



## **CITY COUNCIL CLOSED & REGULAR SESSION**

550 E. 6th Street, Beaumont, CA

**Tuesday, March 17, 2020**

**Closed Session: 5:00 PM | Regular Meeting: 6:00 PM**

Beaumont Financing Authority  
Beaumont Successor Agency (formerly RDA)  
Beaumont Utility Authority  
Beaumont Parking Authority  
Beaumont Public Improvement Authority  
Community Facilities District 93-1

### **AGENDA**

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Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packets are available for public inspection in the City Clerk's office at 550 E. 6th Street during normal business hours.

Any person with a disability who requires accommodations in order to participate in this meeting should telephone the City Clerk's office at (951)769-8520, at least 48 hours prior to the meeting in order to make a request for a disability related modification or accommodation.

Any one person may address the City Council on any matter not on this agenda. If you wish to speak, please fill out a "Public Comment Form" provided in the back and give it to the City Clerk. There is a three (3) minute limit on public comments. There will be no sharing or passing of time to another person. State law prohibits the City Council from discussing or taking actions brought up by your comments.

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### **CLOSED SESSION - 5:00 PM**

**\*PUBLIC COMMENTS CAN BE SUBMITTED VIA EMAIL\***

**Public comments can be emailed to [NicoleW@BeaumontCa.gov](mailto:NicoleW@BeaumontCa.gov)**

*A Closed Session of the City Council / Beaumont Financing Authority / Beaumont Utility Authority / Beaumont Successor Agency (formerly RDA)/Beaumont Parking Authority / Beaumont Public Improvement Authority may be held in accordance with state law which may include, but is not limited to, the following types of items: personnel matters, labor negotiations, security matters, providing instructions to real property negotiators and conference with legal counsel regarding pending litigation. Any public comment on Closed Session items will be taken prior to the Closed Session. Any required announcements or discussion of Closed Session items or actions following the Closed Session will be made in the City Council Chambers.*

**CALL TO ORDER**

Mayor Santos, Mayor Pro Tem Lara, Council Member Carroll, Council Member Martinez, Council Member White

Public Comments Regarding Closed Session

1. **Conference with Legal Counsel Existing Litigation-Pursuant to Government Code Section 54956.9(d)(1):**  
**Donna Pucio et. al. v. State of California – Department of Transportation et. al., Case No. RIC 1905672**  
**Loandepot.com, LLC dba Imortgage v. Nancy Penman et. Case No. RIC 1722842**
  
2. **Conference with Labor Negotiators - Pursuant to Government Code Section 54957.6**  
**City Designated Representatives City Manager Todd Parton and Administrative Services Director Kari Mendoza. Employee Organizations: Police Management Managers/Professional/Technical as Individuals**
  
3. **Conference with Legal Counsel Existing Litigation Pursuant to Government Code Section 54956.9(d)(1):**  
**Urban Logic v. City of Beaumont et. al. Case No. RIC 1797201**  
**City of Beaumont et. al. v. Norton Rose Fullbright US, LLP Case No. RIC1904645**  
**City of Beaumont v. McFarlin & Anderson et. al. Case No. RIC1813359**  
**Alphonso Hatcher, Sr. v. City of Beaumont et al., Case No. MVC1913810**

Adjourn to Regular Session

## **REGULAR SESSION - 6:00 PM**

### **CALL TO ORDER**

Mayor Santos, Mayor Pro Tem Lara, Council Member Carroll, Council Member Martinez, Council Member White

Report out from Closed Session:  
Action on any Closed Session items:  
Action of any requests for Excused Absence:  
Pledge of Allegiance:  
Approval / Adjustments to the Agenda:  
Conflict of Interest Disclosure:

### **ANNOUNCEMENTS/ RECOGNITION / PROCLAMATIONS / CORRESPONDENCE**

### **PUBLIC COMMENT PERIOD (ITEMS NOT ON THE AGENDA)**

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## **CONSENT CALENDAR**

Items on the consent calendar are taken as one action item unless an item is pulled for further discussion here or at the end of action items.

Approval of all Ordinances and Resolutions to be read by title only.

### **1. Ratification of Warrants**

#### **Recommended Action:**

Ratify warrants dated January 23, 2020.

### **2. Approval of Minutes**

#### **Recommended Action:**

Approve minutes dated March 3, 2020.

### **3. Second Reading and Adoption of an Ordinance Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code**

#### **Recommended Action:**

Waive the second full reading and approve by title only, "An Ordinance of the City Council of the City of Beaumont Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code."

### **4. First Amendment to Agreement for Independent Contractor with The Mobile Turtle RV & Auto Detailing, a California Corporation**

#### **Recommended Action:**

Approve the First Amendment to Agreement for Independent Contractor with The Mobile Turtle RV & Auto Detailing, a California Corporation; and  
Authorize the Mayor to execute the amendment on behalf of the City.

### **5. Annual Development Agreements Review**

#### **Recommended Action:**

Receive and file.

### **6. FY 2019-20 Review of Budget to Actual for General Fund and Wastewater Fund**

#### **Recommended Action:**

Receive and file the FY 2020 update to the General Fund and Wastewater Fund budget to actual reports.

## **PUBLIC HEARINGS**

Approval of all Ordinances and Resolutions to be read by title only.

### **7. Public Hearing and Consideration of Approval of a Resolution for the Second Amendment of the City's FY19/20-FY23/24 Capital Improvement Plan**

**Recommended Action:**

Hold a Public Hearing, and  
Waive the full reading and approve by title only, "Resolution of the City of  
Beaumont Making Modification Amendment to the Five-Year Capital  
Improvement Plan for Fiscal Years 2019/2020 through 2023/2024 Pursuant to  
the Requirements of California Department of Transportation."

**ACTION ITEMS**

*Approval of all Ordinances and Resolutions to be read by title only.*

**8. FY 2020 Mid-Year Budget Adjustments**

**Recommended Action:**

Approve the proposed budget adjustments to the FY 2020 City Budget.

**9. FY 2020-21 Budget Discussion and Direction**

**Recommended Action:**

Provide guidance to staff if any changes are desired in the planned budget  
building assumptions,  
Provide direction to staff if there is additional information needed to consider  
increased funding allocation to services identified as needing attention during the  
recent Council/ Management survey,  
Provide direction to staff regarding the timing and process for allocation of  
unassigned General Fund balance (one time funds), and  
Provide feedback to staff regarding the planned budget preparation process and  
the proposed timeline.

**10. Award a Subscription Agreement to Dude Solutions, Inc., for Computerized  
Maintenance Management Software and Facility Condition Assessment**

**Recommended Action:**

Award a subscription agreement to Dude Solutions, Inc., for Computerized  
Maintenance Management Software and Facility Condition Assessment; and  
Authorize the Mayor to execute the agreement on behalf of the City of Beaumont.

**11. Adopt Resolution (A) Appointing the Representative and Alternate Representative to the  
ERMAC Board of Directors; and Resolution (B) Approve Amendments to the ERMAC  
Joint Powers Agreement**

**Recommended Action:**

Waive the full reading and adopt by title only, a "Resolution Appointing the  
Representative and Alternate to the ERMAC Board of Directors" Appointing  
Administrative Services Director Kari Mendoza as the City's Representative and  
City Manager Todd Parton as the City's Alternate to the ERMAC Board of  
Directors, and  
Waive the full reading and adopt by title only, "Resolution Approving  
Amendments to the Exclusive Risk Management Authority of California Joint  
Powers Agreement."

**12. Approval of the Third Amendment to the Professional Services Agreement with Falcon Engineering Services, Inc., for Construction Management Services of the State Route 60 (SR-60) and Potrero Boulevard Interchange Project Phase 1/1A in the amount of \$83,371.76 with the Total Not to Exceed Contract Amount of \$2,360,831.16**

**Recommended Action:**

Approve the third amendment to the Professional Services Agreement with Falcon Engineering Services, Inc., for construction management services of the State Route 60 (SR-60) and Potrero Boulevard Interchange Project Phase 1/1A in the amount of \$83,371.16 with the total not to exceed contract amount of \$2,360,831.16.

**13. Economic Development Strategic Plan Update**

**Recommended Action:**

Receive and file.

**14. Discussion and Direction to City Staff Regarding the Riverside County Transportation Commission Draft Traffic Relief Plan**

**Recommended Action:**

City recommends that the City Council discuss the TRP, direct City staff to forward any City Council questions or comments to RCTC, and schedule this item for a future agenda for discussion and action once RCTC responses have been received.

**15. City Attorney Invoices for the Month of February**

**Recommended Action:**

Approve invoices in the amount of \$124,742.25.

**LEGISLATIVE UPDATES AND DISCUSSION**

**16. Townsend Legislative Update**

**COUNCIL REPORTS**

- Carroll
- Lara
- Martinez
- Santos
- White

**ECONOMIC DEVELOPMENT UPDATE**

Economic Development Committee Report Out and City Council Direction

**CITY TREASURER REPORT**

Finance and Audit Committee Report Out and City Council Direction

**CITY CLERK REPORT**

**CITY ATTORNEY REPORT**

**CITY MANAGER REPORT**

**FUTURE AGENDA ITEMS**

**ADJOURNMENT**

The next regular meeting of the Beaumont City Council, Beaumont Financing Authority, the Beaumont Successor Agency (formerly RDA), the Beaumont Utility Authority, the Beaumont Parking Authority and the Beaumont Public Improvement Agency is scheduled for Tuesday, April 7 2020, at 5:00 p.m. or thereafter as noted on the posted Agenda for Closed Session items in the City Council Board Room No. 5, followed by the regular meeting at 6:00 p.m. or thereafter as noted on the posted Agenda at City Hall.

Beaumont City Hall – Online [www.BeaumontCa.gov](http://www.BeaumontCa.gov)



WARRANTS TO BE RATIFIED

Thursday, January 23, 2020

<b>Printed Checks</b>	104480-104548	\$	504,311.05	FY 19/20
<b>ACH</b>	248	\$	5,649.68	
<b>Bank Drafts</b>	MG Trust	\$	25,274.39	457 Paydate 01/17/20
		\$	5,099.80	401-A Paydate 01/17/20
		\$	1,553.50	FICA Paydate 01/17/20
	<b>A/P Total</b>	\$	<u>541,888.42</u>	

I DO HEREBY CERTIFY THIS WARRANT LIST HAS BEEN COMPILED AND PREPARED TO MEET THE DAILY OPERATIONS FOR THE FISCAL YEAR JULY 1, 2019 - JUNE 30, 2020

SIGNATURE: *Ben J Smith*  
 TITLE: CITY TREASURER

SIGNATURE: *[Signature]*  
 TITLE: ADMINISTRATIVE SERVICES DIRECTOR

*Finance Director*



Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
3229	ICMA - RC	01/23/2020	EFT	0.00	5,649.68	248
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>PD 01/17/20</u>	Invoice	01/23/2020	EMPLOYEE CONTRIBUTIONS	0.00	5,649.68	
	<u>100-0000-2075-0000</u>		DEFERRED COMPENSATI		4,637.31	
	<u>100-0000-2075-0000</u>		DEFERRED COMPENSATI		112.37	
	<u>100-1200-6026-0000</u>		DEFERRED COMP		900.00	
3890	VERONICA TOPETE	01/21/2020	Regular	0.00	379.35	104480
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>PD 01/17/20</u>	Invoice	01/21/2020	MISSED HOURS ON PAYCHECK	0.00	379.35	
	<u>100-0000-2105-0000</u>		PAYROLL SUSPENSE		379.35	
1050	AMAZON CAPITAL SERVICES	01/23/2020	Regular	0.00	655.13	104481
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>1344-N6WW-K6</u>	Invoice	01/22/2020	VEHICLE MAINTENANCE	0.00	100.40	
	<u>750-7400-7037-0000</u>		VEHICLE MAINTENANCE		100.40	
<u>16RX-RV6D-3KG7</u>	Invoice	01/23/2020	EQUIPMENT MAINTENANCE (PRINTER)	0.00	331.33	
	<u>100-1225-7090-0000</u>		EQUIPMENT SUPPLIES/M		165.67	
	<u>100-1240-7090-0000</u>		EQUIPMENT SUPPLIES/M		165.66	
<u>1K71-7VCF-HJV7</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	96.88	
	<u>750-7000-7025-0000</u>		OFFICE SUPPLIES		96.88	
<u>1MM1-7Q6X-FY</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	81.84	
	<u>100-1225-7025-0000</u>		OFFICE SUPPLIES		81.84	
<u>1R6D-GM99-NR3</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	15.60	
	<u>750-7300-7025-0000</u>		OFFICE SUPPLIES		15.60	
<u>1VJH-JG1H-63NL</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	29.08	
	<u>100-2030-7025-0000</u>		OFFICE SUPPLIES		29.08	
1080	ARAMARK	01/23/2020	Regular	0.00	257.00	104482
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>1636414</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	257.00	
	<u>100-2050-7025-0000</u>		OFFICE SUPPLIES		257.00	
1100	AUTOZONE	01/23/2020	Regular	0.00	54.08	104483
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>2882151945</u>	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	12.92	
	<u>100-2030-7037-0000</u>		VEHICLE MAINTENANCE		12.92	
<u>2882183066</u>	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	41.16	
	<u>100-2050-7037-0000</u>		VEHICLE MAINTENANCE		41.16	
3752	BAKER ELECTRIC INC	01/23/2020	Regular	0.00	173,424.67	104484
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>35200</u>	Invoice	01/23/2020	Public Electric Vehicle Charging Station	0.00	173,424.67	
	<u>760-0000-8030-0000</u>		INFRASTRUCTURE IMPRO		173,424.67	
1139	BEAUMONT POLICE OFFICERS ASSOCIATION	01/23/2020	Regular	0.00	5,390.00	104485



Check Report

Date Range: 01/23/2020 - 01/23/2020

Item No. 1.

Vendor Number Payable #	Vendor Name Payable Type Account Number	Post Date	Payment Date Payable Description Account Name Item Description	Payment Type	Discount Amount	Payment Payable Amount Distribution Amount	
<u>PD 01/03/20-01/</u>	Invoice <u>100-0000-2035-0000</u>	01/23/2020	POLICE DUES C.O.P.S. DUES	Regular	0.00	5,390.00 5,390.00	
1161 Payable #	BIO-TOX LABORATORIES Payable Type Account Number	01/23/2020	Regular		0.00	653.00	104486
<u>39138</u>	Invoice <u>100-2050-7068-0000</u>	01/23/2020	Bio Tox Blood Draw Analysis CONTRACTUAL SERVICES		0.00	231.00 231.00	
<u>39246</u>	Invoice <u>100-2050-7068-0000</u>	01/23/2020	Bio Tox Blood Draw Analysis CONTRACTUAL SERVICES		0.00	422.00 422.00	
3892 Payable #	CALL ONE, INC Payable Type Account Number	01/23/2020	Regular		0.00	1,465.40	104487
<u>1982263</u>	Invoice <u>100-2090-7070-0000</u>	01/23/2020	DEPT SUPPLIES SPECIAL DEPT SUPPLIES		0.00	1,465.40 1,465.40	
1235 Payable #	CCAC Payable Type Account Number	01/23/2020	Regular		0.00	65.00	104488
<u>4771</u>	Invoice <u>100-1150-7030-0000</u>	01/23/2020	MEMBERSHIP RENEWAL JAN-JUN 2020 DUES & SUBSCRIPTIONS		0.00	65.00 65.00	
1236 Payable #	CCUG Payable Type Account Number	01/23/2020	Regular		0.00	125.00	104489
<u>CA0330200</u>	Invoice <u>100-2090-7030-0000</u>	01/23/2020	AGENCY MEMBERSHIP FOR CLETS USERS DUES & SUBSCRIPTIONS		0.00	125.00 125.00	
3195 Payable #	CHERRY FESTIVAL ASSOCIATION Payable Type Account Number	01/23/2020	Regular		0.00	100,000.00	104490
<u>6-4-2020</u>	Invoice <u>100-1550-7040-0000</u>	01/23/2020	Donation request for Cherry Festival RECREATION PROGRAMS		0.00	100,000.00 100,000.00	
1296 Payable #	CLARK'S TOWING Payable Type Account Number	01/23/2020	Regular		0.00	150.00	104491
<u>s2220</u>	Invoice <u>100-2100-7037-0000</u>	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE		0.00	150.00 150.00	
1310 Payable #	COLONIAL LIFE Payable Type Account Number	01/23/2020	Regular		0.00	578.92	104492
<u>CD 01/03/20-01/</u>	Invoice <u>100-0000-2051-0000</u>	01/23/2020	OPTIONAL EMPLOYEE INSURANCE COLONIAL INS-WITHHOL		0.00	578.92 578.92	
2632 Payable #	CORONA COATINGS CORP. Payable Type Account Number	01/23/2020	Regular		0.00	650.00	104493
<u>1561</u>	Invoice <u>100-6000-7085-6055</u>	01/23/2020	BUILDING MAINTENANCE BLDG MAINT- FIRE STATIO		0.00	650.00 650.00	
1333	COUNTY OF RIVERSIDE REGISTRAR OF VOTERS	01/23/2020	Regular		0.00	49,329.55	104494

Check Report

Date Range: 01/23/2020 - 01/23/2020

Item No. 1.

Vendor Number Payable #	Vendor Name Payable Type Account Number	Post Date	Payment Date Payable Description Account Name Item Description	Payment Type Item Description	Discount Amount Discount Amount Distribution Amount	Payment Payable Amount Payable Amount	
2724	Invoice <u>100-0000-4605-0000</u> <u>100-1050-7068-0000</u>	01/23/2020	2018 Election Services CANDIDATE REGISTRATIO CONTRACTUAL SERVICES	2018 Election Services 2018 Election Services	0.00 0.00 0.00	49,329.55 932.33 48,397.22	
1402	DEPARTMENT OF JUSTICE Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular Department of Justice - Livescan Fees LIVE SCAN-FINGERPRINTI Department of Justice - Livescan	0.00 0.00 0.00	1,679.00 1,259.00 1,259.00 280.00 280.00 140.00 140.00	104495
425111	Invoice <u>100-2050-7031-0000</u>	01/23/2020	Department of Justice - Livescan Fees LIVE SCAN-FINGERPRINTI	Department of Justice - Livescan	0.00	1,259.00	
429593	Invoice <u>100-2050-7068-0000</u>	01/23/2020	Department of Justice Blood Alcohol Anal CONTRACTUAL SERVICES	Department of Justice Blood Alc	0.00	280.00	
429641	Invoice <u>100-2050-7068-0000</u>	01/23/2020	Department of Justice Blood Alcohol Anal CONTRACTUAL SERVICES	Department of Justice Blood Alc	0.00	140.00	
1414	DIAMOND HILLS AUTO GROUP Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular VEHICLE MAINTENANCE VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00 0.00 0.00 0.00	296.12 79.95 79.95 136.22 136.22	104496
50310	Invoice <u>100-2050-7037-0000</u>	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	VEHICLE MAINTENANCE	0.00	79.95	
50417	Invoice <u>100-2050-7037-0000</u>	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	VEHICLE MAINTENANCE	0.00	79.95	
659812	Invoice <u>100-2050-7037-0000</u>	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	VEHICLE MAINTENANCE	0.00	136.22	
1424	DIRECTV Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular BUILDING UTILITY UTILITIES - POLICE DEPT BUILDING UTILITY	0.00 0.00 0.00	287.22 108.99 108.99 178.23 178.23	104497
37008003831	Invoice <u>100-6000-7010-6040</u>	01/23/2020	BUILDING UTILITY UTILITIES - POLICE DEPT	BUILDING UTILITY	0.00	108.99	
37091319515	Invoice <u>100-6000-7010-6045</u>	01/23/2020	BUILDING UTILITY UTILITIES - COMMUNITY	BUILDING UTILITY	0.00	178.23	
3560	DOSSIER SYSTEMS INC Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular Fleet Maintenance Software & Solutions SOFTWARE FLEET MAINTENANCE	0.00 0.00 0.00	1,938.00 1,710.00 1,710.00 228.00 228.00	104498
45518	Invoice <u>750-7300-7071-0000</u>	01/23/2020	Fleet Maintenance Software & Solutions SOFTWARE	FLEET MAINTENANCE	0.00	1,710.00	
45519	Invoice <u>750-7300-7071-0000</u>	01/23/2020	Fleet Maintenance Software & Solutions SOFTWARE	FLEET MAINTENANCE	0.00	228.00	
1479	ENTENMANN-ROVIN CO Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular EMPLOYEE UNIFORM UNIFORMS EMPLOYEE UNIFORM	0.00 0.00	241.50 241.50	104499
0149143-IN	Invoice <u>100-2050-7065-0000</u>	01/23/2020	EMPLOYEE UNIFORM UNIFORMS	EMPLOYEE UNIFORM	0.00	241.50	
3641	ERIC ARROYO Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description	Regular HIRING COSTS RECRUITMENT AND HIRI HIRING COSTS	0.00 0.00	950.00 950.00	104500
2181	Invoice <u>100-1240-6050-0000</u>	01/23/2020	HIRING COSTS RECRUITMENT AND HIRI	HIRING COSTS	0.00	950.00	
1501	FAIRVIEW FORD	01/23/2020	Regular		0.00	849.39	104501

Check Report

Date Range: 01/23/2020

Item No. 1.

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment	
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
655213	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	590.76	
	<u>100-2100-7037-0000</u>		VEHICLE MAINTENANCE		590.76	
660032	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	32.74	
	<u>100-2050-7037-0000</u>		VEHICLE MAINTENANCE		32.74	
664069	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	31.84	
	<u>100-2050-7037-0000</u>		VEHICLE MAINTENANCE		31.84	
664721	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	345.25	
	<u>100-2050-7037-0000</u>		VEHICLE MAINTENANCE		345.25	
664766	Credit Memo	01/23/2020	RETURNED PARTS	0.00	-151.20	
	<u>100-2100-7037-0000</u>		VEHICLE MAINTENANCE		-151.20	
1518	FLYERS ENERGY	01/23/2020	Regular	0.00	3,895.92	104502
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
19-035661	Invoice	01/23/2020	VEHICLE MAINTENANCE	0.00	619.18	
	<u>100-2050-7037-0000</u>		VEHICLE MAINTENANCE		619.18	
CFS-2145268	Invoice	01/23/2020	FUEL EXPENSE	0.00	1,861.47	
	<u>750-7400-7050-0000</u>		FUEL		1,503.02	
	<u>750-7600-7050-0000</u>		FUEL		3.33	
	<u>750-7700-7050-0000</u>		FUEL		355.12	
CFS-2147302	Invoice	01/23/2020	FUEL EXPENSE	0.00	1,415.27	
	<u>750-7100-7050-0000</u>		FUEL		234.02	
	<u>750-7400-7050-0000</u>		FUEL		1,016.03	
	<u>750-7600-7050-0000</u>		FUEL		3.33	
	<u>750-7700-7050-0000</u>		FUEL		107.59	
	<u>750-8000-7050-0000</u>		FUEL		54.30	
1522	FOX OCCUPATIONAL	01/23/2020	Regular	0.00	130.00	104503
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
114324	Invoice	01/23/2020	EMPLOYEE MEDICAL SERVICES	0.00	130.00	
	<u>750-7400-6019-0000</u>		FIRST AID		90.00	
	<u>750-8000-6019-0000</u>		FIRST AID		40.00	
3782	FRANCISCO CISNEROS	01/23/2020	Regular	0.00	1,500.00	104504
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
135	Invoice	01/23/2020	Paint in Rooms 2 and 3	0.00	1,500.00	
	<u>500-0000-8990-0000</u>		CAPITAL OUTLAY		1,500.00	
3891	FRANK MOYA	01/23/2020	Regular	0.00	500.00	104505
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
RCT 946575	Invoice	01/23/2020	DEPOSIT REFUND	0.00	500.00	
	<u>100-0000-4590-0000</u>		BUILDING RENTAL		500.00	
1533	FRONTIER COMMUNICATIONS	01/23/2020	Regular	0.00	1,116.98	104506
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
213-180-1992-06	Invoice	01/23/2020	PHONE UTILITY	0.00	178.63	
	<u>100-1230-7015-6045</u>		TELEPHONE (COMM CTR)		178.63	
951-769-5188-04	Invoice	01/23/2020	PHONE UTILITY	0.00	362.22	
	<u>100-1230-7015-6045</u>		TELEPHONE (COMM CTR)		362.22	
951-769-6032-08	Invoice	01/23/2020	PHONE UTILITY	0.00	68.25	
	<u>100-1230-7015-5400</u>		TELEPHONE - SPORTS PAR		68.25	
951-769-8533-09	Invoice	01/23/2020	PHONE UTILITY	0.00	61.79	

Check Report

Date Range: 01/23/2020 - 01/23/2020

Item No. 1.

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	
	750-7300-7015-0000	TELEPHONE	PHONE UTILITY		61.79	
<u>951-769-8534-04</u>	Invoice	01/23/2020	PHONE UTILITY	0.00	324.81	
	700-4050-7015-0000	TELEPHONE	PHONE UTILITY		324.81	
<u>951-845-9839-09</u>	Invoice	01/23/2020	PHONE UTILITY	0.00	121.28	
	100-1230-7015-6041	TELEPHONE (PD ANNEX)	PHONE UTILITY		121.28	
2987	GLADWELL GOVERNMENTAL SERVICES INC.	01/23/2020	Regular	0.00	250.00	104507
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>4227</u>	Invoice	01/23/2020	PROFESSIONAL SERVICES	0.00	250.00	
	100-1150-7068-0000	CONTRACTUAL SERVICES	PROFESSIONAL SERVICES		250.00	
3042	GOLDEN STAR TECHNOLOGY, INC	01/23/2020	Regular	0.00	3,400.00	104508
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>INV42595</u>	Invoice	01/23/2020	IT SERVICES NOV-2019	0.00	3,400.00	
	100-1230-7068-6025	CONTRACT SVC - CITY HA	IT SERVICES NOV-2019		1,700.00	
	100-1230-7068-6040	CONTRACT SVC - P.D.	IT SERVICES NOV-2019		1,700.00	
1583	GRAFIX SYSTEMS	01/23/2020	Regular	0.00	218.49	104509
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>27610</u>	Invoice	01/23/2020	OFFICE SUPPLIES	0.00	218.49	
	100-2050-7025-0000	OFFICE SUPPLIES	OFFICE SUPPLIES		218.49	
3795	GV CONSTRUCTION, INC	01/23/2020	Regular	0.00	3,654.00	104510
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>1011</u>	Invoice	01/23/2020	DESIGN AND BUILD OF COUNCIL FURNITU	0.00	3,654.00	
	500-0000-8990-0000	CAPITAL OUTLAY	DESIGN AND BUILD OF COUNCIL		3,654.00	
1612	HEARD'S INVESTIGATIONS AND POLYGRAPH LL	01/23/2020	Regular	0.00	150.00	104511
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>6364</u>	Invoice	01/23/2020	HIRING COSTS	0.00	150.00	
	100-1240-6050-0000	RECRUITMENT AND HIRI	HIRING COSTS		150.00	
1624	HIGH TECH IRRIGATION, INC.	01/23/2020	Regular	0.00	1,715.49	104512
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>612200</u>	Invoice	01/23/2020	DEPT SUPPLIES	0.00	1,715.49	
	100-6050-7070-5999	SPEC DEPT EXP - ALL PAR	DEPT SUPPLIES		1,715.49	
1643	HUNTINGTON COURT REPORTERS & TRANSCRI	01/23/2020	Regular	0.00	400.66	104513
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>32639</u>	Invoice	01/23/2020	Transcription Services	0.00	400.66	
	100-2050-7068-0000	CONTRACTUAL SERVICES	Transcription Services		400.66	
3061	INDIO POLICE DEPARTMENT	01/23/2020	Regular	0.00	50.00	104514
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
	<b>Account Number</b>		<b>Account Name</b>	<b>Item Description</b>	<b>Distribution Amount</b>	
<u>01/16/20</u>	Invoice	01/23/2020	2020 RCLETA AGENCY MEMBERSHIP DUES	0.00	50.00	
	100-2050-7030-0000	DUES & SUBSCRIPTIONS	2020 RCLETA AGENCY MEMBER		50.00	
3807	KIMBERLY TURNER	01/23/2020	Regular	0.00	149.00	104515

Check Report

Date Range: 01/23/2020 to 01/23/2020

Item No. 1.

Vendor Number Payable #	Vendor Name Payable Type Account Number	Post Date	Payment Date Payable Description Account Name Item Description	Payment Type	Discount Amount Discount Amount Distribution Amount	Payment Payable Amount Payable Amount Distribution Amount	
01/24/2020	Invoice 100-2090-7066-0000	01/23/2020	EMPLOYEE TRAINING - SANCHEZ TRAVEL, EDUCATION, TRA EMPLOYEE TRAINING - SANCHE		0.00	149.00 149.00	
1803 Payable #	KNORR SYSTEMS INC. Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	5,021.04 104516	
S1217899	Invoice 100-6150-7070-0000	01/23/2020	Briquettes and Acid for the pool SPECIAL DEPT SUPPLIES Briquettes and Acid for the pool		0.00	5,021.04 5,021.04	
1805 Payable #	KONICA MINOLTA BUSINESS SOLUTIONS Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	1,276.04 104517	
39478004	Invoice 100-1230-7090-6026 700-4050-7090-0000	01/23/2020	EQUIPMENT MAINTENANCE EQUIP SUPPLIES/MAINT ( EQUIPMENT MAINTENANCE EQUIPMENT SUPPLIES/M EQUIPMENT MAINTENANCE		0.00	200.00 140.00 60.00	
9006382669	Invoice 100-1230-7090-6025 100-1230-7090-6040 100-1230-7090-6045 750-7000-7090-0000	01/23/2020	PRINTER SERVICES EQUIP SUPPLIES/MAINT ( EQUIPMENT MAINTENANCE EQUIP SUPPLIES/MAINT ( EQUIPMENT MAINTENANCE EQUIP SUPPLIES/MAINT ( EQUIPMENT MAINTENANCE EQUIPMENT SUPPLIES/M EQUIPMENT MAINTENANCE		0.00	884.25 389.35 222.48 74.27 198.15	
9006382834	Invoice 100-1230-7090-6026	01/23/2020	EQUIPMENT MAINTENANCE EQUIP SUPPLIES/MAINT ( EQUIPMENT MAINTENANCE		0.00	191.79 191.79	
1806 Payable #	KONICA MINOLTA PREMIER FINANCE Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	123.92 104518	
34683540	Invoice 100-1230-7090-6041	01/23/2020	EQUIPMENT RENTAL EQUIP SUPPLIES/MAINT ( EQUIPMENT RENTAL		0.00	123.92 123.92	
1806 Payable #	KONICA MINOLTA PREMIER FINANCE Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	1,944.56 104519	
403564495	Invoice 100-1230-7075-6026 700-4050-7075-0000	01/23/2020	EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL		0.00	600.17 420.12 180.05	
404427718	Invoice 100-1230-7075-6025 100-1230-7075-6040 100-1230-7075-6045 750-7000-7075-0000	01/23/2020	EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL EQUIPMENT LEASING/RE EQUIPMENT RENTAL		0.00	1,344.39 336.10 336.10 336.10 336.09	
1844 Payable #	LEAGUE OF CALIFORNIA CITIES Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	45.00 104520	
01/13/20	Invoice 100-1050-7035-0000	01/23/2020	RIVERSIDE COUNTY DIVISION MEETING - LOCAL MEETINGS RIVERSIDE COUNTY DIVISION M		0.00	45.00 45.00	
1856 Payable #	LEXISNEXIS RISK SOLUTIONS Payable Type Account Number	01/23/2020	Regular Payable Description Account Name Item Description		0.00	3,400.00 104521	
1559152-202007	Invoice 100-1230-7071-6040	01/23/2020	BAIR Analytics System Annual Licens SOFTWARE (POLICE DEPT BAIR Analytics System Annual Li		0.00	3,400.00 3,400.00	
1896	M&M CARPET	01/23/2020	Regular		0.00	4,056.50 104522	

Check Report

Date Range: /2020

Item No. 1.

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment	
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
	Account Number	Account Name	Item Description	Distribution Amount		
1164	Invoice 500-0000-8990-0000	01/23/2020	Carpet installation in Council Chambers CAPITAL OUTLAY	0.00	4,056.50	
3024	MUNICIPAL CODE CORPORATION	01/23/2020	Regular	0.00	6,400.00	104523
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
00336087	Invoice 100-1230-7071-6025	01/23/2020	Municode - Agenda Managment Software SOFTWARE (CITY HALL)	0.00	3,200.00	
00338649	Invoice 100-1230-7071-6025	01/23/2020	Municode - Agenda Managment Software SOFTWARE (CITY HALL)	0.00	3,200.00	
3893	NAOMI MARTIN	01/23/2020	Regular	0.00	45.00	104524
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
RCT 959009	Invoice 100-0000-4590-0000	01/23/2020	DEPOSIT REFUND BUILDING RENTAL	0.00	45.00	
1984	NAPA AUTO PARTS	01/23/2020	Regular	0.00	376.43	104525
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
109978	Invoice 100-2030-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	41.35	
109980	Credit Memo 100-2030-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	-13.36	
111254	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	31.51	
111260	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	138.65	
112495	Invoice 100-2100-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	101.29	
112513	Invoice 100-2100-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	60.32	
112545	Invoice 100-2100-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	10.23	
112611	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	6.44	
2018	ONTRAC	01/23/2020	Regular	0.00	9.98	104526
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
9013088	Invoice 100-1240-7025-0000	01/23/2020	OFFICE SUPPLIES OFFICE SUPPLIES	0.00	9.98	
2009	O'REILLY AUTO PARTS	01/23/2020	Regular	0.00	370.88	104527
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount	
2678-237784	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	181.00	
2678-238681	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	181.07	
2678-238839	Invoice 100-2050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	8.81	
2026	PACIFIC ALARM SERVICE	01/23/2020	Regular	0.00	451.50	104528

Check Report

Date Range: 01/23/2020 to 01/23/2020

Item No. 1.

Vendor Number Payable #	Vendor Name Payable Type Account Number	Post Date	Payment Date Payable Description	Payment Type Account Name Item Description	Discount Amount Discount Amount	Payment Payable Amount Distribution Amount	
P 101653	Invoice <a href="#">100-6000-7087-6025</a>	01/23/2020	SECURITY SERVICES SECURITY - CITY HALL	SECURITY SERVICES	0.00	258.00 258.00	
P 101669	Invoice <a href="#">100-2050-7087-0000</a>	01/23/2020	SECURITY SERVICES SECURITY SERVICES	SECURITY SERVICES	0.00	193.50 193.50	
2039 Payable #	PARKHOUSE TIRE, INC. Payable Type Account Number	01/23/2020	Regular		0.00	428.19	104529
2030185556	Invoice <a href="#">100-2050-7037-0000</a>	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	VEHICLE MAINTENANCE	0.00	428.19 428.19	
2646 Payable #	PERFORMANCE CONSTRUCTION & PAINTING Payable Type Account Number	01/23/2020	Regular		0.00	21,485.00	104530
6587	Invoice <a href="#">100-6000-7068-6041</a> <a href="#">100-6050-7068-5400</a>	01/23/2020	fence removal St Prk and replacement at CONTRACTUAL SVC- POLI CONTRACT SVC - SPORTS	fence removal St Prk and replac fence removal St Prk and replac	0.00	21,485.00 18,985.00 2,500.00	
2076 Payable #	PRINTING & PROMOTION PLUS, INC. Payable Type Account Number	01/23/2020	Regular		0.00	237.05	104531
75773	Invoice <a href="#">100-1200-7025-0000</a>	01/23/2020	OFFICE SUPPLIES OFFICE SUPPLIES	OFFICE SUPPLIES	0.00	237.05 237.05	
3652 Payable #	PRUDENTIAL OVERALL SUPPLY Payable Type Account Number	01/23/2020	Regular		0.00	891.03	104532
22920863	Invoice <a href="#">750-7100-7065-0000</a> <a href="#">750-7400-7065-0000</a> <a href="#">750-7600-7065-0000</a> <a href="#">750-7700-7065-0000</a> <a href="#">750-7800-7065-0000</a> <a href="#">750-7900-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS	UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE	0.00	144.37 17.58 34.51 29.11 20.76 20.76 21.65	
22920865	Invoice <a href="#">750-7300-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS	UNIFORM MAINTENANCE	0.00	54.20 54.20	
22920867	Invoice <a href="#">100-6050-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS	UNIFORM MAINTENANCE	0.00	99.55 99.55	
22924361	Invoice <a href="#">750-7100-7065-0000</a> <a href="#">750-7400-7065-0000</a> <a href="#">750-7600-7065-0000</a> <a href="#">750-7700-7065-0000</a> <a href="#">750-7800-7065-0000</a> <a href="#">750-7900-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS	UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE	0.00	144.37 17.58 34.48 29.14 20.76 20.76 21.65	
22924365	Invoice <a href="#">750-7300-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS	UNIFORM MAINTENANCE	0.00	54.20 54.20	
22924368	Invoice <a href="#">100-6050-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS	UNIFORM MAINTENANCE	0.00	99.55 99.55	
22928032	Invoice <a href="#">750-7100-7065-0000</a> <a href="#">750-7400-7065-0000</a> <a href="#">750-7600-7065-0000</a> <a href="#">750-7700-7065-0000</a> <a href="#">750-7800-7065-0000</a> <a href="#">750-7900-7065-0000</a>	01/23/2020	Prudential Uniforms UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS UNIFORMS	UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE UNIFORM MAINTENANCE	0.00	144.37 17.58 34.48 29.14 20.76 20.76 21.65	

Check Report

Date Range: 01/23/2020 to 01/23/2020

Item No. 1.

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment	
<u>22928053</u>	Invoice 750-7300-7065-0000	01/23/2020	Prudential Uniforms UNIFORMS	0.00	54.20	
<u>22928067</u>	Invoice 100-6050-7065-0000	01/23/2020	Prudential Uniforms UNIFORMS	0.00	96.22	
2092	PURCHASE POWER-2540	01/23/2020	Regular	0.00	1,072.35	104533
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>8000-9000-0098-</u>	Invoice 100-1200-7068-0000	01/23/2020	POSTAGE CONTRACTUAL SERVICES	0.00	1,072.35	
2098	QUILL CORPORATON	01/23/2020	Regular	0.00	50.79	104534
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>3364797</u>	Invoice 750-7000-7025-0000 750-7300-7025-0000	01/23/2020	OFFICE SUPPLIES OFFICE SUPPLIES	0.00	50.79	
2104	RAMONA HUMANE SOCIETY INC	01/23/2020	Regular	0.00	2,897.64	104535
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>COB12312 12/31</u>	Invoice 100-2000-7068-0000	01/23/2020	Ramona Humane Society - Sheltering Serv CONTRACTUAL SERVICES	0.00	2,897.64	
2126	REDLANDS FORD	01/23/2020	Regular	0.00	5.81	104536
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>5160914</u>	Credit Memo 750-7400-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	-393.74	
<u>5161721</u>	Invoice 100-6050-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	14.55	
<u>5161764</u>	Invoice 750-7600-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	141.14	
<u>5201184</u>	Invoice 750-7700-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	194.38	
<u>5201237</u>	Invoice 100-2030-7037-0000	01/23/2020	VEHICLE MAINTENANCE VEHICLE MAINTENANCE	0.00	49.48	
2251	SBSD-ADVANCED OFFICER	01/23/2020	Regular	0.00	421.00	104537
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>04/06/20-04/16/</u>	Invoice 100-2050-7066-0000	01/23/2020	ADVANCED TRAFFIC COLLISION INVESTIG TRAVEL, EDUCATION, TRA	0.00	421.00	
2281	SHRED-IT	01/23/2020	Regular	0.00	374.86	104538
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>8128862375</u>	Invoice 100-1200-7068-0000	01/23/2020	PROFESSIONAL SERVICES CONTRACTUAL SERVICES	0.00	374.86	
3031	SMARTHIRE	01/23/2020	Regular	0.00	418.50	104539
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>48092</u>	Invoice 100-1240-6050-0000	01/23/2020	HIRING COSTS RECRUITMENT AND HIRI	0.00	268.00	
<u>48261</u>	Invoice 100-1240-6050-0000	01/23/2020	HIRING COSTS RECRUITMENT AND HIRI	0.00	150.50	
2311	SOUTHERN CALIFORNIA EDISON	01/23/2020	Regular	0.00	88,479.25	104540



Check Report

Date Range: 01/23/2020

Item No. 1.

Vendor Number Payable #	Vendor Name Payable Type Account Number	Post Date	Payment Date Payable Description	Payment Type Account Name Item Description	Discount Amount Discount Amount	Payment Payable Amount	
01/23/20	Invoice 100-3250-7010-0000 100-3250-7010-003X 100-3250-7010-004X 100-3250-7010-006B 100-3250-7010-007A 100-3250-7010-007B 100-3250-7010-008A 100-3250-7010-008C 100-3250-7010-011A 100-3250-7010-014B 100-3250-7010-014X 100-3250-7010-018X 100-3250-7010-019C 100-3250-7010-06A1 100-6000-7010-6025 100-6000-7010-6031 100-6000-7010-6032 100-6000-7010-6040 100-6000-7010-6041 100-6000-7010-6045 100-6000-7010-6055 100-6050-7010-0000 100-6050-7010-008C 100-6050-7010-014X 100-6050-7010-020X 100-6050-7010-06A1 700-4050-7010-0000 750-7300-7010-0000	01/23/2020	ELECTRIC UTILITY UTILITIES UTILITIES (IA 3) UTILITIES (IA 4) UTILITIES (IA 6B) UTILITIES (IA 7A) UTILITIES (IA 7B) UTILITIES (IA 8A) UTILITIES (IA 8C) UTILITIES (IA 11A) UTILITIES (IA 14B) UTILITIES (IA 14) UTILITIES (IA 18) UTILITIES (IA 19C) UTILITIES (IA 6A1) UTILITIES - CITY HALL UTILITIES - CITY HALL BLD UTILITIES - CITY HALL BLD UTILITIES - POLICE DEPT UTILITIES - POLICE ANNEX UTILITIES - COMMUNITY UTILITIES - FIRE STATION UTILITIES UTILITIES IA 8C UTILITIES IA 14 UTILITIES IA 20 UTILITIES IA 6A1 UTILITIES UTILITIES	Regular	0.00	88,479.25 11,479.24 2,433.63 250.51 1,994.60 10.72 74.61 381.06 580.06 170.22 34.62 1,456.45 213.93 2,548.29 702.38 1,459.94 798.17 798.16 2,156.93 198.15 2,335.45 346.38 1,361.26 12.78 11.47 10.90 42.98 56,300.76 315.60	
2395 Payable # 392994573	TERMINIX COMMERCIAL Payable Type Account Number Invoice 750-7300-7085-0000	01/23/2020	Regular BUILDING MAINTENANCE BUILDING SUPPLIES/MAI	Regular	0.00	55.00	104541
2405 Payable # 75241	THE COUNSELING TEAM Payable Type Account Number Invoice 100-1240-7068-0000	01/23/2020	Regular PROFESSIONAL SERVICES CONTRACTUAL SERVICES	Regular	0.00	1,000.00	104542
2407 Payable #	THE GAS COMPANY Payable Type Account Number	01/23/2020	Regular GAS UTILITY UTILITIES - CITY HALL GAS UTILITY UTILITIES - POLICE DEPT GAS UTILITY UTILITIES GAS UTILITY UTILITIES - CITY HALL BLD GAS UTILITY UTILITIES GAS UTILITY	Regular	0.00	2,464.43	104543
09712228007 01/ 10552227000 01/ 10552230004 01/ 13912227587 01/ 15382227021 01/ 19782338008 01/	Invoice 100-6000-7010-6025 Invoice 100-6000-7010-6040 Invoice 750-7300-7010-0000 Invoice 100-6000-7010-6026 Invoice 750-7000-7010-0000 Invoice	01/23/2020 01/23/2020 01/23/2020 01/23/2020 01/23/2020 01/23/2020	GAS UTILITY UTILITIES - CITY HALL GAS UTILITY UTILITIES - POLICE DEPT GAS UTILITY UTILITIES GAS UTILITY UTILITIES - CITY HALL BLD GAS UTILITY UTILITIES GAS UTILITY	Regular	0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00	1,481.95 1,481.95 35.84 35.84 265.72 265.72 271.21 271.21 295.54 295.54 114.17	

Check Report

Date Range: 01/23/2020 - 01/23/2020

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment	
	<u>100-6000-7010-6055</u>	UTILITIES - FIRE STATION	GAS UTILITY		114.17	<b>Item No. 1.</b>
2873	TPX COMMUNICATIONS	01/23/2020	Regular	0.00	448.78	104544
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>124413777-0</u>	Invoice	01/23/2020	PHONE UTILITY	0.00	448.78	
	<u>100-1230-7015-6040</u>		TELEPHONE (POLICE DPT)		448.78	
2484	VERIZON	01/23/2020	Regular	0.00	1,396.14	104545
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>9844901495</u>	Invoice	01/23/2020	PHONE UTILITY	0.00	1,396.14	
	<u>100-1230-7015-6040</u>		TELEPHONE (POLICE DPT)		1,396.14	
2490	VERIZON BUSINESS SERVICE	01/23/2020	Regular	0.00	1,616.99	104546
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>71331147</u>	Invoice	01/23/2020	PHONE UTILITY	0.00	1,616.99	
	<u>100-1230-7015-6040</u>		TELEPHONE (POLICE DPT)		1,616.99	
3675	ZENITH AMERICAN SOLUTIONS	01/23/2020	Regular	0.00	12.52	104547
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>PD 01/03/20-01/</u>	Invoice	01/23/2020	OPTIONAL EMPLOYEE INSURANCE	0.00	12.52	
	<u>100-0000-2085-0000</u>		ZENITH WITHHOLDING		12.52	
3457	ZONAR SYSTEMS	01/23/2020	Regular	0.00	486.00	104548
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>S1443959</u>	Invoice	01/23/2020	Zonar- Electronic Data Inspection Collecti	0.00	486.00	
	<u>750-7100-7068-0000</u>		CONTRACTUAL SERVICES		51.16	
	<u>750-7400-7068-0000</u>		CONTRACTUAL EXPENSES		127.90	
	<u>750-7600-7068-0000</u>		CONTRACTUAL SERVICES		76.74	
	<u>750-7700-7068-0000</u>		CONTRACTUAL SERVICES		76.74	
	<u>750-7800-7068-0000</u>		CONTRACTUAL SERVICES		25.56	
	<u>750-7900-7068-0000</u>		CONTRACTUAL SERVICES		25.58	
	<u>750-8000-7068-0000</u>		CONTRACTUAL SERVICES		25.58	
	<u>750-8100-7068-0000</u>		CONTRACTUAL SERVICES		51.16	
	<u>750-8200-7068-0000</u>		CONTRACTUAL SERVICES		25.58	
1979	MUTUAL OF OMAHA	01/17/2020	Bank Draft	0.00	30,374.19	DFT0001896
<b>Payable #</b>	<b>Payable Type</b>	<b>Post Date</b>	<b>Payable Description</b>	<b>Discount Amount</b>	<b>Payable Amount</b>	
<u>PACKAGE 380993</u>	Invoice	01/17/2020	DEFERRED COMP PAYDATE 01/17/20	0.00	30,374.19	
	<u>100-0000-2075-0000</u>		DEFERRED COMPENSATI		28,280.07	
	<u>100-1200-6026-0000</u>		DEFERRED COMP		299.16	
	<u>100-1225-6026-0000</u>		DEFERRED COMP		299.16	
	<u>100-2050-6026-0000</u>		DEFERRED COMP		299.16	
	<u>100-6050-6026-0000</u>		DEFERRED COMP		299.16	
	<u>700-4050-6026-0000</u>		DEFERRED COMP		598.32	
	<u>750-7400-6026-0000</u>		DEFERRED COMP		299.16	
1979	MUTUAL OF OMAHA	01/17/2020	Bank Draft	0.00	1,553.50	DFT0001897

Check Report

Date Range: 01/17/2020 - 01/17/2020

Item No. 1.

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment
Payable #	Payable Type	Post Date	Payable Description	Discount Amount	Payable Amount
Account Number	Account Name	Item Description	Distribution Amount		
<u>PACKAGE 380994</u>	Invoice	01/17/2020	457 FICA ALT RET PLAN 210901 PAYDATE	0.00	1,553.50
<u>100-0000-2132-0000</u>	P.A.R.S. WITHHOLDING	457 FICA ALT RET PLAN 210901			1,402.40
<u>100-1050-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			25.15
<u>100-1150-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			1.68
<u>100-1225-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			1.68
<u>100-1350-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			3.00
<u>100-1550-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			51.02
<u>100-2090-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			40.91
<u>750-7200-6035-0000</u>	FICA/PARS	457 FICA ALT RET PLAN 210901			27.66

Bank Code APBNK Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	125	69	0.00	504,311.05
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	2	2	0.00	31,927.69
EFT's	1	1	0.00	5,649.68
	<b>128</b>	<b>72</b>	<b>0.00</b>	<b>541,888.42</b>

Item No. 1.

### All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	125	69	0.00	504,311.05
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	2	2	0.00	31,927.69
EFT's	1	1	0.00	5,649.68
	<b>128</b>	<b>72</b>	<b>0.00</b>	<b>541,888.42</b>

### Fund Summary

Fund	Name	Period	Amount
999	POOLED CASH	1/2020	541,888.42
			<b>541,888.42</b>

# CITY COUNCIL CLOSED & REGULAR SESSION

550 E. 6th Street, Beaumont, CA  
Tuesday, March 03, 2020 - 6:00 PM

## MINUTES

### REGULAR SESSION

6:00 PM

### **CLOSED SESSION - 5:00 PM**

*A Closed Session of the City Council / Beaumont Financing Authority / Beaumont Utility Authority / Beaumont Successor Agency (formerly RDA)/Beaumont Parking Authority / Beaumont Public Improvement Authority may be held in accordance with state law which may include, but is not limited to, the following types of items: personnel matters, labor negotiations, security matters, providing instructions to real property negotiators and conference with legal counsel regarding pending litigation. Any public comment on Closed Session items will be taken prior to the Closed Session. Any required announcements or discussion of Closed Session items or actions following the Closed Session will be made in the City Council Chambers.*

**CALL TO ORDER at 5:01 p.m.**

**Present:** Mayor Santos, Mayor Pro Tem Lara, Council Member Carroll, Council Member Martinez, Council Member White

Public Comments Regarding Closed Session

**No speakers.**

- 1. Conference with Legal Counsel Existing Litigation Pursuant to Government Code Section 54956.9(d)(4): American International Group ("AIG")

**No discussion.**

- 2. Conference with Legal Counsel Existing Litigation Pursuant to Government Code Section 54956.9(d)(1):
  - 1. Urban Logic v. City of Beaumont et. al. Case No. RIC 1797201
  - 2. City of Beaumont et. al. v. Norton Rose Fullbright US, LLP Case No. RIC1904645
  - 3. City of Beaumont v. McFarlin & Anderson et. al. Case No. RIC1813359
  - 4. Alphonso Hatcher, Sr. v. City of Beaumont et al., Case No. MVC1913810

- 1. **No reportable action**
- 2. **No reportable action**
- 3. **No reportable action**
- 4. **Motion by Mayor Pro Tem Lara  
Second by Council Member Carroll  
To defend the lawsuit**

**Approved by a 4-0 vote  
Absent: White**

Adjourn to Regular Session

**REGULAR SESSION - 6:00 PM**

**CALL TO ORDER**

**Prsent:** Mayor Santos, Mayor Pro Tem Lara, Council Member Carroll, Council Member Martinez, Council Member White

**Absent: Council Member White**

Report out from Closed Session: *see above.*

Action on any Closed Session items: *see above.*

Action of any requests for Excused Absence: **Council Member White**

Pledge of Allegiance

Approval / Adjustments to the Agenda: **None**

Conflict of Interest Disclosure: **None.**

**ANNOUNCEMENTS/ RECOGNITION / PROCLAMATIONS / CORRESPONDENCE**

**PUBLIC COMMENT PERIOD (ITEMS NOT ON THE AGENDA)**

*Any one person may address the City Council on any matter not on this agenda. If you wish to speak, please fill out a "Public Comment Form" provided at the back table and give it to the City Clerk. There is a three (3) minute time limit on public comments. There will be no sharing or passing of time to another person. State Law prohibits the City Council from discussing or taking actions brought up by your comments.*

*T. Wortley - Expressed concerns of people running stop signs in Fairway Canyon.*

**CONSENT CALENDAR**

*Items on the consent calendar are taken as one action item unless an item is pulled for further discussion here or at the end of action items.*

*Approval of all Ordinances and Resolutions to be read by title only.*

**1. Approval of Minutes**

**Recommended Action:**

Approval of Minutes dated February 18, 2020.

