

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 6/29/16

Departmental Concurrence

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

161



FROM: TLMA – Transportation Department

SUBMITTAL DATE:
 May 23, 2016

SUBJECT: Approval of Assignment and Assumption of Improvement Credit Agreement between Riverside Mitland 03 LLC, Brookfield Nectar LLC, and the County of Riverside for Tract No. 36418, Lots 1-50 for Transportation Uniform Mitigation Fee and Road and Bridge Benefit District Fee Credits within Clinton Keith Road Community Facilities District No. 07-2. 3rd District; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Assignment and Assumption of Improvement Credit Agreement between Riverside Mitland 03 LLC, Brookfield Nectar LLC, and the County of Riverside (County) for Tract No. 36418, Lots 1-50 for Transportation Uniform Mitigation Fee (TUMF) and Road and Bridge Benefit District (RBBD) Fee Credits within Clinton Keith Road Community Facilities District No. 07-2 (CFD); and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

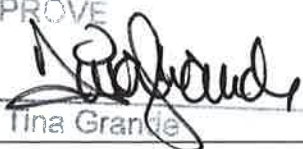

 Patricia Romo
 Assistant Director of Transportation


 Juan C. Perez
 Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A
Budget Adjustment: No
For Fiscal Year: 2016/2017

C.E.O. RECOMMENDATION:

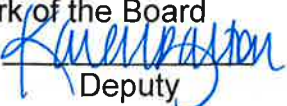
APPROVE
 BY: 
 Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Washington, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: July 12, 2016
 xc: Transp.

Kecia Harper-Ihem
 Clerk of the Board
 By: 
 Deputy

Prev. Agn. Ref.: 8/18/15, Item 3-74;
 8/18/15. Item 3-75
 District: 3
 Agenda Number:

3-48

- Positions Added
- Change Order
- A-30
- 4/5 Vote

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

FORM 11: Approval of Assignment and Assumption of Improvement Credit Agreement between Riverside Mitland 03 LLC, Brookfield Nectar LLC, and the County of Riverside for Tract No. 36418, Lots 1-50 for Transportation Uniform Mitigation Fee and Road and Bridge Benefit District Fee Credits within Clinton Keith Road Community Facilities District No. 07-2. 3rd District; [\$0]

DATE: May 23, 2016

PAGE: 2 of 2

BACKGROUND:

Summary

On August 18, 2015 (Agenda Item 3-74 and Item 3-75), the County Board of Supervisors approved the "Improvement Credit Agreement, Transportation Uniform Mitigation Fee Program" and the "Improvement Credit Agreement, Road and Bridge Benefit Fee Program", respectively, between the County of Riverside and Riverside Mitland 03, LLC, which allows the developed lots of the property within the CFD to be eligible for fee credits against their applicable TUMF and RBBBD fees.

Brookfield Nectar LLC (Assignee) acquired 50 single-family residential lots of Tract 36418, lots 1-50 (Property), from Riverside Mitland 03 LLC (Assignor) within Clinton Keith Road Community Facilities District No. 07-2 (CFD).

Riverside Mitland 03 LLC desires to assign to Brookfield Nectar LLC all rights and responsibilities related to Improvement Credit Agreements for Transportation Uniform Mitigation Fee (TUMF) and Road and Bridge Benefit District (RBBBD) fee credits for the Property with respect to the CFD.

Brookfield Nectar LLC desires to assume all of the Assignor's rights and obligations under the TUMF and RBBBD credit agreements relating to the Property.

This Assignment and Assumption Agreement will allow for the reassignment of all rights and obligations related to Tract No. 36418.

Project Number: B2-04722

Impact on Residents and Businesses

This Assignment and Assumption Agreement represents a change in real property ownership and will have no impact upon local residents and businesses. Community Facilities District 07-2 is providing funding for the extension of Clinton Keith Road between Whitewood Road and Leon Road that is currently under construction.

