

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



606B

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

September 10, 2013

SUBJECT: Murrieta Valley - George Avenue Storm Drain, Stage 2
Project No. 7-0-00234 (Tract No. 31479)
Cooperative Agreement
District 1/District 1

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District, the City of Wildomar (City) and Rancon Equity Partners III, LLC (Developer); and authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement sets forth the terms and conditions by which a certain storm drain facility, required as a condition for approval of Tract 31479, is to be constructed by the Developer and inspected by the District and City.

Continued on Page 2

Steve Thomas
WARREN D. WILLIAMS
General Manager-Chief Engineer

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

SOURCE OF FUNDS: N/A

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

C.E.O. RECOMMENDATION:

APPROVE

BY:

Steven C. Horn
Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Stone and Benoit

Nays: None

Absent: Ashley

Date: September 10, 2013
xc: Flood

Kecia Harper-Ihem
Clerk of the Board

By: *[Signature]*
Deputy

RECEIVED BY THE CLERK OF THE BOARD
SEP 11 2013

Prev. Agt. Ref. DOCUMENTS FILED

District: 1st/1st

Agenda Number:

11-1

WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]* DATE: 9/10/13
NEAL R. KPNIS

Departmental Concurrence

☐ Consent ☐ Policy
☐ Consent ☐ Policy

Dept's Recomm.:

Per Exec. Ofc.:

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

SUBJECT: Murrieta Valley - George Avenue Storm Drain, Stage 2
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Page 2

BACKGROUND: (continued)

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced facility.

Upon completion of the facility's construction, the District will assume ownership, operation and maintenance of the storm drain facility.

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs will accrue to the District.

County Counsel has approved the Agreement as to legal form. The City and the Developer have executed the Agreement.

TT:blj

COOPERATIVE AGREEMENT

Murrieta Valley – George Avenue Storm Drain, Stage 2
Project No. 7-0-00234
Tract No. 31479

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", the City of Wildomar, hereinafter called "CITY", and Rancon Equity Partners III, LLC, a California limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DISTRICT owns, operates and maintains an existing storm drain facility as shown on Sheet Nos. 4 through 6 of District Drawing No. 7-0404, hereinafter called "GEORGE AVENUE STORM DRAIN, STAGE 1"; and

B. DEVELOPER has submitted for approval Tract No. 31479 in the city of Wildomar and as a condition for approval, DEVELOPER must construct certain flood control improvements in order to provide flood protection and drainage for DEVELOPER'S planned development; and

C. The required flood control improvements, as shown on District Drawing No. 7-418, consist of an extension of GEORGE AVENUE STORM DRAIN, STAGE 1 by (i) removing approximately 70 lineal feet of GEORGE AVENUE STORM DRAIN, STAGE 1 at its upstream terminus, and (ii) constructing approximately 300 lineal feet of underground storm drain system located within CITY held rights of way, hereinafter called "DISTRICT DRAINAGE FACILITY", as shown in concept in red on Exhibit "A" attached hereto and made a part hereof; and

D. Associated with the construction of DISTRICT DRAINAGE FACILITY is the construction of an inlet structure and an access ramp located within CITY held rights of

1 way or private property, hereinafter called "APPURTENANCES", as shown in concept in
2 green on Exhibit "A". Together, DISTRICT DRAINAGE FACILITY and
3 APPURTENANCES are hereinafter called "PROJECT"; and

4 E. Legal description of Tract No. 31479 is provided in Exhibit "B" attached
5 hereto and made a part hereof; and

6 F. DEVELOPER and CITY desire DISTRICT to accept ownership and
7 responsibility for the operation and maintenance of PROJECT. Therefore, DISTRICT must
8 review and approve DEVELOPER'S plans and specifications for PROJECT and subsequently
9 inspect the construction of PROJECT; and

