

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

868 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
September 1, 2009

SUBJECT: Joint Community Facilities Agreement for Flood Control Improvements by and among Riverside County Flood Control and Water Conservation District, City of Moreno Valley, FR/CAL Moreno Valley, LLC, a Delaware limited liability company, First Industrial, LP, a Delaware limited partnership, and FR/CAL Indian Avenue, LLC, a Delaware limited liability company

RECOMMENDED MOTION:

1. Approve the subject Joint Community Facilities Agreement; and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District;

BACKGROUND:

The subject Joint Community Facilities Agreement (the "JCFA") sets forth the terms and conditions by which certain flood control and stormwater drainage facilities required as a condition for development for Parcel Map Nos. 35859, 35150, and 35672 are to be constructed by Developers and upon completion of construction, accepted by the District for operation and maintenance.

Continued on Page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA

Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Michael R. Shetler

County Executive Office Signature

FORM APPROVED: COUNTY COUNSEL

BY: Warren D. Williams DATE: 8/20/09
Departmental Warren D. Williams GARDNER

Policy
 Policy
 Consent
 Consent
 Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 5th

Agenda Number:

11.8

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

SUBJECT: Joint Community Facilities Agreement for Flood Control Improvements by and among Riverside County Flood Control and Water Conservation District, City of Moreno Valley, FR/CAL Moreno Valley, LLC, a Delaware limited liability company, First Industrial, LP, a Delaware limited partnership, and FR/CAL Indian Avenue, LLC, a Delaware limited liability company

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The City of Moreno Valley has formed Community Facilities District No. 7 (the "CFD") to finance the construction of such flood control facilities and other infrastructure necessary to support the Developers planned development. Additionally, the JCFA establishes the terms and conditions by which the CFD will reimburse the Developers for constructing such flood control facilities.

The County Executive Office has participated in the preparation of this JCFA and is recommending its approval.

County Counsel has approved the Agreement as to legal form.

IMG:seb
P8\126423

JOINT COMMUNITY FACILITIES AGREEMENT
(Flood Control Improvements)

by and among

CITY OF MORENO VALLEY,

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

**FR/CAL MORENO VALLEY, LLC,
a Delaware limited liability company,**

**FIRST INDUSTRIAL, LP,
a Delaware limited partnership**

and

**FR/CAL INDIAN AVENUE, LLC,
a Delaware limited liability company**

Dated as of _____, 2009

**Relating to:
Community Facilities District No. 7
of
The City of Moreno Valley**

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JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this "Joint Community Facilities Agreement") is made and entered into as of _____, 2009, by and among City of Moreno Valley, a municipal corporation organized and existing under the laws of the State of California (hereinafter "City"), Riverside County Flood Control and Water Conservation District, a public agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water Code (hereinafter the "Flood Control District"), and FR/CAL Moreno Valley, LLC, a Delaware limited liability company ("FR/CAL MV"), First Industrial, LP, a Delaware limited partnership ("FILP") and FR/CAL Indian Avenue, LLC, a Delaware limited liability company ("FR/CAL IA"). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as a "Property Owner" or collectively as the "Property Owners".

RECITALS:

A. The City Council of the City (the "City Council") formed a community facilities district identified as "Community Facilities District No. 7 of the City of Moreno Valley," (the "Community Facilities District") pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act") (commencing with Section 53311 of the California Government Code (the "Code")).

B. The boundaries of the Community Facilities District include all of the territory shown on the map entitled "Map of Proposed Boundaries of Community Facilities District No. 7, City of Moreno Valley, County of Riverside, State of California" recorded in the Office of the County Recorder of the County of Riverside on May 16, 2008 in Book 73 of Maps of Assessment and Community Facilities Districts at pages 6-8 thereof (the "Boundary Map"). A copy of the Boundary Map is attached as Exhibit A hereto.

The Property Owners are the owners of certain real property located in the City and the Community Facilities District. Each parcel owned by the Property Owners may be referred to individually as a "Parcel" or collectively as the "Parcels."

In forming the Community Facilities District, three improvement areas were designated therein as Improvement Area No. 1, Improvement Area No. 2 and Improvement Area No. 3 (each an "Improvement Area" and collectively, the "Improvement Areas"). Improvement Area No. 1 includes two (2) zones designated as Zone 1 and Zone 2. Each of the Improvement Areas and the zones within Improvement Area No. 1 are depicted on the Boundary Map. The Parcels owned by FR/CAL MV, known as Parcel Map 35150, are all of the parcels included in Zone 1 of Improvement Area No. 1. Certain additional parcels of property not owned by the Property Owners are included in Zone 2 of Improvement Area No. 1. The Parcels owned by FILP, known as Parcel Map 35672, are all of the parcels included in Improvements Area No. 2. The Parcels owned by FR/CAL IA, known as Tentative Parcel Map 35859, are all of the parcels included in Improvement Area No. 3.

It is the intention of the parties hereto that each Improvement Area shall be authorized to finance certain of the Flood Control Facilities (described in Exhibit C).

C. The Community Facilities District has been formed to finance the construction of certain public facilities to be constructed by, or on behalf of a Property Owner with the purchase price therefore to be paid from the proceeds of bonds to be sold and issued by the Community Facilities District for each of the Improvement Areas and the proceeds of special taxes levied and collected within each Improvement Area. The Flood Control Facilities are to be owned, operated and maintained by the Flood Control District, or the City, upon the completion of the construction thereof by the Property Owners and the acceptance thereof by the Flood Control District or the City, as applicable. The Flood Control Facilities are described in Exhibit C and their estimated costs are stated in Exhibit C attached hereto and incorporated herein by this reference.

D. Section 53313.5 of the Code provides that a community facilities district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body of the community facilities district, before the resolution of formation to establish the community facilities district is adopted pursuant to Section 53325.1 of the Code, except that a community facilities district may finance the purchase of facilities completed after the adoption of a resolution of formation (regardless if such construction is commenced prior to or after the adoption of the resolution of formation) if the facility is constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency, in this case, the Flood Control District.

E. Section 53314.9 of the Code provides that at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or entities, and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, under all of the following conditions: (a) the proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included in both the resolution of intention to establish the community facilities district adopted pursuant to Section 53321 of the Code and in the resolution to establish the community facilities district pursuant to Section 53325.1 of the Code, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any work in-kind accepted pursuant to Section 53314.9 of the Code shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

F. Upon approval of this Joint Community Facilities Agreement by the City, the Flood Control District and the Property Owners, the City Council, acting pursuant to the Act and on behalf of the Community Facilities District, will use its best efforts to sell and issue special tax bonds for the Improvement Areas the proceeds of which will be used in part to pay each Property Owner the purchase price of the Flood Control Facilities constructed or caused to be constructed by such Property Owner, provided all of the conditions of Sections 53313.5 and 53314.9 of the Code are satisfied and provided

further that the purchase price shall only be paid from the proceeds of special tax bonds, if any are sold and issued by the proposed Community Facilities District for the Improvement Areas therein.

G. The Act provides that the proposed Community Facilities District may finance the Flood Control Facilities, to be owned operated and maintained by the Flood Control District or the City, as applicable, only pursuant to a joint community facilities agreement adopted pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code.

H. The City, the Flood Control District and the Property Owners desire to enter into this Joint Community Facilities Agreement, as required by the aforementioned sections of the Code and prior to the adoption of the resolution of issuance of bonds of the Community Facilities District. The provisions of this Agreement are intended to apply only to the Flood Control Facilities, unless expressly stated otherwise. Notwithstanding the forgoing, payment for the City Flood Control Facilities shall be governed by the provisions of the Funding Agreement.

I. The City and the Flood Control District have determined that this Joint Community Facilities Agreement will be beneficial to the respective residents of the Flood Control District and the City.

NOW, THEREFORE, for and in consideration of the mutual premises and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Unless the context otherwise requires, the terms defined in this Article I shall have the meaning herein specified:

“Acceptable Title” means title to land, or an easement therein, delivered free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether any such item is recorded or unrecorded, except those non-monetary items which are reasonably determined by the Flood Control District not to interfere with the intended use of such land or easement and therefore are not required to be cleared from title.

“Acceptance Date” means, with respect to Flood Control District Facilities, the date that such Flood Control District Facilities are accepted by the Flood Control District into its maintained system.

“Act” means the Mello-Roos Community Facilities Act of 1982, constituting Sections 53311 *et seq.* of the California Government Code, as amended.

“Actual Cost” means, with respect to a Flood Control District Facility, to the extent authorized by law, an amount equal to the sum of (a) the Property Owner’s actual, reasonable cost of constructing such Flood Control District Facility, including labor, material and equipment costs, (b) the Property Owner’s actual reasonable cost of

designing and preparing the Plans and Specifications for such Flood Control District Facility, including engineering services provided in connection with designing and preparing such Plans and Specifications, (c) the Property Owner's actual, reasonable cost of environmental evaluations and any mitigation measures required by any governmental agency with jurisdiction with regard to such Flood Control District Facility, or portions thereof, (d) the amount of any fees actually paid by the Property Owner to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals and reviews for such Flood Control District Facility including but not limited to plan check and inspection fees by the Flood Control District and the County, (e) the Property Owner's actual reasonable cost for professional services directly related to the construction of such Flood Control District Facility, including engineering, inspection, construction staking, materials testing and similar professional services, (f) the Property Owner's actual, reasonable cost for construction management, bid administration and contract administration services which shall not exceed 5% of construction costs, (g) the Property Owner's actual reasonable cost of payment, performance or maintenance bonds and insurance for such Flood Control District Facility, (h) the actual, reasonable cost of easements or other real property or interest therein acquired from a party other than the Property Owner, which real property or interest therein is either necessary for the construction of such Flood Control District Facility (e.g., temporary construction easements) or is required to be conveyed with such Flood Control District Facility in order to convey Acceptable Title thereto to the Flood Control District, all as specified in a Payment Request that is to be reviewed and approved by the Contract Administrator; provided, however, that (x) no item of cost relating to a Flood Control District Facility shall be included in more than one category of cost specified in clauses (a) through (h) of this definition, and (y) each item of cost shall include only amounts actually paid by the Property Owner to third parties and shall not include overhead or other internal expenses of the Property Owner, except that, if Property Owner employees perform construction management, bid administration or contract administration services with respect to a Flood Control District Facility, the actual reasonable cost of the salaries and benefits paid by the Property Owner to such employees for performing such services may be included as an item of cost relating to such Flood Control District Facility for the category of cost specified in clause (f) of this definition and subject to the 5% limitation specified in clause (f). The term "Property Owner" as used in this definition shall have the meaning ascribed to it in Section 3.1., hereof.

"Administrator" means the City of Moreno Valley, Special Districts Division manager (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee.

"Board of Supervisors" means the Board of Supervisors of the Riverside County Flood Control and Water Conservation District.

"Bonds" means the bonds that the Community Facilities District may attempt to sell and issue for each Improvement Area in one or more series, a portion of the proceeds of which will be used to acquire, among other authorized facilities, the Flood Control Facilities allocated to such Improvement Area.

“Business Day” means a day which is not a Saturday or Sunday or a day of the year on which the Flood Control District or the City are not required or authorized to be open.

“CEQA” means the California Environmental Quality Act (CEQA), constituting Sections 21000 *et seq.* of the California Public Resources Code, as amended.

“City” means the City of Moreno Valley, an incorporated municipality, or its successors.

“City Flood Control Facilities” means those Flood Control Facilities to be owned, operated and maintained by the City.

“Code” means the California Government Code.

“Community Facilities District” means “Community Facilities District No. 7 of the City of Moreno Valley,” a community facilities district organized and existing under the Act and all Improvement Areas therein.

“Construction Manager” means an individual or professional consulting company retained by a Property Owner to provide construction management services for and on behalf of such Property Owner in accordance with the terms and construction of this Joint Community Facilities Agreement.

“Construction Site” means the site on which the Flood Control Facilities are to be constructed, including off site staging areas and material storage areas.

“Cooperative Agreement(s)” means an agreement or agreements by and among the Flood Control District, the City and the applicable Property Owner, or its successor or assigns, further defining the parties’ respective rights and responsibilities pertaining to the design, construction, inspection and acceptance of one or more of the Flood Control Facilities.

“County” means the County of Riverside, a political subdivision of the State, and its successors.

“FILP” means First Industrial, LP, a Delaware limited partnership, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 2 of the Community Facilities District, including but not limited to the Improvement Area No. 2 Flood Control Facilities.

“Flood Control District” means the Riverside County Flood Control and Water Conservation District, a public agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water Code.

“Flood Control District Facilities” means those Flood Control Facilities that are to be owned, operated and maintained by the Flood Control District.

“Flood Control Facility” or “Flood Control Facilities” means one or more of those certain Flood Control Facilities, which are identified and described in Exhibit C attached hereto and that are to be owned, operated and maintained by the Flood Control District or the City subject to the terms and conditions of the applicable Cooperative Agreement..

“Flood Engineer” means, the General Manager-Chief Engineer of the Flood Control District (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee.

“FR/CAL MV” means FR/CAL Moreno Valley, LLC, a Delaware limited liability company, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 1 of the Community Facilities District, including but not limited to the Improvement Area No. 1 Flood Control Facilities.

“FR/CAL IA” means FR/CAL Indian Avenue, LLC, a Delaware limited liability company, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 3 of the Community Facilities District, including but not limited to the Improvement Area No. 3 Flood Control Facilities.

“Funding Agreement” means “Acquisition/Financing Agreement” entered into by and among the City and the Property Owners, as originally executed or as the same may be amended from time to time in accordance with its terms; a final version of which is attached hereto and marked as Exhibit D.

“General Prevailing Wage Rates” means those rates as determined by the Director of the Department of Industrial Relations of the State.

“Hazardous Material” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State or the United States Government, including, without limitation, any material or substance which is (a) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (33 U.S.C. § 1321), (b) defined as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903), (c) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.*, (d) petroleum, or (e) asbestos.

“Improvement Area” or “Improvement Areas” means, either individually or collectively, Improvement Areas 1, 2 and/or 3, as the context would indicate, that are to be designated within the Community Facilities District.

“Improvement Area No. 1 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FR/CAL MV.

“Improvement Area No. 2 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FILP.

“Improvement Area No. 3 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FR/CAL IA.

“Joint Community Facilities Agreement” means this Joint Community Facilities Agreement, dated as of _____, by and among the City, the Flood Control District and the Property Owners, as originally executed or as the same may be amended from time to time in accordance with its terms.

“Legislative Body” means the City Council of the City acting *ex officio* as the legislative body of the Community Facilities District.

“MVU” means the City of Moreno Valley Electric Utility.

“Parcel” or **“Parcels”** means, individually or collectively, the real property identified in Exhibit A hereto.

“Payment Request” means the document to be provided by the Property Owner to the Administrator and the Flood Engineer to substantiate the Purchase Price of a Flood Control District Facility, which shall be substantially in the form of Exhibit F attached hereto.

“Plans and Specifications” mean the plans and specifications for the Flood Control Facilities prepared or to be prepared at the direction of the Property Owner pursuant to Section 4.1 hereof.

“Property” means the real property located within the Community Facilities District.

“Property Owner” means, individually, FR/CAL MV, FR/CAL IA, or FILP.

“Property Owner Representative” means the person or persons designated as such in a certificate signed by each Property Owner and delivered to the City, the Community Facilities District and the Flood Control District, which certificate shall contain an original or specimen signature of each person so designated.

“Purchase Price” means the Actual Cost or a lesser amount requested by the Property Owner.

“Rate and Method” means the adopted rate and method of apportionment of special taxes authorized to be levied within each Improvement Area of the Community Facilities District.

“Risk Manager” means the Risk Manager of the County.

“Resolution of Formation” means Resolution No. 2008-82 of the City Council of the City, adopted June 24, 2008, forming and establishing the Community Facilities District.

“State” means the State of California.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.1 Formation Proceedings. All necessary actions have been taken by the City to establish the Community Facilities District and to designate the Improvement Areas therein for the purpose of financing the acquisition or construction of certain public facilities, including the Flood Control Facilities, to authorize the levy of special taxes within each Improvement Area of the Community Facilities District pursuant to the Rate and Method for each Improvement Area, the incurrence of bonded indebtedness and to authorize the sale and issuance of the Bonds for each Improvement Area.

It is the intent of the Legislative Body to use its best efforts to cause to be sold and issued, pursuant to the terms of the Act and the applicable provisions of the Funding Agreement, Bonds for each Improvement Area in one or more series and a portion of the proceeds of which are intended to provide funds that will allow the Community Facilities District to finance the acquisition of the Flood Control Facilities. Should the Legislative Body not be able to sell and issue the Bonds, the City, the Flood Control District and the Property Owners will not be bound by the terms of this Joint Community Facilities Agreement and it shall be considered null and void by the parties to it. The City will notify all parties to this Joint Community Facilities District within fifteen (15) calendar days of the occurrence of this event.

The Property Owners acknowledge that the decision of the Legislative Body to authorize the sale and issuance of the Bonds for each Improvement Area is an exercise of the legislative discretion of the Legislative Body and that the City may not enter into a contract or obligate the Legislative Body to exercise its legislative discretion in a particular manner. This Joint Community Facilities Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the Legislative Body to authorize the sale and issuance of the Bonds for any Improvement Area.

The Legislative Body will have sole responsibility and authorization to cause the special tax to be levied and to sell and issue the Bonds, consistent with the provisions of the Act and the applicable provisions of the Funding Agreement.

Section 2.2 Flood Control District's Approval of this Joint Community Facilities Agreement. The Flood Control District's approval of this Joint Community Facilities Agreement is conditioned upon the Legislative Body authorizing the sale and issuance of the Bonds for each Improvement Area consistent with the City's policies and procedures regarding land secured financings (the "Policies") and that no waivers of the provisions of the Policies will be extended to the Property Owners or any one of them either with regard to the sale and issuance of the Bonds and that said sale and issuance of the Bonds is further conditioned as specified in the applicable provisions of the Funding Agreement.

ARTICLE III

ACQUISITION OF FLOOD CONTROL FACILITIES

Section 3.1 Responsibility for the Design, Engineering, Acquisition, and Construction of the Flood Control District Facilities. The Property Owner shall have the sole responsibility for the design, engineering, acquisition and construction of the Flood Control District Facilities. Consequently, when the term "Property Owner" is used in Article I for the definition of "Actual Costs", Article III, Article IV and Exhibit C of this Joint Community Facilities Agreement, it is understood that the term is referring to only the Property Owner, and its successors and assigns, unless the context would indicate otherwise. If the terms of Article III and IV of this Joint Community Facilities Agreement are in conflict with the terms of the Funding Agreement, this Joint Community Facilities Agreement will control.

Section 3.2 Acquisition of Flood Control District Facilities. Each Property Owner hereby agrees to transfer to the Flood Control District each of the Flood Control District Facilities, and the Community Facilities District hereby agrees to pay the Purchase Price thereof, subject to the terms and conditions hereof and the applicable Cooperative Agreement for each facility. Acceptable Title to any parcels on which any Flood Control District Facility is constructed and for which title is not presently held by the Flood Control District as well as the Flood Control District Facility financed pursuant hereto shall be transferred to the Flood Control District as of the Acceptance Date; provided, however, that notwithstanding such transfer, , the Property Owner constructing such Flood Control District Facilities shall be solely responsible for the operation and maintenance of such Flood Control District Facilities until the Acceptance Date thereof.

The Purchase Price of the Flood Control District Facilities is to be paid solely from Bond proceeds, and the Community Facilities District shall not be obligated to pay the Purchase Price of the Flood Control District Facilities except from said Bond proceeds. Neither the City, the Community Facilities District, nor the Flood Control District make any warranty, either expressed or implied, that the amount of Bond proceeds available for the payment of the Purchase Price of any Flood Control District Facility will be sufficient for such purpose.

Notwithstanding any other provision of this Joint Community Facilities Agreement, the fact that there may not be sufficient Bond proceeds available to pay the Purchase Price for one or more of the Flood Control District Facilities in an Improvement Area will not relieve the applicable Property Owner from its obligations consistent with the conditions of approval for the subdivision and development of the parcels within the applicable Improvement Area to construct the Flood Control District Facilities.

Failure of a Property Owner to comply with the terms of Articles III and IV of this Joint Community Facilities Agreement and the applicable Cooperative Agreement, will result in the Flood Control District Facilities that such Property Owner is responsible to construct not being accepted into the Flood Control District's maintained system and

such Property Owner shall not receive reimbursement from the Community Facilities District for any costs it incurs in the design, engineering, acquisition, and construction of said Flood Control District Facilities.

Section 3.3 Determination of the Purchase Price and Processing of Payment Requests. The determination of the Purchase Price and its payment shall be made consistent with the applicable provisions of this Section 3.3.

In order for the Administrator and the Flood Engineer to be able to determine the Purchase Price for a completed Flood Control District Facility, the applicable Property Owner shall deliver to both the Administrator and the Flood Engineer:

- (a) A Payment Request for said Flood Control District Facility, together with all attachments and exhibits to be included therewith;
- (b) A copy of the documents conveying or which previously conveyed to the Flood Control District Acceptable Title to the real property on, in or over which such Flood Control District Facilities are located, as described in the applicable "Cooperative Agreement" and Section 3.3 thereof;
- (c) A copy of the Notice of Completion for said Flood Control Facility that will be filed in accordance with Section 3093 of the California Civil Code, if applicable. Final lien releases addressed to the City, the Community Facilities District, and the Flood Control District must be received by the Administrator and the Flood Engineer prior to the Administrator executing the Payment Request determining the Purchase Price and authorizing payment thereof.
- (d) The applicable Property Owner's civil engineer of record or construction civil engineer of record duly registered in the State shall provide to the Flood Control District redlined "as-built" plans and profile sheets for the Flood Control Facility. After the Flood Control District's approval of the redlined "as-built" drawings, such engineer shall schedule with the Flood Control District a time to transfer the redlines onto the Flood Control District's original mylars at the Flood Control District's office, after which, said engineer shall review, stamp and sign the original mylars "As-Built."

