and Release

3.1 County shall indemnify, defend and hold harmless the City, the Orange County Great Park Corporation and the Agency, and each of their respective officers, officials, employees, agents, representatives, contractors, successors and assigns (collectively, the "City-Related Parties") from and against any and all claims, demands, causes of action, obligations, setoffs, liabilities, losses, injuries and damages of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, liquidated or unliquidated (collectively, "Claims") that may be asserted or claimed by any person or entity arising in any way out of the County's activities under this Implementation Agreement No. 2, whether or not there is concurrent passive negligence on the part of the City or any City-Related Party, but excluding such Claims or Liabilities to the extent they arise from the active negligence or willful misconduct of the City or City-Related Party or the acts of independent third parties on the Premises.

3.2 City and the Agency shall indemnify, defend and hold harmless the County and each and its officers, officials, employees, agents, representatives, contractors, successors and assigns ("County-Related Parties") from and against any and all Claims of any kind that may be asserted or claimed by any person or entity arising in any way out of the City's or Agency's activities under this Implementation Agreement No. 2, including liability arising out of any condition, maintenance or repair of the Perimeter Road, whether or not there is concurrent passive negligence on the part of the County or any County-Related Party, but excluding such Claims or Liabilities to the extent they arise from the active negligence or willful misconduct of the County or County-Related Party or the acts of independent third parties on the Premises.

### 4. Miscellaneous

4.1 Notices. All notices, transmittals of documentation and other writings required or permitted to be delivered or transmitted to either of the parties under this Implementation Agreement No. 2 shall be personally served or deposited in a United States mail depository, first class postage prepaid, and addressed as follows:



If to the City: City of Irvine  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623  
Attention: City Manager

with copy to: Orange County Great Park Corporation  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623  
Attention: Chief Executive Officer

If to the County: County of Orange  
10 Civic Center Plaza  
P.O. Box 1379  
Santa Ana, CA 92702  
Attention: County Executive Officer

or such other addresses any party may direct to the other party in writing. All such notices and communications shall be deemed to have been duly given when delivered by hand, if personally delivered. Except where service is by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in the United States mail depository.

4.2 Assignment. During the term of this Implementation Agreement No. 2, the County's rights and obligations may be assigned, transferred or otherwise conveyed to any third party upon notice to the City and consistent with and subject to the terms of the Sublease, on condition that such assignee or transferee agrees in writing to assume all of the obligations and requirements of the County as Sub-lessee under this Implementation Agreement No. 2.

4.3 No Third Party Beneficiaries. Nothing expressed or mentioned in this Implementation Agreement No. 2 is intended or shall be construed to give any person, other than the parties hereto and their respective authorized successors and assigns, any legal or equitable right, remedy or claim under or in respect to this Implementation Agreement No. 2 or any of the provisions contained herein. This Implementation Agreement No. 2 and each and every condition and provision hereof are intended to be for the sole and exclusive benefit of the City, Agency and the County, and their respective authorized successors and assigns, and for the benefit of no other person or entity.

4.4 Governing Law. This Implementation Agreement No. 2 shall be governed by and construed in accordance with the laws of the State of California applicable to subleases made and to be performed within the State.

4.5 Waiver; Remedies. No failure on the part of either party hereto to insist upon or demand the strict performance by the other party of any covenant, term, condition or promise of this Implementation Agreement No. 2, or to exercise any right or remedy as a result of any breach of the Implementation Agreement No. 2, shall constitute a continuing waiver of any such

breach or of any such covenant, term, condition, promise, right or remedy. No waiver of any breach shall in any way affect, alter or modify this Implementation Agreement No. 2, but each and every covenant, term, condition and promise of this Implementation Agreement No. 2 shall continue in full force and effect. No single or partial exercise of any right, remedy, power or privilege under this Implementation Agreement No. 2 shall preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege under this Implementation Agreement No. 2.

4.6 Status of the Parties. Nothing in this Implementation Agreement No. 2 shall be construed to make the parties joint venturers or partners, or to create any relationship of principal and agent, and the parties specifically disavow such relationships.

4.7 Interpretation. This Implementation Agreement No. 2 has been negotiated at arms' length between persons sophisticated and knowledgeable in the matters addressed herein, and both parties have had the opportunity to consult with legal counsel of such party's choosing regarding this Sublease. Accordingly, any rule of law (including California Civil Code § 1654) or legal decision that would require interpretation of this Implementation Agreement No. 2 against the drafter hereof is not applicable and is waived.

4.8 Entire Agreement. This Implementation Agreement No. 2, in conjunction with the Pre-Annexation Agreement and Implementation Agreement No. 1, and the Sublease is intended by the parties as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect to the subject matter contained herein. It is not the intention of the parties that this Implementation Agreement No. 2 shall supersede any prior agreement, including the Pre-Annexation Agreement and Implementation Agreement No. 1. There are no restrictions, promises, warranties or undertakings relating to the subject matter of this Implementation Agreement No. 2, other than those set forth or referred to herein and in the Pre-Annexation Agreement. To the extent that there are inconsistencies between the terms of this Implementation Agreement No. 2 and the Pre-Annexation Agreement, this Implementation Agreement No. 2 supersedes the Pre-Annexation Agreement with respect to those inconsistencies, except with respect to: (i) Section 2.2.4 of the Pre-Annexation Agreement; (ii) the portions of Section 2.2.3 of the Pre-Annexation Agreement related to the conveyance of property other than the Premises, the City's statement that it "will also provide for land use designations that will allow for the intended uses indicated on the attached Exhibit [to the Pre-Annexation Agreement]," and Section 2.2.3.1, and (iii) those portions of Section 2.2.5 that limit the County's Fair Share obligation for the Premises to infrastructure (other than the Infrastructure specifically addressed in this Agreement) that is directly related to servicing the Premises. It is the intention of the parties hereto that this Implementation Agreement No. 2 not alter or vary the terms of Implementation Agreement No. 1.

4.9 Warranty of Authority. Each officer of the City and the County affixing his or her signature below thereby warrants and represents that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this Implementation Agreement No. 2; that his or her respective party has the full legal right, power, capacity and authority to enter into this Sublease and perform all the obligations herein; and that no other approvals or consents are necessary in connection therewith.

4.10 Modifications. Neither this Implementation Agreement No. 2 nor any provision hereof may be changed, waived, discharged or terminated orally or in writing, except that any provision of this Implementation Agreement No. 2 may be amended by a writing signed by the parties, in the observance of any provision of the Implementation Agreement No. 2 may be waived (either generally or in a particular instance in either retroactively or prospectively) by a writing signed by the party against whom such waiver is to be asserted.

4.11 Headings. The headings in this Implementation Agreement No. 2 are for convenience of reference only, and shall not limit or otherwise affect the meaning of this Implementation Agreement No. 2.

4.12 Successors and Assigns. Subject to Section 4.2 above, this Implementation Agreement No. 2 shall inure to the benefit of, and be binding upon, the City, the County, and their respective successors and assigns.

4.13 Exhibits. This Implementation Agreement No. 2 contains exhibits, attached hereto and made a part hereof by this reference. Said exhibits are identified as follows:

- A Pre-Annexation Agreement
- B Implementation Agreement No. 1
- C Sublease
- D Encumbrances on Premises
- D-1 Depiction of Proposed Future Encumbrances
- D-2 Depiction of Existing Encumbrances
- E Fair Share Formula
- F [RESERVED]
- G Reciprocal Access License


IN WITNESS WHEREOF, the parties hereto have entered into this Implementation Agreement No. 2 as of the date first written above.

**CITY OF IRVINE, a charter municipal corporation**


By: \_\_\_\_\_

Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP


  
City Attorney, City of Irvine

**IRVINE REDEVELOPMENT AGENCY**

By: \_\_\_\_\_

Chair

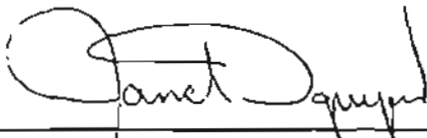
ATTEST:

  
Agency Secretary

APPROVED AS TO FORM:

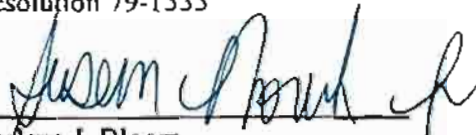
  
Agency General Counsel

COUNTY OF ORANGE, a political subdivision of  
the State of California

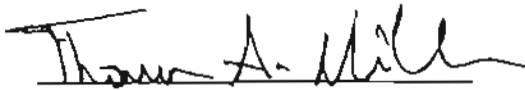
By:   
Chair, Board of Supervisors

Signed and certified that a copy of this  
document has been delivered to the  
Chair of the Board per G.C. Sec. 25103,  
Resolution 79-1535



  
Darlene J. Bloom  
Clerk of the Board of Supervisors  
Orange County, California

APPROVED AS TO FORM:  
COUNTY COUNSEL, COUNTY OF ORANGE

  
Deputy

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: City of Irvine Cooperation Agreement

DATE: July 27, 1999

PARTIES: Irvine Redevelopment Agency (Agency)  
City of Irvine (City)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement documented the operational arrangement between the Agency and the City, whereby the City provides financial, personnel and other assistance to the Agency and the Agency repays the City for the costs incurred in providing such services.

A COOPERATION AGREEMENT BETWEEN THE IRVINE  
REDEVELOPMENT AGENCY AND THE CITY OF IRVINE PERTAINING TO  
THE PROVISION OF FINANCIAL, PERSONNEL, AND OTHER ASSISTANCE

THIS COOPERATION AGREEMENT ("Agreement") is made and entered this 27th day of July, 1999, by and between the IRVINE REDEVELOPMENT AGENCY, a public body corporate and politic ("Agency"), and the CITY OF IRVINE, a charter city and municipal corporation ("City").

R E C I T A L S

A. On April 27, 1999, the City Council of City adopted Ordinance No. 99-09 activating the Agency.

B. Ordinance No. 99-09 declared that the City Council shall be the Agency, and all of the rights, powers, duties, privileges, and immunities vested by the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.) in the Agency were vested in the City Council.

C. In order for the Agency to implement redevelopment activities in the City, it is necessary for the Agency to obtain financial, personnel, and other support from the City.

D. Agency and City have determined that it is in their mutual interest to enter into a cooperation agreement whereby the City agrees to provide financial, personnel, and other assistance to the Agency and the Agency agrees to repay the City said amounts from tax increment monies allocated to and received by the Agency, when feasible.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained, Agency and City agree as follows:

Section 1. Access to City Personnel and Facilities. Pursuant to all applicable law, including but not limited to the provisions of the Community Redevelopment Law (Health & Safety Code § 33000 et seq.), the City agrees to cooperate with the Agency by providing the Agency with access to the services of City personnel, departments, and offices of the City, and use of City facilities. City shall maintain an account showing the direct and indirect cost of providing such personnel and facilities to the City. Such cost to City, whether direct or indirect, shall be deemed a loan to, and an indebtedness of, the Agency, unless otherwise provided by the City Council by resolution. The Agency hereby authorizes the City Manager of the City to administratively set compensation payable to the Executive Director of the Agency from Agency funds in an amount to be determined administratively by the City Manager.

Section 2. City Financial Assistance. From time to time as deemed necessary, and upon approval by a resolution of both the Agency and City, and upon execution of a contract between City and Agency, the City agrees to appropriate to Agency such funds as may be

necessary for the operation of the Agency, including but not limited to for the purposes of Agency administrative and overhead expense and operational costs. Such City financial assistance shall be in such form as mutually agreed by City and Agency, including but not limited to loans, advances, and grants. Any advances and loans (hereinafter "Loans") provided by City to Agency shall constitute an indebtedness of the Agency.

Section 3.     Interest: Agency Repayment. Any Loan, whether direct or indirect, provided to Agency by the City, may accrue interest at such rate of interest as the parties may agree, not to exceed the maximum legal rate. Any loans shall be repaid by the Agency out of tax increment funds allocated to and received by Agency. Such repayments shall be made by Agency when feasible.

Section 4.     Subordination. Whether incurred prior to or subsequent to such Loans, all Loans by City to Agency, and the repayment thereof, shall be junior to and subordinate to: (i) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, (ii) all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, and (iii) Agency financial agreements and other contractual obligations of Agency.

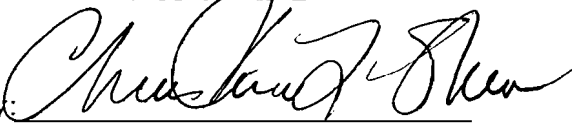
Section 5.     City-Agency Contracts. Any loans or other advances or contractual obligations between City and Agency shall be set forth in a written contract between City and Agency. Such contract shall include (i) the terms for accrual of interest as stated in Section 3 herein, and (ii) a subordination provision that provides no less than the minimum subordination set forth in Section 4 herein.

Section 6.     Non-Liability of City and Agency Officials, Officers, and Employees. No officer, official, employee, agent, representative, or volunteer of the City or Agency shall be personally liable for any amount which may become due to City or Agency hereunder.

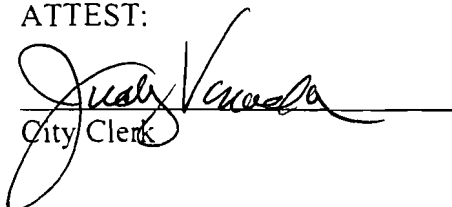
IN WITNESS WHEREOF, Agency and City have executed this Agreement as of the date first above written.

"CITY"

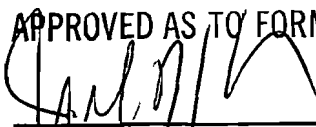
CITY OF IRVINE

By:   
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
CITY ATTORNEY OF THE CITY OF IRVINE




Cooperation Agreement  
Irvine Redevelopment Agency

"AGENCY"

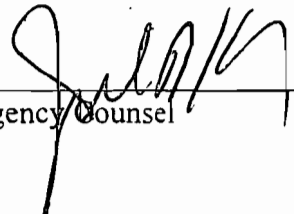
IRVINE REDEVELOPMENT AGENCY

By:   
Chair

ATTEST:

  
Secretary

APPROVED AS TO FORM:

  
Agency Counsel

A COOPERATION AGREEMENT BETWEEN THE IRVINE  
REDEVELOPMENT AGENCY AND THE CITY OF IRVINE PERTAINING TO  
THE PROVISION OF FINANCIAL, PERSONNEL, AND OTHER ASSISTANCE

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B. Ordinance No. 99-09 declared that the City Council shall be the Agency, and all of the rights, powers, duties, privileges, and immunities vested by the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.) in the Agency were vested in the City Council.

C. In order for the Agency to implement redevelopment activities in the City, it is necessary for the Agency to obtain financial, personnel, and other support from the City.

D. Agency and City have determined that it is in their mutual interest to enter into a cooperation agreement whereby the City agrees to provide financial, personnel, and other assistance to the Agency and the Agency agrees to repay the City said amounts from tax increment monies allocated to and received by the Agency, when feasible.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained, Agency and City agree as follows:

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Section 2. City Financial Assistance. From time to time as deemed necessary, and upon approval by a resolution of both the Agency and City, and upon execution of a contract between City and Agency, the City agrees to appropriate to Agency such funds as may be

necessary for the operation of the Agency, including but not limited to for the purposes of Agency administrative and overhead expense and operational costs. Such City financial assistance shall be in such form as mutually agreed by City and Agency, including but not limited to loans, advances, and grants. Any advances and loans (hereinafter "Loans") provided by City to Agency shall constitute an indebtedness of the Agency.

Section 3. Interest; Agency Repayment. Any Loan, whether direct or indirect, provided to Agency by the City, may accrue interest at such rate of interest as the parties may agree, not to exceed the maximum legal rate. Any loans shall be repaid by the Agency out of tax increment funds allocated to and received by Agency. Such repayments shall be made by Agency when feasible.


Section 4. Subordination. Whether incurred prior to or subsequent to such Loans, all Loans by City to Agency, and the repayment thereof, shall be junior to and subordinate to: (i) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, (ii) all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, and (iii) Agency financial agreements and other contractual obligations of Agency.

Section 5. City-Agency Contracts. Any loans or other advances or contractual obligations between City and Agency shall be set forth in a written contract between City and Agency. Such contract shall include (i) the terms for accrual of interest as stated in Section 3 herein, and (ii) a subordination provision that provides no less than the minimum subordination set forth in Section 4 herein.

Section 6. Non-Liability of City and Agency Officials, Officers, and Employees. No officer, official, employee, agent, representative, or volunteer of the City or Agency shall be personally liable for any amount which may become due to City or Agency hereunder.

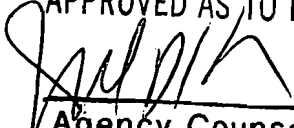
IN WITNESS WHEREOF, Agency and City have executed this Agreement as of the date first above written.

"CITY"

CITY OF IRVINE  
By:   
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:  
  
Agency Counsel

Cooperation Agreement  
Irvine Redevelopment Agency

"AGENCY"

IRVINE REDEVELOPMENT AGENCY

By: 

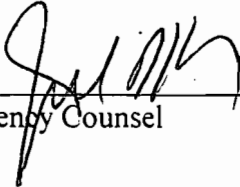
Chair

ATTEST:



Secretary

APPROVED AS TO FORM:



Agency Counsel

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Agreement for Legal Services

DATE: March 10, 2009

PARTIES: City of Irvine (City)  
Irvine Redevelopment Agency (Agency)  
Rutan & Tucker, LLP (Attorney)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement provides City Attorney and General Counsel services for the City and Irvine Redevelopment Agency, respectively. The agreement documents the scope of services to be provided and the fee schedule for compensation.

CITY OF IRVINE/IRVINE REDEVELOPMENT AGENCY

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT, made and entered into this 10<sup>th</sup> day of MARCH 2009, between the CITY OF IRVINE (hereinafter referred to as "CITY"), the IRVINE REDEVELOPMENT AGENCY (hereinafter referred to as "RDA"), and RUTAN & TUCKER, LLP (hereinafter referred to as "ATTORNEY").

I.  
RECITALS

CITY and RDA desire the services of ATTORNEY to perform the duties of the City Attorney and General Counsel, respectively. CITY, RDA, and ATTORNEY therefore agree as follows:

II.  
SCOPE OF SERVICES

Attorney shall provide in a professional and competent manner all of the usual and customary services normally provided by a City Attorney to CITY and by a General Counsel to RDA. Specific services are outlined in Attachment 1 to this Agreement.

III.  
PERFORMANCE BY PERSONNEL

ATTORNEY may associate with or employ associates and others, including but not limited to paralegals and legal assistants, in the performance of its services under this Agreement, but at all times shall be responsible for their services.

IV.  
COMPENSATION

CITY and RDA agree to pay ATTORNEY according to the Fee Schedule included in Attachment 2 to this Agreement for the term of this Agreement unless modified by subsequent agreement.

V.  
METHOD OF PAYMENT

ATTORNEY shall submit to CITY and RDA an itemized statement of services and charges on a monthly basis. CITY and RDA agree to pay based on approved invoices in accordance with the provisions of Section IV – Compensation.

VI.  
CONFLICTS OF INTEREST

ATTORNEY has disclosed all present and contemplated representation of other clients or third parties on any matter (either litigation or non-litigation) that may be adverse to CITY or RDA.

ATTORNEY agrees that ATTORNEY, its officers, directors, partners and employees shall not represent any other client or party on any matter (either litigation or non-litigation) adverse to the CITY or RDA. ATTORNEY further agrees that following the termination of this Agreement, ATTORNEY, its officers, directors, partners and employees shall not represent any other client or third party in any matter relating to the CITY, without first receiving a written release from the CITY or RDA. ATTORNEY has also considered the potential applicability of the Political Reform Act of 1974 to ATTORNEY'S services pursuant to this Agreement and has concluded that no conflict of interest exists that would preclude ATTORNEY from performing the services required of ATTORNEY pursuant to this Agreement.

VII.  
FINDINGS CONFIDENTIAL, OWNERSHIP, REPORTS, INFORMATION, ETC.

All reports, information, data and exhibits prepared or assembled by ATTORNEY in connection with the performance of its services pursuant to this Agreement are confidential and ATTORNEY agrees that they shall not be made available to any individual or organization without prior written consent of CITY or RDA, as applicable. All such reports, information, data and exhibits shall be the property of CITY or RDA, as applicable, and shall be delivered to CITY or RDA upon demand without additional cost or expense to CITY or RDA.

VIII.  
TERM

This Agreement shall commence on May 1, 2009 and continue in effect through April 30, 2011.

IX.  
AGREEMENT EXTENSION

The term of this Agreement may be extended for successive periods of two (2) years by City Council and Board of Directors approval prior to the date on which the Agreement or extension thereof would otherwise be terminated. The terms and conditions of the Agreement as so extended shall be as set forth herein except for agreed upon modifications in the Scope of Work (Attachment 1) or Compensation (Attachment 2).

X.  
AGREEMENT TERMINATION

Either party shall have the right to terminate this Agreement without cause at any time upon thirty (30) days written notice. ATTORNEY agrees, consistent with its professional responsibilities, to allow for sufficient time and services to permit CITY and RDA to arrange for

alternative representation. CITY and RDA agree to secure alternative representation as soon as practicable and to cooperate in the transition of work and substitution of new counsel as counsel of record upon request of ATTORNEY. ATTORNEY agrees that upon termination of this Agreement and of services in any manner, it will provide to CITY and RDA a closing report, including a brief description of the facts of the case, completed research, and calendar of any scheduled court appearances and deadlines, with respect to all pending litigation matters handled by ATTORNEY.