10 G. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
11 specifications for PROJECT, (ii) inspect the construction of PROJECT, and (iii) accept
12 ownership and responsibility for the operation and maintenance of PROJECT, provided
13 DEVELOPER (i) complies with the provisions of this Agreement, (ii) pays DISTRICT the
14 amounts specified herein to cover DISTRICT'S plan review and construction inspection costs,
15 (iii) pays DISTRICT the amount specified herein to cover DISTRICT'S estimated cost to
16 operate and maintain PROJECT for a period of ten (10) years commencing upon DISTRICT'S
17 acceptance of PROJECT as complete for ownership, operation and maintenance, (iv)
18 constructs PROJECT in accordance with plans and specifications approved by DISTRICT and
19 CITY, (v) obtains all necessary agreements, regulatory permits, licenses and rights of entry as
20 set forth herein, (vi) accepts ownership and responsibility for the operation and maintenance of
21 PROJECT following completion of PROJECT construction until such time as DISTRICT
22 accepts ownership and responsibility for the operation and maintenance of PROJECT, and
23 (vii) obtains and conveys to DISTRICT the necessary rights of way for the inspection,
24 operation and maintenance of PROJECT as set forth herein; and
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1 H. CITY is willing to (i) review and approve plans and specifications
2 prepared by DEVELOPER for PROJECT, (ii) inspect the construction of PROJECT, (iii)
3 accept and hold faithful performance and payment bonds submitted by DEVELOPER for
4 PROJECT, (iv) consent to the recordation and conveyance of Irrevocable Offer(s) of
5 Dedication furnished by DEVELOPER as provided herein, and (v) grant DISTRICT the right
6 to inspect, operate and maintain PROJECT within CITY rights of way, provided PROJECT is
7 constructed in accordance with plans and specifications approved by DISTRICT and CITY;
8
9 and

10 I. On or about February 24, 2011, CITY amended Ordinance No. 60 to
11 allow the use of a lien upon a subject land division for the purpose of providing the security
12 needed to record a final map under certain terms and conditions. It is the intent of the
13 DEVELOPER to enter into a lien agreement with CITY for Tract No. 31479.

14
15 NOW, THEREFORE, the parties hereto mutually agree as follows:

16 SECTION I

17 DEVELOPER shall:

18 1. Prepare PROJECT plans and specifications, hereinafter called
19 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards,
20 and submit to DISTRICT and CITY for their review and approval.

21
22 2. Continue to pay DISTRICT, within thirty (30) days after receipt of
23 periodic billings from DISTRICT, any and all such amounts as are deemed reasonably
24 necessary by DISTRICT to cover DISTRICT'S costs associated with the review of
25 IMPROVEMENT PLANS, review and approval of right of way and conveyance documents,
26 and with the processing and administration of this Agreement.
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1 3. Deposit with DISTRICT (Attention: Business Office – Accounts
2 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
3 construction as set forth in Section I.8. herein, the estimated cost of providing construction
4 inspection for PROJECT, in an amount as determined and approved by DISTRICT in
5 accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any
6 amendments thereto, based upon the bonded value of PROJECT.
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8 4. Pay DISTRICT, at the time of providing written notice to DISTRICT of
9 the start of construction as set forth in Section I.8., the one-time cash sum of eight thousand
10 dollars (\$8,000), the amount agreed upon to cover DISTRICT'S estimated cost to operate and
11 maintain PROJECT for a period of ten (10) years (Zone 7 – Maintenance Trust Fund)
12 commencing upon DISTRICT'S acceptance of PROJECT as complete for ownership,
13 operation and maintenance.
14

15 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
16 permits and rights of entry as may be needed for the construction, inspection, operation and
17 maintenance of PROJECT. DEVELOPER shall furnish DISTRICT, at the time of providing
18 written notice to DISTRICT of the start of construction as set forth in Section I.8., or not less
19 than twenty (20) days prior to recordation of the final maps for Tract No. 31479 or any phase
20 thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such
21 necessary licenses, agreements, permits and rights of entry, as determined and approved by
22 DISTRICT.
23

24 6. Furnish DISTRICT with copies of all permits, approvals or agreements
25 required by any Federal, State or local resource and/or regulatory agency for the construction,
26 operation and maintenance of PROJECT. Such documents include but are not limited to those
27 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control
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1 Board, California State Department of Fish and Game, and State Water Resources Control
2 Board.

3 7. In connection with and prior to the recordation of the Final Map for Tract
4 No. 31479, enter into a Subdivision Improvement Agreement with CITY and, either, (i)
5 provide faithful performance and payment bonds, each in the amount of one hundred percent
6 (100%) of the estimated cost for construction of PROJECT as determined by DISTRICT,
7 hereinafter called "BONDS", to secure its obligations under the Subdivision Improvement
8 Agreement or (ii) enter into a Lien Agreement with CITY, hereinafter called "LIEN
9 AGREEMENT", wherein, among other things, CITY accepts LIEN AGREEMENT as security
10 for the Subdivision Improvement Agreement under the provisions of Government Code
11 Section 66499(a)(4) and Wildomar Municipal Code Section 16.56.030. Consistent with such
12 LIEN AGREEMENT, DEVELOPER shall substitute BONDS for LIEN AGREEMENT and
13 commence to construct the improvements required by the Subdivision Improvement
14 Agreement (including PROJECT) within three (3) years following the date of the recordation
15 of the map. The surety, amount and form of BONDS shall be subject to the approval of
16 DISTRICT and CITY. BONDS shall remain in full force and effect until PROJECT is
17 accepted by DISTRICT as complete; at which time the amount of BONDS may be reduced to
18 ten percent (10%) for a period of one (1) year to guarantee against any defective work, labor or
19 materials.
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23 8. Notify DISTRICT in writing (Attention: Administrative Services
24 Section), at least twenty (20) days prior to the start of construction of PROJECT. Construction
25 shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has
26 issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence
27 construction of PROJECT.
28

1 9. Grant DISTRICT, by execution of this Agreement, the right to enter upon
2 DEVELOPER'S property where necessary and convenient for the purpose of gaining access to,
3 and performing inspection service for, the construction of PROJECT as set forth herein.