Once the Administrator has been provided with a complete Payment Request and all other documents as required by her/him to determine the Purchase Price, the Flood Engineer will substantiate the Payment Request and provide comments and recommendations to the Administrator in the form of a written notice to the Community Facilities District as provided above.

Notwithstanding anything to the contrary contained herein, no payment of the Purchase Price of any Flood Control District Facility shall be made unless the Flood Control District has by written notice to the Community Facilities District stated that the

Flood Control District is willing to accept such Flood Control District Facility as constructed into its maintained system as of the Acceptance Date. Said notice will not be provided to the City until the following documents, as appropriate, have been provided or caused to be provided to the Flood Control District by the Property Owner which has constructed or caused the construction of such Flood Control District Facility:

- (a) Documents by which such Property Owner conveys to the Flood Control District an easement, including ingress and egress, in a form approved by the Flood Control District, for the rights of way shown in concept cross-hatched red on Exhibit B, and policies of title insurance, in an amount not less than fifty percent (50%) of the estimated fee value, as determined by the Flood Control District, for each parcel so conveyed have been provided to the Flood Control District.

Section 3.4 Dedication of Property and Easements to Flood Control District. Acceptable Title to all property not presently held by the Flood Control District on, in or over which the Flood Control District Facilities will be located shall be deeded over to Flood Control District by way of grant deed, quitclaim, or dedication of such property, or easement thereon, if such title or easement is approved by Flood Control District as being a sufficient interest therein to permit Flood Control District to properly own, operate and maintain such Flood Control District Facility located therein, thereon or thereover, and to permit each Property Owner to perform its obligations as set forth in this Joint Community Facilities Agreement.

A Property Owner shall furnish to the Flood Control District a title report for such property not previously dedicated or otherwise conveyed to the Flood Control District for review and approval at least thirty (30) calendar days prior to such Property Owner giving the notice required by Section 4.4 hereof. The Flood Control District shall approve the title report unless it reveals a matter that, in the sole judgment of the Flood Control District, could materially affect the Flood Control District's use and enjoyment of any part of the property or easement covered by the title report. In the event the Flood Control District does not approve such title report, the Flood Control District shall notify the Administrator in writing and the Flood Control District shall not be obligated to accept title to said Flood Control District Facility, and the Community Facilities District shall not be obligated to pay any portion of the Purchase Price for said Flood Control Facility until the Property Owner has cured such objections to title to the satisfaction of the Flood Control District.

Consistent with the preceding paragraph, each Property Owner shall obtain and provide to the Flood Control District duly executed irrevocable offer(s) of dedication to the public for flood control and drainage purposes, including ingress and egress, for rights of way deemed necessary by the Flood Control District for the construction, inspection, operation and maintenance of the Flood Control District Facilities to be constructed by such Property Owner as shown in concept, cross-hatched in either blue or red, on Exhibit B, which is attached hereto and by this reference incorporated herein. The irrevocable offer(s) of dedication shall be in a form approved by the Flood Control

District and shall be executed by all legal and equitable owners of the property described in the offer(s).

Section 3.5 Modifications to Flood Control District Facilities or Estimated Cost Thereof. The Administrator, Flood Control District, and the applicable Property Owner may make modifications in the description of the Flood Control District Facilities, whenever the Administrator, the Flood Engineer and Property Owner deem such modifications to be appropriate; provided, however, that any such Flood Control Facility, as so modified, must be fully functioning and capable of being used for its intended purpose and must be consistent with the description of the Flood Control Facilities in the Resolution of Formation. Any such modification shall be approved and implemented by the Administrator, on behalf of the Community Facilities District, the Flood Engineer, on behalf of the Flood Control District, and such Property Owner by executing a supplement to Exhibit C containing a description of the modified Flood Control Facility and, if applicable, the estimated cost. Upon the execution of any such supplement to Exhibit C, the description of the Flood Control Facility and, if applicable, the Estimated Cost in Exhibit C shall be deemed to have been modified in accordance therewith. Any modification made pursuant to this Section shall not be deemed to be an amendment of this Joint Community Facilities Agreement for purposes of Section 6.4 hereof. No Flood Control Facility may be deleted from or added to Exhibit C pursuant to this Section 3.5. The deletion or addition of a Flood Control Facility from Exhibit C constitutes an amendment to this Joint Community Facilities Agreement and may only be made pursuant to Section 6.4 hereof.

Section 3.6 Application of Realized Savings. If the Purchase Price determined by the Administrator and the Flood Engineer for a Flood Control District Facility to be financed from the proceeds of Bonds issued for an Improvement Area is less than the estimated cost of said Flood Control Facility, then the difference is to be identified as "savings" that are available and can be applied to increase the Purchase Price of another Flood Control Facility or other improvements the acquisition or construction of which is authorized to be funded with proceeds of the Bonds issued for such Improvement Area. The determination as to whether an adjustment to the estimated cost pursuant to this Section is to be made by the Administrator, the Flood Engineer and the applicable Property Owner and an appropriate supplement to Exhibit C is to be prepared by the initiating party and approved by the Administrator, on behalf of the Community Facilities District, the Flood Engineer on behalf of the Flood Control District and the applicable Property Owner.

ARTICLE IV

CONSTRUCTION OF THE FLOOD CONTROL FACILITIES

Section 4.1 Preparation and Approval of Plans and Specifications. To the extent that the responsible Property Owner has not already done so, it shall cause Plans and Specifications to be prepared for the Flood Control Facilities. The applicable Property Owner shall obtain the written approval of the Plans and Specifications from the Flood Engineer on behalf of the Flood Control District and from the Administrator on behalf of the City as to the City Flood Control Facilities. Approval of the Plans and Specifications will require that the Property Owner enter into a Cooperative Agreement regarding the Flood Control Facilities that Property Owner is responsible to construct improvements to develop their parcel of land. Each Property Owner shall provide a copy of all such Plans and Specifications to the Administrator and the Flood Engineer. Once the Plans and Specifications have been approved, no changes are to be made thereto without prior written consent of the Flood Control District.

The Property Owners acknowledge that the MVU has existing electric distribution infrastructure installed throughout the area adjacent to the Parcels and there could be a potential conflict between the location of such infrastructure and the proposed location of the Flood Control Facilities. The Property Owners are responsible for insuring that the design of the Flood Control Facilities does not conflict with such infrastructure and the Property Owners shall be solely responsible for the cost of the redesign and relocation of any Flood Control Facility necessitated by a conflict with such infrastructure.

Section 4.2 Duty of Property Owner to Construct. Each Property Owner shall construct or cause to be constructed the Flood Control Facilities which such Property Owner is responsible to construct in accordance with the applicable Plans and Specifications approved by the City and the Flood Control District, as applicable. Each Property Owner shall perform all of its obligations hereunder and its obligations per the Cooperative Agreement and shall conduct all operations with respect to the construction of the Flood Control Facilities which such Property Owner is responsible to construct in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Notwithstanding the foregoing, nothing set forth in this Joint Community Facilities Agreement shall be construed (i) to require any Property Owner to perform any work requiring a contractor's license, nor shall any Property Owner be deemed to be performing construction services pursuant to this Joint Community Facilities Agreement or (ii) require any Property Owner to cause any Plans and Specifications to be prepared for the Flood Control Facilities at a specific time or in a manner other than as required by the approved conditions for such entitlements granted by the City to permit the development of such Property Owner's Parcels.

Section 4.3 Bid and Construction Requirements.

(a) In order to insure that the Flood Control Facilities to be acquired with the proceeds of the Bonds are constructed as if they had been constructed under the direction and supervision, or under the authority of, the Flood Control District, so that they may be acquired pursuant to Section 53313.5 of the Code, each Property Owner or its Construction Manager shall comply with all of the requirements set forth in the Public Contract Code regarding the notice of bidding and award of contract for a public works project by a public agency, in this instance the Flood Control District.

Prior to soliciting any bids for the construction of any Flood Control Facility, the applicable Property Owner or the applicable construction manager shall submit a bid packet for review of technical specifications and compliance with the Public Contract Code, including the invitation and specifications for submitting a bid and the general and specific conditions regarding the construction of such Flood Control Facility. A copy of the bid packet, once approved, is to be provided to the Administrator. The contract for construction of any Flood Control Facilities is to be awarded to the responsible bidder submitting the lowest responsive bid after notice inviting sealed bids. The sealed bids are to be publicly solicited consistent with applicable provisions of the Public Contract Code dealing with the bidding of public works projects constructed by the Flood Control District. Public notice is to be given consistent with the Public Contract Code as to the date, time and place where bids will be opened. The Administrator and the Flood Engineer are to be provided with copies of all bids received and with a declaration stating that the solicitation of bids, the bid opening and award of bid was conducted in a manner consistent with the applicable provisions of the Public Contracts Code.

If a Property Owner intends to utilize the services of a Construction Manager in the bidding and construction of a Flood Control Facility, the Property Owner must, prior to soliciting bids for the construction of such Flood Control Facility, send a written notice to the Flood Control District and the City notifying such addressees of the name of the Construction Manager and the name, title, address, telephone number and e-mail address of the primary contact of the Construction Manager for such services.

(b) Each Property Owner shall require, and the Plans and Specifications, bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on a Flood Control Facility, as required by the California Labor Code, to pay not less than General Prevailing Wage Rates to all workers employed in the execution of the contract, to post a copy of the General Prevailing Wage Rates at the Construction Site in a conspicuous place available to all employees and applicants for employment, and to otherwise comply with applicable provisions of the California Labor Code, the California Government Code and the California Public Contracts Code relating to General Prevailing Wage Rates as required by the Plans and Specifications approved by the City and the Flood Control District. The Flood Control District has copies of tables setting forth the General Prevailing Wage Rates on file in the principal office of the Flood Control District, and are made available to each Property Owner upon request.

(c) Each Property Owner or its Construction Manager shall require each principal contractor to provide proof of insurance coverage to the Flood Engineer satisfying the requirements of Section 4.5, hereof throughout the term of the construction of such Flood Control Facilities. Rather than requiring its principal contractors to provide such insurance, the Property Owner may elect to provide the same for the benefit of its principal contractors.

(d) Each principal contractor engaged to perform work on Flood Control Facilities shall be required to furnish (i) labor and material payment bonds, and (ii) contract performance bonds, each in an amount equal to 100% of the contract price naming the applicable Property Owner, the City, the Community Facilities District and the Flood Control District as obligees and issued by a California admitted surety having a current A.M. Best A:VIII (A:8) rating or with an admitted surety insurer which complies with the provisions of Section 995.660 of the California Code of Civil Procedure. The Risk Manager of the County of Riverside, in his/her sole discretion, may accept a California admitted surety having a lower A.M. Best rating. All such bonds shall be in a form as shown in Exhibit E. The bonds tendered pursuant to this sub-section are to be accepted and held by the City.

(e) Each Property Owner or its Construction Manager shall comply, and shall cause each contractor, subcontractor, vendor, equipment operator and owner operator, in each such case to the extent such individual or entity is engaged to perform work on the Flood Control Facilities, to comply, with such other requirements relating to the construction of the Flood Control Facilities as the Flood Control District may impose by written notification delivered to such Property Owner, to the extent legally required as a result of changes in applicable federal, State or County laws, rules or procedures.

(f) Each Property Owner or its Construction Manager shall require, and the Plans and Specifications, and bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on the Flood Control Facilities, to submit certified weekly payroll records or other proof of payment of General Prevailing Wage Rates to the Property Owner or its Construction Manager for inspection by the Flood Control District, and to furnish certified payroll records or such other proof of payment of General Prevailing Wage Rates to the Flood Control District promptly upon request.

(g) All change orders shall be reviewed and, if appropriate, approved by the City and the Flood Engineer for the purpose of ensuring that they comply with Flood Control District standards, such review and approval shall not be unreasonably withheld. Notwithstanding the foregoing, in order for a change order to be accepted as an eligible element of the Purchase Price of the Flood Control Facilities, the provisions of Sections 3.5 and 3.6 hereof shall first be satisfied.

(h) Each Property Owner shall provide proof to the Administrator and the Flood Engineer, at such intervals and in such form as the Flood Engineer may require,

that the foregoing requirements have been satisfied as to all of the Flood Control Facilities to be constructed by such Property Owner.

(i) Each Property Owner has deposited with the County \$4,000 to cover the anticipated costs, deemed necessary and reasonable, associated with the review and approval of the Plans and Specifications for the respective Improvement Area, the review and approval of right of way and conveyance documents for the respective Improvement Area and with the processing and administration of this Joint Community Facilities Agreement. Each Property Owner, within thirty (30) days after receipt of an additional billing for such costs, will forward the billed amount to the Flood Control District. It is agreed that all costs incurred by the Flood Control District associated with inspecting a Flood Control Facility will be the responsibility of the Property Owner as described in details in the applicable Cooperative Agreement.

Section 4.4 Notice of Intent to Commence Construction. The Property Owner is to provide to the Administrator and the Flood Engineer a copy of each "Notice to Commence Construction" as prepared by the Property Owner consistent with the terms of the applicable "Cooperative Agreement" and a copy of each "Notice to Proceed" as issued by the Flood Control District pursuant to the terms of the "Cooperative Agreement"

Section 4.5 Insurance Requirements. Without limiting or diminishing a Property Owner's obligation to indemnify or hold the Flood Control District, Community Facilities District and the City harmless pursuant to Section 5.4 hereof, each Property Owner shall procure and maintain or cause to be maintained, at its sole cost and expense the following insurance coverages, or alternate coverages acceptable to the Risk Manager, during the term of this Joint Community Facilities Agreement and expires for any Improvement Area at the time the Flood Control District or the City, as applicable, accepts the constructed Flood Control Facilities for that Improvement Area into its maintained system:

(a) *Commercial General Liability:* Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations, explosion, collapse, use of cranes, and other heavy equipment and underground hazards, personal and advertising injury covering claims which may arise from or out of such Property Owner's performance of its obligations hereunder. Policy shall name by endorsement the Flood Control District, the Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit.

(b) *Vehicle Liability:* Such Property Owner shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than

\$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit. Policy shall name by endorsement the Flood Control District, Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as Additional Insureds.

(c) *Worker's Compensation Insurance:* Such Property Owner shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the Flood Control District, the Community Facilities District, the City; and if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

General Insurance Provisions - all lines:

(i) Any insurance carrier providing insurance coverage hereunder shall be licensed to do business in the State of California and have an A.M. Best rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the Flood Control District's Risk Manager.

(ii) Each Property Owner's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the Risk Manager before the commencement of operations under this Joint Community Facilities Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the Flood Control District, at the election of the Risk Manager, such Property Owner's carriers shall either: (A) reduce or eliminate such deductibles or self-insured retentions as respects this Agreement with the Flood Control District, or (B) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(iii) Each Property Owner shall cause its insurance carrier(s) to furnish the Flood Control District with (A) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; or (B) evidence of coverage acceptable to the Risk Manager that may include original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect.

(iv) Further, said certificate(s) and endorsements to policies of insurance shall contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (60) days written notice be given to the Flood Control District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation or coverage, this Joint Community Facilities Agreement shall terminate forthwith as to the Property Owner providing such policies of insurance,

unless the Flood Control District receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so, on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

(v) ***No Property Owner shall commence construction of Flood Control Facilities until the Flood Control District has been furnished either original certificate(s) of insurance and certified original copies of endorsements, policies of insurance including all endorsements and any and all other attachments as required in this Section, or other evidence of coverage acceptable to the Risk Manager.***

(vi) It is understood and agreed by the parties hereto and each Property Owner's insurance company(s) that the certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, the City, and the Flood Control District's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(vii) Each Property Owner, its Construction Manager, if any, and its contractors may pass down the insurance obligations contained herein to all tiers of subcontractors working under this Joint Community Facilities Agreement in order to meet the requirements herein. In addition, each Property Owner or its Construction Manager will require all such subcontractors to name on their insurance policies by endorsement the Flood Control District, Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Copies of such certificates and endorsements shall be provided to the Flood Control District and the City. The minimum limits of liability required of all tiers of subcontractors are \$1,000,000 Combined Single Limit for Commercial General Liability and \$1,000,000 Combined Single Limit for Vehicle Liability Insurance.

Section 4.6 Ownership of Flood Control District Facilities.

(a) Notwithstanding the fact that some or all of the Flood Control District Facilities may be constructed in dedicated street rights of way or on property which is owned by or has been or will be dedicated to the Flood Control District, Flood Control District Facilities constructed by a Property Owner shall be and remain the property of such Property Owner until Acceptable Title to parcels not owned by the Flood Control District is conveyed to the Flood Control District, as appropriate, as provided herein. Ownership of said parcels by such Property Owner or other third parties shall likewise not be affected by any agreement that such Property Owner may have entered into or may enter into with the Flood Control District pursuant to the provisions of the Subdivision Map Act, Section 66410 *et seq.* of the Code, and the provisions of this Section shall control.

(b) As of the Acceptance Date by the Flood Control District for a Flood Control District Facility, the City is to own, maintain and operate the appurtenant City Flood Control Facilities that have been identified on the approved drainage plans, pursuant to the applicable Cooperative Agreement, as drainage facilities within those street rights-of-way in which said Flood Control Facilities are located. The City, by execution of this Joint Community Facilities Agreement, grants to the applicable Property Owner the right to construct the Flood Control Facilities and to the Flood Control District the right to inspect, operate and maintain the Flood Control District Facilities located within those City rights-of-way in which such Flood Control District Facilities are located.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

Section 5.1 Representations, Warranties and Covenants of the Property Owners. Each Property Owner makes the following representations, warranties and covenants for the benefit of the Flood Control District, the City and the Community Facilities District as of the date hereof:

(a) Organization. Such Property Owner represents and warrants that such Property Owner is a limited liability company (or, in the case of FILP, a limited partnership) duly organized and validly existing under the laws of the State of Delaware, is in good standing under the laws of such state, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(b) Authority. Such Property Owner represents and warrants that such Property Owner has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of such Property Owner.

(c) Binding Obligation. Such Property Owner represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of such Property Owner and is enforceable against such Property Owner in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) Completion of Flood Control Facilities. Such Property Owner covenants that it will use its reasonable and diligent efforts to do all things that may be lawfully required of it in order to cause the Flood Control Facilities which such Property Owner is responsible to construct to be completed in accordance with this Joint Community Facilities Agreement.

(e) Compliance with Laws. Such Property Owner covenants that, while any Flood Control Facilities are owned by such Property Owner or required pursuant to this Joint Community Facilities Agreement to be maintained by such Property Owner, it will not commit, suffer or permit any of its agents, employees or contractors to commit any act to be done in, upon or to such Flood Control Facilities in violation in any material respect of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting such Flood Control Facilities.

(f) Payment Requests. Such Property Owner represents and warrants that (i) it will not request payment from the Community Facilities District under this Joint Community Facilities Agreement for the acquisition of any improvements that are not part of a Flood Control District Facility, and (ii) it will diligently follow all procedures set forth in this Joint Community Facilities Agreement.

(g) Financial Records. Until the final Acceptance Date of all Flood Control Facilities, such Property Owner covenants to maintain proper books of record and account for the Flood Control Facilities and all costs related thereto. Such Property Owner covenants that such accounting books will be maintained in accordance with generally accepted accounting principles, and will be available for inspection by the Community Facilities District, the Flood Control District and the City, and their respective agents, at any reasonable time during regular business hours on two Business Days' prior written notice, subject to mutually acceptable arrangements regarding the confidentiality of proprietary data.

(h) Hazardous Materials. Such Property Owner represents and warrants that neither such Property Owner, nor any subcontractor, agent or employee thereof will use, generate, manufacture, procure, store, release, discharge or dispose of any Hazardous Material on, under or about the Construction Site or the Flood Control Facilities which such Property Owner is responsible to construct or transport any Hazardous Material to or from the Construction Site or such Flood Control Facilities in violation of any federal, state or local law, ordinance, regulation, rule, decision or policy statement regulating Hazardous Material.

(i) Permits. Such Property Owner covenants that it will pursue in a commercially reasonable manner all governmental or other permits or licenses required to proceed with the construction of the Flood Control Facilities which such Property Owner is responsible to construct and that it will pay all fees relating thereto. Such Property Owner represents and warrants that to the best of such Property Owner's knowledge, as of the date hereof, there is no material legal impediment to such Property Owner's proceeding with and completing the construction of such Flood Control Facilities or to the development of the Construction Site as contemplated by such Property Owner, except for government or other permits to be obtained.

(j) Environmental Matters. Such Property Owner represents and warrants that it has complied with, or has caused compliance with, CEQA as required for the construction of the Flood Control Facilities which such Property Owner is responsible to construct and their conveyance to the Flood Control District.

Section 5.2 Representations, Warranties and Covenants of the City. The City makes the following representations, warranties and covenants for the benefit of the Flood Control District and the Property Owners:

(a) Authority. The City represents and warrants that the City has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the City.

(b) Binding Obligation. The City represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the City and is enforceable against the City in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(c) Payment Requests for the Flood Control District Facilities. The City represents and warrants that the City will follow all procedures set forth in this Joint Community Facilities Agreement.

(d) Financial Records. Until the final Acceptance Date, the City covenants to maintain, or cause to be maintained, proper books of record and account for the Special Taxes and the Bonds. The City covenants that such accounting books will be maintained in accordance with generally accepted accounting principles applicable to governmental entities, and will be available for inspection by the Property Owners and their agents at any reasonable time during regular business hours on two Business Days prior written notice.

Section 5.3 Representations, Warranties and Covenants of Flood Control District. Flood Control District makes the following representations, warranties and covenants for the benefit of the City and the Property Owners:

(a) Authority. Flood Control District represents and warrants that Flood Control District has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of Flood Control District.

