

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

631



FROM: TLMA - Transportation Department

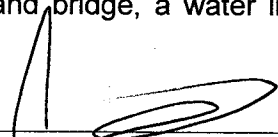
SUBMITTAL DATE:
January 26, 2012

SUBJECT: French Valley Creek Improvement and Disbursement Agreement between Bellacap, LLC, a California limited liability company and the County of Riverside

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the French Valley Creek Improvement and Disbursement Agreement between Bellacap, LLC, a California limited liability company and the County of Riverside.
2. Authorize the Chairman of the Board to execute the same.

BACKGROUND: Tracts 29114 and 32049 are owned by Bellacap, LLC and are located in the French Valley area. These tracts are required to construct certain improvements including channel rock slope protection, Skyview Road and bridge, a water line, completion of in tract


Juan C. Perez
Director of Transportation

JCP:sw
(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/2012

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

C.E.O. RECOMMENDATION:

APPROVE

BY 
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: 
KARIN L. WATTS-BAZAN DATE: 1/26/12
Municipal Concurrence

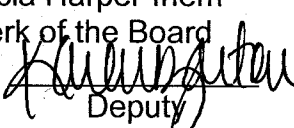
Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: January 31, 2012
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref. 1/11/11, Item 3.85 | District: 3/3 | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.28

The Honorable Board of Supervisors

RE: French Valley Creek Improvement and Disbursement Agreement between Bellacap, LLC,
a California limited liability company and the County of Riverside

January 26, 2012

Page 2 of 2

work, and other associated items. These improvements are also, in whole or in part, obligations of an adjacent tract owned by Ryland and the subject of a Subdivision Improvement Agreement and bond security provided by a bonding company.

The Transportation Department has been working with the three parties (Bellacap, Ryland and the bonding company) to accomplish the construction of the needed work and obtain funding towards other transportation or planning efforts, through the cost savings achieved by dividing the improvement responsibility over the three parties, reducing the bridge improvement requirements, and providing flexibility in the timing of delivery of the improvements. Negotiations are on-going with Ryland and the bonding company for their share of the work.

The attached agreement specifies the obligations of both Bellacap and the County towards these improvements. This complies with the policy direction provided by the Board at the meeting of 01/11/11 (Item 3.85).

**FRENCH VALLEY CREEK IMPROVEMENT
AND DISBURSEMENT AGREEMENT**

This French Valley Creek Improvement and Disbursement Agreement ("Agreement") is entered into this day 31st of January 2012, by and between BELLACAP, LLC, a California Limited Liability Company ("Developer") and the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("County"). Developer and County are sometimes hereinafter referred to collectively as the "Parties" and individually as a "Party".

RECITALS

WHEREAS, the Developer is the fee owner of that certain real property located in the County of Riverside, State of California, consisting of approximately 74.12 acres as more particularly described in "Exhibit A" ("Property" or "Capistrano"); and,

WHEREAS, the Developer is also the fee owner of certain real property located in the County of Riverside identified as Tract Map No. 32049 ("Bella Sol"); and,

WHEREAS, the Property is subject to Tract Map No. 29114, a recorded final map permitting the development of 259 single-family residential units on the Property; and,

WHEREAS, Condition of Approval 90. Trans 1. for Tract Map. No. 29114 requires, among other things, the Developer to construct certain roadways, drainage culverts, slope protection, water lines and grading improvements prior to the issuance of any occupancy releases by the County's Department of Building and Safety for any lot over 80% of the total recorded residential lots ("French Valley Creek Improvements"); and,

WHEREAS, Condition of Approval 50.TRANS.027 Tract Map No. 29114, required certain improvements now modified; and

WHEREAS, Condition of Approval 50.TRANS.006 Tract Map No. 32049, required certain improvements now modified; and

WHEREAS, at or around November, 2009, Global Investment and Development, LLC. acquired Tract No. 29114; and,

1 **WHEREAS**, Global Investment and Development LLC. is the managing partner of Developer;
2 and,

3 **WHEREAS**, on or about November 10, 2009, the County and Developer reached an
4 understanding for the basis of an agreement to allow the continued development of lots within Tract No.
5 29114 that are over 80% of the total recorded residential lots; and,

6 **WHEREAS**, in lieu of a bond to secure the completion of the French Valley Creek
7 Improvements, Developer agreed to pay County Thirty-Five Thousand Dollars (\$35,000) per residential
8 lot prior to requesting a Certificate of Occupancy for the undeveloped lots remaining within Tract No.
9 29114 ("Improvement Security"), more particularly described in "Exhibit B"; and,

10 **WHEREAS**, the Improvement Security was to be placed in an account to be formed and managed
11 by the County and disbursed to the Developer pursuant to the terms of this Agreement ("Improvement
12 Account"); and,

13 **WHEREAS**, in 2009 there were 77 undeveloped lots and as of the Effective Date there are 60
14 undeveloped lots remaining in Tract No. 29114; and,

15 **WHEREAS**, as of the date of this Agreement, Developer has paid Five Hundred Ninety-Five
16 Thousand Dollars (\$595,000) into the Improvement Account; and,

17 **WHEREAS**, on December 8, 2010, the Riverside County Board of Supervisors took certain
18 action to modify and substitute certain works of improvement for the originally described works of
19 improvement as more particularly described in "Exhibit C"; and,

20 **WHEREAS**, the French Valley Creek Improvements, in whole or in part, are also the subject of a
21 certain agreement originally entered into by and between Barratt and Ryland Homes of California
22 ("Ryland") dated October 20, 2005 ("Barratt-Ryland Agreement"); and,

23 **WHEREAS**, the estimated aggregate value of all the improvements and support costs included in
24 this Agreement is approximately \$2 million; and,

25 **WHEREAS**, the Barratt-Ryland Agreement provides for the construction of the Skyview Bridge,
26 more particularly described in "Exhibit D"; and,

1 **WHEREAS**, in June 2010, the Developer and Ryland entered into a certain Assignment and
2 Assumption Agreement whereby Developer assumed Barratt's obligations under the Barratt-Ryland
3 Agreement; and,

4 **WHEREAS**, The French Valley Creek Improvements, in whole or in part, and the Skyview
5 Bridge are also secured through bonds issued by securities companies.

6
7 **NOW, THEREFORE**, for the mutual promises contained herein, the County and Developer
8 mutually agree as follows:

9 1. **PURPOSE.** The purpose of this Agreement is to set forth the terms for the Developer's
10 completion of the French Valley Creek Improvements as depicted in "Exhibit E" and the
11 County's disbursement of the Improvement Security for such completion.

12 2. **DEVELOPER'S OBLIGATIONS.** The Developer hereby agrees to perform the
13 following:

14 a. Bella Sol Slope Protection. Complete rock slope protection from the existing
15 terminus adjacent to Tract No. 32049 to a point north of Skyview Road and connect
16 with the Boys and Girls Club Levee ("BGC Levee"), or a mutually agreed to
17 terminus by Developer and the County Director of Transportation. This project is
18 approximately 230 feet long.

19 b. Capistrano Flood Protection. Construct concrete slope protection to connect
20 existing concrete slope improvements for Tract No. 29114 and Tract No. 28298.
21 This project is approximately 120 feet long.

22 c. In-tract Improvements. Complete cul-de-sac, final asphalt cap, landscaping, and
23 other associated improvements for the Property in accordance with the conditions
24 of approval for Tract Map No. 29114 ("Skyview Road Improvement").

25 d. Water Line – Complete installation of an 18" water line for the Eastern Municipal
26 Water District ("EMWD"), approximately 620 feet long, more particularly
27 described in "Exhibit F".
28

- e. Capistrano Rough Grading – On or before the issuance of building permits, complete finished grading for Tract Map Nos 29114F and 29114-1, as set forth in "Exhibit G".
- f. Capistrano Improvements – On or before the final inspection, repair street, install sidewalk, driveways, and associated work in accordance with the conditions of approval for Tract Map No. 29114.
- g. Bella Sol On-Site Improvements – Prior to the eighty percent (80%) occupancy permit, complete remaining on-site work for Tract Map No. 32049, including a paved emergency access, as approved by the Riverside County Fire Department.
- h. Capistrano and Bella Sol Off-Site Costs – Complete all off-site improvements in accordance with conditions of approval for Tract Map Nos. 32049 and 29114.
- i. Consulting and Engineering Costs – Pay all costs associated with design, County review and approval and construction management to complete all improvements identified under Developer’s obligations.
- j. Document Submittals. Prior to starting construction on the Bella Sol Slope Protection and Capistrano Flood Protection projects (“Protection Projects”) set forth above in Section 2 subsection a. and b., submit the following to the Riverside County Flood Control & Water Conservation District (“District”):
 - 1. preliminary title reports, plats and legal descriptions for all right-of- way to be conveyed to the District and secure such right-of- way to the satisfaction of the District; and
 - 2. a cooperative agreement to be entered into with the District and any maintenance partners that establishes the terms and conditions for inspection, operation and maintenance of the Protection Projects; and
 - 3. plans for the Protection Projects to the District’s General Manager-Chief Engineer for signature.

1 k. Contribution. Within forty –five (45) calendar days after the Effective Date,
2 contribute One Hundred Thousand Dollars (\$100,000) to the County to be used for
3 planning or transportation projects within the community. The Parties further agree
4 the Developer shall contribute an additional One Hundred Thousand Dollars
5 (\$100,000) to be paid within nine (9) months after the Effective Date or within
6 thirty (30) days of a grading permit issued for the BGC Levee, more specifically
7 referred to in Paragraph 2(n) below, whichever occurs first. The Parties further
8 acknowledge that the Developer has previously paid the County One Hundred
9 Thousand Dollars (\$100,000) pursuant to an agreement as set forth in "Exhibit H",
10 which is in addition to the Developer's Two Hundred Thousand Dollars (\$200,000)
11 obligation referenced in this section.

12 l. Project Construction. In the event that the Protection Projects are not constructed
13 by Developer, need correction or fail in any manner, as reasonably determined by
14 the County, Developer agrees that the Improvement Security, as found in the
15 Improvement Account, may be provided to the District to finish the Protection
16 Projects and/or correct any workmanship deficiency. Provided further that in the
17 event a correction or failure is the issue the County shall give fourteen (14) days
18 written notice to Developer and Developer shall have fourteen (14) days to
19 commence any such correction or begin to correct any such failure.

20 m. Notification. In accordance with section 12 herein, notify the County in writing at
21 least sixty (60) days prior to start of construction of items 2a and 2b.

22 n. BGC Levee. In the event that the County requires Developer to construct the BGC
23 Levee in accordance with Section 3e., Developer shall commence construction
24 within thirty (30) days of County notification. This project will terminate north of
25 the Skyview Road right-of-way and is approximately 500 feet long as shown on
26 "Exhibit I".
27
28

- 1 o. Within thirty (30) calendar days of receiving a written request from County, at the
2 County's sole option, Developer shall release Ryland, in a form acceptable to
3 Ryland, from any obligation to perform under the Barratt-Ryland Agreement.
- 4 p. Developer and County acknowledge that County and Ryland are negotiating a
5 separate agreement that will contain similar language to mutually release Developer
6 from obligations under the Ryland Agreement.
- 7 q. Within thirty (30) calendar days of receiving a written request from the County, at
8 the County's sole option, Developer shall release any other security interests in a
9 form acceptable to the securities from any obligation that those parties may have to
10 Developer or Developer's Capistrano and Bella Sol properties.
- 11 r. Developer shall submit written evidence to the satisfaction of County that each
12 improvement described herein has been completed by Developer.