4 10. Obtain and provide DISTRICT, at the time of providing written notice to
5 DISTRICT of the start of construction of PROJECT as set forth in Section I.8., or not less than
6 twenty (20) days prior to the recordation of the final maps for Tract No. 31479 or any phase
7 thereof, whichever occurs first, with duly executed Irrevocable Offers(s) of Dedication to the
8 public for flood control and drainage purposes, including ingress and egress, for the rights of
9 way deemed necessary by DISTRICT for the construction, inspection, operation and
10 maintenance of PROJECT, as shown in concept cross-hatched in green and cross-hatched in
11 red on Exhibit "C" attached hereto and made a part hereof. The Irrevocable Offer(s) of
12 Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and
13 equitable owners of the property described in the offer(s).

14 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of
15 Dedication as set forth in Section I.10., with Preliminary Reports on Title dated not more than
16 thirty (30) days prior to date of submission of all the property described in the Irrevocable
17 Offer(s) of Dedication.

18 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT
19 of the start of construction as set forth in Section I.8., with a complete list of all contractors
20 and subcontractors to be performing work on PROJECT, including the corresponding license
21 number and license classification of each. At such time, DEVELOPER shall further identify
22 in writing its designated superintendent for PROJECT construction.

23 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT
24 of the start of construction as set forth in Section I.8., a construction schedule which shall
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1 show the order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to
2 carry on the various parts of work, including estimated start and completion dates. As
3 construction of PROJECT progresses, DEVELOPER shall update said construction schedule
4 as requested by DISTRICT.

5 14. Furnish DISTRICT with final mylar PROJECT plans and assign their
6 ownership to DISTRICT at the time DISTRICT approves and signs said final mylar plans, and
7 prior to the start of PROJECT construction.
8

9 15. Not permit any change to or modification of IMPROVEMENT PLANS
10 without the prior written permission and consent of CITY and DISTRICT.

11 16. Comply with all Cal/OSHA safety regulations including regulations
12 concerning confined space and maintain a safe working environment for DEVELOPER, CITY
13 and DISTRICT employees on the site.
14

15 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT
16 of the start of construction as set forth in Section I.8., a confined space entry procedure
17 specific to PROJECT. The procedure shall comply with requirements contained in California
18 Code of Regulations, Title 8 Section 5158, Other Confined Space Operations, Section 5157,
19 Permit Required Confined Space and District Confined Space Procedures, SOM-18. The
20 procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to
21 Proceed.
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23 18. During the construction period of PROJECT, provide Workers'
24 Compensation Insurance in an amount required by law. A certificate of said insurance policy
25 shall be provided to DISTRICT and CITY at the time of providing written notice pursuant to
26 Section I.8.
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1 19. Commencing on the date notice is given pursuant to Section I.8. and
2 continuing until DISTRICT accepts PROJECT for operation and maintenance:

3 (a) Provide and maintain or cause its contractor(s) to provide and
4 maintain comprehensive liability insurance coverage which shall
5 protect DEVELOPER from claim for damages or personal injury,
6 including accidental and wrongful death, as well as from claims for
7 property damage which may arise from DEVELOPER'S
8 construction of PROJECT or the performance of its obligations
9 hereunder, whether such construction or performance be by
10 DEVELOPER, by any of its contractors, subcontractors, or by
11 anyone employed directly or indirectly by any of them. Such
12 insurance shall name DISTRICT, the County of Riverside and CITY
13 as additional insureds with respect to this Agreement and the
14 obligations of DEVELOPER hereunder. Such insurance shall
15 provide for limits of not less than two million dollars (\$2,000,000)
16 per occurrence.