(b) Binding Obligation. Flood Control District represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of Flood Control District and is enforceable against Flood Control District in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

Section 5.4 Indemnification. Each Property Owner, with regard to its respective responsibilities and obligations under this Joint Community Facilities Agreement, agrees to protect, indemnify, defend and hold the City, the Community Facilities District, the Flood Control District, and their respective directors, officers,

Board of Supervisors, City Council, Legislative Body, elected officials, employees, representatives and agents, and each of them (each, an "Indemnified Party" and, collectively, the Indemnified Parties), harmless from and against any and all claims, liabilities, losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs which the Indemnified Parties or any Indemnified Party, or any combination thereof, may suffer or which may be sought against or recovered or obtained from the Indemnified Parties or any Indemnified Party, or any combination thereof, as a result of or by reason of or arising out of or in consequence of (a) the acquisition, construction, installation or financing of the Flood Control Facilities, (b) an assertion, pursuant to Article I, section 19 of the California Constitution, the Fifth or Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seek to impose any other liability or damage whatsoever, for the design, construction, or failure of the Flood Control Facilities or from the diversion of the waters from their natural drainage patterns, (c) the untruth or inaccuracy of any representation or warranty made by such Property Owner in this Joint Community Facilities Agreement or in any certifications delivered by such Property Owner hereunder, or (d) any act or omission of such Property Owner or any of its subcontractors, or their respective officers, employees or agents, in connection with the Flood Control Facilities. If such Property Owner fails to do so, the Indemnified Parties shall have the right, but not the obligation, to defend the same and charge all of the direct and actual costs of such defense, including reasonable attorneys' fees or court costs, to and recover the same from such Property Owner.

No indemnification is required to be paid by any Property Owner as to an Indemnified Party for any claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs (a) arising directly from the willful misconduct or sole or active negligence of that Indemnified Parties or (b) arising from the use or operation of a Flood Control Facility after the Acceptance Date of the Flood Control Facility, unless such claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs results from the defective or improper design, construction or installation of such Flood Control Facility by such Property Owner or its contractors, subcontractors, or respective officers, employees or agents.

The provisions of this Section shall survive the termination of this Joint Community Facilities Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Property Owners as Independent Contractors. In performing under this Joint Community Facilities Agreement, it is mutually understood that each Property Owner is acting as an independent contractor, and not as an agent of the City, the Community Facilities District or the Flood Control District. Neither the City nor the Flood Control District shall have any responsibility for payment to any contractor, subcontractor or supplier of such Property Owner. The Community Facilities District shall not have any responsibility for payment to any contractor, subcontractor or supplier of such Property Owner unless such entity or individual is specifically listed as a payee on a Payment Request submitted by such Property Owner pursuant to the Joint Community Facilities Agreement in which case the Community Facilities District shall only be responsible for making such payment only if such Payment Request is approved pursuant to the provisions of this Joint Community Facilities Agreement and solely from available proceeds of the Bonds.

Section 6.2 Other Agreements. Nothing contained herein shall be construed as affecting the Flood Control District or any Property Owner's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the property within the applicable Improvement Area, which obligations are and shall remain independent of such Property Owner's rights and obligations, and the Flood Control District's rights and obligations, under this Joint Community Facilities Agreement; provided, however, that such Property Owner shall use its reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the acquisition, construction and installation of the Flood Control District Facilities.

The payment for the City Flood Control Facilities shall be governed by the Funding Agreement.

Section 6.3 Binding on Successors and Assigns. Neither this Joint Community Facilities Agreement nor the duties and obligations of any Property Owner hereunder may be assigned to any person or legal entity other than an affiliate of such Property Owner without the written consent of the City, the Community Facilities District and the Flood Control District, which consent shall not be unreasonably withheld or delayed. Neither this Joint Community Facilities Agreement nor the duties and obligations of the City, the Flood Control District or the Community Facilities District hereunder may be assigned to any person or legal entity, without the written consent of the Property Owners, which consent shall not be unreasonably withheld or delayed. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted assigns, and successors-in-interest of the parties hereto.

Section 6.4 Amendments. This Joint Community Facilities Agreement can only be amended by an instrument in writing executed and delivered by the City, the Community Facilities District, the Flood Control District and the Property Owners.

Section 6.5 Waivers. No waiver of, or consent with respect to, any provision of this Joint Community Facilities Agreement by a party hereto shall in any event be effective unless the same shall be in writing and signed by such party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

Section 6.6 No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Joint Community Facilities Agreement (either express or implied) is intended to confer upon any person or entity, other than the City, the Community Facilities District, the Flood Control District and the Property Owners (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Joint Community Facilities Agreement.

Section 6.7 Notices. Any written notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely

Flood Control District: Riverside County Flood Control and
Water Conservation District
Attn: Administrative Services
1995 Market Street
Riverside, California 92501
Telephone: (951) 955-1200
Fax: (951) 788-9965

City and Community
Facilities District: City of Moreno Valley
Public Works Department, Special Districts
Division
14325 Frederick Street, Suite 9
Moreno Valley, California 92553
Attention: Special Districts Division Manager
Telephone: (951) 413-3489
Fax: (951) 413-3498

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92553
Attention: City Attorney
Telephone: (951) 413-3036
Fax: (951) 413-3034

Property Owners: c/o First Industrial Realty Trust, Inc.
114 Pacifica Court, Suite 220
Irvine, California 92618
Attention: Phil Bowman
Telephone: (949) 486-1970
Fax: (949) 486-1971

With a copy to: Barack Ferrazzano Kirschbaum Perlman &
Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, Illinois 60606
Attention: Brett A. Feinberg
Telephone: (312) 629-5168
Fax: (312) 984-3150

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of a document confirming satisfactory transmission, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 6.8 Jurisdiction and Venue. Each of the City, the Community Facilities District, the Flood Control District and the Property Owners (a) agrees that any suit action or other legal proceeding arising out of or relating to this Joint Community Facilities Agreement shall be brought in state or local court in the County of Riverside or in the Courts of the United States of America in the district in which said County is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the City, the Community Facilities District, the Flood Control District and the Property Owners agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 6.9 Attorneys' Fees. If any action is instituted to interpret or enforce any of the provisions of this Joint Community Facilities Agreement, the party prevailing in such action shall be entitled to recover from the other party thereto reasonable attorneys' fees and costs of such suit (including both prejudgment and postjudgment fees and costs) as determined by the court as part of the judgment.

Section 6.10 Governing Law. This Joint Community Facilities Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State.

Section 6.11 Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

Section 6.12 Counterparts. This Joint Community Facilities Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 6.13 Interpretation. The parties to this Joint Community Facilities Agreement and their counsel have reviewed and revised this Joint Community Facilities Agreement, and the normal rule of construction to the effect that any ambiguities in an agreement are to be resolved against the drafting parties shall not be employed in the interpretation of this Joint Community Facilities Agreement.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Joint Community Facilities Agreement as of the day and year first hereinabove written.

CITY OF MORENO VALLEY

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

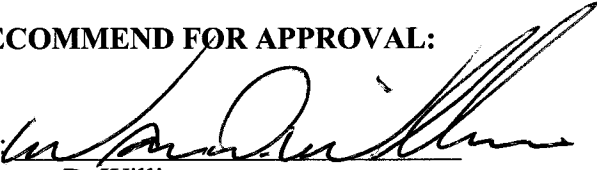
By: _____
Richard A. Stewart, Mayor

By: _____
Marion Ashley, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

ATTEST:

RECOMMEND FOR APPROVAL:

By: _____
Jane Halstead, City Clerk

By: 
Warren D. Williams
General Manager-Chief Engineer
Riverside County Flood Control and Water Conservation District

(Seal)

APPROVED AS TO FORM:

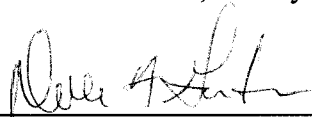
ATTEST:
KEISHA HARPER-IHEM,
Clerk of the Board of Supervisors

By: _____
Warren Diven, Best Best & Krieger LLP

By: _____
, Deputy Clerk

(Seal)

APPROVED AS TO FORM:
PAMELA J. WALLS, County Counsel

By: 
Dale A. Gardner Deputy County Counsel

FR/CAL MORENO VALLEY, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC
a Delaware limited liability company,
its sole member

By: FR First Cal, LLC,
a Delaware limited liability company,
its managing member

By: First Industrial Investment, Inc., a
Maryland corporation
its sole member

By: 
Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

FIRST INDUSTRIAL, LP,
a Delaware limited partnership

By: First Industrial Realty Trust, Inc., a
Maryland corporation, its sole general
partner

By: 
Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

STATE OF CALIFORNIA

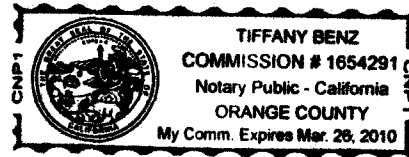
COUNTY OF ORANGE

On August 18, 2009 before me, Tiffany Benz, a Notary Public personally appeared Matt Englard, 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 Tiffany Benz



STATE OF CALIFORNIA

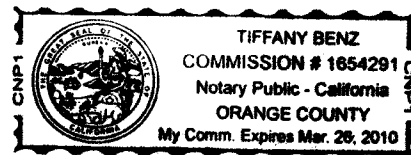
COUNTY OF ORANGE

On August 18, 2009 before me, Tiffany Benz, a Notary Public personally appeared Matt Englard, 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 Tiffany Benz



FR/CAL INDIAN AVENUE, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC
a Delaware limited liability company,
its sole member

By: FR First Cal, LLC,
a Delaware limited liability company,
its managing member

By: First Industrial Investment, Inc.,
a Maryland corporation
its sole member

By:  _____

Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

STATE OF CALIFORNIA

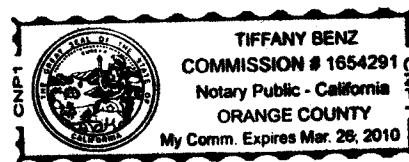
COUNTY OF ORANGE

On August 18, 2009 before me, Tiffany Benz, a Notary Public personally appeared Matt Enghard, 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 Tiffany Benz



CERTIFICATE OF AUTHORITY
FIRST INDUSTRIAL REALTY TRUST, INC.
FIRST INDUSTRIAL INVESTMENT, INC.


I, JOHN H. CLAYTON, do hereby certify that as of the date hereof:

1. I am the duly elected and incumbent Secretary of First Industrial Realty Trust, Inc., a Maryland corporation (the "Corporation") and First Industrial Investment, Inc. (f/k/a First Industrial Development Services, Inc.), a Maryland corporation ("FIDS"), and as such officer I am authorized to make the certifications herein made.
2. The Corporation is the sole general partner of First Industrial, L.P. ("FILP"); FILP is the sole stockholder of FIDS; FIDS is the sole member of FR FirstCal, LLC ("FRFC"); FRFC is the managing member of FirstCal Industrial, LLC ("FirstCal"); and FirstCal is the sole member of the limited liability companies listed on Exhibit A hereto (the "LLCs"). Accordingly, the Corporation, through FILP, FIDS, FRFC and FirstCal, has the authority to cause each of the LLCs to enter into any and all documents and agreements in connection with development of and improvements to be made on or about to the properties owned by the LLCs and listed opposite their names on Exhibit A hereto, including, without limitation a certain Comprehensive Application for Development Review and Land Use Approval (such documents or agreements, the "Agreements").
3. The following are duly authorized signatories of the Corporation and its subsidiaries, including, without limitation, FirstCal and the LLCs, with full authority to execute the Agreements and any documents ancillary thereto:

<u>Title</u>	<u>Name</u>
Senior VP Development	Phil Bowman
Regional Development Officer	Matt Enghard

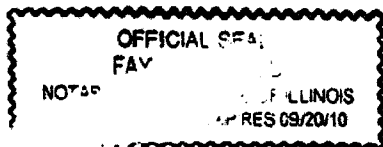
IN WITNESS WHEREOF, I have signed this Certificate this 16th day of April 2008.


Sworn to and subscribed before
me this 16th day of April 2008.



Notary Public

My Commission Expires:





John H. Clayton, Secretary



SCHEDULE A

<u>ENTITY</u>	<u>PROPERTY NO.</u>	<u>PROPERTY NAME</u>
FR/CAL Beech Avenue, LLC	88080	First Park Beech Avenue, or Beech Avenue Business Park
FR/CAL Indian Avenue, LLC	88109	First Park Indian Street, or Indian Business Park
FR/CAL Moreno Valley, LLC	88149, 88084	First Park Nandina I and II or Nandina Distribution Center-Buildings A and B
First Industrial, L.P.	13002	First Park Nandina III and IV, or Nandina Distribution Center III and IV
FR/CAL Perris , LLC	88041	First Park Perris Ranch I, or Perris Ranch Phase I
FR/CAL Perris II, LLC	88062	First Park Perris Ranch II, or Perris Ranch Phase II
FR/CAL Rider Street, LLC	88076	First Park Rider Street, or Rider Distribution Center I
FR/CAL Perris Channel, LLC	88146	First Park Rider Street, Building Two, or Rider Distribution Center II, or Jordan Distribution Center
FR/CAL Redlands, LLC	88165	First Park Rider Street, Building Three, or Rider Distribution Center III, or Rider-Alere
FR/CAL Ellis, LLC	88161	First Park South I-215, or South I-215 Industrial Park, or Ellis Business Park, or New Perris, or Feuerstein
FR/CAL Goetz Road, LLC	88125	First Park South Perris, or South Perris Distribution Center, or Hadra
FR/CAL Goetz, LLC	88095	First Perris Airport Distribution Center, or Airport Distribution Center, or Lopez Land

EXHIBIT A

MAP OF THE PROPERTY

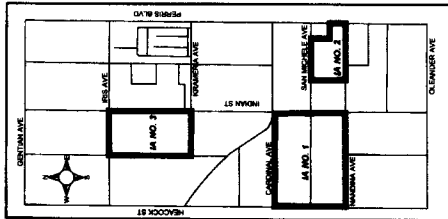
PM 35150: APN's 316-180-002Sheet 1
316-180-003
316-180-005
316-180-006
316-180-008
316-180-009

TPM 35859: APN's 316-200-003.....Sheet 2
316-200-009
316-200-010
316-200-011
316-200-012
316-200-013
316-200-014
316-200-018
316-200-028
316-200-029

PM 35672: APN's 316-020-002.....Sheet 3
316-020-003
316-020-004
316-020-005
316-020-012
316-020-013
316-020-014
316-020-015
316-020-016
316-020-017
316-020-018
316-020-019

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



VICINITY MAP

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	316-170-001
2	316-170-002
3	316-170-003
4	316-170-004
5	316-170-005
6	316-170-006
7	316-170-007
8	316-170-008
9	316-170-009
10	316-170-010
11	316-180-001
12	316-180-002
13	316-180-003
14	316-180-004
15	316-180-010

LEGEND FOR SHEET 1

IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY

MAP REFERENCE NUMBER

ZONE 1

ZONE 2

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 24 DAY OF MAY 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE 14 DAY OF MAY 2008, BY ITS RESOLUTION NO. 08-1-30.

[Signature]
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS CERTIFICATE

FILED THIS 16TH DAY OF MAY 2008, AT THE HOUR OF 8 O'CLOCK A.M. IN BOOK 73 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS (PARCELS) IA-5 IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEE \$ 13.00

INSTRUMENT NO. 2008-0265595

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

[Signature]
BY DEPUTY COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

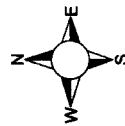
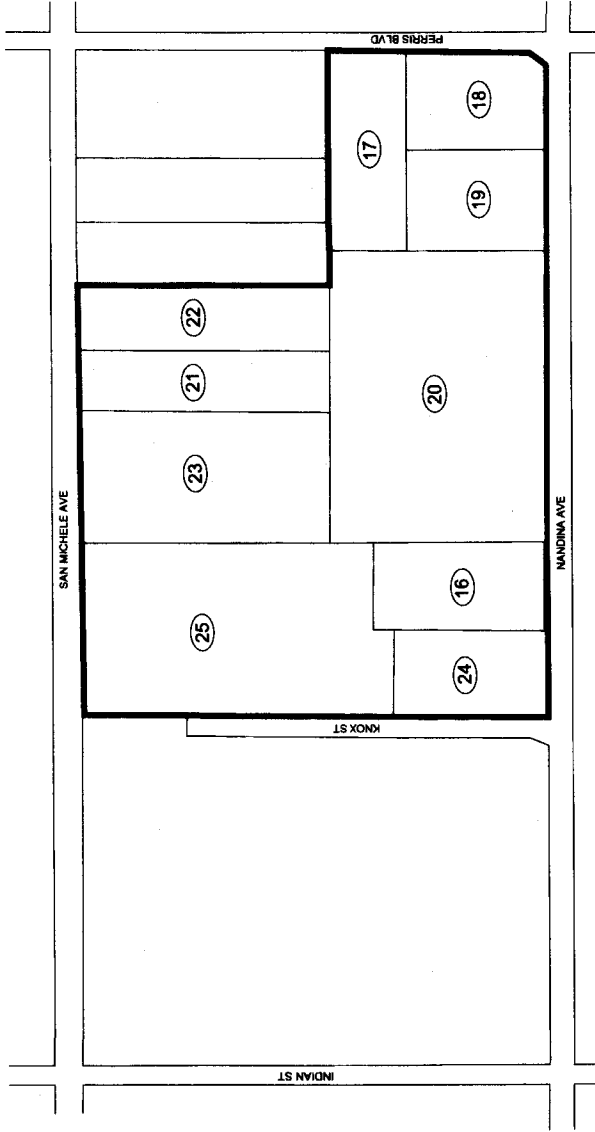


MuniFinancial

12000 N. Main Street
P.O. Box 1000
Riverside, CA 92504
Phone (951) 507-5800 Fax (951) 507-6800

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 2

IMPROVEMENT AREA NO. 2 (A NO. 2) BOUNDARY

MAP REFERENCE NUMBER



MAP REF. NO.	ASSESSOR'S PARCEL NO.
16	318-200-003
17	318-200-008
18	318-200-010
19	318-200-011
20	318-200-012
21	318-200-013
22	318-200-014
23	318-200-018
24	318-200-028
25	318-200-029

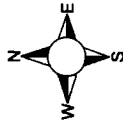


MuniFinancial

1000 J St., Suite 200
Moreno Valley, CA 92553
Phone: (951) 997-5000 Fax: (951) 997-5010

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

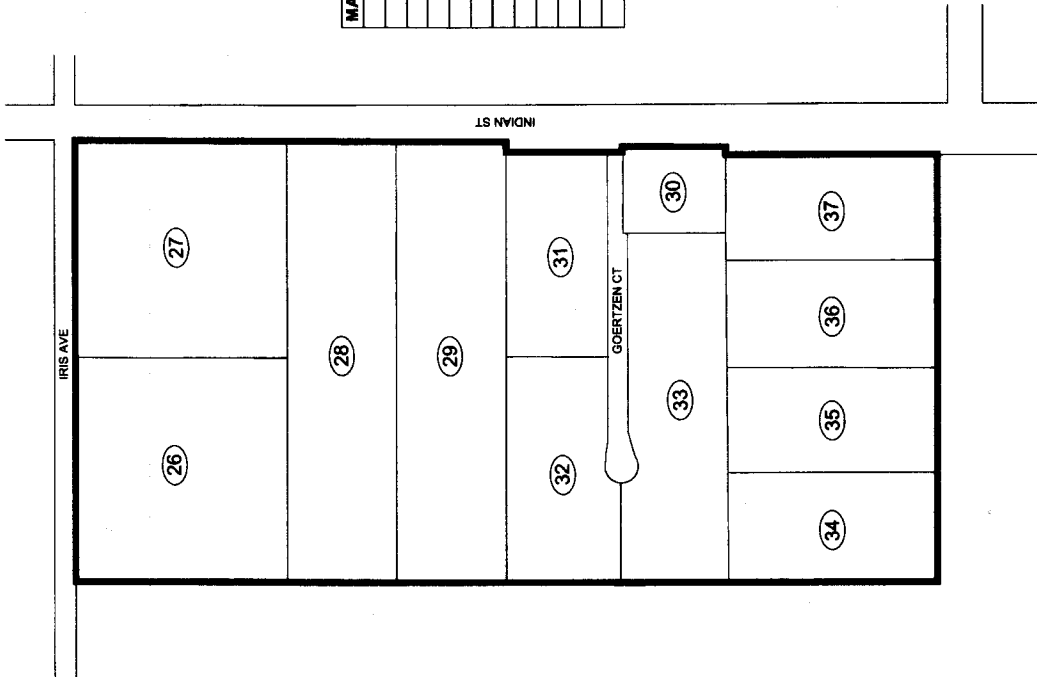
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 3

— IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY

① MAP REFERENCE NUMBER



MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019



MuniFinancial
 1000 N. Main Street
 Suite 100
 Fullerton, CA 92631
 Phone: (714) 991-3300 Fax: (714) 991-3300

EXHIBIT B

Flood Control Facilities Diagram

[Provided by Engineer per Flood Control District Specifications]