13 **3. COUNTY'S OBLIGATIONS.** The County hereby agrees to perform the
14 following:

- 15 a. Upon the County's sole determination that the Bella Sol Slope Protection is
16 constructed, refund One Hundred Sixty Thousand Dollars (\$160,000) from the
17 Improvement Account to the Developer. County shall inform Developer within
18 thirty (30) calendar days of receiving the written evidence set forth in Section 2.r
19 whether the County determines it is constructed. If determined to be constructed,
20 County shall refund Developer within thirty (30) calendar days of such
21 determination. If determined to be not constructed, County shall set forth the
22 reasons why and what work needs to be done by Developer.
- 23 b. Upon the County's sole determination that the Capistrano Slope Protection is
24 constructed, refund Two Hundred Forty-five Thousand (\$245,000) from the
25 Improvement Account to the Developer. County shall inform Developer within
26 thirty (30) calendar days of receiving the written evidence set forth in Section 2.r
27 whether the County determines it is constructed. If determined to be constructed,
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1 County shall refund Developer within thirty (30) calendar days of such
2 determination. If determined to be not constructed, County shall set forth the
3 reasons why and what work needs to be done by Developer.

4 c. As conditioned by Paragraph 2(n) herein and upon the County's election and sole
5 determination that the BGC Levee is constructed and verification of Developer's
6 cost to construct the BGC Levee, refund actual costs to complete said
7 improvements not to exceed Four Hundred Fifty Thousand Dollars (\$450,000).
8 County shall inform Developer within thirty (30) calendar days of receiving the
9 written evidence set forth in Section 2.r whether the County determines it is
10 constructed. If determined to be constructed, County shall refund Developer within
11 thirty (30) calendar days of such determination. If determined to be not
12 constructed, County shall set forth the reasons why and what work needs to be done
13 by Developer.

14 d. Upon the County's sole determination that the remaining Developer's obligations
15 described herein are met, refund One Hundred Ninety Thousand and (\$190,000) to
16 the Developer. County shall inform Developer within thirty (30) calendar days of
17 receiving the written evidence set forth in Section 2.r whether such obligations are
18 met. If determined to be met, County shall refund Developer within thirty (30)
19 calendar days of such determination. If determined not met, County shall set forth
20 the reasons why and what work needs to be done by Developer.

21 e. In accordance with section 12 herein, County shall notify Developer within thirty
22 (30) calendar days after the earliest event listed below of County's intent to require
23 Developer to comply with Section 2.n. and construct the BGC Levee:

- 24 1. Six (6) months from the Effective Date; or,
- 25 2. Receiving written notice from Developer that Developer is proceeding with
26 construction of the channel rock slope protection as referenced in 2.a. and 2.b.
27 herein; or,
- 28

1 3. Grading commencing at the Boys and Girls Club site.

2 4. If no such notice is given by the County, then the obligation to construct the
3 BGC Levee shall be waived by County.

4 f. County shall provide a separate written document to Developer releasing Developer
5 from any future obligation to construct the Skyview Bridge upon all of the
6 following: 1) approval of this Agreement by all parties, (2) execution of this
7 Agreement by all parties, and (3) fulfillment of Developer's obligations described
8 herein.

9 g. Except as provided for in this Agreement, County shall not require any additional
10 deposits from Developer for further inspections on the Property.

11 h. Except as provided in this Agreement, County agrees that no additional securities
12 will be required from Developer for the construction to complete the improvements
13 identified under Developer's obligations set forth in this Agreement.

14 4. **DEVELOPER'S REPRESENTATIONS.** Notwithstanding Section 2 subsection f.,
15 Developer represents and warrants to County that Developer alone is entitled to the
16 disbursement of the Improvement Security.

17 5. **COMPLIANCE WITH LAWS AND REGULATIONS.** By executing this Agreement,
18 Developer agrees to comply with all applicable federal, state and local laws, regulations
19 and ordinances.

20 6. **TERMINATION.** The Parties shall have the right to terminate this Agreement in the
21 event that the other Party fails to perform, keep or observe any of its duties or obligations
22 hereunder. Provided however, the non-terminating Party shall have thirty (30) calendar
23 days in which to correct such breach or default after written notice thereof has been served
24 on it by the terminating Party. In the event this Agreement is terminated, the Parties shall
25 retain all rights to seek any and all remedies available at law or in equity.

26 7. **INDEMNIFICATION.** Developer shall defend, indemnify and hold harmless the
27 County and its Agencies, Districts, Special Districts and Departments, their respective
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1 directors, officers, Board of Supervisors, elected and appointed officials, employees,
2 agents and representatives agents, officers and employees ("Indemnities") from any claim,
3 action, or proceeding brought or asserted by a third person or entity against the Indemnities
4 to attack, set aside, void, or annul this Agreement or any other action in connection with
5 this Agreement, including but not limited to, the approval of Tract Map No. 29114 and
6 Tract Map 32049, conditions of approval imposed on Tract Map No. 29114 and Tract Map
7 32049 or the disbursement of the Improvement Security to Developer by the County or any
8 of its agencies, departments, commissions, agents, officers or employees or to impose
9 personal liability against such agents, officers or employees resulting from their
10 involvement in this Agreement, which claim, action, or proceeding is brought within the
11 time period provided by law, including any claim for private attorney general fees claimed
12 by or awarded to any party from the County.

13 Developer shall defend, at its sole expense, all costs and fees including, but not limited to,
14 attorney fees, cost of investigation, defense, and settlements or awards, the County, its
15 Agencies, Districts, Special Districts and Departments, their respective directors, officers,
16 Board of Supervisors, elected and appointed officials, employees, agents and
17 representatives in any claim or action based upon such alleged acts or omissions. To the
18 extent that the County uses any of its resources responding to such claims, action, or
19 proceeding, Developer will reimburse the County within thirty (30) calendar days of the
20 submission of an itemized statement for these resources. Such resources include, but are
21 not limited to the reasonable expenses and charges related to staff time, court costs, County
22 Counsel's time at their regular rate for external or non-County agencies, or any other
23 reasonable direct or indirect costs associated with responding to the claim, action or
24 proceeding.

25 Developer's obligation hereunder shall be satisfied when Developer has provided to
26 County the appropriate form of dismissal relieving County from any liability for the action
27 or claim involved.
28

- 1 8. **ASSIGNMENT.** Neither this Agreement nor any of the rights, interests, or obligations
2 hereunder may be assigned by any Party without the other Party's prior written consent,
3 which shall not be unreasonably withheld, and any assignment of this Agreement or any of
4 the rights, interests, or obligations hereunder shall be of no force or effect until the
5 proposed assignee agrees in writing to be bound by all of the terms and conditions of this
6 Agreement and such signed writing is delivered to the non-assigning Party. Subject to the
7 foregoing restrictions, the provisions of this Agreement shall be binding upon and inure to
8 the benefit of all affiliates, parent corporations, subsidiaries, assigns, successors-in-interest,
9 personal representatives, administrators, heirs, devisees and legatees of the Parties.
- 10 9. **AMENDMENT.** Except as otherwise provided in this Agreement, neither this Agreement
11 nor any provision hereof may be waived, modified, amended, discharged, or terminated
12 except by an instrument in writing signed by the Party against which the enforcement of
13 such waiver, modification, amendment, discharge or termination is sought, and then only
14 to the extent set forth in such writing.
- 15 10. **EXHIBITS.** Each of the exhibits attached hereto is incorporated herein by this reference
- 16 11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between
17 the Parties with respect to the matters set forth herein, and supersedes all prior or
18 contemporaneous understandings or agreements between the Parties with respect to the
19 subject matter hereof, whether oral or written.
- 20 12. **NOTICES.** Any notice, approval, consent, waiver or other communication required or
21 permitted to be given or to be served upon either Party in connection with this Agreement
22 shall be in writing. Such notice shall be personally served, sent by facsimile, or sent
23 prepaid by registered or certified mail with return receipt requested, or sent by reputable
24 overnight delivery service, such as Federal Express, and shall be deemed given: (1) if
25 personally served, when delivered to the Party to whom such notice is addressed; (2) if
26 given by facsimile when sent; (3) if given by prepaid or certified mail with return receipt
27 requested, on the date of execution of the return receipt; or (4) if sent by a reputable
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1 overnight delivery service, such as Federal Express, when received. Any notice given by
2 facsimile shall be confirmed in writing, and such confirmation shall be sent or delivered by
3 any of the other means of delivery set forth in this Section, within forty-eight (48) hours
4 after notice was sent by facsimile. Such notices shall be addressed to the Party to whom
5 such notice is to be given at the Party's address set forth below or as such Party shall
6 otherwise direct in writing to the other Party delivered or sent in accordance with this
7 Section.

8 If to Bellacap: Bellacap, LLC
9 Attn: Joseph Rivani
10 3470 Wilshire Boulevard, Suite 1020
11 Los Angeles, CA 90010
12 Tel: (213) 365-0005
13 Fax: (213) 365-0405

14 With a copy to: Buchanan Ingersoll & Rooney LLP
15 Attn: Samuel C. Alhadeff
16 41607 Margarita Road, Suite 103
17 Temecula, CA 92591
18 Tel: (951) 719-3640
19 Fax: (951) 719-3650

20 If to County: County of Riverside Transportation Department
21 Attn: Juan C. Perez, P.E., Director of Transportation
22 4080 Lemon Street
23 Riverside, California 92501
24 Tel: (951) 955-6740
25 Fax: (951) 955-3198

26 With a copy to: Office of County Counsel
27 Attn: Shellie Clack, Deputy County Counsel
28 3960 Orange Street, Suite 500
Riverside, CA 92501
Tel: (951) 955-6300
Fax: (951) 955-6322

13. **GOVERNING LAW.** This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, without giving effect to

1 any choice-of-law or conflicts-of-laws rule or principle that would result in the application
2 of any other laws.

3 14. **HEADINGS.** Headings, titles and captions are for convenience only and shall not
4 constitute a portion of this Agreement or be used for the interpretation thereof.

5 15. **WAIVER.** The rights created under this Agreement, or by law or equity, shall be
6 cumulative and may be exercised at any time and from time to time. No failure by either
7 Party to exercise, and no delay in exercising any rights, shall be construed or deemed to be
8 a waiver thereof, nor shall any single or partial exercise by any Party preclude any other or
9 future exercise thereof or the exercise of any other right. Any waiver of any provision or
10 of any breach of any provision of this Agreement must be in writing, and any waiver by
11 any Party of any breach of any provision of this Agreement shall not operate as or be
12 construed to be a waiver of any other breach of that provision or of any breach of any other
13 provision of this Agreement. The failure of any Party to insist upon strict adherence to any
14 term of the Agreement on one or more occasions shall not be considered or construed or
15 deemed a waiver of any provision or any breach of any provision of this Agreement or
16 deprive that Party of the right thereafter to insist upon strict adherence to that term or
17 provision or any other term or provision of this Agreement. No delay or omission on the
18 part of any Party in exercising any right under this Agreement shall operate as a waiver of
19 any such right or any other right under this Agreement.

20 16. **LIBERAL CONSTRUCTION.** This Agreement constitutes a fully-negotiated agreement
21 among commercially sophisticated Parties, each assisted by legal counsel, and the terms of
22 this Agreement shall not be construed or interpreted for or against any Party hereto because
23 that Party or its legal representative drafted or prepared such provision.