**2. Ratification of Warrants**

**Recommended Action:**

Approval of Warrants dated January 16, 2020.

**3. Performance Bond Acceptance and Security Agreement for SDC Fairway Canyon, LLC Tract 31462 Street Improvements**

**Recommended Action:**

Accept the following bond and security agreement:

- Performance bond No. 1001124448 for street improvements for Tract 31462

**4. Resolution of the City Council of the City of Beaumont Authorizing the Application for and to Sign Certain Assurances with Respect to the Applications for Local, State and Federal Program, Project or Grants Relating to the Receipt of the Volkswagen Environmental Mitigation Trust Funding**

**Recommended Action:**

Waive the full reading and adopt by title only, “A Resolution of the City Council of the City of Beaumont Authorizing the Application for and to Sign Certain Assurances with Respect to Applications for Local, State, and Federal Programs, Projects or Grants Relating to the Receipt of the Volkswagen Environmental Mitigation Trust Funding.”

**5. Notice of Vacancies – Finance and Audit Committee and Economic Development Committee**

**Recommended Action:**

Direct staff to post notices regarding the vacancies until filled.

**6. Request for Destruction of Retention Met Records**

**Recommended Action:**

Waive the full reading and adopt by title only, “A Resolution of the City of Beaumont Authorizing Destruction of Certain Records in Accordance with the Records Retention Schedule Adopted by City Council.”

**7. Consider a One (1) Year Extension of Time for Tentative Tract Map No. 36583 to Subdivide 192.61 Acres into 497 Residential Lots with a Minimum Lot Size of 7,000 Square Feet Located North of Brookside Avenue, South of Cherry Valley Boulevard, west of Hannon Road and East of the I-10 Freeway**

**Recommended Action:**

Staff recommends the City Council approve a one (1) year extension of time for Tentative Tract Map No. 36583.

**Motion made by Mayor Pro Tem Lara**

**Seconded by Council Member Carroll**

To approve the Consent Calendar.

**Ayes: Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos**

**Absent: Council Member White**

**Approved by a 4-0 vote.**

**PUBLIC HEARINGS**

*Approval of all Ordinances and Resolutions to be read by title only.*

- 8. Public Hearing and Consideration of a Request for Modification of the Conditions of Approval for Plot Plan 07-PP-12 for 13.6 Acres Located within the Sundance Specific Plan at the Northwest Corner of Eighth Street and Highland Springs Avenue

**Public Hearing opened and closed at 6:42 pm**

**Motion made by Mayor Pro Tem Lara  
Seconded by Mayor Santos.**

To Approve the proposed modification of condition 4.10.

**Ayes: Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos**

**Absent: Council Member White**

**Approved by a 4-0 vote.**

- 9. Public Hearing and First Reading of an Ordinance Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code.”

**Public Hearing opened at 6:43 p.m.**

*D. Fussel - Asked for a continuance of this item.*

**Public Hearing closed at 6:51 p.m.**

**Motion made by Mayor Pro Tem Lara  
Seconded by Mayor Santos**

To waive the full reading and approve at its first reading by title only, “An Ordinance of the City Council of the City of Beaumont Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code” with the modifications suggested.

**Ayes: Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos**

**Absent: Council Member White**

**Approved by a 4-0 vote.**



10. Public Hearing and Consideration of An Interim Urgency Ordinance for a Temporary Moratorium Prohibiting Tire Sales and Tire Repair Establishments

**Public Hearing opened and closed at 6:57 pm**

**Motion made by Council Member Carroll  
Seconded by Mayor Pro Tem Lara**

To waive the full reading and adopt by title only, "An Interim Urgency Ordinance of The City of Beaumont, Enacting A Temporary Moratorium Prohibiting Tire Sales and Tire Repair Establishments, Pursuant to Government Code Section 65858."

**Ayes: Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos**  
**Absent: Council Member White**  
**Approved by a 4-0 vote.**

**ACTION ITEMS**

*Approval of all Ordinances and Resolutions to be read by title only.*

11. Extend Dudek, Inc., Contract for Groundwater and Surface Water Monitoring Services Related to the Maximum Benefit Monitoring Program for the Beaumont and San Timoteo Groundwater Management Zones

**Motion made by Mayor Pro Tem Lara  
Seconded by Council Member Carroll**

To extend Contract with Dudek, Inc., for the 2020 Maximum Benefit Report for groundwater and surface water monitoring in the amount not to exceed \$51,460.

**Ayes: Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos**  
**Absent: Council Member White**  
**Approved by a 4-0 vote.**

12. Update Regarding the West Side Fire Station Construction Project and Cal Fire Presentation Regarding Community Fire Hazard

**Presentation given.**

13. Proposed Refunding of Outstanding Bonds Related to Improvement Areas 7B, 7C, 8C, 17B and 20 of Community Facilities District No. 93-1

**Motion made by Council Member Carroll  
Seconded by Mayor Pro Tem Lara**

As The City Council acting as the legislative body of the Community Facilities District 93-1 authorize City staff and the City's financing team to pursue the issuance of the proposed 2020

Refunding Bonds, based on the estimated savings analysis completed on February 27, 2020. Additionally staff recommends setting a minimum NPV savings threshold equal to 7% of the par value refunded for each of the Outstanding Bonds.

**Ayes:** Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos  
**Absent:** Council Member White  
**Approved by a 4-0 vote.**

14. Award the Public Works Agreement to Match Corporation for Construction Services of the FY 19/20 Street CIP Program in an Amount Not to Exceed \$2,618,032, and Authorize the City Manager to Sign Change Orders up to an Additional \$261,804 for a Total Not to Exceed Construction Budget of \$2,879,836

**Motion made by Mayor Pro Tem Lara**  
**Seconded by Mayor Santos**

To award the Public Works Agreement to Match Corporation for construction services of the FY 19/20 Street CIP Program in an amount not to exceed \$2,618,032, and authorize the City Manager to sign change orders up to an additional \$261,804 for a total not to exceed construction budget of \$2,879,836.

**Ayes:** Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos  
**Absent:** Council Member White  
**Approved by a 4-0 vote.**

15. Review of FY 2019 Audited Financial Statements

**Motion made by Mayor Pro Tem Lara**  
**Seconded by Council Member Carroll**

To receive and file the FY 2019 Audited Financial Statements and the Single Audit Report for FY 2019.

**Ayes:** Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos  
**Absent:** Council Member White  
**Approved by a 4-0 vote.**

16. Approval of Invoice from Riverside County Fire Department for 2<sup>nd</sup> Quarter Fire Services

**Motion made by Council Member Carroll**  
**Seconded by Mayor Pro Tem Lara**

To approve payment of the FY 2020 2nd Quarter Fire Services invoice from Riverside County Fire Department in the amount of \$1,099,979.11.

**Ayes:** Council Member Martinez, Council Member Carroll, Mayor Pro Tem Lara, Mayor Santos

**Absent:** Council Member White

**Approved by a 4-0 vote.**

17. Pension Liability Presentation and Discussion

**Direction to staff to look into the trust options and bring back for consideration.**

18. Fiscal Year 2020/21-2022/23 Short Range Transit Plan – First Draft

**Report was received.**

19. Draft Triennial Performance Audit of the City of Beaumont Transit Fiscal Years 2016-2018

**Report received.**

20. Update on Pass Zone Technical Advisory Committee

**Report received.**

**LEGISLATIVE UPDATES AND DISCUSSION**

21. Townsend Legislative Update

**COUNCIL REPORTS**

- **Carroll** – No report.
- **Lara** – Gave a report out from the WRCOG meeting, attended the Great Shake event at San G middle school. Congradulated the girls soccer and wrestling teams.
- **Martinez** - Gave a report out from the RCA meeting.
- **Santos** – Attended the BHS girls soccer game, the San G middle school Great Shake event and the Mayor’s roundtable.
- **White** – absent.

**ECONOMIC DEVELOPMENT UPDATE**

**Next meeting will be March 11, 2020.**

**CITY TREASURER REPORT**

**Next meeting will be March 9, 2020.**

CITY CLERK REPORT

**Gave a status report of Public Records requests and the current election vote status for State Senate.**

CITY ATTORNEY REPORT

**22. Status of Litigation**

CITY MANAGER REPORT

**Attended a Caltrans meeting.**

FUTURE AGENDA ITEMS

**WRCOG powerpoint**

**Recognition of the T-Now Centerpiece participants**

**ADJOURNMENT at 10:20 p.m.**

The next regular meeting of the Beaumont City Council, Beaumont Financing Authority, the Beaumont Successor Agency (formerly RDA), the Beaumont Utility Authority, the Beaumont Parking Authority and the Beaumont Public Improvement Agency is scheduled for Tuesday, March 17, 2020, at 5:00 p.m. or thereafter as noted on the posted Agenda for Closed Session items in the City Council Board Room No. 5, followed by the regular meeting at 6:00 p.m. or thereafter as noted on the posted Agenda at City Hall.

Beaumont City Hall – Online [www.BeaumontCa.gov](http://www.BeaumontCa.gov)



### Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Jeff Hart, Director of Public Works  
**DATE:** March 17, 2020  
**SUBJECT:** **Second Reading and Adoption of an Ordinance Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code**

**Background and Analysis:**

The City’s requirements for off-site improvement plans are contained within the Beaumont Municipal Code, Title 12 (Streets, Sidewalks, and Public Places) and the requirements for grading improvements are contained within Title 17 (Zoning).

Section 12.08.010 addresses the adoption of standard specifications for all public works within the City. Staff is proposing to amend Section 12.08.010 to add expiration timelines to all improvement plans and technical reports in order to ensure planned work is compliant with current regulations, reflective of current conditions, and inclusive of current design criteria (see Attachment). Affected improvement plans would include the following:

- Street Improvement Plans, and
- Storm Drain Improvement Plans.

Affected Technical Studies would include the following:

- Hydrologic and Hydraulic Studies,
- Sewer Studies,
- Traffic Impact Studies, and
- Estimates of Probable Cost.

Staff is proposing that the aforementioned improvement plans and technical studies expire after one year from date of approval if a permit is not secured. Sewer improvement plans currently expire six months from approval to be consistent with Eastern Municipal Water District standards which the City has formally adopted. Should

an application for a permit be received after expiration, the improvement plans and/or technical studies shall be rechecked and approved prior to issuance.

Section 17.11.040 addresses site preparation including site grading requirements. Staff is proposing to amend Section 17.11.040 to add expiration timelines to grading improvement plans and geotechnical reports.

Staff is proposing that grading plans expire after one year from date of approval if a permit is not secured, and that geotechnical reports expire after three years. Should an application for a permit be received after one year, the improvement plans and/or technical studies shall be rechecked and approved prior to issuance.

**Fiscal Impact:**

The cost to prepare this staff report is estimated to be \$100.

**Recommended Action:**

Waive the second full reading and approve by title only, “An Ordinance of the City Council of the City of Beaumont Amending Sections 12.08.010 and 17.11.040 of the Beaumont Municipal Code.”

**Attachments:**

- A. Ordinance

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEAUMONT AMENDING SECTIONS 12.08.010 AND 17.11.040 OF THE BEAUMONT MUNICIPAL CODE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT, RIVERSIDE COUNTY, STATE OF CALIFORNIA AS FOLLOWS:

SECTION 1. CEQA. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act (“CEQA”) pursuant to, 15060(c)(2), 15061(b)(2), 15061(b)(3) CEQA review is not required because there is no possibility that this Ordinance may have a significant effect upon the environment and the proposed text amendments constitute a minor alteration in a land use limitation under CEQA Guidelines 15305, and 15301 (Existing Facilities), 15321, (Enforcement Actions by Regulatory Agencies).

SECTION 2. Severability. The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences, or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the Ordinance enforced.

SECTION 3. Prosecution of Prior Ordinances. Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the City of Beaumont Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

WHEREAS, The City Council wishes to amend the Beaumont Municipal Code to memorialize the policy of the City that after a certain period of time certain improvement plans and studies shall be subject to recertification by the applicant and review and approval by the City in accordance with the then applicable provisions of the Beaumont Municipal Code.

NOW, THEREFORE, be it ordained **by** the City Council of the City of Beaumont as follows:

1. Section 12.08.010 of the Beaumont Municipal Code is hereby amended to read as provided in **Exhibit “A”** attached hereto and made a part hereof by this reference.

2. Section 17.11.040 of the Beaumont Municipal Code is hereby amended to read as provided in **Exhibit “B”** attached hereto and made a part hereof by this reference.

3. **SECTION 6. Effective Date and Publication.** The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within 15 days after adoption in accordance with Government Code Section 36933. This Ordinance shall take effect 30 days after adoption in accordance with Government Code Section 36937.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Beaumont, California, approves an amendment to the City Code.

**INTRODUCED AND READ** for the first time and ordered posted at a regular meeting of the City Council of the City of Beaumont, California, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of Beaumont, California, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Ray Santos, Mayor

Attest: \_\_\_\_\_  
Steven Mehlman, City Clerk

Approved as to form:

\_\_\_\_\_  
John O. Pinkney, City Attorney



**EXHIBIT "A"**

12.08.010 - Adoption of standard specifications and submission of improvement plans and technical studies.

The most current editions of the following specifications are hereby adopted as the standard specifications for all public works within the City:

- A. *For Streets:* Riverside County Ordinance No. 461;
- B. *For Flood Control Facilities:* The Riverside County Flood Control and Water Conservation District's Standards for Flood Control Facilities.
- C. *For Sanitary Sewer Facilities:* The Eastern Municipal Water District's Standards for Sanitary Sewer Facilities.
- D. *For All Other Public Works:* The Standard Specifications for Public Works Construction, edited by the Southern California Chapter of the American Public Works Association and the Associated General Contractors of America;

Each and all of the regulations, provisions, penalties, conditions and terms of the above-listed standard specifications, most current editions thereof, are hereby referred to, adopted and made part of this Chapter, as though fully set forth herein.

Improvement Plans and Technical Studies for Public Works shall be subject to the following expiration terms:

- A. *Street Improvement Plans:* If a permit for street improvement plans is not secured within 12 months of plan approval by the City, such plans shall expire, and no permit shall be issued based on such expired plans. Once street improvement plans so expire, new or revised plans shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to new street improvement plan applications under the Beaumont Municipal Code at the time of resubmission including, but not limited, specifications, design guidelines and criteria, plan check and approval by the City and payment of all application and other fees.
- B. *Storm Drain Improvement Plans:* If a permit for storm drain improvement plans is not secured within 12 months of plan approval by the City, such plans shall expire, and no permit shall be issued based on such expired plans. Once storm drain improvement plans so expire, new or revised plans shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to new storm drain improvement plan applications under the Beaumont Municipal Code at the time of resubmission including, but not limited to, specifications, design guidelines and criteria, plan check and approval by the City and payment of all application and other fees.
- C. *Sewer Improvement Plans:* Expiration of sewer improvement plans shall be as provided in the Eastern Municipal Water District's Standards for Sanitary Sewer Facilities. Once sewer improvement plans so expire, new or revised plans shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to sewer improvement plans applications under the Beaumont Municipal Code and Eastern Municipal Water District Standards for Sanitary Sewer Facilities in effect at the time of

resubmission including, but not limited to, specifications, design guidelines and criteria, plan check and approval by the City and payment of all application and other fees.

- D. *Technical Studies:* Hydrologic and hydraulic studies, sewer studies, traffic studies, and estimates of probable cost shall be valid for a period of one year from the date of approval of the same by the City after which they shall expire and no entitlement, permit or approval shall be issued based on such an expired study or estimate. Once hydrologic and hydraulic studies, sewer studies, traffic studies, and estimates of probable cost so expire, new or revised studies or estimates shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to the same under the Beaumont Municipal Code in effect at the time of resubmission including, but not limited to, design guidelines and criteria, review and approval by the City and payment of all application and other fees.

**EXHIBIT "B"**

17.11.040 - Site preparation and submission of grading plans.

This Section indicates the requirements that are applicable to the preparation of a site for development.

- A. *Property Lines.* Boundary stakes shall be placed on the property by a licensed land surveyor prior to beginning construction for the purpose of delineating property lines.
- B. *Site Grading Requirements.* Site grading shall conform to the following:
  - 1. All grading shall conform to the Uniform Building Code, Chapter 70, as may be amended by City Ordinance.
  - 2. The minimum building pad and drainage swale slope shall equal one percent if cut or fill is less than ten feet. The minimum building pad and drainage swale slope shall equal two percent if the cut or fill is greater than ten feet. Drainage swales shall be a minimum of 0.3 feet deep and be constructed a minimum of two feet from the top of cut or fill slopes.
  - 3. The maximum cut and fill slopes are two to one (2:1).
  - 4. A five foot wide by one foot high berm must be provided, or its equivalent along the top of all fill slopes over five feet high.
  - 5. All grading shall be done under the supervision of a competent soils engineer who shall certify that all fill has been properly placed and who shall submit a final compaction report for all fills over one feet deep.
  - 6. A Registered Civil Engineer shall submit to the Building and Safety Department, written certification of completion of rough grading in accordance with the approved grading plan prior to issuance of the building permit. This certification shall apply to line; grade, elevation and the location of cut fill slopes.
  - 7. A final compaction report will be required for all fills greater than one foot.
  - 8. All grading shall be done in conformance with recommendations of a preliminary soils investigation.
  - 9. Two sets of the final compaction report shall be submitted to the Building and Safety Department which shall include foundation design recommendations and certification that grading has been done in conformance with the recommendation of the preliminary soils report.
  - 10. The contractor shall notify the Building and Safety Department, at least 24 hours in advance requesting finish lot grade and drainage inspection. This inspection must be approved prior to building permit final inspection for each lot.
  - 11. During rough grading operations and prior to the construction of permanent drainage structures, temporary drainage control shall be provided to prevent the ponding of water of water and the flooding of adjacent properties.
  - 12. No fill shall be placed on existing ground until the ground has been cleared of weeds debris, topsoil, and other deleterious material.

13. If steep sloping terrain occurs upon which fill is to be placed, it must be cleared, keyed, and benched into firm natural soil for full support. Preparation shall be approved by a registered Soils Engineer prior to the placement of fill material.
14. Cut slopes or fill slopes equal to or greater than three in vertical height shall be planted with grass or ground cover to protect the slope from erosion and instability in accordance with policies of the City Engineer prior to the approval of final inspection.
15. Dust shall be controlled by watering or other approved methods.
16. All existing drainage courses on the project site must continue to function, especially during storm conditions. Protective measures and temporary drainage provisions must be used to protect adjoining properties during grading operations.
17. Stability calculations with a factor of at least one and five-tenth shall be submitted by a soils engineer to the Building and Safety Department for cut and cut and fill slopes over 30 feet in vertical height.
18. A Registered Civil Engineer or licensed land surveyor shall submit certification of building pad elevation. Where specific elevations are required; the elevation (with respect to mean sea level) shall be given. If an elevation with respect to adjacent ground surface is required, the actual distance above the adjacent ground shall be given.
19. The design engineer shall provide a minimum of one blue top finished pad, prior to rough grade approval.
20. If a grading permit is not secured within 12 months of grading plan approval by the City, such plans shall expire, and no grading permit shall be issued based on such expired plans. Once a grading plan so expires, a new or revised grading plan shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to the same under the Beaumont Municipal Code in effect at the time of resubmission including, but not limited to, specifications, design guidelines and criteria, review and approval by the City and payment of all application and other fees.
21. Geotechnical reports shall be valid for a period of 3 years from the date of approval by the City. After three years the geotechnical report shall expire and no entitlement, permit or approval shall be issued based on such expired geotechnical report. Once a geotechnical report so expires, a new or revised geotechnical report shall be submitted by the applicant which shall, notwithstanding anything to the contrary, strictly comply with all of the requirements applicable to the same under the Beaumont Municipal Code in effect at the time of resubmission including, but not limited to, specifications, design guidelines and criteria, review and approval by the City and payment of all application and other fees.



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Elizabeth Gibbs, Community Services Director  
**DATE:** March 17, 2020  
**SUBJECT:** **First Amendment to Agreement for Independent Contractor with The Mobile Turtle RV & Auto Detailing, a California Corporation**

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### Background and Analysis:

On March 19, 2019, City Council approved a one (1) year Independent Contractor Agreement with The Mobile Turtle RV & Auto Detailing for the purpose of interior, exterior, and detailing bus washing service for the transit fleet (Attachment A). The attached First Amendment is a contract extension for a three-year term, as allowed in the Beaumont Municipal Code Chapter 3.01.040 (Attachment B).

### Fiscal Impact:

A purchase order was issued with the original agreement and currently has a balance of approximately \$25,000. A new purchase order will be issued for Fiscal Year 2020-2021 as part of the approved budget for a not-to-exceed amount of \$40,000.

### Recommended Action:

Approve the First Amendment to Agreement for Independent Contractor with The Mobile Turtle RV & Auto Detailing, a California Corporation; and  
 Authorize the Mayor to execute the amendment on behalf of the City.

### Attachments:

- A. Independent Contractor Agreement
- B. First Amendment to Agreement for Independent Contractor

# Attachment A

## Agreement of Services by Independent Contractor

THIS AGREEMENT FOR SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the 19th day of March, 2019, by and between the CITY OF BEAUMONT ("CITY") whose address is 550 E. 6<sup>th</sup> Street, Beaumont, California 92223 and Hector Alvarado, doing business as The Mobile Turtle RV & Auto Detailing, whose address is 1364 Barberty Way Beaumont CA 92223 ("CONTRACTOR").

### RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Agreement:

- A. CITY desires to engage CONTRACTOR to provide Interior, Exterior and Detailing Bus Washing Service; and
- B. CONTRACTOR has made a proposal ("Proposal") to the CITY to provide such professional services, which Proposal is attached hereto as Exhibit "A"; and
- C. CONTRACTOR agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement, and represents and warrants to CITY that CONTRACTOR possesses the necessary skills, licenses, certifications, qualifications, personnel and equipment to provide such services.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, CITY and CONTRACTOR agree as follows:

1. Term of Agreement. This Agreement is effective as of the date first above written and shall continue until terminated as provided for herein. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate after one (1) year unless extended by the parties with the approval of the City Council of the CITY.
2. Services to be Performed. CONTRACTOR agrees to provide the services ("Services") as follows: Interior, Exterior and Detailing Bus Washing Service as provided in the Proposal attached hereto as Exhibit "A". All Services shall be performed in the manner and according to the timeframe set forth in the Proposal. CONTRACTOR designates Hector Alvarado as CONTRACTOR'S professional responsible for overseeing the Services provided by CONTRACTOR. Notwithstanding anything to the contrary herein, any provisions in the Proposal that are in addition to or inconsistent with the terms of this Agreement shall be deemed invalid and shall have no force or effect.

3. Associates and Subcontractors. CONTRACTOR may, at CONTRACTOR's sole cost and expense, employ such competent and qualified independent associates, subcontractors and consultants as CONTRACTOR deems necessary to perform the Services; provided, however, that CONTRACTOR shall not subcontract any of the Services without the written consent of CITY.

4. Compensation

4.01 CONTRACTOR shall be paid at the rates set forth in the Proposal and shall not increase any rate without the prior written consent of the CITY. Notwithstanding anything in this Agreement to the contrary, total fees and charges paid by CITY to CONTRACTOR under this Agreement shall not exceed \$65,000.00.

4.02 CONTRACTOR shall not be compensated for any Services rendered nor reimbursed for any expenses incurred in excess of those authorized unless approved in advance by the CITY, in writing.

4.03 CONTRACTOR shall submit to CITY, on or before the fifteenth (15<sup>th</sup>) of each month, itemized invoices for the Services rendered in the previous month. The CITY shall not be obligated to pay any invoice that is submitted more than sixty (60) days after the due date of such invoice. CITY shall have the right to review and audit all invoices prior to or after payment to CONTRACTOR. This review and audit may include, but not be limited to CITY's:

- a. Determination that any hourly fee charged is consistent with this Agreement's approved hourly rate schedule;
- b. Determination that the multiplication of the hours billed times the approved rate schedule dollars is correct;
- c. Determination that each item charged is the usual, customary, and reasonable charge for the particular item. If CITY determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CITY shall either return the bill to CONTRACTOR with a request for explanation or adjust the payment accordingly and give notice to CONTRACTOR of the adjustment.

4.04 If the work is satisfactorily completed, CITY shall pay such invoice within thirty (30) days of its receipt. Should CITY dispute any portion of any invoice, CITY shall pay the undisputed portion within the time stated above, and at the same time advise CONTRACTOR in writing of the disputed portion.

5. Obligations of CONTRACTOR.

5.01 CONTRACTOR agrees to perform all Services in accordance with the terms and conditions of this Agreement and the Proposal. In the event that the terms of the Proposal shall conflict with the terms of this Agreement or contain additional terms other than the Services to be rendered and the price for the Services, the terms of this Agreement shall govern and said additional or conflicting terms shall be of no force or effect.

5.02 Except as otherwise agreed by the parties, CONTRACTOR will supply all personnel, materials and equipment required to perform the Services. CONTRACTOR shall provide its own offices, telephones, vehicles and computers and set its own work hours. CONTRACTOR will determine the method, details, and means of performing the Services under this Agreement.

5.03 CONTRACTOR shall keep CITY informed as to the progress of the Services by means of regular and frequent consultations. Additionally, when requested by CITY, CONTRACTOR shall prepare written status reports.

5.04 CONTRACTOR is responsible for paying, when due, all income and other taxes, fees and withholding, including withholding state and federal taxes, social security, unemployment and worker's compensation, incurred as a result of the compensation paid under this Agreement. CONTRACTOR agrees to indemnify, defend and hold harmless CITY for any claims, costs, losses, fees, penalties, interest, or damages suffered by CITY resulting from CONTRACTOR's failure to comply with this provision.

5.05 In the event CONTRACTOR is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished in conformance with local, state and federal laws, rules and regulations.

5.06 CONTRACTOR represents that it possesses all required licenses necessary or applicable to the performance of Services under this Agreement and the Proposal and shall obtain and keep in full force and effect all permits and approvals required to perform the Services herein. In the event CITY is required to obtain an approval or permit from another governmental entity, CONTRACTOR shall provide all necessary supporting documents to be filed with such entity.

5.07 CONTRACTOR shall be solely responsible for obtaining Employment Eligibility Verification information from CONTRACTOR's employees, in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a), and shall ensure that CONTRACTOR's employees are eligible to work in the United States.

5.08 In the event that CONTRACTOR employs, contracts with, or otherwise utilizes any CalPers retirees in completing any of the Services performed hereunder, such instances shall be disclosed in advance to the CITY and shall be subject to the CITY's advance written approval.

5.09 Drug-free Workplace Certification. By signing this Agreement, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that the CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace.



5.10 CONTRACTOR shall comply with all applicable local, state and federal laws, rules, regulations, entitlements and/or permits applicable to, or governing the Services authorized hereunder.

6. Insurance. CONTRACTOR hereby agrees to be solely responsible for the health and safety of its employees and agents in performing the Services under this Agreement and shall comply with all laws applicable to worker safety including but not limited to Cal-OSHA. Therefore, throughout the duration of this Agreement, CONTRACTOR hereby covenants and agrees to maintain insurance in conformance with the requirements set forth below. If existing coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. CONTRACTOR shall provide the following types and amounts of insurance:

6.01 Commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; CONTRACTOR agrees to have its insurer endorse the general liability coverage required herein to include as additional insured's CITY, its officials, employees and agents. CONTRACTOR also agrees to require all contractors and subcontractors to provide the same coverage required under this Section 6.

6.02 Business Auto Coverage in an amount no less than \$1 million per accident. If CONTRACTOR or CONTRACTOR's employees will use personal autos in performance of the Services hereunder, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person.

6.03 Workers' Compensation coverage for any of CONTRACTOR's employees that will be providing any Services hereunder. CONTRACTOR will have a state-approved policy form providing statutory benefits as required by California law. The provisions of any workers' compensation will not limit the obligations of CONTRACTOR under this Agreement. CONTRACTOR expressly agrees not to use any statutory immunity defenses under such laws with respect to CITY, its employees, officials and agents.

6.04 Optional Insurance Coverage. Choose and check one: Required \_\_\_ /Not Required X; Errors and omissions insurance in a minimum amount of \$2 million per occurrence to cover any negligent acts or omissions committed by CONTRACTOR, its employees and/or agents in the performance of any Services for CITY.

7. General Conditions pertaining to Insurance Coverage

7.01 No liability insurance coverage provided shall prohibit CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR waives all rights of subrogation against CITY regardless of the applicability of insurance proceeds and shall require all contractors and subcontractors to do likewise.

7.02. Prior to beginning the Services under this Agreement, CONTRACTOR shall furnish CITY with certificates of insurance, endorsements, and upon request, complete copies of all policies, including complete copies of all endorsements. All copies of policies

and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

7.03. All required policies shall be issued by a highly rated insurer with a minimum A.M. Best rating of "A:VII"). The insurer(s) shall be admitted and licensed to do business in California. The certificates of insurance hereunder shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to CITY.

7.04 Self-insurance does not comply with these insurance specifications. CONTRACTOR acknowledges and agrees that that all insurance coverage required to be provided by CONTRACTOR or any subcontractor, shall apply first and on a primary, non-contributing basis in relation to any other insurance, indemnity or self-insurance available to CITY.

7.05 All coverage types and limits required are subject to approval, modification and additional requirements by CITY, as the need arises. CONTRACTOR shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect CITY's protection without CITY's prior written consent.

7.06 CONTRACTOR agrees to provide immediate notice to CITY of any claim or loss against CONTRACTOR or arising out of the Services performed under this Agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

8. Indemnification.

8.01 CONTRACTOR and CITY agree that CITY, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs or any other costs arising out of or in any way related to the performance of this Agreement by CONTRACTOR or any subcontractor or agent of either. Accordingly, the provisions of this indemnity are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to CITY. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of the commitment of CONTRACTOR to indemnify and protect CITY as set forth herein.

a. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless CITY, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, damages or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by CITY, court costs, interest, defense costs, including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually,

allegedly or impliedly, in whole or in part to the performance of this Agreement. CONTRACTOR's obligation to defend, indemnify and hold harmless shall include any and all claims, suits and proceedings in which CONTRACTOR (and/or CONTRACTOR's agents and/or employees) is alleged to be an employee of CITY. All obligations under this provision are to be paid by CONTRACTOR as they are incurred by CITY.

b. Without affecting the rights of CITY under any provision of this Agreement or this Section, CONTRACTOR shall not be required to indemnify and hold harmless CITY as set forth above for liability attributable solely to the fault of CITY, provided such fault is determined by agreement between the parties or the findings of a court of competent jurisdiction.

9. Additional Services, Changes and Deletions.

9.01 In the event CONTRACTOR performs additional or different services than those described herein without the prior written approval of the City Manager and/or City Council of CITY, CONTRACTOR shall not be compensated for such services. CONTRACTOR expressly waives any right to be compensated for services and materials not covered by the scope of this Agreement or authorized by the CITY in writing.

9.02 CONTRACTOR shall promptly advise the City Manager and Finance Director of CITY as soon as reasonably practicable upon gaining knowledge of a condition, event or accumulation of events which may affect the scope and/or cost of Services. All proposed changes, modifications, deletions and/or requests for additional services shall be reduced to writing for review and approval by the CITY and/or City Council.

10. Termination of Agreement.

10.01 Notwithstanding any other provision of this Agreement, CITY, at its sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving twenty (20) days' written notice to CONTRACTOR.

10.02 In the event of termination, the payment of monies due CONTRACTOR for undisputed Services performed prior to the effective date of such termination shall be paid within thirty (30) business days after receipt of an invoice as provided in this Agreement. Immediately upon termination, CONTRACTOR agrees to promptly provide and deliver to CITY all original documents, reports, studies, plans, specifications and the like which are in the possession or control of CONTRACTOR and pertain to CITY.

11. Status of CONTRACTOR.

11.01 CONTRACTOR shall perform the Services in CONTRACTOR's own way as an independent contractor, and in pursuit of CONTRACTOR's independent calling, and not as an employee of CITY. However, CONTRACTOR shall regularly confer with CITY's City Manager as provided for in this Agreement.

11.02 CONTRACTOR agrees that it is not entitled to the rights and benefits afforded to CITY's employees, including disability or unemployment insurance, workers' compensation, retirement, CalPers, medical insurance, sick leave, or any other employment benefit. CONTRACTOR is responsible for providing, at its own expense, disability, unemployment, workers' compensation and other insurance, training, permits, and licenses for itself and its employees and subcontractors.

11.03 CONTRACTOR hereby specifically represents and warrants to CITY that it possesses the qualifications and skills necessary to perform the Services under this Agreement in a competent, professional manner, without the advice or direction of CITY and that the Services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional rendering the same or similar services in the same geographic area where the CITY is located. Further, CONTRACTOR represents and warrants that the individual signing this Agreement on behalf of CONTRACTOR has the full authority to bind CONTRACTOR to this Agreement.

12. Ownership of Documents: Audit.

12.01 All draft and final reports, plans, drawings, studies, maps, photographs, specifications, data, notes, manuals, warranties and all other documents of any kind or nature prepared, developed or obtained by CONTRACTOR in connection with the performance of Services performed for the CITY shall become the sole property of CITY, and CONTRACTOR shall promptly deliver all such materials to CITY upon request. At the CITY's sole discretion, CONTRACTOR may be permitted to retain original documents, and furnish reproductions to CITY upon request, at no cost to CITY.

12.02 Subject to applicable federal and state laws, rules and regulations, CITY shall hold all intellectual property rights to any materials developed pursuant to this Agreement. CONTRACTOR shall not such use data or documents for purposes other than the performance of this Agreement, nor shall CONTRACTOR release, reproduce, distribute, publish, adapt for future use or any other purposes, or otherwise use, any data or other materials first produced in the performance of this Agreement, nor authorize others to do so, without the prior written consent of CITY.

12.03 CONTRACTOR shall retain and maintain, for a period not less than four years following termination of this Agreement, all time records, accounting records and vouchers and all other records with respect to all matters concerning Services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as CITY may deem necessary, CONTRACTOR shall make available to CITY's agents for examination all of such records and shall permit CITY's agents to audit, examine and reproduce such records.

13. Miscellaneous Provisions.

13.01 This Agreement, which includes all attached exhibits, supersedes any and all previous agreements, either oral or written, between the parties hereto with respect to

the rendering of Services by CONTRACTOR for CITY and contains all of the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

13.02 CONTRACTOR shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of CITY. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

13.03 CONTRACTOR shall timely file FPPC Form 700 Conflict of Interest Statements with CITY if required by California law and/or the CITY's conflict of interest policy.

13.04 If any legal action or proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled.

13.05 This Agreement is made, entered into and shall be performed in the County of Riverside in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

13.06 CONTRACTOR covenants that neither it nor any officer or principal of its firm has any interest, nor shall they acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of their Services hereunder. CONTRACTOR further covenants that in the performance of this Agreement, no person having such interest shall be employed by it as an officer, employee, agent, or subcontractor.

13.07 CONTRACTOR has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflicts of interest of public officers and employees. CONTRACTOR agrees that they are unaware of any financial or economic interest of any public officer or employee of the CITY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the CITY may immediately terminate this Agreement by giving notice thereof. CONTRACTOR shall comply with the requirements of Government Code section 87100 et seq. and section 1090 in the performance of and during the term of this Agreement.

13.08 Improper Consideration. CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the CITY in an attempt to secure favorable treatment regarding this Agreement or any contract awarded by CITY. The CITY, by notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding sentence was offered to any officer, employee or agent of the

CITY with respect to the proposal and award process of this Agreement or any CITY contract. This prohibition shall apply to any amendment, extension or evaluation process once this Agreement or any CITY contract has been awarded. CONTRACTOR shall immediately report any attempt by any CITY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR.

IN WITNESS WHEREOF, the parties hereby have made and executed this Agreement to be effective as of the day and year first above-written.

**CITY:**

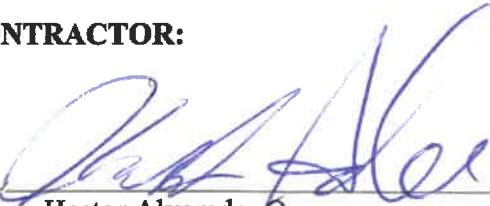
CITY OF BEAUMONT

By: \_\_\_\_\_

  
Julio Martinez, Mayor

**CONTRACTOR:**

By: \_\_\_\_\_

  
Hector Alvarado, Owner

**Bus Washing Service**

1. Most buses are out on route, most of the day Monday-Friday. Coordination of bus availability will be conducted with Pass Transit Operations Supervisor. Some buses will be made available in the early mornings (4 a.m.) and late afternoons (after 5 p.m.) Monday-Friday as well as all day Saturday. Will you be able to accommodate these hours?  
 Yes       No
  
2. It is important that water used in the process of cleaning the vehicles is captured and not allowed to run off into drain system. Are you able to capture run-off water and dispose of properly?  Yes       No
  
3. Exterior washing (done weekly): Includes washing the exterior of the bus including body and tires. Windows/glass should be wiped down and left in a streak-free spotless condition. Please list your price for completing this task for the different size buses listed:
 

3- 40' commercial buses \$	50.00	each
1- 32' commercial bus \$	30.00	each
2- GMC C550 \$	30.00	each
6- Ford E-450 \$	30.00	each
2- Chevy C5500 \$	30.00	each
5- Ford F550 \$	30.00	each
  
4. Interior washing (done weekly): Drivers area and interior coach area. Includes: wipe down and disinfect all surfaces including seats, seatbelt buckles, handrails, console, steering wheel/mount, etc. Vacuum and mop the floor. Remove trash debris between seats, wall/back panels and back/bottom cushions. Windows/glass should be wiped down and left in a streak-free spotless condition. Please list your price for completing this task for the different size buses listed:
 

3- 40' commercial buses \$	30.00	each
1- 32' commercial bus \$	20.00	each
2- GMC C550 \$	20.00	each
6- Ford E-450 \$	20.00	each
2- Chevy C5500 \$	20.00	each
5- Ford F550 \$	20.00	each
  
5. Detailing every 3 months: Includes cleaning, treating, polishing of: fender skirts, bumpers, light fixtures (inside and out), headlights, tail lights, etc., exterior window frames, window tracks, side mirror housings. Remove debris and clean window, floor, and seat tracks. Special attention to corners, doorways and the intersection of the sidewall and floor. Disinfect all panels and surfaces including side panels, ceiling panels, escape hatch, modesty panels and driver area. Please list your price for completing this task for the different size buses listed:

3- 40' commercial buses \$	200.00	each
1- 32' commercial bus \$	120.00	each
2- GMC C550 \$	120.00	each
6- Ford E-450 \$	120.00	each
2- Chevy C5500 \$	120.00	each
5- Ford F550 \$	120.00	each

6. Contact information:

Name: HECTOR ALVARADO

Signature: Hector Alvarado

Date: MARCH 5, 2019

Business Name: THE MOBILE TURTLE RV & AUTO DETAILING

Address: 1364 BARBETTY WAY BEAUMONT CA 92223

Phone: (909) 786-6689

Email: themobileturtle@outlook.com



**FIRST AMENDMENT TO AGREEMENT FOR INDEPENDENT CONTRACTOR**

THIS FIRST AMENDMENT TO AGREEMENT OF SERVICES BY INDEPENDENT CONTRACTOR (“Amendment”) is made and effective as of the 17<sup>th</sup> day of March, 2020 by and between the CITY OF BEAUMONT (“CITY”), a general law city, and The Mobile Turtle RV & Auto Detailing, a California Corporation (“CONTRACTOR”) in consideration of the mutual promises and purpose contained herein, the parties agree as follow:

**RECITALS**

This First Amendment is made with respect to the following facts and purpose that the parties agree are true and correct:

A. On March 19, 2019 the CITY and CONTRACTOR entered into that certain agreement entitled “Agreement of Services by Independent Contractor” (“Agreement”).

C. Term of Agreement states “...this agreement shall automatically terminate after one (1) year unless extended by the parties with the approval of the City Council of the CITY.”

**AMENDMENT**

Section 1 of the Agreement is hereby amended to extend the ‘Agreement of Services by Independent Contractor’ Agreement for a three-year term, with a one-year extension at the option of City with Council approval, effective March 17, 2020 as allowed in Beaumont Municipal Code 3.01.040.

The recitals to this Amendment are deemed incorporated herein by this reference. All other terms of the Agreement not expressly amended by this Amendment shall remain in full force and effect. In the event of a conflict between the Agreement and this Amendment, this Amendment shall control.

[Signatures on following page]

SIGNATURE PAGE TO

CITY OF BEAUMONT  
FIRST AMENDMENT

CITY:

CITY OF BEAUMONT

By: \_\_\_\_\_  
Rey Santos, Mayor

CONTRACTOR:

THE MOBILE TURTLE, A CALIFORNIA  
CORPORATION

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Steven Mehlman, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
John O. Pinkney, City Attorney



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Christina Taylor, Community Development Director  
**DATE:** March 17, 2020  
**SUBJECT:** Annual Development Agreements Review

### Background and Analysis:

The City of Beaumont Resolution No. 1987-34, adopted May 11, 1987, sets forth the regulations and requirements for the City to enter into a development agreement. The resolution contains seven articles addressing the development agreement process. The articles are as follows:

1. Applications;
2. Notices and Hearings;
3. Standards of Review, Findings and Decision;
4. Amendment and Cancellation of Agreement by Mutual Consent;
5. Recordation;
6. Periodic Review; and
7. Modification or Termination.

Article 6 of Resolution 1987-34 requires all development agreements be reviewed by the Planning Commission annually. The intent of the annual review is to determine if the property owner (or parties to the development agreement) are complying with the terms of agreement. The City is required to notify the property owners in writing of the annual review and to publish a notice of public hearing. If the Commission finds the parties to the agreement to be compliant, the review period is concluded. If the Commission finds the parties non-compliant, it may take actions per the resolution.

The City has six active development agreements. Of the six active agreements, four are subject to review at this time. Each of the development agreements have specific terms and conditions agreed to by the City and property owner. The following information provides a brief summary of the agreement.

**Pardee Homes**

**Entitlements:**

Sundance Specific Plan, EIR Addendum, Tentative Maps for a maximum of 4,450 single-family residential dwelling units and associated improvements.

**Terms:**

25 years beginning 08/2004 and expiring 8/2029.

**Status:**

Compliant with terms of the agreement.

**Key Points:**

Revision to original DA for Deutsch SP,  
Allows for CFD,  
Fee rates are not locked in, and  
Extends validity of tract maps for length of the DA.

**SDC Fairway Canyon LLC**

**Entitlements:**

Specific Plan 318, EIR and Addendum, Findings of Substantial Conformance, Vesting Tentative Map for a maximum of 4,355 residential units.

**Terms:**

25 years beginning 11/2002 and expiring 11/2029.

**Status:**

Compliant with terms of the agreement.

**Key Points:**

Allows Phasing,  
Allows for CFD, and  
Fee rates are not locked.

**LV Heartland LLC**

**Entitlements:**

General Plan Amendment, Specific Plan, EIR, Tentative Maps for a maximum of 1,224 residential units.

**Terms:**

25 years beginning 12/1993, Amended 11/2016 and expiring 12/2028.

**Key Points:**

Option for one, five (5) year extension if permits for at least 500 residential lots have been issued prior to original expiration – 196 units occupied to date, 341 total permits anticipated by end of 2020;  
Amendment acknowledged SunCal bankruptcy and reassigned ownership to LV Heartland LLC;  
Allows for CFD;  
Provides for establishment of an HOA;  
Outlines HOA obligations - Exhibit C identifies landscaping, walls, monuments streetlights, parks, open space and drainage maintenance obligations of the HOA;  
Requires a Phasing Plan for phasing of the development;  
Fee rates are not locked in;  
Extends validity of tract maps for ten years with opportunity for two, one (1) year extensions; and  
Allows for vesting tentative maps.

**City Ventures**

**Entitlements:**

General Plan Amendment, Sunny-Cal Specific Plan, EIR, Annexation, Tentative Maps on approximately 200 acres of land for a maximum of 597 single-family residential dwelling units and associated improvements.

**Terms:**

25 years beginning 9/2007 and expiring 2032.

**Key Points:**

Allows for CFD,  
Allows for phasing,  
Fee rates are not locked in, and  
Provides a Statement of Benefits to the City (Exhibit E).

This review of development agreements is intended to refamiliarize the Planning Commission and City Council with these agreements and reestablish the procedure, per Resolution 1987-34, by which these agreements will be reviewed. Beginning December 2020, each agreement will be reviewed annually at the Planning Commission meeting closest to the anniversary date of the development agreement. On March 10, 2020, the Planning Commission conducted a review of these development agreements and found each to be compliant with their respective requirements.

**Fiscal Impact:**

None. The cost of preparing the staff reports and conducting annual reviews is covered by the required fee established in the City's fee schedule.

**Recommended Action:**

Receive and file.

**Attachments:**

- A. Resolution 1987-34
- B. Annual Development Agreement Review Letter to Owner
- C. Pardee Homes Development Agreement
- D. SDC Fairway Canyon LLC Development Agreement
- E. LV Heartland LLC Development Agreement
- F. City Ventures Development Agreement

RESOLUTION NO. 1987- 34

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF BEAUMONT, CALIFORNIA,  
ESTABLISHING PROCEDURES AND REQUIREMENTS  
FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS  
UNDER GOVERNMENT CODE, SECTIONS 65864-65869.5

WHEREAS, Government Code, Sec. 65864-65869.5 authorize cities and counties to enter into binding development agreements with person having legal or equitable interests in real property for the development of such property and authorize the City of Beaumont to establish procedures for consideration of applications for such agreements;

WHEREAS, it is in the public interest to do so and the public health, safety and welfare will be promoted thereby,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Table of Articles

- Article 1 Applications
- Article 2 Notices and Hearing
- Article 3 Standards of Review, Findings and Decision
- Article 4 Amendment and Cancellation of Agreement by Mutual Consent
- Article 5 Recordation
- Article 6 Periodic Review
- Article 7 Modification or Termination

**ARTICLE 1 Applications**

- Section 101 Authority for adoption
- Section 102 Forms and information
- Section 103 Fees
- Section 104 Qualification as an applicant
- Section 105 Proposed form of agreement
- Section 106 Review of application

Section 101. Authority for adoption. These regulations are adopted under the authority of Government Code

Sections 65864-65869.5. The City of Beaumont, a Municipal Corporation, shall hereinafter be referred to as the "City".

Section 102. Forms and information.

(a) The Planning Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements.

(b) The Planning Director may require an applicant to submit such information and supporting data as the Planning Director considers necessary to process the application.

Section 103. Fees. The applications and documents provided for or required under these regulations shall be accompanied by non-refundable fees and charges for filing and processing in amounts determined by the City Council through a separate resolution, alone or in conjunction with setting other land use fees.

Section 104. Qualification as an applicant. Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes authorized agent. The Planning Director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Planning Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

Section 105. Proposed form of agreement. Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by designating the City's standard form of development agreement and including specific proposals for changes in or additions to the language of the standard form.

Section 106. Review of application. The Planning Director shall endorse on the application, the date it is received. He shall review the application and may reject it if it is incomplete or inaccurate for processing. If he finds that the application is complete, he shall accept it for filing. The director shall review the application and determine the additional requirements necessary to complete the agreement. After receiving the required information, he shall prepare a staff report and recommendation and shall state whether or not the agreement proposed or in an amended form would be consistent with the general plan and any applicable specific plan.

**ARTICLE 2. Notices and Hearing**

- Section 201 Duty to give notice
- Section 202 Requirements for form and time of notice of intention to consider adoption of development agreement
- Section 203 Failure to receive notice
- Section 204 Rules governing conduct of hearing
- Section 205 Irregularity in proceedings

Section 201. Duty to give notice. Upon receipt of an application, the Planning Commission shall set a date for and



hold a public hearing. The Planning Director shall give notice as required by Section 202 of intention to consider adoption of development agreement.

Section 202. Requirements for form and time of notice of intention to consider adoption of development agreement. Any public hearing held pursuant to the provisions of this Chapter shall be noticed in the following manner:

(a) Form of notice. The form of notice of intention to consider adoption of development agreement shall contain:

- (1) The time and place of the hearing;
- (2) A general explanation of the matter to be considered, including a general description of the area affected; and
- (3) Other information required by specific provision of these regulations or which the Planning Director considers necessary or desirable.

(b) Time and manner of notice. Notice shall be given at least ten calendar days before the hearing in the following manner:

- (1) Publication or posting. Publication at least once in a newspaper of general circulation, published and circulated in the City or if there is none, posting in at least 3 public places in the City; and
- (2) Mailing. Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement.

(c) Additional notice. The Planning Commission or City Council as the case may be, may direct that notice of the public hearing to be held before it shall be given in a manner that exceeds the notice requirements prescribed by state law.

(d) Declaration of existing law. The notice requirements referred to in subsections (a) and (b) are declaratory of existing law (Govt. Code, Sec. 65867 and Sec. 65854, 65854.5 and 65856 as incorporated by reference). If state law prescribes a different notice requirement, notice shall be given in that manner.

Section 203. Failure to receive notice. The failure of any person entitled to notice required by law or these regulations does not affect the authority of the City to enter into a development agreement.

Section 204. Rules governing conduct of hearing. The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted under Government Code, Sec. 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

Section 205. Irregularity in proceedings. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

**ARTICLE 3. Standards of Review, Findings and Decision**

- Section 301 Determination by Planning Commission
- Section 302 Decision by City Council
- Section 303 Approval of development agreement

Section 301. Determination by Planning Commission. After the hearing by the Planning Commission, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

- (1) Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- (2) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- (3) Is in conformity with public convenience, general welfare and good land use practice,
- (4) Will be detrimental to the health, safety and general welfare,
- (5) Will adversely affect the orderly development of property or the preservation of property values.

The recommendation shall include the reasons for recommendation.

Section 302. Decision by City Council.

(a) After receiving the recommendation from the Planning Commission, the City Council shall hold a public hearing after giving notice as required by Section 202. After the City Council completes the public hearing, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(b) No development agreement may be approved by the City Council unless all of the following conditions are met:

- (1) The City Council must find that:
  - A. The provisions of the agreement are consistent with the general plan and any applicable specific plan; and
  - B. The development agreement complies with all applicable zoning, subdivision, and building regulations and with the general and any relevant specific plan.
- (2) The agreement must state:
  - A. The specific duration of the agreement;
  - B. The permitted uses of the property;
  - C. The density and intensity of use;
  - D. The maximum height and size of proposed buildings;
  - E. Specific provisions for reservation or dedication of land for public purposes.

Section 303. Approval of development agreement. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance.

After the ordinance approving the development agreement takes effect, the City may enter into the agreement.

**ARTICLE 4. Amendment and Cancellation of Agreement by Mutual Consent**

- Section 401      Initiation of amendment or cancellation by mutual consent
- Section 402      Procedure

Section 401. Initiation of amendment or cancellation. Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

Section 402. Procedure. The procedure for proposing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement in the first instance (Articles 1 through 3).

However, where the City initiates the proposed amendment to or cancellation in whole or in part of the development agreement it shall first give notice to the property owner of its intention to initiate such proceedings at least ten days in advance of the giving of notice of intention to consider the amendment or cancellation required by Section 202.

**ARTICLE 5. Recordation.**

- Section 501      Recordation of development agreement, amendment or cancellation

Section 501. Recordation of development agreement, amendment or cancellation.

(a) Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

(b) If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code, Sec. 65868, or if the City terminates or modifies the agreement as provided in Government Code Sec. 6586.1 for failure of the applicant to comply in good faith with the terms and conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

**ARTICLE 6. Periodic Review**

Section 601	Time for and initiation of review
Section 602	Notice of periodic review
Section 603	Public hearing
Section 604	Findings upon public hearing
Section 605	Procedure upon findings

Section 601. Time for and initiation of review. The City shall review the development agreement every twelve months from the date the agreement is entered into.

The time for review may be modified either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Recommendation of the planning staff;
- (2) Affirmative vote of at least three members of the Planning Commission;
- (3) Affirmative vote of at least three members of the City Council

Section 602. Notice of periodic review. The Planning Director shall begin the review proceeding by giving notice that the Planning Commission intends to undertake a periodic review of the development agreement to the property owner. He shall give notice at least ten days in advance of the time at which the matter will be considered by the Planning Commission.

Section 603. Public hearing. The Planning Commission shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

Section 604. Findings upon public hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

Section 605. Procedure upon findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the Planning Commission may modify or terminate the agreement.