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19 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),
20 who shall be authorized by the California Department of Insurance
21 to transact the business of insurance in the State of California, to
22 furnish DISTRICT and CITY at the time of providing written notice
23 to DISTRICT of the start of construction as set forth in Section I.8.,
24 with certificate(s) of insurance and applicable policy endorsements
25 showing that such insurance is in full force and effect and that
26 DISTRICT, the County of Riverside and CITY are named as
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1 additional insureds with respect to this Agreement and the
2 obligations of DEVELOPER hereunder. Further, said certificate(s)
3 shall state that the issuing company shall give DISTRICT and CITY
4 sixty (60) days written notice in the event of any cancellation,
5 termination, non-renewal or reduction in coverage of the policies
6 evidenced by the certificate(s). In the event of any such
7 cancellation, termination, non-renewal or reduction in coverage,
8 DEVELOPER shall, forthwith, secure replacement insurance
9 meeting the provisions of this paragraph.
10

11 Failure to maintain the insurance required by this paragraph shall be
12 deemed a material breach of this Agreement and shall authorize and constitute authority for
13 DISTRICT, at its sole discretion, to proceed to perform the remaining work pursuant to
14 Section IV.5.
15

16 20. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole
17 cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT
18 PLANS.

19 21. Within two (2) weeks of completing PROJECT construction, provide
20 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
21 construction is substantially complete and requesting that DISTRICT conduct a final
22 inspection of PROJECT.
23

24 22. Upon completion of PROJECT construction, and upon acceptance by
25 CITY of all street rights of way deemed necessary by DISTRICT and CITY for the operation
26 and maintenance of PROJECT, but prior to DISTRICT acceptance of PROJECT for
27 ownership, operation and maintenance, convey, or cause to be conveyed to DISTRICT flood
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1 control easement(s), including ingress and egress, in a form approved by DISTRICT, for the
2 rights of way as shown in concept cross-hatched in green and cross-hatched in red on Exhibit
3 "C".

4 23. At the time of recordation of the conveyance document(s) as set forth in
5 Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less
6 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
7 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
8 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
9 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
10 deemed acceptable.

11 24. Accept ownership and sole responsibility for the operation and
12 maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility
13 for operation and maintenance of PROJECT.

14 25. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
15 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
16 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and
17 fees shall be computed as costs and included in any judgment rendered.

18 26. Upon completion of construction of PROJECT, but prior to DISTRICT
19 acceptance of PROJECT for ownership, operation and maintenance, DEVELOPER'S civil
20 engineer of record or construction civil engineer of record, duly registered in the State of
21 California, shall provide DISTRICT a redlined "RECORD DRAWING" copy of PROJECT
22 plans. After DISTRICT approval of the redlined RECORD DRAWING, DEVELOPER'S
23 engineer shall schedule with DISTRICT a time to transfer the redlined changes onto
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1 DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall review,
2 stamp and sign the original mylars PROJECT plans "RECORD DRAWING".

3 27. Ensure that all work performed pursuant to this Agreement by
4 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
5 regulations, including but not limited to all applicable provisions of the Labor Code, Business
6 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
7 associated with compliance with applicable laws and regulations.
8

9 SECTION II

10 DISTRICT shall:

11 1. Review and approve IMPROVEMENT PLANS prior to the start of
12 PROJECT construction.

13 2. Provide CITY an opportunity to review and approve IMPROVEMENT
14 PLANS prior to DISTRICT'S final approval.
15

16 3. Upon execution of this Agreement, record or cause to be recorded, a copy
17 of this Agreement in the Official Records of the Riverside County Recorder.

18 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication
19 provided by DEVELOPER pursuant to Section I.10.
20

21 5. Inspect PROJECT construction.

22 6. Keep an accurate accounting of all DISTRICT costs associated with the
23 review and approval of IMPROVEMENT PLANS, the review and approval of right of way
24 and conveyance documents, and the processing and administration of this Agreement.

25 7. Keep an accurate accounting of all DISTRICT construction inspection
26 costs, and within forty-five (45) days after DISTRICT acceptance of PROJECT as being
27 complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section
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1 I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within
2 sixty (60) days after DISTRICT acceptance of PROJECT as being complete. If at any time the
3 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPER
4 shall pay such additional amount(s), as deemed reasonably necessary by DISTRICT to
5 complete inspection of PROJECT, within thirty (30) days after receipt of billing from
6 DISTRICT.
7

8 8. Accept ownership and sole responsibility for the operation and
9 maintenance of PROJECT upon (i) DISTRICT acceptance of PROJECT construction as being
10 complete, (ii) recordation of all conveyance documents described in Section I.22., and (iii)
11 acceptance by CITY of all necessary street rights of way as deemed necessary by DISTRICT
12 and CITY for the operation and maintenance of PROJECT.
13

14 9. Provide CITY with a reproducible duplicate copy of "RECORD
15 DRAWING" PROJECT plans upon DISTRICT acceptance of PROJECT as being complete.