24 17. **SEVERABILITY.** If any provision of this Agreement is invalid, illegal or unenforceable,
25 such provision shall be deemed to be severed or deleted from this Agreement and the
26 balance of this Agreement shall remain in full force and effect notwithstanding such
27 invalidity, illegality or unenforceability.
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- 1 18. **GOOD FAITH AND FAIR DEALING.** The Parties hereto acknowledge and agree that
2 the performances required by the provisions of this Agreement shall be undertaken in good
3 faith, and with each of the Parties dealing fairly with each other.
- 4 19. **NO THIRD PARTY BENEFICIERS.** This Agreement does not create, and shall not be
5 construed to create, any rights enforceable by any person, partnership, corporation, joint
6 venture, limited liability company or other form of organization or association of any kind
7 that is not a Party to this Agreement.
- 8 20. **TIME OF THE ESSENCE.** Time is of the essence of each and every provision of this
9 Agreement. Unless business days are expressly provided for, all references to "days"
10 herein shall refer to consecutive calendar days. If any date or time period provided for in
11 this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then
12 such date automatically shall be extended to the next day which is not a Saturday, Sunday
13 or federal, state or legal holiday.
- 14 21. **NUMBER AND GENDER.** As used herein, and as the circumstances require, the plural
15 term shall include the singular, the singular shall include the plural, the neuter term shall
16 include the masculine and feminine genders, the masculine term shall include the neuter
17 and the feminine genders, and the feminine term shall include the neuter and the masculine
18 genders.
- 19 22. **ATTORNEYS' FEES.** Each Party shall bear its own attorneys' fees and cost if any
20 action or proceeding is instituted for the purpose of enforcing any provision of this
21 Agreement, or to recover damages if otherwise available hereunder, or to obtain injunctive
22 or other relief by reason of any alleged breach of any provision of this Agreement, or for a
23 declaration based on a demonstrated necessity of such Party's rights or obligations under
24 this Agreement, or for any other judicial or equitable remedy.
- 25 23. **FORCE MAJEURE.** If any performance of this Agreement is prevented, delayed, or
26 made impracticable due to extended drought, flood, fire, earthquake, or other natural
27 disaster, strike, unavailability of necessary materials, electrical power or fuel, civil rioting,
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1 war or military conflict, inability to obtain all necessary permits or approvals (including
2 any and all environmental approvals) or if the cost of complying with environmental
3 requirements renders this transaction economically impractical (collectively a "Force
4 Majeure Event"), then such performance of this Agreement shall be excused for the
5 period of prevention, delay or impracticability resulting from the Force Majeure Event.

6 24. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which
7 shall be deemed an original, but all of which together shall constitute one and the same
8 instrument. The signature page of any counterpart may be detached therefrom without
9 impairing the legal effect of the signature(s) thereon, provided such signature page is
10 attached to any other counterpart identical thereto except for having an additional signature
11 page executed by any other Party. Each Party agrees that each other Party may rely upon
12 the facsimile signature of any Party on this Agreement as constituting a duly authorized,
13 irrevocable, actual, current delivery of this Agreement as fully as if this Agreement
14 contained the original ink signature of the Party supplying a facsimile signature.

15 25. **AUTHORITY TO EXECUTE.** The persons executing this Agreement or exhibits
16 attached hereto on behalf of the parties to this Agreement hereby warrant and represent
17 that they have the authority to execute this Agreement and warrant and represent that they
18 have the authority to bind the respective parties to this Agreement to the performance of
19 its obligations hereunder.

20 26. **DELEGATION OF AUTHORITY.** The County's Director of Transportation is
21 delegated the authority to implement the terms of this Agreement.

22 27. **RENEGOTIATION OF TERMS.** In the event that County causes the improvements
23 described in Section 2, in whole or in part, to be constructed by another party, as
24 determined by the Director of Transportation, the Parties agree to renegotiate the terms of
25 this Agreement and amend it in accordance with Section 9 herein.

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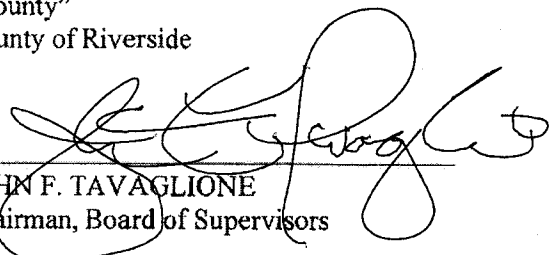
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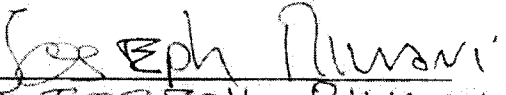
28. **EFFECTIVE DATE.** The effective date of this Agreement is the date the parties execute the Agreement. If the parties execute the Agreement on more than one date, then the last date the Agreement is executed by a party shall be the effective date.

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

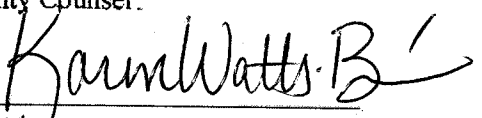
"County"
County of Riverside

By: 
JOHN F. TAVAGLIONE
Chairman, Board of Supervisors

"Developer"
Bellacap, LLC, a California limited liability company

By: 
Name: JOSEPH PIUSANI
Title: MANAGER

APPROVED AS TO FORM:
PAMELA J. WALLS
County Counsel

By: 
Deputy

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

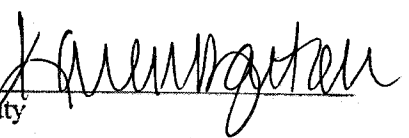
By: 
Deputy

EXHIBIT A

Capistrano Legal Description

Description of the Property

Real property in the unincorporated areas of the County of Riverside, State of California, described as follows:

CAPISTRANO PROPERTY.

PARCEL 1: (APN'S: 480-260-3 THROUGH 480-260-016-7, 480-550-001-9 THROUGH 480-550-039-4 AND 480-551-001-2 THROUGH 480-551-013-3)

LOTS 11 THROUGH 64, INCLUSIVE OF TRACT NO. 29114, AS SHOWN BY MAP ON FILE IN BOOK 418, PAGES 30 THROUGH 36 OF MAPS, RECORDS OF RIVERSIDE COUNTY.

PARCEL 2: (APN'S: 480-281-012-8, 480-281-013-9 AND 480-281-019-5 THROUGH 480-281-022-7)

LOTS 13, 14 AND 20 THROUGH 23, INCLUSIVE OF TRACT NO. 29114-1, AS SHOWN BY MAP ON FILE IN BOOK 346, PAGES 36 THROUGH 43 OF MAPS, RECORDS OF RIVERSIDE COUNTY.

EXHIBIT B

Juan Perez Letter



COUNTY OF RIVERSIDE
TRANSPORTATION AND
LAND MANAGEMENT AGENCY



Transportation Department

Juan C. Perez, P.E.
Director of Transportation

November 10, 2009

Global Investment and Development, LLC
3470 Wilshire Blvd., Suite 1020
Los Angeles, Ca. 90010

Attn: Joseph Rivani

RE: Tract 29114, Skyview Road and Related Structures, Capistrano

Dear Mr. Rivani:

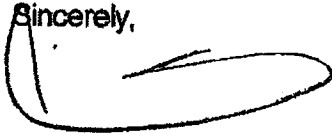
This letter serves to memorialize an approach for the continued development of Tract 29114 and associated offsite improvements for the tract, specifically the construction of Skyview Road and related structures, worked out with Mr. Hugh Smith of my staff. In summary, the following are the provisions which would, as was agreed, form the basis of an Agreement between Global Investment & Development, LLC (Developer) and the County of Riverside (County) to enable the County to secure the necessary assurances and funds needed to build Skyview Road and related structures in lieu of Developer posting a bond in the amount of the Property's established cost to build Skyview Road and related structures:

1. Developer will pay the County a fee in the amount of \$35,000 prior to each Certificate of Occupancy requested for each of the remaining 77 units on the Property.
2. Said fees shall be paid and placed into a Special Account (Account) which shall be formed and managed by the County.
3. Funds collected and placed in the Account shall be used towards the construction of Skyview Road. Disbursement of funds from said Account shall be done at the discretion of the County based on a formula established and agreed upon by both parties prior to commencement of Skyview Road Construction.
4. Developer shall place the final lift of asphalt concrete paving on Via Santa Catalina and complete all street improvements on Corte Los Robles within the Property. This must be complete prior to the release any of the currently constructed dwelling units.
5. Developer shall enter into subdivision improvement agreements and post securities for the remaining in-tract improvements on the Property prior to commencement of any construction on subsequent dwelling units.
6. Developer shall work with the Riverside County Flood Control District towards completion of the flood protection measures necessary for the Property and adjacent properties as conditioned.

Tract 29114, Skyview Road and Related Structures, Capistrano
November 5, 2009
Page 2

If you have any questions or concerns, Please feel free to contact Mr. Hugh Smith at (951) 955-6885.
Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Juan C. Perez". The signature is written in a cursive style with a large, sweeping loop at the end.

Juan C. Perez, PE
Director of Transportation

cc: Hugh Smith

CASH-IN-LIEU OF CONSTRUCTION WORKSHEET

QTY	Unit	ITEM	Unit Cost	Amount
13,000	CY	Grading: over-excavation	\$1.50	\$19,500
36,000	CY	Grading: Mass Excavation & Import	\$7.50	\$270,000
	LS	Grading: Miscellaneous	LS	\$14,800
1,425	LF	A-6 curb & gutter	\$10.00	\$14,250
11,100	SF	Sidewalk (5.5')	\$5.00	\$55,500
26,190	SF	AC pavement (5"AC/14" base)	\$4.20	\$110,000
11,000	SF	Landscape & Irrigation	\$3.50	\$38,500
44,700	SF	Final Lift (previously pave areas)	\$0.75	\$33,525
1,200	SF	Drive Approaches	\$5.00	\$6,000
100	LF	Guard Rail	\$60	\$6,000
	LS	Pavement Delineation	LS	\$4,500
1,100	LF	Electric Conduit	\$8.00	\$8,800
5	EA	Street Lights	\$4,500	\$22,500
600	LF	18" EMWD Water Line & Apparatus	\$200	\$120,000
62	LF	6-8'x24' RCB	\$8,200	\$508,400
3,350	CY	Rock Slope Protection	\$95	\$318,200
11,600	SF	Access Roads	\$1.25	\$14,500
2,200	SF	Wing Walls	\$32	\$70,400
288	LF	Parapet Walls	\$100	\$28,800
18,900	SF	Concrete Apron (w/cut-off walls)	\$5.00	\$94,500
2	EA	Outlet Structures	\$20,000	\$40,000
2	EA	Junction Structures	\$5,000	\$10,000
3,000	SF	Access Ramps	\$5.00	\$15,000
2	EA	Catch Basins	\$5,000	\$10,000
	LS	Drainage: Misc. Structures	LS	\$27,200
	LS	Permit: Mitigation	LS	\$25,500
	LS	Contractor Misc. (Ins., mobilization, etc)	LS	\$100,000
			Sub	\$1,986,375
		Plan Check & Inspection (4%)		\$79,455
		Survey & Staking		\$70,000
		Consulting (Design, Permitting, etc.)		\$110,000
			Sub	\$2,245,830
		Contingencies (20%)		\$449,170
			TOTAL	\$2,695,000

EXHIBIT C

Board of Supervisors Resolution

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Jeff Stone, 3rd District Supervisor

SUBMITTAL DATE:
December 8, 2010

SUBJECT: Conditions of Approval for Tract 29114 and Tract 32049

RECOMMENDED MOTION: That the Board join me in directing the Planning and Transportation Department to initiate a review and modification of the Conditions of Approval for these Tracts, subject to the outcome of the planning process.

BACKGROUND: Tract 29114 was recorded in March 2007 and Tract 32049 was recorded in July 2007. As part of their Conditions of Approval, they were required to extend Skyview Drive from the Tract boundaries westerly to SR 79. Tract 29114 is in a partially completed state and Tract 32049 is in a vacant state.

At the time that the Tracts were approved, it was envisioned that the extension of Skyview would be needed as their secondary access. Since then, other development has built around Tract 29114 which has provided secondary access. Tract 32049 (a condo project) can obtain gated, emergency secondary access to SR 79.

In light of the fact that the extension of Skyview does not appear to be needed for access for these developments to build out, I am supportive of conceptually relieving them of the condition to build it, and instead achieve a public benefit by having the developer of the tracts make a cash contribution to the County of \$500,000 for use on other Planning or Transportation priorities. The developer will still need to build certain improvements associated with the tracts, such as rock slope protection of the adjacent channel.

Since the tracts have been recorded, the change to conditions will need to be processed as a



Jeff Stone
3rd District Supervisor

Department of Conservation

Dept. Recommendation: Policy Policy
 Consent Consent
Per Exec. Dir.:

Prev. Agn. Ref

District: 3

Agenda Number:

3.85

ALFRENDA

The Honorable Board of Supervisors
RE: Conditions of Approval for Tract 29114 and 32049, Third Supervisorial District
December 8, 2010
Page 2 of 2

amendment to final map (to be paid by the developer), which involves a public hearing. This will allow the County to receive public input from any of the adjacent neighborhoods. Should the amendment be approved, the Transportation Department will prepare an Agreement for Board consideration to receive the in-lieu contribution of \$500,000.