(c) The Planning Commission shall make its decision within 20 days after the close of the public hearing. Notice of the decision shall be filed by the Planning Director with the City Clerk, together with a report of the proceedings, not more than 10 days after the decision. A copy of the notice of decision shall be mailed by registered mail to the applicant. If the Planning Commission is unable to make a decision, that fact shall be reported to the City Council in the same manner for reporting decisions and the failure to make a decision shall constitute a denial of the application. The decision of the Planning Commission shall be final unless, within 15 days of the mailing of said decision, the applicant or any interested person files an appeal accompanied by the fees set forth in the fee schedule with the City Clerk or unless the Council orders the matter set for public hearing.

**ARTICLE 7. Modification or Termination.**

Section 701 Proceedings upon modification or termination

Section 702 Hearing on modification or termination

Section 701. Proceedings upon modification or termination. If, upon a finding under Section 605(b), the City determines to proceed with modification or termination of the agreement, the City shall give notice referred to in Section 605 (c) to the property owner of its intention so to do. The notice shall contain:

- (1) The time and place of the hearing;
- (2) A statement as to whether or not the City proposes to terminate or to modify the development agreement;
- (3) Other information which the City considers necessary to inform the property owner of the nature of the proceeding.

Section 702. Hearing on modification or termination. At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.

NOW THEREFORE, IT IS HEREBY RESOLVED as follows:

The City Council of the City of Beaumont, California does hereby approve the procedures and requirements of development agreements.

MOVED, PASSED AND ADOPTED this 11th day of May, 1987, by the following vote:

AYES: Council Member Connors, Shaw, Waller and Mayor Partain.

NOES: None.

ABSTAIN: None.

ABSENT: None.

*Jim Partain*  
MAYOR OF THE CITY OF BEAUMONT

ATTEST:  
*Robert J. Boudk*  
CITY CLERK

APPROVED AS TO FORM:  
*George R. Phipps*  
CITY ATTORNEY

**CERTIFICATION**

The foregoing is certified to be a true copy of Resolution No. 1987- 34, duly adopted by said City Council on the date herein set forth.

*Robert J. Boudk*  
CITY CLERK, CITY OF BEAUMONT





Date

Owner

Company

Address

City, State, Zip Code

**SUBJECT: Annual Development Agreement Review**

To whom it may concern:

Per City of Beaumont Resolution No. 1987-34, which governs development agreements, an annual review of your development agreement is required to take place. This letter is to serve as notice that your development agreement will be reviewed by the City's Planning Commission on \_\_\_\_\_, \_\_\_\_\_, 202X. The original anniversary of this development agreement is \_\_\_\_\_, 19XX and will be subsequently reviewed on an annual basis at the Planning Commission meeting closest to this date.

The fee for the Development Agreement Annual Review is \$3,027.43 which is due and payable to the City on or before \_\_\_\_\_, 202X. This fee is established in the City's fee schedule.

A copy of Resolution No. 1987-34 and the City of Beaumont Fee Schedule are enclosed. If you have any questions, please contact the Planning Department at 951-769-8518.

Sincerely,

Christina Taylor  
Community Development Director

**ORDINANCE NO. 869**

**AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA, ADOPTING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BEAUMONT AND PARDEE HOMES (PURSUANT TO GOVERNMENT CODE SECTIONS 65864-65869.5)**

**WHEREAS**, in order to strengthen the public planning process, to encourage private participation in comprehensive planning, and to reduce the economic risks of development, the Legislature of the State of California has adopted Sections 65864 through 65869.5 of the Government Code which authorize the City of Beaumont (hereinafter referred to as "City") to enter into a Development Agreement; and

**WHEREAS**, the Beaumont City Council adopted an Addendum to the Deutsch Specific Plan Environmental Impact Report, in conjunction with the approval of Pardee Homes' Sundance Specific Plan on May 4, 2004, and the City Council finds that the findings made in connection with said Addendum are applicable and adequately address the environmental implications associated with the subject actions; and

**WHEREAS**, the applicant, Pardee Homes, proposed and submitted and City staff has reviewed and negotiated the Development Agreement between Pardee Homes and the City, to govern the carrying out of the Sundance Specific Plan in a manner that will ensure certain anticipated benefits to both the City and Pardee Homes; and

**WHEREAS**, duly noticed public hearings were conducted on this matter as required by law by the Planning Commission on June 8, 2004 and the City Council on July 20, 2004, and the Planning Commission recommends that the City Council approve the proposed Development Agreement based upon the following findings:

1. The proposed agreement is consistent with the objectives, policies, general land uses and programs specified in the Beaumont General Plan;
2. The proposed agreement facilitates land uses which are compatible with the uses authorized in, and the regulations prescribed for, the land use districts in which the real property is located;
3. The proposed agreement is in conformity with public convenience, general welfare and good land use planning practice;



**ORDINANCE NO. 869**

**Page 2**

- 4. The proposed agreement will not be detrimental to the health, safety and general welfare;
- 5. The proposed agreement will not adversely affect the orderly development of the property or the preservation of property values;
- 6. The proposed agreement will facilitate quality master planned development, the Sundance Specific Plan, which will aid in the economic development of the City; and
- 7. The proposed agreement will not have an adverse impact on the environment.

**WHEREAS**, the City Council of the City of Beaumont has reviewed the reasons for the recommendation of approval by the Planning Commission as described above.

**THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1:** It has been determined that:

- A. The provisions of the Development Agreement between the City and Pardee Homes are consistent with the General Plan; and
- B. The Development Agreement complies with all applicable zoning, subdivision and building regulations and with the Sundance Specific Plan; and
- C. The Development Agreement states the duration of the Agreement shall be a period of 25 years, sets forth the uses of the property, and the density and intensity of use, and sets forth the maximum height and size of proposed buildings and provides for the reservation, dedication and improvement of land uses for public facility uses.

**SECTION 2:** The Development Agreement between the City and Pardee Homes attached hereto as Exhibit "A" is hereby approved and the Mayor of the City of Beaumont is authorized and directed to execute said Development Agreement on behalf of the City on or after the date when by law this Ordinance shall take effect.

**SECTION 3:** This Ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage the City Clerk shall cause a summary to be published in a newspaper of general circulation, printed and published in the City of Beaumont, in a manner prescribed by law for publishing of ordinances of said City.

**ORDINANCE NO.** 869  
**Page 3**

**MOVED, PASSED AND ADOPTED THIS** 17th **DAY OF** August ,  
**2004 BY THE FOLLOWING VOTE:**

**AYES:** Mayor Dressel, Council Members Fox, DeForge, Berg, and Killough.

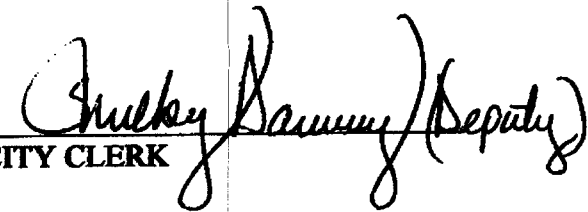
**NOES:** None.

**ABSTAIN:** None.

**ABSENT:** None.

  
MAYOR OF THE CITY OF BEAUMONT

**ATTEST:**

  
CITY CLERK

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223

DOC # 2006-0172944

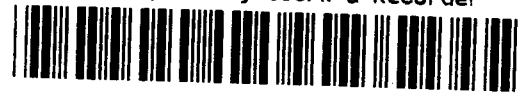
03/10/2006 08:00A Fee:NC

Page 1 of 30

Recorded in Official Records  
County of Riverside

Larry W. Ward

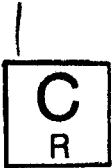
Assessor, County Clerk & Recorder



EXEMPT: GOV'T CODE § 6103

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**DEVELOPMENT AGREEMENT**

NO. 04-DA-06

**BETWEEN**

**THE CITY OF BEAUMONT**

**AND**

**PARDEE HOMES**

**(SUNDANCE SPECIFIC PLAN)**

*(Pursuant to California Government Code Sections 65864 - 65869.5  
and City of Beaumont Resolution No. 1987-34)*

August 17, \_\_\_\_\_, 2004

TABLE OF CONTENTS

Page

1. DEFINITIONS..... 2

2. EXHIBITS ..... 3

3. MUTUAL BENEFITS ..... 3

4. INTEREST OF THE DEVELOPER..... 3

5. BINDING EFFECT OF AGREEMENT..... 4

6. PROJECT AS A PRIVATE UNDERTAKING..... 4

7. TERM..... 4

8. HOLD HARMLESS..... 4

9. VESTED RIGHT ..... 4

10. DEVELOPMENT OF THE PROJECT..... 5

    10.1 Phasing and Timing of Development ..... 5

    10.2 Effect of Agreement on Land Use Regulations..... 5

    10.3 Application Processing ..... 5

    10.4 Administrative Changes and Amendments..... 5

    10.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts  
        or Financing Mechanisms ..... 6

    10.6 Public Services and Facilities..... 6

    10.7 Other Governmental or Quasi-Governmental Permits ..... 6

    10.8 Consistency Between This Agreement and Current Laws..... 6

    10.9 Assessments, Fees, Mitigation and Exactions..... 7

    10.10 Reimbursement by the City..... 7

11. RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES..... 7

    11.1 New Rules ..... 7

    11.2 State and Federal Laws ..... 8

12. AMENDMENT OR CANCELLATION OF AGREEMENT ..... 8

13. ENFORCEMENT ..... 8

14. PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT..... 8

15. Events of Default..... 9

    15.1 Default by the Developer ..... 9

TABLE OF CONTENTS

	<u>Page</u>
15.2 Default by the City.....	9
15.3 Specific Performance Remedy.....	9
16. INSTITUTION OF LEGAL ACTION.....	10
17. WAIVERS AND DELAYS.....	10
17.1 Waiver.....	10
17.2 Third Parties.....	10
17.3 Force Majeure.....	10
18. NOTICES.....	10
19. ATTORNEYS' FEES.....	11
20. TRANSFERS AND ASSIGNMENTS.....	11
20.1 Right to Assign.....	11
20.2 Release Upon Transfer.....	11
21. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.....	11
22. EMINENT DOMAIN.....	11
23. AUTHORITY TO EXECUTE.....	11
24. ESTOPPEL CERTIFICATES.....	11
25. RECORDATION.....	12
26. PROTECTION OF MORTGAGE HOLDERS.....	12
27. SEVERABILITY OF TERMS.....	13
28. SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE.....	13
29. INTERPRETATION AND GOVERNING LAW.....	13
30. SECTION HEADINGS.....	13
31. INCORPORATION OF RECITALS AND EXHIBITS.....	13
32. RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.....	13
32.1 Gender.....	13
32.2 Time of Essence.....	13
32.3 Cooperation.....	13
33. TENTATIVE TRACT MAP EXTENSIONS.....	13
34. DEUTSCH DEVELOPMENT AGREEMENT.....	14

**DEVELOPMENT AGREEMENT**

This **DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into to be effective on Aug 17, 2004, between **PARDEE HOMES**, a California corporation (the "**Developer**"), and the **CITY OF BEAUMONT**, a municipal corporation organized and existing under the laws of the State of California (the "**City**"). The Developer and the City are sometimes collectively referred to herein as the "**parties**."

**RECITALS:**

This Agreement is predicated upon the following facts:

A. These Recitals use certain capitalized terms which are defined in this Agreement.

B. Government Code Sections 65864 - 65869.5 authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. The City has implemented the law contained in such sections by adopting Resolution No. 1987-34, titled "Establishing Procedures and Requirements for Consideration of Development Agreements" (such Resolution, together with the aforementioned Government Code Sections, are being referred to herein as the "**Development Agreement Law**").

C. This Agreement is adopted pursuant to the Development Agreement Law.

D. Developer owns a portion of the property and is under a binding legal contract to acquire the remainder of the property located in the City and more particularly described on Exhibit "A" and as shown on Exhibit "B" attached and made a part of this Agreement (the "**Property**").

E. The Developer intends to develop the Property in accordance with the Amendment to the Deutsch Specific Plan ("**Sundance Specific Plan**") as part of the Development Plan, as hereinafter defined (the "**Project**"). The Project is highly capital intensive, especially in its initial phases, which, in order to make the Project economically and fiscally feasible, requires major commitment to and investment in public facilities and on-site and off-site infrastructure improvements prior to the construction and sale or leasing of residential and commercial buildings. This Agreement will facilitate the logical and orderly development of the Project in the City.

F. The City has determined the Development Plan is consistent with the City General Plan and has approved the Development Plan in order to promote the health, safety and welfare of its citizens and protect the quality of life of the community and the surrounding environment. The Development Plan consists of the Sundance Specific Plan, the Addendum to the Sundance EIR, and Tentative Tract Map Nos. 31468, 31469, 31470 and 31893 approved by

the City Council of City on May 4, 2004 by Resolution No. 2004-23. As part of the process of approving the Development Plan, the City has prepared and reviewed, pursuant to the California Environmental Quality Act ("CEQA"), an Addendum to the Deutsch Specific Plan EIR, with respect to the potential significant impacts of the Project resulting from development of the Property. The City has determined based on that review that the Addendum to the EIR adequately addresses the potential significant impacts of the Project, and that accordingly neither a supplemental nor subsequent environmental impact report is required for the Development Plan and/or this Agreement.

G. All of the proceedings relating to the approval of the Agreement have been conducted in accordance with the Development Agreement Law and CEQA.

H. On August 17, 2004, the City Council of the City adopted Ordinance No. 869 approving this Agreement with the Developer.

I. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of the City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

**AGREEMENT**

In light of the foregoing Recitals, which are an operative part of this Agreement, the parties agree as follows:

**1. DEFINITIONS.**

**"Agreement"** is this Development Agreement.

**"Agreement Date"** is the date this Agreement is approved by the City Council.

**"Alternative Financing Mechanism"** has the meaning given that phrase in Section 10.5 below.

**"CEQA"** is the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

**"CFD"** is a Community Facilities District formed pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code section 53312 *et seq.*

**"City"** is the City of Beaumont, California.

**"City's Discretion"** is discretion exercised by the City in accordance with the policies and principles set forth in the Development Plan, this Agreement and the procedures in effect as of the Effective Date such that the approvals given by the City to the Developer pursuant to the exercise of such discretion shall not be unreasonably withheld or delayed.

“Developer” is Pardee Homes, a California corporation, their subsidiary entities, and successors in interest to all or any part of the Property.

“Development Agreement Law” is California Government Code sections 65864 et seq., and Resolution No. 1987-34, titled “Establishing Procedures and Requirements for Consideration of Development Agreements.”

“Development Plan” is, collectively, the permits, conditions and approvals listed on Exhibit “C.”

“Effective Date” is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, or (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period.

“EIR” is Addendum to the Deutsch Specific Plan Environmental Impact Report certified by the City Council of City on January 14, 1991 (Resolution No. 1991-03).

“Project” is the proposed mixed-use development of the Property included within the Development Plan and associated amenities, including, without limitation, on-site and off-site public and private improvements, and land uses consisting of residential (approximately 4,450 dwelling units), commercial, parks and schools, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

“Property” is the real property on which the Project is, or will be, located as described on Exhibit “A” attached hereto and shown on Exhibit “B” attached hereto.

2. **EXHIBITS.** The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

Exhibit Designation	Description
A	Legal Description of the Property
B	Map of the Property
C	List of Permits and Approvals

3. **MUTUAL BENEFITS.** This Agreement is entered into for the purpose of implementing the Development Plan for the Project in a manner that will secure certain assurances to the Developer that the Property may be developed in accordance with the Development Plan and this Agreement, and certain benefits to the City as set forth in this Agreement. The City and the Developer agree that, due to the size and duration of the Project, the Agreement is necessary to achieve those desired benefits.

4. **INTEREST OF THE DEVELOPER.** The Developer represents that the Developer owns a legal fee in a portion of the Property and an equitable interest in a portion of the Property.



5. **BINDING EFFECT OF AGREEMENT.** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns as set forth herein.

6. **PROJECT AS A PRIVATE UNDERTAKING.** It is specifically understood and agreed that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property by the owner of the Property and the equitable owner of the Deutsch Parcels.

7. **TERM.** The term of this Agreement shall be twenty-five (25) years following the Effective Date. Expiration of the term of this Agreement shall not in any manner affect rights which have otherwise vested under applicable law.

8. **HOLD HARMLESS** The Developer shall hold the City, its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, arising on the Property from the wrongful or negligent activities of the Developer or those of the Developer's contractors, subcontractors, agents, employees or other persons acting on the Developer's behalf which relate to the Project. In the event any person not a party or a successor to a party to this Agreement institutes any type of action against the City with respect to this Agreement, City and Developer shall cooperate in defending against the action, provided that City may, in its sole discretion, elect to tender the defense of such action to the Developer. If the Developer accepts the tender, the Developer shall thereafter hold City harmless from and defend City from all costs and expenses incurred in the defense of such action, provided that City fully cooperates with the Developer in the defense of such action. If the Developer declines the tender, then City shall have no further obligation or duty to defend the action.

9. **VESTED RIGHT.** By entering into this Agreement the City grants to the Developer a vested right to develop the Property in accordance with the Development Plan. The City shall not enact and enforce against the Project and the Development Plan an ordinance, policy, rule, regulation or other measure which significantly alters the rate, type, manner, density, timing or sequencing of the Project and the Development Plan. In addition to and not in limitation of the foregoing, it is the intent of the Developer and the City that no moratorium, whether relating to the rate, type, manner, density, timing or sequencing of the Project and whether or not enacted by initiative or otherwise, except a moratorium imposed by the City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2, affecting parcel or subdivision maps, building permits, plot plans, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within the City, or portions of the City, shall not apply to the Project to the extent such moratorium or other limitation is in conflict with the Project and the Development Plan. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by the citizens of the City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over

all or any part of the Development Plan, the Developer shall have no recourse against the City pursuant to this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement.

**10. DEVELOPMENT OF THE PROJECT.**

**10.1 Phasing and Timing of Development.** When or the order in which Project phases will be developed, or whether it will be developed at all, depend upon numerous factors which are not within the control of the Developer or City, such as market orientation and demand, interest rates, availability of funding, competition and other similar factors. Accordingly, to the extent permitted by the Development Plan and this Agreement, the Developer shall have the right to develop the Project pursuant to the Development Plan in phases in such order and at such times as the Developer, in its sole discretion, deems appropriate within the exercise of its subjective business judgment; provided, however, that the City reserves the right to review, condition and approve each phase through discretionary and ministerial approvals consistent with this Agreement.

**10.2 Effect of Agreement on Land Use Regulations.** The rules, regulations and policies governing permitted uses of property, the density and intensity of use of property, the maximum height and size of proposed buildings and the design, improvement, construction and development standards and specifications applicable to development of the Property are those rules, regulations and policies in force as of the date of this Agreement, and those rules, regulations and official policies which may hereinafter be adopted by the City in accordance with Section 11.1 hereof, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2.

**10.3 Application Processing.** In connection with any approval which the City is permitted or has the right to make under this Agreement relating to the Project and the Development Plan, or otherwise under its rules, regulations and official policies, the City shall exercise the City's discretion or take action in a manner which is as expeditious as reasonably possible.

**10.4 Administrative Changes and Amendments.** The parties acknowledge that further planning and development of the Project may demonstrate that refinements and changes are appropriate with respect to the details of the Project or interpretation of the Development Plan. If and when the parties find that minor changes or adjustments are necessary or appropriate to the Project or the Development Plan, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the Director of Planning, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by the Director of Planning as may be requested by the Developer. Minor changes or amendments shall be those which are consistent with the overall intent of the Development Plan and this Agreement and which do not materially alter the overall nature, scope, or design of the Project. Any such minor administrative changes or amendments shall not be deemed to be an

amendment to this Agreement under Government Code Section 65868 and, unless otherwise required by law, no such administrative amendments shall require prior notice or hearing.

**10.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms.** Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," the Developer may, at its sole election, petition the City Council of the City or a joint powers agency in which the City is a member to establish a Community Facilities District ("CFD"), in accordance with the City's policies in existence on the Effective Date. Alternatively, or in addition thereto, the Developer may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, or any and all other available public financing mechanism, to provide public conduit financing for the construction of public infrastructure improvements on the Property ("**Alternative Financing Mechanisms**"). If so requested by the Developer, the City shall cooperate with the Developer (or, for matters beyond its control, shall use its best efforts) in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD or Alternative Funding Mechanism with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties in accordance with City policies at the time such property is included.

**10.6 Public Services and Facilities.** The Project and Development Plan requires an integrated roadway system, and other public facilities including parks, schools, storm drains, and water and sewer facilities. City will reasonably assist Developer in obtaining public facilities and services for the Project on a timely basis in keeping with the pace of development of the Property. To the extent that the Developer constructs, installs or provides financing for public facilities or other public infrastructure improvements that benefit lands outside of the Property, the City shall use best reasonable efforts to adopt such ordinances, mitigation fees, liens or assessments as are necessary to provide credits, reimbursements, or in-kind funding to the Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements.

**10.7 Other Governmental or Quasi-Governmental Permits.** The Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or state agencies) to the extent required for the development of, or provision of, services and facilities to the Project as set forth in the Development Plan. The City shall cooperate with and assist the Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits. The Developer shall be solely responsible for all costs and shall be responsible for the processing of all such permits.

**10.8 Consistency Between This Agreement and Current Laws.** The City represents that as of the date of the execution of this Agreement, there are no rules, regulations, ordinances or official policies of the City that would interfere with the development of the Project according to the Development Plan.

**10.9 Assessments, Fees, Mitigation and Exactions.** The City shall not impose any future assessment, fee, mitigation measure or exaction on the Property, the Project or the Development Plan or any portion thereof, except (a) those existing and proposed assessments, fees, mitigation measures and exactions in existence on the date of this Agreement, (b) such other fees, assessments and exactions as may be adopted or imposed by the City in conformance with the requirements of Article XIII D of the California Constitution, (c) such other development impact fees or categories of development impact fees which are adopted on a City or County-wide basis or as required as a condition to obtaining County funding; and (d) such other development impact fees or categories of development impact fees which are imposed on other development projects in the City and are adopted and levied based on a benefit assessment. Fees payable to City shall be at rates applicable on the date the fee is paid. City shall recognize and apply a dollar-for-dollar in-lieu credit against any and all fees, for and equal to the cost of improvements and/or dedications made in the development of the Project by the Developer, or funded by any CFD or Alternative Financing Mechanism including the Property, and for which the fees would otherwise be imposed. City further agrees to use any fees paid with respect to development of the Project to fund improvements which benefit the Project, to the fullest reasonable extent available and applicable under the law.

**10.10 Reimbursement by the City.** Pursuant to Government Code Section 65865.2, the City hereby agrees that as future development fees, assessments and exactions are imposed on future projects which have benefited from the fees, assessments and exactions paid by the Developer, the City shall promptly reimburse the Developer to the extent that such fees, assessments and exactions paid by Developer benefited lands outside of the Property, but only to the extent that the City actually receives or collects such fees, assessments or exactions for a period of ten years from the date the fee was paid.

**11. RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES.**

**11.1 New Rules.** This Agreement shall not prevent the City from applying the following new rules, regulations, requirements and policies, if applied on a City-wide or area of benefit basis:

**11.1.1 Processing fees and charges imposed by the City** which cover only the estimated actual costs to the City of processing applications for development approvals, for monitoring compliance with any development approvals or for monitoring compliance with environmental impact mitigation measures.

**11.1.2 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure,** provided that such changes in procedural regulations do not have the effect of materially interfering with the benefits conferred by this Agreement.

**11.1.3 Regulations governing construction standards and specifications** including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code.

11.1.4 Regulations which are necessary to protect public health and safety, provided that to the maximum extent possible such regulations shall be designed, construed and applied in a manner to preserve the benefits of this Agreement.

11.1.5 New or increased fees or categories of fees imposed as a condition of development, for the purpose of defraying all or a portion of the cost of public facilities (as defined in Government Code Sections 66000 *et seq.*) related to development projects.

11.1.6 Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by the Developer.

11.2 **State and Federal Laws.** In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

12. **AMENDMENT OR CANCELLATION OF AGREEMENT.** This Agreement may be amended or canceled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

13. **ENFORCEMENT.** Unless amended or canceled as provided in Section 12 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, or subdivision regulation or standard adopted by the City (or by the voters of the City unless found by a court of competent and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or is inconsistent with this Agreement.

14. **PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT.** The City shall review this Agreement at least once every year from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. If the City Manager finds that the Developer is not in good faith compliance with this Agreement, the Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that the Developer is not in good faith compliance with this Agreement unless so requested by the Developer in writing at the time of the submission of such appeal. The City shall notify the Developer in writing of the date for review at least thirty (30) days prior thereto. The Developer shall pay or reimburse the City for the City's reasonable costs incurred in connection with such periodic reviews.

**15. Events of Default.**

**15.1 Default by the Developer.** If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 14 hereof that the Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to the Developer, specify the manner in which the Developer has failed to so comply and state the steps the Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the City specifying the manner in which the Developer has failed to so comply, the Developer does not commence action reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the Developer shall be deemed to be in default under the terms of this Agreement and the City may, if such failure persists after thirty (30) days' prior written notice, exercise its rights and remedies pursuant to Section 15.3.

**15.2 Default by the City.** If the Developer determines on the basis of substantial evidence that the City has not complied in good faith with the terms and conditions of this Agreement, the Developer shall, by written notice to the City, specify the manner in which the City has failed to so comply and state the steps the City must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the Developer specifying the manner in which the City has failed to so comply, the City does not commence steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the City shall be deemed to be in default under the terms of this Agreement and if such failure persists after thirty days prior written notice, the Developer may terminate this Agreement or seek specific performance as set forth in Section 15.3.

**15.3 Specific Performance Remedy.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition following development of all or any portion of the Property. After such development, the Developer may be foreclosed from other choices it may have had to utilize the Property. The Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing substantially more time and resources in implementing the Project in reliance upon the terms of this Agreement. It would be difficult or impossible to accurately determine the sum of money which would adequately compensate the Developer for such efforts. For the above reasons, the City and the Developer agree that damages alone would not be an adequate remedy if the City fails to carry out its obligations under this Agreement. Similarly, if the Developer breaches certain of its obligations hereunder, monetary damages may not constitute an adequate remedy for the City. Therefore, the parties agree that specific performance of this Agreement is an appropriate remedy if either party defaults and fails to perform its non-monetary obligations under this Agreement. Notwithstanding the foregoing, nothing in this Agreement is intended to prevent either party from seeking recovery of appropriate damages in the event that the terms of this Agreement are breached. The City and the Developer acknowledge that if the Developer is in default of its obligations under this Agreement, the City shall have the right to refuse to issue any permits or other approvals to which the Developer would not otherwise have been entitled but for this Agreement.

16. **INSTITUTION OF LEGAL ACTION.** In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court of the State of California for the County of Riverside. The parties hereto waive any right to trial by jury.

17. **WAIVERS AND DELAYS.**

17.1 **Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

17.2 **Third Parties.** Nonperformance shall not be excused because of a failure of a third person except as provided in Section 17.3 below.

17.3 **Force Majeure.** Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by the Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent or delay development of the Project.

18. **NOTICES.** All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

To the City:           The City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223  
Attn: City Manager

With a copy to:       Mr. Joseph Aklufi  
Aklufi & Wysocki  
3403 Tenth Street, Suite 610  
Riverside, CA 92501

To the Developer:   Pardee Homes  
1181 California Ave., Suite 103  
Corona, CA 92881  
Attn: Michael Taylor

With a copy to:       Hewitt & O'Neil LLP  
19900 MacArthur Blvd., Suite 1050  
Irvine, California 92612  
Attn: Dennis D. O'Neil, Esq.

Any party may change its address stated herein by giving notice, in writing, to the other parties.

19. **ATTORNEYS' FEES.** If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

20. **TRANSFERS AND ASSIGNMENTS.**

20.1 **Right to Assign.** The Developer shall have the right to sell, assign or transfer this Agreement and any and all of its rights, duties and obligations hereunder, in whole or in part, to any person or entity at any time during the term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon the Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of the Developer in the Property, or a portion thereof. The assignment shall not be effective without the City's prior approval, which shall not be unreasonably withheld, to ensure that the assignment will not prevent the orderly development of the Project consistent with the Agreement or Development Plan. In the event of any such assignment, the transferee shall thereafter be solely liable for the performance of all obligations of the Developer relating to the portion of the Property, or interest therein, so transferred. Such transferee or the Developer shall notify the City, in advance, and in writing of their intent to transfer such obligations.

20.2 **Release Upon Transfer.** Upon the sale, transfer or assignment of the Developer's rights and interests under this Agreement as permitted pursuant to Section 20.1, the Developer shall be released from its obligations under this Agreement and all of the Developer's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred, provided that (a) the Developer is not then in default under the Agreement, (b) the Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to the City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of the Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

21. **COOPERATION IN THE EVENT OF LEGAL CHALLENGE.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of this Agreement or any portion thereof, the parties hereby agree to cooperate in defending such action, subject to the provisions of Section 8. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending.

22. **EMINENT DOMAIN.** No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

23. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the Developer warrant and represent that they have the authority to execute this Agreement on behalf of the Developer and warrant and represent that they have the authority to bind the Developer to the performance of its obligations hereunder.

24. **ESTOPPEL CERTIFICATES.** The City shall at any time upon not less than thirty (30) days' prior written notice from the Developer execute, acknowledge and deliver to the Developer



a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); (ii) certifying the amounts of the fees, assessments and exactions that have been received from the Developer and what amounts, if any, remain outstanding; and (iii) acknowledging that there are not, to the City's knowledge, any defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser, lender or joint venture partner.

25. **RECORDATION.** This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of Riverside, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. **PROTECTION OF MORTGAGE HOLDERS.** The parties hereto agree that this Agreement shall not prevent or limit the Developer, in any manner, at the Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain interpretations, estoppel certificates and modifications to this Agreement and agrees upon request, from time to time, to meet with the Developer and representatives of such lenders to negotiate in good faith any such request for interpretations, estoppel certificates or modifications. The City will not unreasonably withhold its consent to any such requested interpretation, estoppel certificate or modification provided the same is consistent with the intent and purposes of this Agreement. The holder(s) of any mortgage, deed of trust or other security instrument encumbering the Property (each, a "Mortgagee") shall have the following rights and privileges:

26.1.1 Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

26.1.2 Any Mortgagee which has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by the Developer in the performance of the Developer's obligations under this Agreement.

26.1.3 If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Developer under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Developer. Mortgagee's not party to this Agreement. If the cure period for a default by the Developer set forth in Section 15.1 above has expired and such default has not been cured, the Mortgagee shall be provided with an additional thirty (30) day period after the expiration of such cure period in which to commence all steps reasonably necessary to bring the Developer in compliance as required under this Agreement and thereafter diligently pursue such steps to completion. During such cure period, and if the default is ultimately cured, the City shall not terminate this Agreement.

26.1.4 Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such

foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of the Developer's obligations or other affirmative covenants of the Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by the Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of this Agreement.

27. **SEVERABILITY OF TERMS.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. **SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE.** This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 11.2 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. **INTERPRETATION AND GOVERNING LAW.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

30. **SECTION HEADINGS.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. **INCORPORATION OF RECITALS AND EXHIBITS.** Recitals A through J and attached Exhibits "A" through "E" are hereby incorporated herein by this reference as though set forth in full.

32. **RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.**

32.1 **Gender.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

32.2 **Time of Essence.** Time is of the essence regarding each provision of this Agreement in which time is an element.

32.3 **Cooperation.** Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

33. **TENTATIVE TRACT MAP EXTENSIONS.** In accordance with the provisions of Section 66452.6 of the California Government Code, tentative subdivision tract map(s) or


tentative parcel map(s), heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time for the term of this Agreement.

34. **DEUTSCH DEVELOPMENT AGREEMENT.** This Agreement shall supersede that certain Development Agreement between the City and Highland Farms, Aleisian Farms and Banning Farms (Deutsch) dated April 25, 1991 and recorded on May 24, 1991 in the Office of the Riverside County Recorder ("Deutsch Development Agreement"), except for any obligation Developer may have to provide access to the City's sewer system to those properties located on Eighth Street as may be required under the terms of the Deutsch Development Agreement.

The parties have executed this Development Agreement on the date and year first written above.

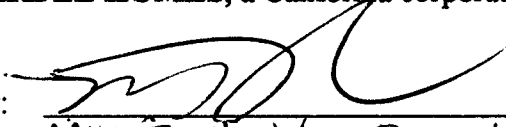
**"City"**

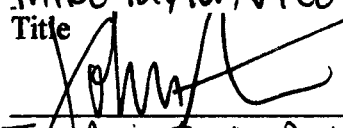
**THE CITY OF BEAUMONT, a  
municipal corporation of the State of California**

By:   
Larry Dressel, Mayor

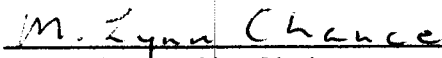
**"Developer"**

**PARDEE HOMES, a California corporation**

By:   
Mike Taylor, Vice President  
Title

By:   
John Arvin, Sr. Vice President  
Title

**SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE MAYOR OF THE CITY COUNCIL**

By:   
Lynn Chance, City Clerk

*(All Signatures To Be Notarized)*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Riverside } ss.

On 3/7/2006 before me, Karee Trinidad, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Larry Dressel  
Name(s) of Signer(s)

- 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.  
Karee Trinidad  
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: Development Agreement

Document Date: 2/23/2004 Number of Pages: 17

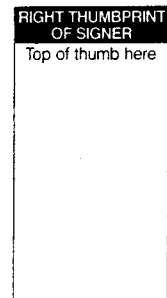
Signer(s) Other Than Named Above: \_\_\_\_\_

**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: \_\_\_\_\_

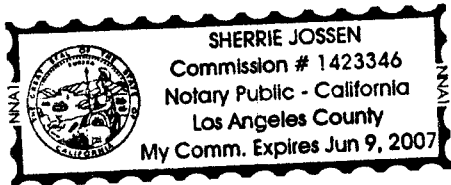


# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

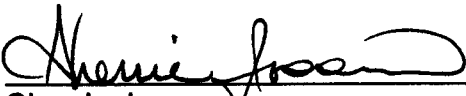
Item No.5.

State of California  
County of Los Angeles

On **February 16, 2006**, before me, Sherrie Jossen, Notary Public, personally appeared **John Arvin, Sr. Vice President**, 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

  
Sherrie Jossen  
Notary Public in and for said state.

## OPTIONAL

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.

### DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Development Agreement  
Additional Information: Sundance Specific Plan  
Date of Document: August 17, 2004                      Number of Pages: 17  
Signer is Representing: PARDEE HOMES  
Signer(s) other than named above: N/A

### CAPACITY CLAIMED BY SIGNER

Name of Signer: John Arvin  
Signing As:  
 INDIVIDUAL  
 CORPORATE OFFICER                      TITLE: Sr. Vice President  
 PARTNER(S)  
 LIMITED                       GENERAL  
 ATTORNEY-IN-FACT  
 TRUSTEE  
 GUARDIAN/CONSERVATOR  
 OTHER:

THUMB PRINT  
RIGHT THUMB

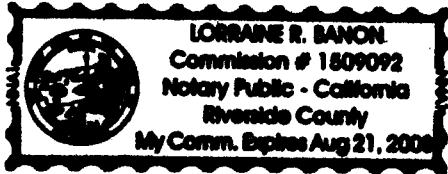
# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
County of RIVERSIDE } ss.

On 2/10/06, before me, LORRAINE R. BANON Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared MIKE TAYLOR  
Name(s) of Signer(s)

- 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,

Lorraine R. Banon  
Signature of Notary Public

Place Notary Seal Above

### OPTIONAL

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

#### Description of Attached Document

Title or Type of Document: DEUTSCH DEVELOPMENT AGREEMENT

Document Date: 02/10/06 Number of Pages: 1

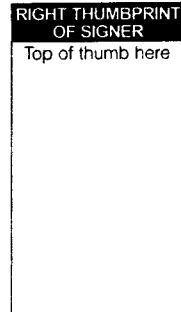
Signer(s) Other Than Named Above: NONE

#### Capacity(ies) Claimed by Signer

Signer's Name: MIKE TAYLOR

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

Signer Is Representing: PARDEE HOMES



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Riverside } ss.

On 2/23/2006 before me, Karee Trinidad, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Martha Lynn Chance  
Name(s) of Signer(s)

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.  
Karee Trinidad  
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: Development Agreement

Document Date: 2/23/2004 Number of Pages: 17

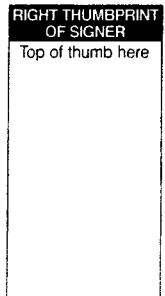
Signer(s) Other Than Named Above: \_\_\_\_\_

**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: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**



RBF Consulting  
14725 Alton Parkway  
Irvine, California 92618

October 17, 2003  
JN 10-102112.01  
Page 1 of 3

Exhibit "A"

**LEGAL DESCRIPTION  
SUNDANCE DEVELOPMENT AGREEMENT**

That certain parcel of land situated in the City of Beaumont, County of Riverside, State of California, being that portion of Section 35, Township 2 South, Range 1 West together with all of Section 2 and that portion of Section 11, Township 3 South, Range 1 West, all San Bernardino Meridian, described as follows:

**BEGINNING** at the centerline intersection of Brookside Avenue and Cherry Avenue being also the northwest corner of said Section 35 and an angle point in the existing boundary line of the Beaumont-Cherry Valley Water District.

thence along said existing boundary line and the westerly line of said Section 35 South 00°50'06" West 1420.14 feet to an angle point in said existing boundary line as established by "Annexation to Beaumont-Cherry Valley Water District LAFCO 92-19-3";

thence along the northerly, easterly and southerly lines of said annexation through the following courses: South 89°45'24" East 660.97 feet;

thence South 00°51'43" West 566.03 feet;

thence North 89°45'24" West 660.70 feet to said westerly line of Section 35;

thence leaving said southerly line, continuing along said existing boundary line through the following courses: along said westerly line South 00°50'06" West 662.03 feet to the west quarter corner of said section;

thence continuing along said westerly line South 00°39'07" West 2635.83 feet to the northwest corner of said Section 2;

thence along the westerly line of said Section 2 South 00°32'42" West 2401.99 feet to the west quarter corner of said section;

RBF Consulting  
Sundance Development Agreement

October 17, 2003  
JN 10-102112.01  
Page 2 of 3

thence continuing along said westerly line South 00°18'18" East 2637.67 feet to the southwest corner of said Section 2;

thence along the southerly line of said Section 2 South 88°12'51" East 2401.95 feet to the northeasterly corner of Lot 7, Block 1 of the Map of the Subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Meridian recorded in Book 9, Page 10 of Maps in the Office of the County Recorder of said San Bernardino;

thence along the easterly line of said Lot 7 and the southerly prolongation thereof South 00°16'11" West 186.80 feet to the centerline of Eighth Street;

thence along said centerline through the following courses: South 89°46'16" East 424.88 feet;

thence South 89°44'45" East 1551.55 feet to the beginning of a tangent curve concave northerly and having a radius of 1000.00 feet;

thence along said curve easterly 251.56 feet through a central angle of 14°24'48";

thence tangent from said curve North 75°50'27" East 177.60 feet to the beginning of a tangent curve concave southerly and having a radius of 1000.00 feet;

thence along said curve easterly 239.28 feet through a central angle of 13°42'36";

thence tangent from said curve North 89°33'03" East 215.76 feet to the centerline of Highland Springs Avenue, being also the southeasterly corner of said Section 2;

thence leaving said centerline of Eighth Street and existing boundary line of Beaumont-Cherry Valley Water District, along the easterly line of said Section 2 North 00°10'30" East 2640.08 feet to the east quarter corner of said section;

thence continuing along said easterly line North 00°10'12" East 2541.66 feet to the northeast corner of said section;

thence along the easterly line of said Section 35 North 01°08'32" East 2639.31 feet to the east quarter corner of said section;

thence continuing along said easterly line North 01°09'01" East 1980.24 feet to an angle point in said existing boundary line of the Beaumont-Cherry Valley Water District;

RBF Consulting  
Sundance Development Agreement

October 17, 2003  
JN 10-102112.01  
Page 3 of 3

thence along said existing boundary line through the following courses: continuing along said easterly line of Section 35 North 01°09'01" East 659.33 feet to the northeast corner of said section being also on the centerline of said Brookside Avenue;

thence along the northerly line of said section North 89°40'48" West 1321.69 feet to the northwest corner of the northeast quarter of the northeast quarter of said section;

thence along the westerly line of said northeast quarter of the northeast quarter of Section 35 South 01°08'00" West 1322.94 feet to the centerline of Seventeenth Street;

thence along said centerline North 89°43'36" West 1321.39 feet to the centerline of Orchard Heights Avenue;

thence along said centerline North 00°56'50" East 1327.11 feet to said northerly line of Section 35 being also on the centerline of Brookside Avenue;

thence along said northerly line North 89°32'30" West 1327.60 feet;

thence continuing along said northerly line South 89°58'23" West 1319.10 feet to the **TRUE POINT OF BEGINNING.**

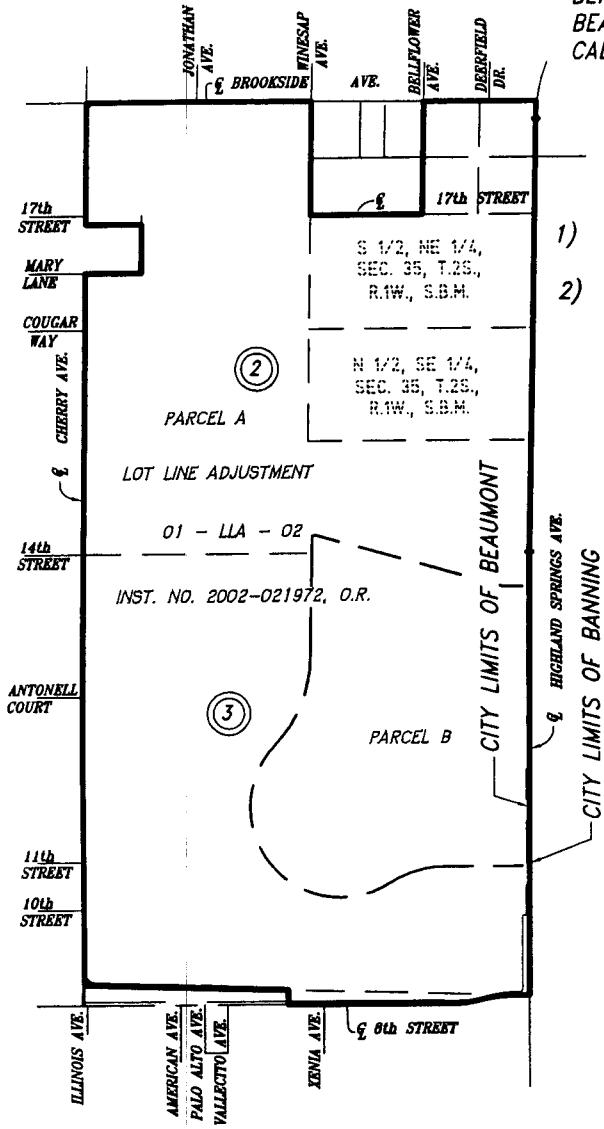
**CONTAINING:** 1217.16 Acres, more or less.

**EXHIBIT "A-1"** attached and by this reference made a part hereof.

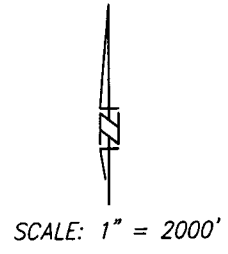
**EXHIBIT B**  
**MAP OF THE PROPERTY**

**LEGAL DESCRIPTION**

BEING A PORTION OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 WEST TOGETHER WITH ALL OF SECTION 2 AND A PORTION OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN. ALL IN IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

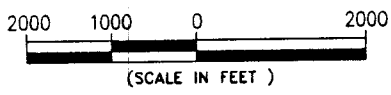


- NOTES:**
- 1) THIS ANNEXATION CONTAINS 1217.16 ACRES±.
  - 2) UNLESS OTHERWISE NOTED, DISTANCES HEREON ARE GROUND MEASUREMENTS. TO OBTAIN GRID DISTANCES MULTIPLY BY A COMBINED FACTOR OF 0.99988764



- LEGEND**
- (2) INDICATES SHEET NUMBER

**EXHIBIT "A-1"**  
SUNDANCE DEVELOPMENT AGREEMENT



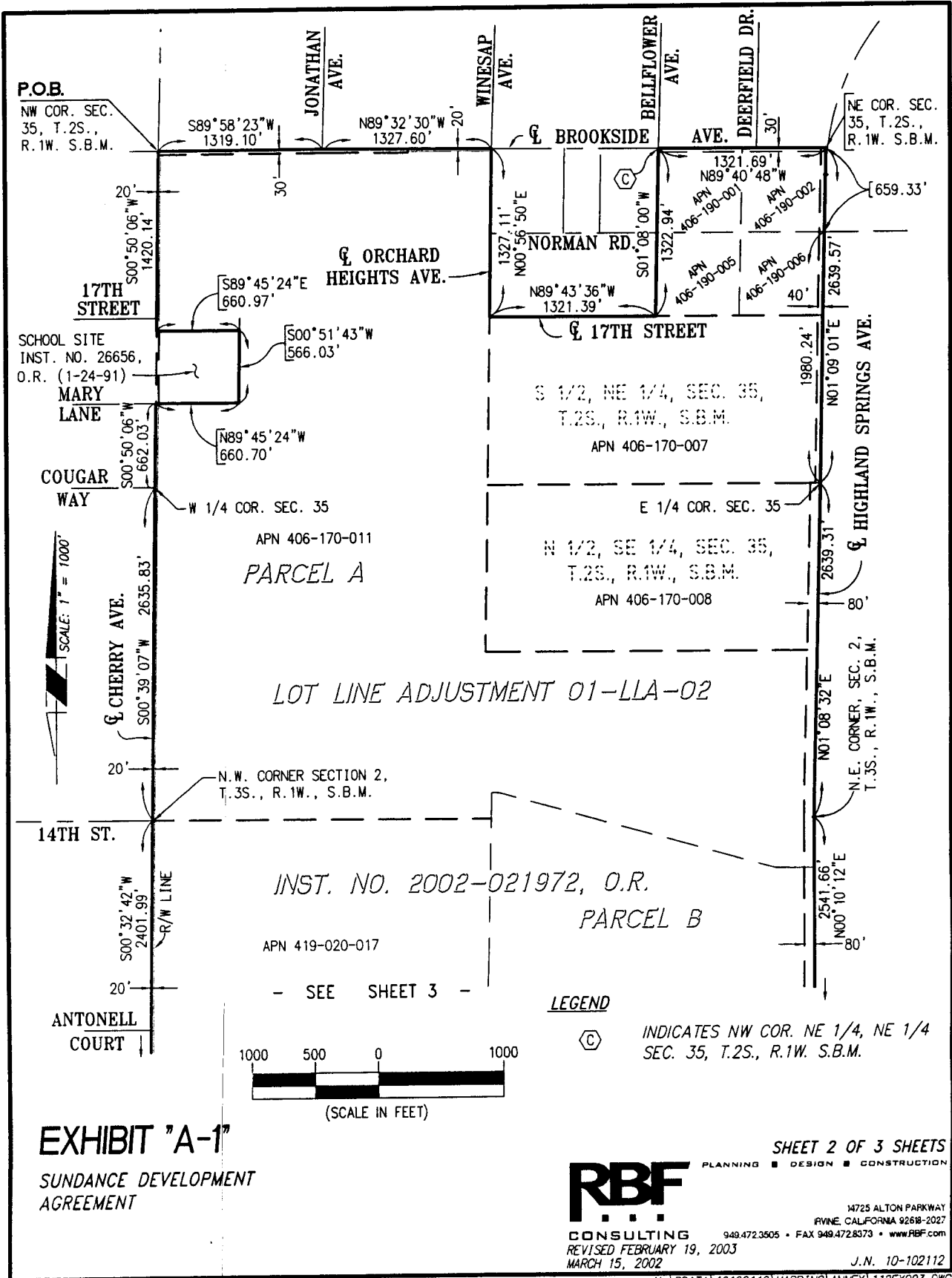
**RBF**  
CONSULTING  
PLANNING ■ DESIGN ■ CONSTRUCTION

14725 ALTON PARKWAY  
RYME, CALIFORNIA 92618-2027  
949.472.3505 • FAX 949.472.8373 • www.RBF.com

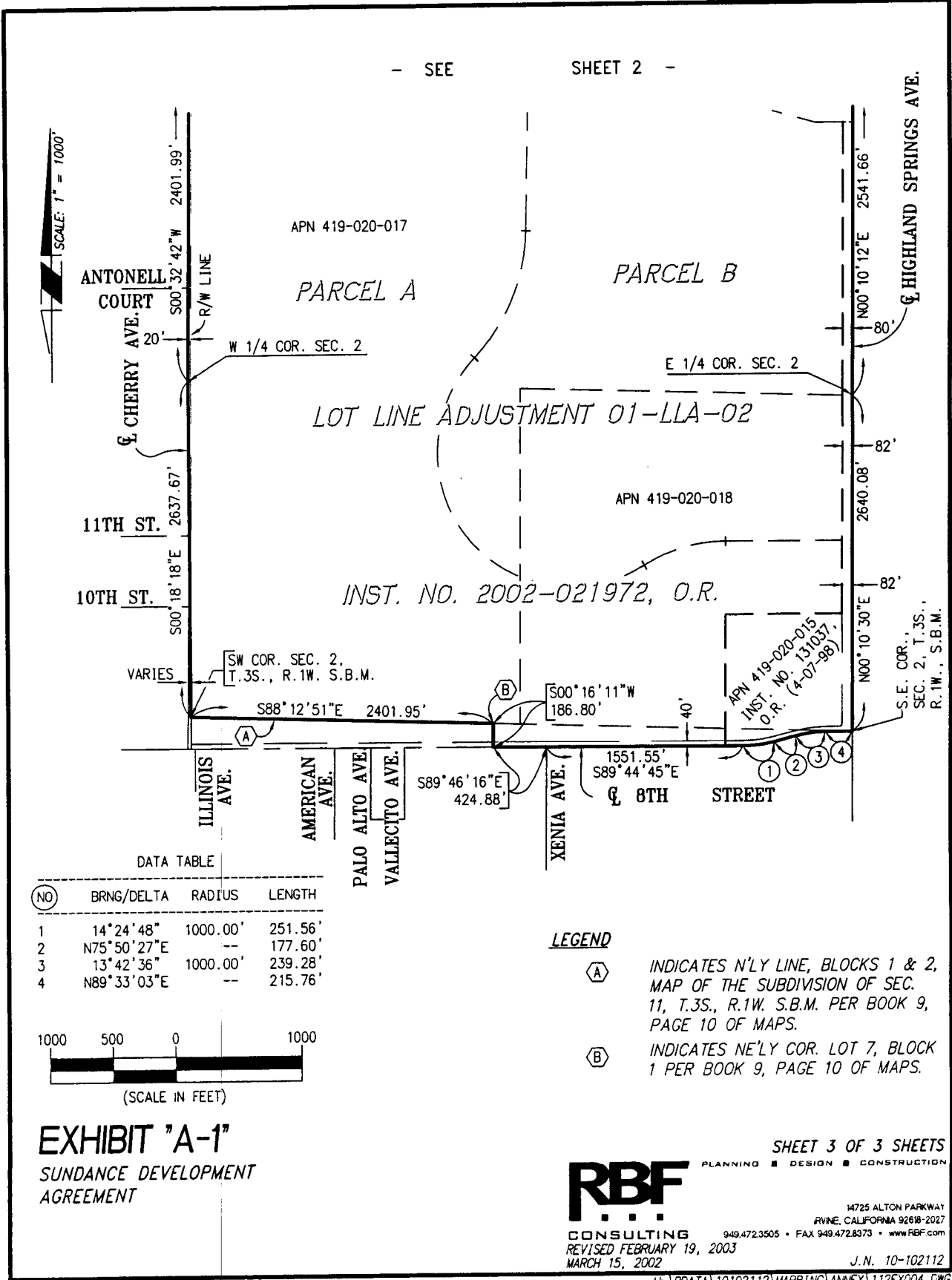
REVISED FEBRUARY 19, 2003  
MARCH 15, 2002

J.N. 10-102112

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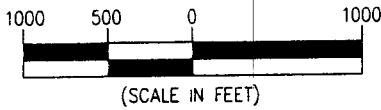


- SEE SHEET 2 -



DATA TABLE

NO	BRNG/DELTA	RADIUS	LENGTH
1	14°24'48"	1000.00'	251.56'
2	N75°50'27"E	--	177.60'
3	13°42'36"	1000.00'	239.28'
4	N89°33'03"E	--	215.76'



LEGEND

- (A) INDICATES N'LY LINE, BLOCKS 1 & 2, MAP OF THE SUBDIVISION OF SEC. 11, T.3S., R.1W. S.B.M. PER BOOK 9, PAGE 10 OF MAPS.
- (B) INDICATES NE'LY COR. LOT 7, BLOCK 1 PER BOOK 9, PAGE 10 OF MAPS.