EXHIBIT B
Facilities Diagrams

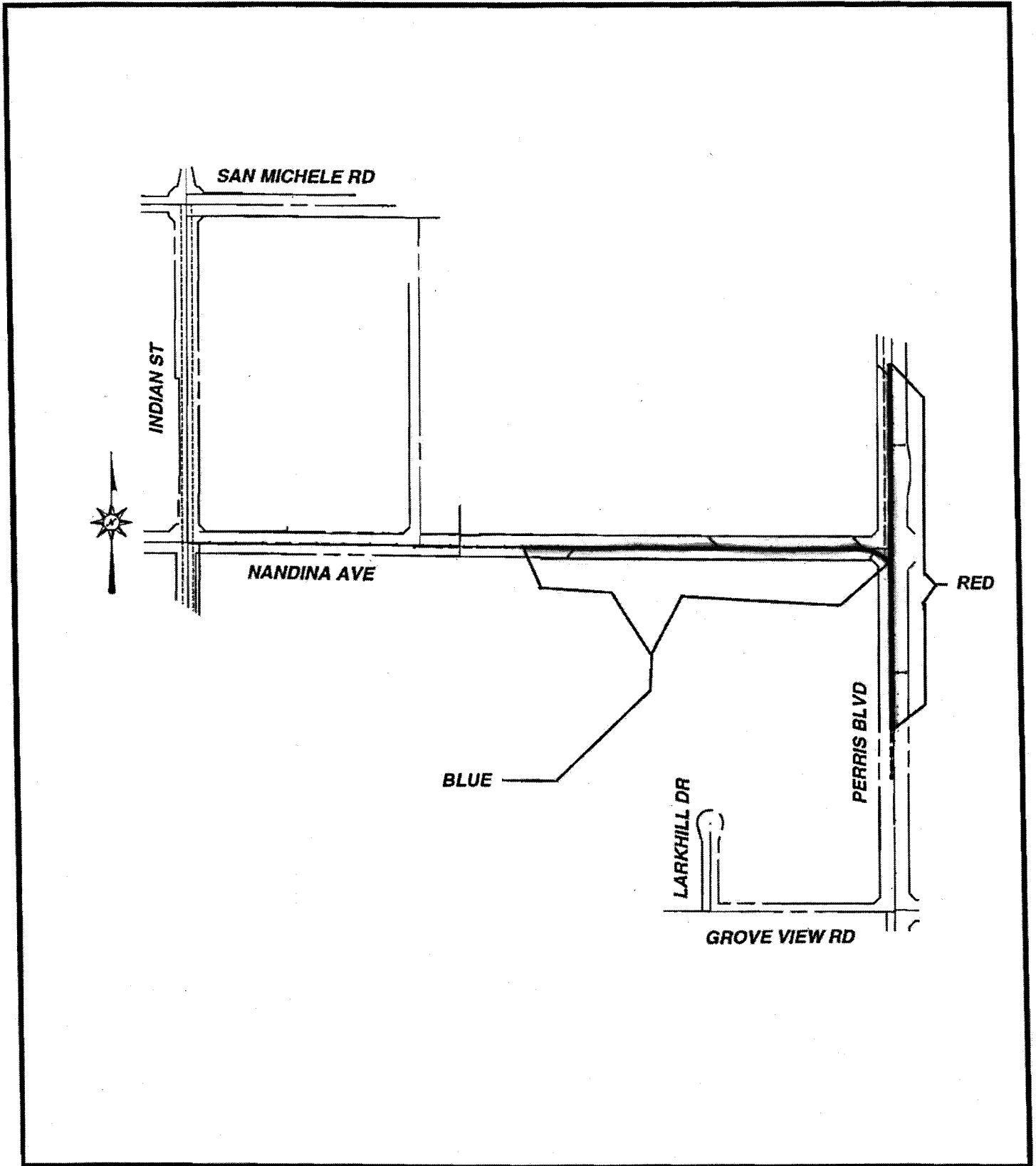


EXHIBIT B
Facilities Diagrams

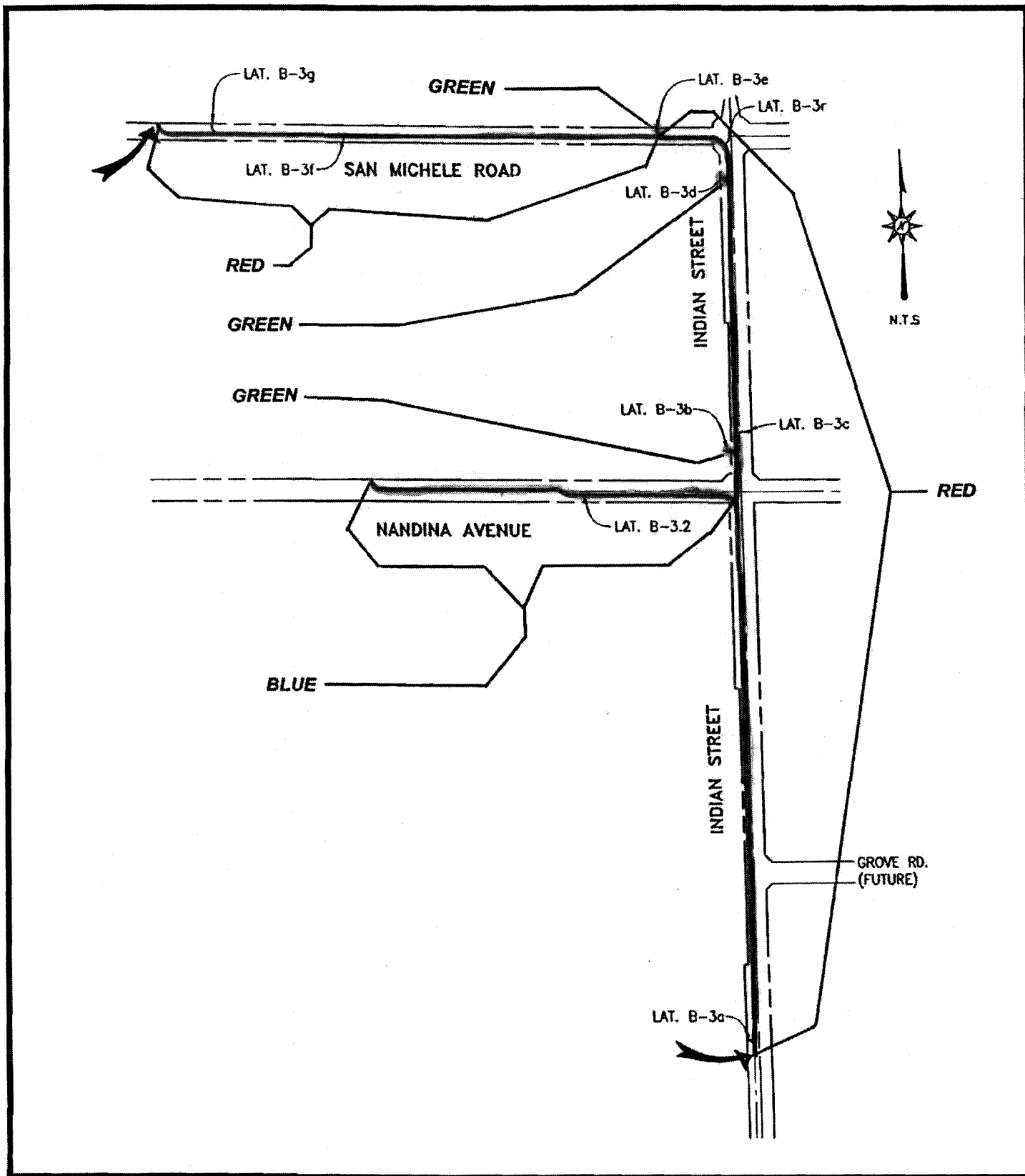


EXHIBIT B
Facilities Diagrams

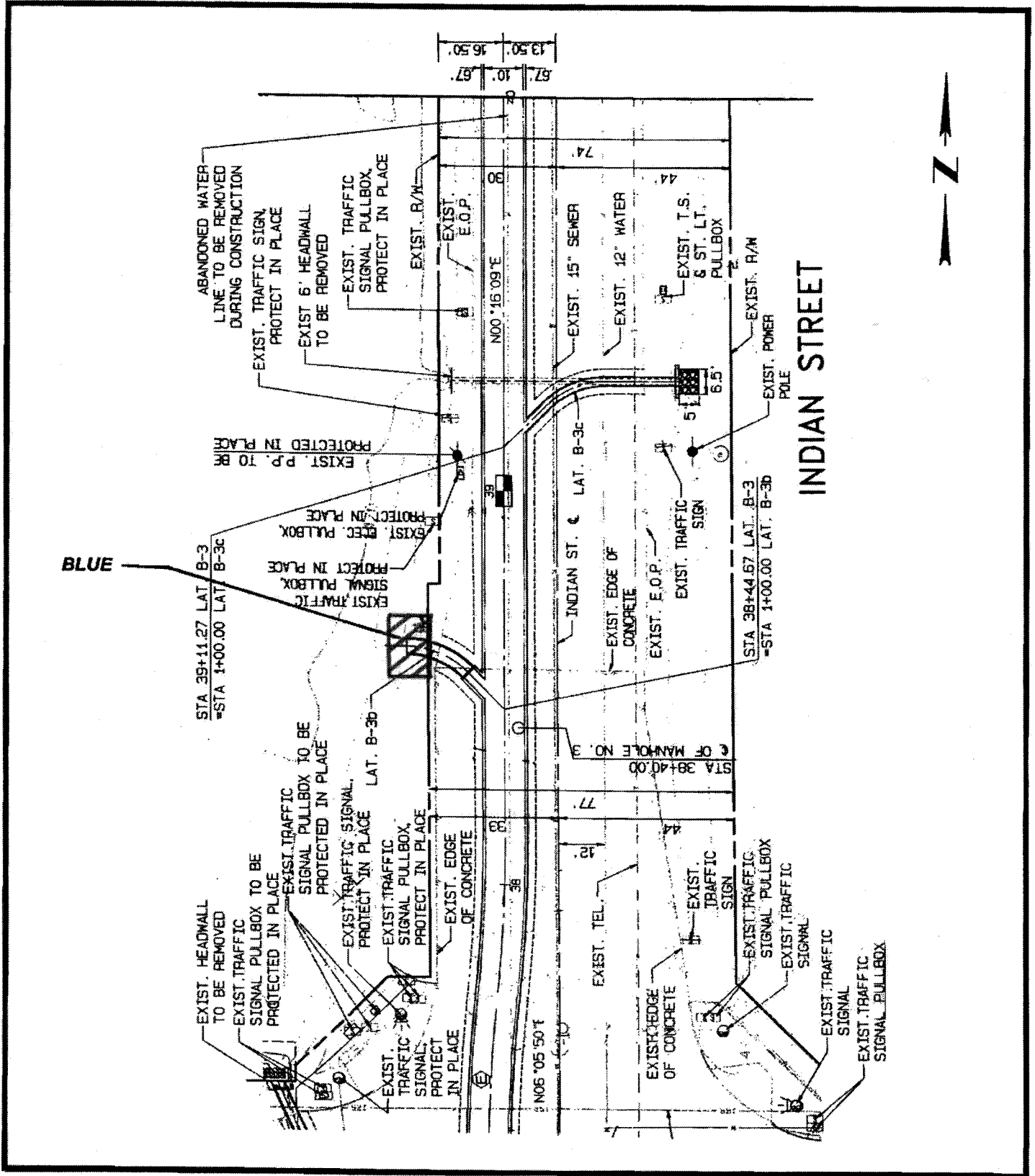


EXHIBIT B
Facilities Diagrams

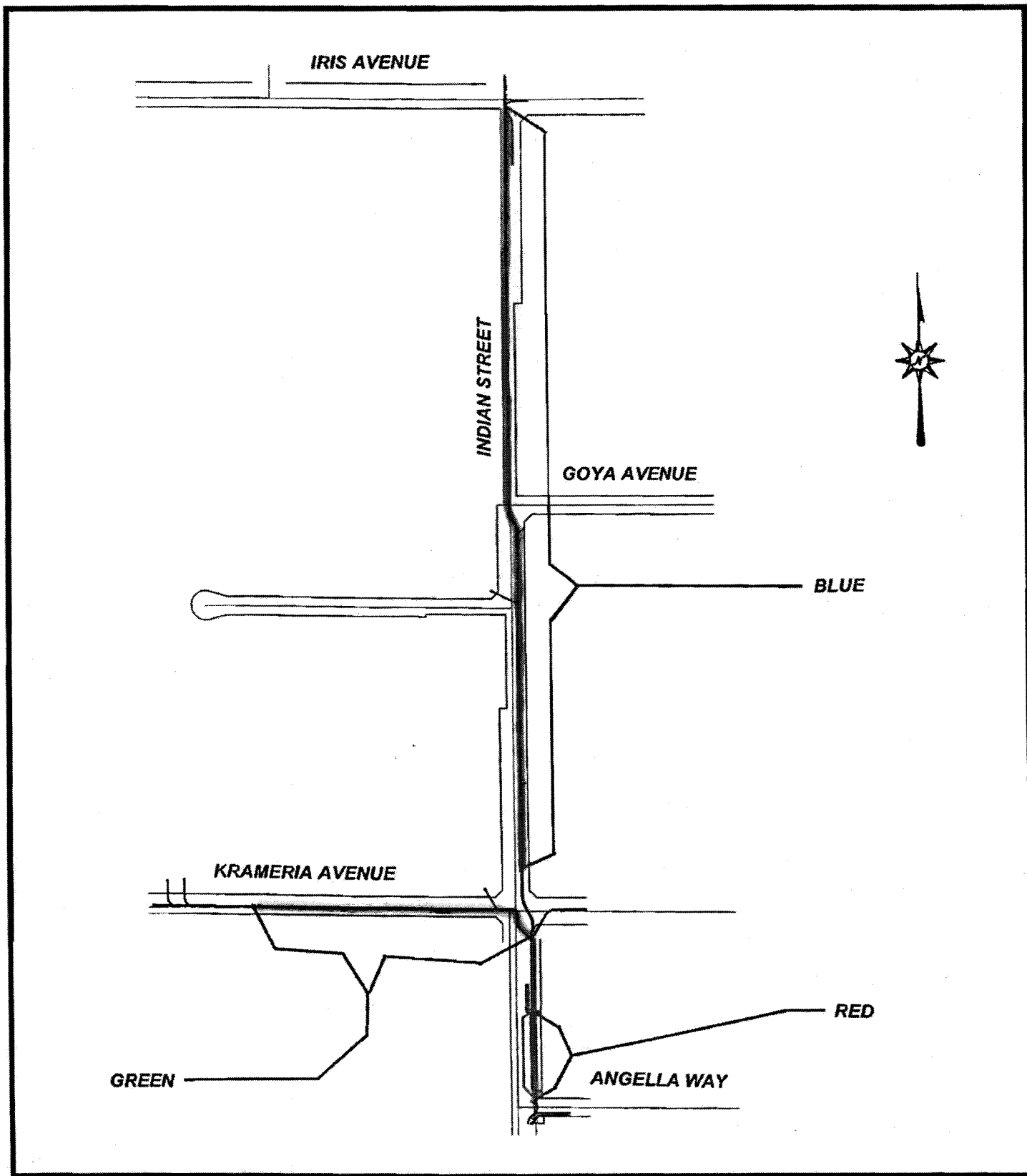


EXHIBIT B
Facilities Diagrams

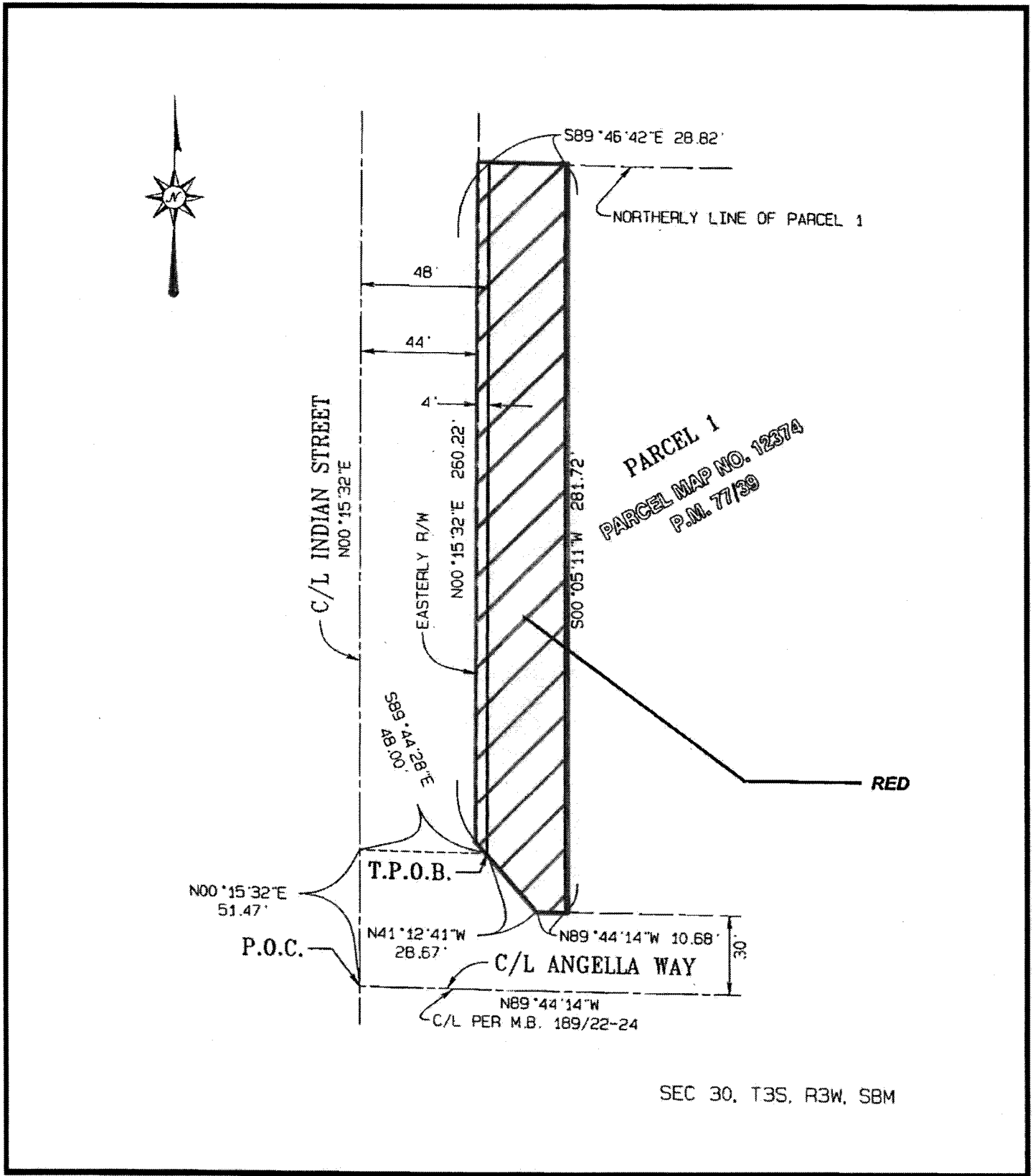


EXHIBIT B
Facilities Diagrams

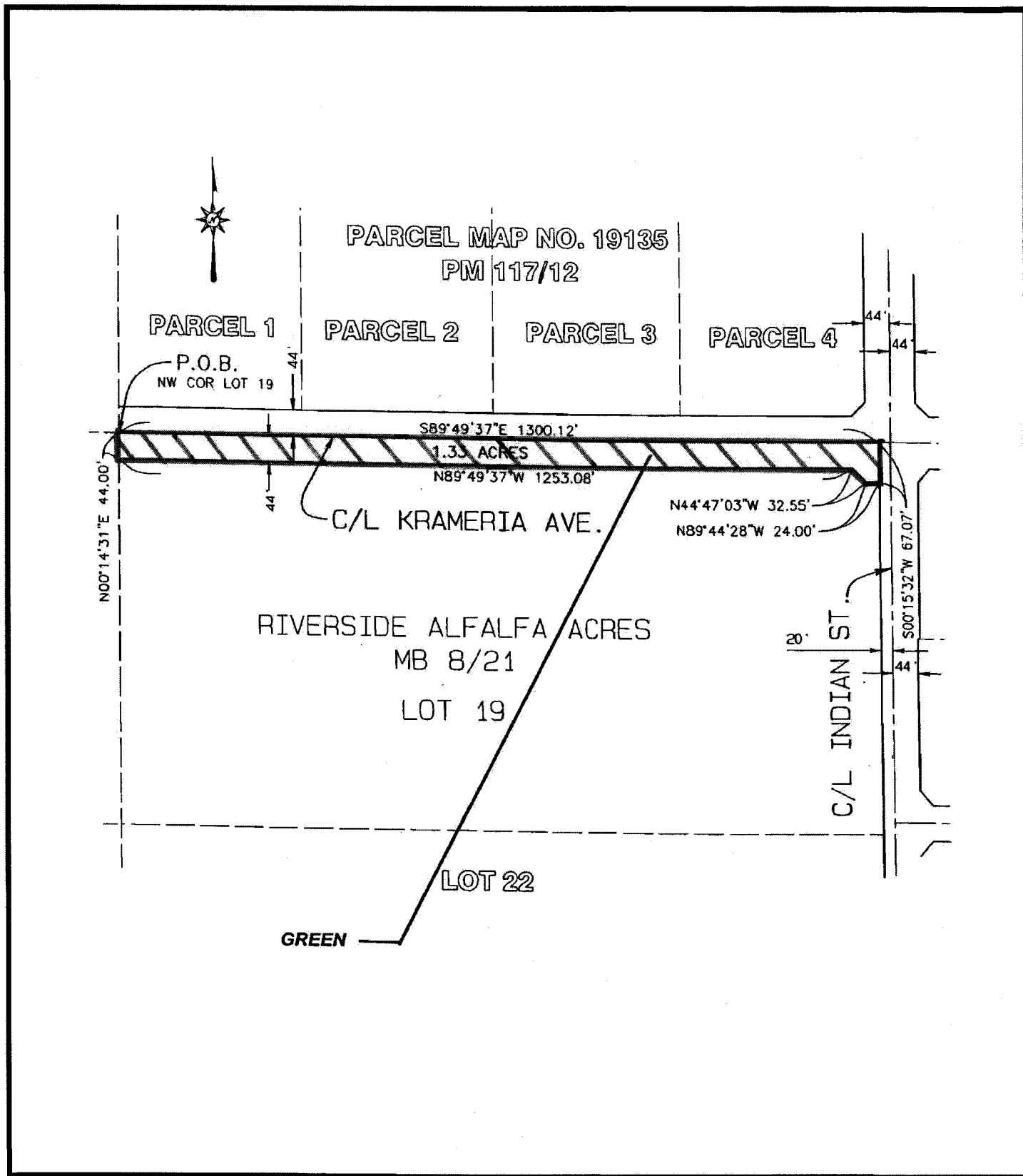


EXHIBIT C

Description of Flood Control Facilities

Proposed Flood Control Facilities to be authorized
For the Community Facilities District

Improvement Area No 1. Flood Control Facilities

RCFC&WCD Maintained Facilities

Perris Valley MDP Lateral B-3, Stage 2 (Project No. 4-0-00526), a 1 cell RCB (varying in height from 6 feet to 4 feet and varying in base width from 12 feet to 8 feet), 54" RCP, and 48" RCP, located in the Indian Street right-of-way from the existing Lateral B-3 (Project No. 4-0-00256) northerly approximately 3,268 feet to the intersection of Indian Street and San Michele Road, then westerly in the San Michele Road right-of-way approximately 2,123 feet. The facility consists of approximately 3,560 linear feet of RCB and 1,830 linear feet of RCP, including, but not limited to, manholes, junction structures, and transition structures.