SUPPLEMENTAL:

Additional Fiscal Information

N/A

ATTACHMENTS

Vicinity Map

Assignment Agreement

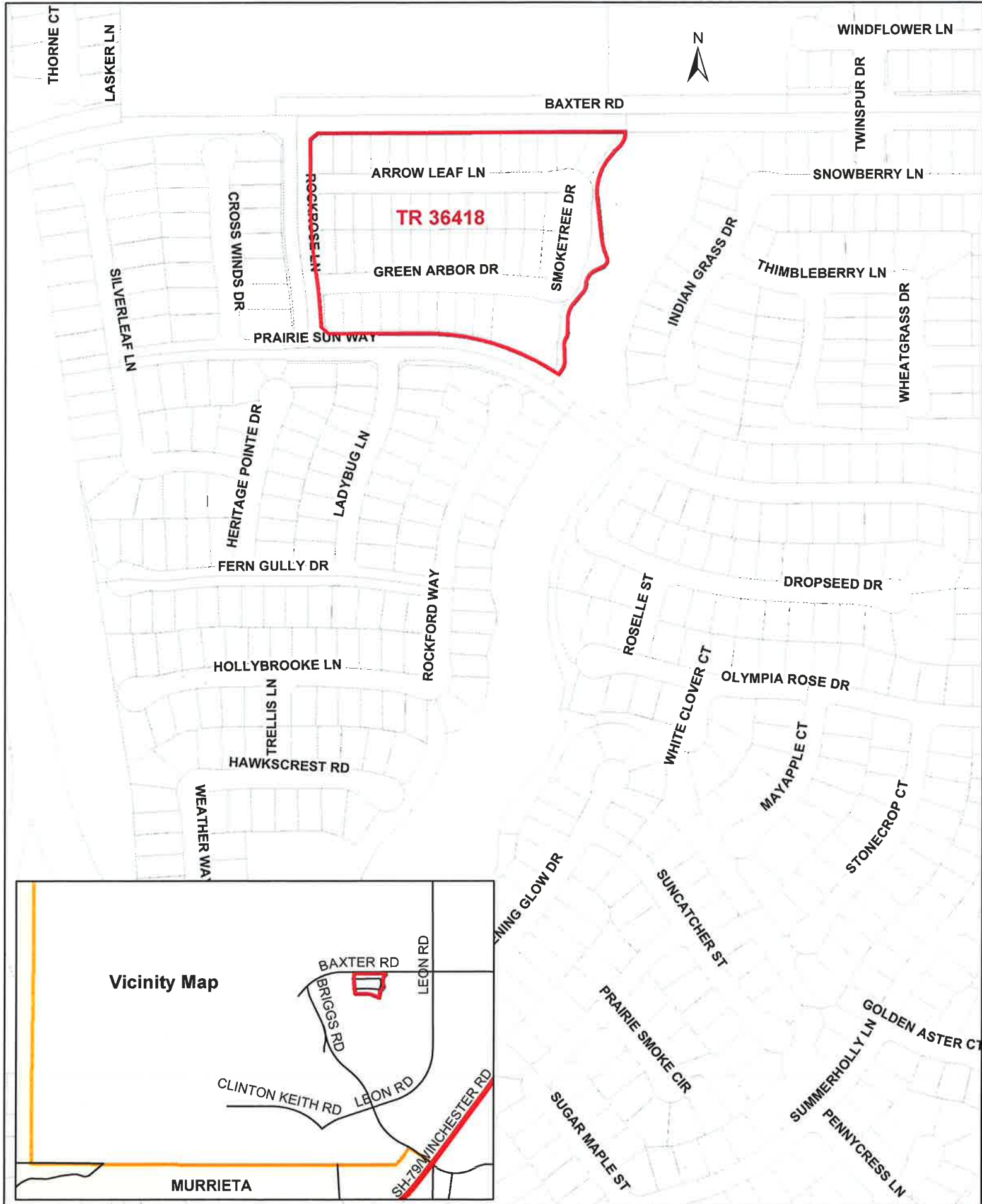
0 160 320 640 Feet

1 inch = 333 feet

Orthophotos Flown 2/11 (WR, CV) or 4/07 (REMAP, Blythe)
Printed by almedina on 5/20/2016

TR36418 Vicinity Map

The County of Riverside assumes no warranty or legal responsibility for the information contained on this map. Data and information represented on this map is subject to updates, modifications and may not be complete or appropriate for all purposes. County GIS and other sources should be queried for the most current information. Do not copy or reuse this map.



**ASSIGNMENT AND ASSUMPTION
OF
IMPROVEMENT CREDIT AGREEMENT**

This Assignment and Assumption of Improvement Credit Agreement (this "**Assignment**") is made as of 7/12/16, by and between RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company ("**Assignor**"), BROOKFIELD NECTAR LLC, a Delaware limited liability company ("**Assignee**"), and the County of Riverside ("County").