EXHIBIT "A-1"  
 SUNDANCE DEVELOPMENT  
 AGREEMENT

SHEET 3 OF 3 SHEETS



CONSULTING  
 REVISED FEBRUARY 19, 2003  
 MARCH 15, 2002

PLANNING ■ DESIGN ■ CONSTRUCTION

14725 ALTON PARKWAY  
 IRVINE, CALIFORNIA 92618-2027  
 949.472.3505 • FAX 949.472.8373 • www.RBF.com

J.N. 10-102112

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**EXHIBIT C**

**LIST OF PERMITS AND APPROVALS**

**Sundance Specific Plan  
Tentative Tract Map Nos. 31468, 31469, 31470 and 31893  
Addendum to the Sundance Specific Plan EIR**



**STAFF REPORT**

**TO:** Planning Commissioners  
**FROM:** Ernest A. Egger, AICP, REA  
Director of Planning  
**AGENDA DATE:** June 8, 2004  
**SUBJECT:** **Development Agreement for Sundance Specific Plan, 04-DA-06.**  
**Applicant: Pardee Homes**

□□□

***BACKGROUND/ANALYSIS:***

The Pardee/Sundance Specific Plan was considered by the Planning Commission in March and was approved by the City Council on May 4, 2004. A development agreement was previously entered into by the prior property owner, the Deutsch Corporation, in 1991 and was subsequently assigned to Pardee Homes.

Pardee now wishes to have a new, clarified development agreement specifically in the name of Pardee Homes. The proposed agreement attached hereto involves no substantive changes in the terms of the prior agreement, and is based upon the standards and provisions of the Sundance Specific Plan.

***RECOMMENDATION:***

Staff recommends that the Planning Commission recommend to the City Council adoption of the proposed ordinance for the approval of Development Agreement No. 04-DA-06.

*Set up File,  
Pardee Homes  
(Sundance)  
Development  
Agree*

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

DOC # 2006-0172944

03/10/2006 08:00A Fee:NC

Page 1 of 30

Recorded in Official Records  
County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

City Clerk  
City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223



EXEMPT: GOV'T CODE § 6103

(Space above)

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A	R	L			COPY	LONG	REFUND	NCHG	EXAM



**DEVELOPMENT AGREEMENT**

NO. 04-DA-06

**BETWEEN**

**THE CITY OF BEAUMONT**

**AND**

**PARDEE HOMES**

**(SUNDANCE SPECIFIC PLAN)**

*(Pursuant to California Government Code Sections 65864 - 65869.5  
and City of Beaumont Resolution No. 1987-34)*

August 17, \_\_\_\_\_, 2004

TABLE OF CONTENTS

1. DEFINITIONS..... 2

2. EXHIBITS ..... 3

3. MUTUAL BENEFITS ..... 3

4. INTEREST OF THE DEVELOPER..... 3

5. BINDING EFFECT OF AGREEMENT ..... 4

6. PROJECT AS A PRIVATE UNDERTAKING..... 4

7. TERM..... 4

8. HOLD HARMLESS..... 4

9. VESTED RIGHT ..... 4

10. DEVELOPMENT OF THE PROJECT..... 5

    10.1 Phasing and Timing of Development ..... 5

    10.2 Effect of Agreement on Land Use Regulations..... 5

    10.3 Application Processing ..... 5

    10.4 Administrative Changes and Amendments..... 5

    10.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts  
        or Financing Mechanisms ..... 6

    10.6 Public Services and Facilities..... 6

    10.7 Other Governmental or Quasi-Governmental Permits ..... 6

    10.8 Consistency Between This Agreement and Current Laws..... 6

    10.9 Assessments, Fees, Mitigation and Exactions..... 7

    10.10 Reimbursement by the City..... 7

11. RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES..... 7

    11.1 New Rules ..... 7

    11.2 State and Federal Laws ..... 8

12. AMENDMENT OR CANCELLATION OF AGREEMENT ..... 8

13. ENFORCEMENT ..... 8

14. PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT..... 8

15. Events of Default..... 9

    15.1 Default by the Developer ..... 9

TABLE OF CONTENTS

15.2 Default by the City..... 9

15.3 Specific Performance Remedy ..... 9

16. INSTITUTION OF LEGAL ACTION..... 10

17. WAIVERS AND DELAYS..... 10

    17.1 Waiver..... 10

    17.2 Third Parties ..... 10

    17.3 Force Majeure..... 10

18. NOTICES ..... 10

19. ATTORNEYS’ FEES..... 11

20. TRANSFERS AND ASSIGNMENTS..... 11

    20.1 Right to Assign..... 11

    20.2 Release Upon Transfer..... 11

21. COOPERATION IN THE EVENT OF LEGAL CHALLENGE ..... 11

22. EMINENT DOMAIN..... 11

23. AUTHORITY TO EXECUTE..... 11

24. ESTOPPEL CERTIFICATES ..... 11

25. RECORDATION ..... 12

26. PROTECTION OF MORTGAGE HOLDERS ..... 12

27. SEVERABILITY OF TERMS ..... 13

28. SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE..... 13

29. INTERPRETATION AND GOVERNING LAW ..... 13

30. SECTION HEADINGS..... 13

31. INCORPORATION OF RECITALS AND EXHIBITS ..... 13

32. RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS..... 13

    32.1 Gender..... 13

    32.2 Time of Essence..... 13

    32.3 Cooperation ..... 13

33. TENTATIVE TRACT MAP EXTENSIONS..... 13

34. DEUTSCH DEVELOPMENT AGREEMENT..... 14

**DEVELOPMENT AGREEMENT**

This **DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into to be effective on Aug. 17, 2004, between **PARDEE HOMES**, a California corporation (the "**Developer**"), and the **CITY OF BEAUMONT**, a municipal corporation organized and existing under the laws of the State of California (the "**City**"). The Developer and the City are sometimes collectively referred to herein as the "**parties.**"

**RECITALS:**

This Agreement is predicated upon the following facts:

A. These Recitals use certain capitalized terms which are defined in this Agreement.

B. Government Code Sections 65864 - 65869.5 authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. The City has implemented the law contained in such sections by adopting Resolution No. 1987-34, titled "Establishing Procedures and Requirements for Consideration of Development Agreements" (such Resolution, together with the aforementioned Government Code Sections, are being referred to herein as the "**Development Agreement Law**").

C. This Agreement is adopted pursuant to the Development Agreement Law.

D. Developer owns a portion of the property and is under a binding legal contract to acquire the remainder of the property located in the City and more particularly described on Exhibit "A" and as shown on Exhibit "B" attached and made a part of this Agreement (the "**Property**").

E. The Developer intends to develop the Property in accordance with the Amendment to the Deutsch Specific Plan ("**Sundance Specific Plan**") as part of the Development Plan, as hereinafter defined (the "**Project**"). The Project is highly capital intensive, especially in its initial phases, which, in order to make the Project economically and fiscally feasible, requires major commitment to and investment in public facilities and on-site and off-site infrastructure improvements prior to the construction and sale or leasing of residential and commercial buildings. This Agreement will facilitate the logical and orderly development of the Project in the City.

F. The City has determined the Development Plan is consistent with the City General Plan and has approved the Development Plan in order to promote the health, safety and welfare of its citizens and protect the quality of life of the community and the surrounding environment. The Development Plan consists of the Sundance Specific Plan, the Addendum to the Sundance EIR, and Tentative Tract Map Nos. 31468, 31469, 31470 and 31893 approved by

the City Council of City on May 4, 2004 by Resolution No. 2004-23. As part of the process of approving the Development Plan, the City has prepared and reviewed, pursuant to the California Environmental Quality Act ("CEQA"), an Addendum to the Deutsch Specific Plan EIR, with respect to the potential significant impacts of the Project resulting from development of the Property. The City has determined based on that review that the Addendum to the EIR adequately addresses the potential significant impacts of the Project, and that accordingly neither a supplemental nor subsequent environmental impact report is required for the Development Plan and/or this Agreement.

G. All of the proceedings relating to the approval of the Agreement have been conducted in accordance with the Development Agreement Law and CEQA.

H. On August 17, 2004, the City Council of the City adopted Ordinance No. 869 approving this Agreement with the Developer.

I. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of the City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

**AGREEMENT**

In light of the foregoing Recitals, which are an operative part of this Agreement, the parties agree as follows:

**1. DEFINITIONS.**

"Agreement" is this Development Agreement.

"Agreement Date" is the date this Agreement is approved by the City Council.

"Alternative Financing Mechanism" has the meaning given that phrase in Section 10.5 below.

"CEQA" is the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

"CFD" is a Community Facilities District formed pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code section 53312 *et seq.*

"City" is the City of Beaumont, California.

"City's Discretion" is discretion exercised by the City in accordance with the policies and principles set forth in the Development Plan, this Agreement and the procedures in effect as of the Effective Date such that the approvals given by the City to the Developer pursuant to the exercise of such discretion shall not be unreasonably withheld or delayed.

“Developer” is Pardee Homes, a California corporation, their subsidiary entities, and successors in interest to all or any part of the Property.

“Development Agreement Law” is California Government Code sections 65864 *et seq.*, and Resolution No. 1987-34, titled “Establishing Procedures and Requirements for Consideration of Development Agreements.”

“Development Plan” is, collectively, the permits, conditions and approvals listed on Exhibit “C.”

“Effective Date” is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, or (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period.

“EIR” is Addendum to the Deutsch Specific Plan Environmental Impact Report certified by the City Council of City on January 14, 1991 (Resolution No. 1991-03).

“Project” is the proposed mixed-use development of the Property included within the Development Plan and associated amenities, including, without limitation, on-site and off-site public and private improvements, and land uses consisting of residential (approximately 4,450 dwelling units), commercial, parks and schools, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

“Property” is the real property on which the Project is, or will be, located as described on Exhibit “A” attached hereto and shown on Exhibit “B” attached hereto.

2. **EXHIBITS.** The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Description</u>
A	Legal Description of the Property
B	Map of the Property
C	List of Permits and Approvals

3. **MUTUAL BENEFITS.** This Agreement is entered into for the purpose of implementing the Development Plan for the Project in a manner that will secure certain assurances to the Developer that the Property may be developed in accordance with the Development Plan and this Agreement, and certain benefits to the City as set forth in this Agreement. The City and the Developer agree that, due to the size and duration of the Project, the Agreement is necessary to achieve those desired benefits.

4. **INTEREST OF THE DEVELOPER.** The Developer represents that the Developer owns a legal fee in a portion of the Property and an equitable interest in a portion of the Property.

5. **BINDING EFFECT OF AGREEMENT.** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns as set forth herein.

6. **PROJECT AS A PRIVATE UNDERTAKING.** It is specifically understood and agreed that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property by the owner of the Property and the equitable owner of the Deutsch Parcels.

7. **TERM.** The term of this Agreement shall be twenty-five (25) years following the Effective Date. Expiration of the term of this Agreement shall not in any manner affect rights which have otherwise vested under applicable law.

8. **HOLD HARMLESS** The Developer shall hold the City, its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, arising on the Property from the wrongful or negligent activities of the Developer or those of the Developer's contractors, subcontractors, agents, employees or other persons acting on the Developer's behalf which relate to the Project. In the event any person not a party or a successor to a party to this Agreement institutes any type of action against the City with respect to this Agreement, City and Developer shall cooperate in defending against the action, provided that City may, in its sole discretion, elect to tender the defense of such action to the Developer. If the Developer accepts the tender, the Developer shall thereafter hold City harmless from and defend City from all costs and expenses incurred in the defense of such action, provided that City fully cooperates with the Developer in the defense of such action. If the Developer declines the tender, then City shall have no further obligation or duty to defend the action.

9. **VESTED RIGHT.** By entering into this Agreement the City grants to the Developer a vested right to develop the Property in accordance with the Development Plan. The City shall not enact and enforce against the Project and the Development Plan an ordinance, policy, rule, regulation or other measure which significantly alters the rate, type, manner, density, timing or sequencing of the Project and the Development Plan. In addition to and not in limitation of the foregoing, it is the intent of the Developer and the City that no moratorium, whether relating to the rate, type, manner, density, timing or sequencing of the Project and whether or not enacted by initiative or otherwise, except a moratorium imposed by the City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2, affecting parcel or subdivision maps, building permits, plot plans, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within the City, or portions of the City, shall not apply to the Project to the extent such moratorium or other limitation is in conflict with the Project and the Development Plan. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by the citizens of the City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over



all or any part of the Development Plan, the Developer shall have no recourse against the City pursuant to this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement.

**10. DEVELOPMENT OF THE PROJECT.**

**10.1 Phasing and Timing of Development.** When or the order in which Project phases will be developed, or whether it will be developed at all, depend upon numerous factors which are not within the control of the Developer or City, such as market orientation and demand, interest rates, availability of funding, competition and other similar factors. Accordingly, to the extent permitted by the Development Plan and this Agreement, the Developer shall have the right to develop the Project pursuant to the Development Plan in phases in such order and at such times as the Developer, in its sole discretion, deems appropriate within the exercise of its subjective business judgment; provided, however, that the City reserves the right to review, condition and approve each phase through discretionary and ministerial approvals consistent with this Agreement.

**10.2 Effect of Agreement on Land Use Regulations.** The rules, regulations and policies governing permitted uses of property, the density and intensity of use of property, the maximum height and size of proposed buildings and the design, improvement, construction and development standards and specifications applicable to development of the Property are those rules, regulations and policies in force as of the date of this Agreement, and those rules, regulations and official policies which may hereinafter be adopted by the City in accordance with Section 11.1 hereof, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2.

**10.3 Application Processing.** In connection with any approval which the City is permitted or has the right to make under this Agreement relating to the Project and the Development Plan, or otherwise under its rules, regulations and official policies, the City shall exercise the City's discretion or take action in a manner which is as expeditious as reasonably possible.

**10.4 Administrative Changes and Amendments.** The parties acknowledge that further planning and development of the Project may demonstrate that refinements and changes are appropriate with respect to the details of the Project or interpretation of the Development Plan. If and when the parties find that minor changes or adjustments are necessary or appropriate to the Project or the Development Plan, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the Director of Planning, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by the Director of Planning as may be requested by the Developer. Minor changes or amendments shall be those which are consistent with the overall intent of the Development Plan and this Agreement and which do not materially alter the overall nature, scope, or design of the Project. Any such minor administrative changes or amendments shall not be deemed to be an

amendment to this Agreement under Government Code Section 65868 and, unless otherwise required by law, no such administrative amendments shall require prior notice or hearing.

**10.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms.** Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," the Developer may, at its sole election, petition the City Council of the City or a joint powers agency in which the City is a member to establish a Community Facilities District ("CFD"), in accordance with the City's policies in existence on the Effective Date. Alternatively, or in addition thereto, the Developer may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, or any and all other available public financing mechanism, to provide public conduit financing for the construction of public infrastructure improvements on the Property ("Alternative Financing Mechanisms"). If so requested by the Developer, the City shall cooperate with the Developer (or, for matters beyond its control, shall use its best efforts) in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD or Alternative Funding Mechanism with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties in accordance with City policies at the time such property is included.

**10.6 Public Services and Facilities.** The Project and Development Plan requires an integrated roadway system, and other public facilities including parks, schools, storm drains, and water and sewer facilities. City will reasonably assist Developer in obtaining public facilities and services for the Project on a timely basis in keeping with the pace of development of the Property. To the extent that the Developer constructs, installs or provides financing for public facilities or other public infrastructure improvements that benefit lands outside of the Property, the City shall use best reasonable efforts to adopt such ordinances, mitigation fees, liens or assessments as are necessary to provide credits, reimbursements, or in-kind funding to the Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements.

**10.7 Other Governmental or Quasi-Governmental Permits.** The Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or state agencies) to the extent required for the development of, or provision of, services and facilities to the Project as set forth in the Development Plan. The City shall cooperate with and assist the Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits. The Developer shall be solely responsible for all costs and shall be responsible for the processing of all such permits.

**10.8 Consistency Between This Agreement and Current Laws.** The City represents that as of the date of the execution of this Agreement, there are no rules, regulations, ordinances or official policies of the City that would interfere with the development of the Project according to the Development Plan.

**10.9 Assessments, Fees, Mitigation and Exactions.** The City shall not impose any future assessment, fee, mitigation measure or exaction on the Property, the Project or the Development Plan or any portion thereof, except (a) those existing and proposed assessments, fees, mitigation measures and exactions in existence on the date of this Agreement, (b) such other fees, assessments and exactions as may be adopted or imposed by the City in conformance with the requirements of Article XIII D of the California Constitution, (c) such other development impact fees or categories of development impact fees which are adopted on a City or County-wide basis or as required as a condition to obtaining County funding; and (d) such other development impact fees or categories of development impact fees which are imposed on other development projects in the City and are adopted and levied based on a benefit assessment. Fees payable to City shall be at rates applicable on the date the fee is paid. City shall recognize and apply a dollar-for-dollar in-lieu credit against any and all fees, for and equal to the cost of improvements and/or dedications made in the development of the Project by the Developer, or funded by any CFD or Alternative Financing Mechanism including the Property, and for which the fees would otherwise be imposed. City further agrees to use any fees paid with respect to development of the Project to fund improvements which benefit the Project, to the fullest reasonable extent available and applicable under the law.

**10.10 Reimbursement by the City.** Pursuant to Government Code Section 65865.2, the City hereby agrees that as future development fees, assessments and exactions are imposed on future projects which have benefited from the fees, assessments and exactions paid by the Developer, the City shall promptly reimburse the Developer to the extent that such fees, assessments and exactions paid by Developer benefited lands outside of the Property, but only to the extent that the City actually receives or collects such fees, assessments or exactions for a period of ten years from the date the fee was paid.

**11. RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES.**

**11.1 New Rules.** This Agreement shall not prevent the City from applying the following new rules, regulations, requirements and policies, if applied on a City-wide or area of benefit basis:

**11.1.1 Processing fees and charges imposed by the City** which cover only the estimated actual costs to the City of processing applications for development approvals, for monitoring compliance with any development approvals or for monitoring compliance with environmental impact mitigation measures.

**11.1.2 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure,** provided that such changes in procedural regulations do not have the effect of materially interfering with the benefits conferred by this Agreement.

**11.1.3 Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code.**

11.1.4 Regulations which are necessary to protect public health and safety, provided that to the maximum extent possible such regulations shall be designed, construed and applied in a manner to preserve the benefits of this Agreement.

11.1.5 New or increased fees or categories of fees imposed as a condition of development, for the purpose of defraying all or a portion of the cost of public facilities (as defined in Government Code Sections 66000 *et seq.*) related to development projects.

11.1.6 Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by the Developer.

**11.2 State and Federal Laws.** In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

**12. AMENDMENT OR CANCELLATION OF AGREEMENT.** This Agreement may be amended or canceled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

**13. ENFORCEMENT.** Unless amended or canceled as provided in Section 12 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, or subdivision regulation or standard adopted by the City (or by the voters of the City unless found by a court of competent and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or is inconsistent with this Agreement.

**14. PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT.** The City shall review this Agreement at least once every year from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. If the City Manager finds that the Developer is not in good faith compliance with this Agreement, the Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that the Developer is not in good faith compliance with this Agreement unless so requested by the Developer in writing at the time of the submission of such appeal. The City shall notify the Developer in writing of the date for review at least thirty (30) days prior thereto. The Developer shall pay or reimburse the City for the City's reasonable costs incurred in connection with such periodic reviews.

**15. Events of Default.**

**15.1 Default by the Developer.** If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 14 hereof that the Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to the Developer, specify the manner in which the Developer has failed to so comply and state the steps the Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the City specifying the manner in which the Developer has failed to so comply, the Developer does not commence action reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the Developer shall be deemed to be in default under the terms of this Agreement and the City may, if such failure persists after thirty (30) days' prior written notice, exercise its rights and remedies pursuant to Section 15.3.

**15.2 Default by the City.** If the Developer determines on the basis of substantial evidence that the City has not complied in good faith with the terms and conditions of this Agreement, the Developer shall, by written notice to the City, specify the manner in which the City has failed to so comply and state the steps the City must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the Developer specifying the manner in which the City has failed to so comply, the City does not commence steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the City shall be deemed to be in default under the terms of this Agreement and if such failure persists after thirty days prior written notice, the Developer may terminate this Agreement or seek specific performance as set forth in Section 15.3.

**15.3 Specific Performance Remedy.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition following development of all or any portion of the Property. After such development, the Developer may be foreclosed from other choices it may have had to utilize the Property. The Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing substantially more time and resources in implementing the Project in reliance upon the terms of this Agreement. It would be difficult or impossible to accurately determine the sum of money which would adequately compensate the Developer for such efforts. For the above reasons, the City and the Developer agree that damages alone would not be an adequate remedy if the City fails to carry out its obligations under this Agreement. Similarly, if the Developer breaches certain of its obligations hereunder, monetary damages may not constitute an adequate remedy for the City. Therefore, the parties agree that specific performance of this Agreement is an appropriate remedy if either party defaults and fails to perform its non-monetary obligations under this Agreement. Notwithstanding the foregoing, nothing in this Agreement is intended to prevent either party from seeking recovery of appropriate damages in the event that the terms of this Agreement are breached. The City and the Developer acknowledge that if the Developer is in default of its obligations under this Agreement, the City shall have the right to refuse to issue any permits or other approvals to which the Developer would not otherwise have been entitled but for this Agreement.

**16. INSTITUTION OF LEGAL ACTION.** In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court of the State of California for the County of Riverside. The parties hereto waive any right to trial by jury.

**17. WAIVERS AND DELAYS.**

**17.1 Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

**17.2 Third Parties.** Nonperformance shall not be excused because of a failure of a third person except as provided in Section 17.3 below.

**17.3 Force Majeure.** Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by the Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent or delay development of the Project.

**18. NOTICES.** All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

To the City:           The City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223  
Attn: City Manager

With a copy to:       Mr. Joseph Aklufi  
Aklufi & Wysocki  
3403 Tenth Street, Suite 610  
Riverside, CA 92501

To the Developer:   Pardee Homes  
1181 California Ave., Suite 103  
Corona, CA 92881  
Attn: Michael Taylor

With a copy to:       Hewitt & O'Neil LLP  
1990 MacArthur Blvd., Suite 1050  
Irvine, California 92612  
Attn: Dennis D. O'Neil, Esq.

Any party may change its address stated herein by giving notice, in writing, to the other parties.

19. **ATTORNEYS' FEES.** If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

20. **TRANSFERS AND ASSIGNMENTS.**

20.1 **Right to Assign.** The Developer shall have the right to sell, assign or transfer this Agreement and any and all of its rights, duties and obligations hereunder, in whole or in part, to any person or entity at any time during the term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon the Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of the Developer in the Property, or a portion thereof. The assignment shall not be effective without the City's prior approval, which shall not be unreasonably withheld, to ensure that the assignment will not prevent the orderly development of the Project consistent with the Agreement or Development Plan. In the event of any such assignment, the transferee shall thereafter be solely liable for the performance of all obligations of the Developer relating to the portion of the Property, or interest therein, so transferred. Such transferee or the Developer shall notify the City, in advance, and in writing of their intent to transfer such obligations.

20.2 **Release Upon Transfer.** Upon the sale, transfer or assignment of the Developer's rights and interests under this Agreement as permitted pursuant to Section 20.1, the Developer shall be released from its obligations under this Agreement and all of the Developer's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred, provided that (a) the Developer is not then in default under the Agreement, (b) the Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to the City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of the Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

21. **COOPERATION IN THE EVENT OF LEGAL CHALLENGE.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of this Agreement or any portion thereof, the parties hereby agree to cooperate in defending such action, subject to the provisions of Section 8. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending.

22. **EMINENT DOMAIN.** No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

23. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the Developer warrant and represent that they have the authority to execute this Agreement on behalf of the Developer and warrant and represent that they have the authority to bind the Developer to the performance of its obligations hereunder.

24. **ESTOPPEL CERTIFICATES.** The City shall at any time upon not less than thirty (30) days' prior written notice from the Developer execute, acknowledge and deliver to the Developer

a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); (ii) certifying the amounts of the fees, assessments and exactions that have been received from the Developer and what amounts, if any, remain outstanding; and (iii) acknowledging that there are not, to the City's knowledge, any defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser, lender or joint venture partner.

25. **RECORDATION.** This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of Riverside, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. **PROTECTION OF MORTGAGE HOLDERS.** The parties hereto agree that this Agreement shall not prevent or limit the Developer, in any manner, at the Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain interpretations, estoppel certificates and modifications to this Agreement and agrees upon request, from time to time, to meet with the Developer and representatives of such lenders to negotiate in good faith any such request for interpretations, estoppel certificates or modifications. The City will not unreasonably withhold its consent to any such requested interpretation, estoppel certificate or modification provided the same is consistent with the intent and purposes of this Agreement. The holder(s) of any mortgage, deed of trust or other security instrument encumbering the Property (each, a "Mortgagee") shall have the following rights and privileges:

26.1.1 Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

26.1.2 Any Mortgagee which has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by the Developer in the performance of the Developer's obligations under this Agreement.

26.1.3 If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Developer under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Developer. Mortgagee's not party to this Agreement. If the cure period for a default by the Developer set forth in Section 15.1 above has expired and such default has not been cured, the Mortgagee shall be provided with an additional thirty (30) day period after the expiration of such cure period in which to commence all steps reasonably necessary to bring the Developer in compliance as required under this Agreement and thereafter diligently pursue such steps to completion. During such cure period, and if the default is ultimately cured, the City shall not terminate this Agreement.

26.1.4 Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such



foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of the Developer's obligations or other affirmative covenants of the Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by the Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of this Agreement.

27. **SEVERABILITY OF TERMS.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. **SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE.** This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 11.2 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. **INTERPRETATION AND GOVERNING LAW.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

30. **SECTION HEADINGS.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. **INCORPORATION OF RECITALS AND EXHIBITS.** Recitals A through J and attached Exhibits "A" through "E" are hereby incorporated herein by this reference as though set forth in full.

32. **RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.**

32.1 **Gender.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

32.2 **Time of Essence.** Time is of the essence regarding each provision of this Agreement in which time is an element.

32.3 **Cooperation.** Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

33. **TENTATIVE TRACT MAP EXTENSIONS.** In accordance with the provisions of Section 66452.6 of the California Government Code, tentative subdivision tract map(s) or

tentative parcel map(s), heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time for the term of this Agreement.

34. **DEUTSCH DEVELOPMENT AGREEMENT.** This Agreement shall supersede that certain Development Agreement between the City and Highland Farms, Aleisian Farms and Banning Farms (Deutsch) dated April 25, 1991 and recorded on May 24, 1991 in the Office of the Riverside County Recorder ("Deutsch Development Agreement"), except for any obligation Developer may have to provide access to the City's sewer system to those properties located on Eighth Street as may be required under the terms of the Deutsch Development Agreement.

The parties have executed this Development Agreement on the date and year first written above.


**"City"**

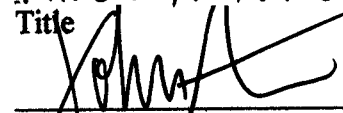
**THE CITY OF BEAUMONT, a  
municipal corporation of the State of California**

By:   
Larry Bressel, Mayor

**"Developer"**

**PARDEE HOMES, a California corporation**

By:   
Mike Taylor, Vice President  
Title

By:   
John Arvin, Sr. Vice President  
Title

**SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE MAYOR OF THE CITY COUNCIL**

By: M. Lynn Chance  
Lynn Chance, City Clerk

*(All Signatures To Be Notarized)*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Riverside } ss.

On 3/7/2006 before me, Karee Trinidad, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Lamy Dressel  
Name(s) of Signer(s)

- 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.

Karee Trinidad  
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: Development Agreement

Document Date: 2/23/2004 Number of Pages: 17

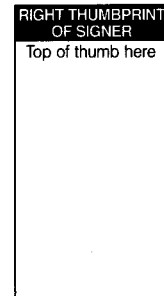
Signer(s) Other Than Named Above: \_\_\_\_\_

**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: \_\_\_\_\_

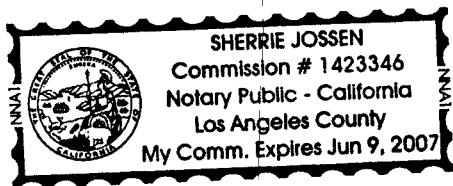


**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

Item No.5.

State of California  
County of Los Angeles

On **February 16, 2006**, before me, Sherrie Jossen, Notary Public, personally appeared **John Arvin, Sr. Vice President**, 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

*Sherrie Jossen*  
\_\_\_\_\_  
Sherrie Jossen  
Notary Public in and for said state.

**OPTIONAL**

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.

**DESCRIPTION OF ATTACHED DOCUMENT**

**Title or Type of Document:** Development Agreement  
**Additional Information:** Sundance Specific Plan  
**Date of Document:** August 17, 2004 **Number of Pages:** 17  
**Signer is Representing:** PARDEE HOMES  
**Signer(s) other than named above:** N/A

**CAPACITY CLAIMED BY SIGNER**

**Name of Signer:** John Arvin  
**Signing As:**  
 INDIVIDUAL  
 CORPORATE OFFICER **TITLE:** Sr. Vice President  
 PARTNER(S)  
 LIMITED  GENERAL  
 ATTORNEY-IN-FACT  
 TRUSTEE  
 GUARDIAN/CONSERVATOR  
 OTHER:

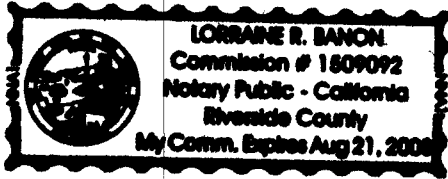
**THUMB PRINT**  
RIGHT THUMB

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of RIVERSIDE } ss.

On 2/10/06, before me, LORRAINE R. BANON Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared MIKE TAYLOR  
Name(s) of Signer(s)

- 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,

Lorraine R. Banon  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

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

**Description of Attached Document**

Title or Type of Document: DEUTSCH DEVELOPMENT AGREEMENT

Document Date: 02/10/06 Number of Pages: 1

Signer(s) Other Than Named Above: NONE

**Capacity(ies) Claimed by Signer**

Signer's Name: MIKE TAYLOR

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

Signer Is Representing: PARDEE HOMES

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Riverside } ss.

On 2/23/2004 before me, Karee Trinidad, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Martha Lynn Chance  
Name(s) of Signer(s)

- 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.

Karee Trinidad  
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: Development Agreement

Document Date: 2/23/2004 Number of Pages: 17

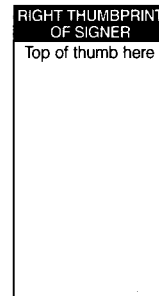
Signer(s) Other Than Named Above: \_\_\_\_\_

**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: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

**RBF Consulting  
14725 Alton Parkway  
Irvine, California 92618**

**October 17, 2003  
JN 10-102112.01  
Page 1 of 3**

**Exhibit "A"**

**LEGAL DESCRIPTION  
SUNDANCE DEVELOPMENT AGREEMENT**

That certain parcel of land situated in the City of Beaumont, County of Riverside, State of California, being that portion of Section 35, Township 2 South, Range 1 West together with all of Section 2 and that portion of Section 11, Township 3 South, Range 1 West, all San Bernardino Meridian, described as follows:

**BEGINNING** at the centerline intersection of Brookside Avenue and Cherry Avenue being also the northwest corner of said Section 35 and an angle point in the existing boundary line of the Beaumont-Cherry Valley Water District.

thence along said existing boundary line and the westerly line of said Section 35 South 00°50'06" West 1420.14 feet to an angle point in said existing boundary line as established by "Annexation to Beaumont-Cherry Valley Water District LAFCO 92-19-3";

thence along the northerly, easterly and southerly lines of said annexation through the following courses: South 89°45'24" East 660.97 feet;

thence South 00°51'43" West 566.03 feet;

thence North 89°45'24" West 660.70 feet to said westerly line of Section 35;

thence leaving said southerly line, continuing along said existing boundary line through the following courses: along said westerly line South 00°50'06" West 662.03 feet to the west quarter corner of said section;

thence continuing along said westerly line South 00°39'07" West 2635.83 feet to the northwest corner of said Section 2;

thence along the westerly line of said Section 2 South 00°32'42" West 2401.99 feet to the west quarter corner of said section;



**RBF Consulting**  
**Sundance Development Agreement**

**October 17, 2003**  
**JN 10-102112.01**  
**Page 2 of 3**

thence continuing along said westerly line South  $00^{\circ}18'18''$  East 2637.67 feet to the southwest corner of said Section 2;

thence along the southerly line of said Section 2 South  $88^{\circ}12'51''$  East 2401.95 feet to the northeasterly corner of Lot 7, Block 1 of the Map of the Subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Meridian recorded in Book 9, Page 10 of Maps in the Office of the County Recorder of said San Bernardino;

thence along the easterly line of said Lot 7 and the southerly prolongation thereof South  $00^{\circ}16'11''$  West 186.80 feet to the centerline of Eighth Street;

thence along said centerline through the following courses: South  $89^{\circ}46'16''$  East 424.88 feet;

thence South  $89^{\circ}44'45''$  East 1551.55 feet to the beginning of a tangent curve concave northerly and having a radius of 1000.00 feet;

thence along said curve easterly 251.56 feet through a central angle of  $14^{\circ}24'48''$ ;

thence tangent from said curve North  $75^{\circ}50'27''$  East 177.60 feet to the beginning of a tangent curve concave southerly and having a radius of 1000.00 feet;

thence along said curve easterly 239.28 feet through a central angle of  $13^{\circ}42'36''$ ;

thence tangent from said curve North  $89^{\circ}33'03''$  East 215.76 feet to the centerline of Highland Springs Avenue, being also the southeasterly corner of said Section 2;

thence leaving said centerline of Eighth Street and existing boundary line of Beaumont-Cherry Valley Water District, along the easterly line of said Section 2 North  $00^{\circ}10'30''$  East 2640.08 feet to the east quarter corner of said section;

thence continuing along said easterly line North  $00^{\circ}10'12''$  East 2541.66 feet to the northeast corner of said section;

thence along the easterly line of said Section 35 North  $01^{\circ}08'32''$  East 2639.31 feet to the east quarter corner of said section;

thence continuing along said easterly line North  $01^{\circ}09'01''$  East 1980.24 feet to an angle point in said existing boundary line of the Beaumont-Cherry Valley Water District;

**RBF Consulting  
Sundance Development Agreement**

**October 17, 2003  
JN 10-102112.01  
Page 3 of 3**

thence along said existing boundary line through the following courses: continuing along said easterly line of Section 35 North 01°09'01" East 659.33 feet to the northeast corner of said section being also on the centerline of said Brookside Avenue;

thence along the northerly line of said section North 89°40'48" West 1321.69 feet to the northwest corner of the northeast quarter of the northeast quarter of said section;

thence along the westerly line of said northeast quarter of the northeast quarter of Section 35 South 01°08'00" West 1322.94 feet to the centerline of Seventeenth Street;

thence along said centerline North 89°43'36" West 1321.39 feet to the centerline of Orchard Heights Avenue;

thence along said centerline North 00°56'50" East 1327.11 feet to said northerly line of Section 35 being also on the centerline of Brookside Avenue;

thence along said northerly line North 89°32'30" West 1327.60 feet;

thence continuing along said northerly line South 89°58'23" West 1319.10 feet to the **TRUE POINT OF BEGINNING.**

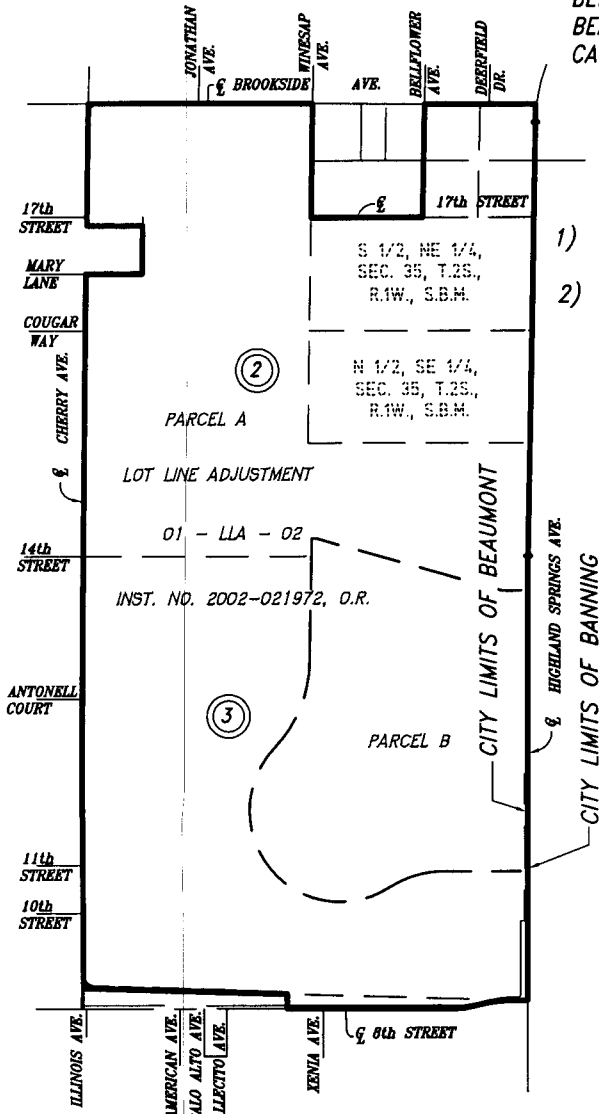
**CONTAINING:** 1217.16 Acres, more or less.

**EXHIBIT "A-1"** attached and by this reference made a part hereof.

**EXHIBIT B**  
**MAP OF THE PROPERTY**

### LEGAL DESCRIPTION

BEING A PORTION OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 WEST TOGETHER WITH ALL OF SECTION 2 AND A PORTION OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN. ALL IN IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.



#### NOTES:

- 1) THIS ANNEXATION CONTAINS 1217.16 ACRES±.
- 2) UNLESS OTHERWISE NOTED, DISTANCES HEREON ARE GROUND MEASUREMENTS. TO OBTAIN GRID DISTANCES MULTIPLY BY A COMBINED FACTOR OF 0.99988764



#### LEGEND

② INDICATES SHEET NUMBER

## EXHIBIT "A-1"

### SUNDANCE DEVELOPMENT AGREEMENT



SHEET 1 OF 3 SHEETS



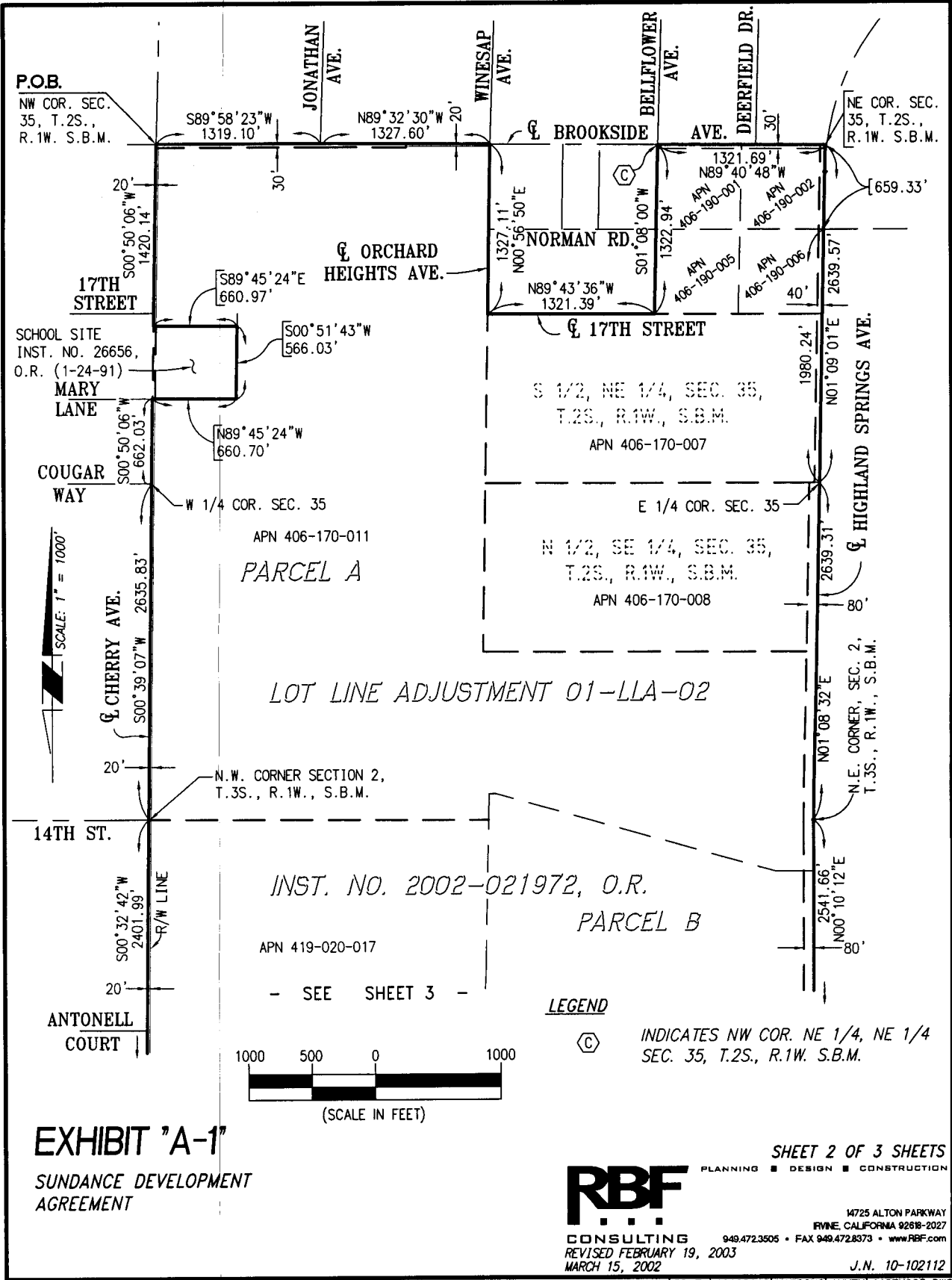
PLANNING ■ DESIGN ■ CONSTRUCTION

CONSULTING  
REVISED FEBRUARY 19, 2003  
MARCH 15, 2002

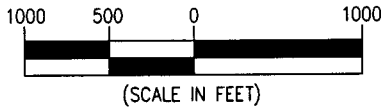
14725 ALTON PARKWAY  
FIVINE, CALIFORNIA 92618-2027  
949.472.3505 • FAX 949.472.8373 • www.RBF.com

J.N. 10-102112

H: \PDATA\10102112\WAPPING\ANNEX\112EX002.DWG



**EXHIBIT "A-1"**  
 SUNDANCE DEVELOPMENT  
 AGREEMENT



**LEGEND**



INDICATES NW COR. NE 1/4, NE 1/4  
 SEC. 35, T.2S., R.1W. S.B.M.

SHEET 2 OF 3 SHEETS  
 PLANNING ■ DESIGN ■ CONSTRUCTION



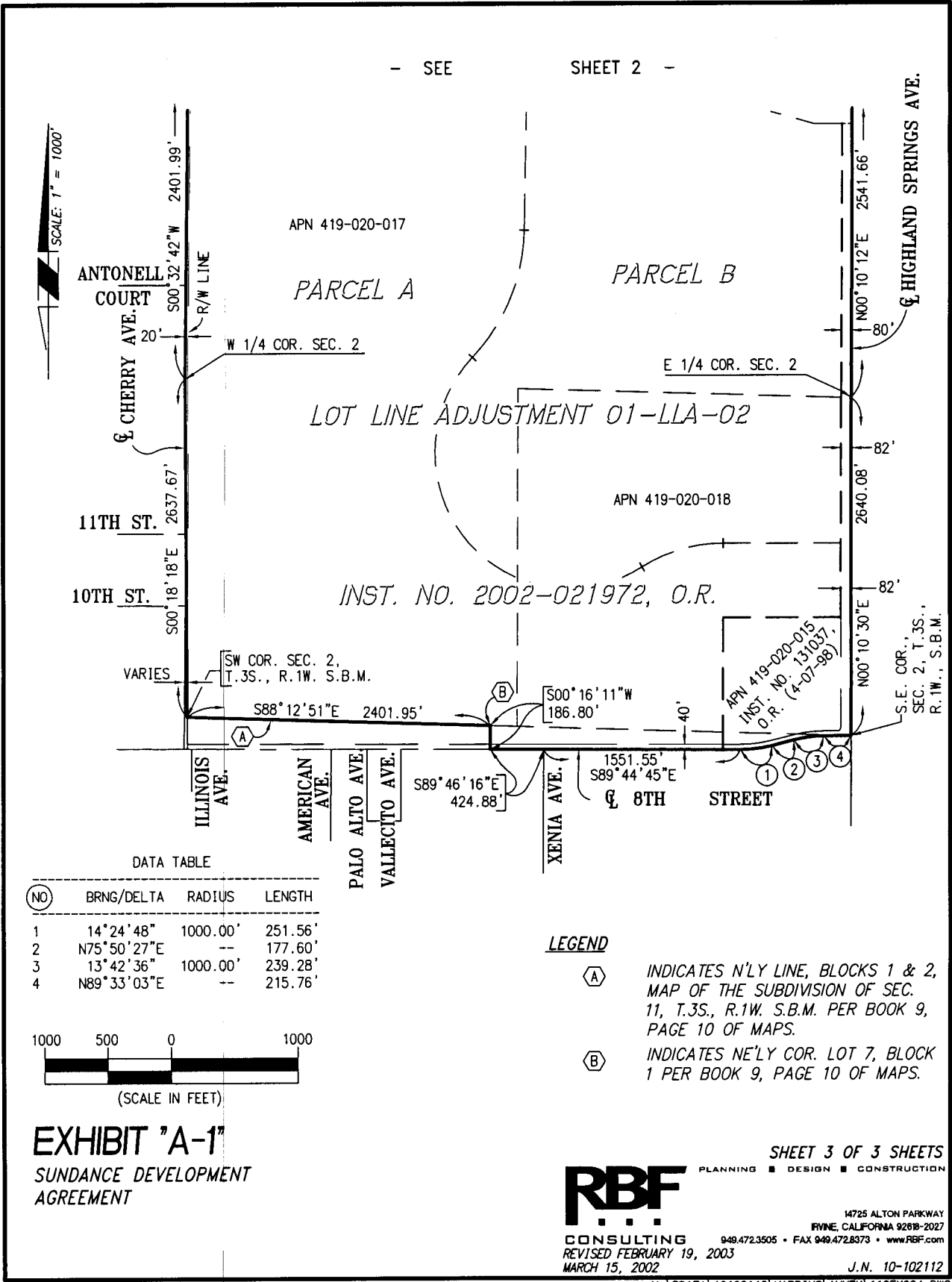
CONSULTING  
 REVISED FEBRUARY 19, 2003  
 MARCH 15, 2002

14725 ALTON PARKWAY  
 RIVINE, CALIFORNIA 92518-2027  
 949.472.3505 • FAX 949.472.8373 • www.RBF.com

J.N. 10-102112

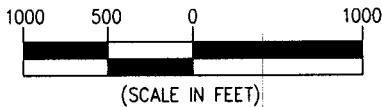
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- SEE SHEET 2 -



DATA TABLE

(NO)	BRNG/DELTA	RADIUS	LENGTH
1	14° 24' 48"	1000.00'	251.56'
2	N75° 50' 27"E	--	177.60'
3	13° 42' 36"	1000.00'	239.28'
4	N89° 33' 03"E	--	215.76'



**LEGEND**

- (A) INDICATES N'LY LINE, BLOCKS 1 & 2, MAP OF THE SUBDIVISION OF SEC. 11, T.3S., R.1W. S.B.M. PER BOOK 9, PAGE 10 OF MAPS.
- (B) INDICATES NE'LY COR. LOT 7, BLOCK 1 PER BOOK 9, PAGE 10 OF MAPS.

**EXHIBIT "A-1"**  
**SUNDANCE DEVELOPMENT**  
**AGREEMENT**

SHEET 3 OF 3 SHEETS



PLANNING ■ DESIGN ■ CONSTRUCTION

14725 ALTON PARKWAY  
 IRVINE, CALIFORNIA 92618-2027  
 949.472.3505 • FAX 949.472.8373 • www.RBF.com  
 REVISED FEBRUARY 19, 2003  
 MARCH 15, 2002

J.N. 10-102112

H:\PDATA\10102112\MAPPING\ANNEX\112EX004.DWG

**EXHIBIT C**

**LIST OF PERMITS AND APPROVALS**

**Sundance Specific Plan  
Tentative Tract Map Nos. 31468, 31469, 31470 and 31893  
Addendum to the Sundance Specific Plan EIR**

174170

D

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
P. O. Box 158  
Beaumont, Ca 92223

RECEIVED FOR RECORD  
AT 8:30 O'CLOCK A.M.

MAY 24 1991

Recorded in Official Records  
of Riverside County, California

*Will [Signature]* Recorder  
Fees \$

Item No.5.

(Space above for Recorder's Use)

DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF BEAUMONT  
AND  
HIGHLAND FARMS, ALEISIAN FARMS  
AND BANNING FARMS (DEUTSCH)  
(Pursuant to Government Code  
Sections 65864 - 65869.5)



TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1. Definitions.....	4
1.1 Agreement.....	4
1.2 Agreement Date.....	4
1.3 Build-Out Phasing Plan.....	4
1.4 City.....	5
1.5 Development Plan.....	5
1.6 Effective Date.....	5
1.7 Developer.....	5
1.8 Project.....	5
1.9 Property.....	6
2. Exhibits.....	6
3. Mutual Benefits.....	6
3.1 Benefits to City.....	6
3.2 Benefits to Developer.....	7
4. Interest of Developer.....	7
5. Binding Effect of Agreement.....	7
6. Project as a Private Undertaking.....	7
7. Term.....	7
8. Changes in Project.....	8
9. Hold Harmless.....	8
9.1 By Developer.....	8
9.2 By City.....	8
10. Vested Right.....	8
10.1 No Conflicting Enactments.....	9
10.2 Intent of Parties.....	9
11. General Development of the Project.....	9
11.1 Project.....	9
11.2 Phasing and Timing of Development.....	10
11.3 Effect of Agreement on Land Use Regulations.....	11
11.4 Administrative Changes and Amendments.....	11

- 11.5 Mello-Roos Community Facilities  
Districts; Other Assessment District  
or Financing Mechanisms.....12
- 11.6 Water and Sewer Facilities.....12
- 11.7 Public Services and Facilities.....13
- 11.8 Cancellation of Williamson Act  
Agricultural Preserve and Land  
Conservation Agreement.....13
- 11.9 Other Governmental or Quasi-  
Governmental Permits.....13
- 11.10 Consistency Between This Agreement  
and Current Laws.....14
- 11.11 Assessments and Fees.....14
- 11.12 Subsequent Actions.....14
- 12. Rules, Regulations and Official Policies.....14
  - 12.1 New Rules.....14
  - 12.2 Subsequent Actions and Approvals.....15
  - 12.3 State and Federal Laws.....15
- 13. Amendment or Cancellation of Agreement.....15
- 14. Enforcement.....15
- 15. Periodic Review of Compliance with Agreement....16
- 16. Events of Default.....16
  - 16.1 Default by Developer.....16
  - 16.2 Default by City.....16
  - 16.3 Specific Performance Remedy.....17
- 17. Institution of Legal Action.....18
- 18. Waivers and Delays.....18
  - 18.1 Waiver.....18
  - 18.2 Third Parties.....18
  - 18.3 Force Majeure.....18
- 19. Notices.....18
- 20. Attorneys' Fees.....19
- 21. Transfers and Assignments.....19
  - 21.1 Right to Assign.....19
  - 21.2 Release Upon Transfer.....19
- 22. Cooperation in the Event of Legal Challenge.....19

23. Eminent Domain.....20

24. Authority to Execute.....20

25. Recordation.....20

26. Protection of Mortgage Holders.....20

27. Severability of Terms.....20

28. Subsequent Amendment to Authorizing Statute.....20

29. Interpretation and Governing Law.....20

30. Section Headings.....20

31. Incorporation of Recitals and Exhibits.....21

32. Rules and Construction and Miscellaneous Terms..21

    32.1 Gender.....21

    32.2 Time of Essence.....21

    32.3 Cooperation.....21

DEVELOPMENT AGREEMENT

(Pursuant To Government Code Sections 65864 -65869.5)

This DEVELOPMENT AGREEMENT ("Agreement") is entered into to be effective on April 25, 1991, between ALEISIAN FARMS, a California general partnership, HIGHLAND FARMS, a California general partnership and BANNING FARMS, a California general partnership (collectively the "Developer") and the CITY OF BEAUMONT, a Municipal corporation organized and existing under the laws of the State of California ("City"). Developer and City are sometimes collectively referred to herein as the "parties."