Perris Valley MDP Lateral B-3.2 (Project No. 4-0-00533), a 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-3, Stage 2 (Project No. 4-0-00526) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Lateral B-3b, a 42" RCP, approximately 18 feet in length connecting to Lateral B-3 at Station 38+44.67.

Lateral B-3d, a 42" RCP, approximately 30 feet in length connecting to Lateral B-3 at Station 48+34.67.

Lateral B-3e, a 48" RCP, approximately 21 feet in length connecting to Lateral B-3 at Station 52+14.22.

Estimated cost for RCFC & ECD Maintained Facilities:
\$3,600,000.00

City of Moreno Valley Maintained Facilities

Lateral B-3a, a 42" RCP, approximately 12 feet in length connecting to Lateral B-3 at Station 17+08.14.

Lateral B-3c, a 24" RCP, approximately 44 feet in length connecting to Lateral B-3 at Station 39+11.27.

Lateral B-3f, a 36" RCP, approximately 4 feet in length connecting to Lateral B-3 at Station 63+50.68.

Lateral B-3r, a 24" RCP, approximately 40 feet in length connecting to Lateral B-3 at Station 49+87.30.

Lateral B-3z, a 24" RCP, approximately 9 feet in length connecting to Lateral B-3 at Station 23+62.50.

Lateral B-3.2a, a 30" RCP, approximately 55 feet in length connecting to Lateral B-3.2 at Station 10+37.01.

Estimated cost for City of Moreno Valley Maintained Facilities:
\$680,000.00

Improvement Area No. 2 Flood Control Facilities

RCFC&WCD Maintained Facilities

Perris Valley MDP Lateral B-1 (Project No. 4-0-00486, Drawing No. 4-954), an 84" RCP, 78" RCP, and 72" RCP, located in Perris Boulevard right-of-way from the existing Lateral B-1 (Project No. 4-0-486, Drawing No. 4-838) northerly for approximately 1,345 feet. Lateral B-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Perris Valley MDP Lateral B-1.2 (Project No. 4-0-00483, Drawing No. 4-954), a 78" RCP, 66" RCP, 60" RCP, 48" RCP and 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-1, (Project No. 4-0-00486) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Estimated cost of RCFC & WCD Maintained Facilities:
\$1,500,000.00

City of Moreno Valley Maintained Facilities

Lateral B-1A, an 18" RCP, approximately 24 feet in length connecting to Lateral B-1 at Station 32+39.77.

Lateral B-1B, an 18" RCP, approximately 14 feet in length connecting to Lateral B-1 at Station 40+97.76.

Lateral B-1C, a 36" RCP, approximately 48 feet in length connecting to Lateral B-1 at Station 43+55.00.

Lateral B-1.2A, a 36" RCP, approximately 51 feet in length connecting to Lateral B-1.2 at Station 11+11.10.

Lateral B-1.2B, a 36" RCP, approximately 49 feet in length connecting to Lateral B-1.2 at Station 20+00.00.

Lateral B-1.2C, a 24" RCP, approximately 37 feet in length connecting to Lateral B-1.2 at Station 22+00.00.

Lateral B-1.2D, a 24" RCP, approximately 26 feet in length connecting to Lateral B-1.2 at Station 10+75.48.

Estimated cost of City of Moreno Valley Maintained Facilities:
\$100,000.00

Improvement Area No. 3 Flood Control Facilities

RCFC&WCD Maintained Facilities

Sunnymead MDP Line D (Project No. 4-0-00630, Drawing No. 4-991), Approximately 40 feet in length of 4'H x 8'W RCB and approximately 250 feet in length of 7'H x 10'W rectangular channel, located easterly of the Indian Street right-of-way. The downstream end of Line D connects to the existing Line D Box (Project No. 4-0-630, Drawing No. 4-514) and the upstream end of Line D Connects to the existing Line D rectangular channel (Project No. 4-0-630, Drawing No. 4-848). Line D is approximately 290 feet in length.

Sunnymead MDP Line D-1, a 60" RCP, 48" RCP and 42" RCP, located in the Indian Street right-of-way. The downstream end of Line D-1 connects to an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-587) and extends northerly in

Indian Street for approximately 2,310 feet where it ties into an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-508). Line D-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures. Line D-1 is approximately 2307 feet in length.

Lateral DA, a 42" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the existing Line D Rectangular Channel (Project No. 4-0-0630, Drawing No. 4-848) westerly for approximately 1950 feet. Lateral DA includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Estimated cost of RCFC & WCD Maintained Facilities:
\$1,600,000.00

City of Moreno Valley Maintained Facilities

Lateral DA, a 36" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the proposed Lateral DA 42" RCP (Project No. 4-0-0632, Drawing No. 4-991) westerly for approximately 353 feet. Lateral DA includes, but is not limited to, manholes, junction structures, inlets, laterals, and transition structures.

Lateral D-1A, a 36" RCP, approximately 11 feet in length connecting to Line D-1 at Station 40+66.30.

Lateral D-1B, a 24" RCP, approximately 75 feet in length connecting to Line D-1 at Station 46+67.98.

Lateral D-1C, a 42" RCP, approximately 16 feet in length connecting to Line D-1 at Station 48+92.48.

Lateral DA1, a 30" RCP, approximately 39 feet in length connecting to Lateral DA at Station 11+67.70.

Lateral DA2, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 21+80.83.

Lateral DA3, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 22+35.75.

Estimated Cost of City of Moreno Valley Maintained Facilities:
\$200,000.00

EXHIBIT D

FUNDING AGREEMENT

TEL: 951.413.3480
FAX: 951.413.3498
WWW.MORENO-VALLEY.CA.US



14325 FREDERICK STREET, SUITE 9
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805

REC'D JUL 28 2008

July 25, 2008

First Industrial Realty Trust
John Grace, Development Manager
114 Pacifica, Suite 220
Irvine, CA 92618

Subject: Executed Acquisition/Financing Agreement for Community Facilities District No. 7


Dear Mr. Grace,

Enclosed is a signed original of the Acquisition/Financing Agreement for Community Facilities District No. 7. This agreement is for acquisition and construction of certain public improvements associated with your project within Community Facilities District No. 7.

If you have any questions, please contact Marshall Eyerman, Special Districts Program Manager at (951) 413-3482.

Sincerely,

Chris A. Vogt, P.E.
Public Works Director/City Engineer



Jennifer A. Terry
Management Analyst

Enclosure

c: Sue Maxinoski, Special Districts Division Manager
Marshall Eyerman, Special Districts Program Manager
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PUBLIC WORKS DEPARTMENT

ACQUISITION/FINANCING AGREEMENT

THIS ACQUISITION/FINANCING AGREEMENT ("Agreement") is made and entered into by and among the CITY OF MORENO VALLEY, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, ("City") acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 7, and FR/CAL MORENO VALLEY, LLC ("FR/CAL MV"), a Delaware limited liability company, FIRST INDUSTRIAL, L.P. ("FILP"), a Delaware limited liability partnership FR/CAL INDIAN AVENUE, LLC ("FR/CAL IA"), a Delaware limited liability company and shall become effective on the date on which the Agreement has been mutually executed and delivered by the Parties (as defined in the following sentence). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as an "Owner" or collectively as the "Owners" and Owners acknowledge that they are related entities. The City and the Owners may be referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, the Owners own the following real property (collectively, the "Owners' Properties") located within the City:

A. FR/CAL MV owns that parcel identified as Assessor's Parcel Nos. 316-180-002, 316-180-003, 316-180-005, 316-180-006, 316-180-008 and 316-180-009 (the "FR/CAL MV Property");

B. FILP owns those parcels identified as Assessor's Parcel Nos. 316-200-003, 316-200-009 through -014, 316-200-018, 316-200-028 and 316-200-029 (the "FILP Property");

C. ; FR/CAL IA owns those parcels identified as Assessor's Parcel Nos. 316-020-002, 316-020-003; 316-020-004, 316-020-005 and 316-020-012 through -019 (the "FR/CAL IA Property"); and

WHEREAS, the Owners have requested that the City consider the formation of a community facilities district and the designation of three improvement areas therein (each, an "Improvement Area" and designated individually as "Improvement Area No. 1," "Improvement Area No. 2," and "Improvement Area No. 3") under the terms and conditions of the "Mello-Roos Community Facilities Act of 1982," as amended (Government Code Section 53311 and following) (the "Act") to include the Owners' Properties and certain additional adjacent property not owned by Owners and identified as Assessor Parcel Nos. 316-170-001, 316-170-002, 316-170-004, 316-170-006, 316-170-007, 316-170-010, 316-170-013, 316-170-014 and 316-180-010 (the "Adjacent Property") for the purpose of financing the acquisition and construction of certain public improvements, together with appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 7 (the "Community Facilities District"); and,

WHEREAS, the Owners have further requested that the FR/CAL MV Property and the Adjacent Property be included in Improvement Area No. 1, the FILP Property be included in Improvement Area No. 2 and the FR/CAL IA Property be included in Improvement Area No. 3; and

WHEREAS, the boundaries of the proposed Community Facilities District and the proposed Improvement Areas are set forth in Exhibit A attached hereto and incorporated herein by this reference; and,

WHEREAS, pursuant to such request of the Owners, City intends to initiate proceedings to consider the formation of the Community Facilities District and the designation of Improvement Areas therein, the authorization to levy special taxes within each Improvement Area and the authorization to issue bonds for each Improvement Area of the Community Facilities District to be secured by such special taxes; and

WHEREAS, Owners, in order to proceed in a timely way with the development of Owners' respective property (each, a "Development"), desires to construct or cause the construction of (a) certain public improvements that are, following the completion of the construction thereof in accordance with the applicable improvement agreements, to be acquired by the City and thereafter owned, operated and maintained by the City (the "Street Improvements"), (b) certain public improvements that are, following the completion of the construction thereof in accordance with the JCFA (defined below), to be acquired by the Riverside County Flood Control and Water Conservation District (the "Flood Control District") and thereafter owned, operated and maintained by the Flood Control District (the "Flood Control Facilities"), and (c) the undergrounding of certain utilities (the "Utility Improvements" and, together with the Street Improvements and the Flood Control Facilities, the "Improvements") to be owned, operated and maintained by Southern California Edison ("SCE")¹; and

WHEREAS, Exhibit B-1 sets forth a description of the Improvements and the Improvement Area to which the financing of such Improvement is allocated and Exhibit B-2 sets forth the estimated cost (the "Budgeted Cost") for the acquisition of each Improvement; and,

WHEREAS, each Owner desires to construct the Improvements for the Improvement Area within which such Owner's property is located, to wit:

A. FR/CAL MV desires to construct those Improvements identified in Exhibit B1 as the Improvement Area No. 1 Improvements;

B. FILP desires to construction those Improvements identified in Exhibit B1 as the Improvement Area No. 2 Improvements;

C. FR/CAL IA desires to construct those Improvements identified in Exhibit B1 as the Improvement Area No. 3 Improvements; and

WHEREAS, the acquisition of such Improvements is proposed to be financed, in whole or in part, through the Community Facilities District; and,

¹ The Owners acknowledge that while the Utility Improvements are to be owned by SCE, the Owners' Properties will be served by the City of Moreno Valley Electric Utility.

WHEREAS, pursuant to the Act, the City and the Owners have entered or will, prior to the formation of the Community Facilities District, enter into a joint community facilities agreement with the Flood Control District and the Owners regarding the construction and acquisition of the Flood Control Facilities (the "JCFA"); and,

WHEREAS, the Parties agree that the Flood Control Facilities will be constructed by the Owners, subsequently acquired by the Flood Control District upon completion thereon for ownership and maintenance and the purchase price for such Improvements paid from the proceeds of bonds issued for the Community Facilities District pursuant to the provisions of the JCFA and the applicable provisions of this Agreement; and,

WHEREAS, it is the intent of the Parties that, upon the formation of the Community Facilities District and the subsequent sale of bonds for an Improvement Area the proceeds of which bonds are authorized to be utilized to acquire a particular Improvement or Improvements, the Owner which has constructed such Improvement or Improvements or caused such Improvement or Improvements to be constructed shall be entitled pursuant to the provisions of this Agreement to be paid for those Street Improvements and Utility Improvements, if any, at the prices as determined by the City pursuant to this Agreement and such Owner shall further be entitled pursuant to the provisions of the JCFA to be paid for those Flood Control Facilities which such Owner has constructed to be constructed at the prices as determined pursuant to the JCFA; and,

WHEREAS, if the Community Facilities District is formed and bonds for the Improvement Areas are issued, the City will be willing to finance the acquisition of the Improvements, subject to the requirements of the Act, the City of Moreno Valley Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts adopted by the City Council by Resolution No. 2000-35 (the "Goals and Policies"), the JCFA, this Agreement, and the provisions of the Internal Revenue Code and the regulations adopted pursuant thereto applicable to the issuance of tax exempt bonds and the Owner desires that the acquisition of such Improvements be financed accordingly.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the respective parties as follows:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Plans and Specifications of Improvements. All plans, specifications and bid documents for the Street Improvements and the Utility Improvements (the "Plans and Specifications") to be constructed by an Owner shall be prepared by such Owner at such Owner's initial expense, subject to approval by the City pursuant to the approval process established by the City for such Plans and Specifications or by SCE, as applicable. The costs of acquisition of such Improvements shall include costs incurred by such Owner for the preparation of and approval by the City of the Plans and Specifications and soil, drainage and such other reports as may be required by the City as a precondition to the City's approval of the construction of the Street Improvements (collectively, the "Reports") and all related documentation as set forth in Section 7 below. Upon the approval of any Plans and Specifications and/or Reports, such Plans and Specifications and/or Reports shall become the property of the City.

The Owner shall be required to submit review fees for such Plans and Specifications and Reports as required pursuant to the then effective resolution of the City establishing the fees for the review of such Plans and Specifications and Reports.

An Owner shall not award a contract for construction, commence construction or order or otherwise cause commencement of construction of a Street Improvement until the Plans and Specifications for such Improvement have been approved by the City.

SECTION 3. Construction of Street Improvements and Utility Improvements. Each Owner covenants and agrees that each Street Improvement to be acquired from such Owner pursuant to this Agreement shall be constructed:

- (a) in substantial compliance with the approved Plans and Specifications for such Improvement;
- (b) in a good, workmanlike and commercially reasonable manner with the standard of diligence and care normally employed by qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken;
- (c) in strict compliance with all applicable governmental and quasi-governmental rules, regulations, laws, building codes and all applicable requirements of such Owner's insurers and lenders; and
- (d) in compliance with the requirements of Section 53313.5 of the California Government Code, if applicable, which statute requires that any Street Improvement to be acquired by the City which is completed after adoption of the resolution of formation of the Community Facilities District must be constructed as if such Improvement had been constructed under the direction and supervision, or under the authority, of the City.

In order to insure that the Street Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, the City, so that they may be acquired by City pursuant to Section 53313.5 of the California Government Code, each Owner shall comply with all of the following requirements with respect to the construction of the Street Improvements:

- (i) Each Owner shall obtain bids for the construction of the Street Improvements in conformance with the standard procedures and requirements of City with respect to its public works projects (excluding any exceptions to competitive bidding requirements), or in a manner which is approved in writing by the City prior to the solicitation of bids.
- (ii) Each contract or contracts for the construction of the Street Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of such Street Improvements. Nothing in this Section 3 shall

prohibit an Owner from including more than one Street Improvement in a single solicitation for bids. In the case where an Owner does include more than one Street Improvement in a single solicitation for bids, such Owner shall award the bid for the construction of such Improvements to the bidder submitting the lowest aggregate responsible bid for the construction of such Improvements. Before awarding a contract for construction of any portion of the Street Improvements, each Owner shall deliver all bids to the City Engineer of the City, or his designee (the "City Engineer") and shall not award the contract until City Engineer has determined and notified such Owner in writing that such bids are in compliance with the Plans and Specifications.

(iii) Each Owner shall require, and the specifications and bid and contract documents shall require all such contractors to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code and the California Public Contract Code relating to public works projects of community services districts and as required by the procedures and standards of City with respect to the construction of its public works projects.

(iv) In addition to each Owner's obligation to comply with all other provisions of this Section 3, each such Owner shall also comply with the requirements of the attached, referenced and incorporated Exhibit C.

The failure of an Owner to comply with the provisions of this Section 3 in the construction of any Street Improvement shall be grounds for declaring such Street Improvement ineligible to be acquired pursuant to the provisions hereof.

The City hereby acknowledges and agrees that, at an Owner's election, the solicitation of bids may be managed and performed by such Owner's general contractor.

An Owner shall be required to construct Utility Improvements pursuant to the requirements of SCE.

The description of the Street Improvements and Utility Improvements in Exhibit B is preliminary and general in nature. The final nature and location of such Improvements will be determined upon the preparation of final Plans and Specifications. The description of such Improvements and their Budgeted Cost may be modified or Improvements substituted as long as the modified or substituted Improvements provide a service substantially similar to the Improvements currently described in Exhibit B. Any such modification or substitution shall be set forth in a supplement to Exhibit B approved by the City Engineer.

SECTION 4. Inspection of the Street Improvements and Utility Improvements; Eligibility for Payment of Purchase Price. The construction of the Street Improvements as set forth in Exhibit B shall be subject at all reasonable times to inspection by authorized representatives of the City. The Owner constructing or causing the construction of any Street Improvement or Street Improvements shall be required to submit inspection fees to the City as required pursuant to the then effective fee resolution of the City for the inspection of each such Street Improvement. Once an entire individual

Street Improvement is completed in accordance with the approved Plans and Specifications (including any change orders reasonably approved by the City), then such Improvement shall, upon satisfaction of the conditions precedent set forth herein, be eligible for payment of the Purchase Price (as defined in Section 7 below) for such Improvement.

Prior to payment of the Purchase Price for any Street Improvement, the Owner constructing or causing the construction of such Street Improvement shall provide to City Engineer, the documentation set forth in Section 7(b) below and obtain approval of as-built drawings in accordance with the process described below in this Section 4. The engineer of record for the Street Improvement ("Engineer of Record") shall notify the City Engineer of completion of construction of such Improvement. Within 20 working days of such filing, the field inspector of the City ("Field Inspector") or his or her designee shall issue and transmit to the Engineer of Record (i) a letter requesting as-built drawings and final soils reports (when applicable) ("Final Soils Reports") and (ii) a punch list of work necessary to be completed or corrections to work necessary to be completed before such Improvement will be eligible for payment of the Purchase Price. Within 20 working days of receipt of the Field Inspector's letter, the Engineer of Record shall prepare redline as-built drawings and submit them to the Field Inspector and such Owner shall complete the punch list items.

Within 10 working days of the Engineer of Record's submittal of the red lined as-built drawings, the Field Inspector shall review the redline as-built drawings and provide comments. The Engineer of Record shall revise the redline as-built drawings per the Field Inspector's comments and resubmit within 10 working days. The Field Inspector shall make his final review within 5 working days of the Engineer of Record's resubmittal and notify the Engineer of Record to prepare mylar as-built drawings and a digital (autocad and .pdf) copy of all Plans and Specifications and Reports and submit such documents in such formats to the City Engineer or his designee and notify such Owner of any punch list items which then remain to be completed. A Street Improvement shall be accepted upon completion of the punch list items and submittal to and approval by City of as-built drawings. City and such Owner shall make best efforts to perform within the time periods described above. The inability of City or such Owner to perform within each time period, notwithstanding its best efforts, shall not constitute a breach of this Agreement.

The construction of the Utility Improvements shall be subject to such inspection as SCE shall require. Upon receipt by the City Engineer of a letter from SCE stating that the construction of a Utility Improvement has been completed to the satisfaction of SCE and that SCE has accepted ownership of such Utility Improvement, the Owner constructing or causing the construction of such Utility Improvement may submit a written request pursuant to Section 7(b) for the payment of the Purchase Price for such Utility Improvement.

SECTION 5. Warranty of Street Improvements. Prior to acceptance by the City of any Street Improvement, the Owner constructing or causing the construction of such Street Improvement shall be responsible for maintaining such Improvement at such Owner's expense. Such Owner shall be obligated to the City and the Community Facilities District for a period of twelve (12) months after the acceptance by the City of any Street Improvement to repair or replace any defects or failures resulting from the work of such Owner, its contractors or agents. Upon the expiration of such twelve (12) month period, such Owner shall assign to the City and the Community Facilities District its rights in and to any warranties, guarantees or other evidence of contingent obligations of third persons with respect to such Improvement. As a precondition to the acceptance by the City of a

Street Improvement, such Owner shall post a maintenance bond in a form reasonably approved by the City, cause such a maintenance bond to be posted, or assign such Owner's rights under such a maintenance bond naming the City and the Community Facilities District as beneficiaries in an amount equal to ten percent (10%) of the Budgeted Cost of such Improvement in order to secure such Owner's obligations pursuant to this Section during the twelve (12) month maintenance period.

SECTION 6. Notice of Completion and Lien Releases. Upon completion (as such term is defined in California Civil Code Section 3086) of the construction of a Street Improvement, the Owner constructing or causing the construction of such Improvement shall notify the City Engineer in writing of such completion and shall prepare and execute a Notice of Completion for such Improvement in the form prescribed by Section 3093 of the California Civil Code and shall record such notice in the Official Records of the County of Riverside. Such Owner shall cause its contractors to provide unconditional lien releases for such Improvement in accordance with Section 3262 of the Civil Code.

SECTION 7. Payment of Purchase Price; Processing Payment Requests.

(a) Amount of Purchase Price of an Improvement and Processing of Payment Requests. The Purchase Price for a Street Improvement or a Utility Improvement to be constructed by an Owner and acquired by the City or SCE, as applicable, shall be determined as provided for in this Section 7. The amount of the Purchase Price for a Flood Control Facility shall be determined pursuant to the JCFA.

The processing of a payment request for the payment of the Purchase Price for a Street Improvement or a Utility Improvement shall be undertaken as provided for in this Section 7. The processing of a payment request for the payment of the Purchase Price for a Flood Control Facility shall be determined pursuant to the JCFA.