16 SECTION III

17 CITY shall:

18 1. Review and approve IMPROVEMENT PLANS prior to the start of
19 PROJECT construction.
20

21 2. Accept (i) CITY and DISTRICT approved BONDS submitted by
22 DEVELOPER as set forth in Section I.7. and hold said bonds as provided herein or (ii) the
23 LIEN AGREEMENT or the BONDS submitted by DEVELOPER in substitution thereof as set
24 forth in Section I.7 and hold such LIEN AGREEMENT or substituted BONDS as provided
25 herein.
26

27 3. Inspect construction of PROJECT.
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4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.

5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of PROJECT, and convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain PROJECT.

6. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate, and maintain PROJECT within CITY rights of way.

7. Not grant any occupancy permits for any units within any portion of Tract No. 31479, or any phase thereof, until construction of PROJECT is complete, unless otherwise approved in writing by DISTRICT.

SECTION IV

It is further mutually agreed:

1. All work involved with PROJECT shall be inspected by DISTRICT and CITY and shall not be deemed complete until approved and accepted in writing as complete by DISTRICT and CITY.

2. CITY and DEVELOPER'S personnel may observe and inspect all work being done on PROJECT, but shall provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with DEVELOPER'S contractor(s) during the construction of PROJECT.

3. DEVELOPER shall commence construction of PROJECT within three (3) years following the date of the issuance of a grading permit or building permit, whichever

1 comes first. Extensions of time, may be granted by mutual agreement of CITY and
2 DISTRICT.

3 4. DISTRICT reserves the right to withhold issuance of the Notice to
4 Proceed pending a review of the existing site conditions as they exist at the time
5 DEVELOPER provides written notification to DISTRICT of the start of construction as set
6 forth in Section I.8. In the event of a change in the existing site conditions that materially
7 affects PROJECT function or DISTRICT'S ability to operate and maintain PROJECT,
8 DISTRICT may require DEVELOPER, at DEVELOPER'S sole cost and expense, to modify
9 IMPROVEMENT PLANS as deemed necessary by DISTRICT.
10

11 5. Upon the issuance of the Notice to Proceed, DEVELOPER shall complete
12 construction of PROJECT within one hundred twenty (120) consecutive calendar days
13 thereafter. It is expressly understood that failure of DEVELOPER to complete the
14 construction work within the said one hundred twenty (120) consecutive calendar days shall
15 constitute authority for DISTRICT to perform the remaining work and require DEVELOPER'S
16 surety to pay to CITY the penal sum of any and all bonds. In which case, CITY shall
17 subsequently reimburse DISTRICT for DISTRICT costs incurred. CITY shall not be required
18 to reimburse DISTRICT for any DISTRICT costs incurred in excess of the amounts actually
19 received by CITY from DEVELOPER'S surety.
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22 6. DEVELOPER and DISTRICT knowingly and voluntarily, waive the
23 provisions of Government Code Section 65913.8, relating to fees and charges. Such waiver is
24 accomplished with the understanding that DISTRICT is voluntarily undertaking the obligation
25 to accept ownership and responsibility for the operation and maintenance of PROJECT, and
26 DEVELOPER is not required by DISTRICT to enter into this Agreement. DEVELOPER shall
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1 not request DISTRICT to accept any portion or portions of PROJECT prior to the completion
2 of PROJECT construction.

3 7. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed
4 within twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in
5 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
6 issuance of a Notice to Proceed is subject to staff availability.
7

8 In the event DEVELOPER wishes to expedite issuance of a Notice to
9 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
10 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate
11 documentation of the individual's credentials and experience to DISTRICT for review and, if
12 appropriate, approval. DISTRICT shall review the individual's qualifications and experience
13 and, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall
14 be authorized to act on DISTRICT'S behalf on all PROJECT construction and quality control
15 matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to
16 Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER
17 up to eighty percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45)
18 days of DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten
19 thousand dollars (\$10,000) shall be retained on account.
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22 8. PROJECT construction work shall be on a five (5) day, forty (40) hour
23 work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays,
24 unless otherwise approved in writing by DISTRICT. If DEVELOPER feel it is necessary to
25 work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall
26 make a written request for permission from DISTRICT to work the additional hours. The
27 request shall be submitted to DISTRICT at least seventy-two (72) hours prior to the requested
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1 additional work hours and state the reasons for the overtime and the specific time frames
2 required. The decision of granting permission for overtime work shall be made by DISTRICT
3 at its sole discretion and shall be final. If permission is granted by DISTRICT, DEVELOPER
4 will be charged the cost incurred at the overtime rates for additional inspection time required
5 in connection with the overtime work in accordance with Ordinance Nos. 671 and 749,
6 including any amendments thereto, of the County of Riverside.
7

8 9. Prior to DISTRICT acceptance of ownership and responsibility for the
9 operation and maintenance of PROJECT, PROJECT shall be in a satisfactorily maintained
10 condition as solely determined by DISTRICT.