R E C I T A L S:

This Agreement is predicated upon the following facts:

A. These Recitals refer to and utilize certain capitalized terms which are defined in this Agreement. The parties intend to refer to those definitions in conjunction with the use thereof in these Recitals.

B. Government Code Sections 65864 - 65869.5 ("Development Agreement Law") authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development.

C. This Agreement is adopted pursuant to Government Code Section 65865 et seq.

D. Developer is the owner of approximately 1,162 acres of land currently located within unincorporated Riverside County, California as more particularly described on Exhibit "A" and shown on Exhibit "B" ("Property"). The respective interests of Aleisian Farms, Highland Farms and Banning Farms in the Property are those as set forth on the title report attached as Exhibit "C". For purposes of information only, Developer owns an additional 1,552 acres of land located East of the Property of which 1,268 acres are located within the City of Banning, and all of which land Developer intends to develop in concert with the Property (the "Banning Property").

E. Developer intends to develop the Property as an integrated, internally oriented planned residential project in accordance with the Development Plan as hereinafter defined in

Section 1.5 (the "Project"). The Project is capital intensive, especially in its initial phases requiring major investment in public facility and on-site and off-site improvement prior to the construction and sale of housing in order to make the Project economically and fiscally feasible. The Project is fully compatible with the proposed development of the Banning Property.

F. The Property is currently located within the sphere of influence of but has not yet been annexed to the City. It is the present intent of the parties that annexation of the Property to the City will occur following approval by the City of the Development Plan defined in Section 1.5. Pursuant to Government Code Section 65865(b), this Agreement shall become operative on the effective date of the annexation, so long as the annexation is completed prior to December 31, 1992, failing which it shall expire on that date and be of no further force or effect.

G. City's General Plan designation for the Property is Residential Planned Unit Development (PUD), and the Specific Plan being adopted concurrently herewith as a part of the Development Plan as defined in Section 1.5 implements the City General Plan and its various component elements by providing specific land use and development standards. Developer and City desire to provide through this Agreement specific development criteria to be applicable to the Property upon its annexation to the City which will provide for maximum utilization of the Property in accordance with sound planning principals.

H. City has determined that the use and intensity of use provided in this Agreement is consistent with the City's General Plan applicable to the Property.

I. Development of the Property pursuant to the Development Plan as defined in Section 1.5, which is largely vacant area almost totally lacking in required infrastructure improvements, requires the construction of substantial reasonable public improvements early in the development and construction process. Certain development risks and uncertainties associated with the long term nature of the development, including the cost of the portion of those regional public improvements required to be installed at the inception of the development, could discourage and deter Developer and other owners in the vicinity from making the long term commitments necessary to fully develop the Property pursuant to the Development Plan. It is only the assurance of the ability to complete the private income producing components of the Development Plan in general that provides the inducement to Developer to agree to commit the land and financial resources required to commence and proceed with development. The parties

desire to enter into this Agreement in order to assure that the Property is developed as an integrated planned community in general, and that the uncertainties to such development over which the City has control are removed.

J. Developer has applied for, and City, concurrently with approval of this Agreement, has approved the Development Plan (as in Section 1.5) in order to protect the interests of its citizens and the quality of the community and environment through the specific plan process (Government Code Section 65450 et seq.) As part of that process of approving the Development Plan, City has undertaken, pursuant to the California Environmental Quality Act ("CEQA"), the required analysis of the environmental effects which would be caused by the Project. City has imposed a series of mitigation measures in connection with the development of the Project to eliminate or reduce to a level of insignificance many significant adverse impacts caused by the Project. As to those significant adverse impacts which cannot be eliminated or reduced to a level of insignificance, the City Council has adopted a statement of overriding considerations pursuant to CEQA setting forth why the beneficial aspects of the Project outweigh those significant adverse impacts which cannot be eliminated or reduced by mitigation measures. On January 14, 1991, the City Council of City adopted Resolution No. 1991-03, certifying the environmental impact report ("EIR") prepared for the Project as being complete and adequate and complying with CEQA. Pursuant to Government Code Section 65457 and Public Resources Code Section 21166 the City acknowledges that no subsequent or supplemental Environmental Impact Report shall be required by the City for the subsequent approvals implementing the development of the Property, whether ministerial or discretionary, unless:

(1) Changes are proposed by Developer which by law will require revisions to the EIR; or

(2) New information which was not known and could not have been known at the time the EIR was certified as complete becomes available; provided, however, that reanalysis of data already examined and reported in the EIR shall not be considered new information. The term "new information" does not mean discovery that probabilities of adverse (or beneficial) results considered in the approval of this Agreement, the Development Plan as defined in Section 1.5 or the EIR may prove incorrect, or that such probabilities are or are not becoming, or have or have not become realities, but instead required that the actual quantitative and politative

extent of the underlying issues was not considered and could not have been considered in the environmental analysis associated with the approval of this Agreement and the EIR.

K. The Development Plan implements the goals and policies of the City's General Plan described in the Specific Plan referred to in Section 1.5, below, and provides balanced and diversified land uses in order to maintain the overall quality of life and of the environment within City and to impose appropriate requirements with respect to land development and usage.

L. Developer has requested City to consider entering into a development agreement relating to the Project and proceedings have been taken in accordance with City's rules and regulations.

M. On March 25, 1991, the City Council of City adopted Ordinance No. 698, approving this Agreement with Developer.

N. City acknowledges that by electing to enter into contractual agreements such as this Agreement, the obligations of which shall survive beyond the term or terms of the present City Council members, such action will serve to bind the City and future City Councils to the obligations hereby undertaken. By obligating the City pursuant to this Agreement, the City Council has elected to exercise certain governmental and proprietary powers at the present time rather than deferring its action to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

The parties agree as follows:

1. Definitions.

1.1 "Agreement" is this Development Agreement.

1.2 "Agreement Date" is the date this Agreement is approved by the City Council.

1.3 "Build-Out Phasing Plan" means a plan to be prepared by Developer showing the intended build-out schedule of the Project. The Build-Out Phasing Plan as more particularly

described in Section 11.2 shall be advisory only and shall not be binding on Developer.

1.4 "City" is the City of Beaumont, California.

1.5 "Development Plan" is all of those ordinances, resolutions, codes (except as provided in Section 12.1(c)), rules, regulations and official policies of City governing the development and use of the Property as of the Agreement Date, including, without limitation, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property, and all of those permits and approvals which are referenced on Exhibit "D" which have been issued or granted by City in connection with any of the foregoing. Specifically, but without limitation, such Development Plan includes the Deutsch Planned Community Specific Plan adopted by the City Council on January 14, 1991 by Resolution No. 1991-03 pursuant to Government Code Section 65450 et.seq. (hereinafter the "Specific Plan") allowing the construction of a maximum of 4,716 residential dwelling units ranging in average density from approximately four (4) d.u.'s/acre to approximately fifteen (15) d.u.'s/acre, a fifteen (15) acre community commercial site, five (5) elementary and one (1) junior high school site, a twenty-three (23) acre community park, a twenty-one (21) acre trail park adjacent to the San Diego Gas and Electric Easement, and, three (3) additional neighborhood parks totaling 21 acres adjacent to schools. The average density for the Specific Plan areas is approximately 4.1 d.u.'s/acre.

1.6 "Effective Date" is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period, or (c) the date that the annexation of the Property to this City is completed, provided that such annexation is completed prior to December 31, 1992.

1.7 "Developer" is Aleisian Farms, a California general partnership, Highland Farms, a California general partnership and Banning Farms, a California general partnership as their interests appear on the title report attached as Exhibit "C" and their respective successors in interest to all or any part of the Property.

1.8 "Project" is the proposed development of the Property included within the Development Plan and associated



amenities, including, without limitation, on-site and off-site improvements contemplated by the Development Plan, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.9 "Property" is the real property on which the Project is, or will be, located as described on Exhibit "A" and shown on Exhibit "B."

2. Exhibits. The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Description</u>
A	Legal Description of the Property
B	Map of Property
C	Title Report Showing Ownership Interests in the Property
D	Permits and Approvals Constituting Development Plan
E	Benefits to City
F	List of Fees and Assessments

3. Mutual Benefits. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will insure certain anticipated benefits to both City, including, without limitation, residents of City, and Developer as set forth in this Section. City and Developer agree that, due to the size and duration of the Project, certain assurances on the part of each party as to the Project will be necessary to achieve those desired benefits.

3.1 Benefits to City. The benefits to City (including, without limitation, the residents of City) under

this Agreement include, but are not limited to those set forth in Exhibit "E."

3.2 Benefits to Developer. Developer has expended and will continue to expend substantial amounts of time and money on the planning and infrastructure construction of the Project. In addition, Developer will expend substantial amounts of time and money in constructing public improvements and facilities and in providing for public services in connection with the Project. Developer would not make such additional expenditures without this Agreement and such additional expenditures will be made in reliance upon this Agreement. The benefit to Developer under this Agreement consists of the assurance that Developer will preserve the right to develop the Property as planned and as set forth in the Development Plan.

4. Interest of Developer. Developer represents that Developer has a legal or equitable interest in the parcels comprising Property.

5. Binding Effect of Agreement. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

6. Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property by the owner of such Property.

7. Term. The term of this Agreement shall commence upon the Effective Date and shall continue until all permits and approvals required to complete the development of the Project as contemplated by the Development Plan have been issued, provided that in no event shall such term exceed twenty-five (25) years following the Effective Date of this Agreement as to those lots or parcels of the Property under this Agreement, if any, for which a grading or building permit has either not been issued or has otherwise expired. Notwithstanding the foregoing, as to any lot or parcel on the Property not subject to the preceding sentence, the term of this Agreement and the Development Plan regulations and specifications thereunder shall be extended for a period of fifty (50) years commencing on the date that this Development Agreement would have otherwise expired.

8. Changes in Project. Developer shall not be entitled to any change, modification, revision or alteration in the Development Plan relating to the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings or the provision for reservation or dedication of land for public purposes other than those allowable changes, modifications and alterations permitted under the Development Plan and in particular the Specific Plan, without review and approval by those agencies of City approving the Development Plan in the first instance. Subject to the foregoing provisions of this Section 8, City acknowledges that Developer may seek new entitlements to use and amendments to entitlements to use in connection with the development of the Project. The approval of any changes in the Project as set forth in this Section 8 shall be in the discretion of the City and shall be effectuated as set forth in Section 11.4 below.

9. Hold Harmless.

9.1 By Developer. Developer shall hold City, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of Developer or those of Developer's contractors, subcontractors, agents, employees or other persons acting on Developer's behalf which relate to the Project. Developer shall defend City and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of Developer's activities in connection with the Project.

9.2 By City. City shall hold Developer, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of City or those of City's contractors, subcontractors, agents, employees or other persons acting on City's behalf which relate to the Project. City agrees to and shall defend Developer and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of City's activities in connection with the Project.

10. Vested Right. By entering into this Agreement and relying thereon, Developer is obtaining a vested right to proceed with the Project in accordance with the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan). By entering into this Agreement and relying thereupon, City is securing certain public benefits which help to alleviate potential problems in City and enhance the public health, safety and welfare. City therefore agrees to the following:

10.1 No Conflicting Enactments. Neither the City Council of City nor any other agency of City shall enact an ordinance, policy, rule, regulation or other measure applicable to the Project which relates to the rate, timing or sequencing of the development or construction of all or any part of the Project or which is otherwise in conflict with this Agreement.

10.2 Intent of Parties. In addition to and not in limitation of the foregoing, it is the intent of Developer and City that no moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Project and whether or not enacted by initiative or otherwise) except a moratorium imposed by City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3, affecting parcel or subdivision maps, building permits, site development permits, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within City, or portions of City, shall apply to the Project to the extent such moratorium or other limitation is in conflict with this Agreement. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by citizens of City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Developer shall have no recourse against City pursuant to this Agreement, but shall retain all other rights, claims and causes of action at law or in equity which Developer may have independent of this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement. City agrees to cooperate with owner in all reasonable manners in order to keep this Agreement in full force and effect.

11. General Development of the Project.

11.1 Project. While this Agreement is in effect, Developer shall have a vested right to develop the Project in accordance with the terms and conditions of this Agreement, and in accordance with, and to the extent of the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan) and City shall have the right to control the development of the Project in accordance with the terms and

conditions of this Agreement. Except as otherwise specified in this Agreement, the Development Plan shall control the overall design, development and construction of the Project and all on-site and off-site improvements and appurtenances in connection therewith, including, without limitation, all mitigation measures required in order to minimize or eliminate material adverse environmental impacts caused by the Project. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation and dedication of land for public purposes and other terms and conditions of development applicable to the Property shall be those set forth in the Development Plan. As part of the tentative subdivision map review, the applicant shall submit architectural drawings showing building treatment, elevations, material samples, and landscaping as part of the review and approval process for the residential portions of the Project.

11.2 Phasing and Timing of Development. The parties acknowledge that although Developer currently anticipates that the Project will be phased and constructed in increments over an approximate twenty-five (25) year time frame in accordance with the Build-Out Phasing Plan, at the present time Developer cannot predict when or the order in which Project phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors. To the extent permitted by the Development Plan and this Agreement, Developer shall have the right to develop the Project in phases in such order and at such times as Developer deems appropriate within the exercise of its subjective business judgment, so long as the Project is constructed as an integrated master planned development as contemplated by the Development Plan and the City Manager determines that such phasing will not adversely impact the ability of the City to construct, enlarge, expand, modernize or otherwise modify infrastructure improvements if necessary to accommodate growth of the Beaumont community. City agrees that Developer shall be entitled to apply for and City shall process tentative maps, vesting tentative maps, parcel maps, final maps, site development permits, conditional use permits, building permits, occupancy certificates and other entitlements to use or permits as provided by the Specific Plan or other applicable City ordinances at any time, in as expeditious a manner as possible, provided that such application is made in accordance with the Development Plan.

11.3 Effect of Agreement on Land Use Regulations.

The rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings and the design, improvement and construction standards and specifications applicable to development of the Property are those rules, regulations and official policies in force as of the Agreement Date, and those rules, regulations, and official policies which may hereinafter be adopted by the City to implement its Water Resources Management Plan which is currently being developed, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3. In connection with any approval which City is permitted or has the right to make under this Agreement relating to the Project, or otherwise under its rules, regulations and official policies, City shall exercise its discretion or take action in a manner which is as expeditious as possible and which complies and is consistent with the Development Plan and the standards, terms and conditions contained in this Agreement, and in a manner which will not interfere with the development of the Project for the uses and to the height, density and intensity specified in this Agreement or with the rate of development selected by Developer. City shall accept for processing and timely review and act on all applications for further land use entitlement approvals with respect to the Project called for or required under this Agreement in as expeditious a manner as is possible. Such application shall be processed in the normal manner for processing such matters.

11.4 Administrative Changes and Amendments.

The parties acknowledge that refinements and further development of the Project may demonstrate that changes are appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project development and with respect to those items covered in general terms under this Agreement. If and when the parties find that changes or adjustments are necessary or appropriate, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the City Manager or designee, after execution, shall be attached hereto as an addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by City and Developer. Any such administrative changes or amendments shall not be deemed to be an amendment to this Agreement under Government Code Section 65868, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing. Notwithstanding the foregoing, the following matters shall not be considered administrative changes or amendments, but shall be considered substantive

amendments which shall be reviewed by the Planning Commission and approved by the City Council:

- (a) Alteration of the permitted uses of the Property;
- (b) Increase in the density or intensity of use or the number of lots;
- (c) Increase in the maximum height and size in permitted buildings;
- (d) Deletion of a requirement for the reservation or dedication of land for public purposes except for minor boundary adjustments approved by the Planning Director or designee; and
- (e) Any amendment or change requiring a subsequent or supplemental environmental impact report pursuant to Public Resources Code Section 21166.

11.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms. Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," Owner may, at its sole election, petition the City Council of City to establish a Community Facilities District ("CFD") including the Property for the purpose of acquiring, constructing and financing through the sale of bonds of certain public facilities which are necessary to meet the increased demands placed on the City as a result of the development of the Property. Alternatively, or in addition thereto, Owner may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping Allotting Act of 1972, or any and all other available public financing mechanisms to provide public conduit financing for the construction of public improvements on the Property ("Alternative Financing Mechanisms"). If so requested by Owner, City shall cooperate with Owner and use its best efforts in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties.

11.6 Water and Sewer Facilities. Responsibilities of the Parties with respect to water and sewer facilities pertaining to the transmission of water for or sewage generated

by the Project or by surrounding properties in which Developer will be required to participate shall be determined and allocated on a fair share basis between Developer and the surrounding property owners using such facilities.

11.7 Public Services and Facilities. As provided by the Specific Plan, the Project provides for an integrated roadway system, and public facilities in addition to water and sewer facilities as discussed in Section 11.6 above, including parks, schools, storm drain, police protection and fire protection. The construction and installation of such facilities and infrastructure improvements and the phasing thereof shall be subject to City review and approval at the time that tentative tract maps are submitted for applicable areas of the Project. To the extent that Developer, at City's request, constructs, installs or otherwise provides financing for public facilities or other infrastructure improvements not required to serve the Project and benefiting lands within the City outside the Project area of the Property, City shall adopt such ordinances as are necessary to create a benefit district by which a fee, assessment or charge will be imposed upon such other properties and reimbursed to Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements. In order to insure that the Project will function harmoniously with the City's transportation and circulation plan, City shall undertake the upgrade and completion of street networks to planned standards to accommodate increased demands generated by the Project on other areas of the City in accordance with and under the schedule provided by the City's Master Plan of Circulation.

11.8 Cancellation of Williamson Act Agricultural Preserve and Land Conservation Agreement. Immediately following the Effective Date, City shall, as expeditiously as possible, commence hearings pursuant to the Williamson Act, Government Code Section 51200, et seq. for the cancellation of the January 1, 1973 Land Conservation Contract and January 1, 1982 Land Conservation Contract entered into between the predecessor in interest to Developer and the County of Riverside pertaining to the Property. Developer shall be responsible for paying all fees and costs, including legal fees, incurred by City in processing the cancellation of the Land Conservation Contracts.

11.9 Other Governmental or Quasi-Governmental Permits. Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or



state agencies) as may be required for the development of, or provision of services to the Project under the Development Plan. City shall cooperate with and assist Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits.

11.10 Consistency Between This Agreement and Current Laws. City represents that there are no rules, regulations, ordinances or official policies of City enforced as of the date of execution of this Agreement that would interfere with the completion or use of the Project according to the Development Plan.

11.11 Assessments and Fees. City shall not, without the prior written consent of Developer, impose any assessment or fee applicable to the development of the Project or any portion thereof, or impose any fees as a condition to the implementation of the Project or any portion thereof, except those existing and proposed assessments and fees set forth on Exhibit "F" which include but are not limited to infrastructure fees for sewer, water, reclaimed water, fire mitigation, police mitigation, transportation-circulation, park mitigation, public facilities fees and signalization fees. Notwithstanding the foregoing, fees payable to City shall be at rates applicable on the date the fee is due and payable.

11.12 Subsequent Actions. City shall timely process, in as expeditious a manner as is possible for processing such matters, any necessary entitlements to use, including vesting tentative tract maps, tentative tract maps, parcel maps, final maps, site development permits, special use permits, conditional use permits, or other discretionary approvals or entitlements to use contemplated by the Development Plan, and any grading, construction or other permits filed by Developer in accordance with the substantive development standards set forth in the Development Plan.

12. Rules, Regulations and Official Policies.

12.1 New Rules. This agreement shall not prevent City from applying the following new rules, regulations and policies:

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for development approvals, for monitoring compliance with any development approvals, or for monitoring compliance with environmental impact mitigation measures.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records,

hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code provided that such construction standards and specifications are applied on a City-wide basis.

(d) Regulations which are not in conflict with the Development Plan or this Agreement.

(e) Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by Developer.

12.2 Subsequent Actions and Approvals. In accordance with Government Code Section 65866, this Agreement shall not prevent City in subsequent actions applicable to the Property from applying new rules, regulations and policies which do not conflict with those existing rules, regulations and policies set forth in the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations or policies.

12.3 State and Federal Laws. In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

13. Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

14. Enforcement. Unless amended or cancelled as provided in Section 13 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision or building regulation or other applicable law or regulation adopted by City (or by the voters of City unless found by a court of competent

and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or the rate, timing or sequencing of any development.

15. Periodic Review of Compliance With Agreement. City and Developer shall review this Agreement at least once every twelve (12) months from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Each party agrees to furnish such reasonable evidence of good faith compliance as the other party in the exercise of its reasonable discretion, may require. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. The City Manager shall report the results of such periodic review to the City Council within thirty (30) days after the conclusion thereof. No public hearing shall be held by the City Manager, Planning Commission or City Council with regard to such periodic review; provided, however, that if the City Manager during such periodic review preliminarily finds that Developer is not in good faith compliance with this Agreement, Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that Developer is not in good faith compliance with this Agreement unless so requested by Developer in writing at the time of the submission of such appeal. City shall notify Developer in writing of the date for review at least thirty (30) days prior thereto.

16. Events of Default.

16.1 Default by Developer. If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 15 hereof that Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to Developer, specify the manner in which Developer has failed to so comply and state the steps Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from City specifying the manner in which Developer has failed to so comply, Developer does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then Developer shall be deemed to be in default under the terms of this Agreement and City may terminate this Agreement.

16.2 Default by City. If Developer determines on the basis of substantial evidence that City has not complied in good faith with the terms and conditions of this Agreement, Developer shall, by written notice to City, specify the manner in which City has failed to so comply and state the steps City

must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from Developer specifying the manner in which City has failed to so comply, City does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then City shall be deemed to be in default under the terms of this Agreement and Developer may terminate this Agreement or seek specific performance as set forth in Section 16.3.

16.3 Specific Performance Remedy. Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more substantial time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. For the above reasons, City and Developer agree that damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement. Therefore, specific performance of this Agreement is the only remedy which would compensate Developer if City fails to carry out its obligations under this Agreement, and City hereby agrees that Developer shall be entitled to specific performance in the event of a default by City hereunder. Notwithstanding the foregoing, nothing in this Agreement is intended to deprive Developer from recovering appropriate damages in the event that the terms of this Agreement are breached. City and Developer acknowledge that if Developer fails to carry out its obligations under this Agreement, City shall have the right to refuse to issue any permits or other approvals to which Developer would not otherwise have been entitled pursuant to this Agreement. Therefore, City's remedy of terminating this Agreement shall be sufficient in most circumstances if Developer fails to carry out its obligations hereunder. Notwithstanding the foregoing, if City issues a permit or other approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the sole purpose of causing Developer to satisfy such condition. The City's right to specific performance shall be limited to those circumstances set forth above, and City shall have no right to seek specific performance to cause Developer to otherwise proceed with the development of the Project in any manner.

17. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for Riverside, California.

18. Waivers and Delays.

18.1 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

18.2 Third Parties. Nonperformance shall not be excused because of a failure of a third person except as provided in Section 18.3 below.

18.3 Force Majeure. Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent construction of the Project.

19. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

TO CITY: City of Beaumont  
550 East 6th Street  
P.O. Drawer 158  
Beaumont, California 92223  
Attn: City Manager

TO DEVELOPER: c/o The Deutsch Corporation  
2444 Wilshire Boulevard  
Santa Monica, California 90403  
Attn: Mr. Bill Holler

Either party may change the address stated herein by giving notice, in writing, to the other party and thereafter notices shall be addressed and submitted to the new address.

20. Attorneys' Fees. If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

21. Transfers and Assignments.

21.1 Right to Assign. Developer shall have the right to sell, assign or transfer this Agreement, and any and all of its rights, duties and obligations hereunder, to any person or entity at any time during the term of this Agreement, provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of Developer in the Property, a portion thereof (including a village or individual tract), or parcel or lot so transferred. In the event of any such assignment, either the transferee or Developer shall be liable for the performance of all obligations of Developer. Such transferee or Developer shall notify City in writing of the transfer of such obligations.

21.2 Release Upon Transfer. Upon the sale, transfer or assignment of Developer's rights and interests under this Agreement as permitted pursuant to Section 21.1, Developer shall be released from its obligations under this Agreement and all of owner's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred provided that (a) Developer is not then in default under the Agreement, (b) Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

22. Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action. Each party shall pay its own expenses in connection with such defense. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force

and effect while such litigation, including any appellate review, is pending.

23. Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain.

24. Authority to Execute. The person or persons executing this Agreement on behalf of Developer warrant and represent that they have the authority to execute this Agreement on behalf of their corporation, partnership or business entity and warrant and represent that they have the authority to bind Developer to the performance of its obligations hereunder.

25. Recordation. This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of San Bernardino, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. Protection of Mortgage Holders. Nothing contained herein shall limit or interfere with the lien of mortgage holders having a mortgage made in good faith and for value on any portion of the Property. "Mortgage holder" includes the beneficiary under a deed of trust, and "mortgage" includes the deed of trust.

27. Severability of Terms. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. Subsequent Amendment to Authorizing Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 12.3 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

30. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. Incorporation of Recitals and Exhibits. Recitals A through N and attached Exhibits "A" through "G" are hereby incorporated herein by this reference as though set forth in full.

32. Rules of Construction and Miscellaneous Terms.

32.1 Gender. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

32.2 Time of Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.

32.3 Cooperation. Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

The parties have executed this Development Agreement on the date and year first written above.

Dated: 4/25, 1991

CITY OF BEAUMONT, a municipal corporation of the State of California

By: Ann Connors  
Mayor

"City"

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE MAYOR OF THE CITY COUNCIL

By: Robert Bounds  
City Clerk



APPROVED AS TO FORM:  
By: George Phelan  
City Attorney

[SIGNATURES CONTINUE ON FOLLOWING PAGES]



ALEISIAN FARMS, a California  
General Partnership

Dated: 4/9, 1991

By: *Carl Deutsch*  
Carl Deutsch  
General Partner

Dated: 4/9, 1991

By: *David Deutsch, att in fact*  
David Deutsch  
General Partner

By: Victoria Leslie Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: *Alex Deutsch*  
Alex Deutsch  
Trustee

By: Alexis Lee Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: *Alex Deutsch*  
Alex Deutsch  
Trustee

By: Gina Elizabeth Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
Trustee

By: Gina Elizabeth Deutsch 76 Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: April 9, 1991

By: Lester Deutsch  
Lester Deutsch  
Trustee

By: Estate of Walter Scholtz

General Partner

Dated: 4/4, 1991

By: Sylvia Scholtz  
Sylvia Scholtz  
Executrix

HIGHLAND FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Its: Chairman

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
General Partner

BANNING FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: April 9, 1991

By: Alex Deutsch

Its: Chairman

Dated: 4/9, 1991

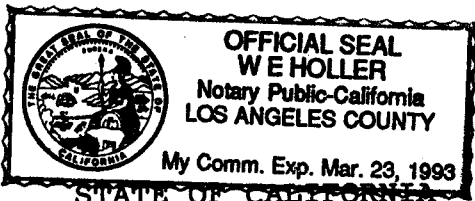
By: Alex Deutsch

Alex Deutsch  
General Partner

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared, CARL DEUTSCH personally known to me or 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.

WITNESS my hand and official seal.

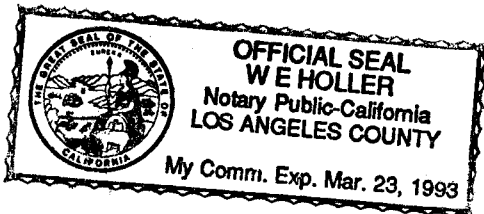


WE HOLLER  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared DAVID DEUTSCH personally known to me or 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.

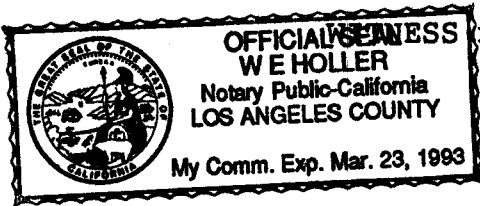
WITNESS my hand and official seal.



WE HOLLER  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, WE Holler, personally appeared ALEX DEUTSCH, TRUSTEE FOR VICTORIA LESLIE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.



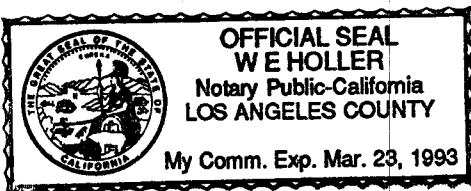
my hand and official seal.

WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, WE Holler, personally appeared ALEX DEUTSCH, TRUSTEE FOR ALEXIS LEE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

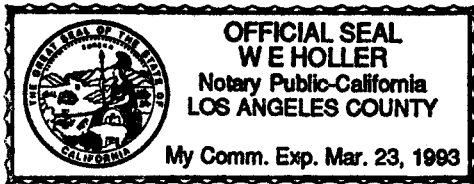


WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, W E Holler, personally appeared ALEX DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

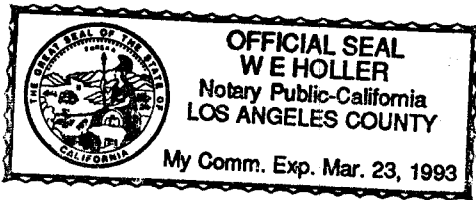


W E Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, W E Holler, personally appeared LESTER DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.



W E Holler  
Notary Public in and for said State

STATE OF Washington CALIFORNIA )  
COUNTY OF Whatecom ) ss.

On April 4<sup>th</sup>, 1991, before me, Robin Montague, personally appeared SYLVIA SCHOLTZ, EXECUTRIX FOR ESTATE OF WALTER SCHOLTZ, personally known to me or 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.

WITNESS my hand and official seal.

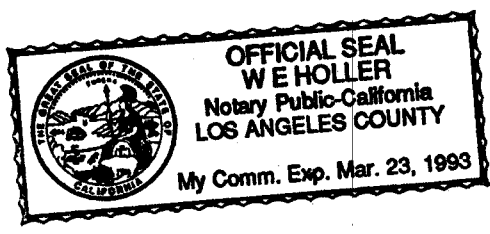
Robin Montague  
Notary Public in and for said State  
my commission expires 6-27-94

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF HIGHLAND FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.

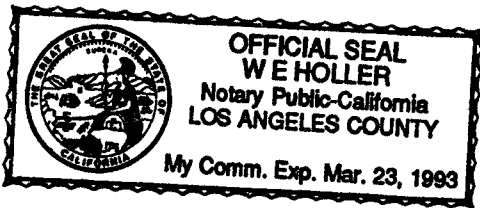
We Holler  
Notary Public in and for said State



STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, W E Holler, personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH COMPANY, a California Corporation, personally known to me or 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.

WITNESS my hand and official seal.

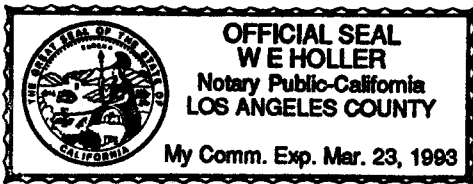


W E Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, W E Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF BANNING FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.



W E Holler  
Notary Public in and for said State



STATE OF CALIFORNIA )  
 )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler  
personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH  
COMPANY, a California Corporation, personally known to me or  
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.

WITNESS my hand and official seal.

We Holler  
Notary Public in and for said State

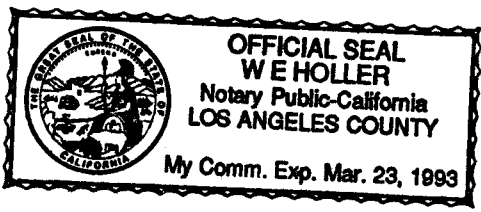


EXHIBIT "A"  
LEGAL DESCRIPTION OF PROPERTY

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A  
-----

PARCEL 1:

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

PARCEL 2:

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.



Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A

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Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning;

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 38 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc

Preliminary Report

Order No. 4104930127-492

GATEWAY TITLE COMPANY

Title officer: Dwight Helmer

Policy(ies) contemplated:  
Preliminary Title Report

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THE DEUTSCH COMPANY  
STE. 600  
2444 WILSHIRE BLVD.  
SANTA MONICA, CA 90403

Our No.: 4104930127-492

Your Ref: BANNING

ATTN: BILL HOLLER

Date : March 11, 1991 at 7:30 A.M.

SCHEDULE A

The estate or interest in the land described or referred to in this schedule covered by this report is:

a fee

Title to the said estate or interest at the date hereof is vested in:

Aleisian Farms, a Partnership composed of Walter Scholtz, Mark Scholtz, Alex Deutsch, Lester Deutsch, Carl Deutsch, Ray Tissue, Ben Weingart, Robert Cumins, Philip E. Holzman, Edward Jones, and Philip E. Holzman as trustee for David Deutsch;

Highland Farms, a California General Partnership, as their interest appear of record, as to all of those portions described in Exhibit "A" herein excepting therefrom the South one half of the Northeast one Quarter of said Section 35; subject to the spousal interest of Betty U. Deutsch, as to the North one half of the Southeast one quarter of said Section 35;

Banning Farms, a California General Partnership, as to the South one half of the Northeast one Quarter of said Section 35.

The land referred to in this report is situated in the State of California, County of Riverside, and is described as follows:

DESCRIPTION CONTAINED IN "EXHIBIT A"  
attached hereto and made a part hereof.

-----

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

PARCEL 1:

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

PARCEL 2:

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.



Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

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Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning;

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 38 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

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Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc

Gateway Order No.: 4104930127-492

Reference No.: BANNING

**EXHIBIT A**  
-----

distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

- 1. Property taxes, including any assessments collected with taxes, to be levied for the fiscal year 1991-1992, which are a lien not yet payable.
- 2. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid

Second installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-005-7

The above matter affects The West 1/2 of the South 1/2 of the Southeast 1/4 of Section 35

- 3. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid

Second installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-007-9

The above matter affects The South 1/2 of the Northeast 1/2 of Section 35

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

4. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$342.92  
Penalty:  
Current status: Paid

Second installment Amount: \$342.92  
Penalty:  
Current status: Paid

Homeowners exemption: --NONE--  
Code area: 056-004  
Assessors Parcel No.: 406-170-008-0

The above matter affects The North 1/2 of the Southeast 1/4 of Section 35

5. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$4,590.25  
Penalty:  
Current status: Paid

Second installment Amount: \$4,590.25  
Penalty:  
Current status: Paid

Homeowners exemption: --NONE--  
Code area: 056-004  
Assessors Parcel No.: 419-020-017-8

The above matter affects The West 1/2 and the Northeast 1/4 of Section 2

6. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$1,533.81  
Penalty:  
Current status: Paid

Second installment Amount: \$1,533.81  
Penalty:  
Current status: Paid

Homeowners exemption: --NONE--  
Code area: 056-004  
Assessors Parcel No.: 419-020-018-9

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

The above matter affects The above item affects: Parcels 2 and 3 herein described in Exhibit "A"

- 7. The lien of supplemental taxes, if any, assessed according to provisions of the statutes of 1983 of the State of California.
- 8. An easement in favor of the public for any public roads now existing on said property.
- 9. An easement, affecting lots 44, 48, 52, 56, 60, 64, 72, 80, 88 and 96 in Parcel 1 for road 20 feet wide off and along the East side of Section 35, Township 2 South, Range 1 West, and Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, granted to the County of Riverside by deed recorded March 21, 1900 in Book 147 Page 3 of Deeds, Riverside County Records.
- 10. A right of way, affecting a portion of Parcel 1 herein described, for pipe line over lots 1 to 64, inclusive, lots 69 to 72, inclusive, lots 77 to 82, inclusive, lots 85 to 90, inclusive, lots 93 to 96, inclusive, as reserved in the deed from the Riverside Abstract Company, recorded April 01, 1913 in Book 371 Page 177 of Deeds.
- 11. The right of the public to the use of streets as shown on the map of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records.  
  
Said rights affect a portion of Parcel 1 subject to the effect of a revocation of dedication recorded November 24, 1947 in Book 872 Page 561 of Official Records purporting to revoke any and all dedications of the following streets: Lots H, G, F, E, D, C, B, A, J, K, L, M, N and more commonly known as 9th, 11th, 12th, 13th, 14th, 15th, 16th and that portion of 17th Street, which is delineated on the map of Orchard Heights Tract.
- 12. An easement for utilities, affecting Parcel 1, granted to Southern Sierras Power Company, as referred to in United States Patent recorded December 01, 1919 in Book 8 Page 40 of Patents, Riverside County Records, to which record reference is hereby made for further particulars.
- 13. An easement, affecting Parcel 2 for public highway and public utility purposes over the Easterly rectangular 40 feet of the herein described property, as granted to the County of Riverside by Deed recorded December 15, 1936 in Book 305 Page 464 of Official Records.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 14. An easement affecting Parcel 1, for public highways and public utility purposes over the Easterly 20 feet of Lots 52, 56, 60, 64, 72, 80, 88 and 96 herein described, granted to the County of Riverside by Deed recorded March 24, 1937 in Book 317 Page 331 of Official Records.
- 15. An easement affecting a portion of Parcel 1, for public highway and flood control purposes over a portion of Lot 1 herein described, granted to the County of Riverside by deed recorded October 17, 1939 in Book 435 Page 376 of Official Records, described as follows:

Beginning at the Northwesterly corner of said Lot 1;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 33 feet;

Thence in a Northeasterly direction to a point which is 40 feet Easterly of the point of beginning and 10 feet Southerly of the Northerly line of said Lot 1;

Thence Westerly, 40 feet to the point of beginning.

- 16. An easement, affecting a portion of Parcel 1, for storm drain, 30 feet wide, over Lots 110 and 111 herein described, granted to the County of Riverside by Deed recorded October 27, 1943 in Book 604 Page 154 of Official Records. The center line of said easement is described as follows:

Beginning at a point on the South line of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve, concave to the South having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve 77.96 feet, the radial line at the beginning of said curve bears South 23 degrees 52 minutes West;

Thence North 88 degrees 38 minutes West, 682.0 feet along a line parallel to and 15 feet Northerly measured at right angles from the Southerly line of said Lots 110 and 111. The right of way lines of the Easterly end of this description are to be prolonged or shortened so that they will end on the Southerly line of said Lot 111. The title to said right of way is now vested of record in Riverside County Flood Control and Water Conservation District.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

17. Permanent and exclusive easements and rights of way, affecting a portion of Parcel 1, in, under, over and across Lots 25 to 28, inclusive, Lots 29 to 32, inclusive, Lots 61 to 64, inclusive, and Lots 70 to 72, inclusive herein described, granted to the Southern California Edison Company, Ltd., by Deed recorded November 10, 1945 in Book 704 Page 453 of Official Records. Said easement is described as follows:

A strip of land 300 feet wide, the Southerly and Northerly boundary lines of which are parallel with and respectively 100 feet Southerly and 200 feet Northerly from a line described as follows:

Beginning at a point in the center line of Glen Eyrie Street, as now established, 80 feet wide, along the East line of said Lot 72, which point is South 0 degrees 07 minutes 12 seconds East, 249.35 feet, measured along said center line from the intersection of said center line with the Easterly prolongation of the center line of Lot "L" (14th Street) as shown on the map of Orchard Heights Tract;

Thence from said point of beginning North 89 degrees 58 minutes 32 seconds West, 283.92 feet;

Thence North 74 degrees 39 minutes 55 seconds West, 2578.60 feet;

Thence North 82 degrees 48 minutes 25 seconds West 2501.58 feet, more or less, to a point in the West line of Lot "P" as shown on said map, said West line being also the East line of the Southeast Quarter of Section 34, Township 2 South, Range 1 West, San Bernardino Base and Meridian, said last mentioned point being North 00 degrees 20 minutes 55 seconds East, 751.37 feet, measured along said East line from a inch iron pipe in concrete set for the Southeast corner of said Section 34, said last measured point being South 00 degrees 20 minutes 55 seconds West 1883.43 feet, more or less, for a concrete pipe set for the East Quarter corner of said Section 34.

18. A right of way, affecting a portion of Parcel 1, for pipe line, 16.50 feet wide, for transportation of gas, over, under and along a portion of Lots 29, 65 to 68, inclusive, 75 to 80, inclusive, 87, 88, Lot "P" (Cherry Avenue), Lot "R" (Orchard Heights Avenue), Lot "D" (14th Street), Lot "H" (13th Street), and Glen Eyrie Street, map of Orchard Heights Tract herein described, granted to Southern California Gas Company, a corporation and Southern Counties Gas Company of California by Deed filed for record under Torrens Title as Instrument No. 846 on September 5, 1950, last certificate no. 403. The center line of said right of way is described as follows:

Beginning at the Northwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian;

Thence North 0 degrees 20 minutes 55 seconds East, along the Westerly line of Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, 40 feet to the point of beginning;

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

Thence North 89 degrees 54 minutes 26 seconds East, 77.28 feet;

Thence South 47 degrees 13 minutes 49 seconds East, 152.06 feet;

Thence South 75 degrees 42 minutes 34 seconds East, 5232.05 feet to a point in the Easterly line of said Section 2. The side lines of said right of way shall be prolonged or shortened so as to terminate in said Westerly line of Section 35 and said Easterly line of Section 2.

- 19. An easement, affecting a portion of Parcel 1, for Flood Control and Water Conservation purposes, 30 feet wide, over Lots 109, 110 and 111 herein described, granted to the Riverside County Flood Control and Water Conservation District, by deed recorded August 18, 1954 in Book 1620 Page 573 of Official Records. The center line of said right of way is described as follows:

Beginning at a point on the South line of the said Orchard Tract, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by said map bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve concave to the South, having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve, 77.96 feet; the radial line at the beginning of said curve bears South 23 degrees 42 minutes West;

Thence North 86 degrees 38 minutes West, 1523.13 feet;

Thence along the arc of a 150 foot radius curve, concave to the North, through an angle of 49 degrees 48 minutes feet, a distance of 130.38 feet to the Westerly line of Lot 109. The side lines of said strip of land are to be shortened or extended so as to end on the West line of Lot 109 and the South line of Lot 111.

- 20. A petition filed April 14, 1960 in the office of the county clerk of Riverside County, Case No. 71851, Superior Court, wherein it is sought to exclude Parcels 1, 2 and 5 herein described, from subdivision, under the provisions of the Subdivision Land Exclusion Law (Business and Professions Code, Sections 11700-11709), application thereof for said petition being made by Aleisian Farms, a Partnership.

An order of exclusion recorded June 09, 1960 as Instrument No. 51499 in Book 2710 at page 462 of Official Records; the exclusion map recorded June 09, 1960 as Instrument No. 51500 in Book 2711 at page 84 of Official Records.



SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

21. A pending court action as disclosed by a recorded notice.

Plaintiff: California Electric Power Company, a corporation  
 Defendant: Aleisian Farms, A Partnership, et. al.  
 County: Riverside  
 Court: Superior Court  
 Case No.: 22698  
 Nature of Action: To acquire various rights of way and easements  
 Recorded: August 30, 1960 as Instrument No. 76497

22. Easement, and incidents thereto,

In Favor of: Riverside County Flood Control and Water  
 Conservation District  
 Recorded, Official Records: December 6, 1972  
 Series/Instrument No.: 161550  
 Purpose: For the construction, operation and maintenance  
 of drainage facilities  
 Affects: Portions of said land

Reference is hereby made to said instrument for further particulars

23. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and the  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12634

24. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and The  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12635

Notice of non-renewal of said contract was recorded October 28, 1981 as Instrument No. 203479.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

25. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973
Executed by: Tragniew Inc. a California corporation and The County of Riverside
Recorded: April 23, 1973 as Instrument No. 51451

Notice of Non-Renewal of said contract was recorded

October 28, 1981 as Instrument No. 203480

26. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1982
Executed by: Aleisian Farms and The County of Riverside
Recorded: March 01, 1982 as Instrument No. 34806

27. The fact that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the redevelopment law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment Agency: Beaumont Project Area
Recorded: December 16, 1982 as Instrument No. 217749, Official Records.

The above matter affects a portion of the land described herein and other land.

28. We will require a STATEMENT OF INFORMATION from ALL PARTIES INCLUDING GENERAL PARTNERS OF ALL THE VARIOUS PARTNERSHIPS in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. (TO BE SUBMITTED A MINIMUM OF SEVEN DAYS PRIOR TO THE CLOSE OF SAID TRANSACTION).

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 29. If title is to be insured from the Partnerships then the General Partners, comprised of Trusts, Gateway will require a copy of the trust instrument creating such trust, and all amendments thereto, together with a written verification by all present trustees that the copy is a true and correct copy of the trust, as it may have been amended, that it is in full force and effect and that it has not been revoked or terminated.
- 30. The requirement that a statement of partnership be recorded for the vestee named below, as provided in Section 15010.5 California Corporations Code.  
     Vestee: Banning Farms

NOTE: The charge for a policy of title insurance, if issued through this title order, will be based on the basic (not short-term) title insurance rate.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

NOTE: "Any funds to be disbursed by Gateway Title Company will be disbursed in compliance with Section 12413.1 of the California Insurance Code. A cashier's, teller's or certified check will have next day availability after deposit. All other local checks will have two (2) day availability after deposit. Non-local checks will have five (5) day availability after deposit. Funds received too late in the day for same day deposit will require one (1) additional day before they are available for disbursement.

THE DEPOSIT OF A CASHIER'S, TELLER'S OR CERTIFIED CHECK, OR ELECTRONIC TRANSFER OF FUNDS WILL EXPEDITE THE DISBURSEMENT OF FUNDS AND THE CLOSE OF THIS TRANSACTION."

WIRING INSTRUCTIONS FOR GATEWAY TITLE COMPANY:

Bank: WELLS FARGO BANK  
2323 North Broadway  
Santa Ana, California 92706

Credit: Gateway Title Company  
Sub-Escrow Account  
No. 4602-092827

ABA No.: 121000248

Very important: Please reference our TITLE ORDER NUMBER and or TITLE OFFICER'S NAME.

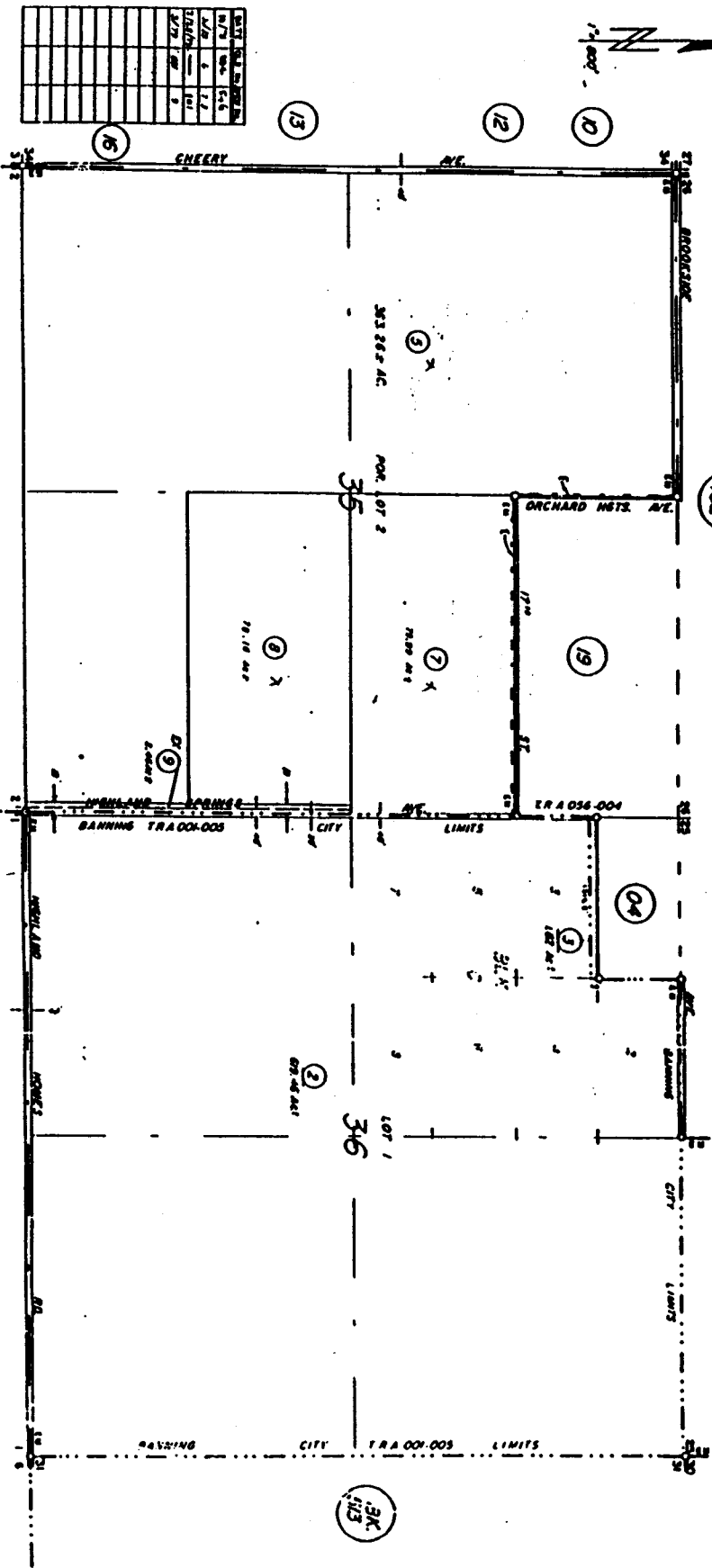
Please notify your title officer in advance of your intention to wire funds so we may alert our respective departments. Any additional information concerning wire transfers can be obtained from your title officer.

DH:dm:lmw  
Plats enclosed

15-30  
406-17

T.C.A. 056-004  
001-005

POR. SEC. 35 & 36, T. 2 S., R. 1 W.



NB 6/33 INSTR. # 5800 6/9/60 EXCLUSION MAP

DATA: 00 007 00000 070. TRACT  
00 070 00000 00000

MAR. 1970

ASSESSORS MAP BK. 406 PG. 17  
RIVERSIDE COUNTY, CALIF.

15-27-2  
419-02

T.C.A. 036-004  
001-001  
001-005

SEC. 182, T.3S,R.1W.

THIS MAP IS FOR  
ASSESSMENT PURPOSES ONLY

TRACT	AREA	ACRES
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MB 6/33 INSTR. 51500 5/60 EXCLUSION MAP  
 DATE: 05/28/93, 02/03-07, 08-09  
 BY: W/C-SB SUR. OF SEC. II  
 COUNTY SURVEY 38-C, 746 888  
 05/24/20-32  
 G.L.O. PLAT 880  
 COUNTY SURVEY 88-4

ASSESSOR'S MAP BK. 419 PG. 02  
 RIVERSIDE COUNTY, CALIF.

