

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

505 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
April 20, 2010

SUBJECT: Authorization to Purchase a Portion of Real Property
Verbena Channel – Assessor's Parcel No.657-160-034
Desert Hot Springs, California

RECOMMENDED MOTION:

That the Board of Supervisors:

- 1) Approve Resolution No. F2010-10, Authorization to Purchase a Portion of Real Property, for the purpose of the construction of the Verbena Channel Project. Said property being Assessor's Parcel No. 657-160-034, located in Desert Hot Springs, California.
- 2) Authorize the Clerk of the Board to certify acceptance of any documents running in favor of the District as part of this transaction.
- 3) Authorize the General Manager-Chief Engineer or his designee to execute the Agreement and any other related documents and administer all actions necessary to complete this transaction.

(Continued on Page 2)

GSW:rlp

Warren D. Williams

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$485,000	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	N/A	For Fiscal Year:	2009-2010

SOURCE OF FUNDS: Zone 6 Construction/Maint./Misc. 540040 25160 947500 - Land	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
Alex Gann
BY: _____
Alex Gann

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Stone, seconded by Supervisor Buster and duly carried,
IT WAS ORDERED that the above matter is received and filed as recommended.

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: April 20, 2010
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: | District: 4th | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

11.4

FORM APPROVED COUNTY COUNSEL
BY: *Synthia M. Gunzel* 3-31-10
DATE: 3-31-10
DEPARTMENTAL CONCURRENCE: SYNTHIA M. GUNZEL

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

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

SUBJECT: Authorization to Purchase a Portion of Real Property
Verbena Channel – Assessor's Parcel No. 657-160-034
Desert Hot Springs, California

SUBMITTAL DATE: April 20, 2010
Page 2

BACKGROUND:

A Purchase Agreement has been negotiated with the property owner, Robert J. Mainiero, Trustee of the Robert J. Mainiero Trust at the appraised value of \$475,000 plus an additional \$10,000 for title and escrow fees.

The Purchase Agreement covers the fee title to Assessor's Parcel No. 657-160-034, Desert Hot Springs California. The property contains approximately 13.57 acres or 591,109 sq. ft. and is unimproved/vacant land.

This action is necessary to construct flood control improvements for the Verbena Channel Project between Camino Campanero and Camino Idilio, Desert Hot Springs, California.

FINANCIAL:

Sufficient funds were budgeted and are available in the Zone 6 fund.

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

BOARD OF SUPERVISORS

RESOLUTION NO. F2010-10

AUTHORIZATION TO PURCHASE A PORTION OF REAL PROPERTY

BE IT RESOLVED, DETERMINED AND ORDERED by vote of the Board of Supervisors of the Riverside County Flood Control and Water Conservation District in regular session assembled on April 20, 2010, and NOTICE IS HEREBY GIVEN, that this Board authorized the purchase at or after 1:30 p.m. of that certain real property in the County of Riverside, State of California, consisting of Assessor's Parcel Number 567-160-034, in fee, more particularly described on Exhibit "A" attached hereto, for a purchase price of \$475,000 plus an additional \$10,000 for title insurance and escrow fees, from the owner, Robert J. Mainiero, Trustee of the Robert J. Mainiero Trust, dated July 22, 1986.

BE IT FURTHER RESOLVED that the General Manager-Chief Engineer or his designee is authorized to execute any other documents and administer all actions necessary to complete the purchase of the land.