## XI. LEGAL RESPONSIBILITIES

A. ATTORNEY shall comply with all State and Federal laws, as well as all county and municipal ordinances and regulations, which in any manner affect the performance of services pursuant to this Agreement, or persons employed by ATTORNEY.

B. ATTORNEY agrees that in the performance of the terms of this Agreement, no discrimination shall be made in the employment of persons because of race, color, national origin, ancestry, or religion of such persons. A violation of this provision will subject ATTORNEY to all penalties imposed by law.

C. ATTORNEY acknowledges and agrees that its attorneys and employees are acting as independent contractors in providing services to CITY and RDA under this Agreement, and that its attorneys and employees shall not, for any reason, be considered employees of CITY or RDA for any purposes.

D. Insurance. ATTORNEY shall submit to CITY and RDA certificates indicating professional liability insurance with annual aggregates of three million dollars (\$3,000,000) not less than five (5) working days prior to the beginning of performance under this Agreement. ATTORNEY shall also submit proof of a comprehensive general liability and workers' compensation to the satisfaction of CITY and RDA. ATTORNEY shall not commence the performance of its services under this contract until all of the above insurance has been obtained and Certificates of Insurance have been filed with CITY and RDA. ATTORNEY shall maintain the foregoing coverages and provide proof of such coverages continuously while performing services under this Agreement.

E. Defense and Indemnification. ATTORNEY agrees to defend and indemnify CITY and RDA, their officers, agents and employees against, and to hold and save them harmless from, any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the willful or negligent act, errors or omissions of ATTORNEY, its agents, employees, or subcontractors, in performance of the professional services under this Agreement, as well as for all acts, errors or omissions of ATTORNEY, its agents, employees, or subcontractors which are in any way related to the services for which ATTORNEY has been contracted, yet do not arise or occur from the performance of professional services.



XII.  
NOTICES

Any notice required to be given hereunder shall be in writing with copies as directed herein and shall be personally served or given by mail. Any notice by mail shall be deemed to have been given when deposited in the United States mails, certified and postage prepaid, addressed to the party to be served as follows:

To CITY and RDA: CITY OF IRVINE  
Post Office Box 19575  
Irvine, CA 92623-9575  
ATTN: City Manager

To ATTORNEY: RUTAN & TUCKER, LLP  
Post Office Box 1950  
Costa Mesa, CA 92628-1950  
ATTN: Phil Kohn, Esq.

XIII.  
ASSIGNMENT

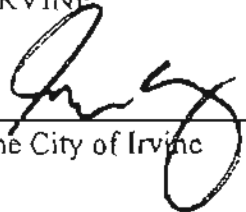
ATTORNEY shall not subcontract, assign or otherwise transfer its rights and obligations under this Agreement without the prior written consent of CITY and RDA. Any such subcontractor or his assignment without such consent shall be void and shall, at the opinion of the CITY and RDA, terminate this Agreement.


[remainder of page left blank]

XIV.  
EXTENT OF AGREEMENT

This document represents the entire integrated agreement between CITY, RDA, and ATTORNEY and supersedes all prior negotiations, representations or agreement, either written or oral. This Agreement may be amended only by written instrument signed by the CITY, RDA, and ATTORNEY.

CITY OF IRVINE

  
\_\_\_\_\_  
Mayor of the City of Irvine

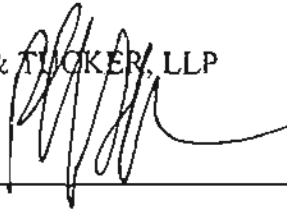
  
\_\_\_\_\_  
City Clerk of the City of Irvine

IRVINE REDEVELOPMENT AGENCY

  
\_\_\_\_\_  
Chair of the Irvine Redevelopment Agency

  
\_\_\_\_\_  
Secretary to the Irvine Redevelopment Agency

RUTAN & TUCKER, LLP

  
\_\_\_\_\_  
Partner

## **ATTACHMENT 1**

### **SCOPE OF WORK**

Unless otherwise directed by the City Council or the City Manager, the City Attorney represents the City in all retainer services and may represent the City in other matters when requested by the City Council or the City Manager.

Unless otherwise directed by the Redevelopment Agency Board of Directors or the Executive Director, the General Counsel represents the RDA in all retainer services and may represent the RDA in other matters when requested by the Board of Directors or the Executive Director.

#### **RETAINER SERVICES**

1. Attendance at all City Council, Planning Commission, and RDA Board of Directors meetings.
2. Attendance at departmental meetings, staff meetings or committee meetings as deemed necessary and appropriate or as requested by the City Manager, City Council, or Board of Directors.
3. Provision of legal advice on behalf of the City and the RDA to City Council members, City Manager, Commissioners, Directors, and designated personnel as appropriate.
4. Research, preparation or review of written opinions, ordinances, resolutions, agreements, leases, contracts and other documents.
5. When requested, monitoring activities of any special counsel retained by the City or the RDA.
6. Providing conflict of interest assistance to elected and appointed officials and staff of the City and the RDA, and assisting officials and staff in seeking advice from the Fair Political Practices Commission.
7. Rendering advice and assistance in the administration of the City's and RDA's general liability and risk management programs to the extent that the same is not covered by the California Insurance Pool Authority (CIPA).

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2. Representing the City and the RDA in the administration of claims and litigation filed by or against them; provided however, that special counsel may be retained to defend or prosecute actions under certain circumstances, including but not limited to matters assigned by CIPA for tort defense and workers' compensation defense work. Prior to commencing any litigation services, ATTORNEY shall notify the City or the RDA, as appropriate, and provide a case evaluation and plan, which shall include (but not be limited to) a statement of known facts and legal issues, statement of known injuries or damages, statement of liability exposure, recommendations on case strategy, possibilities and recommendations regarding early settlement, and a budgets of anticipated fees, costs, and expenses through pleadings, discovery, arbitration, trial, and any other identifiable stages. ATTORNEY shall timely advise the City or the RDA in writing of any material change in the factors identified in the case evaluation and plan, including any change in the estimated budget. ATTORNEY shall provide the City and the RDA, as appropriate, with a written status report of all pending litigation matters on a semi-annual basis, or more frequently upon request by the City Council, City Manager, Redevelopment Agency Board of Directors, or the RDA Executive Director.
3. Rendering advice and assistance to City and RDA representatives on labor relations matters, reviewing memoranda of understanding or other labor agreements, drafting implementing legislation or other pertinent documents, and representation of the City and the RDA on matters arising from memoranda of understanding of the City's or the RDA's personnel rules.
4. Legal matters subject to reimbursement and other specialized litigation, specialized transaction, and representational matters as requested by the City or the RDA. ATTORNEY acknowledges that this Agreement shall not be construed to contractually obligate the City or the RDA to employ ATTORNEY as bond counsel in all financing matters.

#### SPECIAL COUNSEL/GREAT PARK SERVICES

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  - a. Draft, negotiate and finalize amendment to Development Agreement.
  - b. Due diligence and legal review preparatory to entering into Development Agreement (e.g., finalizing exhibits and instruments, review and analysis of title exceptions, review of Lennar submittals).
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- f. Assist City in processing tiered CEQA documentation for demolition of hardscape and structures, and development of backbone infrastructure.
- g. Assist City in interface with Department of Navy regarding LIFOC, remediation and related issues affecting demolition of hardscape and structures, and development of backbone infrastructure, as assigned
- h. Provide assistance and legal representation regarding public works regulatory issues.
- i. Provide assistance and legal representation regarding City Charter and Public Contract Code requirements for public bidding of work.

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- a. Provide legal assistance and project background for development of comprehensive financing plan.

- b. Provide assistance and oversee/coordinate bond counsel in development of CFD and issuance of CFD debt as assigned
- c. Provide assistance and oversee/coordinate redevelopment counsel regarding activities of RDA, use of housing set aside funds, project-related activities and expenditures, and implementation and interpretation of County MOU and pass-through agreement.
- d. Provide assistance and legal representation regarding implementation and interpretation of NITM, and interface with Lennar and TIC regarding NITM issues.

4. Great Park Property Management Activities

- a. As requested, provide assistance and legal representation on LIFOC and hazmat remediation issues, including interface with Department of Navy and other involved State and Federal regulatory agencies; and interpretation of Federal Facilities Agreement, FOST, LIFOC and related documentation regarding Department of Navy remediation obligations.
- b. Provide assistance to City in drafting and negotiating Security Agreement.
- c. Provide assistance to City in conveyance of designated parcels to County and IUSD.
- d. Provide assistance and legal representation to City regarding FAA VOR MOU and VOR relocation issues.
- e. Provide assistance and legal representation to City regarding Federal monument issues, as assigned
- f. Provide assistance to City regarding negotiating and documenting interim use relationships.

5. Great Park Operating Agreement

- a. Draft and finalize the Operating Agreement between the City and Orange County Great Park Corporation.
- b. Assist City in initial implementation of Operating Agreement, including development of procedures for transfer and accounting of Development Agreement and CFD revenues, conveyance of publicly-owned lands for park development, drafting of subleases of LIFOC areas.

PROCEDURES AND PERFORMANCE STANDARDS<sup>1</sup>

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<sup>1</sup> All references to the City Attorney and the City in this section shall apply equally to the General Counsel and the Redevelopment Agency and its officials.

1. APPOINTMENTS — The City Attorney takes appointments at City Hall on days mutually agreeable to the City and the City Attorney. All appointments will be made through the City Manager's Office. A staff member requesting an appointment must first obtain approval from their immediate supervisor and should notify their Manager and Director.
2. TELEPHONE CALLS — Directors and Managers may call the City Attorney directly for verbal opinion or for advice. Other staff may also call the City Attorney directly with authorization from their Director and the City Manager's Office. All calls will be returned by the City Attorney or other representatives from Rutan & Tucker within four (4) hours.
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4. STAFF REQUESTS FOR CITY ATTORNEY SERVICES — Staff may request City Attorney opinion or advice with the approval of their Manager and Director. These requests must be made on a City Attorney Request Form. The form must be completely filled out and include the Director's signature. Staff should not detach any copy of the form when submitting the request. The appropriate copy will be returned to the department, signed and dated, after review and approval by the City Manager's Office. The request will be logged in by the City Manager's Office and the response returned to the department upon completion by the City Attorney. Operating departments are asked to provide at least fifteen (15) working days for a response to account for transmittal time. Unless other arrangements are made at the request of staff, the standard turnaround time for City Attorney requests is ten (10) working days from the date they are received in the City Attorney's office to the date they are returned to the staff person requesting the service.
5. DEPARTMENTAL CONTACT — The Administrative Coordinator (or a designated alternate) will be the primary contact regarding the coordination of City Attorney requests. All requests should be submitted to the departmental contact. All follow-up on the status of a particular request should be channeled through the departmental contact and not through the City Attorney's office. City Attorney responses will be returned to staff through the departmental coordinator.

## ATTACHMENT 2

### COMPENSATION

The City Attorney and General Counsel will provide legal services to the City of Irvine and the Irvine Redevelopment Agency according to the following:

#### FEE SCHEDULE (effective May 1, 2007)

<u>Category</u>	<u>Hourly Rate</u>
Retainer Services	\$ 190
Non-Retainer/Litigation	\$ 225
Special Counsel/Great Park	\$ 300
Project Reimbursed by Applicant	\$ 295
Bond Counsel	Usual and customary rates charged by Rutan & Tucker <sup>2</sup>
Paralegals/Legal Assistants	\$ 140

#### COSTS AND EXPENSES

The City of Irvine and the Irvine Redevelopment Agency will pay for customary costs and expenses incurred on the City's and the RDA's behalf. Costs include third party charges, delivery charges, overnight mail, filing fees, extraordinary duplicating fees, and other court costs and disposition fees. Routine postage, duplicating costs and secretarial services shall not be billed and are considered included in the hourly rates in the Fee Schedule. ATTORNEY agrees to obtain advance authorization from the City and the RDA, as appropriate, prior to incurring

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<sup>2</sup> If contingent, one percent (1%) of the first \$1 million executed and delivered; one-half percent (0.5%) of the next \$4 million executed and delivered; one-quarter percent (0.25%) of the next \$10 million executed and delivered; one-eighth percent (0.125%) of the next \$5 million executed and delivered; and one-tenth percent (0.1%) of any amount over \$20 million executed and delivered; all subject to a minimum fee of \$25,000. Payment of fees are entirely contingent upon the successful execution and delivery of the bonds or notes to be payable on or after delivery except for out-of-pocket expenses, which are payable in any event. If non-contingent, \$300 per hour, together with out-of-pocket expenses. In the event that multiple series of bonds or notes are issued, the foregoing fee structure would be applied to each issue, subject to the \$25,000 minimum fee per issue.



fees or costs for retained experts and for taking depositions in pending litigation. Recovery by ATTORNEY of any such fees or costs shall be reimbursed to the City and the RDA.

# AMENDMENT NUMBER 1 TO "AGREEMENT FOR CONTRACT SERVICES"

THIS AMENDMENT NUMBER 1 TO AGREEMENT FOR CONTRACT SERVICES (the "First Amendment") is made and entered into as of July 1, 2010 by and between the City of Irvine, a municipal corporation ("City") and RUTAN & TUCKER, LLP, a limited liability partnership ("Contractor"), for the purpose of amending the written "Agreement for Contract Services" entered into between City and Contractor as of March 10, 2009, City of Irvine contract number 6146 (the "Agreement").

1. The expiration date of the Agreement is changed from April 30, 2011 to June 30, 2012.
2. "PART II, SCOPE OF SERVICES, is modified by adding EXHIBIT 1, dated July 1, 2010, attached hereto.
3. Except as set forth in this First Amendment, all terms, conditions and provisions of the Agreement are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Agreement to be executed by their respective duly-authorized agents as of the date first set forth above.

CITY OF IRVINE

By: \_\_\_\_\_

Sukhee Kang  
Mayor

Its: \_\_\_\_\_

RUTAN & TUCKER, LLP

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

CITY CLERK OF THE CITY OF  
IRVINE

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP

Philip D. Kohn

## EXHIBIT I

### PART II, SCOPE OF SERVICES (Revisions for July 1, 2010 thru June 30, 2012)

Rutan & Tucker, LLP shall serve as General Counsel to the Orange County Great Park Corporation ("Great Park"), providing representation, advice and assistance as requested for the matters described below and such other matters as may be further requested from time to time by the City Council, the City Manager, the Great Park Board of Directors or the Great Park Chief Executive Officer.

#### GENERAL COUNSEL SERVICES

The General Counsel Services below will be provided at the hourly rate of \$250 per hour and include:

1. Attend Great Park Board of Directors meetings.
2. Attend departmental meetings, staff meetings or committee meetings as appropriate or as requested by the City Manager, the City Council, the Chief Executive Officer, or the Board of Directors.
3. Provide legal advice on behalf of the City and the Great Park to City Council members, the City Manager, the Chief Executive Officer, Directors, and designated personnel as appropriate.
4. Monitor activities of any special counsel retained by the City or the Great Park.
5. Provide conflict of interest assistance to elected and appointed officials and staff of the Great Park, and assist officials and staff in seeking advice from the Fair Political Practices Commission.

The General Counsel Services below will be provided at the hourly rate of \$300 per hour and include:

6. Research, preparation or review of written opinions, ordinances, resolutions, agreements, leases, contracts and other documents.
7. Advise and assist administration of the Great Park's general liability and risk management programs to the extent that the same is not covered by the California Insurance Pool Authority (CIPA).

8. Represent the Great Park with the administration of claims and litigation filed by or against them; provided, however, that special counsel may be retained to defend or prosecute actions under certain circumstances, including but not limited to matters assigned by CIPA for tort defense and workers' compensation defense work. Prior to commencing any litigation services, General Counsel shall notify the City and the Great Park and provide a case evaluation and plan, which shall include (but not be limited to) a statement of known facts and legal issues, statement of known injuries or damages, statement of liability exposure, recommendations on case strategy, possibilities and recommendations regarding early settlement, and a budgets of anticipated fees, costs, and expenses through pleadings, discovery, arbitration, trial, and other identifiable stages. General Counsel shall timely advise the City and the Great Park in writing of any material change in the factors identified in the case evaluation and plan, including any change in estimated budget. General Counsel shall provide the City and the Great Park with a written status report of all pending litigation matters on a semi-annual basis, or more frequently upon request by the City Council, the City Manager, the Great Park Board of Directors or the Chief Executive Officer.
9. Provide advice and assist Great Park representatives with labor relations matters, reviewing memoranda of understanding or other labor agreements, personnel rules, drafting implementing legislation or other pertinent documents, and representation of the Great Park on matters arising from such matters.
10. Legal matters subject to reimbursement and other specialized litigation, specialized transaction, and representational matters as requested by the City or the Great Park. General Counsel acknowledges that this Agreement shall not be construed to contractually obligate the City or the Great Park to employ General Counsel as bond counsel in all financing matters.

#### ADDITIONAL GREAT PARK SERVICES

Unless otherwise directed by the City Council or the City Manager, Great Park Services will also be provided as previously approved in Attachment 1, Scope of Work, dated March 10, 2009, attached hereto and therefore made a part hereof. These services previously identified as Special Counsel/Great Park will continue to be compensated at the Hourly Rate of \$ 300.

## ATTACHMENT 1

### SCOPE OF WORK

Unless otherwise directed by the City Council or the City Manager, the City Attorney represents the City in all retainer services and may represent the City in other matters when requested by the City Council or the City Manager.

Unless otherwise directed by the Redevelopment Agency Board of Directors or the Executive Director, the General Counsel represents the RDA in all retainer services and may represent the RDA in other matters when requested by the Board of Directors or the Executive Director.

#### RETAINER SERVICES

1. Attendance at all City Council, Planning Commission, and RDA Board of Directors meetings.
2. Attendance at departmental meetings, staff meetings or committee meetings as deemed necessary and appropriate or as requested by the City Manager, City Council, or Board of Directors.
3. Provision of legal advice on behalf of the City and the RDA to City Council members, City Manager, Commissioners, Directors, and designated personnel as appropriate.
4. Research, preparation or review of written opinions, ordinances, resolutions, agreements, leases, contracts and other documents.
5. When requested, monitoring activities of any special counsel retained by the City or the RDA.
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- a. Provide legal assistance and project background for development of comprehensive financing plan.

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fees or costs for retained experts and for taking depositions in pending litigation. Recovery by ATTORNEY of any such fees or costs shall be reimbursed to the City and the RDA.

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Agreement for Auditing Services

DATE: May 17, 2011

PARTIES: City of Irvine (City)  
Lance, Soll & Lunghard, LLP

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement documents the scope of services and the fees for the independent audit of the financial records of the City and its component units, including the Irvine Redevelopment Agency.

## AGREEMENT FOR CONTRACT SERVICES

THIS AGREEMENT FOR CONTRACT SERVICES (the "Agreement") is made and entered into as of May 17, 2011, by and between the CITY OF IRVINE, a municipal corporation ("City"), and LANCE, SOLL & LUNGHARD, LLP, a Limited Liability Partnership ("Contractor"). (The term Contractor includes professionals performing in a consulting capacity.)

### PART I

#### FUNDAMENTAL TERMS

**A. Location of Project:** The City of Irvine location(s) as set forth in PART IV, Scope of Services, included herein.

**B. Description of Services/Goods to be Provided:** Auditing Services in accordance with PART IV, Scope of Services, included herein (Reference RFP 11-2702).

**C. Term:** Unless terminated earlier as set forth in this Agreement, the services shall commence on July 1, 2011 ("Commencement Date") and shall continue through June 30, 2013. The City reserves the right to extend this Agreement for up to two (2) additional one (1) year periods. Such extension shall only be valid if effectuated in writing by the City.

**D. Party Representatives:**

D.1. The City designates the following person/officer to act on City's behalf: Teri Washle, Finance Administrator, email: [twashle@cityofirvine.org](mailto:twashle@cityofirvine.org)

D.2. The Contractor designates the following person to act on Contractor's behalf: Richard K. Kikuchi, Partner, email: [richard.kikuchi@slcpas.com](mailto:richard.kikuchi@slcpas.com)

**E. Notices:** Contractor shall deliver all notices and other writings required to be delivered under this Agreement to City at the address set forth in Part II ("General Provisions"). The City shall deliver all notices and other writings required to be delivered to Contractor at the address set forth following Contractor's signature below.

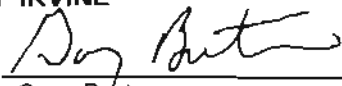
**F. Attachments:** This Agreement incorporates by reference the following Attachments to this Agreement:

- |      |           |                    |
|------|-----------|--------------------|
| F.1. | Part I:   | Fundamental Terms  |
| F.2. | Part II:  | General Provisions |
| F.3. | Part III: | Special Provisions |
| F.4. | Part IV:  | Scope of Services  |
| F.5. | Part V:   | Budget             |


**G. Integration:** This Agreement represents the entire understanding of City and Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this Agreement. This Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first set forth above.