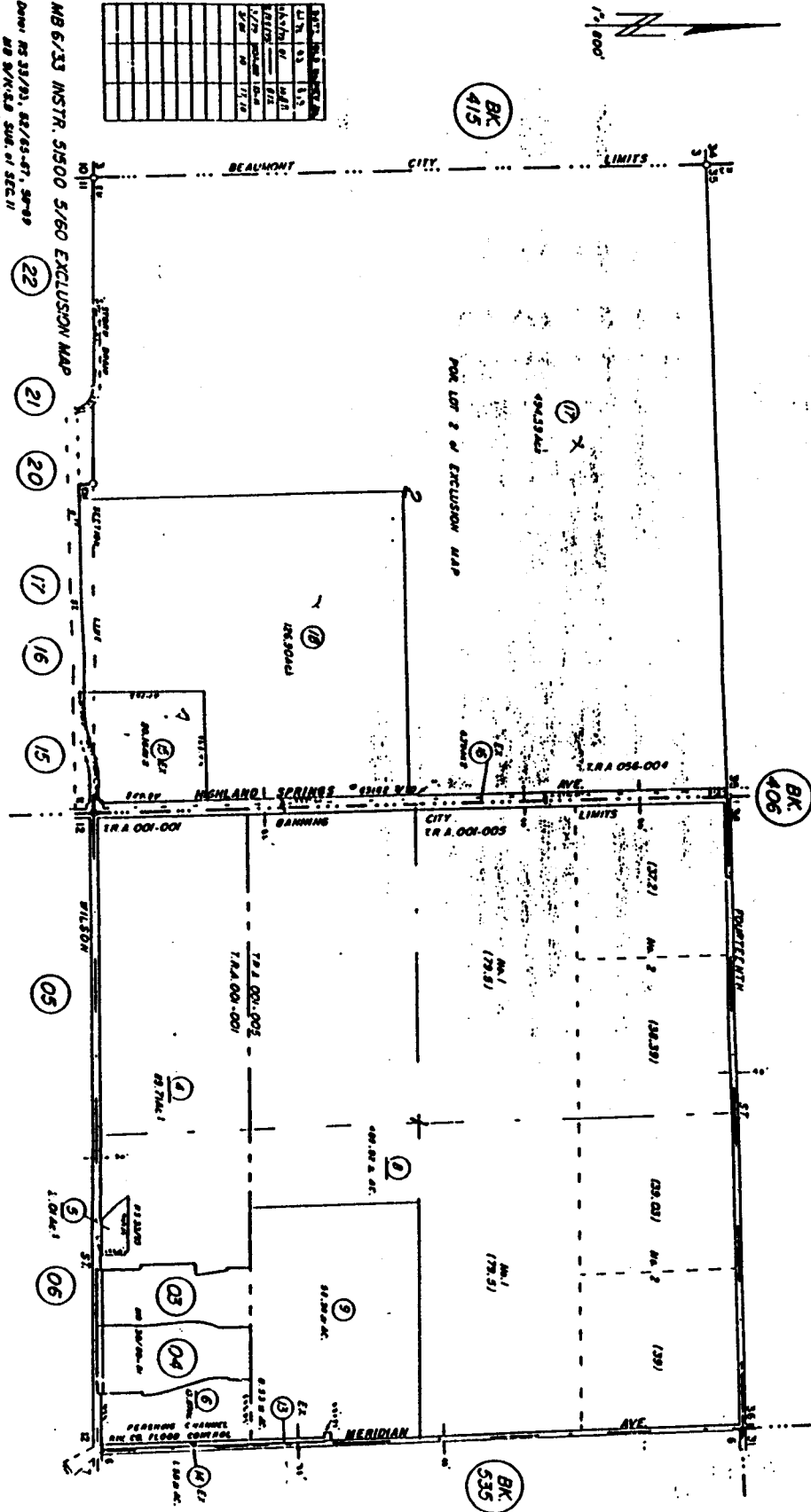


EXHIBIT "D"  
PERMITS AND APPROVALS CONSTITUTING  
DEVELOPMENT PLAN

1. Deutsch Planned Community Specific Plan  
approved by the City Council on January 14,  
1991 by Resolution No. 1991-03.

EXHIBIT "E"

BENEFITS TO CITY

1. The proposed project is consistent and compatible with other existing and proposed uses in the vicinity of the project and community in general.

2. The proposed project will contribute to roadway improvements consistent with the City's updated Master Circulation Plan.

3. The proposed project will be developed on agricultural land which has been denied a permit to farm from the Office of the Agricultural Commissioner due to insufficient moisture content in the soil.

4. The project will be designed and landscaped so as to provide an aesthetically pleasing environment compatible with surrounding land uses.

5. The overall planning of the project is comprehensive and interrelated, not planned in a piecemeal fashion.

6. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

7. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

8. The proposed project will increase sales tax revenue for the City of Beaumont through retail sales.

9. The proposed project will provide public facilities to include parks and a library facility to the City of Beaumont.

10. The intensity of the project is appropriate for the location and is consistent with the City of Beaumont General Plan.

11. The proposed project provides for alternative transportation opportunities through the implementation of bicycle and pedestrian facilities.

12. The proposed project represents a reasonable mix of uses for the site all factors considered.



EXHIBIT "F"

LIST OF FEES AND ASSESSMENTS

- APPLICATIONS
  - Agricultural Preserve
  - Architectural Plan
  - Development Agreement
  - Landscape Concept Plans
  - Sign Permits
  - Tentative Parcel or Tract Map
  - Plan Check Parcel or Tract Map
  - Improvement Construction Plan Checking
  - Inspection of Improvement Construction
  - Final Survey Staking Guarantee
  - Plan Checks per Building Code
  - Building Permits per Building Code
  - Amendments to any of the above or prior approved applications
  
- INFRASTRUCTURE FEES
  - Sewer
  - Water
  - Reclaimed Water
  - Drainage
  
- MITIGATIONS
  - Transportation - Circulation
  - Police
  - Fire
  - Park
  - Signalization
  - Public Facilities
  
- FEES
  - Development Agreement Annual Review Fee
  - CHARGED BY OTHER AGENCIES WHICH ARE REQUIRED TO BE COLLECTED BY THE CITY

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

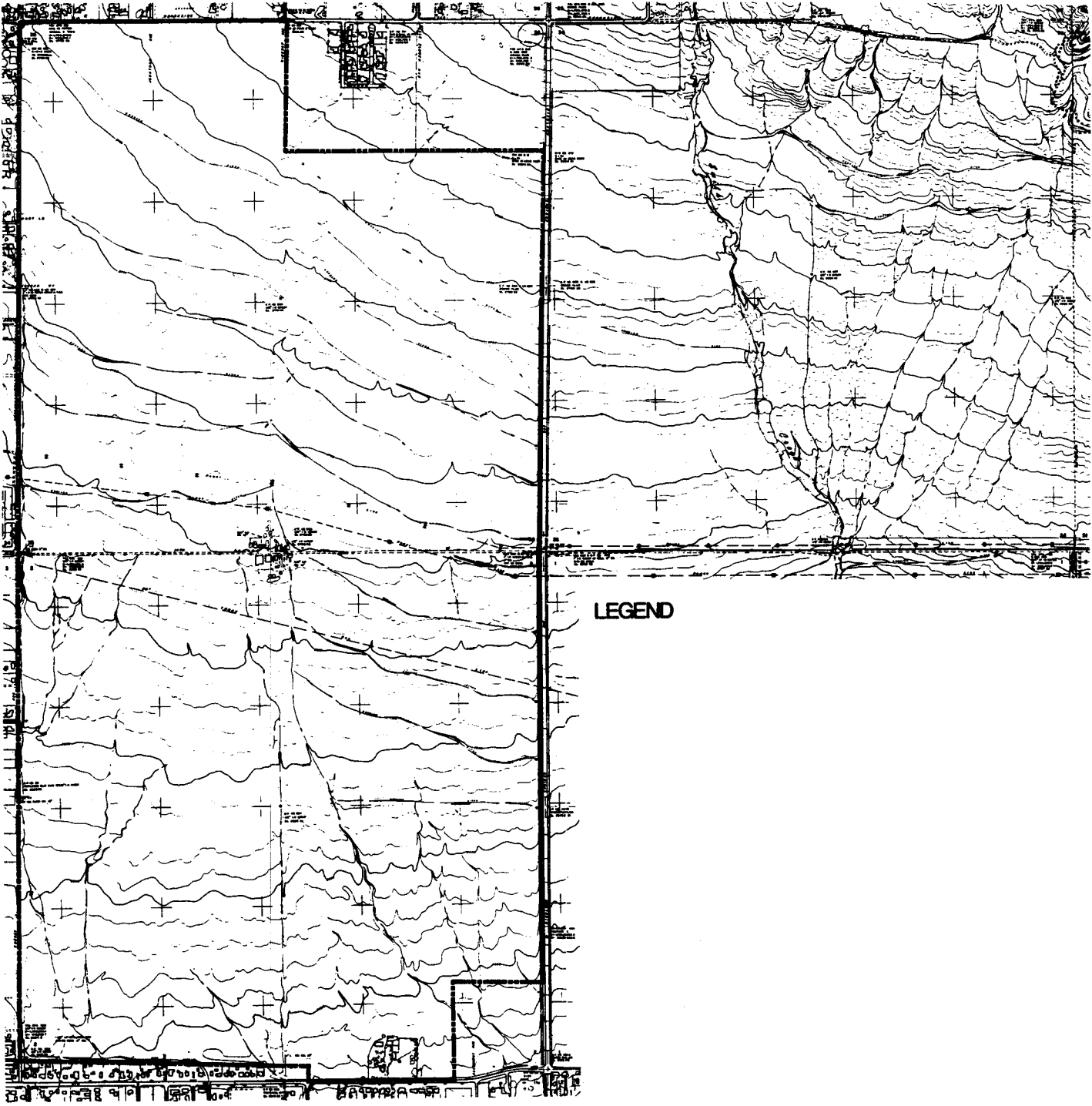
EXHIBIT A

distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

EXHIBIT "B"  
MAP OF PROPERTY



LEGEND

DEUTSCH PROPERTY  
SPECIFIC PLAN  
BEAUMONT, CALIFORNIA



EXHIBIT "C"

TITLE REPORT SHOWING OWNERSHIP INTERESTS IN THE PROPERTY



174170

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
P. O. Box 158  
Beaumont, Ca 92223

RECEIVED FOR RECORD  
AT 8:30 O'CLOCK A.M.

MAY 24 1991

Recorded in Official Records  
of Riverside County, California

*Willie Stanley* Recorder  
Fees \$

Item No.5.

(Space above for Recorder's Use)

DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF BEAUMONT  
AND  
HIGHLAND FARMS, ALEISIAN FARMS  
AND BANNING FARMS (DEUTSCH)  
(Pursuant to Government Code  
Sections 65864 - 65869.5)

TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1. Definitions.....	4
1.1 Agreement.....	4
1.2 Agreement Date.....	4
1.3 Build-Out Phasing Plan.....	4
1.4 City.....	5
1.5 Development Plan.....	5
1.6 Effective Date.....	5
1.7 Developer.....	5
1.8 Project.....	5
1.9 Property.....	6
2. Exhibits.....	6
3. Mutual Benefits.....	6
3.1 Benefits to City.....	6
3.2 Benefits to Developer.....	7
4. Interest of Developer.....	7
5. Binding Effect of Agreement.....	7
6. Project as a Private Undertaking.....	7
7. Term.....	7
8. Changes in Project.....	8
9. Hold Harmless.....	8
9.1 By Developer.....	8
9.2 By City.....	8
10. Vested Right.....	8
10.1 No Conflicting Enactments.....	9
10.2 Intent of Parties.....	9
11. General Development of the Project.....	9
11.1 Project.....	9
11.2 Phasing and Timing of Development.....	10
11.3 Effect of Agreement on Land Use Regulations.....	11
11.4 Administrative Changes and Amendments.....	11



- 11.5 Mello-Roos Community Facilities  
Districts; Other Assessment District  
or Financing Mechanisms.....12
- 11.6 Water and Sewer Facilities.....12
- 11.7 Public Services and Facilities.....13
- 11.8 Cancellation of Williamson Act  
Agricultural Preserve and Land  
Conservation Agreement.....13
- 11.9 Other Governmental or Quasi-  
Governmental Permits.....13
- 11.10 Consistency Between This Agreement  
and Current Laws.....14
- 11.11 Assessments and Fees.....14
- 11.12 Subsequent Actions.....14
  
- 12. Rules, Regulations and Official Policies.....14
  - 12.1 New Rules.....14
  - 12.2 Subsequent Actions and Approvals.....15
  - 12.3 State and Federal Laws.....15
  
- 13. Amendment or Cancellation of Agreement.....15
  
- 14. Enforcement.....15
  
- 15. Periodic Review of Compliance with Agreement....16
  
- 16. Events of Default.....16
  - 16.1 Default by Developer.....16
  - 16.2 Default by City.....16
  - 16.3 Specific Performance Remedy.....17
  
- 17. Institution of Legal Action.....18
  
- 18. Waivers and Delays.....18
  - 18.1 Waiver.....18
  - 18.2 Third Parties.....18
  - 18.3 Force Majeure.....18
  
- 19. Notices.....18
  
- 20. Attorneys' Fees.....19
  
- 21. Transfers and Assignments.....19
  - 21.1 Right to Assign.....19
  - 21.2 Release Upon Transfer.....19
  
- 22. Cooperation in the Event of Legal Challenge.....19

23. Eminent Domain.....20  
24. Authority to Execute.....20  
25. Recordation.....20  
26. Protection of Mortgage Holders.....20  
27. Severability of Terms.....20  
28. Subsequent Amendment to Authorizing Statute.....20  
29. Interpretation and Governing Law.....20  
30. Section Headings.....20  
31. Incorporation of Recitals and Exhibits.....21  
32. Rules and Construction and Miscellaneous Terms..21  
    32.1 Gender.....21  
    32.2 Time of Essence.....21  
    32.3 Cooperation.....21

DEVELOPMENT AGREEMENT

(Pursuant To Government Code Sections 65864 -65869.5)

This DEVELOPMENT AGREEMENT ("Agreement") is entered into to be effective on April 25, 1991, between ALEISIAN FARMS, a California general partnership, HIGHLAND FARMS, a California general partnership and BANNING FARMS, a California general partnership (collectively the "Developer") and the CITY OF BEAUMONT, a Municipal corporation organized and existing under the laws of the State of California ("City"). Developer and City are sometimes collectively referred to herein as the "parties."

R E C I T A L S:

This Agreement is predicated upon the following facts:

A. These Recitals refer to and utilize certain capitalized terms which are defined in this Agreement. The parties intend to refer to those definitions in conjunction with the use thereof in these Recitals.

B. Government Code Sections 65864 - 65869.5 ("Development Agreement Law") authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development.

C. This Agreement is adopted pursuant to Government Code Section 65865 et seq.

D. Developer is the owner of approximately 1,162 acres of land currently located within unincorporated Riverside County, California as more particularly described on Exhibit "A" and shown on Exhibit "B" ("Property"). The respective interests of Aleisian Farms, Highland Farms and Banning Farms in the Property are those as set forth on the title report attached as Exhibit "C". For purposes of information only, Developer owns an additional 1,552 acres of land located East of the Property of which 1,268 acres are located within the City of Banning, and all of which land Developer intends to develop in concert with the Property (the "Banning Property").

E. Developer intends to develop the Property as an integrated, internally oriented planned residential project in accordance with the Development Plan as hereinafter defined in

Section 1.5 (the "Project"). The Project is capital intensive, especially in its initial phases requiring major investment in public facility and on-site and off-site improvement prior to the construction and sale of housing in order to make the Project economically and fiscally feasible. The Project is fully compatible with the proposed development of the Banning Property.

F. The Property is currently located within the sphere of influence of but has not yet been annexed to the City. It is the present intent of the parties that annexation of the Property to the City will occur following approval by the City of the Development Plan defined in Section 1.5. Pursuant to Government Code Section 65865(b), this Agreement shall become operative on the effective date of the annexation, so long as the annexation is completed prior to December 31, 1992, failing which it shall expire on that date and be of no further force or effect.

G. City's General Plan designation for the Property is Residential Planned Unit Development (PUD), and the Specific Plan being adopted concurrently herewith as a part of the Development Plan as defined in Section 1.5 implements the City General Plan and its various component elements by providing specific land use and development standards. Developer and City desire to provide through this Agreement specific development criteria to be applicable to the Property upon its annexation to the City which will provide for maximum utilization of the Property in accordance with sound planning principals.

H. City has determined that the use and intensity of use provided in this Agreement is consistent with the City's General Plan applicable to the Property.

I. Development of the Property pursuant to the Development Plan as defined in Section 1.5, which is largely vacant area almost totally lacking in required infrastructure improvements, requires the construction of substantial reasonable public improvements early in the development and construction process. Certain development risks and uncertainties associated with the long term nature of the development, including the cost of the portion of those regional public improvements required to be installed at the inception of the development, could discourage and deter Developer and other owners in the vicinity from making the long term commitments necessary to fully develop the Property pursuant to the Development Plan. It is only the assurance of the ability to complete the private income producing components of the Development Plan in general that provides the inducement to Developer to agree to commit the land and financial resources required to commence and proceed with development. The parties

desire to enter into this Agreement in order to assure that the Property is developed as an integrated planned community in general, and that the uncertainties to such development over which the City has control are removed.

J. Developer has applied for, and City, concurrently with approval of this Agreement, has approved the Development Plan (as in Section 1.5) in order to protect the interests of its citizens and the quality of the community and environment through the specific plan process (Government Code Section 65450 et seq.) As part of that process of approving the Development Plan, City has undertaken, pursuant to the California Environmental Quality Act ("CEQA"), the required analysis of the environmental effects which would be caused by the Project. City has imposed a series of mitigation measures in connection with the development of the Project to eliminate or reduce to a level of insignificance many significant adverse impacts caused by the Project. As to those significant adverse impacts which cannot be eliminated or reduced to a level of insignificance, the City Council has adopted a statement of overriding considerations pursuant to CEQA setting forth why the beneficial aspects of the Project outweigh those significant adverse impacts which cannot be eliminated or reduced by mitigation measures. On January 14, 1991, the City Council of City adopted Resolution No. 1991-03, certifying the environmental impact report ("EIR") prepared for the Project as being complete and adequate and complying with CEQA. Pursuant to Government Code Section 65457 and Public Resources Code Section 21166 the City acknowledges that no subsequent or supplemental Environmental Impact Report shall be required by the City for the subsequent approvals implementing the development of the Property, whether ministerial or discretionary, unless:

(1) Changes are proposed by Developer which by law will require revisions to the EIR; or

(2) New information which was not known and could not have been known at the time the EIR was certified as complete becomes available; provided, however, that reanalysis of data already examined and reported in the EIR shall not be considered new information. The term "new information" does not mean discovery that probabilities of adverse (or beneficial) results considered in the approval of this Agreement, the Development Plan as defined in Section 1.5 or the EIR may prove incorrect, or that such probabilities are or are not becoming, or have or have not become realities, but instead required that the actual quantitative and qualitative

extent of the underlying issues was not considered and could not have been considered in the environmental analysis associated with the approval of this Agreement and the EIR.

K. The Development Plan implements the goals and policies of the City's General Plan described in the Specific Plan referred to in Section 1.5, below, and provides balanced and diversified land uses in order to maintain the overall quality of life and of the environment within City and to impose appropriate requirements with respect to land development and usage.

L. Developer has requested City to consider entering into a development agreement relating to the Project and proceedings have been taken in accordance with City's rules and regulations.

M. On March 25, 1994, the City Council of City adopted Ordinance No. 698, approving this Agreement with Developer.

N. City acknowledges that by electing to enter into contractual agreements such as this Agreement, the obligations of which shall survive beyond the term or terms of the present City Council members, such action will serve to bind the City and future City Councils to the obligations hereby undertaken. By obligating the City pursuant to this Agreement, the City Council has elected to exercise certain governmental and proprietary powers at the present time rather than deferring its action to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

The parties agree as follows:

1. Definitions.

1.1 "Agreement" is this Development Agreement.

1.2 "Agreement Date" is the date this Agreement is approved by the City Council.

1.3 "Build-Out Phasing Plan" means a plan to be prepared by Developer showing the intended build-out schedule of the Project. The Build-Out Phasing Plan as more particularly

described in Section 11.2 shall be advisory only and shall not be binding on Developer.

1.4 "City" is the City of Beaumont, California.

1.5 "Development Plan" is all of those ordinances, resolutions, codes (except as provided in Section 12.1(c)), rules, regulations and official policies of City governing the development and use of the Property as of the Agreement Date, including, without limitation, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property, and all of those permits and approvals which are referenced on Exhibit "D" which have been issued or granted by City in connection with any of the foregoing. Specifically, but without limitation, such Development Plan includes the Deutsch Planned Community Specific Plan adopted by the City Council on January 14, 1991 by Resolution No. 1991-03 pursuant to Government Code Section 65450 et.seq. (hereinafter the "Specific Plan") allowing the construction of a maximum of 4,716 residential dwelling units ranging in average density from approximately four (4) d.u.'s/acre to approximately fifteen (15) d.u.'s/acre, a fifteen (15) acre community commercial site, five (5) elementary and one (1) junior high school site, a twenty-three (23) acre community park, a twenty-one (21) acre trail park adjacent to the San Diego Gas and Electric Easement, and, three (3) additional neighborhood parks totaling 21 acres adjacent to schools. The average density for the Specific Plan areas is approximately 4.1 d.u.'s/acre.

1.6 "Effective Date" is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period, or (c) the date that the annexation of the Property to this City is completed, provided that such annexation is completed prior to December 31, 1992.

1.7 "Developer" is Aleisian Farms, a California general partnership, Highland Farms, a California general partnership and Banning Farms, a California general partnership as their interests appear on the title report attached as Exhibit "C" and their respective successors in interest to all or any part of the Property.

1.8 "Project" is the proposed development of the Property included within the Development Plan and associated

amenities, including, without limitation, on-site and off-site improvements contemplated by the Development Plan, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.9 "Property" is the real property on which the Project is, or will be, located as described on Exhibit "A" and shown on Exhibit "B."

2. Exhibits. The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Description</u>
A	Legal Description of the Property
B	Map of Property
C	Title Report Showing Ownership Interests in the Property
D	Permits and Approvals Constituting Development Plan
E	Benefits to City
F	List of Fees and Assessments

3. Mutual Benefits. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will insure certain anticipated benefits to both City, including, without limitation, residents of City, and Developer as set forth in this Section. City and Developer agree that, due to the size and duration of the Project, certain assurances on the part of each party as to the Project will be necessary to achieve those desired benefits.

3.1 Benefits to City. The benefits to City (including, without limitation, the residents of City) under



this Agreement include, but are not limited to those set forth in Exhibit "E."

3.2 Benefits to Developer. Developer has expended and will continue to expend substantial amounts of time and money on the planning and infrastructure construction of the Project. In addition, Developer will expend substantial amounts of time and money in constructing public improvements and facilities and in providing for public services in connection with the Project. Developer would not make such additional expenditures without this Agreement and such additional expenditures will be made in reliance upon this Agreement. The benefit to Developer under this Agreement consists of the assurance that Developer will preserve the right to develop the Property as planned and as set forth in the Development Plan.

4. Interest of Developer. Developer represents that Developer has a legal or equitable interest in the parcels comprising Property.

5. Binding Effect of Agreement. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

6. Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property by the owner of such Property.

7. Term. The term of this Agreement shall commence upon the Effective Date and shall continue until all permits and approvals required to complete the development of the Project as contemplated by the Development Plan have been issued, provided that in no event shall such term exceed twenty-five (25) years following the Effective Date of this Agreement as to those lots or parcels of the Property under this Agreement, if any, for which a grading or building permit has either not been issued or has otherwise expired. Notwithstanding the foregoing, as to any lot or parcel on the Property not subject to the preceding sentence, the term of this Agreement and the Development Plan regulations and specifications thereunder shall be extended for a period of fifty (50) years commencing on the date that this Development Agreement would have otherwise expired.

8. Changes in Project. Developer shall not be entitled to any change, modification, revision or alteration in the Development Plan relating to the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings or the provision for reservation or dedication of land for public purposes other than those allowable changes, modifications and alterations permitted under the Development Plan and in particular the Specific Plan, without review and approval by those agencies of City approving the Development Plan in the first instance. Subject to the foregoing provisions of this Section 8, City acknowledges that Developer may seek new entitlements to use and amendments to entitlements to use in connection with the development of the Project. The approval of any changes in the Project as set forth in this Section 8 shall be in the discretion of the City and shall be effectuated as set forth in Section 11.4 below.

9. Hold Harmless.

9.1 By Developer. Developer shall hold City, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of Developer or those of Developer's contractors, subcontractors, agents, employees or other persons acting on Developer's behalf which relate to the Project. Developer shall defend City and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of Developer's activities in connection with the Project.

9.2 By City. City shall hold Developer, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of City or those of City's contractors, subcontractors, agents, employees or other persons acting on City's behalf which relate to the Project. City agrees to and shall defend Developer and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of City's activities in connection with the Project.

10. Vested Right. By entering into this Agreement and relying thereon, Developer is obtaining a vested right to proceed with the Project in accordance with the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan). By entering into this Agreement and relying thereupon, City is securing certain public benefits which help to alleviate potential problems in City and enhance the public health, safety and welfare. City therefore agrees to the following:

10.1 No Conflicting Enactments. Neither the City Council of City nor any other agency of City shall enact an ordinance, policy, rule, regulation or other measure applicable to the Project which relates to the rate, timing or sequencing of the development or construction of all or any part of the Project or which is otherwise in conflict with this Agreement.

10.2 Intent of Parties. In addition to and not in limitation of the foregoing, it is the intent of Developer and City that no moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Project and whether or not enacted by initiative or otherwise) except a moratorium imposed by City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3, affecting parcel or subdivision maps, building permits, site development permits, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within City, or portions of City, shall apply to the Project to the extent such moratorium or other limitation is in conflict with this Agreement. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by citizens of City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Developer shall have no recourse against City pursuant to this Agreement, but shall retain all other rights, claims and causes of action at law or in equity which Developer may have independent of this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement. City agrees to cooperate with owner in all reasonable manners in order to keep this Agreement in full force and effect.

11. General Development of the Project.

11.1 Project. While this Agreement is in effect, Developer shall have a vested right to develop the Project in accordance with the terms and conditions of this Agreement, and in accordance with, and to the extent of the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan) and City shall have the right to control the development of the Project in accordance with the terms and

conditions of this Agreement. Except as otherwise specified in this Agreement, the Development Plan shall control the overall design, development and construction of the Project and all on-site and off-site improvements and appurtenances in connection therewith, including, without limitation, all mitigation measures required in order to minimize or eliminate material adverse environmental impacts caused by the Project. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation and dedication of land for public purposes and other terms and conditions of development applicable to the Property shall be those set forth in the Development Plan. As part of the tentative subdivision map review, the applicant shall submit architectural drawings showing building treatment, elevations, material samples, and landscaping as part of the review and approval process for the residential portions of the Project.

11.2 Phasing and Timing of Development. The parties acknowledge that although Developer currently anticipates that the Project will be phased and constructed in increments over an approximate twenty-five (25) year time frame in accordance with the Build-Out Phasing Plan, at the present time Developer cannot predict when or the order in which Project phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors. To the extent permitted by the Development Plan and this Agreement, Developer shall have the right to develop the Project in phases in such order and at such times as Developer deems appropriate within the exercise of its subjective business judgment, so long as the Project is constructed as an integrated master planned development as contemplated by the Development Plan and the City Manager determines that such phasing will not adversely impact the ability of the City to construct, enlarge, expand, modernize or otherwise modify infrastructure improvements if necessary to accommodate growth of the Beaumont community. City agrees that Developer shall be entitled to apply for and City shall process tentative maps, vesting tentative maps, parcel maps, final maps, site development permits, conditional use permits, building permits, occupancy certificates and other entitlements to use or permits as provided by the Specific Plan or other applicable City ordinances at any time, in as expeditious a manner as possible, provided that such application is made in accordance with the Development Plan.

11.3 Effect of Agreement on Land Use Regulations.

The rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings and the design, improvement and construction standards and specifications applicable to development of the Property are those rules, regulations and official policies in force as of the Agreement Date, and those rules, regulations, and official policies which may hereinafter be adopted by the City to implement its Water Resources Management Plan which is currently being developed, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3. In connection with any approval which City is permitted or has the right to make under this Agreement relating to the Project, or otherwise under its rules, regulations and official policies, City shall exercise its discretion or take action in a manner which is as expeditious as possible and which complies and is consistent with the Development Plan and the standards, terms and conditions contained in this Agreement, and in a manner which will not interfere with the development of the Project for the uses and to the height, density and intensity specified in this Agreement or with the rate of development selected by Developer. City shall accept for processing and timely review and act on all applications for further land use entitlement approvals with respect to the Project called for or required under this Agreement in as expeditious a manner as is possible. Such application shall be processed in the normal manner for processing such matters.

11.4 Administrative Changes and Amendments. The

parties acknowledge that refinements and further development of the Project may demonstrate that changes are appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project development and with respect to those items covered in general terms under this Agreement. If and when the parties find that changes or adjustments are necessary or appropriate, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the City Manager or designee, after execution, shall be attached hereto as an addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by City and Developer. Any such administrative changes or amendments shall not be deemed to be an amendment to this Agreement under Government Code Section 65868, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing. Notwithstanding the foregoing, the following matters shall not be considered administrative changes or amendments, but shall be considered substantive

amendments which shall be reviewed by the Planning Commission and approved by the City Council:

- (a) Alteration of the permitted uses of the Property;
- (b) Increase in the density or intensity of use or the number of lots;
- (c) Increase in the maximum height and size in permitted buildings;
- (d) Deletion of a requirement for the reservation or dedication of land for public purposes except for minor boundary adjustments approved by the Planning Director or designee; and
- (e) Any amendment or change requiring a subsequent or supplemental environmental impact report pursuant to Public Resources Code Section 21166.

11.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms. Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," Owner may, at its sole election, petition the City Council of City to establish a Community Facilities District ("CFD") including the Property for the purpose of acquiring, constructing and financing through the sale of bonds of certain public facilities which are necessary to meet the increased demands placed on the City as a result of the development of the Property. Alternatively, or in addition thereto, Owner may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping Allotting Act of 1972, or any and all other available public financing mechanisms to provide public conduit financing for the construction of public improvements on the Property ("Alternative Financing Mechanisms"). If so requested by Owner, City shall cooperate with Owner and use its best efforts in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties.

11.6 Water and Sewer Facilities. Responsibilities of the Parties with respect to water and sewer facilities pertaining to the transmission of water for or sewage generated

by the Project or by surrounding properties in which Developer will be required to participate shall be determined and allocated on a fair share basis between Developer and the surrounding property owners using such facilities.

11.7 Public Services and Facilities. As provided by the Specific Plan, the Project provides for an integrated roadway system, and public facilities in addition to water and sewer facilities as discussed in Section 11.6 above, including parks, schools, storm drain, police protection and fire protection. The construction and installation of such facilities and infrastructure improvements and the phasing thereof shall be subject to City review and approval at the time that tentative tract maps are submitted for applicable areas of the Project. To the extent that Developer, at City's request, constructs, installs or otherwise provides financing for public facilities or other infrastructure improvements not required to serve the Project and benefiting lands within the City outside the Project area of the Property, City shall adopt such ordinances as are necessary to create a benefit district by which a fee, assessment or charge will be imposed upon such other properties and reimbursed to Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements. In order to insure that the Project will function harmoniously with the City's transportation and circulation plan, City shall undertake the upgrade and completion of street networks to planned standards to accommodate increased demands generated by the Project on other areas of the City in accordance with and under the schedule provided by the City's Master Plan of Circulation.

11.8 Cancellation of Williamson Act Agricultural Preserve and Land Conservation Agreement. Immediately following the Effective Date, City shall, as expeditiously as possible, commence hearings pursuant to the Williamson Act, Government Code Section 51200, et seq. for the cancellation of the January 1, 1973 Land Conservation Contract and January 1, 1982 Land Conservation Contract entered into between the predecessor in interest to Developer and the County of Riverside pertaining to the Property. Developer shall be responsible for paying all fees and costs, including legal fees, incurred by City in processing the cancellation of the Land Conservation Contracts.

11.9 Other Governmental or Quasi-Governmental Permits. Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or

state agencies) as may be required for the development of, or provision of services to the Project under the Development Plan. City shall cooperate with and assist Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits.

11.10 Consistency Between This Agreement and Current Laws. City represents that there are no rules, regulations, ordinances or official policies of City enforced as of the date of execution of this Agreement that would interfere with the completion or use of the Project according to the Development Plan.

11.11 Assessments and Fees. City shall not, without the prior written consent of Developer, impose any assessment or fee applicable to the development of the Project or any portion thereof, or impose any fees as a condition to the implementation of the Project or any portion thereof, except those existing and proposed assessments and fees set forth on Exhibit "F" which include but are not limited to infrastructure fees for sewer, water, reclaimed water, fire mitigation, police mitigation, transportation-circulation, park mitigation, public facilities fees and signalization fees. Notwithstanding the foregoing, fees payable to City shall be at rates applicable on the date the fee is due and payable.

11.12 Subsequent Actions. City shall timely process, in as expeditious a manner as is possible for processing such matters, any necessary entitlements to use, including vesting tentative tract maps, tentative tract maps, parcel maps, final maps, site development permits, special use permits, conditional use permits, or other discretionary approvals or entitlements to use contemplated by the Development Plan, and any grading, construction or other permits filed by Developer in accordance with the substantive development standards set forth in the Development Plan.

12. Rules, Regulations and Official Policies.

12.1 New Rules. This agreement shall not prevent City from applying the following new rules, regulations and policies:

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for development approvals, for monitoring compliance with any development approvals, or for monitoring compliance with environmental impact mitigation measures.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records,



hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code provided that such construction standards and specifications are applied on a City-wide basis.

(d) Regulations which are not in conflict with the Development Plan or this Agreement.

(e) Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by Developer.

12.2 Subsequent Actions and Approvals. In accordance with Government Code Section 65866, this Agreement shall not prevent City in subsequent actions applicable to the Property from applying new rules, regulations and policies which do not conflict with those existing rules, regulations and policies set forth in the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations or policies.

12.3 State and Federal Laws. In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

13. Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

14. Enforcement. Unless amended or cancelled as provided in Section 13 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision or building regulation or other applicable law or regulation adopted by City (or by the voters of City unless found by a court of competent

and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or the rate, timing or sequencing of any development.

15. Periodic Review of Compliance With Agreement. City and Developer shall review this Agreement at least once every twelve (12) months from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Each party agrees to furnish such reasonable evidence of good faith compliance as the other party in the exercise of its reasonable discretion, may require. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. The City Manager shall report the results of such periodic review to the City Council within thirty (30) days after the conclusion thereof. No public hearing shall be held by the City Manager, Planning Commission or City Council with regard to such periodic review; provided, however, that if the City Manager during such periodic review preliminarily finds that Developer is not in good faith compliance with this Agreement, Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that Developer is not in good faith compliance with this Agreement unless so requested by Developer in writing at the time of the submission of such appeal. City shall notify Developer in writing of the date for review at least thirty (30) days prior thereto.

16. Events of Default.

16.1 Default by Developer. If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 15 hereof that Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to Developer, specify the manner in which Developer has failed to so comply and state the steps Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from City specifying the manner in which Developer has failed to so comply, Developer does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then Developer shall be deemed to be in default under the terms of this Agreement and City may terminate this Agreement.

16.2 Default by City. If Developer determines on the basis of substantial evidence that City has not complied in good faith with the terms and conditions of this Agreement, Developer shall, by written notice to City, specify the manner in which City has failed to so comply and state the steps City

must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from Developer specifying the manner in which City has failed to so comply, City does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then City shall be deemed to be in default under the terms of this Agreement and Developer may terminate this Agreement or seek specific performance as set forth in Section 16.3.

16.3 Specific Performance Remedy. Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more substantial time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. For the above reasons, City and Developer agree that damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement. Therefore, specific performance of this Agreement is the only remedy which would compensate Developer if City fails to carry out its obligations under this Agreement, and City hereby agrees that Developer shall be entitled to specific performance in the event of a default by City hereunder. Notwithstanding the foregoing, nothing in this Agreement is intended to deprive Developer from recovering appropriate damages in the event that the terms of this Agreement are breached. City and Developer acknowledge that if Developer fails to carry out its obligations under this Agreement, City shall have the right to refuse to issue any permits or other approvals to which Developer would not otherwise have been entitled pursuant to this Agreement. Therefore, City's remedy of terminating this Agreement shall be sufficient in most circumstances if Developer fails to carry out its obligations hereunder. Notwithstanding the foregoing, if City issues a permit or other approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the sole purpose of causing Developer to satisfy such condition. The City's right to specific performance shall be limited to those circumstances set forth above, and City shall have no right to seek specific performance to cause Developer to otherwise proceed with the development of the Project in any manner.

17. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for Riverside, California.

18. Waivers and Delays.

18.1 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

18.2 Third Parties. Nonperformance shall not be excused because of a failure of a third person except as provided in Section 18.3 below.

18.3 Force Majeure. Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent construction of the Project.

19. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

TO CITY: City of Beaumont  
550 East 6th Street  
P.O. Drawer 158  
Beaumont, California 92223  
Attn: City Manager

TO DEVELOPER: c/o The Deutsch Corporation  
2444 Wilshire Boulevard  
Santa Monica, California 90403  
Attn: Mr. Bill Holler

Either party may change the address stated herein by giving notice, in writing, to the other party and thereafter notices shall be addressed and submitted to the new address.

20. Attorneys' Fees. If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

21. Transfers and Assignments.

21.1 Right to Assign. Developer shall have the right to sell, assign or transfer this Agreement, and any and all of its rights, duties and obligations hereunder, to any person or entity at any time during the term of this Agreement, provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of Developer in the Property, a portion thereof (including a village or individual tract), or parcel or lot so transferred. In the event of any such assignment, either the transferee or Developer shall be liable for the performance of all obligations of Developer. Such transferee or Developer shall notify City in writing of the transfer of such obligations.

21.2 Release Upon Transfer. Upon the sale, transfer or assignment of Developer's rights and interests under this Agreement as permitted pursuant to Section 21.1, Developer shall be released from its obligations under this Agreement and all of owner's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred provided that (a) Developer is not then in default under the Agreement, (b) Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

22. Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action. Each party shall pay its own expenses in connection with such defense. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force

and effect while such litigation, including any appellate review, is pending.

23. Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain.

24. Authority to Execute. The person or persons executing this Agreement on behalf of Developer warrant and represent that they have the authority to execute this Agreement on behalf of their corporation, partnership or business entity and warrant and represent that they have the authority to bind Developer to the performance of its obligations hereunder.

25. Recordation. This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of San Bernardino, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. Protection of Mortgage Holders. Nothing contained herein shall limit or interfere with the lien of mortgage holders having a mortgage made in good faith and for value on any portion of the Property. "Mortgage holder" includes the beneficiary under a deed of trust, and "mortgage" includes the deed of trust.

27. Severability of Terms. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. Subsequent Amendment to Authorizing Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 12.3 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

30. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. Incorporation of Recitals and Exhibits. Recitals A through N and attached Exhibits "A" through "G" are hereby incorporated herein by this reference as though set forth in full.

32. Rules of Construction and Miscellaneous Terms.

32.1 Gender. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

32.2 Time of Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.

32.3 Cooperation. Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

The parties have executed this Development Agreement on the date and year first written above.

Dated: 4/25, 1991

CITY OF BEAUMONT, a municipal corporation of the State of California

By: Ann Connors  
Mayor

"City"

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE MAYOR OF THE CITY COUNCIL

By: Robert J. Bourne  
City Clerk



APPROVED AS TO FORM:

By: George P. Kelly  
City Attorney

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

ALEISIAN FARMS, a California  
General Partnership

Dated: 4/9, 1991

By: *Carl Deutsch*  
Carl Deutsch

General Partner

Dated: 4/9, 1991

By: *Alex Deutsch, all in fact*  
David Deutsch

General Partner

By: Victoria Leslie Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: *Alex Deutsch*  
Alex Deutsch  
Trustee

By: Alexis Lee Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: *Alex Deutsch*  
Alex Deutsch  
Trustee



By: Gina Elizabeth Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
Trustee

By: Gina Elizabeth Deutsch 76 Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: April 9, 1991

By: Lester Deutsch  
Lester Deutsch  
Trustee

By: Estate of Walter Scholtz

General Partner

Dated: 4/4, 1991

By: Sylvia Scholtz  
Sylvia Scholtz  
Executrix

HIGHLAND FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: April 9, 1991

By: Alex Deutsch  
Its: Chairman

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
General Partner

BANNING FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: 4/9, 1991

By: Alex Deutsch

Its: Chairman

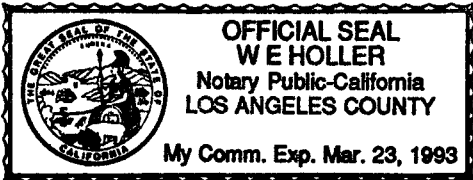
Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
General Partner

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared, CARL DEUTSCH personally known to me or 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.

WITNESS my hand and official seal.

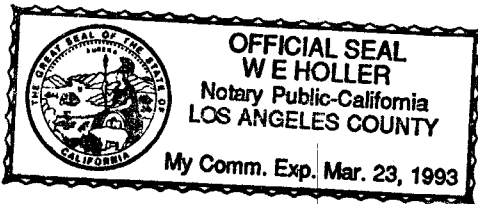


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared DAVID DEUTSCH personally known to me or 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.

WITNESS my hand and official seal.

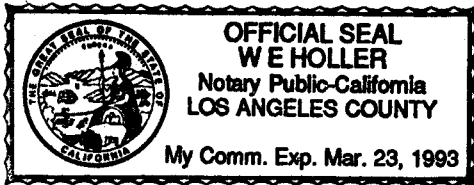


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared ALEX DEUTSCH, TRUSTEE FOR VICTORIA LESLIE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

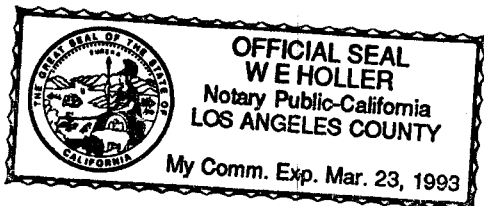


WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared ALEX DEUTSCH, TRUSTEE FOR ALEXIS LEE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

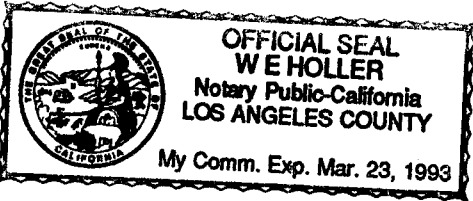


WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

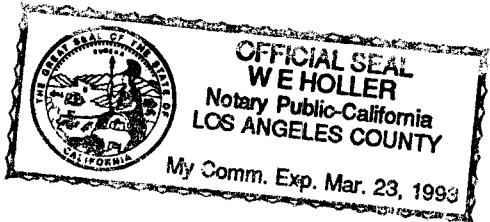


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared LESTER DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.



We Holler  
Notary Public in and for said State

Washington  
STATE OF CALIFORNIA )  
COUNTY OF Whatecom )

ss.

On April 4th, 1991, before me, Robin Montague, personally appeared SYLVIA SCHOLTZ, EXECUTRIX FOR ESTATE OF WALTER SCHOLTZ, personally known to me or 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.

WITNESS my hand and official seal.

Robin Montague  
Notary Public in and for said State  
My commission expires 6-27-94

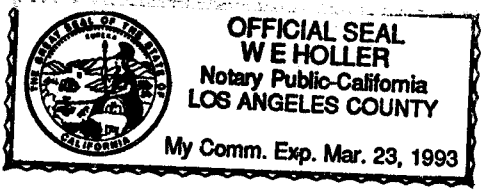
STATE OF CALIFORNIA )  
COUNTY OF LA )

ss.

On 4/9, 1991, before me, WE Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF HIGHLAND FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.

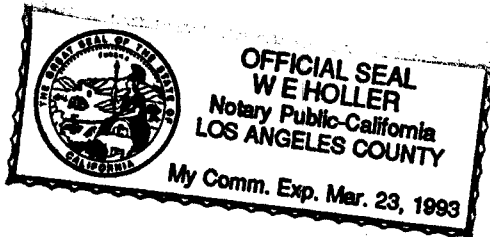
WE Holler  
Notary Public in and for said State



STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH COMPANY, a California Corporation, personally known to me or 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.

WITNESS my hand and official seal.

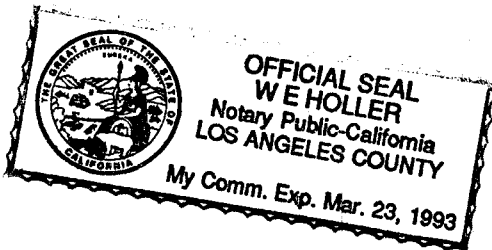


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF BANNING FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.



We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH COMPANY, a California Corporation, personally known to me or 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.

WITNESS my hand and official seal.

WE HOLLER  
Notary Public in and for said State

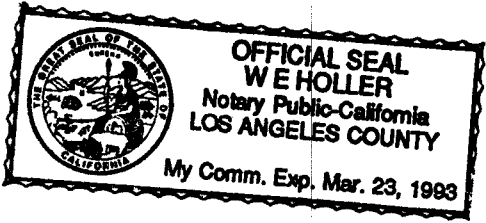




EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A  
-----

PARCEL 1:

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

PARCEL 2:

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A  
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EXCEPT therefrom the following described land as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass disk stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown by Deed Plat No. 746-888 on file in the Office of the County Surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning;

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 38 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

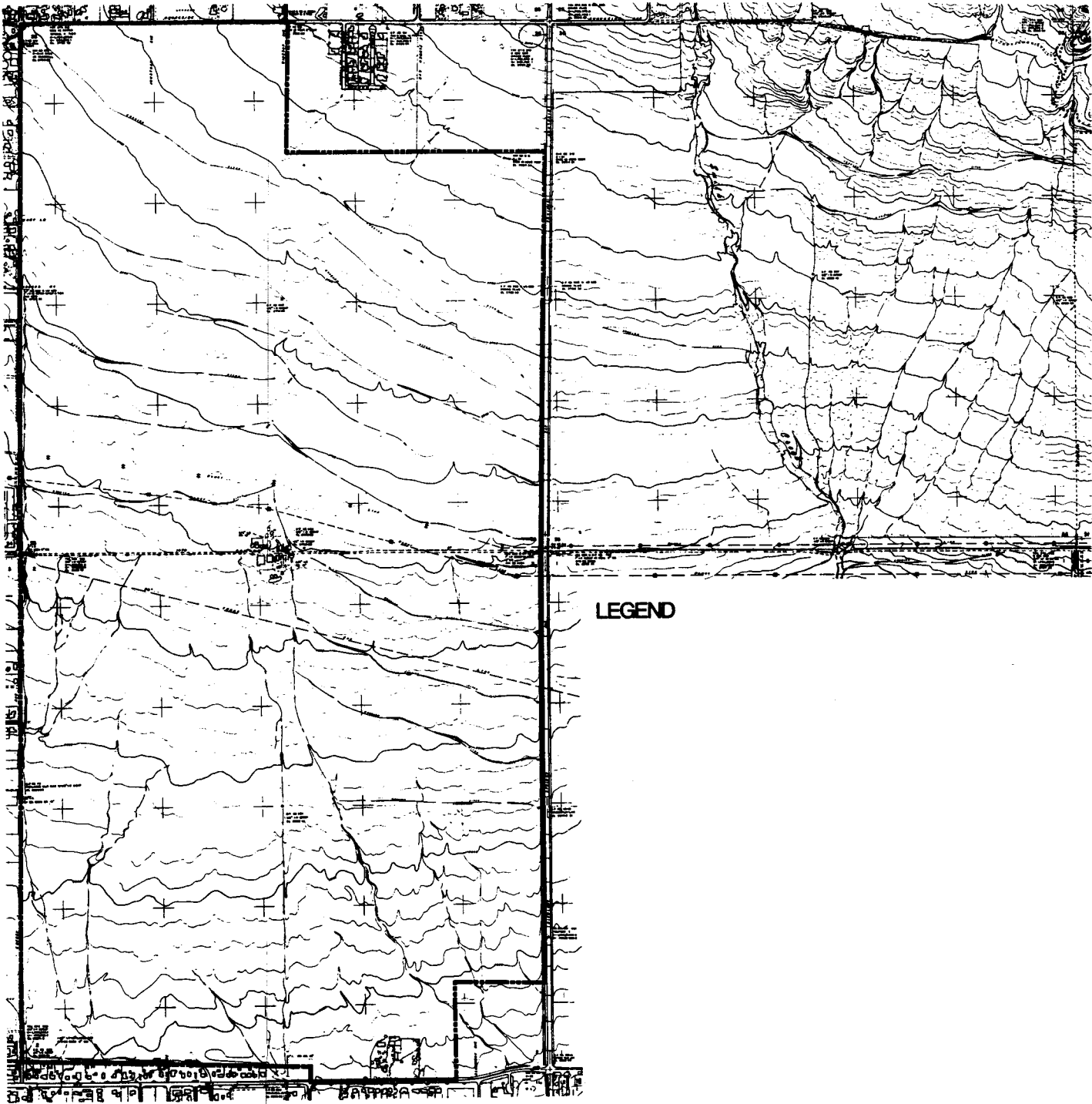
EXHIBIT A  
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distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

EXHIBIT "B"  
MAP OF PROPERTY



LEGEND

# DEUTSCH PROPERTY SPECIFIC PLAN BEAUMONT, CALIFORNIA



EXHIBIT "C"

TITLE REPORT SHOWING OWNERSHIP INTERESTS IN THE PROPERTY



Preliminary Report

Order No. 4104930127-492

GATEWAY TITLE COMPANY

Title officer: Dwight Helmer

Policy(ies) contemplated:  
Preliminary Title Report

-----

THE DEUTSCH COMPANY  
STE. 600  
2444 WILSHIRE BLVD.  
SANTA MONICA, CA 90403

Our No.: 4104930127-492

Your Ref: BANNING

ATTN: BILL HOLLER

Date : March 11, 1991 at 7:30 A.M.

SCHEDULE A

The estate or interest in the land described or referred to in this schedule covered by this report is:

a fee  
Title to the said estate or interest at the date hereof is vested in:

Aleisian Farms, a Partnership composed of Walter Scholtz, Mark Scholtz, Alex Deutsch, Lester Deutsch, Carl Deutsch, Ray Tissue, Ben Weingart, Robert Cumins, Philip E. Holzman, Edward Jones, and Philip E. Holzman as trustee for David Deutsch;

Highland Farms, a California General Partnership, as their interest appear of record, as to all of those portions described in Exhibit "A" herein excepting therefrom the South one half of the Northeast one Quarter of said Section 35; subject to the spousal interest of Betty U. Deutsch, as to the North one half of the Southeast one quarter of said Section 35;

Banning Farms, a California General Partnership, as to the South one half of the Northeast one Quarter of said Section 35.

The land referred to in this report is situated in the State of California, County of Riverside, and is described as follows:

DESCRIPTION CONTAINED IN "EXHIBIT A"  
attached hereto and made a part hereof.

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

PARCEL 1:

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

PARCEL 2:

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.

Gateway Order No.: 4104930127-492

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EXHIBIT A

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Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

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Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

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Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc

Gateway Order No.: 4104930127-492

Reference No.: BANNING

**EXHIBIT A**  
-----

distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

- 1. Property taxes, including any assessments collected with taxes, to be levied for the fiscal year 1991-1992, which are a lien not yet payable.
- 2. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid

Second installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-005-7

The above matter affects The West 1/2 of the South 1/2 of the Southeast 1/4 of Section 35

- 3. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid

Second installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-007-9

The above matter affects The South 1/2 of the Northeast 1/2 of Section 35

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

4. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$342.92
	Penalty:	
	Current status:	Paid
Second installment	Amount:	\$342.92
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-008-0

The above matter affects The North 1/2 of the Southeast 1/4 of Section 35

5. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$4,590.25
	Penalty:	
	Current status:	Paid
Second installment	Amount:	\$4,590.25
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 419-020-017-8

The above matter affects The West 1/2 and the Northeast 1/4 of Section 2

6. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$1,533.81
	Penalty:	
	Current status:	Paid
Second installment	Amount:	\$1,533.81
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 419-020-018-9

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

The above matter affects The above item affects: Parcels 2 and 3 herein described in Exhibit "A"

- 7. The lien of supplemental taxes, if any, assessed according to provisions of the statutes of 1983 of the State of California.
- 8. An easement in favor of the public for any public roads now existing on said property.
- 9. An easement, affecting lots 44, 48, 52, 56, 60, 64, 72, 80, 88 and 96 in Parcel 1 for road 20 feet wide off and along the East side of Section 35, Township 2 South, Range 1 West, and Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, granted to the County of Riverside by deed recorded March 21, 1900 in Book 147 Page 3 of Deeds, Riverside County Records.
- 10. A right of way, affecting a portion of Parcel 1 herein described, for pipe line over lots 1 to 64, inclusive, lots 69 to 72, inclusive, lots 77 to 82, inclusive, lots 85 to 90, inclusive, lots 93 to 96, inclusive, as reserved in the deed from the Riverside Abstract Company, recorded April 01, 1913 in Book 371 Page 177 of Deeds.
- 11. The right of the public to the use of streets as shown on the map of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records.  
  
Said rights affect a portion of Parcel 1 subject to the effect of a revocation of dedication recorded November 24, 1947 in Book 872 Page 561 of Official Records purporting to revoke any and all dedications of the following streets: Lots H, G, F, E, D, C, B, A, J, K, L, M, N and more commonly known as 9th, 11th, 12th, 13th, 14th, 15th, 16th and that portion of 17th Street, which is delineated on the map of Orchard Heights Tract.
- 12. An easement for utilities, affecting Parcel 1, granted to Southern Sierras Power Company, as referred to in United States Patent recorded December 01, 1919 in Book 8 Page 40 of Patents, Riverside County Records, to which record reference is hereby made for further particulars.
- 13. An easement, affecting Parcel 2 for public highway and public utility purposes over the Easterly rectangular 40 feet of the herein described property, as granted to the County of Riverside by Deed recorded December 15, 1936 in Book 305 Page 464 of Official Records.



SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

14. An easement affecting Parcel 1, for public highways and public utility purposes over the Easterly 20 feet of Lots 52, 56, 60, 64, 72, 80, 88 and 96 herein described, granted to the County of Riverside by Deed recorded March 24, 1937 in Book 317 Page 331 of Official Records.

15. An easement affecting a portion of Parcel 1, for public highway and flood control purposes over a portion of Lot 1 herein described, granted to the County of Riverside by deed recorded October 17, 1939 in Book 435 Page 376 of Official Records, described as follows:

Beginning at the Northwesterly corner of said Lot 1;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 33 feet;

Thence in a Northeasterly direction to a point which is 40 feet Easterly of the point of beginning and 10 feet Southerly of the Northerly line of said Lot 1;

Thence Westerly, 40 feet to the point of beginning.

16. An easement, affecting a portion of Parcel 1, for storm drain, 30 feet wide, over Lots 110 and 111 herein described, granted to the County of Riverside by Deed recorded October 27, 1943 in Book 604 Page 154 of Official Records. The center line of said easement is described as follows:

Beginning at a point on the South line of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve, concave to the South having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve 77.96 feet, the radial line at the beginning of said curve bears South 23 degrees 52 minutes West;

Thence North 88 degrees 38 minutes West, 682.0 feet along a line parallel to and 15 feet Northerly measured at right angles from the Southerly line of said Lots 110 and 111. The right of way lines of the Easterly end of this description are to be prolonged or shortened so that they will end on the Southerly line of said Lot 111. The title to said right of way is now vested of record in Riverside County Flood Control and Water Conservation District.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 17. Permanent and exclusive easements and rights of way, affecting a portion of Parcel 1, in, under, over and across Lots 25 to 28, inclusive, Lots 29 to 32, inclusive, Lots 61 to 64, inclusive, and Lots 70 to 72, inclusive herein described, granted to the Southern California Edison Company, Ltd., by Deed recorded November 10, 1945 in Book 704 Page 453 of Official Records. Said easement is described as follows:

A strip of land 300 feet wide, the Southerly and Northerly boundary lines of which are parallel with and respectively 100 feet Southerly and 200 feet Northerly from a line described as follows:

Beginning at a point in the center line of Glen Eyrie Street, as now established, 80 feet wide, along the East line of said Lot 72, which point is South 0 degrees 07 minutes 12 seconds East, 249.35 feet, measured along said center line from the intersection of said center line with the Easterly prolongation of the center line of Lot "L" (14th Street) as shown on the map of Orchard Heights Tract;

Thence from said point of beginning North 89 degrees 58 minutes 32 seconds West, 283.92 feet;

Thence North 74 degrees 39 minutes 55 seconds West, 2578.60 feet;

Thence North 82 degrees 48 minutes 25 seconds West 2501.58 feet, more or less, to a point in the West line of Lot "P" as shown on said map, said West line being also the East line of the Southeast Quarter of Section 34, Township 2 South, Range 1 West, San Bernardino Base and Meridian, said last mentioned point being North 00 degrees 20 minutes 55 seconds East, 751.37 feet, measured along said East line from a inch iron pipe in concrete set for the Southeast corner of said Section 34, said last measured point being South 00 degrees 20 minutes 55 seconds West 1883.43 feet, more or less, for a concrete pipe set for the East Quarter corner of said Section 34.

- 18. A right of way, affecting a portion of Parcel 1, for pipe line, 16.50 feet wide, for transportation of gas, over, under and along a portion of Lots 29, 65 to 68, inclusive, 75 to 80, inclusive, 87, 88, Lot "P" (Cherry Avenue), Lot "R" (Orchard Heights Avenue), Lot "D" (14th Street), Lot "H" (13th Street), and Glen Eyrie Street, map of Orchard Heights Tract herein described, granted to Southern California Gas Company, a corporation and Southern Counties Gas Company of California by Deed filed for record under Torrens Title as Instrument No. 846 on September 5, 1950, last certificate no. 403. The center line of said right of way is described as follows:

Beginning at the Northwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian;

Thence North 0 degrees 20 minutes 55 seconds East, along the Westerly line of Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, 40 feet to the point of beginning;

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

Thence North 89 degrees 54 minutes 26 seconds East, 77.28 feet;

Thence South 47 degrees 13 minutes 49 seconds East, 152.06 feet;

Thence South 75 degrees 42 minutes 34 seconds East, 5232.05 feet to a point in the Easterly line of said Section 2. The side lines of said right of way shall be prolonged or shortened so as to terminate in said Westerly line of Section 35 and said Easterly line of Section 2.

- 19. An easement, affecting a portion of Parcel 1, for Flood Control and Water Conservation purposes, 30 feet wide, over Lots 109, 110 and 111 herein described, granted to the Riverside County Flood Control and Water Conservation District, by deed recorded August 18, 1954 in Book 1620 Page 573 of Official Records. The center line of said right of way is described as follows:

Beginning at a point on the South line of the said Orchard Tract, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by said map bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve concave to the South, having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve, 77.96 feet; the radial line at the beginning of said curve bears South 23 degrees 42 minutes West;

Thence North 86 degrees 38 minutes West, 1523.13 feet;

Thence along the arc of a 150 foot radius curve, concave to the North, through an angle of 49 degrees 48 minutes feet, a distance of 130.38 feet to the Westerly line of Lot 109. The side lines of said strip of land are to be shortened or extended so as to end on the West line of Lot 109 and the South line of Lot 111.

- 20. A petition filed April 14, 1960 in the office of the county clerk of Riverside County, Case No. 71851, Superior Court, wherein it is sought to exclude Parcels 1, 2 and 5 herein described, from subdivision, under the provisions of the Subdivision Land Exclusion Law (Business and Professions Code, Sections 11700-11709), application thereof for said petition being made by Aleisian Farms, a Partnership.

An order of exclusion recorded June 09, 1960 as Instrument No. 51499 in Book 2710 at page 462 of Official Records; the exclusion map recorded June 09, 1960 as Instrument No. 51500 in Book 2711 at page 84 of Official Records.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

21. A pending court action as disclosed by a recorded notice.

Plaintiff: California Electric Power Company, a corporation  
 Defendant: Aleisian Farms, A Partnership, et. al.  
 County: Riverside  
 Court: Superior Court  
 Case No.: 22698  
 Nature of Action: To acquire various rights of way and easements  
 Recorded: August 30, 1960 as Instrument No. 76497

22. Easement, and incidents thereto,

In Favor of: Riverside County Flood Control and Water  
 Conservation District  
 Recorded, Official Records: December 6, 1972  
 Series/Instrument No.: 161550  
 Purpose: For the construction, operation and maintenance  
 of drainage facilities  
 Affects: Portions of said land

Reference is hereby made to said instrument for further particulars

23. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and the  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12634

24. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and The  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12635

Notice of non-renewal of said contract was recorded October 28, 1981 as Instrument No. 203479.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 25. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Tragniew Inc. a California corporation and The County of Riverside  
 Recorded: April 23, 1973 as Instrument No. 51451

Notice of Non-Renewal of said contract was recorded  
 October 28, 1981 as Instrument No. 203480

- 26. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1982  
 Executed by: Aleisian Farms and The County of Riverside  
 Recorded: March 01, 1982 as Instrument No. 34806

- 27. The fact that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the redevelopment law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment Agency: Beaumont Project Area  
 Recorded: December 16, 1982 as Instrument No. 217749, Official Records.

The above matter affects a portion of the land described herein and other land.

- 28. We will require a STATEMENT OF INFORMATION from ALL PARTIES INCLUDING GENERAL PARTNERS OF ALL THE VARIOUS PARTNERSHIPS in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. (TO BE SUBMITTED A MINIMUM OF SEVEN DAYS PRIOR TO THE CLOSE OF SAID TRANSACTION).

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 29. If title is to be insured from the Partnerships then the General Partners, comprised of Trusts, Gateway will require a copy of the trust instrument creating such trust, and all amendments thereto, together with a written verification by all present trustees that the copy is a true and correct copy of the trust, as it may have been amended, that it is in full force and effect and that it has not been revoked or terminated.
  
- 30. The requirement that a statement of partnership be recorded for the vestee named below, as provided in Section 15010.5 California Corporations Code.  
Vestee: Banning Farms

NOTE: The charge for a policy of title insurance, if issued through this title order, will be based on the basic (not short-term) title insurance rate.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

NOTE: "Any funds to be disbursed by Gateway Title Company will be disbursed in compliance with Section 12413.1 of the California Insurance Code. A cashier's, teller's or certified check will have next day availability after deposit. All other local checks will have two (2) day availability after deposit. Non-local checks will have five (5) day availability after deposit. Funds received too late in the day for same day deposit will require one (1) additional day before they are available for disbursement.

THE DEPOSIT OF A CASHIER'S, TELLER'S OR CERTIFIED CHECK, OR ELECTRONIC TRANSFER OF FUNDS WILL EXPEDITE THE DISBURSEMENT OF FUNDS AND THE CLOSE OF THIS TRANSACTION."

WIRING INSTRUCTIONS FOR GATEWAY TITLE COMPANY:

Bank: WELLS FARGO BANK  
2323 North Broadway  
Santa Ana, California 92706

Credit: Gateway Title Company  
Sub-Escrow Account  
No. 4602-092827

ABA No.: 121000248

Very important: Please reference our TITLE ORDER NUMBER and or TITLE OFFICER'S NAME.

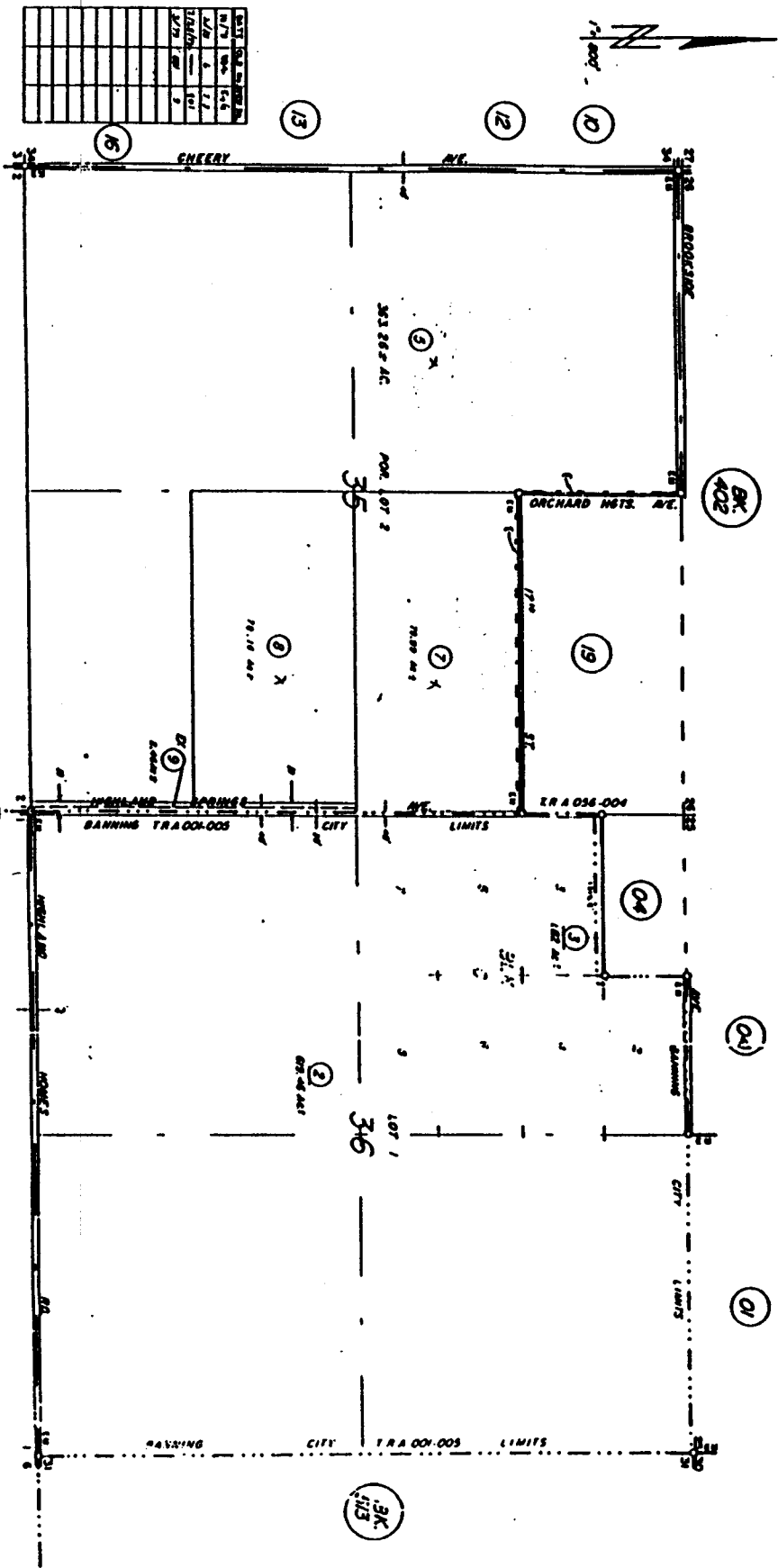
Please notify your title officer in advance of your intention to wire funds so we may alert our respective departments. Any additional information concerning wire transfers can be obtained from your title officer.

DH:dm:lmw  
Plats enclosed

15-30  
406-17

T.C.A. 036-004  
001-005

POR. SEC. 35 B 36, T.2 S., R.1 W.



DATE	NO.	BY	SCALE
1/21/60	1	J.P.	1" = 20'
1/21/60	2	J.P.	1" = 20'
1/21/60	3	J.P.	1" = 20'
1/21/60	4	J.P.	1" = 20'
1/21/60	5	J.P.	1" = 20'
1/21/60	6	J.P.	1" = 20'
1/21/60	7	J.P.	1" = 20'
1/21/60	8	J.P.	1" = 20'
1/21/60	9	J.P.	1" = 20'
1/21/60	10	J.P.	1" = 20'
1/21/60	11	J.P.	1" = 20'
1/21/60	12	J.P.	1" = 20'
1/21/60	13	J.P.	1" = 20'

NB 6/33 INSTR. # 5800 6/9/60 EXCLUSION MAP

DATE: 02/07/2008 BY: TCB  
02/07/2008 09:03

MAR. 1970

BK. 402

ASSESSOR'S MAP BK. 406 PG. 17  
RIVERSIDE COUNTY, CALIF.



419-02

T.C.A. 036-004  
00-001  
001-005

SEC. 18 2, T.3 S., R.1 W.

THIS MAP IS FOR  
ASSESSMENT PURPOSES ONLY

TRACT NO.	ACRES	OWNER
1	1.15	W. J. ...
2	1.15	W. J. ...
3	1.15	W. J. ...
4	1.15	W. J. ...
5	1.15	W. J. ...
6	1.15	W. J. ...
7	1.15	W. J. ...
8	1.15	W. J. ...
9	1.15	W. J. ...
10	1.15	W. J. ...
11	1.15	W. J. ...
12	1.15	W. J. ...
13	1.15	W. J. ...
14	1.15	W. J. ...
15	1.15	W. J. ...
16	1.15	W. J. ...
17	1.15	W. J. ...
18	1.15	W. J. ...
19	1.15	W. J. ...
20	1.15	W. J. ...
21	1.15	W. J. ...
22	1.15	W. J. ...

MB 6/33 INSTR. 51800 5/60 EXCLUSION MAP  
 DATED 05/27/01, 02/03-07, 08-09  
 MB 5/15/00 SUB. OF SEC. 11  
 MB 31/00-01  
 COUNTY SURVEY ST.-C., 746 888  
 05/24/00-02  
 G.L.O. PLAT M80  
 COUNTY SURVEY 818-4

ASSESSOR'S MAP BK. 419 PG. 02  
 RIVERSIDE COUNTY, CALIF.

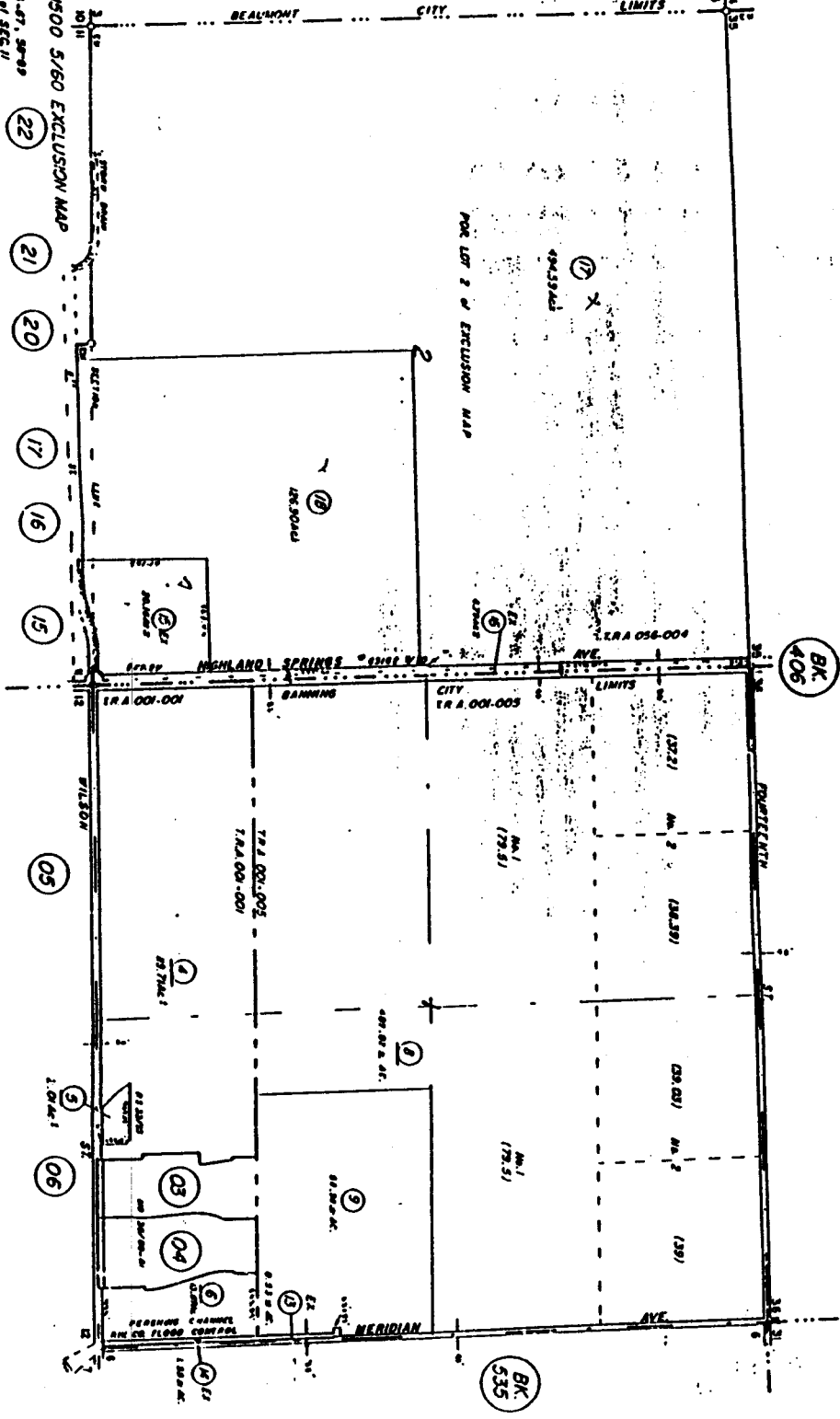


EXHIBIT "D"  
PERMITS AND APPROVALS CONSTITUTING  
DEVELOPMENT PLAN

1. Deutsch Planned Community Specific Plan  
approved by the City Council on January 14,  
1991 by Resolution No. 1991-03.

EXHIBIT "E"

BENEFITS TO CITY

1. The proposed project is consistent and compatible with other existing and proposed uses in the vicinity of the project and community in general.

2. The proposed project will contribute to roadway improvements consistent with the City's updated Master Circulation Plan.

3. The proposed project will be developed on agricultural land which has been denied a permit to farm from the Office of the Agricultural Commissioner due to insufficient moisture content in the soil.

4. The project will be designed and landscaped so as to provide an aesthetically pleasing environment compatible with surrounding land uses.

5. The overall planning of the project is comprehensive and interrelated, not planned in a piecemeal fashion.

6. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

7. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

8. The proposed project will increase sales tax revenue for the City of Beaumont through retail sales.

9. The proposed project will provide public facilities to include parks and a library facility to the City of Beaumont.

10. The intensity of the project is appropriate for the location and is consistent with the City of Beaumont General Plan.

11. The proposed project provides for alternative transportation opportunities through the implementation of bicycle and pedestrian facilities.

12. The proposed project represents a reasonable mix of uses for the site all factors considered.

LIST OF FEES AND ASSESSMENTS

EXHIBIT "E"

Development Agreement Annual Review Fee	-	FEEES
CHARGED BY OTHER AGENCIES WHICH ARE	-	
REQUIRED TO BE COLLECTED BY THE CITY	-	
Public Facilities	-	
Signalization	-	
Park	-	
Fire	-	
Police	-	
Transportation - Circulation	-	MITIGATIONES
Drainage	-	
Reclaimed Water	-	
Water	-	
Sewer	-	INFRASTRUCTURE FEEES
approved applications	-	
Amendments to any of the above or prior	-	
Building Permits per Building Code	-	
Plan Checks per Building Code	-	
Final Survey Staking Guarantee	-	
Inspection of Improvement Construction	-	
Improvement Construction Plan Checking	-	
Plan Check Parcel or Tract Map	-	
Tentative Parcel or Tract Map	-	
Sign Permits	-	
Landscape Concept Plans	-	
Development Agreement	-	
Architectural Plan	-	
Agricultural Preserve	-	APPLICATIONES



174170

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
P. O. Box 158  
Beaumont, Ca 92223

RECEIVED FOR RECORD  
AT 8:30 O'CLOCK A.M.

MAY 24 1991

Recorded in Official Records  
of Riverside County, California

*William J. [Signature]*  
Recorder  
Fees \$

Item No.5.

(Space above for Recorder's Use)

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF BEAUMONT

AND

HIGHLAND FARMS, ALEISIAN FARMS

AND BANNING FARMS (DEUTSCH)

(Pursuant to Government Code

Sections 65864 - 65869.5)

TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1. Definitions.....	4
1.1 Agreement.....	4
1.2 Agreement Date.....	4
1.3 Build-Out Phasing Plan.....	4
1.4 City.....	5
1.5 Development Plan.....	5
1.6 Effective Date.....	5
1.7 Developer.....	5
1.8 Project.....	5
1.9 Property.....	6
2. Exhibits.....	6
3. Mutual Benefits.....	6
3.1 Benefits to City.....	6
3.2 Benefits to Developer.....	7
4. Interest of Developer.....	7
5. Binding Effect of Agreement.....	7
6. Project as a Private Undertaking.....	7
7. Term.....	7
8. Changes in Project.....	8
9. Hold Harmless.....	8
9.1 By Developer.....	8
9.2 By City.....	8
10. Vested Right.....	8
10.1 No Conflicting Enactments.....	9
10.2 Intent of Parties.....	9
11. General Development of the Project.....	9
11.1 Project.....	9
11.2 Phasing and Timing of Development.....	10
11.3 Effect of Agreement on Land Use Regulations.....	11
11.4 Administrative Changes and Amendments.....	11

- 11.5 Mello-Roos Community Facilities  
Districts; Other Assessment District  
or Financing Mechanisms.....12
- 11.6 Water and Sewer Facilities.....12
- 11.7 Public Services and Facilities.....13
- 11.8 Cancellation of Williamson Act  
Agricultural Preserve and Land  
Conservation Agreement.....13
- 11.9 Other Governmental or Quasi-  
Governmental Permits.....13
- 11.10 Consistency Between This Agreement  
and Current Laws.....14
- 11.11 Assessments and Fees.....14
- 11.12 Subsequent Actions.....14
- 12. Rules, Regulations and Official Policies.....14
  - 12.1 New Rules.....14
  - 12.2 Subsequent Actions and Approvals.....15
  - 12.3 State and Federal Laws.....15
- 13. Amendment or Cancellation of Agreement.....15
- 14. Enforcement.....15
- 15. Periodic Review of Compliance with Agreement....16
- 16. Events of Default.....16
  - 16.1 Default by Developer.....16
  - 16.2 Default by City.....16
  - 16.3 Specific Performance Remedy.....17
- 17. Institution of Legal Action.....18
- 18. Waivers and Delays.....18
  - 18.1 Waiver.....18
  - 18.2 Third Parties.....18
  - 18.3 Force Majeure.....18
- 19. Notices.....18
- 20. Attorneys' Fees.....19
- 21. Transfers and Assignments.....19
  - 21.1 Right to Assign.....19
  - 21.2 Release Upon Transfer.....19
- 22. Cooperation in the Event of Legal Challenge.....19



23. Eminent Domain.....20  
24. Authority to Execute.....20  
25. Recordation.....20  
26. Protection of Mortgage Holders.....20  
27. Severability of Terms.....20  
28. Subsequent Amendment to Authorizing Statute.....20  
29. Interpretation and Governing Law.....20  
30. Section Headings.....20  
31. Incorporation of Recitals and Exhibits.....21  
32. Rules and Construction and Miscellaneous Terms..21  
    32.1 Gender.....21  
    32.2 Time of Essence.....21  
    32.3 Cooperation.....21

DEVELOPMENT AGREEMENT

(Pursuant To Government Code Sections 65864 -65869.5)

This DEVELOPMENT AGREEMENT ("Agreement") is entered into to be effective on April 25, 1991, between ALEISIAN FARMS, a California general partnership, HIGHLAND FARMS, a California general partnership and BANNING FARMS, a California general partnership (collectively the "Developer") and the CITY OF BEAUMONT, a Municipal corporation organized and existing under the laws of the State of California ("City"). Developer and City are sometimes collectively referred to herein as the "parties."

R E C I T A L S :

This Agreement is predicated upon the following facts:

A. These Recitals refer to and utilize certain capitalized terms which are defined in this Agreement. The parties intend to refer to those definitions in conjunction with the use thereof in these Recitals.

B. Government Code Sections 65864 - 65869.5 ("Development Agreement Law") authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development.

C. This Agreement is adopted pursuant to Government Code Section 65865 et seq.

D. Developer is the owner of approximately 1,162 acres of land currently located within unincorporated Riverside County, California as more particularly described on Exhibit "A" and shown on Exhibit "B" ("Property"). The respective interests of Aleisian Farms, Highland Farms and Banning Farms in the Property are those as set forth on the title report attached as Exhibit "C". For purposes of information only, Developer owns an additional 1,552 acres of land located East of the Property of which 1,268 acres are located within the City of Banning, and all of which land Developer intends to develop in concert with the Property (the "Banning Property").

E. Developer intends to develop the Property as an integrated, internally oriented planned residential project in accordance with the Development Plan as hereinafter defined in

Section 1.5 (the "Project"). The Project is capital intensive, especially in its initial phases requiring major investment in public facility and on-site and off-site improvement prior to the construction and sale of housing in order to make the Project economically and fiscally feasible. The Project is fully compatible with the proposed development of the Banning Property.

F. The Property is currently located within the sphere of influence of but has not yet been annexed to the City. It is the present intent of the parties that annexation of the Property to the City will occur following approval by the City of the Development Plan defined in Section 1.5. Pursuant to Government Code Section 65865(b), this Agreement shall become operative on the effective date of the annexation, so long as the annexation is completed prior to December 31, 1992, failing which it shall expire on that date and be of no further force or effect.

G. City's General Plan designation for the Property is Residential Planned Unit Development (PUD), and the Specific Plan being adopted concurrently herewith as a part of the Development Plan as defined in Section 1.5 implements the City General Plan and its various component elements by providing specific land use and development standards. Developer and City desire to provide through this Agreement specific development criteria to be applicable to the Property upon its annexation to the City which will provide for maximum utilization of the Property in accordance with sound planning principals.

H. City has determined that the use and intensity of use provided in this Agreement is consistent with the City's General Plan applicable to the Property.

I. Development of the Property pursuant to the Development Plan as defined in Section 1.5, which is largely vacant area almost totally lacking in required infrastructure improvements, requires the construction of substantial reasonable public improvements early in the development and construction process. Certain development risks and uncertainties associated with the long term nature of the development, including the cost of the portion of those regional public improvements required to be installed at the inception of the development, could discourage and deter Developer and other owners in the vicinity from making the long term commitments necessary to fully develop the Property pursuant to the Development Plan. It is only the assurance of the ability to complete the private income producing components of the Development Plan in general that provides the inducement to Developer to agree to commit the land and financial resources required to commence and proceed with development. The parties

desire to enter into this Agreement in order to assure that the Property is developed as an integrated planned community in general, and that the uncertainties to such development over which the City has control are removed.

J. Developer has applied for, and City, concurrently with approval of this Agreement, has approved the Development Plan (as in Section 1.5) in order to protect the interests of its citizens and the quality of the community and environment through the specific plan process (Government Code Section 65450 et seq.) As part of that process of approving the Development Plan, City has undertaken, pursuant to the California Environmental Quality Act ("CEQA"), the required analysis of the environmental effects which would be caused by the Project. City has imposed a series of mitigation measures in connection with the development of the Project to eliminate or reduce to a level of insignificance many significant adverse impacts caused by the Project. As to those significant adverse impacts which cannot be eliminated or reduced to a level of insignificance, the City Council has adopted a statement of overriding considerations pursuant to CEQA setting forth why the beneficial aspects of the Project outweigh those significant adverse impacts which cannot be eliminated or reduced by mitigation measures. On January 14, 1991, the City Council of City adopted Resolution No. 1991-03, certifying the environmental impact report ("EIR") prepared for the Project as being complete and adequate and complying with CEQA. Pursuant to Government Code Section 65457 and Public Resources Code Section 21166 the City acknowledges that no subsequent or supplemental Environmental Impact Report shall be required by the City for the subsequent approvals implementing the development of the Property, whether ministerial or discretionary, unless:

(1) Changes are proposed by Developer which by law will require revisions to the EIR; or

(2) New information which was not known and could not have been known at the time the EIR was certified as complete becomes available; provided, however, that reanalysis of data already examined and reported in the EIR shall not be considered new information. The term "new information" does not mean discovery that probabilities of adverse (or beneficial) results considered in the approval of this Agreement, the Development Plan as defined in Section 1.5 or the EIR may prove incorrect, or that such probabilities are or are not becoming, or have or have not become realities, but instead required that the actual quantitative and qualitative

extent of the underlying issues was not considered and could not have been considered in the environmental analysis associated with the approval of this Agreement and the EIR.

K. The Development Plan implements the goals and policies of the City's General Plan described in the Specific Plan referred to in Section 1.5, below, and provides balanced and diversified land uses in order to maintain the overall quality of life and of the environment within City and to impose appropriate requirements with respect to land development and usage.

L. Developer has requested City to consider entering into a development agreement relating to the Project and proceedings have been taken in accordance with City's rules and regulations.

M. On March 25, 1991, the City Council of City adopted Ordinance No. 698, approving this Agreement with Developer.

N. City acknowledges that by electing to enter into contractual agreements such as this Agreement, the obligations of which shall survive beyond the term or terms of the present City Council members, such action will serve to bind the City and future City Councils to the obligations hereby undertaken. By obligating the City pursuant to this Agreement, the City Council has elected to exercise certain governmental and proprietary powers at the present time rather than deferring its action to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

The parties agree as follows:

1. Definitions.

1.1 "Agreement" is this Development Agreement.

1.2 "Agreement Date" is the date this Agreement is approved by the City Council.

1.3 "Build-Out Phasing Plan" means a plan to be prepared by Developer showing the intended build-out schedule of the Project. The Build-Out Phasing Plan as more particularly

described in Section 11.2 shall be advisory only and shall not be binding on Developer.

1.4 "City" is the City of Beaumont, California.

1.5 "Development Plan" is all of those ordinances, resolutions, codes (except as provided in Section 12.1(c)), rules, regulations and official policies of City governing the development and use of the Property as of the Agreement Date, including, without limitation, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property, and all of those permits and approvals which are referenced on Exhibit "D" which have been issued or granted by City in connection with any of the foregoing. Specifically, but without limitation, such Development Plan includes the Deutsch Planned Community Specific Plan adopted by the City Council on January 14, 1991 by Resolution No. 1991-03 pursuant to Government Code Section 65450 et.seq. (hereinafter the "Specific Plan") allowing the construction of a maximum of 4,716 residential dwelling units ranging in average density from approximately four (4) d.u.'s/acre to approximately fifteen (15) d.u.'s/acre, a fifteen (15) acre community commercial site, five (5) elementary and one (1) junior high school site, a twenty-three (23) acre community park, a twenty-one (21) acre trail park adjacent to the San Diego Gas and Electric Easement, and, three (3) additional neighborhood parks totaling 21 acres adjacent to schools. The average density for the Specific Plan areas is approximately 4.1 d.u.'s/acre.

1.6 "Effective Date" is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period, or (c) the date that the annexation of the Property to this City is completed, provided that such annexation is completed prior to December 31, 1992.

1.7 "Developer" is Aleisian Farms, a California general partnership, Highland Farms, a California general partnership and Banning Farms, a California general partnership as their interests appear on the title report attached as Exhibit "C" and their respective successors in interest to all or any part of the Property.

1.8 "Project" is the proposed development of the Property included within the Development Plan and associated

amenities, including, without limitation, on-site and off-site improvements contemplated by the Development Plan, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.9 "Property" is the real property on which the Project is, or will be, located as described on Exhibit "A" and shown on Exhibit "B."

2. Exhibits. The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Description</u>
A	Legal Description of the Property
B	Map of Property
C	Title Report Showing Ownership Interests in the Property
D	Permits and Approvals Constituting Development Plan
E	Benefits to City
F	List of Fees and Assessments

3. Mutual Benefits. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will insure certain anticipated benefits to both City, including, without limitation, residents of City, and Developer as set forth in this Section. City and Developer agree that, due to the size and duration of the Project, certain assurances on the part of each party as to the Project will be necessary to achieve those desired benefits.

3.1 Benefits to City. The benefits to City (including, without limitation, the residents of City) under

this Agreement include, but are not limited to those set forth in Exhibit "E."

3.2 Benefits to Developer. Developer has expended and will continue to expend substantial amounts of time and money on the planning and infrastructure construction of the Project. In addition, Developer will expend substantial amounts of time and money in constructing public improvements and facilities and in providing for public services in connection with the Project. Developer would not make such additional expenditures without this Agreement and such additional expenditures will be made in reliance upon this Agreement. The benefit to Developer under this Agreement consists of the assurance that Developer will preserve the right to develop the Property as planned and as set forth in the Development Plan.

4. Interest of Developer. Developer represents that Developer has a legal or equitable interest in the parcels comprising Property.

5. Binding Effect of Agreement. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

6. Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property by the owner of such Property.

7. Term. The term of this Agreement shall commence upon the Effective Date and shall continue until all permits and approvals required to complete the development of the Project as contemplated by the Development Plan have been issued, provided that in no event shall such term exceed twenty-five (25) years following the Effective Date of this Agreement as to those lots or parcels of the Property under this Agreement, if any, for which a grading or building permit has either not been issued or has otherwise expired. Notwithstanding the foregoing, as to any lot or parcel on the Property not subject to the preceding sentence, the term of this Agreement and the Development Plan regulations and specifications thereunder shall be extended for a period of fifty (50) years commencing on the date that this Development Agreement would have otherwise expired.



8. Changes in Project. Developer shall not be entitled to any change, modification, revision or alteration in the Development Plan relating to the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings or the provision for reservation or dedication of land for public purposes other than those allowable changes, modifications and alterations permitted under the Development Plan and in particular the Specific Plan, without review and approval by those agencies of City approving the Development Plan in the first instance. Subject to the foregoing provisions of this Section 8, City acknowledges that Developer may seek new entitlements to use and amendments to entitlements to use in connection with the development of the Project. The approval of any changes in the Project as set forth in this Section 8 shall be in the discretion of the City and shall be effectuated as set forth in Section 11.4 below.

9. Hold Harmless.

9.1 By Developer. Developer shall hold City, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of Developer or those of Developer's contractors, subcontractors, agents, employees or other persons acting on Developer's behalf which relate to the Project. Developer shall defend City and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of Developer's activities in connection with the Project.

9.2 By City. City shall hold Developer, its officers, agents, employees, partners and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, which may arise from the activities of City or those of City's contractors, subcontractors, agents, employees or other persons acting on City's behalf which relate to the Project. City agrees to and shall defend Developer and its officers, agents, employees, partners and representatives from actions for damages caused or alleged to have been caused by reason of City's activities in connection with the Project.

10. Vested Right. By entering into this Agreement and relying thereon, Developer is obtaining a vested right to proceed with the Project in accordance with the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan). By entering into this Agreement and relying thereupon, City is securing certain public benefits which help to alleviate potential problems in City and enhance the public health, safety and welfare. City therefore agrees to the following:

10.1 No Conflicting Enactments. Neither the City Council of City nor any other agency of City shall enact an ordinance, policy, rule, regulation or other measure applicable to the Project which relates to the rate, timing or sequencing of the development or construction of all or any part of the Project or which is otherwise in conflict with this Agreement.

10.2 Intent of Parties. In addition to and not in limitation of the foregoing, it is the intent of Developer and City that no moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Project and whether or not enacted by initiative or otherwise) except a moratorium imposed by City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3, affecting parcel or subdivision maps, building permits, site development permits, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within City, or portions of City, shall apply to the Project to the extent such moratorium or other limitation is in conflict with this Agreement. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by citizens of City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Developer shall have no recourse against City pursuant to this Agreement, but shall retain all other rights, claims and causes of action at law or in equity which Developer may have independent of this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement. City agrees to cooperate with owner in all reasonable manners in order to keep this Agreement in full force and effect.

11. General Development of the Project.

11.1 Project. While this Agreement is in effect, Developer shall have a vested right to develop the Project in accordance with the terms and conditions of this Agreement, and in accordance with, and to the extent of the Development Plan, but subject to any remaining discretionary approvals required in order to complete the Project as contemplated by the Development Plan (which discretion shall be exercised in accordance with the Development Plan) and City shall have the right to control the development of the Project in accordance with the terms and

conditions of this Agreement. Except as otherwise specified in this Agreement, the Development Plan shall control the overall design, development and construction of the Project and all on-site and off-site improvements and appurtenances in connection therewith, including, without limitation, all mitigation measures required in order to minimize or eliminate material adverse environmental impacts caused by the Project. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the provisions for reservation and dedication of land for public purposes and other terms and conditions of development applicable to the Property shall be those set forth in the Development Plan. As part of the tentative subdivision map review, the applicant shall submit architectural drawings showing building treatment, elevations, material samples, and landscaping as part of the review and approval process for the residential portions of the Project.

11.2 Phasing and Timing of Development. The parties acknowledge that although Developer currently anticipates that the Project will be phased and constructed in increments over an approximate twenty-five (25) year time frame in accordance with the Build-Out Phasing Plan, at the present time Developer cannot predict when or the order in which Project phases will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors. To the extent permitted by the Development Plan and this Agreement, Developer shall have the right to develop the Project in phases in such order and at such times as Developer deems appropriate within the exercise of its subjective business judgment, so long as the Project is constructed as an integrated master planned development as contemplated by the Development Plan and the City Manager determines that such phasing will not adversely impact the ability of the City to construct, enlarge, expand, modernize or otherwise modify infrastructure improvements if necessary to accommodate growth of the Beaumont community. City agrees that Developer shall be entitled to apply for and City shall process tentative maps, vesting tentative maps, parcel maps, final maps, site development permits, conditional use permits, building permits, occupancy certificates and other entitlements to use or permits as provided by the Specific Plan or other applicable City ordinances at any time, in as expeditious a manner as possible, provided that such application is made in accordance with the Development Plan.

11.3 Effect of Agreement on Land Use Regulations.

The rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings and the design, improvement and construction standards and specifications applicable to development of the Property are those rules, regulations and official policies in force as of the Agreement Date, and those rules, regulations, and official policies which may hereinafter be adopted by the City to implement its Water Resources Management Plan which is currently being developed, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 12.3. In connection with any approval which City is permitted or has the right to make under this Agreement relating to the Project, or otherwise under its rules, regulations and official policies, City shall exercise its discretion or take action in a manner which is as expeditious as possible and which complies and is consistent with the Development Plan and the standards, terms and conditions contained in this Agreement, and in a manner which will not interfere with the development of the Project for the uses and to the height, density and intensity specified in this Agreement or with the rate of development selected by Developer. City shall accept for processing and timely review and act on all applications for further land use entitlement approvals with respect to the Project called for or required under this Agreement in as expeditious a manner as is possible. Such application shall be processed in the normal manner for processing such matters.

11.4 Administrative Changes and Amendments.

The parties acknowledge that refinements and further development of the Project may demonstrate that changes are appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project development and with respect to those items covered in general terms under this Agreement. If and when the parties find that changes or adjustments are necessary or appropriate, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the City Manager or designee, after execution, shall be attached hereto as an addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by City and Developer. Any such administrative changes or amendments shall not be deemed to be an amendment to this Agreement under Government Code Section 65868, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing. Notwithstanding the foregoing, the following matters shall not be considered administrative changes or amendments, but shall be considered substantive

amendments which shall be reviewed by the Planning Commission and approved by the City Council:

- (a) Alteration of the permitted uses of the Property;
- (b) Increase in the density or intensity of use or the number of lots;
- (c) Increase in the maximum height and size in permitted buildings;
- (d) Deletion of a requirement for the reservation or dedication of land for public purposes except for minor boundary adjustments approved by the Planning Director or designee; and
- (e) Any amendment or change requiring a subsequent or supplemental environmental impact report pursuant to Public Resources Code Section 21166.

11.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms. Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," Owner may, at its sole election, petition the City Council of City to establish a Community Facilities District ("CFD") including the Property for the purpose of acquiring, constructing and financing through the sale of bonds of certain public facilities which are necessary to meet the increased demands placed on the City as a result of the development of the Property. Alternatively, or in addition thereto, Owner may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping Allotting Act of 1972, or any and all other available public financing mechanisms to provide public conduit financing for the construction of public improvements on the Property ("Alternative Financing Mechanisms"). If so requested by Owner, City shall cooperate with Owner and use its best efforts in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties.

11.6 Water and Sewer Facilities. Responsibilities of the Parties with respect to water and sewer facilities pertaining to the transmission of water for or sewage generated

by the Project or by surrounding properties in which Developer will be required to participate shall be determined and allocated on a fair share basis between Developer and the surrounding property owners using such facilities.

11.7 Public Services and Facilities. As provided by the Specific Plan, the Project provides for an integrated roadway system, and public facilities in addition to water and sewer facilities as discussed in Section 11.6 above, including parks, schools, storm drain, police protection and fire protection. The construction and installation of such facilities and infrastructure improvements and the phasing thereof shall be subject to City review and approval at the time that tentative tract maps are submitted for applicable areas of the Project. To the extent that Developer, at City's request, constructs, installs or otherwise provides financing for public facilities or other infrastructure improvements not required to serve the Project and benefiting lands within the City outside the Project area of the Property, City shall adopt such ordinances as are necessary to create a benefit district by which a fee, assessment or charge will be imposed upon such other properties and reimbursed to Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements. In order to insure that the Project will function harmoniously with the City's transportation and circulation plan, City shall undertake the upgrade and completion of street networks to planned standards to accommodate increased demands generated by the Project on other areas of the City in accordance with and under the schedule provided by the City's Master Plan of Circulation.

11.8 Cancellation of Williamson Act Agricultural Preserve and Land Conservation Agreement. Immediately following the Effective Date, City shall, as expeditiously as possible, commence hearings pursuant to the Williamson Act, Government Code Section 51200, et seq. for the cancellation of the January 1, 1973 Land Conservation Contract and January 1, 1982 Land Conservation Contract entered into between the predecessor in interest to Developer and the County of Riverside pertaining to the Property. Developer shall be responsible for paying all fees and costs, including legal fees, incurred by City in processing the cancellation of the Land Conservation Contracts.

11.9 Other Governmental or Quasi-Governmental Permits. Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or

state agencies) as may be required for the development of, or provision of services to the Project under the Development Plan. City shall cooperate with and assist Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits.

11.10 Consistency Between This Agreement and Current Laws. City represents that there are no rules, regulations, ordinances or official policies of City enforced as of the date of execution of this Agreement that would interfere with the completion or use of the Project according to the Development Plan.

11.11 Assessments and Fees. City shall not, without the prior written consent of Developer, impose any assessment or fee applicable to the development of the Project or any portion thereof, or impose any fees as a condition to the implementation of the Project or any portion thereof, except those existing and proposed assessments and fees set forth on Exhibit "F" which include but are not limited to infrastructure fees for sewer, water, reclaimed water, fire mitigation, police mitigation, transportation-circulation, park mitigation, public facilities fees and signalization fees. Notwithstanding the foregoing, fees payable to City shall be at rates applicable on the date the fee is due and payable.

11.12 Subsequent Actions. City shall timely process, in as expeditious a manner as is possible for processing such matters, any necessary entitlements to use, including vesting tentative tract maps, tentative tract maps, parcel maps, final maps, site development permits, special use permits, conditional use permits, or other discretionary approvals or entitlements to use contemplated by the Development Plan, and any grading, construction or other permits filed by Developer in accordance with the substantive development standards set forth in the Development Plan.

12. Rules, Regulations and Official Policies.

12.1 New Rules. This agreement shall not prevent City from applying the following new rules, regulations and policies:

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for development approvals, for monitoring compliance with any development approvals, or for monitoring compliance with environmental impact mitigation measures.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records,

hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code provided that such construction standards and specifications are applied on a City-wide basis.

(d) Regulations which are not in conflict with the Development Plan or this Agreement.

(e) Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by Developer.

12.2 Subsequent Actions and Approvals. In accordance with Government Code Section 65866, this Agreement shall not prevent City in subsequent actions applicable to the Property from applying new rules, regulations and policies which do not conflict with those existing rules, regulations and policies set forth in the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations or policies.

12.3 State and Federal Laws. In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

13. Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

14. Enforcement. Unless amended or cancelled as provided in Section 13 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision or building regulation or other applicable law or regulation adopted by City (or by the voters of City unless found by a court of competent



and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or the rate, timing or sequencing of any development.

15. Periodic Review of Compliance With Agreement. City and Developer shall review this Agreement at least once every twelve (12) months from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Each party agrees to furnish such reasonable evidence of good faith compliance as the other party in the exercise of its reasonable discretion, may require. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. The City Manager shall report the results of such periodic review to the City Council within thirty (30) days after the conclusion thereof. No public hearing shall be held by the City Manager, Planning Commission or City Council with regard to such periodic review; provided, however, that if the City Manager during such periodic review preliminarily finds that Developer is not in good faith compliance with this Agreement, Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that Developer is not in good faith compliance with this Agreement unless so requested by Developer in writing at the time of the submission of such appeal. City shall notify Developer in writing of the date for review at least thirty (30) days prior thereto.

16. Events of Default.

16.1 Default by Developer. If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 15 hereof that Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to Developer, specify the manner in which Developer has failed to so comply and state the steps Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from City specifying the manner in which Developer has failed to so comply, Developer does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then Developer shall be deemed to be in default under the terms of this Agreement and City may terminate this Agreement.

16.2 Default by City. If Developer determines on the basis of substantial evidence that City has not complied in good faith with the terms and conditions of this Agreement, Developer shall, by written notice to City, specify the manner in which City has failed to so comply and state the steps City

must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from Developer specifying the manner in which City has failed to so comply, City does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then City shall be deemed to be in default under the terms of this Agreement and Developer may terminate this Agreement or seek specific performance as set forth in Section 16.3.

16.3 Specific Performance Remedy. Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more substantial time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. For the above reasons, City and Developer agree that damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement. Therefore, specific performance of this Agreement is the only remedy which would compensate Developer if City fails to carry out its obligations under this Agreement, and City hereby agrees that Developer shall be entitled to specific performance in the event of a default by City hereunder. Notwithstanding the foregoing, nothing in this Agreement is intended to deprive Developer from recovering appropriate damages in the event that the terms of this Agreement are breached. City and Developer acknowledge that if Developer fails to carry out its obligations under this Agreement, City shall have the right to refuse to issue any permits or other approvals to which Developer would not otherwise have been entitled pursuant to this Agreement. Therefore, City's remedy of terminating this Agreement shall be sufficient in most circumstances if Developer fails to carry out its obligations hereunder. Notwithstanding the foregoing, if City issues a permit or other approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the sole purpose of causing Developer to satisfy such condition. The City's right to specific performance shall be limited to those circumstances set forth above, and City shall have no right to seek specific performance to cause Developer to otherwise proceed with the development of the Project in any manner.

17. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for Riverside, California.

18. Waivers and Delays.

18.1 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

18.2 Third Parties. Nonperformance shall not be excused because of a failure of a third person except as provided in Section 18.3 below.

18.3 Force Majeure. Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent construction of the Project.

19. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

TO CITY: City of Beaumont  
550 East 6th Street  
P.O. Drawer 158  
Beaumont, California 92223  
Attn: City Manager

TO DEVELOPER: c/o The Deutsch Corporation  
2444 Wilshire Boulevard  
Santa Monica, California 90403  
Attn: Mr. Bill Holler

Either party may change the address stated herein by giving notice, in writing, to the other party and thereafter notices shall be addressed and submitted to the new address.

20. Attorneys' Fees. If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

21. Transfers and Assignments.

21.1 Right to Assign. Developer shall have the right to sell, assign or transfer this Agreement, and any and all of its rights, duties and obligations hereunder, to any person or entity at any time during the term of this Agreement, provided, however, in no event shall the rights, duties and obligations conferred upon Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of Developer in the Property, a portion thereof (including a village or individual tract), or parcel or lot so transferred. In the event of any such assignment, either the transferee or Developer shall be liable for the performance of all obligations of Developer. Such transferee or Developer shall notify City in writing of the transfer of such obligations.

21.2 Release Upon Transfer. Upon the sale, transfer or assignment of Developer's rights and interests under this Agreement as permitted pursuant to Section 21.1, Developer shall be released from its obligations under this Agreement and all of owner's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred provided that (a) Developer is not then in default under the Agreement, (b) Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

22. Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action. Each party shall pay its own expenses in connection with such defense. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force

and effect while such litigation, including any appellate review, is pending.

23. Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain.

24. Authority to Execute. The person or persons executing this Agreement on behalf of Developer warrant and represent that they have the authority to execute this Agreement on behalf of their corporation, partnership or business entity and warrant and represent that they have the authority to bind Developer to the performance of its obligations hereunder.

25. Recordation. This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of San Bernardino, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. Protection of Mortgage Holders. Nothing contained herein shall limit or interfere with the lien of mortgage holders having a mortgage made in good faith and for value on any portion of the Property. "Mortgage holder" includes the beneficiary under a deed of trust, and "mortgage" includes the deed of trust.

27. Severability of Terms. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. Subsequent Amendment to Authorizing Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 12.3 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

30. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. Incorporation of Recitals and Exhibits. Recitals A through N and attached Exhibits "A" through "G" are hereby incorporated herein by this reference as though set forth in full.

32. Rules of Construction and Miscellaneous Terms.

32.1 Gender. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

32.2 Time of Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.

32.3 Cooperation. Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

The parties have executed this Development Agreement on the date and year first written above.