ROLL CALL:

Ayes: Buster, Stone, Benoit, and Ashley
Nays: None
Absent: Tavaglione

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board

By: _____
Deputy

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel 3-31-10
DATE
SYNTHIA M. GUNZEL

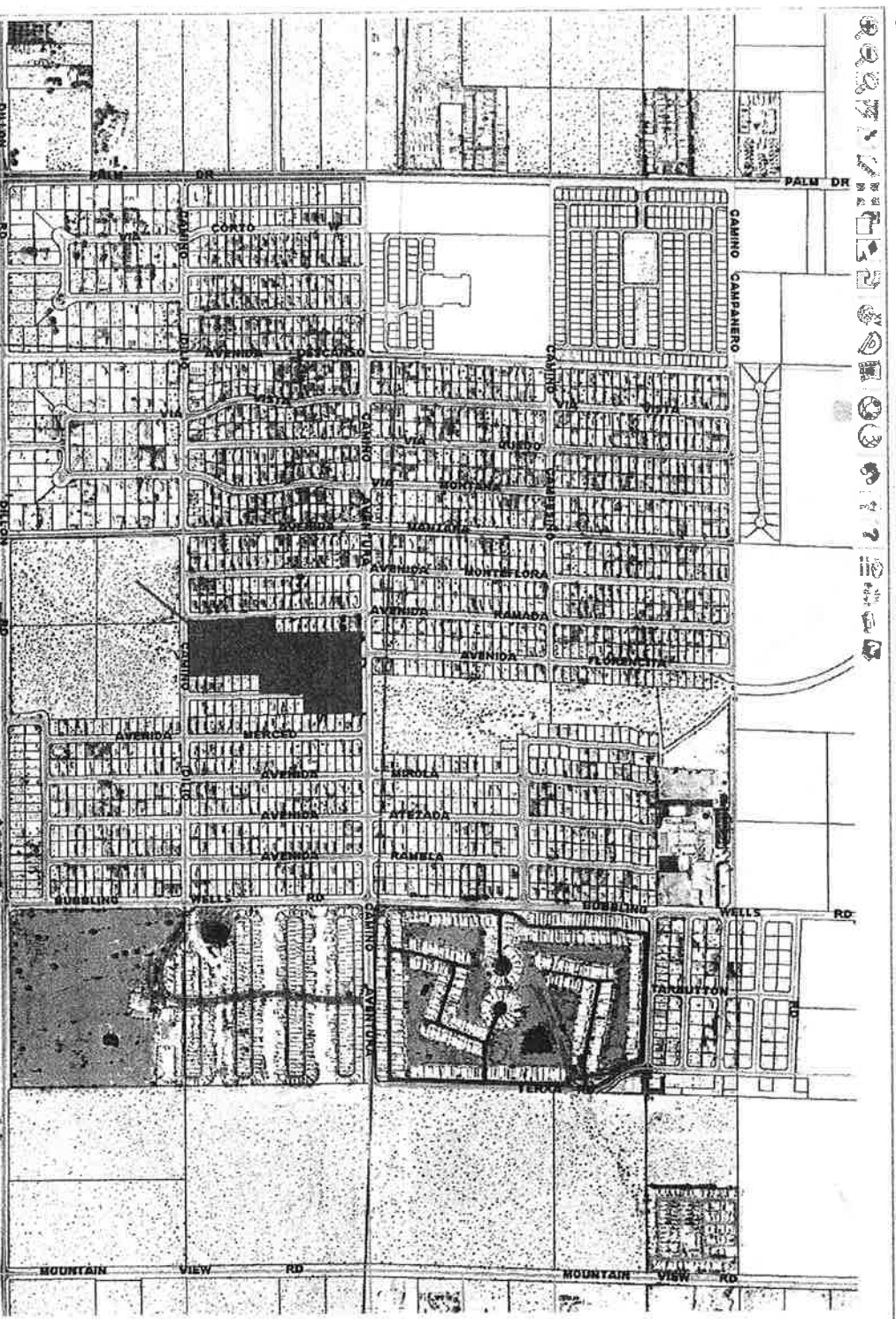
EXHIBIT A

All that certain real property situated in the County of Riverside, State of California, described as follows:

That portion of the North Half of the Northwest Quarter of Section 8, Township 3 South, Range 5 East of San Bernardino Meridian in the County of Riverside, state of California, according to the Official Plat thereof, lying East of Dos Palmas Tract Unit 14, as shown by Map on file in Book 37, Pages 16 and 17 of Maps, and West of Dos Palmas Tract Unit 12, as shown by Map on File in Book 32, Pages 15 and 16 of Maps, all in the office of the County Recorder of said County.