**CITY OF IRVINE**

By:   
Gary Burton  
Its: Director of Administrative  
Services

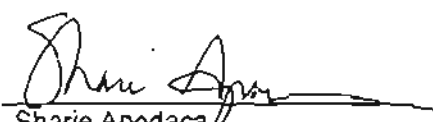
**LANCE, SOLL & LUNGHARD, LLP**

By:   
Its: RICHARD KIKUCHI  
PARTNER

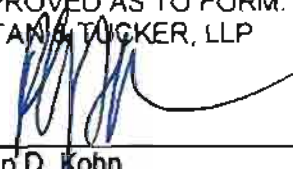
By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest:

By:   
Sharie Apodaca  
City Clerk of the City Of Irvine

APPROVED AS TO FORM:  
RUTAN & TUCKER, LLP

  
Philip D. Kohn

**Contractor Information**

**Address for Notices and Payments:**

Lance, Soll & Lunghard, LLP  
Certified Public Accountants  
203 N. Brea Blvd, Suite 203  
Brea, CA 92821

Attn: Richard K. Kikuchi  
Telephone: (714) 672-0022  
FAX: (714) 672-0331  
Email: richard.kikuchi@lstcpas.com

## PART II

### GENERAL PROVISIONS

#### SECTION ONE: SERVICES OF CONTRACTOR

**1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, Contractor shall provide the goods and/or services shown on Part IV hereto ("Scope of Services"), which may be referred to herein as the "services" or the "work." If this Agreement is for the provision of goods, supplies, equipment or personal property, the terms "services" and "work" shall include the provision (and, if designated in the Scope of Services, the installation) of such goods, supplies, equipment or personal property.

**1.2 Changes and Additions to Scope of Services.** City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said work. No such work shall be undertaken unless a written order is first given by City to Contractor, incorporating therein any adjustment in (i) the Budget, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Contractor. City approval and/or payment for work claimed by Contractor as changed or additional shall not act to prevent City at any time to claim such work is covered by the Scope of Work and should be performed by Contractor without additional consideration due. It is expressly understood by Contractor that the provisions of this Section 1.2 shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefore.

**1.3 Standard of Performance.** Contractor agrees that all services shall be performed in a competent, professional, and satisfactory manner in accordance with the standards prevalent in the industry, and that all goods, materials, equipment or personal property included within the services herein shall be of good quality, fit for the purpose intended.

**1.4 Performance to Satisfaction of City.** Notwithstanding any other provision herein, Contractor agrees to perform all work to the satisfaction of City within the time specified. If City reasonably determines that the work is not satisfactory, City shall have the right to take appropriate action, including but not limited to: (i) meeting with Contractor to review the quality of the work and resolve matters of concern; (ii) requiring Contractor to repeat unsatisfactory work at no additional charge until it is satisfactory; (iii) suspending the delivery of work to Contractor for an indefinite time; (iv) withholding payment; and (v) terminating this Agreement as hereinafter set forth.

**1.5 Instructions from City.** In the performance of this Agreement, Contractor shall report to and receive instructions from the City's Representative designated in Paragraph D.1 of Part I ("Fundamental Terms") of this Agreement. Tasks or services other than those specifically described in the Scope of Services shall not be performed without the prior written approval of the City's Representative.

**1.6 Familiarity with Work.** By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully

understands the facilities, difficulties, and restrictions attending performance of the services under the Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any conditions, including any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact in writing and shall not proceed except at Contractor's risk until written instructions are received from the City's Representative.

**1.7 Identity of Persons Performing Work.**

(A) Contractor represents that it employs or will employ at its own expense all personnel required for the satisfactory performance of any and all tasks and services required hereunder. Contractor shall not replace any of the principal members of the Project team, or any successors to any of such persons, without City's prior written approval.

(B) Contractor represents that the tasks and services required hereunder will be performed by Contractor or under its direct supervision, and that all personnel engaged in such work shall be fully qualified and shall be authorized and permitted under applicable State and local law to perform such tasks and services. In carrying out such tasks and services, Contractor shall not employ any undocumented aliens (that is, persons who are not citizens or nationals of the United States).

(C) This Agreement contemplates the personal services of Contractor and Contractor's employees, and it is recognized by the parties hereto that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of Contractor and Contractor's employees. Neither this Agreement nor any interest therein may be assigned by Contractor, except upon written consent of City.

**1.8 Prohibition Against Subcontracting or Assignment.** Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of City. In addition, neither the Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. In the event of any unapproved transfer, including any bankruptcy proceeding, City may void the Agreement at City's option in its sole and absolute discretion. No approved transfer shall release any surety of Contractor of any liability hereunder without the express written consent of City.

**SECTION TWO: INSURANCE AND INDEMNIFICATION**

**2.1 Insurance.** Without limiting Contractor's indemnification obligations, Contractor shall procure and maintain, at its sole cost and for the duration of this Agreement, insurance coverage as provided below, against all claims for injuries against persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, and/or subcontractors. In the event that Contractor subcontracts any portion of the work in compliance with Section 1.7 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the contractor is required to maintain pursuant to this Section 2.1.



**2.1.1 Insurance Coverage Required.** The policies and amounts of insurance required hereunder shall be as follows:

**A. Comprehensive General Liability Insurance** which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for liability arising out of Contractor's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the each occurrence limit. Such insurance shall be endorsed to:

(1) Name the City of Irvine and its employees, representatives, officers and agents (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Contractor's performance of this Agreement.

(2) Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

***A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.***

**B. Automobile Liability Insurance** with a limit of liability of not less than \$1,000,000 each occurrence and \$1,000,000 annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set above. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto." Such insurance shall be endorsed to:

(1) Name the City of Irvine and its employees, representatives, officers and agents as additional insured for claims arising out of Contractor's performance of this Agreement.

(2) Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

***A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.***

**C. Workers' Compensation Insurance** in accordance with the Labor Code of California and covering all employees of the Contractor providing any service in the performance of this agreement. Such insurance shall be endorsed to:

(1) Waive the insurer's right of Subrogation against the City and City Personnel.

***A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.***

**Contractor's completion of the form attached hereto as Exhibit 1 shall be a condition precedent to Contractor's rights under this Agreement.**

**D. Professional Liability Insurance** with minimum limits of \$1,000,000 each claim. Covered professional services shall include all work performed under this Agreement and delete any exclusion that may potentially affect the work to be performed.

**E. Evidence of Insurance:** Contractor shall provide to City a Certificate(s) of Insurance evidencing such coverage together with copies of the required policy endorsements no later than five (5) business days prior to commencement of service and at least fifteen (15) business days prior to the expiration of any policy. Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, non-renewed, or materially changed for any reason, without thirty (30) days prior written notice thereof given by the insurer to City by U.S. mail, or by personal delivery, except for nonpayment of premiums, in which case ten (10) days prior notice shall be provided.

Original, signed insurance certificates and endorsements shall be addressed as shown below, and sent via email from Contractor's insurance broker/agent to the City Representative as set forth in Part I, Fundamental Terms, Section D. Party Representatives.

**Attn: Purchasing Agent  
City of Irvine  
P. O. Box 19575  
Irvine, CA 92623-9575**

**F. Endorsements:** A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of Contractor
4. Contain any other exclusion contrary to the Agreement.

**G. Any Deductible in Excess of \$50,000 and/or Self-Insured Retentions** must be approved in writing by the City.

**H. Acceptability of Insurers.** Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

**I. Insurance of Subcontractors.** Contractor shall be responsible for causing Subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City as an additional insured to the Subcontractor's policies.

**2.2 Indemnification.** Contractor shall indemnify, defend, and hold City and City Personnel harmless from and against any and all actions, suits, claims, demands, judgments, attorney's fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities (herein "claims" or "liabilities") that may be asserted or claimed by any person or entity arising out of the willful or negligent acts, errors or omissions of Contractor, its employees, agents, representatives or subcontractors in the performance of any tasks or services for or on behalf of City, whether or not there is concurrent active or passive negligence on the part of City and/or City Personnel, but excluding such claims or liabilities arising from the sole active negligence or willful misconduct of City or City Personnel in connection therewith:

**2.2.1** Contractor shall defend any action or actions filed in connection with any such claims or liabilities, and shall pay all costs and expenses, including attorney's fees incurred in connection therewith.

**2.2.2** Contractor shall promptly pay any judgment rendered against City or any City Personnel for any such claims or liabilities.

**2.2.3** In the event City and/or any City Personnel is made a party to any action or proceeding filed or prosecuted for any such damages or other claims arising out of or in connection with this Agreement, Contractor shall pay to City any and all costs and expenses incurred by City or City Personnel in such action or proceeding, together with reasonable attorney's fees and expert witness fees.

### **SECTION THREE: LEGAL RELATIONS AND RESPONSIBILITIES**

**3.1 Compliance with Laws.** Contractor shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect those employed by it or in any way affect the performance of services pursuant to this Agreement. Contractor shall at all times observe and comply with all such laws, ordinances, and regulations and shall be responsible for the compliance of all work and services performed by or on behalf of Contractor. When applicable, Contractor shall not pay less than the prevailing wage, which rate is determined by the Director of Industrial Relations of the State of California.

**3.2 Licenses, Permits, Fees and Assessments.** Contractor shall obtain at its sole cost and expense all licenses, permits, and approvals that may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Contractor's performance of the services required by this Agreement, and shall indemnify, defend, and hold harmless City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City thereunder.

**3.3 Covenant Against Discrimination.** Contractor covenants for itself, its heirs, executors, assigns, and all persons claiming under or through it, that there shall be no discrimination against any person on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the performance of this Agreement. Contractor further covenants and agrees to comply with the terms of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) as the same may be amended from time to time.

**3.4 Independent Contractor.** Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise, or a joint venture, or a member of any joint enterprise with Contractor. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. Neither Contractor nor any of Contractor's employees shall, at any time, or in any way, be entitled to any sick leave, vacation, retirement, or other fringe benefits from the City; and neither Contractor nor any of its employees shall be paid by City time and one-half for working in excess of forty (40) hours in any one week. City is under no obligation to withhold State and Federal tax deductions from Contractor's compensation. Neither Contractor nor any of Contractor's employees shall be included in the competitive service, have any property right to any position, or any of the rights an employee may have in the event of termination of this Agreement.

**3.5 Covenant Against Contingent Fees.** Contractor warrants that it has not employed or retained any company or person to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person any fee or commission from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee or commission.

**3.6 Use of Patented Materials.** Contractor shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to equipment, devices, processes, and software programs, used or incorporated in the services or work performed by Contractor under this Agreement. Contractor shall indemnify, defend, and save the City harmless from any and all suits, actions or proceedings of every nature for or on account of the use of any patented or copyrighted materials consistent with Section 2.2 herein.

**3.7 Proprietary Information.** All proprietary information developed specifically for City by Contractor in connection with, or resulting from, this Agreement, including but not limited to inventions, discoveries, improvements, copyrights, patents, maps, reports, textual material, or software programs, but not including Contractor's underlying materials, software, or know-how, shall be the sole and exclusive property of City, and are confidential and shall not be made available to any person or entity without the prior written approval of City. Contractor agrees that the compensation to be paid pursuant to this Agreement includes adequate and sufficient compensation for any proprietary information developed in connection with or resulting from the performance of Contractor's services under this Agreement. Contractor further understands and agrees that full disclosure of all proprietary information developed in connection with, or resulting from, the performance of services by Contractor under this Agreement shall be made to City, and that Contractor shall do all things necessary and proper to perfect and maintain ownership of such proprietary information by City.

**3.8 Retention of Funds.** Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether arising out of this Agreement or otherwise) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and all amounts for which City may be liable to third parties, by reason of Contractor's negligent acts, errors, or omissions, or willful misconduct, in performing or failing to perform Contractor's obligations under this Agreement. City in its sole and absolute discretion, may withhold from any payment due Contractor, without liability for interest, an amount sufficient

to cover such claim or any resulting lien. The failure of City to exercise such right to deduct or withhold shall not act as a waiver of Contractor's obligation to pay City any sums Contractor owes City.

**3.9 Termination By City.** City reserves the right to terminate this Agreement at any time, with or without cause, upon written notice to Contractor. Upon receipt of any notice of termination from City, Contractor shall immediately cease all services hereunder except such as may be specifically approved in writing by City. Contractor shall be entitled to compensation for all services rendered prior to receipt of City's notice of termination and for any services authorized in writing by City thereafter. If termination is due to the failure of Contractor to fulfill its obligations under this Agreement, City may take over the work and prosecute the same to completion by contract or otherwise, and Contractor shall be liable to the extent that the total cost for completion of the services required hereunder, including costs incurred by City in retaining a replacement contractor and similar expenses, exceeds the Budget.

**3.10 Right to Stop Work; Termination By Contractor.** Contractor shall have the right to stop work and terminate only if City fails to timely make a payment required under the terms of the Budget. Contractor shall provide City thirty (30) day prior written notice of such claimed payment owed and City shall have an opportunity to remedy any such claimed breach during such time with no legal consequence to City. Contractor shall immediately cease all services hereunder following the thirty (30) day notice, except such services as may be specifically approved in writing by City. Contractor shall be entitled to compensation for all services rendered prior to termination and for any services authorized in writing by City thereafter. If Contractor terminates this Agreement because of an error, omission, or a fault of Contractor, or Contractor's willful misconduct, the terms of Section 3.9 relating to City's right to take over and finish the work and Contractor's liability, the thirty (30) day notice shall apply.

**3.11 Waiver.** No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing.

**3.12 Legal Actions.** Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted and maintained in the Municipal and Superior Courts of the State of California in the County of Orange, or in any other appropriate court with jurisdiction in such County, and Contractor agrees to submit to the personal jurisdiction of such court.

**3.13 Rights and Remedies are Cumulative.** Except as may be expressly set forth in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies or other rights or remedies as may be permitted by law or in equity shall not preclude the exercise by such party, at the same or different times, of any other rights or remedies to which such party may be entitled.

**3.14 Attorneys' Fees.** In any action between the parties hereto seeking enforcement of any of the terms or provisions of this Agreement or in connection with the performance of the work hereunder, the party prevailing in the final judgment in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to have and recover from the other party its reasonable costs and expenses, including, but not

limited to, reasonable attorney's fees, expert witness fees, and courts costs. If either party to this Agreement is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Agreement by the other party, then the party so litigating shall be entitled to its reasonable attorney's fees and costs from the other party to this Agreement.

**3.15 Force Majeure.** The time period specified in this Agreement for performance of services shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of City or Contractor, including, but not restricted to, acts of nature or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if the delaying party shall within ten (10) days of the commencement of such delay notify the other party in writing of the causes of the delay. If Contractor is the delaying party, City shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of City such delay is justified. City's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against City for any delay in the performance of this Agreement, however caused. Contractor's sole remedy shall be extension of this Agreement pursuant to this Section 3.13.

**3.16 Non-liability of City Officers and Employees.** No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by City, or for any amount which may become due to Contractor or its successor, or for breach of any obligation of the terms of this Agreement.

**3.17 Conflicts of Interest.**

A. No officer, official, employee, agent, representative or volunteer of City shall have any financial interest, direct or indirect, in this Agreement, or participate in any decision relating to this Agreement that affects his or her financial interest or the financial interest of any corporation, partnership, association or other entity in which he or she is interested, in violation of any Federal, State or City statute, ordinance or regulation. Contractor shall not employ any such person while this Agreement is in effect.

B. Contractor represents, warrants and covenants that he, she or it presently has no interest, direct or indirect, which would interfere with or impair in any manner or degree the performance of Contractor's obligations and responsibilities under this Agreement. Contractor further agrees that while this Agreement is in effect, Contractor shall not acquire or otherwise obtain any interest, direct or indirect, that would interfere with or impair in any manner or degree the performance of Contractor's obligations and responsibilities under this Agreement.

C. Contractor represents and warrants that it has not provided or promised to provide any gift or other consideration, directly or indirectly, to any officer, employee, or agent of City to obtain City's approval of this Agreement. Contractor shall not, at any time, have any financial interest in this Agreement or the project that is the subject of this Agreement other than the compensation to be paid to Contractor as set forth in this Agreement. In the event the work and/or services to be performed hereunder relate to a project and/or application under consideration by or on file with the City, (i) Contractor shall not possess or maintain any business relationship with the applicant or any other person or entity which Contractor knows to have a personal stake in said project and/or

application, (ii) other than performing its work and/or services to City in accordance with this Agreement Contractor shall not advocate either for or against said project and/or application, and (iii) Contractor shall immediately notify City in the event Contractor determines that Contractor has or acquires any such business relationship with the applicant or other person or entity which has a personal stake in said project and/or application. The provisions in this Section shall be applicable to all of Contractor's officers, directors, employees, and agents, and shall survive the termination of this Agreement.

D. Contractor acknowledges that pursuant to the provisions of the Political Reform Act (Government Code section 87100 *et seq.*), City may determine Contractor to be a "Consultant" as that term is defined by the Act. In the event City makes such a determination, Contractor agrees to complete and file a "Statement of Economic Interest" with the City Clerk to disclose such financial interests as required by City. In such event, Contractor further agrees to require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" to disclose such other person's financial interests as required by City.

**3.18 Contractor Ethics.** Contractor represents and warrants that it has not provided or promised to provide any gift or other consideration, directly or indirectly, to any officer, employee, or agent of City to obtain City's approval of this Agreement. Contractor shall not, at any time, have any financial interest in this Agreement or the project that is the subject of this Agreement other than the compensation to be paid to Contractor as set forth in this Agreement. In the event the work and/or services to be performed hereunder relate to a project and/or application under consideration by or on file with the City, (i) Contractor shall not possess or maintain any business relationship with the applicant or any other person or entity which Contractor knows to have a personal stake in said project and/or application, (ii) other than performing its work and/or services to City in accordance with this Agreement Contractor shall not advocate either for or against said project and/or application, and (iii) Contractor shall immediately notify City in the event Contractor determines that Contractor has or acquires any such business relationship with the applicant or other person or entity which has a personal stake in said project and/or application. The provisions in this Section shall be applicable to all of Contractor's officers, directors, employees, and agents, and shall survive the termination of this Agreement.

**3.19 Compliance with California Unemployment Insurance Code Section 1088.8.** If Contractor is a Sole Proprietor, then prior to signing the Agreement, Contractor shall provide to the City a completed and signed Form W-9, Request for Taxpayer Identification Number and Certification. Contractor understands that pursuant to California Unemployment Insurance Code Section 1088.8, the City will report the information from Form W-9 to the State of California Unemployment Development Department, and that the information may be used for the purposes of establishing, modifying, or enforcing child support obligations, including collections, or reported to the Franchise Tax Board for tax enforcement purposes.

#### **SECTION FOUR: MISCELLANEOUS PROVISIONS**

**4.1 Records and Reports.** The City Manager or his/her designee of the City of Irvine reserves the right to audit the Contractor's compliance with all of the terms and conditions of this Agreement at any time. Upon request by City, Contractor shall prepare

and submit to City any reports concerning Contractor's performance of the services rendered under this Agreement. City shall have access, with 72 hours advance written notice delivered to Contractor, to the books and records of Contractor related to Contractor's performance of this Agreement in the event any audit is required. All drawings, documents, and other materials prepared by Contractor in the performance of this Agreement (i) shall be the property of City and shall be delivered at no cost to City upon request of City or upon the termination of this Agreement, and (ii) are confidential and shall not be made available to any individual or entity without prior written approval of City. Contractor shall keep and maintain all records and reports related to this Agreement for a period of three (3) years following termination of this Agreement, and City shall have access to such records in the event any audit is required.

**4.2 Notices.** Unless otherwise provided herein, all notices required to be delivered under this Agreement or under applicable law shall be personally delivered, or delivered by United States mail, prepaid, certified, return receipt requested, or by reputable document delivery service that provides a receipt showing date and time of delivery. Notices personally delivered or delivered by a document delivery service shall be effective upon receipt. Notices delivered by mail shall be effective at 5:00 p.m. on the second calendar day following dispatch. Notices to the City shall be delivered to the following address, to the attention of the City Representative set forth in Paragraph D.1 of the Fundamental Terms of this Agreement:

To City: City of Irvine  
One Civic Center Plaza (92606) (Hand Deliveries)  
P. O. Box 19575  
Irvine, CA 92623-9575

Notices to Contractor shall be delivered to the address set forth below Contractor's signature on Part I of this Agreement, to the attention of Contractor's Representative set forth in Paragraph D.2 of the Fundamental Terms of this Agreement. Changes in the address to be used for receipt of notices shall be effected in accordance with this Section 4.2.

**4.3 Construction and Amendment.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The headings of sections and paragraphs of this Agreement are for convenience or reference only, and shall not be construed to limit or extend the meaning of the terms, covenants and conditions of this Agreement. This Agreement may only be amended by the mutual consent of the parties by an instrument in writing.

**4.4 Severability.** Each provision of this Agreement shall be severable from the whole. If any provision of this Agreement shall be found contrary to law, the remainder of this Agreement shall continue in full force.

**4.5 Authority.** The person(s) executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.



**4.6 Special Provisions.** Any additional or supplementary provisions or modifications or alterations of these General Provisions shall be set forth in Part III of this Agreement ("Special Provisions").

**4.7 Precedence.** In the event of any discrepancy between Part I ("Fundamental Terms"), Part II ("General Provisions"), Part III ("Special Provisions"), Part IV ("Scope of Services"), and/or Part V ("Budget"), Part III shall take precedence and prevail over Parts I, II, IV and V; Part II shall take precedence and prevail over Parts I, IV and V; Part IV shall take precedence and prevail over Parts I and V; and Part V shall take precedence over Part I.