The Skyview Bridge would be constructed at some future time when it is more urgently needed for circulation. The County has bonds in place to secure this improvement.

EXHIBIT D

Barratt Ryland Agreement

Ryland Bellacap Agreement

SUBDIVISION IMPROVEMENT COST SHARING AGREEMENT

(Barratt/Ryland)

This Subdivision Improvement Cost Sharing Agreement ("Agreement") is entered into as of the 21st day of October, 2005 ("Effective Date"), by and between Barratt American Incorporated, a Delaware corporation ("Barratt"), and Ryland Homes of California, Inc., a Delaware corporation ("Ryland"). Barratt and Ryland are sometimes referred to in this Agreement singularly as a "Party" and together as "Parties". The Parties hereby agree as follows:

RECITALS

A. Barratt is the owner and developer of certain real property located in the County of Riverside ("County"), State of California ("State"), which property is more generally shown in Exhibit "A" attached hereto and incorporated herein by this reference ("Barratt Property").

B. Ryland is the owner and developer of certain real property located in the County, and State, which property is more generally shown in Exhibit "B" attached hereto and incorporated herein by this reference ("Ryland Property").

C. The Barratt Property is located adjacent to the Ryland Property separated by Skyview Road and French Valley Creek. The Barratt Property and the Ryland Property are sometimes referred to in this Agreement singularly as a "Property" and together as the "Properties".

D. The Parties are in the process of constructing subdivision improvements on their respective Properties and as part of their subdivision requirements, each is required to construct half street portions of Skyview Road between Pourroy Road and Winchester Road, including the crossing portion over French Valley Creek. Each Party intends to construct its respective half street improvements without any financial contribution from the other, but desire to share in the costs and coordinate the construction responsibility for the crossing portion over French Valley Creek, which scope of improvements are more particularly shown and described on Exhibit "C" attached hereto ("Skyview Crossing Improvements"). Completion of the Skyview Crossing Improvements would be more economical and beneficial to both Properties if jointly permitted and constructed all at once.

E. For good and valuable consideration, the receipt of which is hereby acknowledged, the Parties wish to enter into this Agreement to provide for: (a) the coordinated design, plan review and construction of the Skyview Crossing Improvements that will benefit both Properties; (b) payment by each Party of its respective fair-share cost for such work, as described in Section 4; and (c) the Parties' joint responsibility for overseeing the construction of the Skyview Crossing Improvements.

1. **Construction of Skyview Crossing Improvements.** Subject to the terms and conditions contained herein, the Parties shall jointly oversee the construction of the Skyview Crossing Improvements by a qualified contractor ("Contractor") such that the Contractor commences construction of the Skyview Crossing Improvements promptly following receipt of all necessary registrations, permits, licenses, easements and approvals required by law or from the applicable governmental authorities to construct the Skyview Crossing Improvements ("Commencement Date"). The Parties shall endeavor to cause such construction to be completed no later than 180 days after the Commencement Date. The Parties have retained the Moote Group to conduct and oversee the competitive bidding for the selection of the Contractor. The competitive bidding shall be conducted based on, and the Parties shall select the Contractor from, a list of at least three (3) qualified contractors jointly approved by Barratt and Ryland. In any event, the competitive bidding process shall follow the County's requirements for possible reimbursement from County financing or fee districts.

2. **Plans and Specifications.** Barratt and Ryland have retained outside consultants and shall jointly assume responsibility for the prompt design and permitting of the Skyview Crossing Improvements. The Skyview Crossing Improvements shall be more specifically defined on plans and specifications collectively prepared or caused to be prepared by the Parties and jointly processed for approval by the County (collectively, "Plans"). Any material modifications to the Plans, other than field changes or required modifications during construction required by the County or other governmental agencies, shall be subject to both Parties' prior written approval, which approval shall not be unreasonably conditioned, withheld or delayed. The Parties shall cooperate fully with each other and the County to complete and obtain approval of the Plans. The Parties shall endeavor to cause the Skyview Crossing Improvements to be constructed substantially in accordance with the Plans. The Parties hereby approve the use of AEI-CASC ("Engineer") to continue preparation of the Plans, obtaining permits and acting as engineer of record on the Skyview Crossing Improvements.

3. **Costs of Skyview Crossing Improvements.** As set forth in Section 4, Ryland and Barratt shall each pay its respective share of all costs of design, permitting and construction of the Skyview Crossing Improvements (collectively, "Costs") as hereafter provided. "Costs" shall mean all of the actual and necessary third party costs and expenses for design, permitting, mitigation, bonding, insurance, contingencies, construction, maintenance and inspection, in constructing the Skyview Crossing Improvements. If there is any increase in the Costs by more than three percent (3%), unless such cost increase is mandated by the County or other governmental agency requirement, such increase shall be subject to the prior written approval of both Parties, which approval shall not be unreasonably conditioned, withheld or delayed. Further, if any such increase approved by both Parties or otherwise mandated by the County or other governmental requirement results in a Party paying more than such Party's respective share of the Costs, that Party shall be entitled to receive reimbursement from the other Party pursuant to Section 5 below.

4. Payment of Respective Share.

4.1 Ryland's Share. For all purposes herein, Ryland's share of the full Costs actually expended or incurred beginning October 28, 2005 shall be thirty-five percent (35%) of all Costs ("Ryland's Share").

4.2 Barratt's Share. For all purposes herein, Barratt's share of the full Costs actually expended or incurred beginning October 28, 2005 shall be sixty-five percent (65%) of all Costs ("Barratt's Share").

4.3 Costs Incurred and Contracting On and After October 28, 2005. Ryland and Barratt shall each separately contract for their pro-rata fair share with the Contractor, subcontractors and/or consultants performing the work or providing the services or materials for the Skyview Crossing Improvements. Each Party shall ensure that it will be separately invoiced by the Contractor, subcontractors and consultants with whom such Party has contracted. Subject to Section 5, each Party shall be solely responsible for paying the amounts separately invoiced to such Party by the Contractor, subcontractors or consultants.

4.4 Costs Incurred Before October 28, 2005. Both Ryland and Barratt have incurred certain third party engineering, permitting and design costs and expenses in preliminary planning and designing of the Skyview Crossing Improvements through October 27, 2005 ("Incurred Costs"). The Parties have reviewed all the respective Incurred Costs and have agreed, that Ryland will reimburse Barratt, the total amount of \$57,526, within thirty (30) days of execution of this Agreement as the final resolution of all costs incurred by either Party through October 27, 2005. The payment for Incurred Costs shall be separate from the Costs incurred for the Skyview Crossing Improvements accruing on or after October 28, 2005, and represents a final reconciliation of each Party's respective expenditures through October 27, 2005.

5. Reconciliation. No later than the date which is three (3) months after the Substantial Completion of the Skyview Crossing Improvements, the Parties shall jointly undertake a final reconciliation of all of the Costs actually incurred on and after October 28, 2005, to assure that each Party has paid its respective share of the actual Costs. If such reconciliation shows a Party has paid more than its respective share of the actual Costs due to an increase in the Costs that was approved by both Parties pursuant to Section 3 or otherwise mandated by the County or other governmental requirement, the other Party shall reimburse the Party who has overpaid in the amount of the overpayment within thirty (30) days after approval of the final reconciliation by both Parties.

6. Reimbursements. If construction of the Skyview Crossing Improvements generates any right to reimbursements or credits under a community facilities district or other fee program, or any other special district, each Party shall be entitled to its proportionate share of such credits and reimbursements in accordance with the percentages set forth in this Agreement. The Parties shall reasonably cooperate with one another in pursuing such reimbursement sources; and the Parties acknowledge that the competitive bidding and contracting process will need to meet the applicable requirements of the County, including payment of prevailing wages.

7. **Time Is of the Essence.** The failure of any Party to timely pay its respective share of the Costs shall result in added costs to the Parties. In the event any Party fails to pay any amounts separately invoiced to such Party by the Contractor, subcontractors or consultants on or before the stated due date in the applicable invoice, then the other Party may elect to pay the non-paying Party's invoiced amount. In such event, the non-paying Party shall reimburse the other Party upon demand for such amount paid together with interest accrued thereon at the rate of ten percent (10%) per annum from the date the other Party makes such payment.

8. **Force Majeure.** If any Party is delayed in or prevented from performing any act required hereunder by reason of strikes, lock-outs, labor problems, restrictive governmental laws or regulations, delays by governmental authorities in issuing required permits or approvals, prolonged rain or other unusual or unseasonable weather conditions, riots, insurrections, war or other reason of a similar nature (excluding economic conditions or financial inability to perform), nor the fault of the affected Party, then performance of such act shall be excused or time for performance shall be extended to the extent necessary as a result of such event.

9. **Rights of Entry; Insurance; Retention Basin.**

9.1 **Rights of Entry.** The Parties hereto each grant the other Party, and its agents, employees and contractors, a limited right of entry, on customary terms and conditions, on its Property as reasonably necessary to construct the Skyview Crossing Improvements. Provided however, any such entry shall be the minimum reasonably necessary to accomplish the Skyview Crossing Improvements and the entering Party shall defend, indemnify and hold harmless the other Party from any and all claims, losses, expenses or damages, including any mechanics' or other liens, property damage or personal injury arising out of such entry, and reasonable attorney's fees and costs thereof (hereafter "Claim"), unless such Claim is caused by the negligence or intentional act of the non-entering Party, or its agents contractors or employees. The entering Party shall promptly repair or restore any Property of the other Party damaged in such entry.

9.2 **Insurance.** Each Party shall maintain general commercial liability insurance in an amount of not less than Two Million, owned and non-owned automobile insurance and worker compensation insurance as required by law for all its activities under this Agreement, and shall require the same insurance coverages from the Contractor, its subcontractors and each Party's respective consultants. Before entering the other Party's Property, the entering Party shall provide a certificate of insurance evidencing such coverage and naming the other Party as an additional insured.

9.3 **Retention Basin Consent.** Ryland has or will construct a regional retention basin on Ryland's Property and hereby consents to normal surface and stormwater drainage from Barratt's Property flowing into the retention basin. In addition thereto, if required, Ryland and Barratt also agree to promptly execute a letter or other customary agreement in form satisfactory to the Riverside County Flood Control District or other governmental agency to document the acceptance of the Barratt Property surface and stormwater flow into the retention basin.

10. **"Substantial Completion"; Maintenance.**

10.1 **"Substantial Completion"**. "Substantial Completion" of the Skyview Crossing Improvements shall be deemed to have occurred when all of the following conditions have been satisfied:

10.1.1 Completion of construction of the Skyview Crossing Improvements substantially in accordance with the Plans and delivery to the Parties of written verification of such completion by the Engineer;

10.1.2 Recordation of a notice of completion with respect to the Skyview Crossing Improvements;

10.1.3 Delivery to the Parties of evidence of final payment to the Contractor, its subcontractors and each Party's respective consultants and copies of executed unconditional lien waivers from the Contractor, its subcontractors and each Party's respective consultants; and

10.1.4 Final inspection of the Skyview Crossing Improvements by the County, or opening of the Skyview Crossing Improvements for use by the public, whichever occurs first.

10.2 **Maintenance.** After Substantial Completion of the Skyview Crossing Improvements, the Parties shall jointly maintain and supervise the operation of the Skyview Crossing Improvements until the County or such public agency assumes such maintenance and supervision obligations.

11. **Miscellaneous Provisions.**

11.1 **Arbitration of Disputes.** NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS "**ARBITRATION OF DISPUTES**" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THIS "**ARBITRATION OF DISPUTES**" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

11.1.1 Any dispute, controversy or claim arising out of or related to this Agreement to be submitted to arbitration shall be submitted to and settled by binding arbitration in the County, pursuant to the Commercial Arbitration Rules of the American Arbitration Association then in effect (or at any other place or under any other form of arbitration mutually acceptable to the Parties). Notwithstanding the foregoing, the Parties hereto agree that any such arbitration shall be governed by the following requirements:

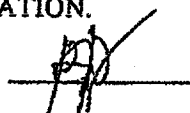

(a) A single neutral arbitrator mutually selected by the Parties shall conduct the arbitration proceedings. If the Parties are unable to agree upon a single neutral arbitrator within fifteen (15) days from the date of any notice of demand for arbitration, the Parties shall each select a neutral arbitrator within ten (10) days. The two (2) arbitrators so selected shall then choose a third neutral arbitrator within five (5) days. The three neutral arbitrators ("Arbitrators") so selected shall conduct the arbitration proceeding and render the arbitration decision.