Except therefrom any portion lying within Dos Palmas Unit D, as shown by Map on file in Book 37, page 60 of Maps, in the office of the County Recorder of said County.

Also except therefrom that portion of said land as conveyed to the County of Riverside by document recorded August 26, 1986 as Instrument No. 205291 of Official Records of said County.



1 km

Scale 1: 8080



Maps

- District Data
- FACILITIES AND PROPERTIES

- Legend
- GROUPS
 - DISTRICT
 - INFRASTRUCTURE
 - FEMA AND AASB
 - RIVERSIDE COUNTY
 - POLITICAL
 - MAPPING
 - NATIONAL HYDROLOGIC DATA
 - AERIAL IMAGERY

APN: 657-160-034
 PROJECT: Verbena Channel
 PROJECT NO.: 6-0-00150

AGREEMENT FOR SALE AND PURCHASE OF REAL PROPERTY

THIS AGREEMENT is entered into this 10th day of June, 2010, by and between the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "DISTRICT" or "BUYER") and ROBERT J. MAINIERO, TRUSTEE OF THE ROBERT J. MAINIERO TRUST, DATED JULY 22, 1986, (hereinafter called "SELLER") for acquisition by BUYER from SELLER of certain real property hereinafter set forth.

IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. AGREEMENT TO SELL AND PURCHASE SELLER agrees to sell to BUYER and BUYER agrees to purchase from SELLER, upon the terms and for the consideration set forth in this Agreement, all that certain real property (hereinafter called "SELLER Property") situated in the City of Desert Hot Springs, County of Riverside, State of California, and legally described as follows:

SEE EXHIBIT "A" ATTACHED HERETO
 AND BY THIS REFERENCE MADE A PART HEREOF

2. PURCHASE PRICE The total purchase price to be paid by SELLER, payable in cash through this Agreement, shall be the sum of:

FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS
 (\$475,000.00)

3. CONVEYANCE OF TITLE SELLER agrees to convey by Grant Deed to BUYER fee simple interest in the parcels described in said Exhibit "A". The SELLER Property shall be free and clear of all recorded liens, encumbrances, assessments, easements, leases and taxes EXCEPT:

- A. Taxes: Current fiscal year, including personal property tax, if any, and any further assessment thereto under Chapter 3.5 of Revenue and Taxation Code of the State of California.
- B. Quasi-public utility, public alley, public street easements and rights of way of record.
- C. Any items on the Preliminary Title Report ("PTR") not objected to by BUYER as set forth herein within 10 (ten) days after receipt of the PTR.
- D. Taxes: All other taxes owed whether current or delinquent are to be CURRENT.

4. TITLE INSURANCE POLICY Within 20 (twenty) days after the signing of this Agreement SELLER will provide a PTR from Lawyers Title Company of California, together with a legible copy of all exceptions to the title shown in the PTR. If either BUYER or SELLER objects to any of the exceptions, they must notify the other of such

1 objection in writing within 10 (ten) days after receipt of the PTR. If there are no written
2 objections within the 10 (ten) days, the PTR will be deemed approved.

3 Following the recording of the Grant Deed to BUYER, BUYER shall be provided with a
4 CLTA Standard Coverage Policy of Title Insurance in the amount of \$475,000.00 as issued
5 by Lawyers Title Company of California showing the title to the SELLER Property vested
6 in BUYER, subject only to the exceptions set forth in Paragraph 3 and the printed
7 exceptions and stipulations in said policy. BUYER agrees to pay the premium charged
8 therefor.

9 5. NECESSARY INSTRUMENTS SELLER shall execute and provide Grant Deeds,
10 conveying the real property described in said Exhibit "A", to the Escrow Holder before
11 closing. BUYER and SELLER to provide any additional Instruments as may be necessary
12 to complete this transaction. BUYER and SELLER hereby agree to cooperate with the
13 execution of all documents necessary to complete the transfer of the SELLER Property,
14 including, but not limited to, any supplemental instructions required to complete the
15 transaction.