### **PART III SPECIAL PROVISIONS**

- 1) **Business License Requirement.** Contractors who provide services for the City of Irvine within the city limits of Irvine shall obtain, within five (5) days of executing this Agreement and prior to commencing any work herein, a City of Irvine business license and shall maintain a current business license throughout the term of this Agreement.
- 2) **Living Wage Ordinance.** The City of Irvine has adopted a Living Wage Ordinance (the "Ordinance") that requires contractors who enter into a contract with the City to provide services with an estimated value of one hundred thousand dollars (\$100,000) or more for any consecutive twelve-month period to comply with the requirements of the Ordinance (reference Appendix A). Contractor shall notify the City in writing if the aggregate value of multiple contracts with the City, including amendments to this Agreement, total \$100,000 or more. Any subcontractor(s) performing work on the Agreement shall also be subject to the requirements of the Ordinance. The current living wage and benefit factor rates are posted on the City's website at [www.cityofirvine.org/purchasing](http://www.cityofirvine.org/purchasing). To view the rates, along with other living wage information, click on the "Living Wage Information" link.

**Contractors are required to submit a completed Declaration of Compliance - Living Wage Ordinance form (included herein as Appendix B) with their completed contract documents.**

The following Living Wage Ordinance information documents are also included: Living Wage Guide (Appendix C); Living Wage Comparable Benefits Summary (Appendix D); the required Notice to Employees (Contractor Responsibility/Employee Rights) (Appendix E); and the required Earned Income Tax Credit (EITC) posting (Appendix F).

## PART IV

### SCOPE OF SERVICES

Services shall be performed in accordance with ATTACHMENT I, and as set forth below. In the event of any discrepancies between this section and ATTACHMENT I (Contractor's proposal), then this section shall prevail.

The City of Irvine requires an independent Certified Public Accounting firm (Contractor) to audit its financial statements which include the City's blended component units. Three component units, the Irvine Redevelopment Agency, Orange County Great Park Corporation, and the Irvine Community Land Trust require component unit financial statements, audit reports and opinions under separate cover. The Contractor is required to express an opinion on the fair presentation of the City's basic financial statements in conformity with accounting principles generally accepted in the United States of America, and to provide an "in-relation-to" report on the additional information based on the auditing procedures applied during the audit of the combining and individual fund statements and schedules. The Contractor is not required to audit the introductory section and the statistical section of the report. The Contractor shall also be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards as issued by the Comptroller General of the United States.

The City requires the auditors to audit the City-prepared CAFR (Comprehensive Annual Financial Report) based upon information provided by the City, in accordance with the requirements of GAGAS (generally accepted government auditing standards) for submission to the GFOA (Governmental Finance Officers Association) award program. The Contractor is expected to provide assistance as necessary to meet the most current requirements of these award programs. A copy of our most recent CAFR is available on our website at [www.cityofirvine.org/cityhall/as/finance/cafr.asp](http://www.cityofirvine.org/cityhall/as/finance/cafr.asp).

The City complies with the OMB (Office of Management and Budget) Circular A-133, Audits of State and Local Governments, which requires an audit made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. The Contractor shall provide opinions as to the City's compliance with the Federal Single Audit Act and OMB Circular A-133. The Contractor is required to prepare the Schedule of Expenditures of Federal Awards and Selected State Awards and issue an "in-relation-to" report on that schedule based on the auditing procedures applied during the audit of the financial statements. When applicable, the Contractor shall provide independent opinions as to the compliance with State granting agencies. The Schedule of Expenditures of Federal Awards and Selected State Awards and related external auditor's report as well as the reports on the internal control structure and compliance are not to be included in the comprehensive annual financial report, but are to be issued separately.

Contractor shall perform agreed-upon procedures pertaining to compliance with

the City's Transient Occupancy Tax ordinance and Hotel Improvement District ordinance (hereafter referred to collectively as transient occupancy tax) to ensure that the hotel owners are paying proper taxes to the City. Project requirements shall include, but not be limited to, the following for each of the hotels:

- Review the City's Ordinances requiring the collection and payment of transient occupancy taxes to the City.
- Review hotels' internal controls relating to the preparation of the monthly transient occupancy tax returns in order to determine the adequacy of those procedures over the calculation and reporting of transient occupancy taxes due to the City.
- Test amounts calculated and paid to records maintained by the hotel owners to determine that payments were based on verifiable revenues, correctly calculated and remitted.
- Issue a report enumerating the procedures performed and the results of those procedures. The report shall include the identification of any exceptions, errors, internal control weaknesses, transient occupancy taxes due, or noncompliance that was noted as a result of procedures performed.
- Perform additional reviews as needed within the timeframe described in the City's Municipal Code for changes in hotel ownership. Interim reviews such as these will be negotiated separately as the time periods under review will vary.

The hotels are audited every three years. A list of the hotels, the number of rooms, and a proposed schedule of reviews follows.

### 3 Year Review Period

Hotel Name	No of Rooms	Last Review Period	Next Anticipated Review Period
Residence Inn by Marriott	112	03/27/04 - 03/23/07	03/24/08 - 03/23/11
Embassy Suites	293	07/01/01 – 03/31/04	04/01/08 - 03/31/11
La Quinta Inn	149	04/01/04 – 01/25/06	04/01/08 - 03/31/11
Residence Inn by Marriott (II)	174	03/27/04 - 03/23/07	03/24/08 - 03/27/11
Courtyard by Marriott	150	12/04/04 - 12/28/07	12/29/08- 12/28/11
Orange County Airport Hilton	289	03/01/05 - 02/28/08	03/01/08 - 02/28/11
Irvine Marriott	488	03/26/05 - 03/21/08	03/22/08 - 03/21/11
Homestead Village	250	07/01/05 - 03/31/08	04/01/08 - 03/31/11
Hyatt Regency	536	01/01/06 - 12/31/08	01/01/09 - 12/31/11
Atrium Hotel	210	04/01/06 - 03/31/09	04/01/09 - 03/31/12
Crowne Plaza	335	03/31/06 - 03/31/09	04/01/09 - 03/31/12
Doubletree Hotel	252	04/01/06 - 03/31/09	04/01/09 - 03/31/12
Candlewood	122	01/01/04 - 12/31/06	01/01/09 - 12/31/11
Springhill Suites Hotel	132	N/A	01/01/10 - 12/31/12

The City of Irvine may obtain the services of a qualified firm to perform agreed-upon procedures pertaining to compliance with the City's Ordinance No. 07-15, Living Wage Requirements. This would involve annually performing a review of a selected vendor providing services to the City, and testing random payroll

dates and benefits provided, to determine if the vendor is in compliance with the living wage ordinance as agreed upon in its contract with the City.

In addition, audited financial statements shall be prepared for the Irvine Defined Contribution and Irvine Defined Benefit Pension Plans as separate entities which have a fiscal year ending each December 31st. The Contractor will prepare these reports beginning with the December 31, 2011 year, and complete the financial statements, the opinion, and management letter no later than March 31st of each year.

The Contractor is also required to provide separate audited financial statements for the City's Air Quality Improvement Special Revenue Fund, with revenues of approximately \$ 240,000 per year. The financial statements and audit report must be prepared and submitted in accordance with the South Coast Air Quality Management District's guidelines and delivered to the Manager of Fiscal Services no later than November 1<sup>st</sup> of each year.

The Contractor will also prepare a report based on agreed upon procedures applied to Appropriations Limit Worksheet No. 6 (Gann Limit Worksheet) as required by Section 1.5 of Article XIII B of the California Constitution. This report will be delivered to the Manager of Fiscal Services no later than November 1<sup>st</sup> of each year.

The Contractor will be required to prepare separate audited basic financial statements for the Irvine Redevelopment Agency, a blended component unit of the City. The report will also include the independent auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters based on the audit in accordance with Government Auditing Standards.

The Contractor will be required to prepare separate audited basic financial statements for the Orange County Great Park Corporation, a blended component unit of the City. Information required by the By-Laws of the Orange County Great Park Corporation will also be included in the audit report and statements.

The Contractor will be required to prepare separate audited basic financial statements for the Irvine Community Land Trust (Land Trust), a blended component unit of the City. The report will also include the independent auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters based on the audit in accordance with Government Auditing Standards. The Land Trust report will be prepared beginning December 31, 2011 year, and complete the financial statements, information returns (California Form 199 and Federal Form 990), the opinion, and management letter no later than March 31<sup>st</sup> of each year.

The City of Irvine obtains grants from various State of California agencies and desires to meet the audit requirements in the most cost efficient method possible. This may require some additional audit services as mutually agreed upon by the Contractor and the City of Irvine.

### **Auditing Standards to be followed**

To meet the requirements of this request for proposal, the audit shall be performed in accordance with:

- Auditing standards generally accepted in the United States of America as set forth by the American Institute of Certified Public Accountants (AICPA),
- Standards applicable for financial audits set forth in the U.S. Government Accountability Office's *Government Auditing Standards*,
- Provisions of the Federal Single Audit Act,
- Provisions of U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and non-Profit Organizations*,
- *Guidelines for Compliance Audits of California Redevelopment Agencies* issued by the California State Controller's Office, and
- Other applicable State of California audit guidelines.

The City is currently in compliance with all active GASB pronouncements and anticipates the need for assistance from the Contractor to comply with all GASB pronouncements that take effect during the term of the contract. The level of assistance to be provided will be discussed on a case-by-case basis and mutually agreed upon by Contractor and Manager of Fiscal Services. The following GASB pronouncements are currently scheduled to take effect during the contract term:

- GASB Statement No.57, OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans, will allow more agent employers to use the alternative measurement method to produce actuarially based information for purposes of financial reporting. GASB 57 will be effective for the fiscal year ending June 30, 2012.
- GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, will enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. GASB 54 will be effective for the fiscal year ending June 30, 2011.

### **Required Reporting**

- Unless otherwise noted, all financial statements and reports are for the fiscal year ended June 30.

- The Comprehensive Annual Financial Report is expected to be published by November 15<sup>th</sup>. The audit report is to be issued on the fair presentation of the financial statements in conformity with generally accepted accounting principles and must be delivered to the Manager of Fiscal Services no later than November 1<sup>st</sup> of each year.
- The Single Audit Report is expected to be prepared and issued in compliance with applicable Federal and State guidelines. It must be delivered to the Manager of Fiscal Services no later than November 1<sup>st</sup> of each year.
- The Irvine Redevelopment Agency Audit Report must be delivered to the Chief Financial Officer of the Agency no later than November 1<sup>st</sup> of each year.
- The Orange County Great Park Corporation Audit Report is to be presented to the Board of Directors of the OCGPC within 120 days after the close of the corporations' fiscal year (June 30) and must be delivered to the CFO of the OCGPC no later than September 30<sup>th</sup> of each year. The annual financial report and audit will also be presented to the City Council before November 30<sup>th</sup> of each year.

### **Report on Internal Control**

The Contractor will provide an electronic copy of the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters in accordance with Government Auditing Standards to the Manager of Fiscal Services communicating material weaknesses and significant deficiencies in internal control over financial reporting discovered during the audit, no later than November 1<sup>st</sup> of each year. There were no material weaknesses or significant deficiencies noted in connection with the June 30, 2010 audit.

Observations of opportunities for improvements in economies in operations, internal controls, and effective use of the City's resources can be communicated to the Manager of Fiscal Services verbally or through a separate letter.

### **Audit Committee**

The Contractor shall assure himself or herself that the City of Irvine's Audit Committee is informed of each of the following:

- The auditor's responsibility under generally accepted auditing standards,
- Significant accounting policies,
- Management judgments and accounting estimates,
- Significant audit adjustments,

- Other information in documents containing audited financial statements,
- Disagreements with management,
- Management consultation with other accountants,
- Major issues discussed with management prior to retention,
- Difficulties encountered in performing the audit, and
- Errors, irregularities, and illegal acts.

The Contractor must be available to present the audit plan prior to beginning fieldwork. In addition, the Contractor must be available to present all final reports to the Commissions, Boards, and City Council, including the CAFR, Single Audit Report, Redevelopment Agency report, Orange County Great Park Corporation report, Irvine Community Land Trust report, Pension Plan reports, and management letter, once the audit is completed.

### **Process Considerations**

The City's proposed schedule for year-end closing procedures and preparation for the audit field work is as follows:

May-June	Interim Fieldwork
June 30	End of Fiscal Year
July 31 (approx)	First Close for June
August 15 (approx)	Additional Interim Fieldwork and Begin Single Audit Work
August 31	Second Close for June
Sept. 5-8	Trial Balance/ Supporting Schedules completed
Sept. 10-30	Audit Fieldwork
Sept. 30	1 <sup>st</sup> Draft Fund Financial Statements
October 10	1 <sup>st</sup> Draft Government-wide Financial Statements
October 20	Complete CAFR, Closing Conference
December 1	Submit CAFR to GFOA for Award Program

The Contractor is expected to provide sufficient knowledgeable staff to adhere to the schedule above.

The City establishes materiality levels for posting year-end transactions at the commencement of the audit to assist with year-end closing.

The accounting staff is required to maintain ongoing accounting duties during this extremely busy time of year but will be made available to assist in pulling accounts payable vouchers, paid checks, etc. The auditors will coordinate their efforts with the Manager of Fiscal Services and/or designee and will endeavor to



accomplish the audit on a phased basis throughout the year to reduce the year-end workload on the City's staff.

#### **Working Paper Retention and Access to Working Papers**

All working papers and reports must be retained, at the Contractor's expense, for a minimum of five (5) years, unless the firm is notified in writing by the City of Irvine of the need to extend the retention period. The working papers are subject to review by federal and state agencies and other individuals designated by the City of Irvine. Accordingly, the working papers shall be made available upon request. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers.

#### **Availability of Prior Reports and Working Papers**

An unqualified opinion has been received for the past 32 years. Review of working papers may be arranged with the firm that conducted the audits for the years 2005 – 2010:

Diehl Evans & Company, LLP  
5 Corporate Park Suite 100  
Irvine, CA 92606  
(949) 399-0600

Management is not aware of any unusual circumstances warranting an extended scope of audit services beyond that called for above. However, if in due course of the audit additional services are required, the contract may be amended to accommodate additional audit work.

## ATTACHMENT I

### SUMMARY OF QUALIFICATIONS AND EXPERIENCE

#### PERSONNEL ASSIGNED TO THE AUDIT

The most critical component in the successful completion of an audit is the personnel assigned to carry out the responsibilities. We have assembled a **Lance, Soll & Lunghard, LLP Team** composed of individuals with the optimum mix of talents. The individuals assigned have experience in performing the tasks for which they are responsible, as well as familiarity with all municipal accounting operations. In addition, each has developed extensive skills in a variety of other complementary subjects through their work with clients in other industries. Thus, the experience gained on previous assignments can be applied and tailored to the unique needs of your organization.

The partners at Lance, Soll & Lunghard, LLP are routinely an integral part of the audit process and will be overseeing and supervising staff personnel in the field. For the City of Irvine, the personnel assigned to the engagement would be as follows:

Partner	Richard K. Kikuchi, CPA
Concurring Partner/ IT Specialist	Bryan S. Gruber, CPA
Audit Manager	Debbie A. Harper, CPA
Senior	Jennifer Dalisay, license in progress
Professional Staff	3 to 4

#### STAFF AUDITORS

The firm's policy of assigning seniors to an engagement requires that the senior have at least two years of municipal auditing experience. He or she must have demonstrated a high degree of understanding of municipal accounting and auditing, as well as of the firm's overall client philosophy. Having been assigned to the engagement before is also an important factor in assigning a senior to an engagement. Any changes in personnel at the senior level or above will be approved by the City of Irvine. Lance, Soll & Lunghard, LLP's philosophy is to provide **quality audit services with minimal disruption to City staff**. Our focused efforts to obtain and retain quality staff have further enabled us to provide this to our clients.

#### CONTINUING EDUCATION

As a firm policy, and in compliance with the continuing education requirements promulgated by the AICPA, General Accounting Office and the California Society of CPAs, all our staff auditors (certified and non-certified) meet the requirement of 40 hours of continuing education every year, with at least 24 hours in governmental accounting and auditing in a two year period. For our educational programs, we utilize in-house seminars, California Society of CPAs attendance courses, AICPA training video tapes, and self-study AICPA/California Society of CPAs materials. Our formal education program was reviewed by independent firms during our peer review process and no exceptions were noted.

## SCOPE SECTION

### PROPOSED SEGMENTATION OF ENGAGEMENT

We utilize a standardized governmental audit program which we will tailor to the City of Irvine's operations. The tailoring is necessary to accommodate specific client circumstances and to recognize differences in local statutes, ordinances, and similar unique characteristics. Our audit programs are organized using the financial statement (balance sheet) category approach. This approach takes full advantage of our accumulated experience. The primary benefit is that the risk of omitting important procedures is substantially reduced. We believe that this approach tends to be the most effective and efficient for an entity such as the City of Irvine. In a standardized program, the audit procedures are listed in the most logical sequence, and that improves efficiency. The savings in effort and time gained by using a standardized audit program can free an auditor's attention for unusual or difficult situations that may arise. The audit programs are designed to increase audit efficiency by linking financial statement assertions, audit objectives, and procedures that are basic to most governmental audit engagements.

### LEVEL OF STAFF AND NUMBER OF HOURS TO BE ASSIGNED

The level of personnel assigned to the engagements and number of hours estimated to be spent on each proposed segment is as follows:

Segment	Partner	Manager	Senior	Staff	Total
City of Irvine*	13.0	22.0	95.0	160.0	290.0
Irvine RDA	5.0	10.0	28.0	-	43.0
Single Audit	2.0	4.0	36.0	-	42.0
AQMD Audit	1.0	1.0	2.0	6.0	10.0
Living Wage Compliance Review	1.0	2.0	-	12.0	15.0
Irvine Defined Contribution Plan	2.0	4.0	18.0	16.0	40.0
Irvine Defined Benefit Plan	2.0	4.0	18.0	8.0	32.0
Orange County Great Park Corporati	2.0	2.0	18.0	8.0	30.0
Irvine Community Land Trust	2.0	13.0	18.0	8.0	41.0
TOT Audit 2 year review/per Hotel	2.0	3.0	4.0	6.0	15.0
TOT Audit 3 year review/per Hotel	2.0	3.0	4.0	10.0	19.0
Total	34.0	68.0	241.0	234.0	577.0

*\*Includes GANN Limit, Management Letter, and other related communication letters*

## **Scope Section (Continued)**

### **APPROACH TO UNDERSTANDING INTERNAL CONTROL STRUCTURE**

To gain an understanding of the City of Irvine's internal control structure, we will perform procedures as required by the new Auditing Standards, primarily SAS 104-111 Risk Assessments. This will include completing forms taken from the Local Government Publication of Practitioners Publishing Company. These forms meet the technical standards of the AICPA and allow us to document the major transaction classes, purpose of funds, and the structure of the City of Irvine and to quantify materiality. We will review and make recommendations on the internal control structure, which consists of Control Environment, Accounting System and Control Procedures. We will review internal controls in the area of cash; investments; revenues and receivables; expenditures and accounts payable; payroll; inventories; property and equipment, debt and debt service; insurance and claims. In addition, during the performance of the Single Audit, if applicable, we will review areas of internal controls over federal grants, including general requirements; specific requirements; claims for advances and reimbursements and amounts claimed or used for matching. Based on the result of our review, we will issue a formal internal control report (SAS 115 Letter) that will identify any significant deficiencies and or material weaknesses. This report is required by the *Government Auditing Standards* issued by the Comptroller General of the United States, as well as the Single Audit Act. In addition, we will also issue a separate communication letter directly to the governing board. This letter would communicate any significant deficiencies or material weaknesses in the internal control system and other matters that we feel should be communicated to the governing board. All internal control issues will initially be discussed with management of the City of Irvine.

### **EXTENT OF EDP SOFTWARE**

LSL performs paperless audits utilizing Caseware Auditing Software and IDEA Software (for Data Extraction). We extensively use notebook computers in the field, with spreadsheet software, for financial statement preparation and analytical procedures.

Our traditional approach is to "audit around" the computer, which means that we verify output by agreeing it, through our audit tests, with corresponding source input transactions. We do not use audit software that runs through the City's computer system. Like other aspects of the internal control structure, computer controls and processes are documented in our memoranda and questionnaires. We will consider whether specialized skills are needed to consider the effect of computer processing on the audit, to understand the internal control structure policies and procedures or to design and perform audit procedures. We will consider the complexity of the computer system and assess whether we can identify the types of misstatements that might occur. Mr. Bryan S. Gruber is the Firm's IT specialist and will be dedicated to the City of Irvine's audit. He will be reviewing the IT controls of the City of Irvine's and will provide feedback to the management of the City.

### **ANALYTICAL PROCEDURES**

We use analytical procedures throughout our audit testing. Analytical procedures, such as current year to prior year and budget to actual, allow us to easily identify any unusual items or inconsistencies in your financial reporting. Analytical procedures are also used as an overall review of the financial information in the preliminary and final stages of the audit. These procedures are designed to assist us in planning our audit and in assessing the propriety of the conclusions reached and in the evaluation of the overall financial statement presentation. The procedures to be utilized consist of determining percentage increases and decreases between

### **Scope Section (Continued)**

significant revenue, expenditure and balance sheet accounts, reading the financial statements and related notes, and we focus on overall relationships within the financial statements. Once determined, these are reviewed to determine if the changes appear reasonable or require further analysis. For all significant differences, explanations are obtained as to why the situation occurred and additional substantive procedures may be applied and related evidence gathered to resolve concerns and questions.

### **APPROACH TO DETERMINING LAWS AND REGULATIONS SUBJECT TO AUDIT**

The Laws and Regulations that will be subject to audit test work are determined from the municipal code of the City (we would ask for access to a volume of the Code during our fieldwork), applicable sections of Governmental Code for the State of California and our extensive experience with governmental entities.