11 10. DEVELOPER shall indemnify and hold harmless DISTRICT, County of
12 Riverside and CITY (including their agencies, districts, special districts and departments, their
13 respective directors, officers, Board of Supervisors, elected and appointed officials,
14 employees, agents and representatives) from any liability, claim, damage, proceeding or
15 action, present or future, based upon, arising out of or in any way relating to DEVELOPER'S
16 (including its officers, employees, subcontractors and agents) actual or alleged acts or
17 omissions related to this Agreement, performance under this Agreement, or failure to comply
18 with the requirements of this Agreement, including but not limited to: (a) property damage; (b)
19 bodily injury or death; (c) liability or damage pursuant to Article I, Section 19 of the California
20 Constitution, the Fifth Amendment of the United States Constitution or any other law,
21 ordinance or regulation caused by the diversion of waters from the natural drainage patterns or
22 the discharge of drainage within or from PROJECT; or (d) any other element of any kind or
23 nature whatsoever.
24

25
26 DEVELOPER shall defend, at its sole expense, including all costs and
27 fees (including but not limited to attorney fees, cost of investigation, defense and settlements
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1 or awards), DISTRICT, County of Riverside and CITY (including their agencies, districts,
2 special districts and departments, their respective directors, officers, Board of Supervisors,
3 elected and appointed officials, employees, agents and representatives) in any claim,
4 proceeding or action for which indemnification is required.

5 With respect to any of DEVELOPER'S indemnification requirements,
6 DEVELOPER shall, at its sole cost, have the right to use counsel of its own choice and shall
7 have the right to adjust, settle, or compromise any such claim, proceeding or action without the
8 prior consent of DISTRICT, County of Riverside and CITY; provided, however, that any such
9 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
10 DEVELOPER'S indemnification obligations to DISTRICT, County of Riverside or CITY.

11 DEVELOPER'S indemnification obligations shall be satisfied when
12 DEVELOPER has provided to DISTRICT, County of Riverside and CITY the appropriate
13 form of dismissal (or similar document) relieving DISTRICT, County of Riverside or CITY
14 from any liability for the claim, proceeding or action involved.

15 The specified insurance limits required in this Agreement shall in no way
16 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT,
17 County of Riverside and CITY from third party claims.

18 In the event there is conflict between this section and California Civil
19 Code Section 2782, this section shall be interpreted to comply with California Civil Code
20 Section 2782. Such interpretation shall not relieve DEVELOPER from indemnifying
21 DISTRICT, County of Riverside or CITY to the fullest extent allowed by law.

22 11. Any waiver by DISTRICT or by CITY of any breach of any one or more
23 of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
24 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
25

1 require exact, full and complete compliance with any terms of this Agreement shall not be
 2 construed as in any manner changing the terms hereof, or estopping DISTRICT or CITY from
 3 enforcement hereof.

4 12. If any provision in this Agreement (with the exception of Section IV.6.) is
 5 held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining
 6 provisions will nevertheless continue in full force without being impaired or invalidated in any
 7 way. Should it be held by a court of competent jurisdiction that any portion of Section IV.6. is
 8 invalid, void, or unenforceable, the provisions of Government Code Section 65913.8(b) shall
 9 apply. It shall, therefore, be determined that this fee is extended for a period of ten years,
 10 commencing upon DISTRICT'S acceptance of PROJECT for ownership, operation and
 11 maintenance.
 12

13 13. This Agreement is to be construed in accordance with the laws of the
 14 State of California.
 15

16 14. Any and all notices sent or required to be sent to the parties of this
 17 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

18 RIVERSIDE COUNTY FLOOD CONTROL
 19 AND WATER CONSERVATION DISTRICT
 1995 Market Street
 20 Riverside, CA 92501

CITY OF WILDOMAR
 23873 Clinton Keith Road, Suite 201
 Wildomar, CA 92595
 Attn: Director of Public Works

21 RANCON EQUITY PARTNERS III, LLC
 41391 Kalmia Street, Suite 200
 22 Murrieta, CA 92562
 Attn: Will Stout
 23 Frank Igo

24 15. Any action at law or in equity brought by any of the parties hereto for the
 25 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court
 26 of competent jurisdiction in the County of Riverside, State of California, and the parties hereto
 27
 28

1 waive all provisions of law providing for a change of venue in such proceedings to any other
2 county.

3 16. This Agreement is the result of negotiations between the parties hereto,
4 and the advice and assistance of their respective counsel. The fact that this Agreement was
5 prepared as a matter of convenience by DISTRICT shall have no import or significance. Any
6 uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because
7 DISTRICT prepared this Agreement in its final form.
8

9 17. The rights and obligations of DEVELOPER shall inure to and be binding
10 upon all heirs, successors and assignees.