16 6. ESCROW Upon execution of this Agreement by all parties, the parties shall open an
17 Escrow (the "Escrow") with Lawyers Title Insurance Company (the "Escrow Holder"), for
18 the purpose of consummating the purchase and sale of the SELLER Property described
19 herein. All escrow costs and expenses shall be borne by BUYER. The parties hereto shall
20 execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder
21 as may be required to consummate the transaction contemplated by this Agreement. Any
22 such instructions shall not conflict, amend or supersede any provisions of this Agreement;
23 this Agreement shall control unless the parties expressly agree in writing otherwise. The
24 Escrow Instructions shall include the following terms and conditions of sale:

25 ESCROW IS AUTHORIZED TO AND SHALL:

- 26 A. Any taxes which have been paid by SELLER, prior to the execution of this
27 Agreement, shall not be prorated between BUYER and SELLER, but SELLER shall
28 have the sole right, after the close of this transaction, to apply to the County Tax
Collector of said County for a refund. This refund would apply to the period after
BUYER'S acquisition, pursuant to Revenue and Taxation Code Section 5096.7.
- B. Pay and charge SELLER, upon SELLER'S written approval and in an amount in
SELLER'S sole discretion, in order to place title in the condition necessary to satisfy
Paragraph 3 of this Agreement, excluding any penalty for prepayment to any lien
holder in compliance with §1265.240 of the Eminent Domain Law.
- C. Pay and charge BUYER for any fees, charges and costs payable under Paragraph 6 of
this Agreement.
- D. Disburse funds and deliver the Grant Deed when conditions of this transaction have
been fulfilled by BUYER and SELLER.

The term "close of this transaction", if and where written in these instructions, shall mean
the date necessary Instruments of Conveyance are recorded in the Office of the County

1 Recorder for all affected properties involved in the project. Recordation of Instruments
2 delivered through this transaction is authorized if necessary or proper in the issuance of
said policy of title insurance.

3 All time limits within which any matter herein specified is to be performed may be
4 extended by mutual agreement of the parties hereto. Any amendment of, or supplement to,
any instructions must be in writing.

5 TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND THIS TRANSACTION
6 IS TO CLOSE AS SOON AS POSSIBLE, BUT IN NO EVENT LATER THAN 60
(SIXTY) DAYS FROM THE SIGNING OF THIS AGREEMENT.

- 7 7. FEES, CHARGES AND COSTS BUYER agrees to pay all BUYER'S and SELLER'S
8 usual fees, charges and costs that arise in this transaction.
- 9 8. PERMISSION TO ENTER ON PREMISE SELLER each hereby grants to the BUYER, or
10 its authorized agents, permission to enter upon the SELLER Property to be conveyed at all
11 reasonable times prior to close of this transaction for the purpose of making necessary or
appropriate inspections.
- 12 9. WARRANTIES, REPRESENTATIONS, AND COVENANTS OF BUYER AND
13 SELLER. SELLER hereby warrants, represents, and/or covenants to BUYER that:
- 14 A. To the best of SELLER'S knowledge, there are no actions, suits, material claims,
15 legal proceedings or any other proceedings affecting the SELLER Property or any
16 portion thereof, at law, or in equity before any court or governmental agency,
domestic or foreign.
- 17 B. To the best of SELLER'S knowledge, there are no encroachments onto the SELLER
18 Property by improvements on any adjoining property, nor do any buildings or
improvements encroach on other properties.
- 19 C. Until the closing, SELLER shall maintain the SELLER Property in good condition
20 and state of repair and maintenance, and shall perform all of its obligations under any
service contracts or other contracts affecting the property.
- 21 D. Until the closing, SELLER shall not do anything which would impair SELLER'S title
22 to any of the SELLER Property.
- 23 E. To the best of SELLER'S knowledge, neither the execution of this Agreement nor the
24 performance of the obligations herein will conflict with, or breach any of the
25 provisions of any bond, note, evidence of indebtedness, contract, lease or other
agreement or instrument to which the SELLER Property may be bound.
- 26 F. Until the closing, SELLER shall, upon learning of any fact or condition which would
27 cause any of the warranties and representations in this Warranties, Representations,
and Covenants of SELLER Section not to be true as of closing, immediately give
28 written notice of such fact or condition to BUYER.