(b) Determining the Amount of the Purchase Price for a Street Improvement or a Utility Improvement. The Purchase Price for a Street Improvement or a Utility Improvement shall (i) equal the lesser of the cost or the value thereof, (ii) include the lesser of the cost or value of eligible appurtenant public facilities, (iii) include the costs of the title insurance policy, if any, described in Section 10(a), and (iv) include all other costs of construction and incidental costs eligible under the Act and the Goals and Policies as a part of the cost of such Improvements, including the following:

(1) Usual and customary design, planning and engineering costs including civil engineering, soils engineering, landscape architecture, survey and construction staking, utility engineering and coordination, construction administration and supervision, plan check and inspection fees. Planning to be included in the Purchase Price of an Improvement shall be limited to those planning costs which are directly related to the planning for such Improvement. Costs incurred by an Owner related to the formation of the Community Facilities District ("Owner's CFD Formation Costs") shall not be included in the Purchase Price of any Improvement.

(2) Costs of acquisition of rights-of-way and/or easements necessary for any Improvement which are not otherwise required to be dedicated to the City including the following:

(A). Costs of any appraisal undertaken by an appraiser retained by the City for the purpose of valuing such property interests;

(B) Costs of title insurance for such property interests;

(C). Costs of preparing acquisition plats;

(D). The appraised value or actual cost of right-of-way or easements, whichever is less; and

(E). Legal fees and costs related to eminent domain proceedings approved by the City Attorney and the City Engineer.

(3) Costs of environmental review, permitting, mitigation directly related to the Improvement, and that portion of the cost of the preparation of environmental documents, including without limitation, a Negative Declaration or an Environmental Impact Report directly related to the Improvement.

(4) An amount not to exceed to 11.0% of the hard construction cost and the hard cost contingency (including insurance and general conditions) but excluding all other incidental costs, including but not limited to, the costs set forth in subparagraphs (1), (2) and (3) of the Improvement, representing the developer/project management fee, construction management fee and general conditions fee. Such fees are described in Exhibit E attached hereto and incorporated herein by this reference (the "Fee Letter").

(5) Costs of construction, provided in no event shall the cost or value of the construction of the Improvement be deemed to exceed the construction contract prices set forth in the contracts and change orders approved by City.

The value of an Improvement shall be equal to the cost of construction of such Improvement determined pursuant to this subsection (b), less such portion of such cost of construction which the City Engineer has, in his or her reasonable professional opinion, determined would not have been incurred had such Improvement been constructed pursuant to a public works contract awarded by the City. Each Owner agrees to cooperate with the City Engineer in the determination of the value of an Improvement constructed or caused to be constructed by such Owner and in conjunction therewith shall, at the request of the City Engineer, provide the City Engineer with copies of contracts for construction of improvements to such Owner's Properties which are adjacent to or nearby such Improvement. As a non-inclusive example, if an Owner pays overtime to complete the construction of Street Improvements to provide access to a parcel by a date certain as required by such Owner's lease obligations to a tenant occupying such parcel, the cost of such overtime will be deducted from the overall cost of construction of such Improvement to determine the value of such Improvement.

Notwithstanding the foregoing, the aggregate Purchase Price of the Utility Improvements to be financed from the proceeds of a series of Bonds issued for an Improvement Area may not exceed an amount equal to five percent (5%) of the proceeds of such series of Bonds used to acquire Street Improvements and Flood Control Facilities or such lesser amount as may be necessary to insure that such expenditure does not, in the opinion of bond counsel retained by the City, adversely affect the exclusion from gross income of interest on such series of Bonds for federal income tax purposes.

(c) Processing a Request for Payment of the Purchase Price for a Street Improvement or a Utility Improvement.

(1) Requisition for Payment of Purchase Price. The Owner who constructed or caused the construction of a Street Improvement or a Utility Improvement may submit only one (1) written request to person or entity acting as the construction auditor for and on behalf of the City (the "Construction Auditor"), for the payment of the Purchase Price for such Improvement in the form attached hereto as Exhibit D, which is incorporated herein by this reference, upon the submission to the Construction Auditor of (A) a copy of each construction contract for such Improvement, a copy of the bid notice for such contract and a copy of each bid received, (B) each change order applicable to such Improvement, (C) each invoice submitted pursuant to each such contract pertaining to such Improvement, (D) evidence of payment of each such invoice such as copies of cancelled checks or other evidence of payment satisfactory to the Construction Auditor, (E) as-built drawings or other equivalent plans and specifications for any such Street Improvement in a form reasonably acceptable to the City, (F) evidence that such Owner has posted a maintenance bond for any such Street Improvement as required by Section 5 hereinabove, (G) evidence of the satisfaction of the requirements of Section 10 hereinbelow directly related to any such Street Improvement and (H) written unconditional lien releases from all contractors, subcontractors and materialmen satisfactory to the City Attorney for such Improvement. In the event that such Owner has awarded a single contract for the construction of more than one Street Improvement or Utility Improvement, such Owner must provide a copy of such contract, the bid notice and the bids received only with first written request for payment of the Purchase Price for an Improvement constructed pursuant to such contract. For all subsequent requests for payment of the Purchase Price for an Improvement constructed pursuant to such contract, such Owner may refer to the original request for payment for which the construction contract, bid notice and bids were submitted in lieu of submitting additional copies of such documents.

(2) Review of Payment Request. The Construction Auditor shall review each payment request within thirty (30) working days after receipt thereof (the "Initial Review Period") and notify the City Engineer and the Special Districts Division Manager and such Owner of the results of such review. Upon the completion of such review, the Construction Auditor shall either recommend approval of the payment request as submitted or, if the Construction Auditor finds that any such payment request is incomplete, improper or otherwise not suitable for approval, the Construction Auditor shall inform such Owner, the City Engineer and the Special Districts Division Manager of the reasons for such finding. Such Owner shall have the right to respond to this finding by submitting further documentation to the

Construction Auditor to supplement a payment request and/or to resubmit the payment request within thirty (30) days after receipt of the denial. The Construction Auditor shall review any supplemental documentation submitted in support of a payment request and inform such Owner, the City Engineer and the Special Districts Division Manager of its recommendation for the approval or denial of the payment request as so supplemented in accordance with this Section within ten (10) working days after receipt of the supplemental documentation.

If an Owner elects to resubmit a payment request in place of an original payment request that the Construction Auditor has found to be incomplete, improper or otherwise not suitable for approval in lieu of submitting supplemental information pertaining to the original payment request, the resubmitted payment request shall be subject to the same review procedures applicable to an original payment request.

Costs incurred under a contract for the construction of a Street Improvement entered into pursuant to the requirements of this Agreement and pursuant to change orders approved by the City shall be deemed to be reasonable.

The City Engineer shall review the recommendation of the Construction Auditor for the payment of any payment request and shall approve or deny such payment request within fifteen (15) business days of the date of the receipt thereof. The City Engineer shall notify the Owner and the Special Districts Division Manager in writing of his or her decision and, if the City Engineer denies such payment request, the reasons for such denial. Such Owner shall have the right to respond to the denial by submitting further documentation to the City Engineer to supplement such payment request within thirty (30) days after receipt of the denial. The City Engineer shall review such further documentation and shall approve the payment request or affirm his or her denial thereof within ten (15) business day of the date of receipt of such further documentation. The City Engineer shall notify the Owner and the Special Districts Division Manager in writing of his or her decision which shall be final and conclusive.

After (A) the formation of the Community Facilities District, the designation of the Improvement Areas therein and the approval of the authorization to levy special taxes within such Improvement Areas and to issue bonds of the Community Facilities District for each Improvement Area secured by such special taxes, (B) the issuance of Bonds (defined in Section 20 below) for one or more of the Improvement Areas pursuant to Section 20 the proceeds of which are intended to be used to acquire a particular Street Improvement or a Utility Improvement for which a payment request has been received, (C) recommendation by the Construction Auditor of the approval of the payment request and (D) approval of such payment request by the City Engineer, the Special Districts Division Manager shall promptly notify the Director of Finance of the approval of the payment request and request that such payment be made to the appropriate payee. The Director of Finance shall process any such request of the Special Districts Division Manager pursuant to the applicable procedures of the Finance Department and shall make or authorize such payment pursuant to such procedures and subsection (3) below.

(3) Payment.

- (A) Priority of Payment of Cost of Purchase Price for Street Improvements or Utility Improvements. The City and the Owners acknowledge and agree that the cost of acquisition of all Improvements may exceed the aggregate amount of the Bond proceeds which will be available for the payment of that portion of the Purchase Price, as applicable, for all of such Improvements eligible to be paid from the proceeds of the Bonds. As a result, the proceeds of any series of Bonds to be eligible to be used to pay the Purchase Price for Flood Control Facilities shall be deposited in a separate account to be designated the Flood Control Facilities Account as a first priority. In the event that funds deposited in the Flood Control Facilities Account for any Improvement Area are not sufficient to fully fund the Purchase Price of the Flood Control Facilities for such Improvement Area, the Owner who caused the construction of such Flood Control Facilities may submit a request to the City to have funds set aside for the Purchase Price of Street Improvements for that Improvement Area be transferred to the Flood Control Facilities Account to make up such deficit. In the event that any funds are transferred pursuant to the preceding sentence, the Owner responsible for the construction of the subject Street Improvements shall not be relieved of such Owner's obligation to construct such Street Improvements at such Owner's expense. The City and the Owners agree that the payment of the Purchase Price for Street Improvements or Utility Improvements from the proceeds of the Bonds issued for each Improvement Area shall be prioritized as follows:

Improvement Area No. 1:

Priority 1: Payment to the City and FR/CA MV for reimbursement of the proportionate share of costs incurred by the City and FR/CAL MV in connection with the formation of the Community Facilities District allocated to Improvement Area No. 1.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 1 Street Improvements (as further described in Exhibit B-1).

Improvement Area No. 2:

Priority 1: Payment to the City and FILP for reimbursement of the proportionate share of costs incurred by the City and FILP in connection with the formation of the Community Facilities District allocated to Improvement Area No. 2.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 2 Street Improvements (as further described in Exhibit B-1).

Improvement Area No. 3:

Priority 1: Payment to the City and FR/CAL IA for reimbursement of the proportionate share of costs incurred by the City and FR/CAL IA in connection with the formation of the Community Facilities District allocated to Improvement Area No. 3.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Street Improvements (as further described in Exhibit B-1) in the order set forth in Exhibit B-1.

Priority 3: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Utility Improvements (as identified in Exhibit B-1).

The Purchase Price for any lower priority Street Improvement or Utility Improvement allocated to an Improvement Area shall not be paid unless the Purchase Price for all higher priority Street Improvements and Utility Improvements allocated to such Improvement Area has been paid or the City Engineer has reasonably determined that sufficient proceeds of the Bonds issued for such Improvement Area are available to fully fund the cost of construction or the Purchase Price of such higher priority Improvements, e.g., such funds have been deposited in a separate account or sub-account and the use of such funds has been restricted to funding the cost of construction or the Purchase Price of such higher priority Improvements, based upon the estimates of the cost of construction or the approved Purchase Prices, as applicable, for such higher priority Improvements on Exhibit B. Notwithstanding the foregoing, the payment of the Purchase Price for any Utility Improvement shall be made only after the payment has been made of the Purchase Price for all Street Improvements and Flood Control Facilities to be financed from the proceeds of the same series of Bonds.

- (B) Timing of the Payment of the Purchase Price for an Improvement. Subject to the limitations contained in subsection (b) and (1), (2) and (3) of this subsection (c), the Purchase Price for each Improvement shall be paid to the Owner constructing or causing the construction of such Improvement within thirty (30) days after the date of the City Engineer's approval of the payment request for any such Improvement; provided, however, the Purchase Price for any Improvement shall not be paid earlier than thirty-five (35) days after the recording of a Notice of Completion for such Improvement.
- (C) Source of Payment. The Purchase Price for an Improvement shall be payable to the Owner solely from those proceeds ("Eligible Improvement Proceeds") of the sale of a series of the Bonds issued for an Improvement Area as provided in Section 17 hereof authorized and designated for the payment for such Improvement, after the proportionate costs of formation of the Community Facilities District allocated to the applicable Improvement Area and all costs of issuance of such Bonds have been paid and deposits of

accrued and capitalized interest to the redemption fund and the initial deposit to the reserve fund have been made.

- (D) **Withholding of Payment.** In addition to the foregoing, the City shall have the right to withhold payment of the Purchase Price of any Improvement if (a) the Owner constructing or causing the construction of such Improvement is delinquent in the payment of any assessment installments or special taxes levied by the City, the Community Facilities District or any other community facilities district established by the City on properties then owned by such Owner within the Community Facilities District, or (b) the City Engineer reasonably determines that such Owner is not then in substantial compliance with all applicable conditions and obligations imposed upon such Owner hereunder or upon such Owner's Development pursuant to the land use entitlements approved by the City for such Development, including but not limited to, payment of all applicable fees, dedication of all applicable rights-of-way or other property and construction of all applicable public improvements. The City Engineer shall provide written notice to such Owner of the decision to withhold any such payment and shall specify the reason for such decision. If the payment is withheld as a result of the delinquency in the payment of assessment installments or special taxes, the notice shall identify the delinquent parcels and the amount of such delinquency. If the payment is withheld as a result of substantial non-compliance with a condition or obligation, the notice shall specify such condition or obligation and what action will be necessary by such Owner to substantially comply with such condition or obligation. Upon receipt by the City Engineer of evidence reasonably satisfactory to the City Engineer of the payment of the delinquent special taxes or assessments or upon the determination by the City Engineer that such Owner has substantially complied with the subject condition or obligation, the City shall forthwith make any payment which has been withheld pursuant to the provisions of this paragraph.

SECTION 8. Construction Manager. An Owner may employ the services of a consultant to provide construction management services for and on behalf of such Owner provided that such services are provided in accordance with the terms and construction of this Agreement. Such services shall include, but not be limited to the solicitation, award and administration of contracts for the construction of each Improvement. In the event an Owner procures the services of a Construction Manager, for the purposes of Section 3, Section 4, Section 6, Section 7, Section 9(a), Section 10(b), Section 10, Section 13, Section 16, Exhibit C and Exhibit D of this, the term "Owner" shall also mean and include the term "Construction Manager."

SECTION 9. Accounting.

- (a) **Owners' Records.** The authorized representatives of City shall have the right, upon two (2) working days prior written notice to an Owner and during normal business hours, to review all books

and records of such Owner pertaining to costs and expenses incurred by such Owner in construction of any Improvements.

(b) Community Facilities District Records. City shall provide each Owner with an accounting of the funds and accounts of the applicable Improvement Area of the Community Facilities District as of December 31 and June 30 of each calendar year by January 31 and July 31, respectively, which shall describe the current balances, activity in each fund and account for the preceding six-month period and investment earnings on all funds and accounts, collectively and individually. Costs incurred by the City in providing such accounting shall be considered an administrative expense of the Community Facilities District to be funded or reimbursed through the annual levy of special taxes.

SECTION 10. Ownership and Transfer of Improvements. The conveyance of the Improvements by an Owner to City shall be in accordance with the following procedures:

(a) Improvements Constructed on Land not Owned by the City. As a condition to the payment of the Purchase Price for any Improvement, the Owner constructing or causing the construction of such Improvement shall cause an irrevocable offer of dedication to be made to the City or an outright grant of a fee interest or easement interest as appropriate, in the sole discretion of the City of the appropriate right, title and interest in and to the portion of the applicable property related to the applicable Improvement, including any temporary construction or access easements. Such Owner shall cause the execution and delivery to the City of the documents required to complete the transfer of Acceptable Title to such portion of the applicable property. For purposes of this Agreement, the term "Acceptable Title" shall mean title to the portion of the property to be conveyed free and clear of all taxes, liens, encumbrances, assessments, easements, leases, whether any such item is recorded or unrecorded, except those non-monetary encumbrances and easements which are reasonably determined by the City not to interfere with the intended use of the portion of the property. As a further condition to the payment of the Purchase Price for any Improvement, such Owner at its sole cost and expense, subject to reimbursement pursuant to Section 7, shall cause to be issued a policy of title insurance for such portion of the property in an amount not to exceed the Purchase Price and in the form normally required by the City in connection with the dedication of land for subdivision improvements and containing such title endorsements as may be reasonably requested by the City.

(b) Improvements Constructed on Land Owned by the City. If an Owner is authorized to construct an Improvement on land owned in fee by the City or on land over which the City owns an easement which would permit the construction, operation and maintenance of such Improvement such Owner shall obtain the necessary encroachment permits or other authorization required by the City to enter such land for purposes of constructing such Improvement.

SECTION 11. Improvement Bonds. Except as provided in the paragraph below, an Owner shall be required to post bonds or other security acceptable to the City to guarantee completion of the Improvements to be constructed by such Owner in accordance with City's standard requirements for such bonds or securities.

Performance and labor and material bonds in the amounts set forth in Exhibit C for specific Improvements shall not be required or may be released if (1) such Improvements constitute a portion of the improvements required to be constructed as a condition of approval of the subdivision and/or development within the applicable Improvement Area, (2) Bond proceeds equal to 150% of the estimated cost to construct or acquire such Improvements are available and set aside for such purpose, and (3) the Improvements are to be constructed or acquired entirely with the proceeds of the Bonds. Provided that conditions (1) and (2) are satisfied, if an Improvement is to be constructed or acquired only in part with the proceeds of the Bonds, performance and labor and material bonds shall not be required for that portion of the Improvements to be so constructed or acquired except with respect to the portion that will not be acquired or constructed with Bond proceeds. In the event that the Bond proceeds that are available and may be set aside to fund the cost to construct or acquire an Improvement are less than 150% of the estimated cost thereof, the Owner constructing or causing the construction of such Improvement shall be required to provide a performance and labor and material bond or other security satisfactory to the City Engineer and the City Attorney in the amount of such deficiency. City will cooperate with such Owner in the termination or exoneration of any performance and labor and material bonds assuring completion of Improvements for which Bonds have been sold. The City Engineer shall be the sole judge of determining release of such bonds.

SECTION 12. Flood Control Facilities. Except as otherwise provided for herein, the terms and conditions related to the construction and acquisition of the Flood Control Improvements, including but not limited to, the design, bidding, contract award, construction, inspection, acceptance, acquisition, warranty, indemnification and liability shall be governed by the JCFA.

SECTION 13. Reimbursement for Utility Improvements. If any portion of the cost of any Utility Improvement is required to be refunded by SCE pursuant to the California Public Utilities Code or rules of the Public Utilities Commission, such refund shall be made to the Community Facilities District and such refund shall be utilized, first, to finance the acquisition of any other Improvements authorized to be financed from the proceeds of the Bonds issued for the Improvement Area, which proceeds were utilized to pay the Purchase Price for such Utility Improvement, and, second, to the extent that the acquisition of all such other Improvements has been completed, to reduce the special tax levied within the applicable Improvement Area, or to call Bonds.

SECTION 14. Indemnification by the Owners. Each Owner shall defend, indemnify and hold harmless the City, the Community Facilities District, the Moreno Valley Community Services District and the Community Redevelopment Agency of the City of Moreno Valley (collectively, the "Indemnified Agencies") and their respective officers, directors, employees and agents, from and against any and all claims, losses, liabilities, damages, including court costs and reasonable attorneys, fees by reason of, or resulting from, or arising out of out of the obligations or operations undertaken by such Owner hereunder and out of such Owner's performance of its duties and responsibilities with hereunder, including but not limited to, the design, engineering, solicitation of bids and the award of contracts for the construction of any Improvement and construction of the Improvements constructed or to be constructed by such Owner; provided that any claims which relate to any such Improvement shall be limited to those arising out of personal injury or property damage caused by actions or omissions by such Owner or such Owner's employees, agents, independent contractors or representatives which occurred during the period prior to the transfer of

title to such Improvement, whether or not a claim is filed prior to the date of acceptance of such Improvement. Each Owner will conduct any such defense at its sole cost and expense, and the City shall approve selection of Owner's legal counsel, which approval shall not be unreasonably withheld. In the event that Owner's insurer has undertaken the defense of any insured claim, then legal counsel selected and/or approved by such insurer shall be deemed acceptable to and approved by the City.

This indemnity shall apply to all claims and liability regardless of whether any insurance policies may be applicable pursuant to any other agreement that an Owner may have with the City. Such policy limits do not act as a limitation upon the amount of indemnification to be provided by Owner hereunder; provided, however, that in the event that Owner's insurer promptly undertakes and diligently pursues the defense and/or resolution of such claims which would result in any indemnity or hold harmless obligations of the Owner pursuant to the foregoing, then so long as such insurer is diligently pursuing such defense and/or resolution, Owner's obligations under this Section 14 shall be tolled.

Nothing in this Section 14 shall limit in any manner the rights of the Indemnified Agencies or any one or more of the them against any of the architects, engineers, contractors or other consultants employed by such Owner which has performed work in connection with construction or financing of any Improvement.

Except as set forth in this Section 14, no provision of this Agreement shall in any way limit the extent of the responsibility of any Owner for payment of damages resulting from the operations of such Owner, its agents, employees or contractors.

SECTION 15. Obligation of City. Except as otherwise provided for herein, neither the City nor the Community Facilities District has a legal or financial obligation to construct or to finance construction of the Improvements. All costs incurred for actual construction of an Improvement, including all incidentals thereto, shall be borne by the Owner constructing or causing the construction of such Improvement. The obligations of the City are limited to the acquisition of the Improvements pursuant to the provisions of this Agreement.