### **DRAWING ON SAMPLE SIZES**

For the purpose of tests of controls and tests of compliances with laws and regulations, we use audit sampling. Tests of controls are procedures directed towards determining the effectiveness of the design or operation of an internal structure policy or procedures. Normally, audit sampling is used for tests of controls that involve inspection of documents and reports indicating performance of the policy or procedures and, in many cases, reperformance of the application of the policy or procedures. These sampling procedures test the operating effectiveness of an internal control structure policy or procedures by determining how the policy or procedure was applied, the consistency with which it was applied during the audit period, and by whom it was applied.

To achieve this goal, we draw samples in the area of disbursements, receipts and payroll. Each document selected will be tested for various attributes that are designed to verify compliance with different aspects of internal controls. Additionally, each sample item will be tested for coding to the proper accounts and posting to the general ledger.

### **SERVICES TO BE PROVIDED**

Perform a financial audit of the Basic Financial Statements of the City of Irvine. We understand that Management of the City of Irvine will be preparing this report. These financial statements will be included within a Comprehensive Annual Financial Report (CAFR) which may be submitted under the National awards programs. Our audit would express an opinion as to whether the financial statements and associated notes conform to accounting principles generally accepted in the United States of America. **All working papers and reports will be retained (at our expense) for a minimum of seven (7) years, unless we are notified by the City of Irvine of the need to extend that retention period.**

Perform an audit of the City's component unit's financial statements for the Redevelopment Agency. We understand that Lance, Soll, and Lunghard LLP will be preparing this report. Our audit would express an opinion as to whether the financial statements and associated notes conform to the accounting principles generally accepted in the United States of America, including the compliance audit using the "Guidelines for Compliance Audits of California Redevelopment Agencies," as published by the State Controller.

### **Services to be Provided (Continued)**

Perform a Single Audit of all federal grants of the City utilizing generally accepted government auditing standards. This audit would be performed according to OMB Circular A-133, *Government Auditing Standards* issued by the GAO and the AICPA Industry Audit Guide. Our reports will be included in a separate financial statement apart from the statements prepared for the award programs and will include the following:

- Report on Compliance and on Internal control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards.
- Report on Compliance with Requirements Applicable to Each Major Program and Internal Control over Compliance in Accordance with OMB Circular A-133.
- Schedule of Expenditures of Federal Awards.
- Schedule of Findings and Questioned Costs.

Perform procedures and prepare a report based on the review of the procedures applied to the City of Irvine Appropriations Limit worksheets and calculation.

Perform an AQMD compliance audit and prepare the financial statements for the City's Air Quality Improvement Fund in conformity with generally accepted accounting principles and South Coast Air Quality Management District's Guidelines.

Perform (as an option) agreed-upon procedures pertaining to the compliance with the City's Ordinance No. 07-15, Living Wage Requirements. This would involve annually performing a review of a selected Vendor providing service to the City, and testing random payroll dates and benefits provided, to determine if the Vendor is in compliance with the living wage ordinance as agreed upon in its contract with the City.

Perform an audit of the Irvine Defined Contribution and Irvine Defined Benefit Pension Plans and prepare the financial statements for the plans separately for the fiscal year ending December 31<sup>st</sup>. The final issuance of the Irvine Defined Contribution Plan report and the Irvine Defined Benefit Pension Plan report will be made available to the City of Irvine no later than March 31<sup>st</sup>.

Perform an audit of the City's component unit financial statements for the Orange County Great Park Corporation. We understand that Lance, Soll, and Lunghard LLP will be preparing this report. Our audit would express an opinion as to whether the financial statements and associated notes conform to the accounting principles generally accepted in the United States of America, including the compliance audit using the By-Laws of the Orange County Great Park Corporation.

Perform an audit of the City's component unit financial statements for the Irvine Community Land Trust (Land Trust). We understand that Lance, Soll, and Lunghard LLP will be preparing this report. Our audit would express an opinion as to whether the financial statements and associated notes conform to the accounting principles generally accepted in the United States of America. The Land Trust report will be prepared beginning December 31, 2011, and complete the financial statements, information returns (California Form 199 and Federal Form 990), the opinion, and management letter no later than March 31<sup>st</sup> of each year.

Perform agreed upon procedures pertaining to compliance with the City's Transient Occupancy Tax Ordinance and Hotel Improvement District Ordinance.

### **Services to be Provided (Continued)**

We will review and make recommendations on the internal control structure, which consists of Control Environment, Accounting System and Control Procedures. We will review internal controls in the area of cash; investments; revenues and receivables; expenditures and accounts payable; payroll; inventories; property and equipment, debt and debt service; insurance and claims. In addition, during the performance of the single audit, we will review areas of internal controls over federal grants, including general requirements; specific requirements; claims for advances and reimbursements and amounts claimed or used for matching. Based on the result of our review, we will issue a formal internal control report that will identify any significant deficiencies or material weaknesses. This report is required by the *Government Auditing Standards* issued by the Comptroller General of the United States, as well as the Single Audit Act. In addition, we will also issue a separate management letter directly to the City's governing board. The letter would communicate any significant deficiencies or material weaknesses in the internal control system and other matters that we feel should be communicated to the governing board. All internal control issues would also be discussed with management of the City.

We will also provide the City of Irvine with additional financial services, collectively known as retainer services. This will include services not strictly within the purview of the audit, including but not limited to rendering assistance in ensuring that appropriate financial controls and procedures are in place and maintained; providing the City with payroll tax advice and other pertinent tax law changes; updating City staff with the latest development in governmental accounting and reporting issues; and assisting the City in implementing new GASB requirements. These services will be provided up to a maximum of 40 hours per year at **no additional cost** to the City of Irvine.

## PART V

### BUDGET

Pricing shall as set forth below and in accordance with ATTACHMENT II.

Included in the Budget are all ordinary and overhead expenses incurred by Contractor and its agents and employees, including meetings with City representatives, and incidental costs incurred in performing under this Agreement. The total compensation for the Scope of Services set forth shall not exceed \$67,825 for year one; \$67,825 for year two; and \$65,540 for year three (represents five (5) TOTs in year one and year two; and four (4) TOTs in year three), including all amounts payable to Contractor for its overhead, payroll, profit, and all costs of whatever nature, including without limitation all costs for subcontracts, materials, equipment, supplies, and costs arising from or due to termination of this Agreement.

Payment for services will be made monthly on invoices deemed satisfactory to the City, with payment terms of net 30 days upon receipt of invoice. Contractor shall submit invoices within fifteen (15) days from the end of each month in which services have been provided. Contractor shall provide invoices with sufficient detail to ensure compliance to pricing as set forth in this Agreement. The information required may include: date(s) of work, hours of work, hourly rate(s), and material costs.

**No work shall be performed in connection with this Agreement until the receipt of a signed City of Irvine Purchase Order. The Purchase Order number must be included on all invoices, along with the City Representative's name. Failure to include this information on the invoice shall result in the return of the unpaid invoice.**

Contractors should submit invoices electronically to:

**invoicesubmittal@cityofirvine.org**

Payment by City under this Agreement shall not be deemed as a waiver of the City's right to claim at a later point that such payment was not due under the terms of this Agreement.



## ATTACHMENT II



### LANCE, SOLL, & LUNGHARD, LLP AUDIT FEE SCHEDULE

#### COST PROPOSAL FOR THE AUDIT OF THE FINANCIAL STATEMENTS ALL INCLUSIVE MAXIMUM FEES

	Annual Fee Amount		
	2010-2011	2011-2012	2012-2013
City of Irvine	\$ 31,000 *	\$ 31,000 *	\$ 31,000 *
Single Audit	3,940	3,940	3,940
Irvine Redevelopment Agency	4,250	4,250	4,250
Orange County Great Park Corporation	3,270	3,270	3,270
Irvine Community Land Trust	3,755	3,755	3,755
Irvine Define Benefit Plan	3,760	3,760	3,760
Irvine Defined Contribution Plan	3,560	3,560	3,560
AQMD Audit	1,175	1,175	1,175
Living Wage Compliance Review	1,690	1,690	1,690
<b>SUBTOTAL</b>	<b>\$ 56,400</b>	<b>\$ 56,400</b>	<b>\$ 56,400</b>

\* Includes the Gann Limit Review

TOT Audit 3 year review/per Hotel	\$ 2,285	\$ 2,285	\$ 2,285
TOT Audit 2 year review/per Hotel	\$ 1,890	\$ 1,890	\$ 1,890

Percentage Modifications for Fourth year, if Extended	<u>3.00%</u>
Percentage Modifications for Fifth year, if Extended	<u>3.00%</u>

## Exhibit 1

### WORKERS' COMPENSATION INSURANCE CERTIFICATION

Contract Services Description: CPA FIRM / ACCOUNTING SVCS.

### WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

**(ONE OF THE BOXES BELOW MUST BE CHECKED)**

☐ I have and will maintain a certificate of consent from the California Labor Commission to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement.

☒ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement. My workers' compensation insurance carrier and policy number are:

Carrier TRANSPORTATION INSURANCE CO.

Policy Number WC 402591883

☐ I certify that, in the performance of the work under this Agreement, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

<b>Dated:</b>	
<b>Contracting Firm:</b>	
<b>Signature:</b>	
<b>Title:</b>	
<b>Address:</b>	

# Appendix A

## CITY COUNCIL ORDINANCE NO. 07-15

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADDING DIVISION 6 TO TITLE 2 OF THE IRVINE MUNICIPAL CODE RELATING TO LIVING WAGE REQUIREMENTS

The City Council of the City of Irvine DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Division 6, entitled "Living Wage Requirements," is hereby added to Title 2 ("Administrative Services") of the Irvine Municipal Code to read in its entirety as follows:

#### Division 6. Living Wage Requirements

##### Section 2-6-101. Title and Purpose.

A. This division shall be known and may be cited as the "City of Irvine Living Wage Ordinance."

B. The purpose of this division is to improve the quality of services to beneficiaries of City-contracted services and to ensure that employees of City service contractors earn an hourly wage that is sufficient to live with dignity and to achieve economic self-sufficiency. The City contracts with many businesses and organizations to provide services to the public. Such public expenditures should in accordance with a community economic standard that permits workers to live above the poverty level.

C. This division is intended to protect the public health, safety and welfare. It advances this intent by requiring that public funds be expended in such a manner as to facilitate individual self-reliance by employees of City contractors.

##### Section 2-6-102. Findings.

A. As a charter city, the City has the power to set compensation and terms of employment for its employees as an exercise of its municipal powers.

B. The City awards contracts to private firms and other businesses to provide services to the public and to City government.

C. The use of City funds to create living wage jobs will decrease poverty, increase consumer income, invigorate community businesses and

reduce the need for taxpayer-funded social service programs.

D. When City funds are used to contract for services, such contracts should demonstrate an effort to promote an employment environment that enhances the general quality of life within the community and maximizes the productive effect of the City's limited resources.

E. The City's use of contractors that do not provide health insurance to their employees can result in imposing the costs of their medical care on the county, state and federal governments.

F. Employees are more likely to be healthy if their employers provide reasonable health insurance to them and their dependents.

G. The payment of a living wage as required by this division benefits the above-stated interests.

#### Section 2-6-103. Definitions.

For purposes of this division, the following definitions shall be applicable:

(a) "Benefit factor rate" means the rate established by the City to be the estimated cost of health benefits paid to a covered employee. If the Contractor does not provide comparable benefits equal to or exceeding this rate to the covered employee, the benefit factor rate must be added to the living wage rate to arrive at the total hourly rate that must be paid to the covered employee.

(b) "City" means the City of Irvine and all City agencies, departments and offices, including but not limited to the Irvine Redevelopment Agency and the Orange County Great Park Corporation.

(c) "Contractor" means any person or business that enters into a new service contract or any service contract with the City that is amended, renewed or extended after the effective date of this division except for those bids, RFP's and contracts that were in process at the time this division becomes effective. For the purposes of this division, the term "Contractor" shall include all subcontractors retained by a Contractor to perform any or all of the functions covered by the contract.

(d) "Covered employee" means (1) any employee whose services fulfill the Contractor's contractual obligations for contracts with the City that are subject to this division and (2) any other employee of the Contractor who performs a majority of his or her services within Orange County. Additionally, bona fide volunteers shall not be considered

"covered employees."

(e) "Health benefits" means medical and dental benefits offered by the Contractor to its employees in which the employer pays at least the current benefit factor rate on behalf of its covered employees.

Section 2-6-104. Application of this Division.

Every Contractor that enters into a contract with the City to provide services with an estimated value of one hundred thousand dollars (\$100,000) or more for any consecutive twelve-month period shall comply with the requirements of this division. As a condition of the contract, the Contractor shall notify the City in writing if the aggregate value of multiple contracts with the City is \$100,000 or more.

Section 2-6-105. Duties of the Purchasing Agent.

The Purchasing Agent shall be responsible for ensuring that the requirements of this division are incorporated in all contracts, bid documents, requests for proposals (RFP's) and requests for qualifications (RFQ's) that may be subject to this division to ensure proper implementation of all requirements. In addition, the Purchasing Agent shall be responsible for developing and implementing rules and regulations for the effective administration of all requirements set forth in this division.

Section 2-6-106. Compensation Required to be Paid to Contractor's Employees.

A. All Contractors subject to the requirements of this division shall pay its covered employees an hourly rate and comparable health benefits and paid time off (such as vacation, sick, holiday and jury duty) as set by the most current City Council Resolution establishing compensation policy for employees. The hourly rate shall be the minimum hourly rate of all salary classifications. An additional rate, defined as the benefit factor rate, shall be added to the hourly rate if comparable health benefits are not offered by the Contractor to the covered employee.

B. Beginning July 1, 2007, the City shall provide notice to all covered Contractors by posting current living wage and benefit factor rates on the City's web site in the Bids & RFP's Purchasing section. In general, rates are subject to change each July; however, Contractors are responsible for monitoring and updating payroll records to accommodate rate changes where applicable. In addition, Contractors are responsible for notifying and ensuring compliance with these requirements by

subcontractors retained by Contractor to perform any or all of the functions covered by the contract.

C. A Declaration of Compliance must be signed by an authorized agent of the Contractor and will serve as part of the terms of the contract and/or amendments.

D. In the event that collective bargaining agreements and/or prevailing wage requirements are higher than the current living wage rates as set forth in this division, collective bargaining and/or prevailing wage rates must be paid to covered employees.

Section 2-6-107. Exceptions.

A. The City Council, by majority vote, may grant a whole or partial exception to the requirements of this division to a Contractor at the time of award of the contract if the City Council determines that imposition of the requirements of this division would violate State or Federal laws. A Contractor that desires such a determination by the City Council shall, at the time it submits its bid or proposal to the City, provide the City with a written request that it desires exemption from the requirements of this division, and a reference to the specific State or Federal laws, if applicable, that would be violated if the City imposed the requirements of this division on the Contractor.

B. The City Council, by a four-fifths vote, may grant a whole or partial exception to the requirements of this division to a Contractor at the time of award of the contract if the City Council determines that the existence of an emergency or other extraordinary circumstances (such as the creation of training positions that will enable employees to advance into permanent living wage jobs or better) justifies an exemption from the requirements of this division. Exemptions pursuant to this subsection are disfavored and shall be granted only when a balancing of competing interests weighs clearly in favor of granting an exemption, in the sole and absolute discretion of the City Council. If an exemption is to be granted, a partial exemption is favored over a whole exemption, and limits on the duration of the exemption are favored as well.

Section 2-6-108. Duties of Director of Administrative Services.

A. The Director of Administrative Services, or his or her designee, shall have the authority to perform the following acts for purposes of accomplishing the intent of this division and as deemed necessary or appropriate in the Director's judgment:

- (1) Review, investigate and/or maintain records of

complaints alleging that the Contractor has violated the requirements of this division.

(2) Perform random audits of the Contractor's and/or the Contractor's subcontractor's records to verify compliance with this division.

B. Upon determining that a Contractor is operating in accordance with the requirements of this division, the Director of Administrative Services shall furnish the Contractor with a written recognition and acknowledgment of such compliance.

Section 2-6-109. Contractor Notice Posting Requirements.

A. A Contractor subject to the requirements of this division shall post in a conspicuous place, as required by State and Federal laws for other notices to employees, a copy of the notice referred to in this division, a sample of which is provided as part of the contract documents. The Contractor is responsible for notifying and requiring compliance from any subcontractors retained by Contractor, to perform any or all functions covered by the contract.

B. A Contractor subject to the requirements of this division shall post in a conspicuous place, as required by State and Federal laws for other notices to employees, a notice of potential Federal Earned Income Tax Credit (EITC) eligibility for covered employees.

Section 2-6-110. Retaliation and Discrimination Prohibited.

No Contractor shall discharge, reduce the compensation of or otherwise discriminate or retaliate against any of its employees for making a complaint to the City, asserting the employee's rights or assisting another employee in making a complaint or asserting his or her rights under this division.

Section 2-6-111. Complaint Process for Violations.

A. Any covered employee may lodge a written complaint with the Director of Administrative Services or his/her designee that a Contractor or subcontractor has violated the requirements of this division.

B. Upon receipt of such a complaint, the Director of Administrative Services, or his/her designee, shall review and investigate at his/her discretion, the complaint and determine if the Contractor should be issued a preliminary notice of violation, which shall also contain the corrective measures the Contractor is required to undertake and/or the

remedies that are being imposed. If the Contractor does not file a timely and sufficient appeal to the preliminary notice of violation, it shall become final and conclusive.

C. If a Contractor receives a notice of violation, the Contractor may request in writing an appeal hearing before the Director of Administrative Services, or his/her designee, to dispute the violation and/or corrective measures and/or remedies required. The request for an appeal hearing shall be filed with the City Clerk within fifteen (15) days of the date the Director of Administrative Services issued the preliminary notice of violation, and shall contain the reasons why the Contractor believes that a violation does not exist and/or that the corrective measures and or remedies are not appropriate. The Director of Administrative Services or his/her designee shall conduct the appeal hearing within forty-five (45) days of receipt of the appeal request. Within fifteen (15) days of the conclusion of the appeal hearing, the Director of Administrative Services shall issue his/her findings and final decision with respect to the appeal hearing

D. A Contractor may appeal the final decision of the Director of Administrative Services to the City Council by filing a written notice of appeal within fifteen (15) days of the date of the Director's final written decision. The City Council shall conduct a hearing on the appeal within forty-five (45) days of its receipt of the appeal request and either uphold, overturn or modify the Director's final decision.

Section 2-6-112. Remedies of City for Violations.

A. The City may impose any or all of the following corrective measures and/or remedies against a Contractor for violations of this division:

(1) Order the Contractor to comply with all regulations of this Section within sixty (60) days.

(2) Order payment to covered employees to compensate the employees up to the compensation level required by this division.

(3) Suspend payments for and/or suspend or cancel contracts between the City and the Contractor.

(4) Render the Contractor ineligible to enter into contracts with the City for a period of three (3) years or until all restitution to covered employees has been paid, whichever is longer.

B. In addition to the above corrective measures and/or



remedies, the City shall be entitled to seek any and all other equitable and legal rights it may have under Federal, State and local laws, including without limitation injunctive relief, for purposes of enforcing the remedies set forth above.

Section 2-6-113 . Remedies of Covered Employees for Violations.

A. A covered employee shall have the right to seek the following remedies against a Contractor violating the provisions of this division in a court of competent jurisdiction:

(1) Restitution to compensate the employee for all amounts that should have been paid to the employee pursuant to this division.

(2) Reasonable attorneys' fees and costs.

(3) Any and all other legal and equitable remedies available under Federal, State and local laws.

SECTION 2. If any portion of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 3. The City Council determines that pursuant to Title 14, California Code of Regulations Section 15061, this project is exempt from the California Environmental Quality Act because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 4. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 12<sup>th</sup> day of June, 2007.

  
MAYOR OF THE CITY OF IRVINE

ATTEST:

  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA   )  
COUNTY OF ORANGE   )   SS  
CITY OF IRVINE        )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on May 22<sup>nd</sup>, 2007, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the 12<sup>th</sup> day of June, 2007, by the following vote:

AYES:       3   COUNCILMEMBERS:   Agran, Kang, and Krom

NOES:       2   COUNCILMEMBERS:   Choi and Shea

ABSENT:    0   COUNCILMEMBERS:   None

  
CITY CLERK OF THE CITY OF IRVINE

## AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)  
COUNTY OF ORANGE ) ss  
CITY OF IRVINE )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 22<sup>nd</sup> day of June 2007, I caused to have posted the foregoing true and correct copy of Ordinance No. 07-15 of the City of Irvine in the following public places in the City:

- 1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.
- 2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.
- 3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 22<sup>nd</sup> day of June 2007.