(b) Any arbitration decision shall be in writing, with the bases of such decision specified in reasonable detail.

(c) Each Party shall submit to the other Party, not less than five (5) business days (or such longer period as the Arbitrators may specify) prior to the commencement of the arbitration hearing, (i) a list of the persons whose testimony the other Party intends to elicit at the arbitration hearing, (ii) copies of any and all documents to be offered into evidence, and (iii) a description in reasonable detail of any other evidence such Party intends to offer into evidence. The foregoing shall not limit the Parties' rights to such other discovery as may be permitted pursuant to the rules of the arbitrating entity.

11.1.2 Any award rendered shall be final and conclusive upon the Parties and a judgment thereon may be entered in the highest court of the state forum having jurisdiction over the subject matter of such arbitration. The expenses of the arbitration shall be borne equally by the Parties to the arbitration, provided that each Party shall pay for and bear the cost of its own experts, evidence and counsel's fees; and provided, further, that the Arbitrators may award all or any portion of the costs of either Party to be borne by the other Party where the Arbitrators find that such other Party's claim or defense was manifestly unreasonably maintained.

11.1.3 WE HAVE READ AND UNDERSTAND THIS "ARBITRATION OF DISPUTES" PROVISION AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

 Initials  Initials

11.2 Modification. This Agreement may not be altered in whole or in part except by a written modification executed by each of the Parties.

11.3 No Joint Venture. Nothing in this Agreement is intended to create a joint venture, partnership, or common enterprise relationship of any kind between the Parties. The obligations of each of the Parties are the sole and several obligations of such Party.

11.4 Attorneys' Fees. In the event any action or proceeding is initiated to challenge, invalidate, enforce, or interpret any of the terms of this Agreement, the prevailing Party shall be entitled to all reasonable attorneys' fees and litigation fees, costs, and expenses in addition to any other relief granted by law.

11.5 Entire Agreement. In addition to any retention basin or surface water elevation agreement, this Agreement, together with all exhibits attached hereto, contains all representations and the entire understanding between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. Each Party warrants and represents that no representative of such Party has made any oral representations or oral agreements not contained in this Agreement. Each Party further warrants and represents that it has not relied upon any oral statements or promises made by any representative of any Party in executing this Agreement.

11.6 Binding Effect; Run with the Land. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective purchasers, successors, heirs, and assigns. The Parties intend these duties and obligations shall run with the land and be automatically binding on subsequent developer owners of the Properties.

11.7 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable; provided however, the foregoing shall only apply to the extent it does not deprive either Party of any material benefits hereunder.

11.8 Opportunity to be Represented by Independent Counsel. Each of the Parties warrants and represents that it has been advised to consult independent legal counsel of their own choosing and have had a reasonable opportunity to do so prior to executing this Agreement.

11.9 No Waiver. The failure of any Party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that Party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

11.10 Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, transmitted by facsimile machine, or sent certified mail, return receipt requested, to the following addresses:

To Barratt:

Barratt American Incorporated
Attn: J. Michael Armstrong Esq.
5950 Priestly Drive
Carlsbad, CA 92008
Phone: (760) 431-0800 Ext.214
Fax: (760) 929-6424

With a Copy to:

Luce, Forward, Hamilton & Scripps LLP
Attn: Ronald W. Rouse, Esq.
600 West Broadway, Suite 2600
San Diego, CA 92101
Phone: (619) 699-2572
Fax: (619) 235-1338

To Ryland:

Ryland Homes of California, Inc.
Attn: Mr. Nick Abdelnour
5740 Fleet Street, Suite 200
Carlsbad CA 92008
Phone: (760) 931-4444
Fax: (760) 931 4422

With a Copy to:

Hecht Solberg Robinson Goldberg & Bagley LLP
Attn: Susan L. Daly, Esq.
600 West Broadway, 8th Floor
San Diego, CA 92101
Phone (619) 239-3444
Fax: (619) 232-6828

11.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.12 Term. This Agreement shall be effective upon the Effective Date and the Parties' joint maintenance and supervisory obligations described in Section 10.2 shall automatically terminate when the Skyview Crossing Improvements are accepted by the County or applicable public agency and the County or such public agency assumes the maintenance and supervision obligations therefor.

11.13 Assignment. Each Party shall have the right, without the consent of the other Party, to assign its rights and delegate its obligations under this Agreement to any: (a) corporation of which the Party owns a controlling interest; (b) partnership in which the Party or an affiliate of the Party is the general partner; or (c) limited liability company of which the Party or an affiliate of the Party is a manager (each of (a), (b) and (c), an "Affiliate"). In addition, each Party shall have the right to assign its rights and delegate its obligations under this Agreement to any third party purchasing substantially all of the respective Properties, other than an Affiliate, after receiving the prior written consent of the other Party, which consent shall not be unreasonably withheld provided the assignee assumes in writing the obligations herein. No other assignment is permitted.

11.14 Good Faith and Cooperation. Both Parties are experienced residential developers and acknowledge there may be additional easements, permits or other documents necessary to facilitate the completion of this Agreement. The Parties mutually covenant to cooperate with one another timely and in good faith to cause the Skyview Crossing Improvements to be

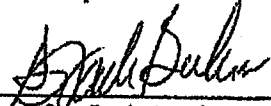
constructed and paid for as soon as commercially practicable, and to execute any letters of permission or other documents reasonably requested by either Party, or any government agency, including but not limited to, the Riverside County Flood Control District, to complete the Skyview Crossing Improvements. To facilitate the cooperation, the initial contact persons for day-to-day administration shall be Rush Porter for Barratt and Suzanne Scarborough for Ryland; Richard Sanchez for Barratt and Vince Buchanan for Ryland shall be the initial contact persons for construction and field coordination.


11.15 Governing Law. This Agreement and the rights of the Parties shall be governed by and interpreted in accordance with the laws of the State.

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

BARRATT AMERICAN INCORPORATED,
a Delaware corporation

RYLAND HOMES OF CALIFORNIA, INC.,
a Delaware corporation

By: 
Name: Jack Becker
Title: Vice President

By: 
Name: Vince Buchanan
Title: V.P.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On October 27, 2005 before me, Suzanne E. Scarborough - notary public
Date Name and Title of Officer (e.g., State Notary Public)
personally appeared Jon Werner
Name of Signer

Personally known to me
 proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

Suzanne E. Scarborough
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

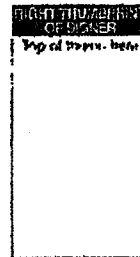
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

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

Signer is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

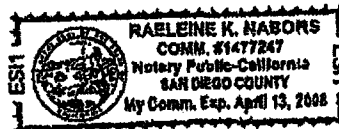
STATE OF CALIFORNIA]
] ss.
 COUNTY OF SAN DIEGO]

On November 10, 2005, before me, RAELEINE K. NABORS, Notary Public, personally appeared G. JACK BECKER personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Raeleine K. Nabors

 RAELEINE K. NABORS, Notary Public



THIS AREA FOR OFFICIAL NOTARIAL SEAL

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

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL <input checked="" type="checkbox"/> CORPORATE OFFICER <input type="checkbox"/> VICE PRESIDENT	Tr. 29114 & 32049 Subdivision Improvement Cost Sharing Agmt.
_____ TITLE	_____ TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> PARTNERS <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> GUARDIAN/CONSERVATOR <input type="checkbox"/> OTHER	<input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL
	_____ 9 NUMBER OF PAGES
	_____ 10/21/05 DATE OF DOCUMENT

SIGNER IS REPRESENTING:
 (NAME OF PERSON OR ENTITY)

 Barratt American Incorporated a Delaware Corporation

EXHIBIT "A"

Barratt Property

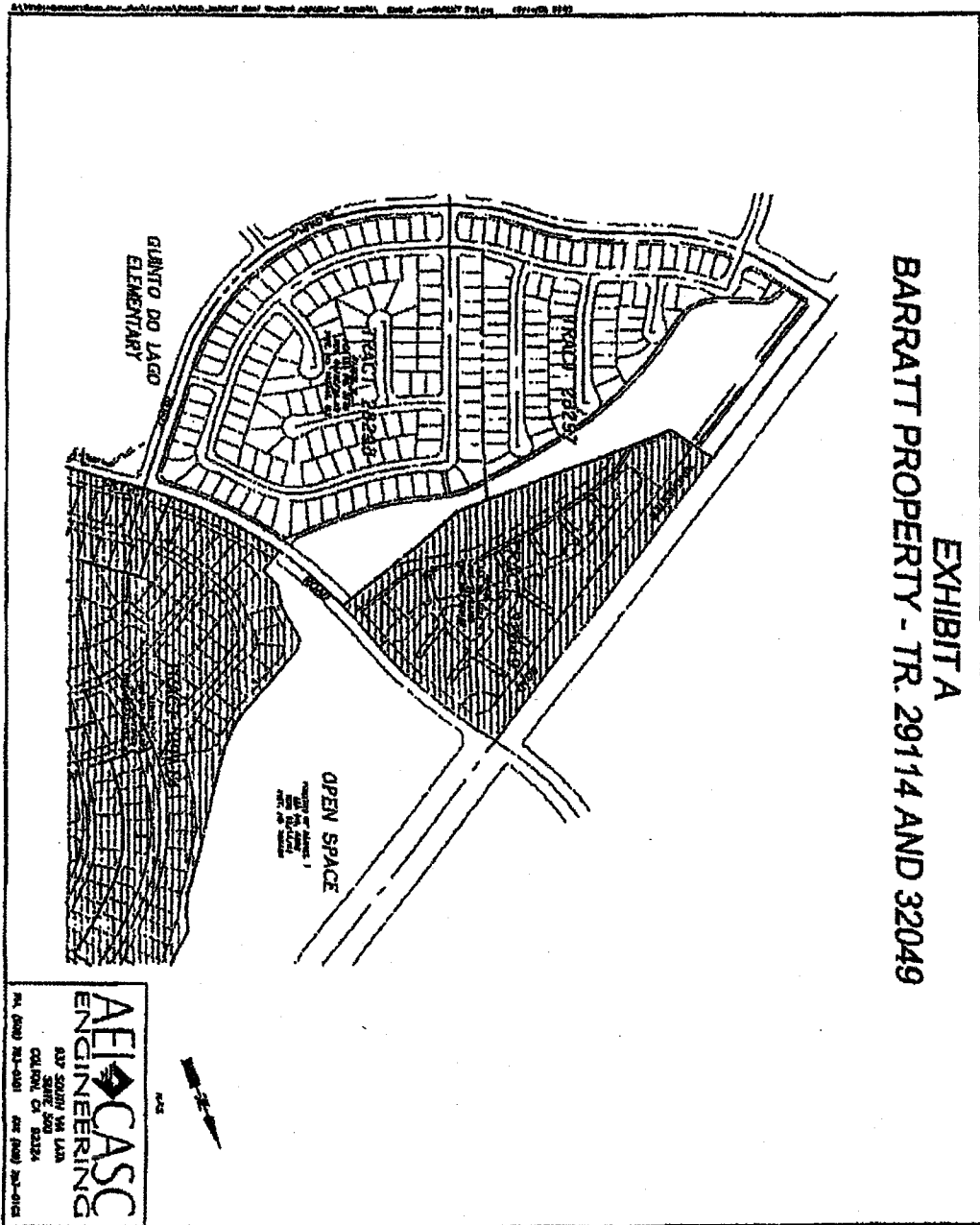


EXHIBIT "B"