SECTION 16. Failure to Construct Street Improvements. If, at any time following commencement of the construction of any Street Improvements by an Owner, the City determines that such construction is not progressing within a reasonable time in accordance with the conditions of approval of such Owner's Development imposed by the City in granting the land use entitlements applicable to such Development (collectively, the "Conditions of Approval") or such Owner fails to demonstrate a continuing ability to complete the construction of such Street Improvement in accordance with the Conditions of Approval, the City may give written notice of such failure of performance to such Owner. Such Owner shall have sixty (60) days from the date of receipt of such notice to either (i) cure such failure of performance by demonstrating to the satisfaction of the City during such cure period reasonable progress in the construction of the Street Improvement and a continuing ability to complete the construction of such Improvement in accordance with the Conditions of Approval or (ii) reasonably demonstrate that such failure of performance is due to circumstances or conditions beyond such Owner's reasonable control ("Force Majeure") including, without limitation, the City's actions, omissions or inaction which result in a delay of performance by such Owner, labor disputes, Acts of God, war, riots, insurrections, civil commotions,

moratoriums, inability to obtain labor or materials or reasonable substitutes for either, fire, unusual delay in transportation, and adverse weather conditions. Should such Owner fail to reasonably demonstrate such reasonable progress or such continuing ability to complete the construction of such Improvement or Force Majeure, the obligation of the City to pay the Purchase Price for the acquisition of such Improvement pursuant to this agreement may be terminated by the City by providing ten (10) days written notice to such Owner. Upon termination, the City may in its sole discretion then proceed to advertise and bid the balance of the construction of such Improvement, and there will be no further obligation on the part of the City for payment of the Purchase Price for such Improvement due to such Owner pursuant to this Agreement. The City may utilize the Bond proceeds to pay for the construction of such Improvement. If, following the completion of the construction of such Improvement pursuant to a contract awarded by the City, there are surplus Bond proceeds that are eligible and authorized to be used to finance the acquisition of such Improvement, such Owner shall be entitled to payment to the extent of such funds of an amount equal to the costs, as determined by the City Engineer, incurred by such Owner prior to such termination for the construction of such Improvement.

In the event that the City chooses not to advertise and bid the balance of the construction of any such Improvement following such a termination, any monies remaining in the improvement fund for the Community Facilities District and set aside for the acquisition of such Improvement shall be transferred to the special tax fund established pursuant to the Fiscal Agent Agreement for the Bonds and used, at the discretion of the City, to pay debt service on or to call outstanding Bonds.

SECTION 17. Agreement Contingent. This Agreement is contingent upon the initiation of proceedings to consider the formation of the Community Facilities District, the subsequent formation of the Community Facilities District and the designation of Improvement Areas therein and the authorization by the qualified electors of each Improvement Area of the Community Facilities District to levy special taxes within such Improvement Area and incur bonded indebtedness for such Improvement Area and the successful sale of Bonds for each Improvement Area and it shall be null and void as to any Improvement Area if the Bonds for such Improvement Area are not sold within a three (3) year period following the date of completion of the construction of the Improvements allocated to such Improvement Area, or any mutually agreed extension.

The City may, at its option, suspend the performance of its obligations under this Agreement if, during the 30-day statute of limitations period following the formation of the Community Facilities District, any legal challenge is filed relating to the validity or enforceability of this Agreement, the Community Facilities District proceedings or the issuance of the Bonds. The obligations of the City hereunder shall be reinstated upon the entry of a final judgment in any such proceedings upholding the validity and enforceability of the Agreement, the Community Facilities District proceedings or the issuance of the Bonds. In the event that a final judgment is entered invalidating or declaring unenforceable this Agreement, the Community Facilities District proceedings or the issuance of the Bonds, the City may, at its option, terminate this Agreement provided, however, that in such instance, the City shall use reasonable efforts to assist Owner in re-initiating the Community Facility District formation proceeding in a manner that is legal. If the City elects to terminate this Agreement pursuant to the preceding sentence, the obligations of the parties hereunder shall be terminated except for the City's obligation to assist the Owners as set forth in the immediately preceding sentence. The termination of an Owner's obligations hereunder shall not,

however, relieve such Owner of any obligations with respect to the construction of the Improvements which such Owner has under any other agreement with the City, the Flood Control District or SCE or any condition of approval of any land use entitlement for such Owner's Development.

SECTION 18. Notice of Special Tax. Each Owner, or the successor or assigns of such Owner, shall provide written notice to all potential purchasers or lessees, if the special taxes are to be passed through to such lessees, of lots or portions thereof in the form prescribed by California Government Code Section 53341.5 advising the potential owner or lessee, as applicable, of the fact of the proposed or confirmed Community Facilities District, with such document being executed by the potential purchaser or lessee, as applicable. Such notice shall be provided to the potential purchaser or lessee, as applicable, before the potential purchaser becomes contractually committed to purchase the lot or the lessee enters into the lease of the lot so that the potential purchaser or lessee, as applicable, may knowingly consider the impact of the special tax in the decision to purchase or lease the lot. A copy of all such notices executed by actual purchasers or lessees shall be sent to the City Engineer.

SECTION 19. Relationship to Public Works. This Agreement is for the acquisition of the Improvements by City, the Flood Control District or SCE and the sale of the Bonds for the payment of construction and acquisition costs for the Improvements and such other amounts as are herein provided, and is not intended to be a public works contract.

In performing its obligations under this Agreement, each Owner is an independent contractor and not the agent of City. City shall have no responsibility for payment to any contractor or supplier of such Owner. Notwithstanding the foregoing, an Owner may be subject to certain public contract requirements as provided in Section 3 of this Agreement.

SECTION 20. Sale of Bonds. The City shall initiate proceedings to issue and sell bonds secured by the levy of special taxes within each Improvement Area of the Community Facilities District (the "Bonds") to be issued pursuant to the Act only upon (i) the formation of the Community Facilities District and the designation of the Improvement Areas therein, (ii) the authorization by the qualified electors within each of the Improvement Areas to levy special taxes within such Improvement Areas and to issue the Bonds for each Improvement Area, and (iii) the receipt of a written request from the Owner(s) of the property within an Improvement Area that the City initiate proceedings to issue and sell such Bonds. It is anticipated that a separate series of Bonds may be sold for each Improvement Area at different times to finance the cost of the Improvements allocated to such Improvement Area or, alternatively, a single series of Bonds may be sold for combined Improvement Areas. The Bonds for an Improvement Area shall be sized so that as of the date of issuance of the Bonds the aggregate appraised value of all taxable properties within the Improvement Area for which the Bonds are being issued shall comply with the value-to-lien standards set forth in the Goals and Policies, as such Goals and Policies may have been amended as of the date of value of the appraisal of the taxable properties within the applicable Improvement Area. The appraised value of taxable property for purposes of this paragraph shall be determined by an independent appraisal undertaken for the City utilizing appraisal assumptions approved by the City.

The proceeds of the Bonds issued for any Improvement Area shall be used in the following priority to (i) fund a reserve fund for the payment of principal and interest with respect to such Bonds; (ii) fund capitalized interest on such Bonds for a period not to exceed eighteen (18) months; (iii) pay for costs of issuance of such Bonds including, without limitation, underwriter's discount, bond counsel fees and expenses, disclosure counsel fees and expenses, financial advisor fees and expenses, printing, and paying agent fees and expenses; (iv) pay for the proportionate share of the costs of forming the Community Facilities District allocated to such Improvement Area, including reimbursement of advances of funds to the City by an Owner and such Owner's legal, engineering and financial consulting expenses incurred relating to the formation of the Community Facilities District and issuance of the Bonds; and (v) pay the proportionate share of the costs allocated to such Improvement Area of the acquisition of the Improvements pursuant to the provisions of this Agreement or the JCFA, as applicable.

Subject to the satisfaction of the conditions precedent, including without limitation, the receipt of a written request from an Owner, as delineated in the first paragraph of this Section 20, the timing of the issuance and sale of the Bonds for an Improvement Area, the terms and conditions upon which such Bonds shall be issued and sold, the method of sale of such Bonds and the pricing thereof shall be determined solely by the City and shall conform to the Goals and Policies and this Agreement. The sale of the Bonds for an Improvement Area shall be subject to receipt by the City of a competitively bid or negotiated bond purchase agreement which is acceptable to the City. The sale of the Bonds for an Improvement Area shall also be conditional upon the preparation of an official statement that is, in the sole judgment of the City, "deemed final" as such term is used in Rule 15c2-12 of the Securities and Exchange Commission (the "Rule").

In addition to the foregoing, the principal amount of the Bonds to be issued for an Improvement Area shall be determined taking into consideration (a) the Bond authorization for such Improvement Area, (b) the budgeted construction cost for the Improvements to be financed, and (c) assuring that the maximum projected annual special tax revenues securing the Bonds equals at least (i) 110% of the projected annual gross debt service on all of the outstanding Bonds plus (ii) Administrative Expenses (as such term is defined in the rate and method of apportionment of special taxes authorized to be levied within the Improvement Area).

Owner, on behalf of itself, any affiliates of Owner and any successor or assign of Owner, agrees (a) to provide all information regarding the development of its property within the applicable Improvement Area of the Community Facilities District, including the financing plan for such development, which are necessary to ensure that the official statement for such Bonds complies with the requirements of the Rule and all other applicable federal and state securities laws; (b) to enter into a continuing disclosure agreement to provide such continuing disclosure pertaining to the applicable Improvement Area, the development thereof and such Owner as necessary to ensure ongoing compliance with the continuing disclosure requirements of the Rule and (c) to cause its counsel to provide an opinion of such counsel in a form satisfactory to the underwriter of such series of the Bonds and underwriter's counsel or disclosure counsel, as applicable. Owner acknowledges and understands that that the City may require the same commitments from other owners of property located within one or more of the Improvement Areas and the willingness and ability of any such owner to timely fulfill such commitments may affect the timing of the issuance of Bonds for the applicable Improvement Area or Improvement Areas.

SECTION 21. Annexation to Community Facilities Agreement. City and Owners acknowledge that the Community Facilities District is intended to be structured so that when and if it is established, properties located outside the original boundaries of the Community Facilities District that will, upon the development thereof, contribute runoff to the Flood Control Facilities or will be protected from flooding by the Flood Control Facilities may be annexed to the Community Facilities District and an Improvement Area within the Community Facilities District (the "Tributary Parcels"). The Tributary Parcels and the Improvement Areas into which such parcels may be annexed are shown on Exhibit F attached hereto and incorporated herein by this reference. Reference is made to Section 3.6 of the JCFA for a more detailed description of the annexation process, which Section 3.6 is hereby incorporated herein by this reference.

SECTION 22. Conflict with Other Agreements. Except as specifically provided herein, nothing contained herein shall be construed as releasing an Owner from any Condition of Approval applicable to such Owner's Development or requirement imposed by any other agreement with City. In the event of a conflicting provision, such other agreement shall prevail unless such conflicting provision is specifically waived or modified in writing by City and an Owner.

SECTION 23. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval, discretion or acceptance of any party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

SECTION 24. Entire Agreement; Amendment. This Agreement and the agreements expressly referred to herein contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waiver, amended or added to except by a writing signed by the party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.

SECTION 25. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

If to the City: City of Moreno Valley
Public Works Department, Special Districts Division
14325 Frederick Street, Suite 9
Moreno Valley, CA 92552-0805
Attention: Special Districts Division Manager

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805
Attention: City Attorney

Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
Attention: Warren Diven

If to the Owners: c/o First Industrial Realty Trust, Inc.
114 Pacifica Court, Suite 220
Irvine, CA 92618
Attention: Phil Bowman

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, IL 60606
Attention: Brett A. Feinberg

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties.

SECTION 25. Severability. If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

SECTION 26. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. An Owner may not assign its rights or obligations hereunder except upon written notice to City within ten (10) days of the date of such assignment indicating the name and address of the assignee. A decision by the City on acceptance of an assignment shall be made within ten (10) business days from the date of receipt by the City of Owner's written notice of assignment; provided, however, if the City shall provide written notice to the Owner within such initial response period that (a) the City Council will not be meeting in regular session during such initial response period or (b) the City Council will be meeting in regular session during such initial response period but there is not sufficient time to agendize the acceptance of the assignment for such City Council meeting, such response period shall automatically be extended to the tenth business day following the date of the first regularly scheduled City Council meeting following the expiration of the initial response period for which the acceptance of the assignment may be timely agendized. An Owner shall not be released from its duties or obligations hereunder without written notice from the City accepting the assignment of the Owner's obligations hereunder. Upon such notice and acceptance by the City of assignment of the duties and obligations of such Owner arising under or from this Agreement, such Owner shall be released by City from all future duties or obligations rising under or from this Agreement. Notwithstanding the preceding sentence, an Owner may assign its rights and obligations hereunder as security to lenders for the purpose of

obtaining loans to finance development within the Community Facilities District, but no such assignment shall release such Owner from its obligations hereunder to City.

SECTION 27. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Additionally, this Agreement and the construction of the Improvements shall be subject to all City ordinances and regulations relating to the requirement of improvement agreements, land division, improvement security or other applicable development requirements.

SECTION 28. No Obligation to Form Community Facilities District. Owner acknowledges that the decision of the City Council of the City to form the Community Facilities District is a legislative action and the City may not enter into an agreement to obligate the City Council to exercise its legislative discretion in a particular manner or for a particular result. This Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the City to approve the formation of the Community Facilities District.

SECTION 29. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights under the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by any other party with the terms of this Agreement thereafter.

SECTION 30. Singular and Plural; Gender. As used herein, the singular of any work includes the plural, and terms in the masculine gender shall include the feminine.

SECTION 31. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

SECTION 32. Construction of Agreement. This Agreement has been reviewed by legal counsel for both the City and the Owners and shall be deemed for all purposes to have been jointly drafted by the City and the Owners. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives of the parties hereunder. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

SECTION 33. Time of the Essence. The parties to this Agreement understand that time is of the essence in the completion of all matters contemplated by this Agreement because of, among other things, the necessity for completion of the Improvements in connection with construction of the Developments. The parties agree to use due diligence to fulfill their obligations contemplated by this Agreement at the earliest possible time. Without limiting the generality of the foregoing or compliance with specific time provisions set forth in this Agreement, any party to this Agreement requested or required to act, consent, or approve plans, work, documents, or other matters shall not unreasonably withhold or delay any such act, consent, or approval contemplated in this Agreement.

Notwithstanding the foregoing, performance by any party to this Agreement of its obligations hereunder shall be excused during any period of delay caused at any time by reasons of Acts of God, enactment of conflicting laws or regulations, moratoriums, riots, strikes, or damage to work in process by reason of fire, floods, earthquake, or other such casualties. If any party of this Agreement seeks excuse from timely performance, it shall provide written notice of such delay to every other party to this Agreement within thirty (30) calendar days of the commencement of such delay. Any delay or default beyond the control of the noticing party shall extend the time for performance for a period equal to the period of the enforced delay, or longer as may be mutually agreed upon.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF MORENO VALLEY

By: *Bobby M. Adams*
City Manager

Date of Execution: 7-14-08

APPROVED AS TO FORM:

CITY ATTORNEY

By: *Robert D. Henrich*

Date: 7/10/08


OWNERS:

FR/CAL MORENO VALLEY, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

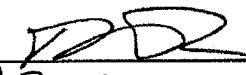
By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: 
Name: Phil Bowman
Its: Senior Vice President

Date of execution: 6/27/08

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By First Industrial Realty Trust, Inc., a Maryland corporation and its sole general partner

By: 
Name: Phil Bowman
Its: Senior Vice President

~~CITY ATTORNEY
Approved as to Form~~

~~By: _____ Date~~

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

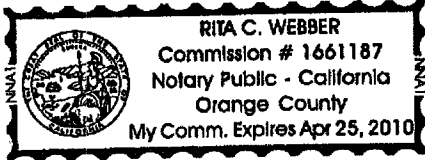
State of California

County of Orange

On 6/27/08 before me, Rita C. Webber, Notary Public

personally appeared Phil Bowman

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 Rita C. Webber

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

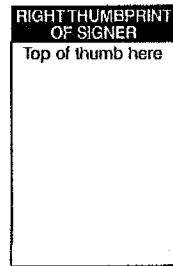
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

FR/CAL INDIAN AVENUE, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: 

Name: Paul Bowman

Its: Senior Vice President

Date of execution: 6/27/89

~~CITY ATTORNEY
Approved as to Form~~

~~By: _____~~

~~Date _____~~

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 6-27-08 before me, Rita C Webber, Notary Public
Date Here Insert Name and Title of the Officer

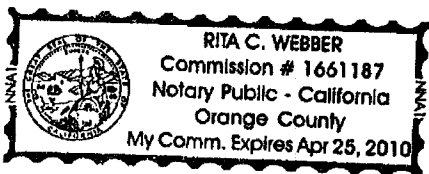
personally appeared Phil Bowman
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature Rita C. Webber
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

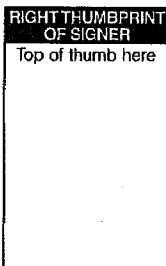
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

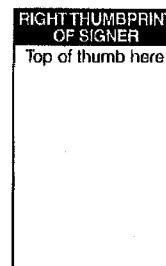
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

EXHIBIT "A"

**PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT
AND IMPROVEMENT AREAS**

EXHIBIT "B-1"

DESCRIPTION OF IMPROVEMENTS

Improvement Area No. 1 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 1 (the "Improvement Area No. 1 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 1 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 1 Flood Control Facilities: the Master Plan storm drain facilities identified as Perris Valley Lateral B-3.2, including all appurtenant box culverts and laterals.

Improvement Area No. 1 Street Improvements:

- Nandina Avenue will be improved from Heacock Street to Indian Street – North Side. – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street/Nandina Avenue), striping, signage, ADA ramps, drive aprons, local depressions and catch basins.
- Heacock Street will be improved from Nandina Street to Komar Property Line (PL) – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (as the intersection of Heacock Street and San Michele Avenue), local depressions and catch basins.
- Traffic signal installation at the intersection of Indian Street and San Michele Avenue.

Improvement Area No. 2 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 2 (the "Improvement Area No. 2 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 2 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 2 Flood Control Facilities: the Master Plan storm drain facilities identified as Perris Valley Laterals B-1 and B-1.2, including all appurtenant box culverts and laterals.

Improvement Area No. 2 Street Improvements:

- Nandina Avenue to First Industrial Property Line - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 3 ("Improvement Area No. 3 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 3 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 3 Flood Control Facilities: the Master Plan storm drain facilities identified as Sunnymead Line D-1, including all appurtenant box culverts and laterals.

Improvement Area No. 3 Street Improvements:

- Indian Street from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street and Iris Avenue and Indian Street and Krameria Avenue) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Iris Avenue from Street "A" to Indian Street - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Iris and Future Street) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Street "A" from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins .
- Krameria Avenue from Indian Street to Street "A" - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Utility Improvements:

- Undergrounding of overhead utilities adjacent to or in the Street Improvements for Indian Street described above.

Upon the approval by the City of final Plans and Specifications for any Street Improvement or the approval by the Flood Control District of final plans and specifications for any Flood Control Improvements, the City Engineer may attach an addendum to this Exhibit B which shall be initialed by an authorized representative of the Owner responsible for constructing or causing the construction of such Street Improvements or Flood Control Improvements, as the case may be, identifying the applicable plans and specifications and the location thereof and such plans and specifications shall thereafter govern the description of the applicable Street Improvements or Flood Control Improvements.