11 18. DEVELOPER shall not assign or otherwise transfer any of its rights,
12 duties or obligations hereunder to any person or entity without the written consent of the other
13 parties hereto being first obtained. In the event of any such transfer or assignment,
14 DEVELOPER expressly understands and agrees it shall remain liable with respect to any and
15 all of the obligations and duties contained in this Agreement.
16

17 19. The individual(s) executing this Agreement on behalf of DEVELOPER
18 hereby certify that they have the authority within their respective company(ies) to enter into
19 and execute this Agreement, and have been authorized to do so by any and all boards of
20 directors, legal counsel, and or any other board, committee or other entity within their
21 respective company(ies) which have the authority to authorize or deny entering this
22 Agreement.
23

24 20. This Agreement is intended by the parties hereto as a final expression of
25 their understanding with respect to the subject matter hereof and as a complete and exclusive
26 statement of the terms and conditions thereof and supersedes any and all prior and
27 contemporaneous agreements and understandings, oral or written, in connection therewith.
28

1 This Agreement may be changed or modified only upon the written consent of the parties
2 hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

SEP 10 2013

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By Steve Thomas
For WARREN D. WILLIAMS
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By Neal Kipnis
NEAL KIPNIS
Deputy County Counsel

By Kathleen Barton
Deputy


(SEAL)

Cooperative Agreement: TR 31479

TT:blj

7/18/13

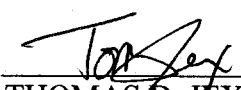
CITY OF WILDOMAR

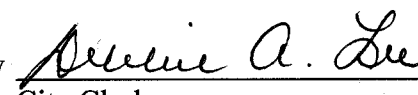
By 
GARY NORDQUIST
City Manager

ATTEST:

DEBBIE A. LEE

APPROVED AS TO FORM:

By 
THOMAS D. JEX
City Attorney


By 
City Clerk

(SEAL)

Cooperative Agreement: TR 31479
TT:blj
7/18/2013

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RANCON EQUITY PARTNERS III, LLC,
a California limited liability company

By 
DANIEL L. STEPHENSON
Manager

(ATTACH NOTARY WITH
CAPACITY STATEMENT)

Cooperative Agreement: TR 31479
TT:blj
7/18/2013

STATE OF CALIFORNIA

County of Riverside

On July 31, 2013, before me, Christopher Thomas Lytle, Notary Public, personally appeared Daniel L. Stephenson, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.

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

WITNESS my hand and official seal.

{Seal}

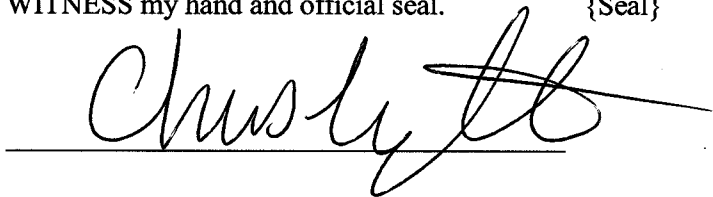
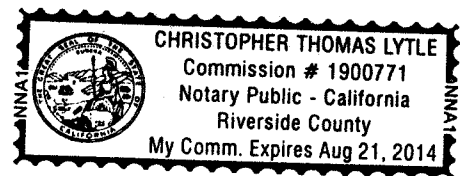
A handwritten signature in cursive script, reading "Chris Lytle", is written over a horizontal line.