10. HAZARDOUS WASTE Neither SELLER nor, to the best of SELLER'S knowledge, any previous owner, tenant, occupant or user of the SELLER Property used, generated, released, discharged, stored or disposed of any hazardous waste, toxic substances or related materials ("Hazardous Materials") on, under, in or about the SELLER Property or transported any Hazardous Materials to or from the SELLER Property. SELLER shall not cause or permit the presence, use, generation, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about or the transportation of any Hazardous Materials to or from, the SELLER Property. The term "Hazardous Materials" shall mean any substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste" or "restricted hazardous waste" under Section 25115, 25117 or 25122.7 or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material", "hazardous substance" or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated biphenyl's, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "hazardous substances" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. §1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903) or (xi) defined as a "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, as amended by Liability Act, 42, U.S.C. §9601 et seq. (42 U.S.C. §9601).

11. COMPLIANCE WITH ENVIRONMENTAL LAWS To the best of SELLER'S knowledge and with respect to the property being conveying in this transaction, the property complies with all applicable laws and governmental regulations including, without limitation, all applicable Federal, State and local laws pertaining to air and water quality, hazardous waste, waste disposal and other environmental matters, including, but not limited to, the Clean Water, Clear Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts and the California Environmental Quality Act, and the rules, regulations and ordinances of the city within which the subject property is located, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency and all applicable federal, state and local agencies and bureaus.

12. INDEMNIFICATION.

A. Indemnification by SELLER. SELLER agrees to indemnify, defend and hold DISTRICT harmless for, from and against any and all claims, demands, liabilities, costs, expenses, damages and losses, cause or causes of action and suit or suits of any nature whatsoever, arising out of or based on or from any misrepresentation or breach

1 of warranty or covenant by SELLER in this Agreement. This indemnity shall
 2 include, without limitation, any damage, liability, fine, penalty, punitive damage, cost
 3 or expense arising from or out of any claim, action, suit or proceeding for personal
 4 injury (including sickness, disease or death, tangible or intangible property damage,
 5 compensation for lost wages, business income, profits or other economic loss,
 6 damage to the natural resource or the environmental, nuisance, pollution,
 7 contamination, leak, spill, release or other adverse effect on the environment). This
 8 indemnification shall include all costs and attorney fees.

9 B. Indemnification by DISTRICT. DISTRICT agrees to indemnify, defend and hold
 10 SELLER harmless for, from and against any and all claims, demands, liabilities,
 11 costs, expenses, damages and losses, cause or causes or action and suit or suits arising
 12 out of DISTRICT's operation of the Property after the close of this transaction as it is
 13 defined within this Agreement or any misrepresentation or breach of warranty or
 14 covenant by BUYER in this Agreement or any document delivered to SELLER
 15 pursuant to this Agreement. This indemnification shall include all costs and attorney
 16 fees.

17 13. MISCELLANEOUS.

18 A. SELLER will provide within the time allowed by law a Natural Hazard Disclosure
 19 Statement in accordance with California Government Code sections 8589.3-8989.4
 20 and 51183.5 and Public Resources Code sections 4136, 2621.9 and 2694.

21 B. The terms and conditions, covenants and agreements set forth herein shall apply to
 22 and bind the heirs, executors, administrators, assigns and successors of the parties
 23 hereto.

24 C. Entire Agreement. This Agreement (including all Exhibits attached hereto)
 25 constitutes the entire contract between the parties hereto and may not be modified
 26 except by an Instrument in writing signed by the party to be charged. Neither party
 27 relies upon any warranty or representation not contained in this Agreement.