EXHIBIT "B-2"

CFD NO. 7 INFRASTRUCTURE BUDGET

Exhibit B-2

CFD No. 7 Infrastructure Budget
City of Moreno Valley

IMPROVEMENT AREA NO. 1

Storm Drain (Perris Valley Lateral B-3a through B-3g and B-3 2)	\$5,500,000	\$7,177,610
Gas Line Relocation to Accommodate Storm Drain	\$125,000	\$163,128
Nandina Avenue (Heacock to Indian Street-North Side)		
HARD COSTS	ITEM	
	Roadway	
	Curb and Gutter	\$48,230
	Sidewalk	\$58,658
	Excavation and Clearing	\$120,443
	Asphalt Concrete over AC Base	\$218,988
	Traffic Control	\$13,012
	Street Lights	\$56,000
	Signalization	
	Indian/Nandina	\$200,000
	Signing and Striping	\$3,650
	ADA Ramps	\$2,000
	Drive Aprons	\$10,500
	Storm Drain Inlet	\$2,000
	SUBTOTAL	\$733,480
	Hard Cost Contingency (10%)	\$73,348
	TOTAL HARD COSTS	\$806,828
SOFT COSTS		
	Civil Engineering (3%)	\$22,004
	Construction Staking (1%)	\$7,335
	Developer Fee/Project Management Fee (4%)	\$32,273
	Construction Management Fee (4%)	\$32,273
	General Conditions (3%)	\$24,205
	Landscape Architect	\$0
	Plancheck and Permits (3%)	\$22,004
	Soils/Materials Testing (1%)	\$7,335
	SUBTOTAL	\$147,429
	Soft Cost Contingency (2%)	\$2,949
	TOTAL SOFT COSTS	\$150,378
Nandina Avenue subtotal		\$957,206

Heacock Street (Nandina North to Komar PL)

HARD COSTS	ITEM		
	Roadway		
	Curb and Gutter	\$11,840	
	Sidewalk	\$14,400	
	Excavation and Clearing	\$29,568	
	Asphalt Concrete over AC Base	\$53,760	
	Traffic Control	\$2,962	
	Street Lights	\$7,000	
	Signalization		
	Heacock/San Michele	\$200,000	
	Signing and Striping	\$896	
	ADA Ramps	\$1,000	
	Drive Aprons	\$4,000	
	Storm Drain Inlet	\$0	
	SUBTOTAL		\$325,426
	Hard Cost Contingency (10%)		\$32,543
	TOTAL HARD COSTS		\$357,968
SOFT COSTS			
	Civil Engineering (3%)	\$9,763	
	Construction Staking (1%)	\$3,254	
	Developer Fee/Project Management Fee (4%)	\$14,319	
	Construction Management Fee (4%)	\$14,319	
	General Conditions (3%)	\$10,739	
	Landscape Architect	\$0	
	Plancheck and Permits (3%)	\$9,763	
	Soils/Materials Testing (1%)	\$3,254	
	SUBTOTAL		\$65,411
	Soft Cost Contingency (2%)		\$1,308
	TOTAL SOFT COSTS		\$66,719
	Heacock Street subtotal		\$424,687
Traffic Signal	Indian Street/San Michele	\$200,000	\$261,004
TOTAL IMPROVEMENT AREA 1 COSTS			\$6,983,634

IMPROVEMENT AREA NO. 2

Storm Drain (Perris Valley Laterals B-1 and B-2) \$1,694,394 \$2,211,218

Nandina Avenue (Knox Street to Perris Boulevard-North Side)

HARD COSTS

ITEM

Roadway
 Curb and Gutter \$29,431
 Sidewalk \$36,685
 Excavation and Clearing \$73,273
 Asphalt Concrete over AC Base \$133,224
 Traffic Control \$7,831
 Street Lights \$38,500

 Signing and Striping \$2,220

 ADA Ramps \$1,000
 Drive Aprons \$5,000
 Storm Drain Inlet \$0

SUBTOTAL \$326,164

Hard Cost Contingency (10%) \$32,616

TOTAL HARD COSTS \$358,781

SOFT COSTS

Civil Engineering (3%) \$9,785
 Construction Staking (1%) \$3,282
 Developer Fee/Project Management Fee (4%) \$14,351
 Construction Management Fee (4%) \$14,351
 General Conditions (3%) \$10,763
 Landscape Architect \$5,000
 Plancheck and Permits (3%) \$9,785
 Soils/Materials Testing (1%) \$3,262

SUBTOTAL \$70,559

Soft Cost Contingency (2%) \$1,411

TOTAL SOFT COSTS \$71,970

Nandina Avenue subtotal \$430,761

TOTAL IMPROVEMENT AREA 2 COSTS \$2,641,969

IMPROVEMENT AREA NO. 3

Storm Drain (Sunnymead Line D-1) \$1,287,000 \$1,679,581

Indian Street (Iris Avenue to Krameria)

HARD COSTS

ITEM

Roadway		
Curb and Gutter	\$47,286	
Sidewalk	\$57,510	
Excavation and Clearing	\$109,652	
Asphalt Concrete over AC Base	\$199,368	
Traffic Control	\$10,428	
Street Lights	\$59,500	
Signalization		
Indian/Iris	\$100,000	
Indian/Krameria	\$200,000	
Signing and Striping	\$3,323	
ADA Ramps	\$1,000	
Drive Aprons	\$5,000	
Storm Drain Inlet	\$0	
Overhead Utility Undergrounding		\$206,480
SUBTOTAL		\$999,548
Hard Cost Contingency (10%)		\$99,955
TOTAL HARD COSTS		\$1,099,502

SOFT COSTS

Civil Engineering (3%)	\$29,986	
Construction Staking (1%)	\$9,995	
Developer Fee/Project Management Fee (4%)	\$43,980	
Construction Management Fee (4%)	\$43,980	
General Conditions (3%)	\$32,985	
Landscape Architect	\$0	
Plancheck and Permits (3%)	\$29,986	
Soils/Materials Testing (1%)	\$9,995	
SUBTOTAL		\$200,909
Soft Cost Contingency (2%)		\$4,018
TOTAL SOFT COSTS		\$204,927

Indian Street subtotal \$1,304,430

Iris Avenue (Street "A" to Indian Street)

HARD COSTS	ITEM		
	Roadway		
	Curb and Gutter	\$23,588	
	Sidewalk	\$28,688	
	Excavation and Clearing	\$92,565	
	Asphalt Concrete over AC Base	\$168,300	
	Traffic Control	\$10,011	
	Street Lights	\$31,500	
	Signalization	\$0	
	Iris/Future Street	\$200,000	
	Signing and Striping	\$2,805	
	ADA Ramps	\$2,000	
	Drive Aprons	\$5,000	
	Storm Drain Inlet	\$0	
		\$0	
	SUBTOTAL		\$564,456
	Hard Cost Contingency (10%)		\$56,446
	TOTAL HARD COSTS		\$620,902
SOFT COSTS			
	Civil Engineering (3%)	\$16,934	
	Construction Staking (1%)	\$5,645	
	Developer Fee/Project Management Fee (4%)	\$24,836	
	Construction Management Fee (4%)	\$24,836	
	General Conditions (3%)	\$18,627	
	Landscape Architect	\$0	
	Plancheck and Permits (3%)	\$16,934	
	Soils/Materials Testing (1%)	\$5,645	
	SUBTOTAL		\$113,456
	Soft Cost Contingency (2%)		\$2,269
	TOTAL SOFT COSTS		\$115,725
Iris Avenue subtotal			\$736,627

Street "A" (Iris to Krameria)

HARD COSTS

ITEM	
Roadway	
Curb and Gutter	\$47,286
Sidewalk	\$57,510
Excavation and Clearing	\$168,696
Asphalt Concrete over AC Base	\$308,720
Traffic Control	\$16,083
Street Lights	\$56,000
Signing and Striping	\$5,112
ADA Ramps	\$2,000
Drive Aprons	\$10,500
Storm Drain Inlet	\$2,000
SUBTOTAL	\$671,907
Hard Cost Contingency (10%)	\$67,191
TOTAL HARD COSTS	\$739,098

SOFT COSTS

Civil Engineering (3%)	\$20,157
Construction Staking (1%)	\$6,719
Developer Fee/Project Management Fee (4%)	\$29,564
Construction Management Fee (4%)	\$29,564
General Conditions (3%)	\$22,173
Landscape Architect	\$0
Plancheck and Permits (3%)	\$20,157
Soils/Materials Testing (1%)	\$6,719
SUBTOTAL	\$135,053
Soft Cost Contingency (2%)	\$2,701
TOTAL SOFT COSTS	\$137,754

Street "A" subtotal **\$876,852**

Krameria Avenue (Indian to Street "A")

HARD COSTS	ITEM		
	Roadway		
	Curb and Gutter	\$23,688	
	Sidewalk	\$28,688	
	Excavation and Clearing	\$92,566	
	Asphalt Concrete over AC Base	\$168,300	
	Traffic Control	\$6,433	
	Street Lights	\$21,000	
	Signing and Striping	\$3,188	
	Median	\$0	
	ADA Ramps	\$0	
	Drive Aprons	\$0	
	Storm Drain Inlet	\$0	
	SUBTOTAL		\$345,761
	Hard Cost Contingency (10%)		\$34,576
	TOTAL HARD COSTS		\$380,337
SOFT COSTS			
	Civil Engineering (3%)	\$10,373	
	Construction Staking (1%)	\$3,458	
	Developer Fee/Project Management Fee (4%)	\$15,213	
	Construction Management Fee (4%)	\$15,213	
	General Conditions (3%)	\$11,410	
	Landscape Architect	\$0	
	Plancheck and Permits (3%)	\$10,373	
	Soils/Materials Testing (1%)	\$3,458	
	SUBTOTAL		\$69,498
	Soft Cost Contingency (2%)		\$1,390
	TOTAL SOFT COSTS		\$70,888
Krameria Avenue subtotal			\$451,225
TOTAL IMPROVEMENT AREA 3 COSTS			\$5,048,694

EXHIBIT "C"

DESIGN, BID AND CONTRACT REQUIREMENTS FOR THE STREET IMPROVEMENTS

The following requirements are intended to supplement the provisions of the Agreement pertaining to the construction of the Street Improvements, including but not limited to Section 3. thereof. In the event that any provision of the requirements contained in this Exhibit "C" conflicts with or is inconsistent with the provisions of Agreement, the provisions of the Agreement shall control.

Design Phase

A. Only design costs directly related to the Street Improvements to be acquired are eligible for inclusion in the Purchase Price for such Improvements.

Bidding Phase

A. Bidding Documents. Two complete sets of bidding documents, including improvement plans, general provisions, and bid proposal forms shall be submitted to City for review and approval within 10 working days of submittal. Solicitation of bids shall not take place until the bidding documents are approved in writing by the City. This procedure shall be followed for each contract for which bids are proposed to be solicited. Unless otherwise noted, the bidding documents shall conform to the following minimum requirements:

1. Unless impractical due to the nature of the Street Improvement, the bid proposal shall be unit priced rather than lump sum. A.C. pavement, base and sub-base shall be bid on a square foot per inch thickness basis.

2. The bidding documents shall require the bidder/contractor to provide the following bonds:

- a. Bid Bond - 10% of the amount of the bid.
- b. Material and Labor Bond - 50% of the contract amount.
- c. Performance Bond - 100% of the contract amount.

3. The bidding documents shall require the successful bidder to provide evidence of comprehensive public liability insurance in the amount of at least \$1,000,000 prior to the award of the contract.

4. The bidding documents shall provide for monthly progress payments to the contractor.

5. The bidding documents must clearly state the time, date, and place where bids are to be submitted and opened.

6. The bidding documents shall clearly state the amount of time to complete the work. The time allowed must be reasonable for the amount of work. Accelerated construction time allowances must be supplementally bid, and are not eligible for public finance unless previously approved by the City.

7. The bidding documents shall conform to the requirements of Section 3. of the Agreement.

B. The applicable Owner shall keep a log of all persons obtaining bidding documents, and their mailing address.

C. Addenda shall be mailed by first class mail to all bidding document holders and the City Engineer. If an addendum is required within five working days of the noticed bid opening date, the bid opening date shall be extended.

D. Submitted bids shall be in sealed envelopes.

E. Bids shall not be accepted after the stated time for submission.

F. Bid opening shall be conducted by the applicable Owner at such Owner's place of business, City Hall or such other site mutually acceptable to such Owner and City Engineer.

G. All bid openings shall be scheduled to take place during normal working hours of the Public Works Department. Sealed bids shall be opened and read aloud immediately following the submission time. A City representative shall be invited to attend the bid opening.

H. Conditioned bids, unless the bid proposal lists them for all to bid on, shall not be accepted.

I. The bid proposals shall conform to all state and local laws governing the listing of subcontractors and suppliers.

J. The arithmetic of the two lowest bid proposals received shall immediately be checked for errors.

K. A tabulation of all bids received shall be provided to the City Engineer within five working days of the bid opening.

L. A preconstruction meeting shall be held with the contractor prior to beginning the work. City Public Works representatives shall be invited to attend the meeting.

M. The Notice to Proceed shall be issued within a reasonable period of time following the contract execution.

Construction Phase

- A. The City shall be provided a copy of the construction schedule.
- B. The applicable Owner shall require the contractor to conduct weekly construction status meetings to which City representatives shall be invited.
- C. All change orders shall be reviewed and approved by the City Public Works inspector on a monthly basis and submitted with the applicable payment requests.
- D. Any additional costs incurred for the benefit of the applicable Owner, such as accelerating the construction schedule, shall not be eligible for public financing unless previously approved by the City.
- E. Any additional construction costs incurred due solely to delays caused by the applicable Owner shall not be eligible for public financing.
- F. All contracts and construction related records shall be available to the City as and when required for the final determination of eligible costs for the public financing. This shall include trip tickets and other confirmations of material delivered to the Improvement.

General

The above rules shall be applied to all Street Improvements proposed to be acquired through the Community Facilities District. Any deviation from the rules must be approved by the City Engineer.

“City Engineer” means the City Engineer or his designee.

EXHIBIT "D"

PAYMENT REQUEST NO. _____

The undersigned (an "Owner") hereby requests payment in the total amount of \$ _____ for the Purchase Price of the Improvement(s) (as defined in the Acquisition/Financing Agreement (the "Agreement") by and among the City of Moreno Valley (the "City") and the Owners and described in Exhibit B to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby certifies, represents and warrants to the City as follows:

1. He/she is a duly authorized officer of the Owner, qualified to execute and submit this Payment Request on behalf of the Owner and is knowledgeable as to the matters set forth herein.
2. The Purchase Price for the Improvement(s) has been calculated in conformance with the terms of the Agreement. All costs for which payment is requested hereby are eligible costs (as permitted in the Agreement) and have not been inflated in any respect. The payment which is hereby requested has not been the subject of any prior payment request paid by the City.
3. Supporting documentation (such as third party invoices, change orders and checks) is attached with respect to each cost for which payment is requested.
4. The Improvement(s) for which payment is requested were constructed substantially in accordance with the requirements of the Agreement.
5. The Owner is in compliance with the terms and provisions of the Agreement.
6. No mechanics liens or other encumbrances have attached, or to the best knowledge of the Owner, after due inquiry, will attach to the Improvements.
7. Payment of the Purchase Price shall be made to the Owner and/or other parties pursuant to the instructions set forth in Attachment 2 hereto.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

[INSERT NAME OF THE APPLICABLE OWNER]

By: _____
Name: _____
Title: _____

Payment Request Approved for Submission to
[Fiscal Agent or Trustee]

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

ATTACHMENT 1

**SUMMARY OF CITY IMPROVEMENTS
INCLUDED IN PAYMENT REQUEST NO. _____**

Complete the table below for each Improvement to which this Payment Request applies and attach all required supporting documentation:

Description of Improvement	Budgeted Cost for Improvement	Purchase Price for Improvement

EXHIBIT E -
THE FEE LETTER



First Industrial Realty Trust, Inc.
114 Pacifica, Suite 220
Irvine, CA 92618
T: (949) 488-1970
F: (949) 488-1971
www.firstindustrial.com

February 11, 2008

Sue Anne Maxinoski
Special Districts Coordinator
City of Moreno Valley
14325 Frederick Street, Ste. 9
Moreno Valley, CA. 92552-0805

Ms. Maxinoski:

As a followup to my first letter dated October 17, 2007, I am writing to provide you with a summary of the developer and project management fees which are required to complete the offsite improvements associated with Community Facilities District (CFD) #7 currently under formation in Moreno Valley. This letter is intended to clarify our request to have certain fees reimbursed as project costs under Section 7(b)(4) of the DRAFT Acquisition and Financing Agreement

The pertinent fees are as follows:

1. **Developer Fee/Project Management Fee**-This fee is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and is reimbursed to First Industrial (FR) for the management of the project. These management services include the solicitation, retention, and administration of professional services (i.e. civil engineering, construction management services), oversight of the design process, interface and coordination with all relative public agencies to facilitate plan check review, permitting, CFD formation process, and the public bid process.

2. **Construction Management Fee**- This fee, is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and will be performed by an individual or professional consulting company to provide in-field construction management services. These services would include, but would not be limited to, assisting FR in the public bid process, overall field administration, coordination of work schedules with the General Contractor and subcontractors, review of change orders, processing of construction payments, interfacing with public agencies during inspections, finalizing punch list items, managing the physical completion of the work through final acceptance by each respective public agency.

3. **General Conditions**-This fee, defined as 3% of the hard cost of construction and hard cost contingency, will be to address ancillary professional or construction services not performed by any of the specific contractors or subcontractors as defined in the scope of work of their contracts. These services may include, but are not limited to immediate on-site supervision, dust control, job site cleanup (e.g. street sweeping), overlapping traffic control coordination, and project site security.

With the above explanations in mind, we would respectfully request that these fees (totaling 11%) be included in the overall amount to be reimbursed to First Industrial under the Acquisition and Finance Agreement and JCFA.

Please call me at 949-933-2121 if I can be of additional assistance or if you have further questions.

Sincerely,


John A. Grace
Development Manager
First Industrial Realty Trust

EXHIBIT F -
TRIBUTARY PARCELS

EXHIBIT E

BOND NO. _____

PREMIUM \$ _____

(SAMPLE)

**FAITHFUL PERFORMANCE BOND
(100% of Total Contract Amount)**

PROJECT NO. DXX-XXXXX

**PROJECT NAME
PROJECT DESCRIPTION/LIMITS
(Tract No., Parcel No., Address)**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the **Developer's Name**, known as "Developer," has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into a Contract Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Contract Agreement, dated _____, 20__, and identified as Tract DXX-XXXXX, Parcel No., Address is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Contract Agreement is required to furnish a bond guaranteeing the faithful performance of said Contract Agreement;

NOW THEREFORE, we the undersigned Contractor and _____, as Surety, are held and firmly bound unto the **Developer's Name**, in the penal sum of dollars, (\$ _____), lawful money of the United States, to be paid to the said Developer or its certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Contractor, his or her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in said Contract Agreement and any alterations thereof made as therein provided, on his or her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the **Developer's Name**, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In the event suit is brought upon this bond by the Developer and judgment is recovered, the Surety shall pay all costs incurred by the Developer in such suit, including a reasonable attorney fee to be fixed by the court.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract Agreement or to the work to be performed thereunder, or the Provisions accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Agreement or to the work or the Provisions.

(SIGNATURE PAGE FOLLOWS)

E1

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands, and seals on

this _____ day of _____ 20_____.

CONTRACTOR

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

By: _____

By: _____

Attorney-in-Fact

NOTE:

This bond must be executed by both parties. Corporate seal may be affixed hereto. All signatures must be acknowledged before a notary public (attach acknowledgments). The attorney-in-fact for the corporate surety must be registered, as such, in at least one county in the State of California. (Attach one original Power of Attorney sheet for each bond).

E2

E-2

(Sample)

BOND NO. _____

PREMIUM \$ _____

**LABOR AND MATERIALS PAYMENT BOND
(100% of Total Contract Amount)**

PROJECT NO. DXX-XXXXX

**PROJECT NAME
PROJECT DESCRIPTION/LIMITS**

(Tract No., Parcel No., Address)

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the **Developer's Name**, known as "Developer", has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into a Contract Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Contract Agreement, dated _____, 20____, and identified as **t Tract No. DXX-XXXXX, Parcel No., Address** is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Agreement is required to furnish a bond to secure the payment of claims of laborers, mechanics, materialmen, and other persons, as provided by law;

NOW, THEREFORE, we the undersigned Contractor and _____, as Surety are held and firmly bound unto the **Developer's Name**, in the penal sum of dollars, (\$_____), lawful money of the United States, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Contractor, his or her or its heirs, executors, administrator, successors or assigns, or subcontractors, shall fail to pay any of the persons described in the State of California Civil Code, Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his or her subcontractors, pursuant to Section 13020, of the Unemployment Insurance Code, with respect to such work and labor, that the Surety or Sureties herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In the event suit is brought upon this bond by the Developer or other person entitled to bring such an action and judgement is recovered, the Surety shall pay all costs incurred by the Developer in such suit, including a reasonable attorney fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons described in the State of California Civil Code Section 3181, to give a right of action to such persons or their assigns in any suit brought upon this bond.

(Signature Page Follows)

E3

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

E-3

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands and seals on

this _____ day of _____ 20____.

CONTRACTOR

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

By: _____

By: _____

Attorney-in-Fact

NOTE:

This bond must be executed by both parties. Corporate seal may be affixed hereto. All signatures must be acknowledged before a notary public (attach acknowledgments). The attorney-in-fact for the corporate Surety must be registered, as such, in at least one county in the State of California. (Attach one original Power of Attorney sheet for each bond).

E4

EXHIBIT F

FORM OF PAYMENT REQUEST

PAYMENT REQUEST NO. _____

The undersigned (the "Owner") hereby requests payment in the total amount of \$ _____ for the Purchase Price of the Improvement(s) (as defined in the Acquisition/Financing Agreement (the "Agreement") by and among the City of Moreno Valley (the "City") and the Owner and described in Exhibit B to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby certifies, represents and warrants to the City as follows:

1. He (she) is a duly authorized officer of Owner, qualified to execute and submit this Payment Request on behalf of Owner and is knowledgeable as to the matters set forth herein.
2. The Purchase Price for the Improvement(s) has been calculated in conformance with the terms of the Agreement. All costs for which payment is requested hereby are eligible costs (as permitted in the Agreement) and have not been inflated in any respect. The payment which is hereby requested has not been the subject of any prior payment request paid by the City.
3. Supporting documentation (such as third party invoices, change orders and checks) is attached with respect to each cost for which payment is requested.
4. The Improvement(s) for which payment is requested were constructed substantially in accordance with the requirements of the Agreement.
5. Owner is in compliance with the terms and provisions of the Agreement.
6. No mechanics liens or other encumbrances have attached, or to the best knowledge of the Owner, after due inquiry, will attach to the Improvements.
7. Payment of the Purchase Price shall be made to the Owner and/or other parties pursuant to the instructions set forth in Attachment 2 hereto.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

OWNER

By: _____
Name: _____
Title: _____

APPROVAL BY THE FLOOD ENGINEER

The Flood Engineer confirms that the Flood Control Facility described in Attachment A has been constructed in accordance with the Plans and Specifications therefor. The Actual Cost of each Flood Control Facility as described in Attachment A has been reviewed, verified and approved by the Flood Engineer. The Purchase Price for said Flood Control Facility is established at \$_____. Payment of the Purchase Price for the Flood Control Facility is hereby approved.

Date: _____

FLOOD ENGINEER

By: _____

Payment Request Approved for Submission
to [Fiscal Agent or Trustee]

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

ATTACHMENT 1 PAYMENT REQUEST - ACTUAL COSTS

Property Owner is to complete Columns 1 through 7

CFD/Improvement Area/Tract Number: _____
 Facility Description: _____

1 Bid Item No.	2 Bid Item Description	3 Unit of Measure	4 Unit Price	5 Original Contract Quantity	6 Quantity Invoiced	7 Amount Invoiced	8 Quantity Calculated By Flood District	9 Amount Calculated By Flood District	10 Difference	11 Actual Cost
1			0.00	0	0	0.00	0	0.00	0.00	
2			0.00	0	0	0.00	0	0.00	0.00	
3			0.00	0	0	0.00	0	0.00	0.00	
4			0.00	0	0	0.00	0	0.00	0.00	
5			0.00	0	0	0.00	0	0.00	0.00	
6			0.00	0	0	0.00	0	0.00	0.00	
7			0.00	0	0	0.00	0	0.00	0.00	
8			0.00	0	0	0.00	0	0.00	0.00	
9			0.00	0	0	0.00	0	0.00	0.00	
10			0.00	0	0	0.00	0	0.00	0.00	
11			0.00	0	0	0.00	0	0.00	0.00	
12			0.00	0	0	0.00	0	0.00	0.00	
13			0.00	0	0	0.00	0	0.00	0.00	
14			0.00	0	0	0.00	0	0.00	0.00	
15			0.00	0	0	0.00	0	0.00	0.00	
16			0.00	0	0	0.00	0	0.00	0.00	
17			0.00	0	0	0.00	0	0.00	0.00	
18			0.00	0	0	0.00	0	0.00	0.00	
19			0.00	0	0	0.00	0	0.00	0.00	
20			0.00	0	0	0.00	0	0.00	0.00	

Total: 0.00

0.00

Amount Requested: _____