Exhibit A

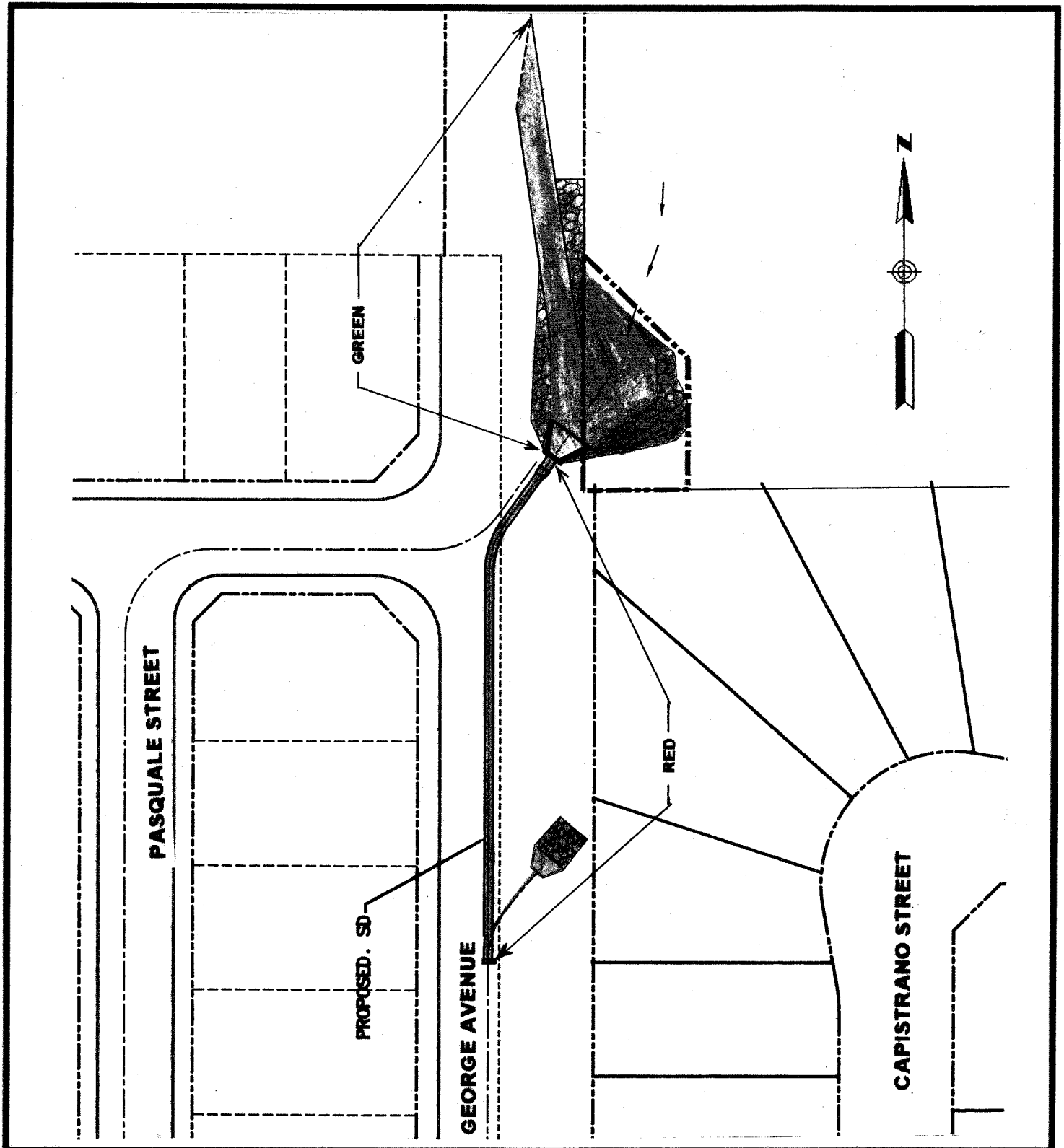


Exhibit B

LEGAL DESCRIPTION

PARCEL A: (APN 362-240-29)

THAT PORTION OF PARCEL 1 OF PARCEL MAP 7504, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 24, PAGE 16 OF PARCEL MAPS, RIVERSIDE COUNTY RECORDS.

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL 1;

THENCE NORTH 01°12'39" EAST, ALONG THE WEST LINE OF SAID PARCEL 1, DISTANCE 501.23 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 88°16'09" EAST, PARALLEL TO THE NORTH LINE OF SAID PARCEL 1, A DISTANCE OF 740.03 FEET TO THE EAST LINE OF SAID PARCEL 1;

THENCE NORTH 01°12'39" EAST, ALONG SAID EAST LINE A DISTANCE OF 290.00 FEET; THENCE SOUTH 88°16'09" WEST PARALLEL TO THE NORTH LINE OF SAID PARCEL 1, A DISTANCE OF 740.03 FEET TO THE WEST LINE OF SAID PARCEL 1;

THENCE SOUTH 01°12'39" WEST, ALONG SAID WEST LINE A DISTANCE OF 290.00 FEET TO THE TRUE POINT OF BEGINNING.

SAID LEGAL DESCRIPTION IS MADE PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED APRIL 8, 1998 AS INSTRUMENT NO. 132805 OF OFFICIAL RECORDS.

PARCEL B: (APN 362-240-31)

PARCEL 2, TOGETHER WITH LOT D OF PARCEL MAP 9268, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 41, PAGE(S) 67 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL C: (APN 362-240-32)

PARCEL 3, TOGETHER WITH LOT C OF PARCEL MAP 9268, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 41, PAGE(S) 67, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL D: (APN'S: 362-240-20 & 23)

PARCELS 1 AND 4, TOGETHER WITH LOTS A AND B, OF PARCEL MAP 9268, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 41, PAGE(S) 67, PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

END OF LEGAL DESCRIPTION

Exhibit C