Ryland Property

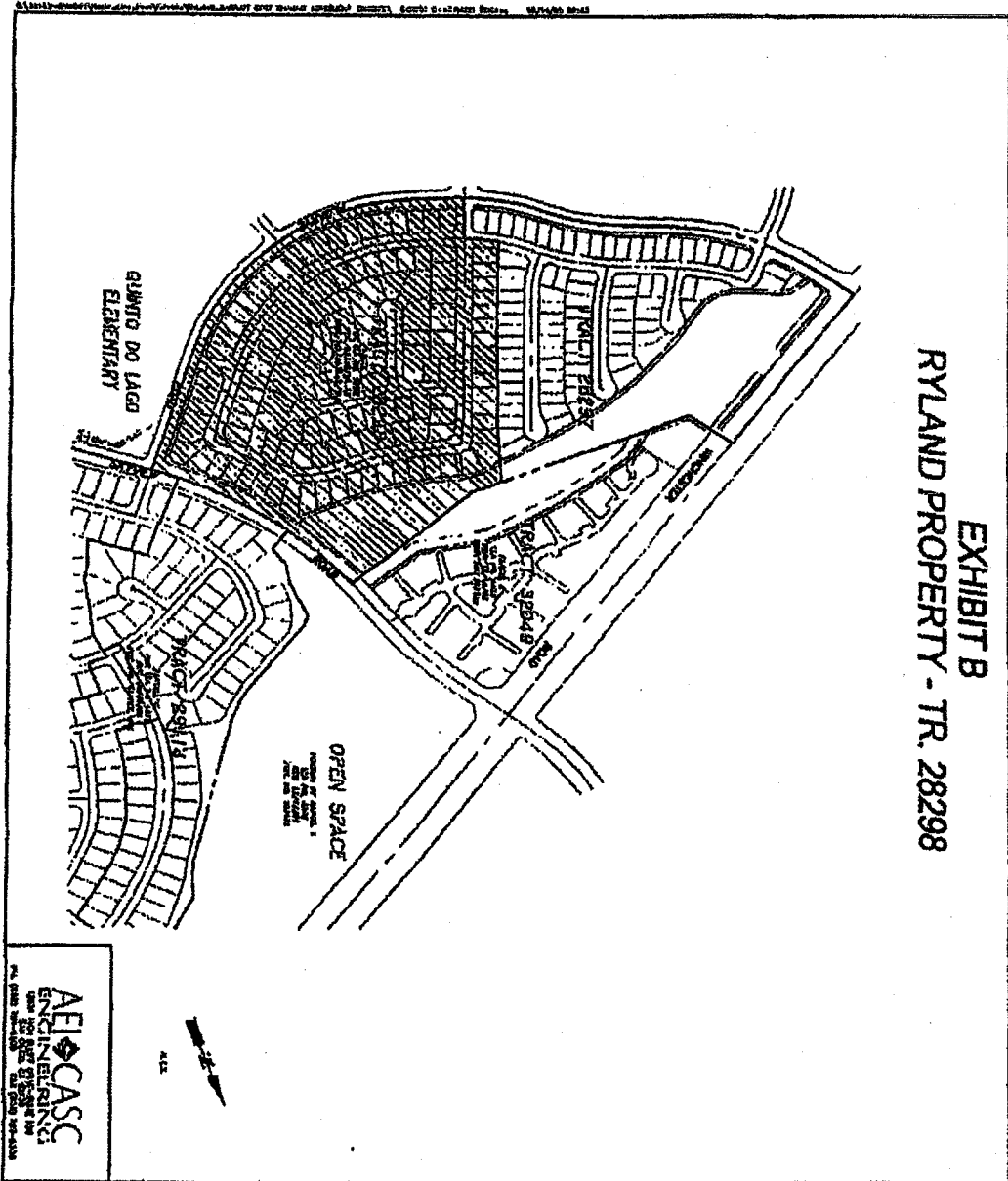
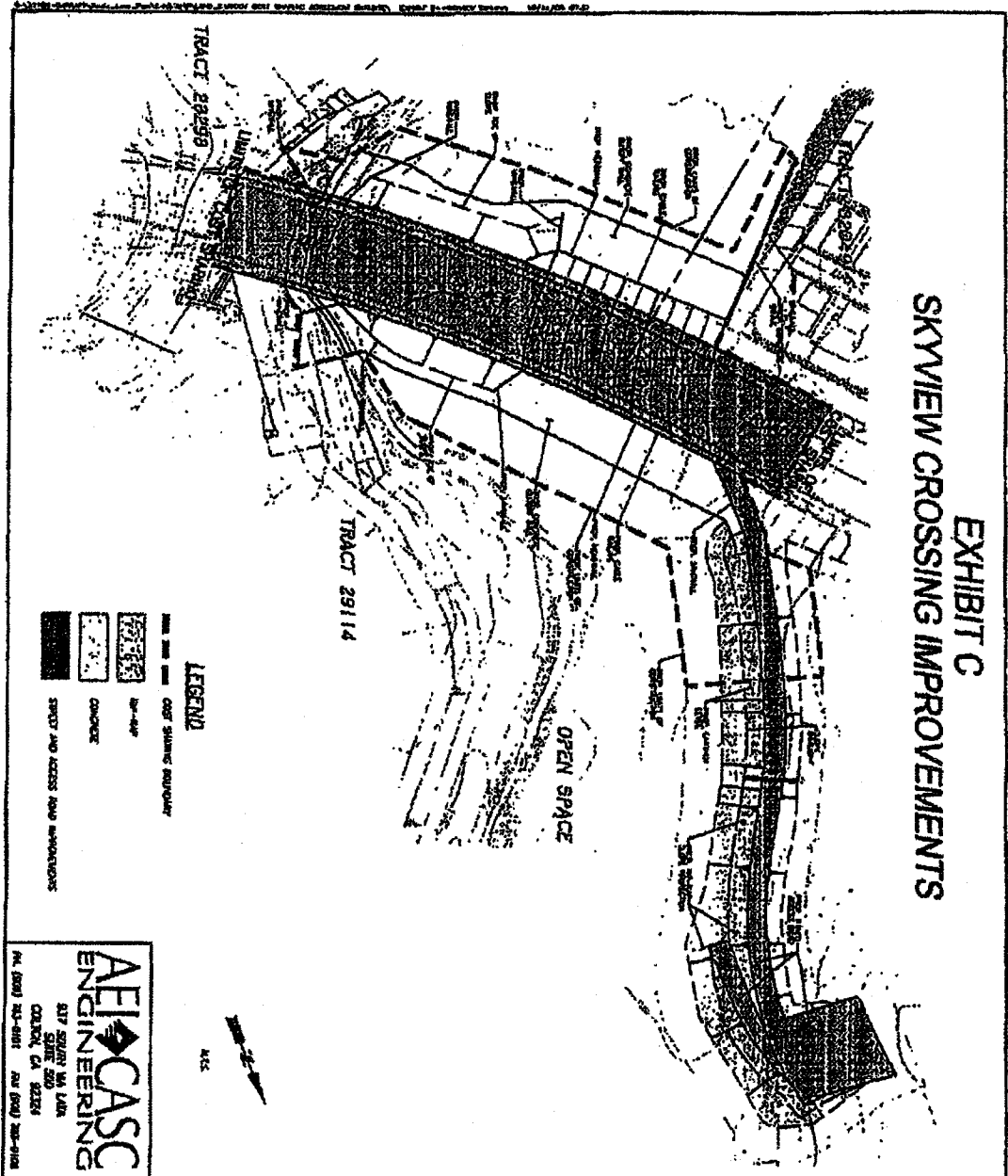


EXHIBIT B
RYLAND PROPERTY - TR. 28298

EXHIBIT "C"

Skyview Crossing Improvements



**ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENT COST SHARING AGREEMENT
Skyview Road Improvements, Winchester, County of Riverside**

THIS ASSIGNMENT AND ASSUMPTION OF SUBDIVISION IMPROVEMENT COST SHARING AGREEMENT (this "Assignment") is made and entered into as of June __, 2010 ("Effective Date"), between and among RYLAND HOMES OF CALIFORNIA, INC., a Delaware corporation ("Ryland") and BELLACAP, LLC, a California limited liability company ("Bellacap"), and further amends that certain Subdivision Improvement Cost Sharing Agreement dated October 21, 2005 ("Agreement"), by and between Ryland and Barratt American Incorporated, a Delaware corporation ("Barratt"). Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Agreement.

RECITALS

A. Ryland and Barratt entered into that certain Subdivision Improvement Cost Sharing Agreement dated as of October 21, 2005, concerning the sharing of costs for the construction of street improvements for portions of Skyview Road between Pourroy Road and Winchester Road, including the crossing portion over French Valley Creek. The parties agreed to share the cost of the improvements related to the crossing portion over French Valley Creek ("**Skyview Crossing Improvements**").

B. Ryland is the owner and developer of certain real property located in the County of Riverside, State of California, which is generally shown in Exhibit "B" to the Agreement and incorporated herein by this reference ("**Ryland Property**").

C. Bellacap is the owner and developer of certain real property located in the County of Riverside, State of California, previously owned by Barratt as generally shown in Exhibit "A" to the Agreement and incorporated herein by this reference ("**Bellacap Property**"), by and through a valid Purchase and Sale Agreement with Bank of America dated August 4, 2009, Barratt's successor-in-interest by and through foreclosure upon a first deed of trust.

D. Pursuant to Section 11.6 of the Agreement, the Agreement runs with the land and is binding upon the Parties' purchasers, successors, heirs, and assigns. Based thereon, Bank of America as successor-in-interest to Barratt assumed the benefits and obligations of the Agreement. Thereafter, Bank of America transferred its interests in and to the Bellacap Property to Bellacap together with the benefits and obligations of the Agreement.

E. Ryland desires to acknowledge and accept the assignments set forth hereinabove pursuant to Section 11.13 of the Agreement, and Bellacap desires to accept such assignment and assume the obligations of Barratt, and the parties hereto have agreed to the terms of such assignment together with certain amendments to the Agreement as more fully set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Ryland and Bellacap hereby agree as follows:

1. **Assignment.** Ryland hereby irrevocably and unconditionally acknowledges and agrees that all of Barratt's rights, titles, interests, benefits, privileges, claims, duties, and obligations arising under, contained within, or in respect to the Agreement have been assigned to Bellacap as a purchaser and successor-in interest to Barratt as set forth hereinabove.

2. **Assumption.** Bellacap hereby fully accepts the foregoing assignment and unconditionally assumes and agrees to perform, in a timely manner, all of the duties and obligations of Barratt arising under or contained in the Agreement with the same force and effect as if Bellacap had initially executed the Agreement.

3. **Amendment.** Ryland and Bellacap hereby agree that due to economic circumstances beyond their control, Skyview Crossing Improvements may not be necessary in the form originally planned, and do hereby amend the Agreement as follows:

(a) "Skyview Crossing Improvements" throughout the Agreement shall be changed to, "Skyview Road Improvements" and shall mean any revised plans and specifications for improvements that have been approved by the County of Riverside ("County") for the crossing portion over French Valley Creek or any location related thereto which is meant to replace the requirement for a bridge crossing over French Valley Creek. In the event that the County does not approve revised plans and specifications to the bridge crossing as originally approved, then Ryland and Bellacap agree to be bound by all of the terms of the Agreement as applied to Skyview Crossing Improvements as originally defined in the Agreement.

(b) Section 1, "Construction of Skyview Crossing Improvements" shall be replaced in its entirety to read as follows:

Construction of Skyview Road Improvements. Subject to the terms and conditions contained herein, the Parties shall jointly oversee the construction of the Skyview Road Improvements by a qualified contractor ("Contractor") such that the Contractor commences construction of the Skyview Road Improvements no later than one hundred eighty (180) days following receipt of all necessary registrations, permits, licenses, easements, and approvals required by law or from the applicable governmental authorities to construct the Skyview Road Improvements ("Commencement Date"). The Parties will endeavor to complete construction of the Skyview Road Improvements no later than one hundred eighty (180) days after the Commencement Date. The Parties have retained The Mooto Group to conduct and oversee the competitive bidding for the selection of the Contractor. The competitive bidding shall be conducted based on, and the Parties shall select the Contractor from, a list of at least three (3) qualified contractors jointly approved by Bellacap and Ryland. In any event, the competitive bidding process shall follow the County's requirements for possible reimbursement from County financing or fee districts. In the event that the County does not approve revised plans and specifications to the bridge crossing as originally approved, then the reference herein to Skyview Road Improvements shall revert to Skyview Crossing Improvements as originally defined in the Agreement.