RECITALS

A. Assignor is a "Developer" under the certain agreements titled "County of Riverside, Community Facilities District No. 07-2 (Clinton Keith Road CFD) Improvement Credit Agreement, Transportation Uniform Mitigation Fee Program" (the "**TUMF Agreement**") and "County of Riverside, Community Facilities District No. 07-2 (Clinton Keith Road CFD) Improvement Credit Agreement, Road and Bridge Benefit District Fee Program" (the "**RBBB Agreement**") with respect to that certain real property described on Exhibit A attached hereto, which includes Lot Nos. 1 through 50 of Tract No. 36418 (the "**Property**"). Any capitalized term used but not otherwise defined herein shall have the meaning ascribed thereto in the TUMF Agreement and RBBB Agreement.

B. Assignor and Assignee are parties to that Real Estate Purchase and Sale Contract (the "**Contract**") dated as of November 30, 2015, respecting the sale of the Property.

C. Assignor desires to assign to Assignee all of Assignor's rights under the TUMF Agreement and RBBB Agreement relating to the Property, and Assignee desires to assume all of Assignor's obligations thereunder relating to the Property, all on the terms and conditions set forth below.

D. County is an express intended beneficiary of the rights, duties and obligations undertaken by Assignor and Assignee.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns to Assignee all of Assignor's rights, title, interest, and obligations in and under the TUMF Agreement and RBBB Agreement to the extent relating to the Property, including, without limitation, the TUMF fee Credit for 50 lots of up to 96% of the TUMF fee in effect at issuance of a certificate of occupancy and the RBBB Credits applied against RBBB fees for 50 lots. The remaining 4% of the TUMF (the "Program Administration amount") shall be paid by Assignee at the time of issuance of a certificate of occupancy.

2. Assignee hereby accepts this Assignment and agrees to be bound by all applicable provisions of the TUMF Agreement and RBBB Agreement with respect to the Property.

3. Assignor hereby covenants that it will, at any time and from time to time upon written request therefor, but at no out-of-pocket cost to Assignor, execute and deliver to Assignee, its nominees, successor and/or permitted assigns, any new or confirmatory instructions and do and perform any other acts which Assignee, its nominees, successors and/or assigns, may reasonably request in order to fully transfer and assign the rights of Assignor in and under the TUMF Agreement and the TUMF Credit Amount, and the RBBB Agreement and RBBB Credit Amount with respect to the Property.

4. This Assignment shall be binding upon and inure to the benefit of the successors and assignees of all respective parties hereto. All rights, title, and interest to all benefits accruing under this Assignment shall only be assigned to a subsequent assignee pursuant to the execution of an assignment and assumption agreement among the subsequent assignor, the subsequent assignee, the County, in a form acceptable to the County, whereby the parties consent to such assignment and the subsequent assignee expressly agrees to assume all duties, liabilities, obligations or responsibilities under the TUMF Agreement and RBBB Agreement and to be bound thereby.

5. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

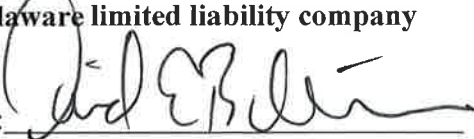
6. This Assignment may be executed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

[Signatures on following page]

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first above written.

ASSIGNOR:


**RIVERSIDE MITLAND 03, LLC, a
Delaware limited liability company**

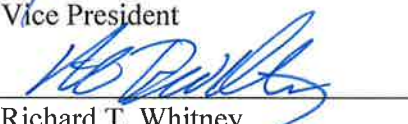
By: 
Name: David E. Bartlett
Title: Vice President

By: 
Name: Richard T. Whitney
Title: Chief Financial Officer

ASSIGNEE:

**BROOKFIELD NECTAR LLC, a Delaware
limited liability company**


By: 
Name: Richard A. Cuoco
Title: Vice President

By: 
Name: Richard T. Whitney
Title: Chief Financial Officer

COUNTY OF RIVERSIDE:

By: 
JOHN J. BENOIT
Chairman, County Board of Supervisors

APPROVED AS TO FORM:
County Counsel

By:  6-28-16
Aaron Gettis

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: , Deputy

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Orange }

On May 16, 2016 before me, Meagan Knecht, Notary Public
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

[Handwritten Signature]

Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- _____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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State of California }

County of Orange }

On May 16, 2016 before me, Meagan Knecht Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