CITY CLERK OF THE CITY OF IRVINE

# Appendix B

## DECLARATION OF COMPLIANCE Living Wage Ordinance

Name of Contractor LANCE, SOLL & LUNGHARD, LLP  
Type of Service CPA FIRM / ACCOUNTING SERVICES

The above-named contractor hereby declares and agrees as follows:

1. I have read and understand the requirements set forth by the City's Living Wage Ordinance (the "Ordinance") that has been provided by the City of Irvine ("City") in connection with the City's request for proposals or other invitation or solicitation for the performance of services under a City contract.
2. As a condition of receiving the City contract, I agree to fully comply with all of the requirements specified in the Ordinance. As required by the Ordinance and while under any City contract subject to the Ordinance, I agree to pay no less than the minimum compensation, including the benefit factor rate as applicable, to all "covered employees" as that term is defined by the Ordinance.
3. If the amount of this City contract is less than one hundred thousand dollars (\$100,000), then as a condition of receiving this contract, I agree to notify the City in writing if the aggregate value of multiple City contracts covered by the Ordinance, including amendments to this contract, is one hundred thousand dollars (\$100,000) or more within any consecutive 12-month period.
4. I acknowledge and agree that the Ordinance, and this Declaration, shall constitute part of the City contract, and that these provisions shall govern in the event of any conflict with any other provisions of the contract.
5. I further acknowledge and agree that any violation of the Ordinance constitutes a material breach of City contract, and that if such a breach occurs, the City may avail itself of any or all of the remedies for violations that are provided by the Ordinance.
6. I acknowledge and understand that retaliation and/or discrimination against any employee making a complaint to the City, asserting his or her rights or assisting another employee in making a complaint, constitutes a violation of the Ordinance. In addition, I understand that violated employees may seek any or all of the remedies that are provided by the Ordinance.
7. If requested by the City, I agree to promptly submit certified payroll and/or benefits documents to the City for my firm and/or subcontractor(s) as requested by the City, and shall take any other steps as may be required by the City to ensure that my firm and my subcontractor(s) have complied with the Ordinance. The documents requested may include, but are not limited to, covered employee timesheets, gross pay calculations, pay registers, cancelled checks, medical and dental insurance invoices, paid time off policies, and other related payroll or benefit documents.
8. I agree to require all subcontractors who I retain to perform any or all of the work or services covered by this contract to comply with the requirements of the

Ordinance, and I shall include the requirements of the Ordinance in all subcontracts covered thereby.

9. I agree to post in a conspicuous place, as required by State and Federal laws for other notices to employees, a notice informing covered employees of their rights under the Ordinance and a notice of potential Federal Earned Income Tax Credit (EITC) eligibility for covered employees.
10. I have received the "Living Wage Guide" from the City, explaining the specific requirements of the Ordinance in detail.
11. I agree to defend, indemnify, and hold harmless the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorneys' fees) or other liabilities of any kind arising from any violation of the City's Living Wage Ordinance, by my firm or by any subcontractor retained by my firm to perform work or provide services under the City contract.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind the Contractor to the provisions of this Declaration.

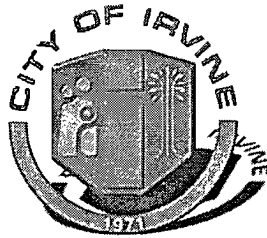
  
\_\_\_\_\_  
Signature of Authorized Representative

5 / 11 / 2011  
\_\_\_\_\_  
Date: (Month/Day/Year)

Print Name: RICHARD KIKUCHI

Title: PARTNER

# Appendix C



## City of Irvine Living Wage Guide

### Living Wage Description

#### **What is the City of Irvine's Living Wage Ordinance?**

The Living Wage Ordinance requires a Contractor entering into City contracts subject to the Ordinance to pay its covered employees an hourly rate, comparable health benefits and paid time off (such as vacation, sick, holiday, and jury duty) as set by the most current City Council Resolution (Resolution) establishing compensation policy for employees. These benefits are summarized in the Living Wage Comparable Benefits Summary included with this document.

**Current Living Wage Ordinance information and rates are posted on the City of Irvine website at [www.cityofirvine.org](http://www.cityofirvine.org). Click on the "Bids & RFP's, Purchasing" button located on the lower left side of the screen, and then click on "Living Wage Information."**

The purpose of the Ordinance is to ensure that employees of City services Contractors can earn an hourly wage that is sufficient to live with dignity and to achieve economic self-sufficiency. The use of City funds to create living wage jobs is intended to decrease poverty, increase consumer income, invigorate community businesses and reduce the need for taxpayer-funded social service programs.

### Contractors and Contracts Subject to the Living Wage Ordinance

#### **Which Contractors are subject to the Living Wage Ordinance?**

"Contractor" means any person or business that enters into a new service contract or any service contract with the City (including the Orange County Great Park Corporation and the Irvine Redevelopment Agency and all other City agencies, departments and offices) that is amended, renewed or extended after July 12, 2007 except for those bids, RFP's and contracts that were in process on that date.

The term "Contractor" shall include all subcontractors retained by a Contractor to perform any or all of the functions covered by the contract.

#### **Which contracts are subject to the Living Wage Ordinance?**

All services contracts greater than \$100,000 over a 12-month period are subject to the Living Wage Ordinance. A contract shall be subject to the Living Wage Ordinance if the aggregate value of multiple contracts with the City, including amendments to contracts, is \$100,000 or more in a consecutive 12-month period.

## **Employees Covered Under the Living Wage Ordinance**

### **Who is a “covered employee”?**

“Covered employee” means (1) any employee whose services fulfill the Contractor’s contractual obligations for contracts with the City that are subject to this Ordinance and (2) any other employee of the Contractor who performs a majority of his or her services within Orange County. Volunteers are not considered “covered employees” under the Ordinance.

### **Are both part-time and full-time employees covered under the Living Wage Ordinance?**

The City does not provide health benefits or paid time off for City employees working less than 30 hours per week on average. Accordingly, there is no current requirement for a Contractor to pay a “benefit factor rate” for its part-time employees who work less than 30 hours a week on average

## **Compensation Required Under the Ordinance**

### **What base hourly rate must I pay “covered employees”?**

The current City Council Resolution sets the minimum hourly rate. This is the rate at which an employee must be paid if the Contractor also provides the employee with health benefits and paid time off that are equal to or exceeding those offered to City employees, as detailed in the current City Council Resolution. **Rates generally change in July of each year.** All rate changes will be posted on the City’s website and Contractors are responsible for monitoring all changes and for notifying their subcontractors of those changes.

### **What if my employees are under a collective bargaining agreement or if I am paying my employees prevailing wages?**

In the event that collective bargaining agreements and/or prevailing wage requirements are higher than the current living wage rates as set forth in the Ordinance, collective bargaining and/or prevailing wage rates must be paid to covered employees.

### **What minimum health and paid time off benefits are offered to City employees?**

The selection of benefits of all salary classifications is set forth by the most current City Council Resolution establishing compensation for City employees. Currently, minimum City health benefits include an option for employees to enroll in the City’s indemnity medical insurance plan or the Health Maintenance Organization (HMO), and the option to enroll in a dental plan. City benefits also include pro-rata paid time off such as sick, vacation, and holiday pay. A summarization of these benefits is included in the Living Wage Comparable Benefit Summary.

### **What if I don’t offer my employees comparable health and paid time off benefits?**

An additional “benefit factor” must be added to the base hourly rate if employees are not offered health and paid time off benefits equal to or exceeding those offered to City employees, as detailed in the current City Council Resolution and summarized in the Living Wage Comparable Benefit Summary. The current benefit factor must be added to the base minimum rate to reach the total minimum rate for covered employees

If the cost of health and paid time off benefits provided to your employees cost you less than the current benefit factor, the difference between what you pay and the benefit factor must be added to the base minimum rate to achieve the total hourly compensation that must be paid to the covered employees.

All rate changes will be posted on the City’s website. Contractors are responsible for monitoring all changes and for notifying their subcontractors of the changes.

**How is the benefit factor calculated and how often is it updated?**

The methodology for calculating the benefit factor is based on the actual cost to the City for providing those benefits to employees. **The rate would be updated as benefit costs change, generally in January of each year.** All rate changes will be posted on the City's website. Contractors are responsible for monitoring all changes and for notifying their subcontractors of the changes.

**How do I calculate the benefit factor I am currently paying my employees?**

Take the total cost you pay as the employer for the benefits you provide to your employees. Divide the cost by the number of employees who utilize these benefits. Because not all employees select all of the benefits it is helpful to calculate each benefit separately (for example some employees select to take medical but not dental benefits).

**Where do I find the current rates?**

Rates can be found on the City's website, or by calling the Purchasing Department at 949-724-6180.

Rates are subject to change and it is the Contractor's responsibility to monitor and update payroll records to accommodate rate changes when applicable. In addition, Contractors are responsible for notifying and ensuring compliance with these requirements by subcontractors retained by the Contractor to perform any or all functions covered by the contract.

**Other Requirements Under the Ordinance****What other requirements must I meet under the Ordinance?**

You are required under the Ordinance to:

- Post in a conspicuous place, as required by State and Federal laws for other notices to employees, a copy of the notice referred to in the Ordinance that informs covered employees of their rights under the Ordinance. A copy will be provided to you with your contract documents and is also available on the City's website.
- Post in a conspicuous place, as required by State and Federal laws for other notices to employees, a copy of the notice referred to in the Ordinance that informs covered employees of their potential eligibility for Federal Earned Income Tax Credit (EITC). A copy will be provided to you with your contract documents and is also available on the City's website.
- Provide notification of all of the requirements of the Ordinance to any subcontractors retained by you to perform any or all of the functions covered by the contract; and ensure compliance to the Ordinance.
- You are required to monitor and update your payroll records to accommodate Living Wage minimum wage and benefit factor rates when applicable.
- **You are required to contact the City in writing if you are awarded additional contracts and the aggregate value of your contract(s) with the City, including amendments to your contract(s), is \$100,000 or more in a 12-month period. Such notification should be sent to: Purchasing Agent, City of Irvine, PO Box 19575, Irvine, CA 92623-9575**

You are prohibited under the Ordinance to discharge, reduce the compensation, discriminate or retaliate against any employee for making a complaint to the City, asserting his or her rights or assisting another employee in making a complaint or asserting his or her rights under the Ordinance.



## **Compliance and Violations**

### **How is the Living Wage Ordinance enforced?**

Any covered employee may lodge a written complaint and/or the Director of Administrative Services may at any time review, investigate and/or perform random audits of the Contractor's records to verify compliance with the Ordinance.

### **If I am audited what documents might I be asked to provide?**

Specific documents that may be reviewed include, but are not limited to, covered employee time cards, gross pay calculations, pay registers, canceled checks, medical and dental insurance invoices, paid time off policies, required postings and other related payroll or benefit documents.

### **What happens if it is determined that I am not in compliance with the Ordinance?**

The City may impose any or all of the following corrective measures for violations of the Ordinance.

- Order Contractor to comply within 60 days
- Order payment to covered employees to compensate the employee for amounts that should have been paid under the contract
- Suspend payments to the Contractor for the contract in violation
- Cancel the City contract in violation
- Render the Contractor ineligible to enter into contracts with the City for a period of three years or until all restitution to covered employees has been paid, whichever is longer
- Seek all other equitable and legal rights under Federal, State and local laws, including injunctive relief

### **Is there an appeal process?**

If it is determined that the Contractor is not in compliance, the Contractor will be issued a preliminary notice of violation that contains the corrective measures required by the Contractor. The Contractor may request in writing an appeal hearing before the Director of Administrative Services to dispute the violation and/or the corrective measures. The request for appeal hearing must be filed with the City Clerk within fifteen (15) days of the date of the preliminary notice of violation and must contain the reasons the Contractor believes that a violation does not exist and/or that the corrective measures or remedies are not appropriate.

The Director of Administrative Services will conduct the appeal hearing within forty-five (45) days of receipt of the appeal request. Within fifteen (15) days of the conclusion of the appeal hearing, the Director of Administrative Services will issue his/her findings and final decision.

The final decision of the Director of Administrative Services may be appealed to the City Council by filing a written notice of appeal within fifteen (15) days of the date of the Director's final written decision. The City Council shall conduct a hearing on the appeal within forty-five (45) days of its receipt of the appeal request and either uphold, overturn or modify the Director's final decision.

### **How does a covered employee file a complaint if they believe that a Contractor or subcontractor is in violation of the Ordinance?**

A Covered employee who believes a Contractor or subcontractor has violated the requirements of the Ordinance may file a written complaint with the Director of Administrative Services.

### **What remedies for violation do covered employees have under the Ordinance?**

A covered employee may seek the following remedies against a Contractor violating the Ordinance:

- Restitution to compensate the employee for amounts that should have been paid under the contract
- Reasonable attorneys' fees and costs

- Any and all other legal and equitable remedies available under Federal, State and local laws

## Exceptions

### **Are there any circumstances in which an exception to the Ordinance will be granted?**

The City Council, by a majority vote, may grant a whole or partial exception at the time of award of the contract if it is determined that imposition of this Ordinance would violate State or Federal laws. A Contractor that desires an exception must, at the time of the bid proposal, provide the City with a written request with a reference to the specific State or Federal law that would be violated.

The City Council, by a four-fifths vote, may grant a whole or partial exception if it is determined that an emergency or extraordinary circumstance justifies an exemption. Partial exemptions and limits on the duration of the exemption are favored over whole exemption.

## More Information

### **Where can I view more information about the Ordinance?**

More information may be found concerning the Living Wage Ordinance, including current rates, on the City's website at [www.cityofirvine.org](http://www.cityofirvine.org). Click on the "Bids & RFP's, Purchasing" button located on the lower left side of the screen, and then click on "Living Wage Information."

## Contact Information

To receive a copy of the Living Wage Guide, or to ask questions about the Living Wage Ordinance, please contact:

**Purchasing Department  
City of Irvine  
PO Box 19575  
Irvine, CA 92623-9575**

**Phone: (949) 724-6180  
FAX: (949) 724-6187**

Employees registering a complaint against an employer should contact:

**Director of Administrative Services  
City of Irvine  
PO Box 19575  
Irvine, CA 92623-9575**

**Phone: (949) 724-6255  
FAX: (949) 724-6030**

# Appendix D

## Living Wage Comparable Benefits Summary

The following benefits are offered to City of Irvine employees who work a minimum of 30 hours per week on average. Contractor employees must be offered benefits equal to or greater than the benefits detailed below or the Contractor is required to add a "benefit factor" to the minimum wage paid to the employee as defined in the Living Wage Ordinance.

### **Medical Insurance:**

- a. **Health Insurance:**  
The City provides the option to employees to enroll in an indemnity medical insurance plan or Health Maintenance Organization (HMO).
- b. The total cost to the City for medical insurance coverage for employee only shall not exceed 50% of the monthly premium. Employees are responsible for the cost of the remaining premium amount.
- c. The City provides the option to employees, who have enrolled in the HMO plan, to purchase HMO medical insurance for their dependents. The total cost of the additional premium is borne by the employee.
- d. The City provides the option to employees to enroll in a dental Health Maintenance Organization for employees only. The total cost is borne by the employee.

### **Vacation:**

Vacation benefits accrue on a monthly basis as follows:

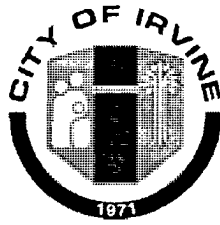
<u>Years of Service</u>	<u>Annual Vacation Credits</u>
1 through 3	60 hours
after 3 through 10	90 hours
after 10 years or more	120 hours

### **Personal Sick Leave:**

Employees accrue personal sick leave credits at the rate of six (6) hours per month.

### **Holidays:**

Employees are paid for the hours they are regularly scheduled to work on holidays observed by the City.



# Appendix E

## LIVING WAGE ORDINANCE

### NOTICE TO EMPLOYEES

This employer has one or more contracts with the City of Irvine. Terms of the contract(s) subject the employer to the City of Irvine Living Wage Ordinance No. 07-15. Under the Ordinance **you must be paid a “living wage”** by the employer if a majority of your work is performed in Orange County.

### THESE ARE YOUR RIGHTS

#### You must be paid a minimum of:

- **\$10.82** per hour

#### If you work an average of 30 hours per week or more, you must be paid a minimum of:

- **\$10.82** per hour
  - If health and paid time off benefits are offered to you
- OR**
- **\$13.16** per hour:
  - If no health or paid time off benefits are offered to you
  - If the cost of health and paid time off benefits provided to you cost your employer less than **\$2.34** per hour, the difference is added to the minimum hourly wage listed above
- Rates are generally adjusted annually. Current rates are effective as of **July 1, 2010.**
- Retaliation by your employer is **prohibited**
- Employers may not fire, reduce pay, or discriminate against a worker for filing a complaint

#### If your rights are violated you could receive:

- Restitution to compensate you for all amounts that should have been paid to you under the Ordinance
- Reasonable attorneys' fees and costs

### FOR MORE INFORMATION

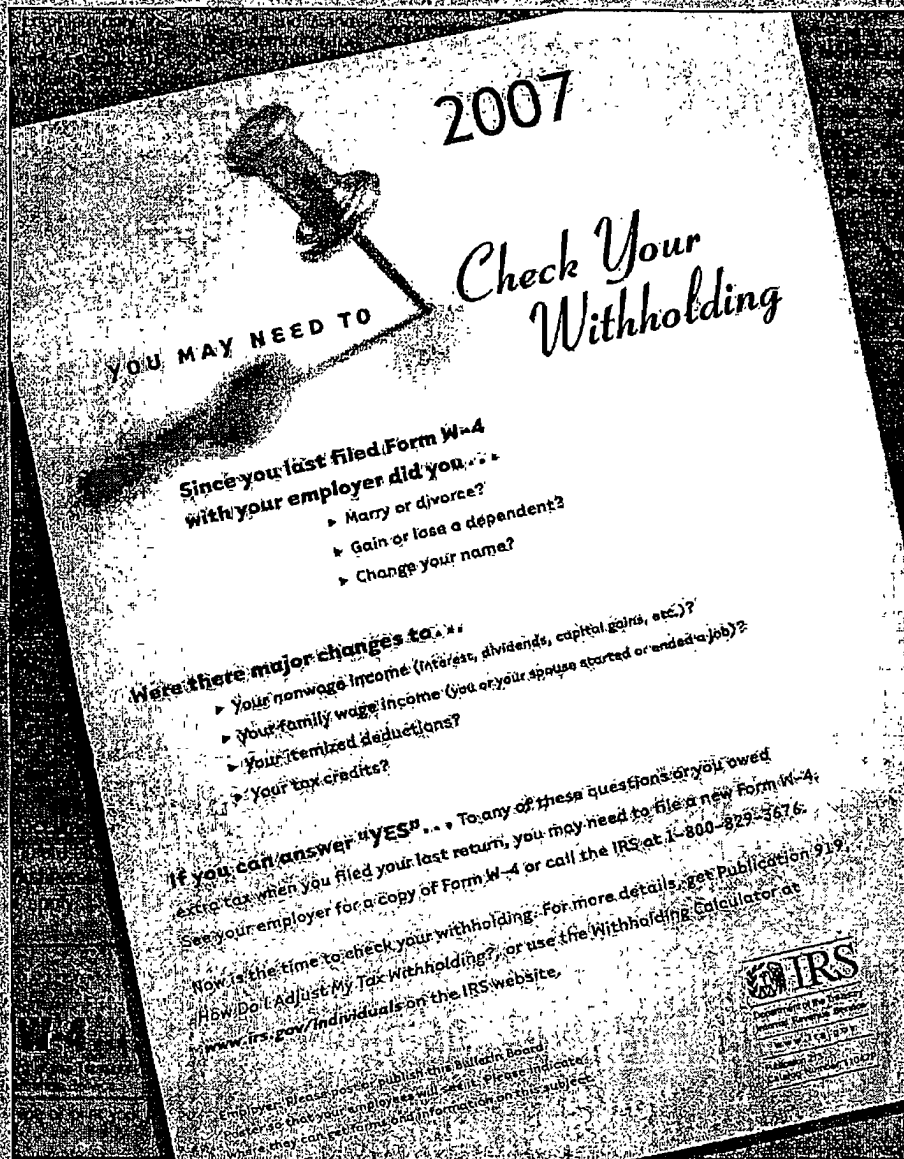
To obtain a confidential complaint form if you believe your rights are being violated, please contact:

**CITY OF IRVINE**  
Director of Administrative Services  
One Civic Center Plaza  
Irvine, CA 92606  
(949) 724-6255

For more information and to review the City Ordinance, Living Wage Guide (frequently asked questions) and updated rates, visit the City's website and access the Purchasing Department, Living Wage page at:

**[www.cityofirvine.org/purchasing](http://www.cityofirvine.org/purchasing)**

# Year 2007 Employee Tax Information



## Will you qualify for the EITC this year?

### Take Credit

You may qualify for the Earned Income Tax Credit (EITC) on your 2007 tax return.

**IF** you earned under \$37,783 and have more than one qualifying child

(\$39,783 if married filing jointly)

**IF** you earned under \$33,241 and have one qualifying child.

(\$35,241 if married filing jointly)

**IF** you earned under \$12,590 and have no qualifying child.

(\$14,590 if married filing jointly)

For more information on the EITC, check out the EITC Assistant, an interactive tool that shows you whether or not you qualify, and why. Available on [www.irs.gov/eitc](http://www.irs.gov/eitc) or call 1-800-TAX-1040.



Department of the Treasury  
Internal Revenue Service

Pub. 3954 (ENG/SP) (Rev. 4-2007)  
Catalog Number 33279N

Appendix F

For tax forms and additional information, contact:

Company Representative

at

Phone Number/Extension



## Possible Federal Tax Refund Due to the Earned Income Credit (EIC)

### What Is the EIC?

The EIC is a refundable tax credit for certain workers.

### What's New

There are changes to the definition of a qualifying child. See *Who Is a Qualifying Child* below. Taxpayers affected by Hurricane Katrina may be able to figure the EIC using their 2006 earned income. See the 2007 instructions for Forms 1040, 1040A, or 1040EZ.

### Who May Claim the EIC

You may be able to claim the EIC for 2007 if you worked and all three of the following conditions apply.

1. Your 2007 earned income and adjusted gross income are both under \$32,241 (\$35,241 if married filing jointly) if you have one qualifying child; under \$37,783 (\$39,783 if married filing jointly) if you have more than one qualifying child; under \$12,590 (\$14,590 if married filing jointly) if you do not have a qualifying child. For a definition of earned income, see the 2007 instructions for Forms 1040, 1040A, or 1040EZ.