28 D. Notices. In the event either party desires or is required to give notice to the party in
 connection with this Agreement, the same shall be in writing and shall be deemed to
 have been given when delivered in person, by recognized overnight air courier
 service, by confirmed facsimile transmission, or deposited with the United States
 Postal Service, certified mail receipt requested address to BUYER or SELLER at the
 appropriate address as, set forth on Page 7. All notices sent by mail will be deemed
 received three (3) days after the date of mailing.

E. Counterparts. This Agreement may be executed in two or more counterparts, each of
 which shall be deemed an original, and all of which, taken together, shall comprise a
 fully executed original Agreement for all intents and purposes.

F. Partial Invalidity. If any term or provision of this Agreement shall be deemed to be
 invalid or unenforceable to any extent, the remainder of this Agreement will not be
 affected thereby, and each remaining term and provision of this Agreement will be
 valid and be enforced to the fullest extent permitted by law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

G. Possession of the Property. SELLER will deliver possession of the Property to BUYER upon the close of escrow.

H. No Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or other provision contained herein. No extension of time for performance or any obligation or act will be allowed except those of the waiving party, which will be extended by a period of time equal to the period of the delay.

I. Successors and Assigns. Neither party shall transfer or assign its rights or responsibilities under this Agreement without the express written consent of the other party.

J. Governing Law. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California in which the Property is located. Venue for any proceeding related to this Agreement shall be in the County of Riverside.

K. Brokers. Each party warrants and represents to the other that no brokers have been retained or consulted in connection with this transaction. Each party agrees to defend, indemnify, and hold harmless the other party from any claims, expenses, costs, or liabilities arising in connection with a breach of the foregoing warranty and representation.

L. Exhibits. Each exhibit attached hereto is incorporated herein by this reference as if set forth in full in the body of this Agreement.

//
//

1 IN WITNESS WHEREOF, the parties here have executed this Agreement the day and
2 year set forth hereinabove.

3 MAILING ADDRESS OF SELLER

4 608 N. FARRELL DRIVE
5 Palm Springs, CA 92263

SELLER:

THE ROBERT J. MAINIERO TRUST,
DATED JULY 22, 1986

6 *Robert J. Mainiero, Trustee*
7 ROBERT J. MAINIERO TRUSTEE

8
9 MAILING ADDRESS OF BUYER

10 1995 Market Street
11 Riverside, CA 92501

BUYER:

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

12 By: *Marion Ashley*
13 MARION V. ASHLEY, Chairman
14 Riverside County Flood Control and Water
Conservation District Board of Supervisors

15 RECOMMENDED FOR APPROVAL:

16 By: *Steve Thomas*
FOR WARREN D. WILLIAMS
General Manager-Chief Engineer

ATTEST:

17 KECIA HARPER-IHEM
18 Clerk of the Board

19 By: *Kecia Harper-Ihem*
20 Deputy

21 Date: *6-10-10*

22 APPROVED AS TO FORM:

23 PAMELA J. WALLS
24 County Counsel

(SEAL)

25 By: *Synthia M. Gunzel*
26 Synthia M. Gunzel
27 Deputy County Counsel

28 GW:bjp:rlp

EXHIBIT A

All that certain real property situated in the County of Riverside, State of California, described as follows:

That portion of the North Half of the Northwest Quarter of Section 8, Township 3 South, Range 5 East of San Bernardino Meridian in the County of Riverside, state of California, according to the Official Plat thereof, lying East of Dos Palmas Tract Unit 14, as shown by Map on file in Book 37, Pages 16 and 17 of Maps, and West of Dos Palmas Tract Unit 12, as shown by Map on File in Book 32, Pages 15 and 16 of Maps, all in the office of the County Recorder of said County.

Except therefrom any portion lying within Dos Palmas Unit D, as shown by Map on file in Book 37, page 60 of Maps, in the office of the County Recorder of said County.

Also except therefrom that portion of said land as conveyed to the County of Riverside by document recorded August 26, 1986 as Instrument No. 205291 of Official Records of said County.