(b) Section 11.10, "Notices" shall eliminate the Barratt contact information and replace it with the following Bellacap contact information, and the Ryland information shall be as follows:

To Bellacap: Bellacap, LLC
c/o Global Investment & Development, LLC
Attn: Joseph Rivani
3470 Wilshire Boulevard, Suite 1020
Los Angeles, CA 90010
Phone: (213) 365-0005
Fax: (213) 365-0405

With a Copy to: Woodruff, Spradlin & Smart
Attn: Diego Santana, Esq.
555 Anton Boulevard, Suite 1200
Costa Mesa, CA 92626

Phone: (714) 415-1079

Fax: (714) 415-1179

To Ryland: Ryland Homes of California
Attn: Dale F. Casey
1250 Corona Pointe Court, Suite 100
Corona, CA 92879
Phone: (951) 273-3473
Fax: (951) 273-3472

With a Copy to: The Ryland Group, Inc.
North/West Region
Attn: Peter G. Skelly and Philip H. Darrow
21925 Field Parkway, Suite 230
Deer Park, IL 60010
Phone: (847) 726-2757
Fax: (847) 726-2628

(c) **Termination.** In the event that the County determines that the Skyview Crossing Improvements are no longer necessary and by action of the County Board eliminates the condition to construct same from the respective Conditions of Approval for the Ryland Property and the Bellacap Property, the Agreement and the Assignment shall be terminated and of no further force and effect.

4. **Modifications.** Any modification of this Assignment shall be effective only if it is in writing signed by the parties hereto.

5. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

6. **Severability.** If any provision of this Assignment is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7. **Governing Law.** This Assignment shall be governed by and construed according to Federal Law or otherwise, the laws of the State of California, and shall be deemed to have been executed in County of Riverside, California, for purposes of jurisdiction and venue in any action or proceeding to interpret or enforce its terms or provisions, irrespective of actual location of its execution.

8. **Binding Effect.** All of the terms of this Assignment shall be binding upon and inure to the benefit of and be enforceable by each party hereto and their respective successors, executors, administrators or heirs, and all persons claiming by and through them.

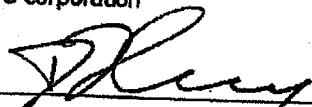
9. **Attorneys' Fees.** In the event that any party hereto brings an action or proceeding for a declaration of the rights of the parties under this Assignment for injunctive relief, for an alleged breach or default of, or any other action arising out of this Assignment or the transactions contemplated hereby, or in the event any party is in default of its obligations pursuant hereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting party (or in the event of litigation, prevailing party) shall be entitled to reasonable attorneys' fees, in addition to any court costs incurred and in addition to any other damages or relief awarded.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the Effective Date.

"RYLAND"

RYLAND HOMES OF CALIFORNIA, INC.,
a Delaware corporation

By: 

Name: DALE F. CASEY
Title: OPERATIONAL VICE PRESIDENT

By: _____

Name:
Title:

"BELLACAP"

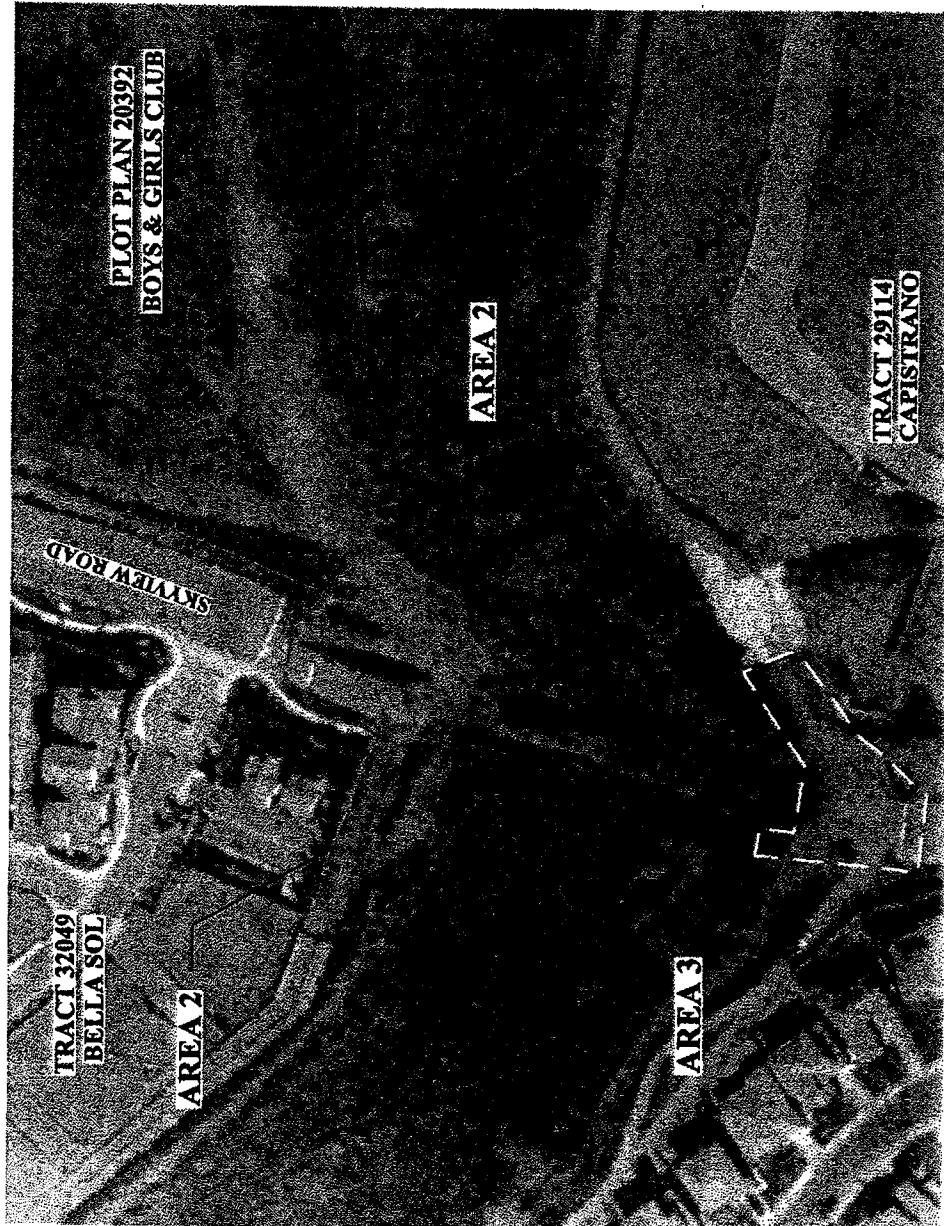
BELLACAP, LLC,
a California limited liability company

By: Global Investment & Development, LLC
Its: Manager

By: 
Joseph Rivani, Manager

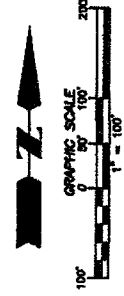
EXHIBIT E

French Valley Creek Improvements



AREA 2 - BELLA SOL SLOPE PROTECTION: COMPLETE ROCK SLOPE PROTECTION. FROM THE EXISTING TERMINUS ADJACENT TO TRACT 32049 TO A POINT NORTH OF SKYVIEW RD. IMPROVEMENT WILL CONNECT TO B&G LEVEE.

AREA 3 - CAPISTRANO FLOOD PROTECTION: CONSTRUCT CONCRETE SLOPE PROTECTION TO CONNECT TO EXISTING CONCRETE SLOPE IMPROVEMENT FOR TRACT 29114 AND TRACT 28298.



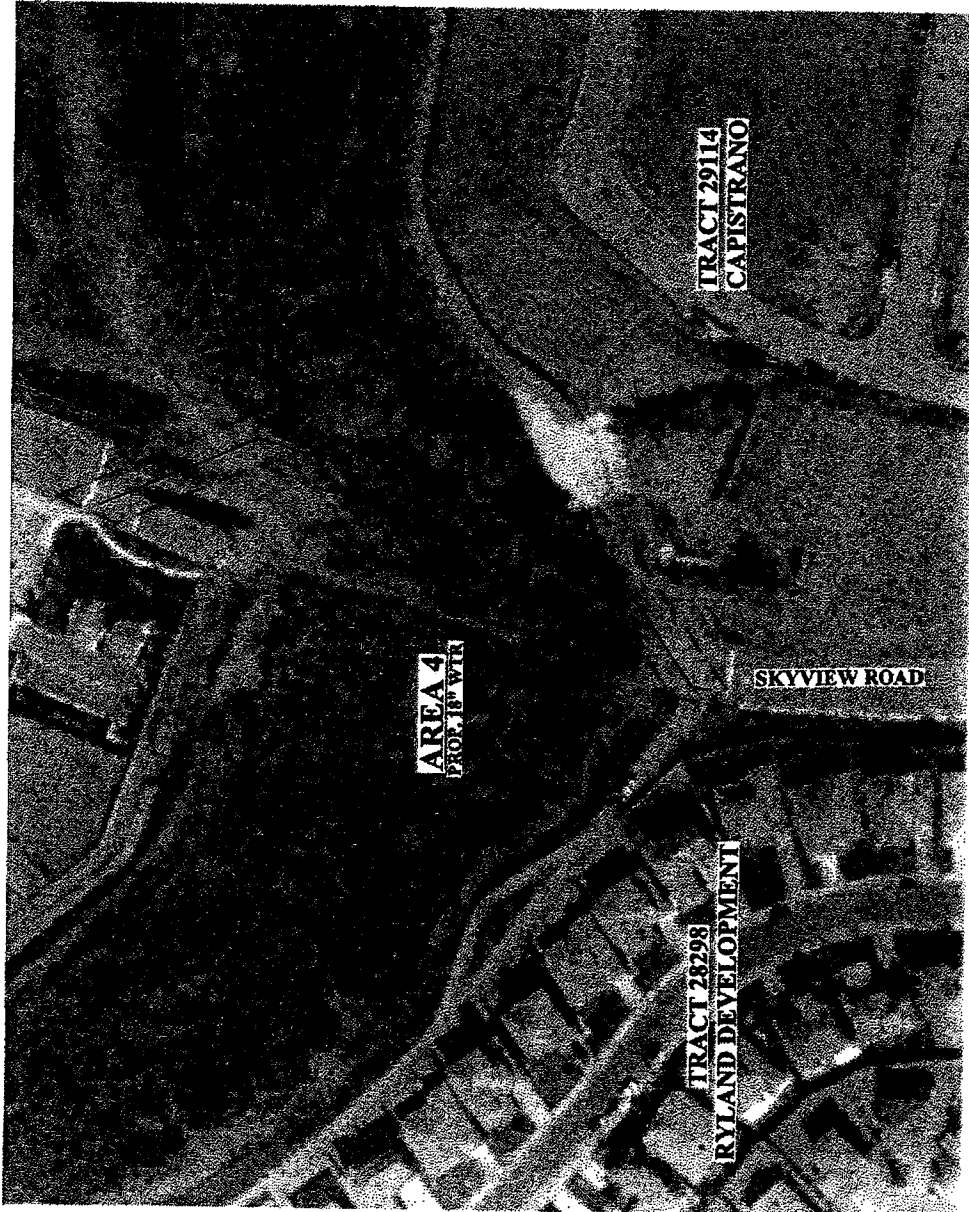
FRENCH VALLEY SLOPE PROTECTION IMPROVEMENTS

JCS Engineering & Consulting, Inc. 3648 CALLE DE LOBO MURRIETA, CA 92553 TEL. 925-394-5553 FAX 925-394-5558
EXHIBIT E