2. Your filing status is any status except married filing a separate return.

3. You, and your spouse if filing a joint return, were not a qualifying child of another person. If you do not have a qualifying child, you must also meet these conditions.

a. You, or your spouse if filing a joint return, were at least age 25 but under age 65 at the end of 2007.

b. You, and your spouse if filing a joint return, cannot be claimed as a dependent on someone else's 2007 tax return.

c. Your home, and your spouse's if filing a joint return, was in the United States for over half of 2007.

**Note.** If you are in the military on extended active duty outside the United States, your home is considered to be in the United States during that duty period and you may be able to claim the EIC.

You cannot claim EIC if any of the following conditions apply.

1. Your 2007 investment income (such as interest and dividends) is over \$2,900.

See your 2007 Income tax return Instructions for more details.

2. You file either Form 2555 or Form 2555-EZ (relating to foreign earned income).

3. You are a nonresident alien for any part of 2007 unless you are married to a U.S. citizen or resident and elect to be taxed as a resident alien for the entire year. See Pub. 519, U.S. Tax Guide for Aliens, for more information.

### Who Is a Qualifying Child

Any child who meets all three of the following conditions is a qualifying child.

1. The child is your:

Son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild, niece, or nephew).

**Note.** An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption. A foster child is any child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

2. At the end of 2007, the child was under age 19; or under age 24 and a student; or any age and permanently and totally disabled.

3. The child lived with you in the United States for over half of 2007. If the child did not live with you for the required time, there are exceptions if the child was born or died during the year; the child is presumed to have been kidnapped by a non-family member, or there was a temporary absence.

There are additional rules if a child is married or is the qualifying child of more than one person.

For details, see the 2007 instructions for Forms 1040, 1040A, or 1040EZ.

### How To Claim the EIC

If you are eligible, claim the EIC on your 2007 income tax return. If you have a qualifying child, you

must also fill in Schedule EIC and attach it to your Form 1040 or Form 1040A.

If eligible, you can claim the EIC to get a refund even if you have no tax withheld from your pay or owe no tax. For example, if you had no tax withheld in 2007 and owe no tax but are eligible for a credit of \$799, you must file a 2007 income tax return to get the \$799 refund.

**EIC with your pay.** If you expect to have a qualifying child and be eligible to claim the EIC for 2008, you may be able to get part of it in advance with your pay. For details, get Form W-5, Earned Income Credit Advance Payment Certificate, from your employer, from the IRS website at [www.irs.gov](http://www.irs.gov), or by calling the IRS at 1-800-829-3676. If you get the EIC with your pay, you must file a 2007 Form 1040 or Form 1040A.

### More Information

This notice provides the basic requirements to qualify for the EIC. Refer to the 2007 Instructions for Forms 1040, 1040A, 1040EZ; Pub. 596; or [www.irs.gov/eitc](http://www.irs.gov/eitc) for details. You can get IRS forms and publications by accessing the IRS website at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

Notice 797 (USA Rev. 1106)

## REQUIREMENTS FOR A QUALIFYING CHILD FOR EITC

A child must meet certain requirements to be a qualifying child for the EITC. The following chart outlines the three requirements that must be met: relationship, age, and residency.

### RELATIONSHIP

Son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister or a descendant of any of them AND...

### AGE

Under age 19 at the end of the tax year OR

Under age 24 at the end of the tax year and a full-time student OR

Any age and permanently and totally disabled at any time during the year AND...

### RESIDENCY

Lived with the taxpayer in the United States for more than half of the tax year.

## TIE-BREAKER RULES

Sometimes a child meets the rules to be a qualifying child of more than one person. If the child is the qualifying child of more than one person, only one person can claim the child as a qualifying child for all of the following tax benefits: EITC, child tax credit, dependency exemption, head of household filing status, and the credit for child and dependent care expenses.

The other person(s) cannot take any of the five tax benefits listed above unless he or she has a different qualifying child. If they cannot agree who will claim the child as a qualifying child, and more than one person actually claims tax benefits using the same child, the tie-breaker rule (explained in the next paragraph) applies. If the other person is a spouse and they file a joint return, this rule does not apply.

Under the tie-breaker rule, the child is treated as a qualifying child only by:

1. The parents, if they file a joint return,

2. The parent, if only one of the persons is the child's parent,

3. The parent with whom the child lived the longest during the tax year, if two of the persons are the child's parent and they do not file a joint return together,

4. The parent with the highest AGI if the child lived with each parent for the same amount of time during the tax year, and they do not file a joint return together, or

5. The person with the highest AGI, if none of the persons is the child's parent.

From Publication # 3524

# ADVANCE EARNED INCOME TAX CREDIT

This is a special tax benefit for lower income workers. Not all who qualify for the EITC (Earned Income Tax Credit) will qualify for the Advance EITC.

Advance EITC offers extra help year-round in meeting day-to-day expenses. A qualified worker can get payments in advance—each payday—rather than waiting until tax time to claim the credit.



Department of the Treasury  
Internal Revenue Service

Publication 1844 (Rev. 10-08)  
Catalog Number 12590L

*Working to put service first*

If you have further questions about Advance EITC, call the IRS at 1-800-829-1040.

As an employer, you can help us inform your employees of this opportunity.

## ADVANCE EARNED INCOME TAX CREDIT

HOW  
**ADVANCE EITC CAN  
ADD TO EMPLOYEES'  
TAKE-HOME PAY  
YEAR-ROUND**



[www.irs.gov/eitc](http://www.irs.gov/eitc)

## Who qualifies for Advance EITC?

Wage earners who earn less than a stated amount, and who have at least one child living with them, may qualify. For complete qualifications, see Form W-5, *Earned Income Credit Advance Payment Certificate*.

The qualified employee simply completes Form W-5 and gives it to you.

## Do not use your own funds to make Advance EITC payments

Refer to the Form W-5 and the tables shown in Pub 15, *Employer's Tax Guide (Circular E)*, to compute the correct addition to the employee's take-home pay for the payroll periods. Pub 15 will specify the maximum limit each year.

Remember to reduce your required federal employment tax deposit by the amount of any Advance EITC payments you make to eligible employees.

## Assistance from the IRS

Your local IRS EITC coordinator may be able to provide speakers to talk to your employees about the Advance EITC and to help them fill out Form W-5. Look in your local telephone directory for the IRS office nearest you.

## Free informative material on Advance EITC

To tell your employees about Advance EITC, order these IRS publications, available in English and Spanish (SP). Phone the IRS at 1-800-829-3676.

- » Pub 1235 a self mailer in English and Spanish which includes Form W-5, *Advance EITC Employee Brochure*.
- » Pub 1769 (ENG/SP), *Advance EITC Poster* 8.5" x 11".
- » Pub 1762 (ENG/SP), *Advance EITC Stuffer*, to include in mailouts or with paychecks,

## Assistance from the IRS

- » Call the IRS at 1-800-829-3676 to order free forms and publications, or visit your local IRS office.
- » Form W-5, *Earned Income Credit Advance Payment Certificate*.
- » Pub 15, *Employer's Tax Guide (Circular E)*.
- » Pub 596, *Earned Income Credit*.
- » Pub 910, *Guide to Free Tax Services*.
- » Internet: IRS forms with instructions, tax publications, and other tax materials may be downloaded at our Web site: [www.irs.gov](http://www.irs.gov).
- » TeleTax service: call 1-800-829-4477 for recorded tax information.

## What's the difference between EITC and Advance EITC?

- » **Earned Income Tax Credit (EITC)** is a credit an eligible worker can claim when he or she files the federal income tax return. It can mean a lower tax bill—or even a refund—when filing.
- » **Advance Earned Income Tax Credit (Advance EITC)** is the portion of the EITC that qualified workers may be able to receive in advance payments added to wages throughout the year. They may be able to claim a larger EITC when they file their tax return.



If you have further questions, call the IRS at 1-800-829-1040.



## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Orange County Tax Collector Fee

DATE: n/a

PARTIES: City of Irvine (City)  
County of Orange

### SUMMARY OF SUBSTANTIVE TERMS:

The County of Orange Tax Collector charges a Property Tax Administration Fee in accordance with Revenue and Taxation Code Section 95.3. The fee is calculated by the County and is based on the cost of administering the property tax system. Costs are allocated to jurisdictions receiving property taxes, including redevelopment agencies, based on the amount of property taxes levied.

While not technically an agreement, it is a cost to the Irvine Redevelopment Agency and is typically withheld from the property taxes collected prior to distribution to the taxing entities.

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: City of Irvine Financing Agreement

DATE: June 14, 2005

PARTIES: Irvine Redevelopment Agency (Agency)  
City of Irvine (City)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement documented a loan from the City to the Agency enabling the Agency to undertake redevelopment activities in the City prior to the receipt of tax increment revenues. The principal amount of the loan was \$4,468,137 and accrues interest at the City's annualized return on its Operating Portfolio plus 3%. Repayment of principal and interest in ten annual installments is scheduled to begin in Fiscal Year 2015-16. Total principal and interest is estimated to be \$10.6 million.

**FINANCING AGREEMENT**

THIS FINANCING AGREEMENT ("Agreement") is made and entered into this 14th day of June, 2005, by and between the IRVINE REDEVELOPMENT AGENCY, a public body corporate and politic ("Agency"), and the CITY OF IRVINE, a charter city and municipal corporation ("City").

**RECITALS**

A. Agency is a public body, corporate and politic, organized under the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.).

B. City is a charter city and municipal corporation.

C. Agency was activated by Ordinance No. 99-09 adopted by the City Council of City on April 27, 1999.

D. On March 8, 2005, by Ordinance No. 05-04, the Irvine City Council, adopted the Redevelopment Plan for the Orange County Great Park Redevelopment Project Area ("Redevelopment Plan") for purposes of assisting with the transition of the former United States Marine Corp Air Station El Toro to civilian uses which would benefit the local economy.

E. Agency, by Redevelopment Agency Resolution No. 99-02, adopted on July 27, 1999, and City, by City Council Resolution No. 99-99, adopted on July 27, 1999, approved a Cooperation Agreement ("Cooperation Agreement") between City and Agency to enable Agency to obtain from City financial, personnel, and other assistance for the purposes of undertaking redevelopment activities in the City.

F. Agency now desires to borrow from City, and City desires to loan to Agency, pursuant to the terms set forth in this Agreement, a sum not to exceed \$4,468,137.

G. City and Agency mutually desire to enter into this Agreement to set forth their respective obligations with respect to the loan appropriation in an amount not to exceed \$4,468,137.

H. Agency, by Redevelopment Agency Resolution No. 05-09, adopted on June 14, 2005, and City, by City Council Resolution No. 05-70, adopted on June 14, 2005, approved this Financing Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained, Agency and City agree as follows:

**Section 1. City Loan.** City hereby loans to Agency the principal amount not to exceed \$4,468,137 ("Loan Principal"), to be appropriated from the City's adopted 2005-2006 budget and defined as a loan to the Agency from the City's Asset Management Plan Fund. The Agency, in its sole discretion, may draw on the Loan Amount in one disbursement or, from time to time, in multiple draws of lesser amounts with the total of all disbursements not to exceed \$4,468,137.

Section 2.     Interest. Interest shall accrue on the outstanding Loan Principal at such rate as the parties herein may agree upon, not to exceed the maximum legal rate. The initial rate of interest shall be equal to the City's annualized return on the Operating Portfolio, using a rolling twelve (12) month period based on the loan date, plus 3%. Interest shall be compounded annually. The interest rate applicable to the outstanding Loan Principal and compounded accrued interest shall be adjusted annually on the anniversary date of this Agreement.

Section 3.     Agency Repayment. The Loan Principal and any accrued interest shall be repaid by Agency out of tax increment funds allocated to and received by Agency. Agency shall repay outstanding principal and accrued interest in ten (10) annual installment payments of principal and interest commencing in Fiscal Year 2015-16, generally in accordance with the amortization schedule shown in Exhibit "A" attached hereto and incorporated herein. The parties acknowledge that the amortization schedule attached as Exhibit "A" assumes a constant interest rate of 7% per annum compounded annually, and that the actual annual repayment amounts may be greater or lesser depending on the annual interest rate adjustments set forth in Section 2. Notwithstanding anything in this Agreement to the contrary, Agency shall be entitled to repay all or part of the Loan Principal and all accrued interest at any time with no other charges, fees, or penalties. All amounts due under this Agreement shall be payable at the offices of City. City is authorized to extend the repayment schedule or any annual installment.

Section 4.     Indebtedness of Agency. The Loan Principal and accrued interest described in this Agreement shall constitute an indebtedness of Agency.

Section 5.     Subordination. The repayment of the Loan Principal and accrued interest by Agency shall be junior and subordinate to (i) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, (ii) all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, and (iii) Agency financial agreements and other contractual obligations of Agency, whether any of the foregoing in clauses (i), (ii), or (iii) are incurred before or after the date of this Agreement.

Section 6.     Non-Liability of City and Agency Officials, Officers, and Employees. No officer, official, employee, agent, or representatives of Agency or City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, employee, agent, or representative.

Section 7.     Entire Agreement; Amendment. This Agreement shall constitute the entire agreement of the parties. This Agreement may be amended or modified only by an agreement in writing signed by the parties.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives, as of the date first above written.

"AGENCY"

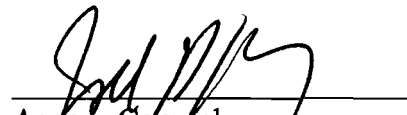
IRVINE REDEVELOPMENT AGENCY

By:   
Chair, Irvine Redevelopment Agency

ATTEST:

  
Agency Secretary

APPROVED AS TO FORM:

  
Agency Counsel

"CITY"

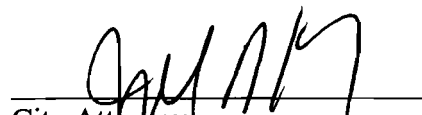
CITY OF IRVINE

By:   
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: City of Irvine Financing Agreement

DATE: January 24, 2006

PARTIES: Irvine Redevelopment Agency (Agency)  
City of Irvine (City)

### SUMMARY OF SUBSTANTIVE TERMS:

This agreement documented a loan from the City to the Agency enabling the Agency to undertake redevelopment activities in the City prior to the receipt of tax increment. The principal amount of the loan was \$2,100,000 and accrues interest at the City's annualized return on its Operating Portfolio plus 3%. Repayment of principal and interest in ten annual installments is scheduled to begin in Fiscal Year 2015-16. Total principal and interest is estimated to be \$4.8 million.

## FINANCING AGREEMENT

THIS FINANCING AGREEMENT ("Agreement") is made and entered into this 24th day of January, 2006, by and between the IRVINE REDEVELOPMENT AGENCY, a public body corporate and politic ("Agency"), and the CITY OF IRVINE, a charter city and municipal corporation ("City").

### R E C I T A L S

A. Agency is a public body, corporate and politic, organized under the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.).

B. City is a charter city and municipal corporation.

C. Agency was activated by Ordinance No. 99-09 adopted by the City Council of City on April 27, 1999.

D. On March 8, 2005, by Ordinance No. 05-04, the Irvine City Council, adopted the Redevelopment Plan for the Orange County Great Park Redevelopment Project Area ("Redevelopment Plan") for purposes of alleviating blight on, and assisting with the transition of, the former United States Marine Corps Air Station El Toro to civilian uses.

E. Agency, by Redevelopment Agency Resolution No. 99-02, adopted on July 27, 1999, and City, by City Council Resolution No. 99-99, adopted on July 27, 1999, approved a Cooperation Agreement ("Cooperation Agreement") between City and Agency to enable Agency to obtain from City financial, personnel, and other assistance for the purposes of undertaking redevelopment activities in the City.

F. Agency now desires to borrow from City, and City desires to loan to Agency, pursuant to the terms set forth in this Agreement, a sum not to exceed Two Million One Hundred Thousand Dollars (\$2,100,000.00)

G. City and Agency mutually desire to enter into this Agreement to set forth their respective obligations with respect to the loan appropriation in an amount not to exceed Two Million One Hundred Thousand Dollars (\$2,100,000.00)

H. Agency, by Redevelopment Agency Resolution No. 06-01, adopted on January 24, 2006, and City, by City Council Resolution No. 06-06, adopted on January 24, 2006, approved this Financing Agreement.

### A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained, Agency and City agree as follows:

Section 1. City Loan. City hereby loans to Agency the principal amount not to exceed Two Million One Hundred Thousand Dollars (\$2,100,000.00) ("Loan Principal"), to be appropriated from the City's adopted 2005-2006 budget and defined as a loan to the Agency from the City's Asset Management Plan Fund. The Agency, in its sole discretion, may draw on the Loan Amount in one disbursement or, from time to time, in multiple draws of lesser amounts with the total of all disbursements not to exceed Two Million One Hundred Thousand Dollars (\$2,100,000.00)

Section 2. Interest. Interest shall accrue on the outstanding Loan Principal at such rate as the parties herein may agree upon, not to exceed the maximum legal rate. The initial rate of interest shall be equal to the City's annualized return on the Operating Portfolio, using a rolling twelve (12) month period based on the loan date, plus three percent (3%). Interest shall be compounded annually. The interest rate applicable to the outstanding Loan Principal and compounded accrued interest shall be adjusted annually on the anniversary date of this Agreement.

Section 3. Agency Repayment. The Loan Principal and any accrued interest shall be repaid by Agency out of tax increment funds allocated to and received by Agency. Agency shall repay outstanding principal and accrued interest in ten (10) annual installment payments of principal and interest commencing in Fiscal Year 2015-16, generally in accordance with the amortization schedule shown in Exhibit "A" attached hereto and incorporated herein. The parties acknowledge that the amortization schedule attached as Exhibit "A" assumes a constant interest rate of seven percent (7%) per annum compounded annually, and that the actual annual repayment amounts may be greater or lesser depending on the annual interest rate adjustments set forth in Section 2. Notwithstanding anything in this Agreement to the contrary, Agency shall be entitled to repay all or part of the Loan Principal and all accrued interest at any time with no other charges, fees, or penalties. All amounts due under this Agreement shall be payable at the offices of City. City is authorized to extend the repayment schedule or any annual installment.

Section 4. Indebtedness of Agency. The Loan Principal and accrued interest described in this Agreement shall constitute an indebtedness of Agency.

Section 5. Subordination. The repayment of the Loan Principal and accrued interest by Agency shall be junior and subordinate to (i) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, (ii) all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, and (iii) Agency financial agreements and other contractual obligations of Agency, whether any of the foregoing in clauses (i), (ii), or (iii) are incurred before or after the date of this Agreement.

Section 6. Non-Liability of City and Agency Officials, Officers, and Employees. No officer, official, employee, agent, or representatives of Agency or City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, employee, agent, or representative.



Section 7. Entire Agreement; Amendment. This Agreement shall constitute the entire agreement of the parties. This Agreement may be amended or modified only by an agreement in writing signed by the parties.

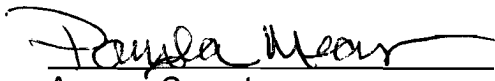
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives, as of the date first above written.

"AGENCY"

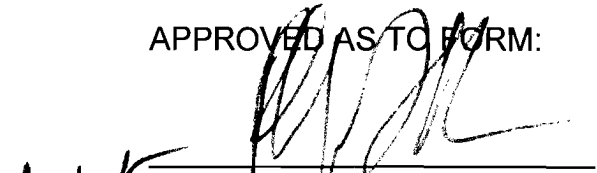
IRVINE REDEVELOPMENT AGENCY

By:   
Chair, Irvine Redevelopment Agency

ATTEST:

  
Agency Secretary

APPROVED AS TO FORM:

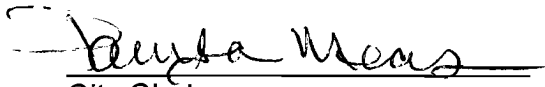
  
Assistant  
Agency Counsel

"CITY"

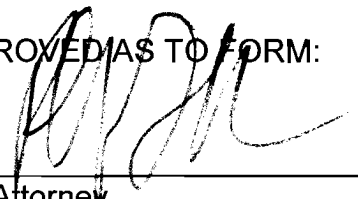
CITY OF IRVINE

By:   
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

## Exhibit A

### Loan Amortization Schedule

**Terms:**

Initial loan amount, loaned February 2006: 2,100,000

Interest compounded annually at : 7.00%

Loan payments made at the end of each fiscal year, beginning in FY 2015-2016

FY	Initial Loan Amount	Accrued Interest	Loan Balance	Principal Payment	Interest Payment	Total
2005-2006	2,100,000	61,250	2,161,250	-	-	-
2006-2007		151,288	2,312,538	-	-	-
2007-2008		161,878	2,474,415	-	-	-
2008-2009		173,209	2,647,624	-	-	-
2009-2010		185,334	2,832,958	-	-	-
2010-2011		198,307	3,031,265	-	-	-
2011-2012		212,189	3,243,453	-	-	-
2012-2013		227,042	3,470,495	-	-	-
2013-2014		242,935	3,713,430	-	-	-
2014-2015		259,940	<b>3,973,370</b>	-	-	-
2015-2016			3,685,787	287,583	278,136	565,718
2016-2017			3,378,074	307,713	258,005	565,718
2017-2018			3,048,821	329,253	236,465	565,718
2018-2019			2,696,520	352,301	213,417	565,718
2019-2020			2,319,558	376,962	188,756	565,718
2020-2021			1,916,208	403,349	162,369	565,718
2021-2022			1,484,624	431,584	134,135	565,718
2022-2023			1,022,829	461,795	103,924	565,718
2023-2024			528,709	494,120	71,598	565,718
2024-2025			0	491,699	37,010	528,709
<b>Total</b>		<b>1,873,370</b>		<b>3,936,360</b>	<b>1,683,815</b>	<b>5,620,175</b>

**EXHIBIT "A"**  
**TO FINANCING AGREEMENT**

## IRVINE REDEVELOPMENT AGENCY AGREEMENT SUMMARY

TITLE: Purchase and Sale and Financing Agreement

DATE: August 14, 2007

PARTIES: Irvine Redevelopment Agency (Agency)  
City of Irvine (City)

### SUMMARY OF SUBSTANTIVE TERMS:

This Agreement documents the 2007 loan of \$134,000,000 by the City from the City's Great Park Special Fund 180 to the Irvine Redevelopment Agency to enable the Agency's purchase from the City of three parcels of real property consisting of approximately 7 acres, 8 acres and 20 acres (35 acres in total). The Agreement also documents the terms of the conveyance of those 35 acres from the City to the Agency. The purchase price was verified by an appraisal conducted shortly before the transaction took place. Principal and interest on the loan are to be paid back to the City's Great Park Special Fund 180 by the Agency over the next 40 years (the remaining term of the period the Agency is entitled to receive property tax increment pursuant to the terms of the Orange County Great Park Redevelopment Plan).