[Signature]
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

_____ (Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

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EXHIBIT A

DESCRIPTION OF PROPERTY

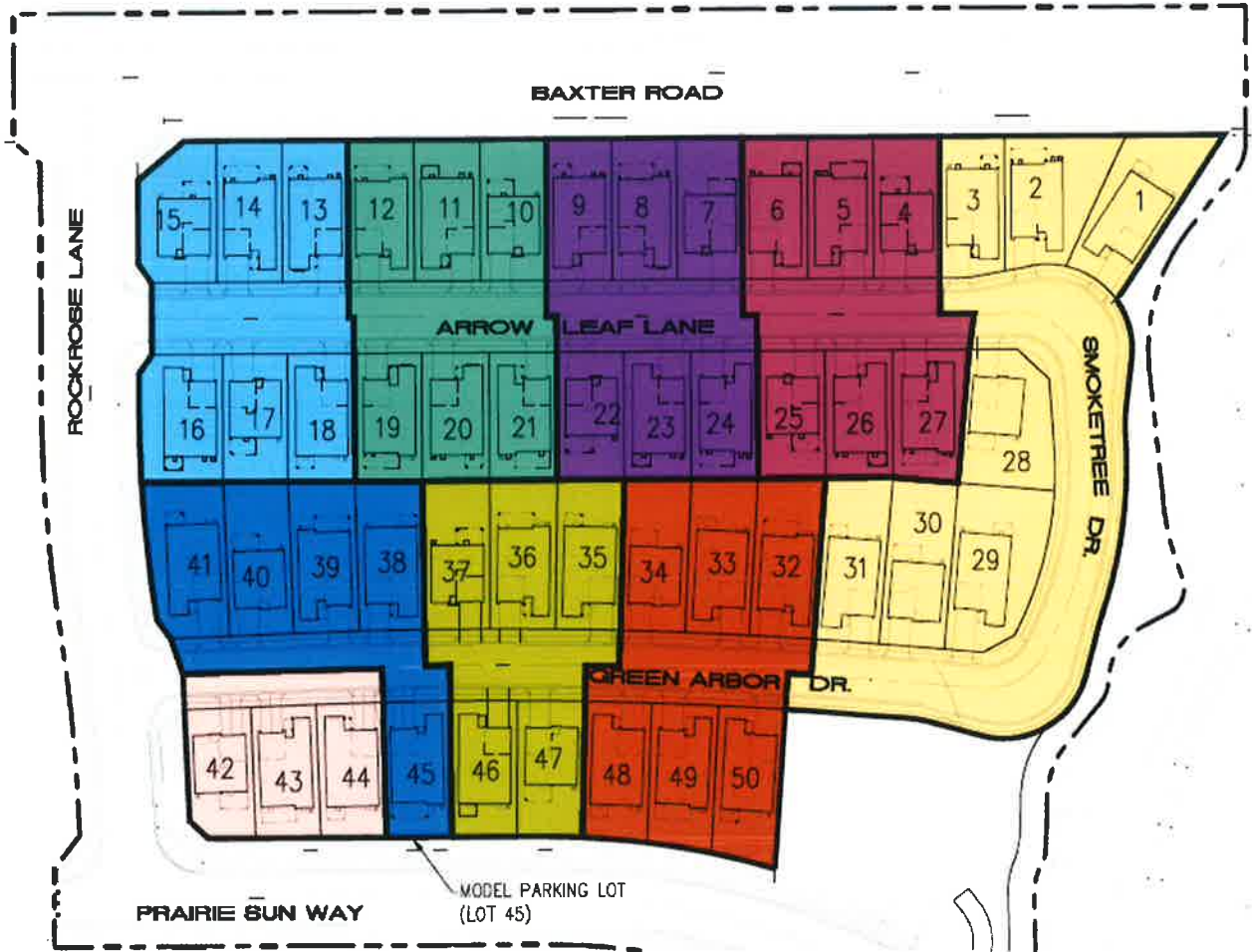
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIVERSEIDE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 50, INCLUSIVE, OF TRACT NO. 36418, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 445, PAGES 47 THROUGH 52, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: A PORTION OF 480-090-060-1

EXHIBIT B

SITE PLAN



0 160 320 640 Feet

1 inch = 333 feet

Orthophotos Flown 2/11 (WR, CV) or 4/07 (REMAP, Blythe)
Printed by almedina on 5/20/2016

TR36418 Vicinity Map

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