EXHIBIT F

18'' Waterline

**AREA 4 - SKYVIEW RD WATER LINE:
CONNECT PROPOSED WATERLINE TO
WATER LINE EAST AND WEST OF
FRENCH VALLEY CREEK. THIS WILL
REQUIRE 18" WATER LINE.**



EMWD 18" WATERLINE IMPROVEMENTS

JCS Engineering & Consulting, Inc.
 5630 CALLE DE LOS RIOS
 HUNTERVILLE, CA 95026
 TEL: 925.944.9252 FAX: 925.944.0588

EXHIBIT F

EXHIBIT G

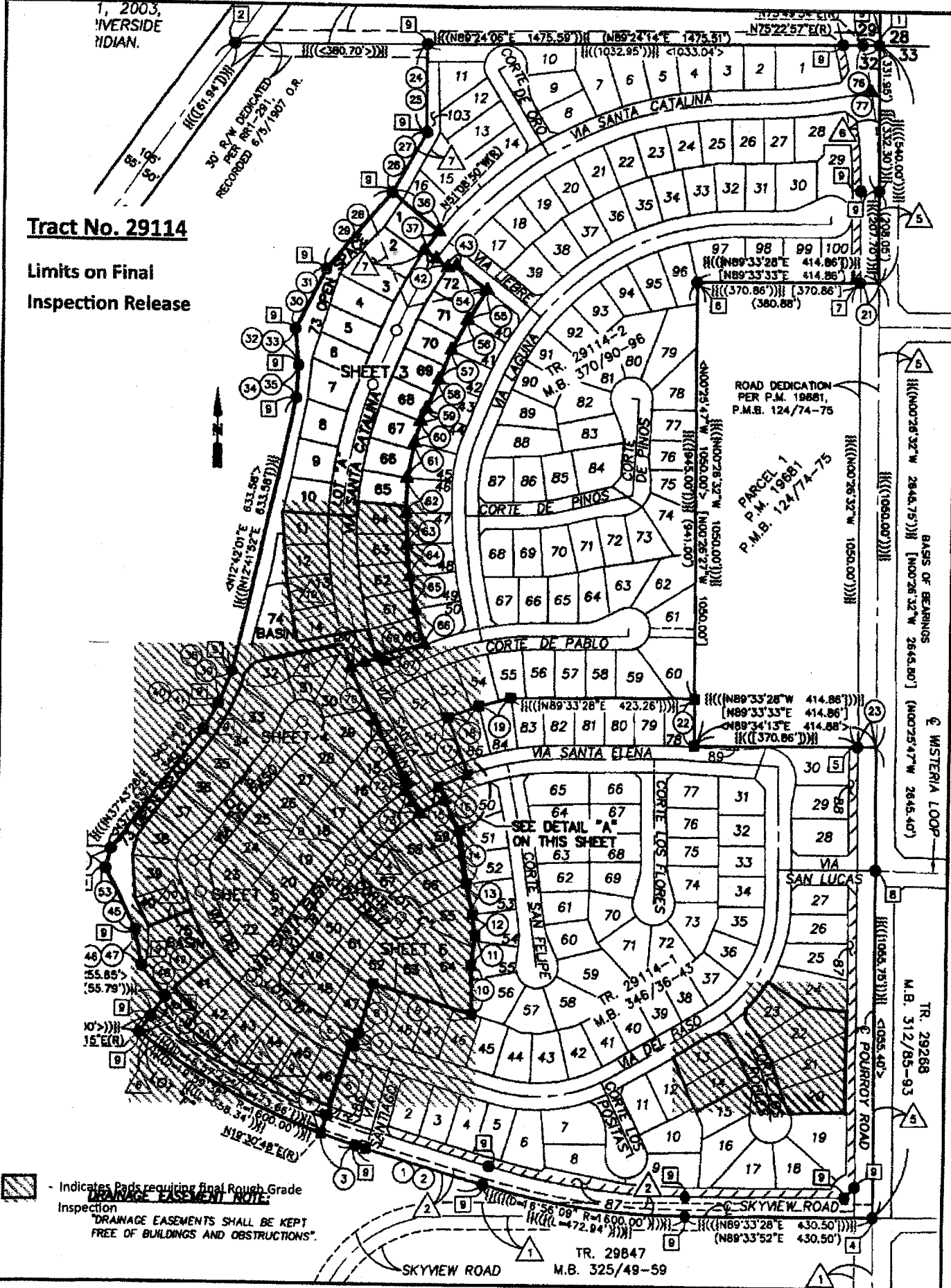
Capistrano Rough Grading


1, 2003,
'IVERSIDE
INDIAN.

30' R/W DEDICATED
PER P.M. 291,
RECORDED 6/3/1907 O.R.

Tract No. 29114

Limits on Final Inspection Release



 - Indicates Pads requiring final Rough Grade
Drainage Easement Note:
 Inspection
 DRAINAGE EASEMENTS SHALL BE KEPT
 FREE OF BUILDINGS AND OBSTRUCTIONS.

TR. 29268
M.B. 312/85-93

SKYVIEW ROAD

TR. 29847
M.B. 325/49-59

ROAD DEDICATION
PER P.M. 19881,
P.M.B. 124/74-75

PARCEL 1
P.M. 19881
P.M.B. 124/74-75

SEE DETAIL "A"
ON THIS SHEET

BASIS OF BEARINGS
[N00°26'32"W 2845.75']
[N00°26'32"W 2845.80']
[N00°26'47"W 2845.40']
[N00°26'32"W 2845.40']

TR. 29268
M.B. 312/85-93

TR. 29268
M.B. 312/85-93

TR. 29268
M.B. 312/85-93

EXHIBIT H

\$100,000 Contribution

BELLACAP, LLC

3470 Wilshire Boulevard, Suite 1020
Los Angeles, CA 90010
Tel. No. 213.366.0005
Fax No. 213.365.0405
Email: jrvani@gidlico.com

May 6, 2011

Mr. Juan Perez
Director of Transportation
County of Riverside
4080 Lemon Street 8th Floor
Riverside, CA 92502-1090

Dear Mr. Perez:

Bellacap, LLC, as the fee owner of the property subject to Tract No. 29114, hereby authorizes the County of Riverside (County) to transfer the following refund amounts, totaling \$100,000, from the following IP accounts to the appropriate Planning Department account as determined by the Director of Transportation:

Account	Current Balance	Refund Amount
Tract 29114 / IP 030178	\$86,742.40	\$ 36,000
Tract 29114-1 / IP 020095	\$15,839.39	\$ 13,000
Tract 29114-2 / IP 030177	\$8,621.05	\$6,000
Tract 32049 / IP 050117	\$91,360.23	\$45,000
TOTAL REFUND		\$100,000

Subject to the condition stated below, the \$100,000 transfer of funds authorized herein is in partial satisfaction of Bellacap, LLC's, share of the \$500,000 cash contribution described in the Board of Supervisors' Form 11p dated December 8, 2010, regarding the Conditions of Approval for Tract 29114.

In addition, the \$100,000 transfer of funds authorized herein is conditioned upon the County's successful negotiation of a resolution with the applicable security companies regarding satisfaction of Condition of Approval 50. Trans. 27 for Tract No. 29114. If no such resolution is reached, the County shall refund directly to Bellacap, LLC, the entire amount of \$100,000.

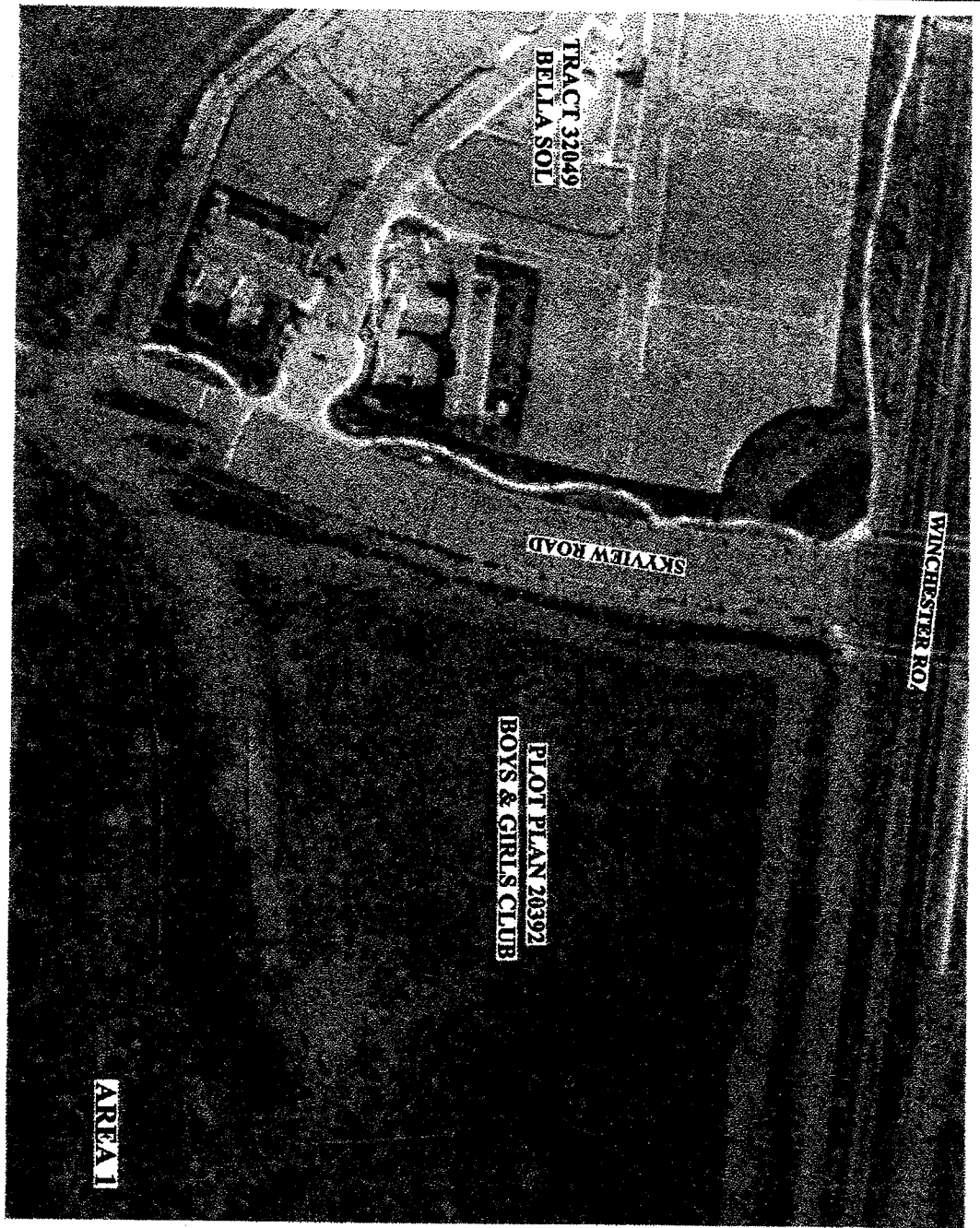
Bellacap, LLC

By: Global Investment & Development LLC,
its managing member

By: JOSEPH RIVANI
Manager

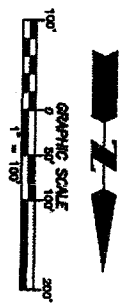
EXHIBIT I

Boys & Girls Club Levy



**BOYS & GIRLS CLUB FRENCH VALLEY CREEK
LEVEE IMPROVEMENTS**

**AREA 1 - BOYS & GIRLS CLUB
LEVEE: COMPLETE THE
APPROVED FRENCH VALLEY
CREEK LEVEE PROJECT
ADJACENT TO B & G CLUB SITE.
THE PROJECT WILL TERMINATE
NORTH OF THE SKYVIEW RD
RIGHT-OF-WAY.**



JLCS
Engineering & Consulting, Inc.

3025 CALLE DE LARRO
MIRAMONTE, CA 95026
PH. 951.944.0253 FAX 951.944.3508

EXHIBIT I