The Agreement accomplishes several objectives:

- The proceeds received by the City from the Agency for the sale of the 35 acres were contributed by the City Council to the Great Park Special Fund 180, enhancing the Great Park's ability to accelerate development.
- The Great Park Special Fund 180 receives loan principal and interest payments to assist to support the development and long-term fiscal sustainability of the Orange County Great Park and the funding of the Park's long-term operations, maintenance, and rehabilitation.
- The Agency purchased land to be used to meet Agency objectives set forth in the Orange County Great Park Redevelopment Plan. Consistent with those goals and objectives, the Agency in 2011 sold the land for the fair market value (pursuant to an updated appraisal) to the City to meet the Agency's then-existing obligation to fund certain public improvements benefiting the Orange County Great Park within the Orange County Great Park Redevelopment Project Area.

ORIGINAL

## PURCHASE AND SALE AND FINANCING AGREEMENT

This PURCHASE AND SALE AND FINANCING AGREEMENT ("Agreement") is entered into this 14th day of August, 2007, by and between the CITY OF IRVINE, a California municipal corporation ("City"), and the IRVINE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency").

### R E C I T A L S

A. City is the owner in fee of those certain three parcels of real property consisting of approximately 7 acres, 8 acres, and 20 acres, respectively, located within the former United States Marine Corps Air Station El Toro in the City of Irvine, County of Orange, State of California, more particularly described in Exhibit "A" attached hereto (collectively, the "Property").

B. The Property is located in the Orange County Great Park Redevelopment Area ("Project Area"). On March 8, 2005, by Ordinance No. 05-04, the Irvine City Council, adopted the Redevelopment Plan for the Project Area ("Redevelopment Plan") for the purposes of alleviating blight on, and assisting with the transition of, the former United States Marine Corps Air Station El Toro to civilian uses.

C. Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*). Agency desires to acquire the Property from City for redevelopment purposes.

D. The parties desire to enter into this Agreement to provide for (i) City to sell to Agency, and Agency to purchase from City, the Property, and (ii) Agency to borrow funds from the Special Revenue Fund 180-Orange County Great Park ("Great Park Fund") for the purchase price of the Property, on the terms and conditions set forth herein.

### A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, City and Agency agree as follows:

#### 1. Purchase and Sale of Property.

1.1. Purchase and Sale of Property. Subject to all of the terms, conditions and provisions of this Agreement and for the consideration of the Purchase Price as herein set forth, City agrees to sell to Agency, and Agency agrees to purchase from City, the Property.

1.2. Purchase Price for Property. Agency shall pay to City the sum of One Hundred Thirty-Four Million Dollars (\$134,000,000) for the purchase of the Property ("Purchase Price"). The Purchase Price shall be paid by Agency to City on the Conveyance Date (as defined in Section 1.3).

1.3. Timing of Conveyance; Conveyance Date. The date for City's conveyance of the Property to Agency ("Conveyance Date") shall be on or before September 27, 2007, with the exact date to be mutually determined by City and Agency ("Conveyance Date").

1.4. Delivery of Documents. Prior to the scheduled Conveyance Date, City shall execute a grant deed conveying fee title to the Property to Agency in the form attached hereto as Exhibit "B" ("Grant Deed") and Agency shall execute the Certificate of Acceptance attached to the Grant Deed. The parties shall deliver the executed Grant Deed and a Preliminary Change of Ownership form signed by Agency to the title officer at the title company selected by Agency to handle Agency's title insurance policy ("Title Company"), with instructions to hold the documents in trust and to record the Grant Deed only upon instruction from City or City's legal counsel. Prior to the scheduled Conveyance Date, City shall execute and deliver to Agency a Real Estate Withholding Certification Form 593-C and Agency shall retain the Real Estate Withholding Certification for a period of five years after the Conveyance Date.

1.5. Conditions to Conveyance. City's conveyance of the Property to Agency and Agency's acceptance of the conveyance shall be subject to the satisfaction of the following conditions: (i) Agency shall use the Loan referred to in Section 2 for the Purchase Price of the Property; and (ii) the Title Company shall be irrevocably committed to issuing to Agency an owner's policy of title insurance with liability in the amount of the Purchase Price, showing fee title to the Property vested in Agency, subject only to such title exceptions that may be approved by Agency. Agency shall pay the premium for the Title Policy. In the event the foregoing conditions are not satisfied by the Conveyance Date, either party shall have the right to terminate this Agreement and all funds and documents delivered to or by either party under this Agreement shall be returned to the party or fund from which the delivery was made.

1.6. Recordation of Grant Deed. Provided the conditions in Section 1.5 of this Agreement are satisfied, on the Conveyance Date, City shall instruct the Title Company to (i) record in the Orange County Recorder's Office the Grant Deed conveying the Property to Agency, and (ii) deliver the Preliminary Change of Ownership form to the Orange County Recorder's Office.

## 2. Loan to Agency.

2.1. Principal Amount; Interest. Subject to the terms and conditions set forth herein, Agency shall borrow from the Great Park Fund the sum of One Hundred Thirty-Four Million Dollars (\$134,000,000) ("Loan"). Interest shall accrue on the Loan at the rate of nine percent (9%) compounded annually from the date the Loan is disbursed until accrued interest and unpaid principal are paid in full.

2.2. Disbursement and Use of Loan. The Loan shall be disbursed to Agency on or prior to the Conveyance Date. If the conditions in Section 1.5 are not satisfied and this Agreement is terminated after the disbursement of the Loan, the Loan proceeds shall be immediately deposited back into the Great Park Fund.

2.3. Source of Funds. The source of funds for the Loan shall be fees that were paid by Heritage Fields LLC, a Delaware limited liability company, pursuant to that certain

Development Agreement between City and Heritage Fields LLC dated July 12, 2005, and deposited into the Great Park Fund.

2.4. Repayment of Loan. The Loan shall be repaid by Agency out of tax increment funds from the Project Area allocated to and received by Agency. Commencing on August 15, 2009, and continuing on each August 15 thereafter until the Loan is repaid in full or otherwise forgiven as set forth herein (each August 15 a "Payment Date"), Agency shall make annual payments to the Great Park Fund in an amount equal to the Project Area Cash Flow (as defined below) for the preceding Fiscal Year. For example, the first payment made on August 15, 2009, will equal the Project Area Cash Flow for Fiscal Year 2008-2009. Agency's obligation to repay the Loan to the Great Park Fund shall be a special and limited obligation of Agency payable from the sole source of Project Area Cash Flow. Accordingly, Agency's obligation to make annual payments under this Section 2.4 shall be applicable only to the extent there is sufficient Project Area Cash Flow available from the preceding Fiscal Year. If not sooner paid, the outstanding balance of the Loan and accrued interest shall be forgiven and discharged on the Payment Date that occurs after the last Fiscal Year in which the Agency is entitled to collect tax revenues from the Project Area in accordance with the Redevelopment Plan, as may be amended from time to time. For purposes of this Agreement, the following definitions shall apply:

(i) "*Expenses*" shall mean all expenditures of Agency including without limitation: (a) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, and all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, whether incurred before or after the date of this Agreement; (b) all amounts payable by Agency pursuant to or arising from any financial agreements or other contractual obligations of Agency, whether incurred before or after the date of this Agreement and with the understanding that there shall be no limitation on Agency's right to enter into such financial agreements and contractual obligations; (c) all administrative costs, operating expenses, and professional service, consulting, and legal fees of Agency; (d) all loans, obligations, indebtedness or other obligations of Agency payable from Property Tax Increment; (e) expenditures for the costs of acquiring installing and constructing public improvements; (f) amounts of Property Tax Increment pledged or reserved for payments in future Fiscal Years; and (g) amounts of Property Tax Increment that Agency reasonably determines will be needed for redevelopment purposes in future Fiscal Years.

(ii) "*Fiscal Year*" shall mean the period from July 1 to June 30.

(iii) "*Project Area Cash Flow*" shall mean, with respect to any Fiscal Year, the amount of Property Tax Increment for such Fiscal Year reduced by the Expenses for such Fiscal Year.

(iv) "*Property Tax Increment*" shall mean the full amount of property tax revenues generated from property within the Project Area that are allocated to and paid to Agency pursuant to Article 6 of Chapter 6 of the Redevelopment Law and Section 16 of Article XVI of the Constitution of the State, excluding (a) the portion of the tax revenues from the Project Area that are allocated to Agency that Agency is required pursuant to Sections 33334.2 and 33334.3 of the Redevelopment Law to set aside and use

for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, and (b) payments the Agency is required to pay to or for the benefit of the State, any city, county, city and county, district, or other public corporation for whose benefit taxes are levied upon taxable property in the Project Area each year as provided in, regardless of whether such payments actually are made by Agency or are made by the County directly to the other taxing agencies (or, in the case of amounts payable to the County, retained by the County).

City acknowledges that Agency retains full discretion with respect to the Expenses it will incur and nothing herein shall otherwise limit Agency from incurring indebtedness and financing redevelopment projects.

Agency shall be entitled to prepay all or any portion of the Loan and accrued interest at any time with no charges, fees, or penalties.

2.5. Indebtedness of Agency. The Loan and accrued interest described in this Agreement shall constitute an indebtedness of Agency.

2.6. Subordination. The repayment of the Loan and accrued interest by Agency shall be junior and subordinate to (i) all Agency tax allocation bonds or other direct long-term indebtedness of Agency, (ii) all pledges by Agency of tax increments for tax allocation bonds or other direct long-term indebtedness of Agency, (iii) Agency financial agreements and other contractual obligations of Agency, and (iv) the payment of any other Expenses of Agency, whether any of the foregoing in clauses (i), (ii), (iii) or (iv) are incurred before or after the date of this Agreement.

3. Use of Funds. The Loan proceeds that are repaid by Agency and deposited into the Great Park Fund will be used for the improvement, operation, and maintenance of the Orange County Great Park, at such time and manner as determined by City.

4. Miscellaneous.

4.1. Notices. Any approval, disapproval, demand, document or other notice required to be given under this Agreement must be in writing and shall be delivered by either (i) personal delivery, (ii) reliable courier service that provides a receipt showing date and time of delivery, (iii) registered or certified U.S. Mail, postage prepaid, return receipt requested, or (iv) facsimile. Notices shall be directed at the address of the party as set forth below, or at any other address as that party may later designate by notice:

City:	City of Irvine
	One Civic Center Plaza
	Irvine, CA 92606-5208
	Attention: City Manager
	FAX: (949) 724-6045

Agency: Irvine Redevelopment Agency  
One Civic Center Plaza  
Irvine, CA 92606-5208  
Attention: Executive Director  
FAX: (949) 724-6045

Each notice shall be deemed delivered on the date delivered if by personal delivery or by overnight courier service, on the date of receipt as disclosed on the return receipt if by mail, or on the date of transmission with confirmed successful transmission and receipt if by telefax. By giving to the other parties written notice as provided above, the parties to this Agreement and their respective successors and assigns shall have the right from time to time, and at any time during the term of this Agreement, to change their respective addresses.

4.2. Entire Agreement, Waivers and Amendments. This Agreement incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged. A waiver of the breach of the covenants, conditions or obligations under this Agreement by any party shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or obligations of this Agreement. Any amendment or modification to this Agreement must be in writing and executed by the appropriate authorities of City and Agency.

4.3. Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, unless and to the extent the rights and obligations of one or more parties has been materially altered or abridged by such holding.

4.4. Review of Agreement. At least once every twelve (12) month period from the date of this Agreement, City and Agency each shall review this Agreement as part of its annual budgetary process.

4.5. Applicable Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of California without regard to conflict of law principles.

4.6. Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on both parties hereto, notwithstanding that both parties are not signatories to the original or the same counterpart.

[signatures on next page]



IN WITNESS WHEREOF, City and Agency have entered into this Agreement as of the date first set forth above.


"CITY

CITY OF IRVINE, a California municipal corporation

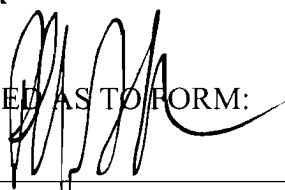
By: 

Its: Mayor

ATTEST:

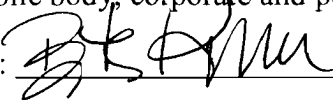
  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

"AGENCY"

IRVINE REDEVELOPMENT AGENCY, a public body, corporate and politic

By: 

Its: Chair

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
Agency Counsel

## **EXHIBIT "A" TO PURCHASE AND SALE AND FINANCING AGREEMENT**

### **LEGAL DESCRIPTION OF PROPERTY**

THOSE PORTIONS OF A PARCELS 3A-1 AND 3A-2, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER QUITCLAIM DEED RECORDED JULY 12, 2005, AS INSTRUMENT NO. 2005000536292 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

#### **PARCEL G-7A**

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3A-2;  
THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL NORTH 40° 26' 55" EAST 54.94 FEET TO A LINE THAT IS PARALLEL WITH AND 48.00 FEET NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF SAID PARCEL AND THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE THE FOLLOWING COURSES:

NORTH 40° 26' 55" EAST 1076.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 417.00 FEET; NORTHEASTERLY 299.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 41° 06' 48" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 518.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 89° 20' 07" WEST, AND NORTHERLY 265.18 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29° 19' 55" TO A POINT OF NON-TANGENCY ON THE SOUTHERLY RIGHT OF WAY LINE OF ALTON PARKWAY, 120.00 FEET IN WIDTH, AS SHOWN ON INSTRUMENT NO. 85-390260, RECORDED OCTOBER 10, 1985, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, A RADIAL LINE TO SAID POINT BEARS NORTH 61° 19' 58" WEST; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING COURSES:

SOUTH 80° 35' 11" WEST 462.81 FEET BEGINNING OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1860.00 FEET. WESTERLY 597.90 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18° 25' 04", AND SOUTH 51° 48' 29" WEST 41.31 FEET TO SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE THE FOLLOWING COURSES:

SOUTH 04° 46' 54" WEST 227.16 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1352.00 FEET; SOUTHERLY 594.99 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 12' 46" AND SOUTH 20° 25' 53" EAST 463.43 FEET TO THE POINT OF BEGINNING.

#### **PARCEL G-7B**

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3A-2, THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 3-B NORTH 49° 20' 21" WEST 885.45 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 40° 39' 39" EAST 400.00 FEET;  
THENCE NORTH 49° 20' 21" WEST 871.20 FEET;

THENCE SOUTH 40° 39' 39" WEST 400.00 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL 3-B;

THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 49° 20' 21" EAST 871.20 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 8.000 ACRES, MORE OR LESS

**PARCEL G-7C**

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL 3A-1;  
THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3-A SOUTH 49° 20' 21" EAST 539.43 FEET;  
THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 40° 39' 39" WEST 565.29 FEET TO THE NORTHEASTERLY LINE OF BARRANCA PARKWAY, 100.00 FEET IN WIDTH, AS SAID PARKWAY IS SHOWN ON RECORD OF SURVEY 97-1038, FILED IN BOOK 171 PAGES 1 THROUGH 49 INCLUSIVE, RECORDS OF SAID COUNTY; THENCE ALONG LAST SAID NORTHEASTERLY LINE NORTH 49° 20' 21" WEST 539.43 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL 3A;  
THENCE ALONG SAID NORTHWESTERLY LINE NORTH 40° 39' 38" EAST 565.29 FEET TO THE POINT OF BEGINNING.

## EXHIBIT "B" TO PURCHASE AND SALE AND FINANCING AGREEMENT

When Recorded Mail To:

IRVINE REDEVELOPMENT AGENCY  
One Civic Center Plaza  
Irvine, California 92606-5208  
Attention: Executive Director

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(Space Above For Recorder's Use)

The undersigned grantor(s) declare(s) that this transaction is exempt from the payment of a documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

This document is being recorded for the benefit of the City of Irvine and the Irvine Redevelopment Agency and is exempt from payment of a recording fee pursuant to Government Code Section 27383.

### **GRANT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CITY OF IRVINE, a California municipal corporation, hereby grants to the IRVINE REDEVELOPMENT AGENCY, a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code Section § 33000 *et seq.*), that certain real property located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "1" and incorporated herein by this reference.

Dated \_\_\_\_\_, 2007

CITY OF IRVINE, a California municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

State of California  
County of \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_  
(insert name and title of the officer)  
\_\_\_\_\_, personally appeared \_\_\_\_\_

\_\_\_\_\_,  
personally known to me (or 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.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

**CERTIFICATE OF ACCEPTANCE**

This to certify that the interest in real property conveyed by the foregoing Grant Deed, from the City of Irvine to the Irvine Redevelopment Agency ("Agency") is hereby accepted by the undersigned, on behalf of the Agency, pursuant to authority conferred by Resolution No. \_\_\_\_\_ of the Agency adopted on \_\_\_\_\_, and the Agency consents to the recordation thereof.

Dated \_\_\_\_\_, 2007

IRVINE REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Agency Secretary

State of California

County of \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_  
(insert name and title of the officer)

\_\_\_\_\_, personally appeared \_\_\_\_\_

\_\_\_\_\_,  
personally known to me (or 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.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

## **EXHIBIT "1" TO CITY GRANT DEED**

### **LEGAL DESCRIPTION OF PROPERTY**

That certain real property located in the City of Irvine, County of Orange, State of California, legally described as follows:

THOSE PORTIONS OF A PARCELS 3A-1 AND 3A-2, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER QUITCLAIM DEED RECORDED JULY 12, 2005, AS INSTRUMENT NO. 2005000536292 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

#### **PARCEL G-7A**

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3A-2;  
THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL NORTH 40° 26' 55" EAST 54.94 FEET TO A LINE THAT IS PARALLEL WITH AND 48.00 FEET NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF SAID PARCEL AND THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE THE FOLLOWING COURSES:

NORTH 40° 26' 55" EAST 1076.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 417.00 FEET; NORTHEASTERLY 299.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 41° 06' 48" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 518.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 89° 20' 07" WEST, AND NORTHERLY 265.18 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29° 19' 55" TO A POINT OF NON-TANGENCY ON THE SOUTHERLY RIGHT OF WAY LINE OF ALTON PARKWAY, 120.00 FEET IN WIDTH, AS SHOWN ON INSTRUMENT NO. 85-390260, RECORDED OCTOBER 10, 1985, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, A RADIAL LINE TO SAID POINT BEARS NORTH 61° 19' 58" WEST; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING COURSES:

SOUTH 80° 35' 11" WEST 462.81 FEET BEGINNING OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1860.00 FEET. WESTERLY 597.90 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18° 25' 04", AND SOUTH 51° 48' 29" WEST 41.31 FEET TO SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE THE FOLLOWING COURSES:

SOUTH 04° 46' 54" WEST 227.16 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1352.00 FEET; SOUTHERLY 594.99 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 12' 46" AND SOUTH 20° 25' 53" EAST 463.43 FEET TO THE POINT OF BEGINNING.

#### **PARCEL G-7B**

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3A-2, THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 3-B NORTH 49° 20' 21" WEST 885.45 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 40° 39' 39" EAST 400.00 FEET;  
THENCE NORTH 49° 20' 21" WEST 871.20 FEET;

THENCE SOUTH 40° 39' 39" WEST 400.00 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL 3-B;  
THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 49° 20' 21" EAST 871.20 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 8.000 ACRES, MORE OR LESS

**PARCEL G-7C**

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL 3A-I;  
THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3-A SOUTH 49° 20' 21" EAST 539.43 FEET;  
THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 40° 39' 39" WEST 565.29 FEET TO THE NORTHEASTERLY LINE OF BARRANCA PARKWAY, 100.00 FEET IN WIDTH, AS SAID PARKWAY IS SHOWN ON RECORD OF SURVEY 97-1038, FILED IN BOOK 171 PAGES 1 THROUGH 49 INCLUSIVE, RECORDS OF SAID COUNTY; THENCE ALONG LAST SAID NORTHEASTERLY LINE NORTH 49° 20' 21" WEST 539.43 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL 3A;  
THENCE ALONG SAID NORTHWESTERLY LINE NORTH 40° 39' 38" EAST 565.29 FEET TO THE POINT OF BEGINNING.