Dated: 4/25, 1991

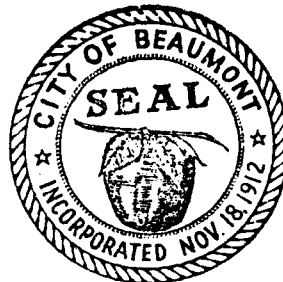
CITY OF BEAUMONT, a municipal corporation of the State of California

By: Ann Connors  
Mayor

"City"

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE MAYOR OF THE CITY COUNCIL

By: Robert J. Bourde  
City Clerk



APPROVED AS TO FORM:  
By: George P. Kelly  
City Attorney

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

ALEISIAN FARMS, a California  
General Partnership

Dated: 4/9, 1991

By: Carl Deutsch  
Carl Deutsch

General Partner

Dated: 4/9, 1991

By: Alex Deutsch, ~~see~~ in fact  
David Deutsch

General Partner

By: Victoria Leslie Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
Trustee

By: Alexis Lee Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
Trustee

By: Gina Elizabeth Deutsch Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
Trustee

By: Gina Elizabeth Deutsch 76 Trust  
Created Pursuant to a  
Declaration of Trust Dated  
December 19, 1976

General Partner

Dated: April 9, 1991

By: Lester Deutsch  
Lester Deutsch  
Trustee

By: Estate of Walter Scholtz

General Partner

Dated: 4/4, 1991

By: Sylvia Scholtz  
Sylvia Scholtz  
Executrix

HIGHLAND FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: April 9, 1991

By: Alex Deutsch  
Its: Chairman

Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
General Partner



BANNING FARMS, a California  
General Partnership

BY: THE DEUTSCH COMPANY, a  
California corporation,

General Partner

Dated: 4/9, 1991

By: Alex Deutsch

Its: Chairman

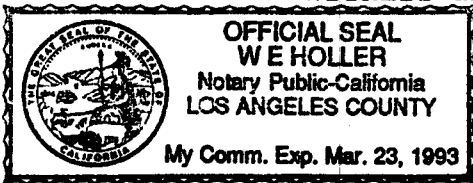
Dated: 4/9, 1991

By: Alex Deutsch  
Alex Deutsch  
General Partner

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared, CARL DEUTSCH personally known to me or 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.

WITNESS my hand and official seal.

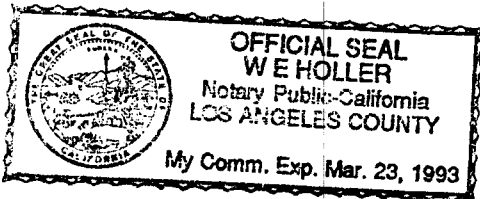


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared DAVID DEUTSCH personally known to me or 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.

WITNESS my hand and official seal.



We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared ALEX DEUTSCH, TRUSTEE FOR VICTORIA LESLIE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

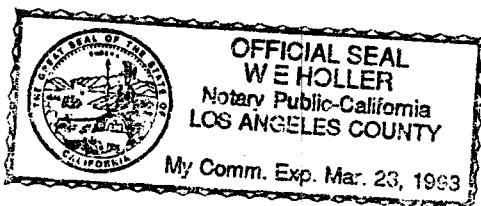


WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE HOLLER, personally appeared ALEX DEUTSCH, TRUSTEE FOR ALEXIS LEE DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

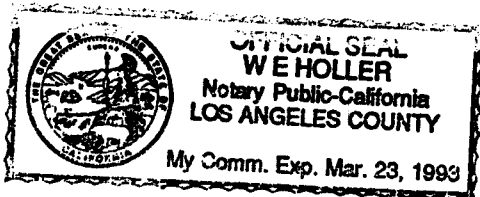


WE Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.

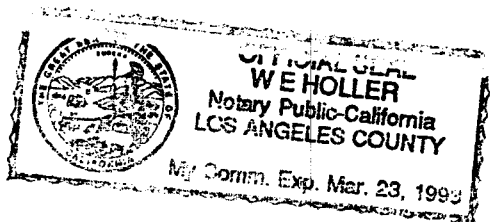


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF CA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared LESTER DEUTSCH, TRUSTEE FOR GINA ELIZABETH DEUTSCH TRUST, Created Pursuant to a Declaration of Trust Dated December 19, 1976, personally known to me or 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.

WITNESS my hand and official seal.



We Holler  
Notary Public in and for said State

Washington  
STATE OF CALIFORNIA )  
COUNTY OF Washington ) ss.

On April 4th, 1991, before me, Robin Montague, personally appeared SYLVIA SCHOLTZ, EXECUTRIX FOR ESTATE OF WALTER SCHOLTZ, personally known to me or 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.

WITNESS my hand and official seal.

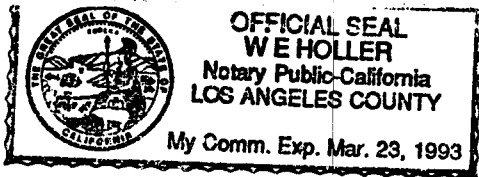
Robin Montague  
Notary Public in and for said State  
*My commission expires 6-27-94*

STATE OF CALIFORNIA )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, WE Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF HIGHLAND FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.

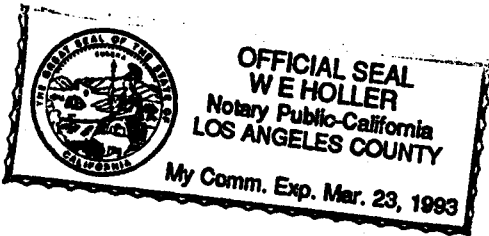
WE Holler  
Notary Public in and for said State



STATE OF CALIFORNIA )  
 )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH COMPANY, a California Corporation, personally known to me or 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.

WITNESS my hand and official seal.

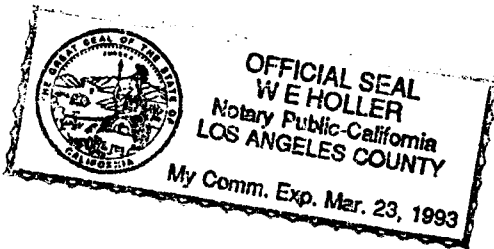


We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, A GENERAL PARTNER OF BANNING FARMS, a California General Partnership, personally known to me or 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.

WITNESS my hand and official seal.



We Holler  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 )  
COUNTY OF LA ) ss.

On 4/9, 1991, before me, We Holler, personally appeared ALEX DEUTSCH, Chairman OF THE DEUTSCH COMPANY, a California Corporation, personally known to me or 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.

WITNESS my hand and official seal.

We Holler  
Notary Public in and for said State

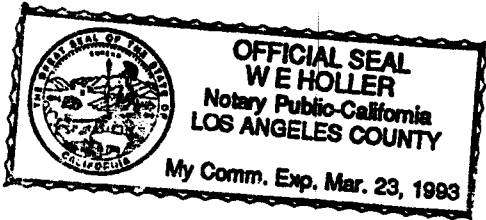


EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY



Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A  
-----

PARCEL 1:

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

PARCEL 2:

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.



Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

EXHIBIT A

EXCEPT therefrom the following described land as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass disk stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown by Deed Plat No. 746-888 on file in the Office of the County Surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning;

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 38 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc

Gateway Order No.: 410-4930127-492

Reference No.: BANNING

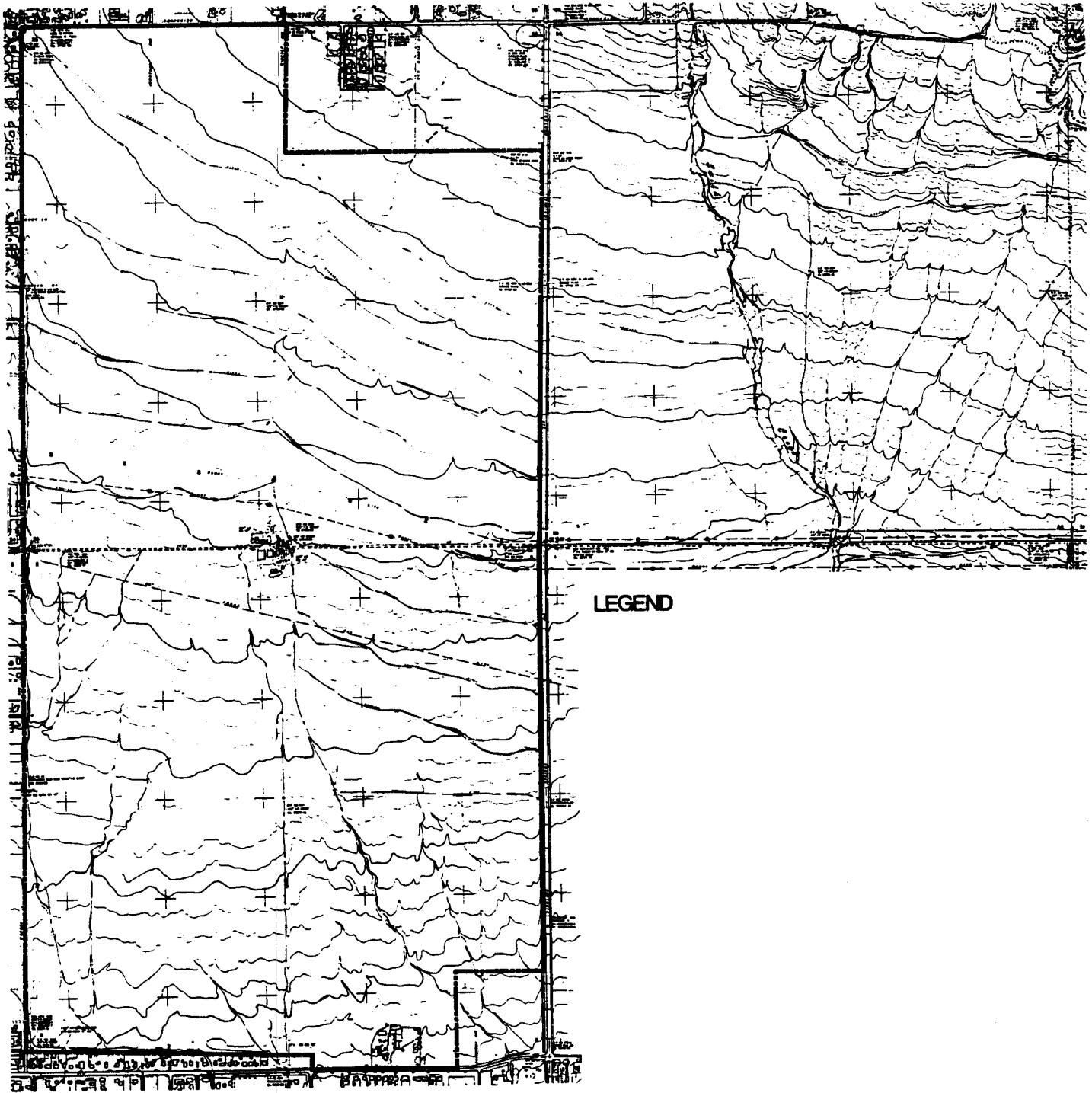
**EXHIBIT A**  
-----

distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

EXHIBIT "B"  
MAP OF PROPERTY



DEUTSCH PROPERTY  
SPECIFIC PLAN  
BEAUMONT, CALIFORNIA



EXHIBIT "C"

TITLE REPORT SHOWING OWNERSHIP INTERESTS IN THE PROPERTY

Preliminary Report

Order No. 4104930127-492

GATEWAY TITLE COMPANY

Title officer: Dwight Helmer

Policy(ies) contemplated:  
Preliminary Title Report

-----  
THE DEUTSCH COMPANY  
STE. 600  
2444 WILSHIRE BLVD.  
SANTA MONICA, CA 90403

Our No.: 4104930127-492

Your Ref: BANNING

ATTN: BILL HOLLER

Date : March 11, 1991 at 7:30 A.M.

SCHEDULE A

The estate or interest in the land described or referred to in this schedule covered by this report is:

a fee

Title to the said estate or interest at the date hereof is vested in:

Aleisian Farms, a Partnership composed of Walter Scholtz, Mark Scholtz, Alex Deutsch, Lester Deutsch, Carl Deutsch, Ray Tissue, Ben Weingart, Robert Cumins, Philip E. Holzman, Edward Jones, and Philip E. Holzman as trustee for David Deutsch;

Highland Farms, a California General Partnership, as their interest appear of record, as to all of those portions described in Exhibit "A" herein excepting therefrom the South one half of the Northeast one Quarter of said Section 35; subject to the spousal interest of Betty U. Deutsch, as to the North one half of the Southeast one quarter of said Section 35;

Banning Farms, a California General Partnership, as to the South one half of the Northeast one Quarter of said Section 35.

The land referred to in this report is situated in the State of California, County of Riverside, and is described as follows:

DESCRIPTION CONTAINED IN "EXHIBIT A"  
attached hereto and made a part hereof.



Gateway Order No.: 4104930127-492

Reference No.: BANNING

**EXHIBIT A**  
-----

**PARCEL 1:**

Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, in the County of Riverside, State of California.

EXCEPT the North one-half of the Northeast One Quarter thereof;

Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT the Southeast One Quarter thereof.

Said land is also known as follows:

Lots 1 to 32, inclusive, and Lots 41 to 112, inclusive, of Orchard Heights Tract, in the County of Riverside, State of California, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records;

EXCEPT from Lots 1, 2 and 3 the Northerly 30 feet thereof granted to the County of Riverside, to be used as a public highway by deed recorded June 10, 1926 in Book 675 Page 467 of Deeds, Riverside County Records;

ALSO EXCEPT from Lot 4 an easement over the Northerly 10 feet thereof for public highway.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Brookside Avenue, Cherry Avenue, Orchard Heights Avenue, Seventeenth Street, Eighth Street and Highland Springs Avenue.

**PARCEL 2:**

The Southeast One Quarter of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian.

EXCEPT therefrom the following described land, as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown on Deed Plat No. 746-888 on file in the office of the county surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning.

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 34 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2, 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of San Bernardino County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, a arc distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

ALSO EXCEPT from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs Avenue.

PARCEL 3:

Those portions lying within Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6 and 7 in Block 1 of subdivision of Section 11, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by map on file in Book 9 Page 10 of Maps, Riverside County Records.

Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

EXCEPT therefrom the following described land as conveyed to Trangniew, Inc., by instrument recorded May 01, 1972 as Instrument No. 55762, and more particularly described as follows:

Commencing at the Southeast corner of said Section 2, said point being marked by a brass disk stamped "Section Corner Sections 1, 2, 11 and 12";

Thence South 89 degrees 32 minutes 20 seconds West along the realigned centerline of Eighth Street (80 feet wide) as shown by Deed Plat No. 746-888 on file in the Office of the County Surveyor of Riverside County, California, a distance of 101.29 feet;

Thence at right angles North 00 degrees 27 minutes 40 seconds West 40.00 feet to the true point of beginning;

Thence continuing North 00 degrees 27 minutes 40 seconds West 4.00 feet to a point on a curve;

Thence curving to the left from an initial tangent that bears North 89 degrees 32 minutes 20 seconds East with a radius of 20.00 feet through a central angle of 89 degrees 21 minutes 38 seconds, an arc distance of 31.19 feet to a point on a line parallel with and 82.00 feet Westerly, measured at right angles from the Easterly line of said Section 2;

Thence North 0 degrees 10 minutes 42 seconds East along said parallel line, 859.84 feet;

Thence at right angles North 89 degrees 49 minutes 18 seconds West 928.44 feet;

Thence at right angles South 00 degrees 10 minutes 42 seconds West parallel with the East line of said Section 2; 991.14 feet to a point on the North right of way line of Eighth Street, as shown by map of subdivision of Section 11, as per plat recorded in Book 9 of Maps, Page 10, Records of Riverside County;

Thence South 89 degrees 44 minutes 30 seconds East along the North right of way line of said Eighth Street, 136.96 feet to a tangent curve, as established by said realignment of Eighth Street;

Thence curving to the left with a radius of 960.00 feet through a central angle of 14 degrees 24 minutes 50 seconds an arc distance of 241.51 feet;

Thence North 75 degrees 50 minutes 40 seconds East 177.79 feet to a tangent curve;

Thence curving to the right with a radius of 1040.00 feet through a central angle of 13 degrees 41 minutes 40 seconds, an arc



Gateway Order No.: 4104930127-492

Reference No.: BANNING

EXHIBIT A

distance of 248.57 feet;

Thence North 89 degrees 32 minutes 20 seconds East 114.62 feet to the point of beginning.

Also except from said land all of those portions lying within the public roads and highways adjoining said land known as Eighth Street and Highland Springs-Avenue.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

- 1. Property taxes, including any assessments collected with taxes, to be levied for the fiscal year 1991-1992, which are a lien not yet payable.
- 2. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid
Second installment	Amount:	\$1,705.85
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-005-7

The above matter affects The West 1/2 of the South 1/2 of the Southeast 1/4 of Section 35

- 3. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid
Second installment	Amount:	\$350.95
	Penalty:	
	Current status:	Paid

Homeowners exemption: --NONE--  
 Code area: 056-004  
 Assessors Parcel No.: 406-170-007-9

The above matter affects The South 1/2 of the Northeast 1/2 of Section 35

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

4. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$342.92
Penalty:
Current status: Paid

Second installment Amount: \$342.92
Penalty:
Current status: Paid

Homeowners exemption: --NONE--
Code area: 056-004
Assessors Parcel No.: 406-170-008-0

The above matter affects The North 1/2 of the Southeast 1/4 of Section 35

5. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$4,590.25
Penalty:
Current status: Paid

Second installment Amount: \$4,590.25
Penalty:
Current status: Paid

Homeowners exemption: --NONE--
Code area: 056-004
Assessors Parcel No.: 419-020-017-8

The above matter affects The West 1/2 and the Northeast 1/4 of Section 2

6. Property taxes, including any personal property taxes, and any assessments collected with taxes, for the fiscal year 1990-1991:

First installment Amount: \$1,533.81
Penalty:
Current status: Paid

Second installment Amount: \$1,533.81
Penalty:
Current status: Paid

Homeowners exemption: --NONE--
Code area: 056-004
Assessors Parcel No.: 419-020-018-9

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

The above matter affects The above item affects: Parcels 2 and 3 herein described in Exhibit "A"

- 7. The lien of supplemental taxes, if any, assessed according to provisions of the statutes of 1983 of the State of California.
- 8. An easement in favor of the public for any public roads now existing on said property.
- 9. An easement, affecting lots 44, 48, 52, 56, 60, 64, 72, 80, 88 and 96 in Parcel 1 for road 20 feet wide off and along the East side of Section 35, Township 2 South, Range 1 West, and Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, granted to the County of Riverside by deed recorded March 21, 1900 in Book 147 Page 3 of Deeds, Riverside County Records.
- 10. A right of way, affecting a portion of Parcel 1 herein described, for pipe line over lots 1 to 64, inclusive, lots 69 to 72, inclusive, lots 77 to 82, inclusive, lots 85 to 90, inclusive, lots 93 to 96, inclusive, as reserved in the deed from the Riverside Abstract Company, recorded April 01, 1913 in Book 371 Page 177 of Deeds.
- 11. The right of the public to the use of streets as shown on the map of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records.

Said rights affect a portion of Parcel 1 subject to the effect of a revocation of dedication recorded November 24, 1947 in Book 872 Page 561 of of Official Records purporting to revoke any and all dedications of the following streets: Lots H, G, F, E, D, C, B, A, J, K, L, M, N and more commonly known as 9th, 11th, 12th, 13th, 14th, 15th, 16th and that portion of 17th Street, which is delineated on the map of Orchard Heights Tract.

- 12. An easement for utilities, affecting Parcel 1, granted to Southern Sierras Power Company, as referred to in United States Patent recorded December 01, 1919 in Book 8 Page 40 of Patents, Riverside County Records, to which record reference is hereby made for further particulars.
- 13. An easement, affecting Parcel 2 for public highway and public utility purposes over the Easterly rectangular 40 feet of the herein described property, as granted to the County of Riverside by Deed recorded December 15, 1936 in Book 305 Page 464 of Official Records.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

14. An easement affecting Parcel 1, for public highways and public utility purposes over the Easterly 20 feet of Lots 52, 56, 60, 64, 72, 80, 88 and 96 herein described, granted to the County of Riverside by Deed recorded March 24, 1937 in Book 317 Page 331 of Official Records.

15. An easement affecting a portion of Parcel 1, for public highway and flood control purposes over a portion of Lot 1 herein described, granted to the County of Riverside by deed recorded October 17, 1939 in Book 435 Page 376 of Official Records, described as follows:

Beginning at the Northwesterly corner of said Lot 1;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 10 feet for the point of beginning;

Thence South along the Westerly line of said Lot, 33 feet;

Thence in a Northeasterly direction to a point which is 40 feet Easterly of the point of beginning and 10 feet Southerly of the Northerly line of said Lot 1;

Thence Westerly, 40 feet to the point of beginning.

16. An easement, affecting a portion of Parcel 1, for storm drain, 30 feet wide, over Lots 110 and 111 herein described, granted to the County of Riverside by Deed recorded October 27, 1943 in Book 604 Page 154 of Official Records. The center line of said easement is described as follows:

Beginning at a point on the South line of Orchard Heights Tract, as shown by map on file in Book 10 Page 2 of Maps, Riverside County Records, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve, concave to the South having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve 77.96 feet, the radial line at the beginning of said curve bears South 23 degrees 52 minutes West;

Thence North 88 degrees 38 minutes West, 682.0 feet along a line parallel to and 15 feet Northerly measured at right angles from the Southerly line of said Lots 110 and 111. The right of way lines of the Easterly end of this description are to be prolonged or shortened so that they will end on the Southerly line of said Lot 111. The title to said right of way is now vested of record in Riverside County Flood Control and Water Conservation District.



SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 17. Permanent and exclusive easements and rights of way, affecting a portion of Parcel 1, in, under, over and across Lots 25 to 28, inclusive, Lots 29 to 32, inclusive, Lots 61 to 64, inclusive, and Lots 70 to 72, inclusive herein described, granted to the Southern California Edison Company, Ltd., by Deed recorded November 10, 1945 in Book 704 Page 453 of Official Records. Said easement is described as follows:

A strip of land 300 feet wide, the Southerly and Northerly boundary lines of which are parallel with and respectively 100 feet Southerly and 200 feet Northerly from a line described as follows:

Beginning at a point in the center line of Glen Eyrie Street, as now established, 80 feet wide, along the East line of said Lot 72, which point is South 0 degrees 07 minutes 12 seconds East, 249.35 feet, measured along said center line from the intersection of said center line with the Easterly prolongation of the center line of Lot "L" (14th Street) as shown on the map of Orchard Heights Tract;

Thence from said point of beginning North 89 degrees 58 minutes 32 seconds West, 283.92 feet;

Thence North 74 degrees 39 minutes 55 seconds West, 2578.60 feet;

Thence North 82 degrees 48 minutes 25 seconds West 2501.58 feet, more or less, to a point in the West line of Lot "P" as shown on said map, said West line being also the East line of the Southeast Quarter of Section 34, Township 2 South, Range 1 West, San Bernardino Base and Meridian, said last mentioned point being North 00 degrees 20 minutes 55 seconds East, 751.37 feet, measured along said East line from a inch iron pipe in concrete set for the Southeast corner of said Section 34, said last measured point being South 00 degrees 20 minutes 55 seconds West 1883.43 feet, more or less, for a concrete pipe set for the East Quarter corner of said Section 34.

- 18. A right of way, affecting a portion of Parcel 1, for pipe line, 16.50 feet wide, for transportation of gas, over, under and along a portion of Lots 29, 65 to 68, inclusive, 75 to 80, inclusive, 87, 88, Lot "P" (Cherry Avenue), Lot "R" (Orchard Heights Avenue), Lot "D" (14th Street), Lot "H" (13th Street), and Glen Eyrie Street, map of Orchard Heights Tract herein described, granted to Southern California Gas Company, a corporation and Southern Counties Gas Company of California by Deed filed for record under Torrens Title as Instrument No. 846 on September 5, 1950, last certificate no. 403. The center line of said right of way is described as follows:

Beginning at the Northwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian;

Thence North 0 degrees 20 minutes 55 seconds East, along the Westerly line of Section 35, Township 2 South, Range 1 West, San Bernardino Base and Meridian, 40 feet to the point of beginning;

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

Thence North 89 degrees 54 minutes 26 seconds East, 77.28 feet;

Thence South 47 degrees 13 minutes 49 seconds East, 152.06 feet;

Thence South 75 degrees 42 minutes 34 seconds East, 5232.05 feet to a point in the Easterly line of said Section 2. The side lines of said right of way shall be prolonged or shortened so as to terminate in said Westerly line of Section 35 and said Easterly line of Section 2.

- 19. An easement, affecting a portion of Parcel 1, for Flood Control and Water Conservation purposes, 30 feet wide, over Lots 109, 110 and 111 herein described, granted to the Riverside County Flood Control and Water Conservation District, by deed recorded August 18, 1954 in Book 1620 Page 573 of Official Records. The center line of said right of way is described as follows:

Beginning at a point on the South line of the said Orchard Tract, from which point the Southwest corner of Section 2, Township 3 South, Range 1 West, San Bernardino Base and Meridian, as shown by said map bears North 88 degrees 38 minutes West, 1731.42 feet;

Thence Westerly along a curve concave to the South, having a central angle of 22 degrees 20 minutes and a radius of 200 feet;

Thence along said curve, 77.96 feet; the radial line at the beginning of said curve bears South 23 degrees 42 minutes West;

Thence North 86 degrees 38 minutes West, 1523.13 feet;

Thence along the arc of a 150 foot radius curve, concave to the North, through an angle of 49 degrees 48 minutes feet, a distance of 130.38 feet to the Westerly line of Lot 109. The side lines of said strip of land are to be shortened or extended so as to end on the West line of Lot 109 and the South line of Lot 111.

- 20. A petition filed April 14, 1960 in the office of the county clerk of Riverside County, Case No. 71851, Superior Court, wherein it is sought to exclude Parcels 1, 2 and 5 herein described, from subdivision, under the provisions of the Subdivision Land Exclusion Law (Business and Professions Code, Sections 11700-11709), application thereof for said petition being made by Aleisian Farms, a Partnership.

An order of exclusion recorded June 09, 1960 as Instrument No. 51499 in Book 2710 at page 462 of Official Records; the exclusion map recorded June 09, 1960 as Instrument No. 51500 in Book 2711 at page 84 of Official Records.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

21. A pending court action as disclosed by a recorded notice.

Plaintiff: California Electric Power Company, a corporation  
 Defendant: Aleisian Farms, A Partnership, et. al.  
 County: Riverside  
 Court: Superior Court  
 Case No.: 22698  
 Nature of Action: To acquire various rights of way and easements  
 Recorded: August 30, 1960 as Instrument No. 76497

22. Easement, and incidents thereto,

In Favor of: Riverside County Flood Control and Water  
 Conservation District  
 Recorded, Official Records: December 6, 1972  
 Series/Instrument No.: 161550  
 Purpose: For the construction, operation and maintenance  
 of drainage facilities  
 Affects: Portions of said land

Reference is hereby made to said instrument for further particulars

23. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and the  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12634

24. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
 Executed by: Aleisian Farms a General Partnership and The  
 County of Riverside  
 Recorded: January 30, 1973 as Instrument No. 12635

Notice of non-renewal of said contract was recorded October 28, 1981 as Instrument No. 203479.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

25. The terms, conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1973  
Executed by: Tragniew Inc. a California corporation and The County of Riverside  
Recorded: April 23, 1973 as Instrument No. 51451

Notice of Non-Renewal of said contract was recorded  
October 28, 1981 as Instrument No. 203480

26. The terms conditions and restrictions set forth in that certain Land Conservation Contract

Dated: January 1, 1982  
Executed by: Aleisian Farms and The County of Riverside  
Recorded: March 01, 1982 as Instrument No. 34806

27. The fact that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the redevelopment law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment Agency: Beaumont Project Area  
Recorded: December 16, 1982 as Instrument No. 217749, Official Records.

The above matter affects a portion of the land described herein and other land.

28. We will require a STATEMENT OF INFORMATION from ALL PARTIES INCLUDING GENERAL PARTNERS OF ALL THE VARIOUS PARTNERSHIPS in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. (TO BE SUBMITTED A MINIMUM OF SEVEN DAYS PRIOR TO THE CLOSE OF SAID TRANSACTION).

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

- 29. If title is to be insured from the Partnerships then the General Partners, comprised of Trusts, Gateway will require a copy of the trust instrument creating such trust, and all amendments thereto, together with a written verification by all present trustees that the copy is a true and correct copy of the trust, as it may have been amended, that it is in full force and effect and that it has not been revoked or terminated.
- 30. The requirement that a statement of partnership be recorded for the vestee named below, as provided in Section 15010.5 California Corporations Code.

Vestee: Banning Farms

NOTE: The charge for a policy of title insurance, if issued through this title order, will be based on the basic (not short-term) title insurance rate.

SCHEDULE B

Preliminary Report

GATEWAY TITLE COMPANY

Order No. 4104930127-492

NOTE: "Any funds to be disbursed by Gateway Title Company will be disbursed in compliance with Section 12413.1 of the California Insurance Code. A cashier's, teller's or certified check will have next day availability after deposit. All other local checks will have two (2) day availability after deposit. Non-local checks will have five (5) day availability after deposit. Funds received too late in the day for same day deposit will require one (1) additional day before they are available for disbursement.

THE DEPOSIT OF A CASHIER'S, TELLER'S OR CERTIFIED CHECK, OR ELECTRONIC TRANSFER OF FUNDS WILL EXPEDITE THE DISBURSEMENT OF FUNDS AND THE CLOSE OF THIS TRANSACTION."

WIRING INSTRUCTIONS FOR GATEWAY TITLE COMPANY:

Bank: WELLS FARGO BANK  
2323 North Broadway  
Santa Ana, California 92706

Credit: Gateway Title Company  
Sub-Escrow Account  
No. 4602-092827

ABA No.: 121000248

Very important: Please reference our TITLE ORDER NUMBER and or TITLE OFFICER'S NAME.

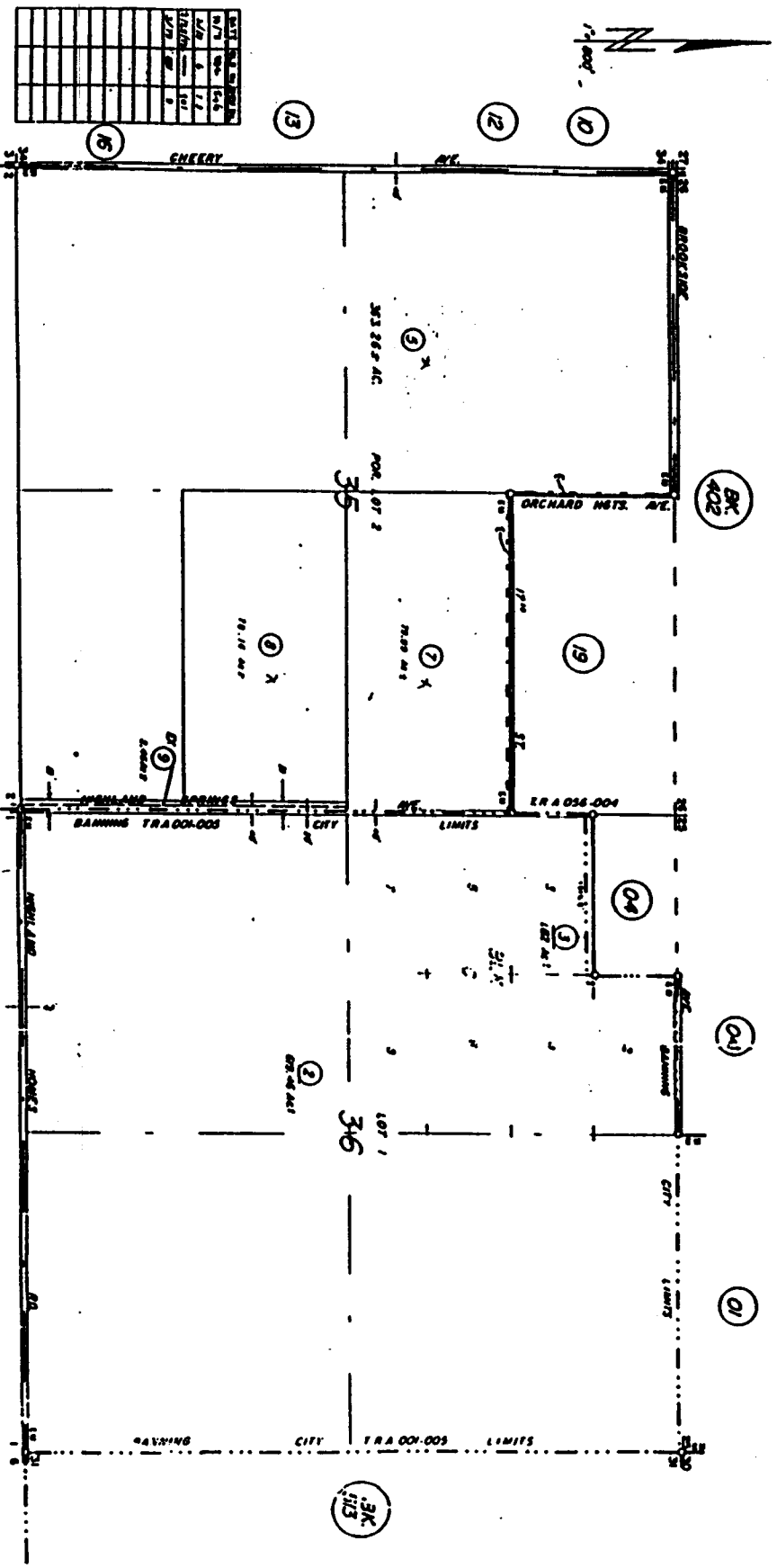
Please notify your title officer in advance of your intention to wire funds so we may alert our respective departments. Any additional information concerning wire transfers can be obtained from your title officer.

DH:dm:lmw  
Plats enclosed

15-30  
406-17

T.C.A. 056-004  
001-005

POR. SEC. 35 & 36, T.2S., R.1W.



LINE	BEARING	DIST.
1/2	N 45° 00' E	100.00
2/2	S 45° 00' W	100.00
3/2	N 00° 00' W	100.00
4/2	S 00° 00' E	100.00
5/2	N 45° 00' E	100.00
6/2	S 45° 00' W	100.00
7/2	N 00° 00' W	100.00
8/2	S 00° 00' E	100.00
9/2	N 45° 00' E	100.00
10/2	S 45° 00' W	100.00
11/2	N 00° 00' W	100.00
12/2	S 00° 00' E	100.00
13/2	N 45° 00' E	100.00
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NB 6/33 INSTR. # 5800 6/9/60 EXCLUSION MAP  
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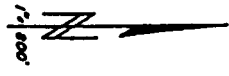
ASSESSOR'S MAP BK. 406 PG. 17  
RIVERSIDE COUNTY, CALIF.

419-02

T.C.A. 056-004  
001-001  
001-005

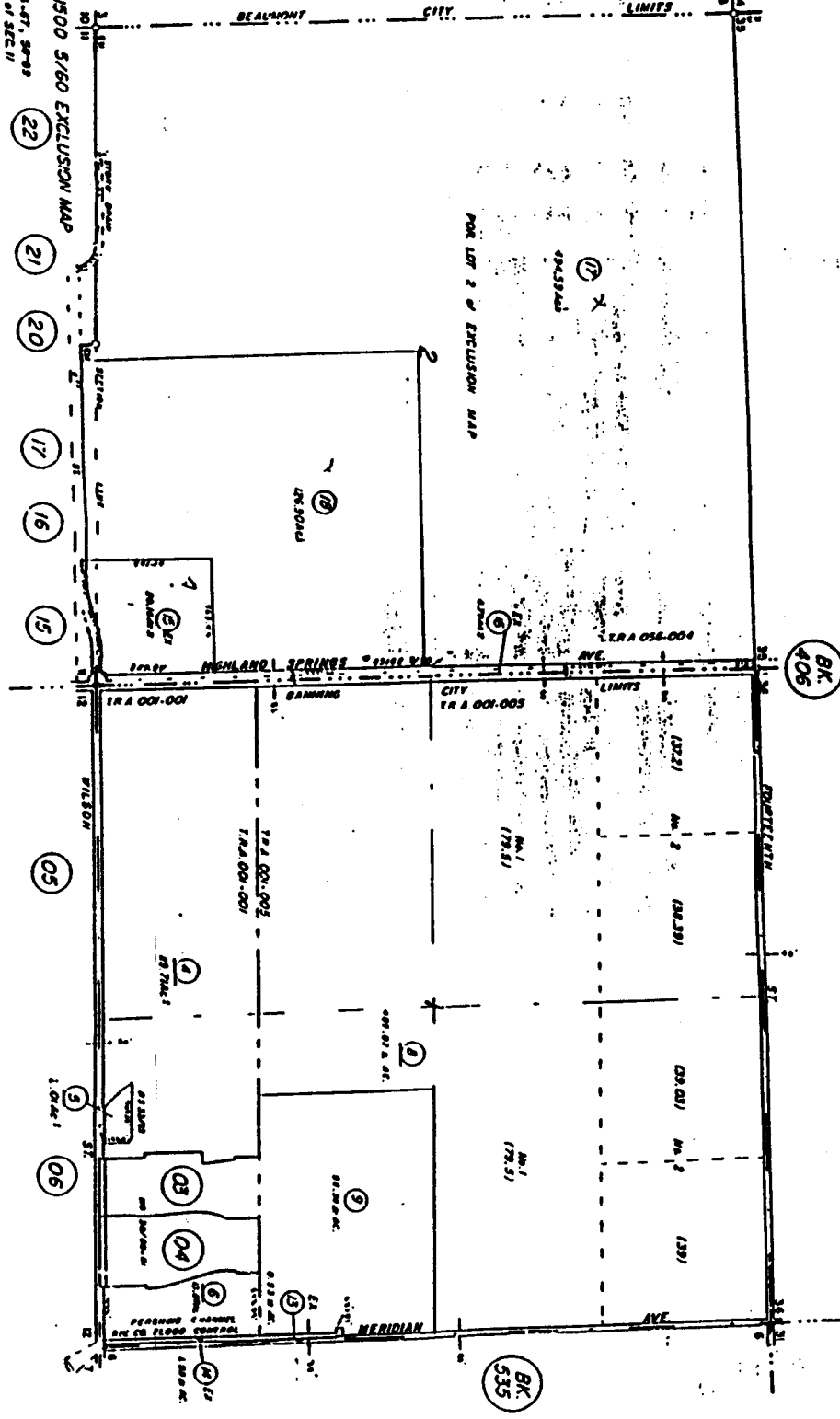
SEC. 182, T.3S., R.1W.

THIS MAP IS FOR  
ASSESSMENT PURPOSES ONLY



TRACT	AREA	ACRES
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NB 6/33 INSTR. 51500 5/60 EXCLUSION MAP  
 DMM: NS 23/70, 22/70-27, 20-29  
 NS 28/70-81  
 COUNTY SURVEY 20-C, 745 888  
 E.L.D. PLAT 880  
 COUNTY SURVEY 816-A



ASSESSOR'S MAP BK. 419 PG. 02  
 RIVERSIDE COUNTY, CALIF.



EXHIBIT "D"  
PERMITS AND APPROVALS CONSTITUTING  
DEVELOPMENT PLAN

1. Deutsch Planned Community Specific Plan approved by the City Council on January 14, 1991 by Resolution No. 1991-03.

EXHIBIT "E"

BENEFITS TO CITY

1. The proposed project is consistent and compatible with other existing and proposed uses in the vicinity of the project and community in general.

2. The proposed project will contribute to roadway improvements consistent with the City's updated Master Circulation Plan.

3. The proposed project will be developed on agricultural land which has been denied a permit to farm from the Office of the Agricultural Commissioner due to insufficient moisture content in the soil.

4. The project will be designed and landscaped so as to provide an aesthetically pleasing environment compatible with surrounding land uses.

5. The overall planning of the project is comprehensive and interrelated, not planned in a piecemeal fashion.

6. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

7. The proposed project will result in revenues to public agencies through increased property tax from development of the site.

8. The proposed project will increase sales tax revenue for the City of Beaumont through retail sales.

9. The proposed project will provide public facilities to include parks and a library facility to the City of Beaumont.

10. The intensity of the project is appropriate for the location and is consistent with the City of Beaumont General Plan.

11. The proposed project provides for alternative transportation opportunities through the implementation of bicycle and pedestrian facilities.

12. The proposed project represents a reasonable mix of uses for the site all factors considered.

LIST OF FEES AND ASSESSMENTS

EXHIBIT "F"

V...

Development Agreement Annual Review Fee	-	FEES
CHARGED BY OTHER AGENCIES WHICH ARE	-	
REQUIRED TO BE COLLECTED BY THE CITY	-	
Public Facilities	-	
Signalization	-	
Park	-	
Fire	-	
Police	-	
Transportation - Circulation	-	MITIGATIONS
Drainage	-	
Reclaimed Water	-	
Water	-	
Sewer	-	INFRASTRUCTURE FEES
approved applications	-	
Amendments to any of the above or prior	-	
Building Permits per Building Code	-	
Plan Checks per Building Code	-	
Final Survey Staking Guarantee	-	
Inspection of Improvement Construction	-	
Improvement Construction Plan Checking	-	
Plan Check Parcel or Tract Map	-	
Tentative Parcel or Tract Map	-	
Sign Permits	-	
Landscape Concept Plans	-	
Development Agreement	-	
Architectural Plan	-	
Agricultural Preserve	-	APPLICATIONS

Item No.5. 05

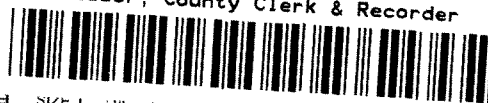
DOC # 2004-0131329

02/26/2004 08:00A Fee:NC

Page 1 of 46

Recorded in Official Records  
County of Riverside

Gary L. Orso  
Assessor, County Clerk & Recorder



PLEASE COMPLETE THIS INFORMATION  
RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

CITY OF BEAUMONT  
550 E. 6th STREET  
BEAUMONT, CA 92223

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Development Agreement Between City of Beaumont & LB/K - Sun Cal  
Title of Document  
Oak Valley LLC

THIS AREA FOR  
RECORDER'S  
USE ONLY

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(\$3:00 Additional Recording Fee Applies)

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223

**DOC # 2003-977700**  
12/15/2003 08:00A Fee:NC  
Page 1 of 42  
Recorded in Official Records  
County of Riverside  
Gary L. Orso  
Assessor, County Clerk & Recorder



EXEMPT: GOV'T CODE § 6103

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**DEVELOPMENT AGREEMENT**

**BETWEEN**

**THE CITY OF BEAUMONT**

**AND**

**LB/L-SUNCAL OAK VALLEY LLC**

2  
**C**  
**R**

*(Pursuant to California Government Code Sections 65864 - 65869.5  
and City of Beaumont Resolution No. 1987-34)*

*November 18, 2003*

### DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into to be effective on the date of recordation, between **LB/L-SUNCAL OAK VALLEY LLC**, a Delaware limited liability company (the "**Developer**"), and the **CITY OF BEAUMONT**, a municipal corporation organized and existing under the laws of the State of California (the "**City**"). The Developer and the City are sometimes collectively referred to herein as the "**parties.**"

#### RECITALS:

This Agreement is predicated upon the following facts:

- A. These Recitals use certain capitalized terms which are defined in this Agreement.
- B. Government Code Sections 65864 - 65869.5 authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. The City has implemented the law contained in such sections by adopting Resolution No. 1987-34, titled "Establishing Procedures and Requirements for Consideration of Development Agreements" (such Resolution, together with the aforementioned Government Code Sections, are being referred to herein as the "**Development Agreement Law**").
- C. This Agreement is adopted pursuant to the Development Agreement Law.
- D. Developer has entered into a Purchase and Sales Agreement with Oak Valley Partners, L.P., a Texas limited partnership ("**Oak Valley Partners**"), to acquire undeveloped land owned by Oak Valley Partners located in the City and more particularly described on Exhibit "A" and as shown on Exhibit "B" attached and made a part of this Agreement (the "**Property**"). On April 9, 2003, the Riverside Local Agency Formation Commission issued and recorded the Certificate of Completion annexing the land owned by Oak Valley Partners, including the Property.
- E. The Developer intends to develop the Property in accordance with the Development Plan, as hereinafter defined (the "**Project**"). The Project is highly capital intensive, especially in its initial phases, which, in order to make the Project economically and fiscally feasible, requires major commitment to and investment in public facilities and on-site and off-site infrastructure improvements prior to the construction and sale or leasing of residential and commercial buildings. This Agreement will facilitate the logical and orderly development of the Project in the City.
- F. The City has determined the Development Plan is consistent with the City General Plan and has approved the Development Plan in order to promote the health, safety and welfare of its citizens and protect the quality of life of the community and the surrounding environment. The Development Plan consists of Specific Plan No. 318 which was approved for

the Property by the County of Riverside (“County”) on August 14, 2001, for which the County prepared and certified Environmental Impact Report No. 418 (the “EIR”). As part of the process of approving the Development Plan, the City has prepared and reviewed, pursuant to the California Environmental Quality Act (“CEQA”), an Addendum to the EIR, with respect to the potential significant impacts of the Project resulting from its annexation to the City and made a Finding of Substantial Conformance with Specific Plan 318. The City has determined based on that review that the EIR adequately addresses the potential significant impacts of the Project, and that accordingly neither a supplemental nor subsequent environmental impact report is required for the Development Plan and this Agreement.

G. All of the proceedings relating to the approval of the Agreement have been conducted in accordance with the Development Agreement Law and CEQA.

H. On November 18, 2003, the City Council of the City adopted Ordinance No. 850 approving this Agreement with the Developer.

I. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of the City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

**AGREEMENT**

In light of the foregoing Recitals, which are an operative part of this Agreement, the parties agree as follows:

**1. DEFINITIONS.**

“Agreement” is this Development Agreement.

“Agreement Date” is the date this Agreement is approved by the City Council.

“Alternative Financing Mechanism” has the meaning given that phrase in Section 10.5 below.

“CEQA” is the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

“CFD” is a Community Facilities District formed pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code section 53312 *et seq.*

“City” is the City of Beaumont, California.

“City’s Discretion” is discretion exercised by the City in accordance with the policies and principles set forth in the Development Plan, this Agreement and the procedures in effect as of the Effective Date such that the approvals given by the City to the Developer pursuant to the exercise of such discretion shall not be unreasonably withheld or delayed.

“County” is the County of Riverside, California.

“Developer” is LB/L–Suncal Oak Valley LLC, a Delaware limited liability company.

“Development Agreement Law” is California Government Code sections 65864 et seq., and Resolution No. 1987-34, titled “Establishing Procedures and Requirements for Consideration of Development Agreements.”

“Development Plan” is, collectively, the permits and approvals listed on Exhibit “C.”

“Effective Date” is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period; or (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period.

“EIR” is Environmental Impact Report No. 418 (“EIR”) for Specific Plan 318 certified by the County of Riverside on August 14, 2001, and the “Addendum” prepared for the Project and approved by the City Council on November 5, 2002.

“Project” is the proposed development of the Property included within the Development Plan and associated amenities, including, without limitation, on-site and off-site improvements contemplated by the Development Plan, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

“Property” is the real property on which the Project is, or will be, located as described on Exhibit “A” attached hereto and shown on Exhibit “B” attached hereto.

2. **EXHIBITS.** The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

Exhibit Designation	Description
A	Legal Description of the Property
B	Map of the Property
C	List of Permits and Approvals
D	City Conditions of Approval

3. **MUTUAL BENEFITS.** This Agreement is entered into for the purpose of implementing the Development Plan for the Project in a manner that will secure certain assurances to the Developer that the Property may be developed in accordance with the Development Plan and this Agreement, and certain benefits to the City as set forth in this Agreement. The City and the Developer agree that, due to the size and duration of the Project, the Agreement is necessary to achieve those desired benefits.



4. **INTEREST OF THE DEVELOPER.** The Developer represents that the Developer owns an equitable interest in the Property under a legally binding contract to purchase the Property.

5. **BINDING EFFECT OF AGREEMENT.** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns as set forth herein.

6. **PROJECT AS A PRIVATE UNDERTAKING.** It is specifically understood and agreed that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property by the equitable owner of such Property.

7. **TERM.** The term of this Agreement shall be twenty-five (25) years following the Effective Date. Expiration of the term of this Agreement shall not in any manner affect rights which have otherwise vested under applicable law.

8. **HOLD HARMLESS** The Developer shall hold the City, its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, arising on the Property from the wrongful or negligent activities of the Developer or those of the Developer's contractors, subcontractors, agents, employees or other persons acting on the Developer's behalf which relate to the Project. In the event any person not a party or a successor to a party to this Agreement institutes any type of action against the City with respect to this Agreement, City and Developer shall cooperate in defending against the action, provided that City may, in its sole discretion, elect to tender the defense of such action to the Developer. If the Developer accepts the tender, the Developer shall thereafter hold City harmless from and defend City from all costs and expenses incurred in the defense of such action, provided that City fully cooperates with the Developer in the defense of such action. If the Developer declines the tender, then City shall have no further obligation or duty to defend the action.

9. **VESTED RIGHT.** By entering into this Agreement the City grants to the Developer a vested right to develop the Property in accordance with the Development Plan. The City shall not enact and enforce against the Project an ordinance, policy, rule, regulation or other measure which significantly alters the rate, type, manner, density, timing or sequencing of the Project. In addition to and not in limitation of the foregoing, it is the intent of the Developer and the City that no moratorium, whether relating to the rate, type, manner, density, timing or sequencing of the Project and whether or not enacted by initiative or otherwise, except a moratorium imposed by the City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2, affecting parcel or subdivision maps, building permits, plot plans, special use permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within the City, or portions of the City, shall not apply to the Project to the extent such moratorium or other limitation is in conflict with the Development Plan. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment,

measure, moratorium, policy, rule, regulation or other limitation enacted by the citizens of the City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of the Development Plan, the Developer shall have no recourse against the City pursuant to this Agreement. The foregoing shall not be deemed to limit the Developer's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement.

**10. DEVELOPMENT OF THE PROJECT.**

**10.1 Phasing and Timing of Development.** When or the order in which Project phases will be developed, or whether it will be developed at all, depend upon numerous factors which are not within the control of the Developer or City, such as market orientation and demand, interest rates, availability of funding, competition and other similar factors. Accordingly, to the extent permitted by the Development Plan and this Agreement, the Developer shall have the right to develop the Project in phases in such order and at such times as the Developer, in its sole discretion, deems appropriate within the exercise of its subjective business judgment; provided, however, that the City reserves the right to review, condition and approve each phase through discretionary and ministerial approvals consistent with this Agreement.

**10.2 Effect of Agreement on Land Use Regulations.** The rules, regulations and policies governing permitted uses of property, the density and intensity of use of property, the maximum height and size of proposed buildings and the design, improvement, construction and development standards and specifications applicable to development of property are those rules, regulations and policies in force as of the date of the Agreement, and those rules, regulations and official policies which may hereinafter be adopted by the City in accordance with Section 11.1 hereof, or State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2.

**10.3 Application Processing.** In connection with any approval which the City is permitted or has the right to make under this Agreement relating to the Project, or otherwise under its rules, regulations and official policies, the City shall exercise the City's discretion or take action in a manner which is as expeditious as reasonably possible.

**10.4 Administrative Changes and Amendments.** The parties acknowledge that further planning and development of the Project may demonstrate that refinements and changes are appropriate with respect to the details of the Project or interpretation of the Development Plan. If and when the parties find that minor changes or adjustments are necessary or appropriate to the Project or the Development Plan, they shall, unless otherwise required by law, effectuate such changes or adjustments through administrative amendments approved by the Director of Planning, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by the Director of Planning as may be requested by the Developer. Minor changes or amendments shall be those which are consistent with the overall intent of the Development Plan and this Agreement and which do not materially alter the overall nature, scope, or design of the Project. Any such minor administrative changes or amendments shall not be deemed to be an

amendment to this Agreement under Government Code Section 65868 and, unless otherwise required by law, no such administrative amendments shall require prior notice or hearing. As part of this Agreement, City understands and agrees that (i) any planning area designated for commercial use or park use, may instead be developed with residential dwelling units at an average density of up to 5.2 units per net acre, without further amendment of the Development Plan.

**10.5 Mello-Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms.** Pursuant to Chapter 2.5 (commencing with section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello-Roos Community Facilities Act of 1982," the Developer may, at its sole election, petition the City Council of the City or a joint powers agency in which the City is a member to establish a Community Facilities District ("CFD"), in accordance with the City's policies in existence on the Effective Date. Alternatively, or in addition thereto, the Developer may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, or any and all other available public financing mechanism, to provide public conduit financing for the construction of public infrastructure improvements on the Property ("**Alternative Financing Mechanisms**"). If so requested by the Developer, the City shall cooperate with the Developer (or, for matters beyond its control, shall use its best efforts) in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD or Alternative Funding Mechanism with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties in accordance with City policies at the time such property is included.

**10.6 Public Services and Facilities.** The Development Plan requires an integrated roadway system, and other public facilities including parks, schools, storm drains, and water and sewer facilities. City will reasonably assist Developer in obtaining public facilities and services for the Project on a timely basis in keeping with the pace of development of the Property. To the extent that the Developer constructs, installs or provides financing for public facilities or other public infrastructure improvements that benefit lands outside of the Property, the City shall use best reasonable efforts to adopt such ordinances, mitigation fees, liens or assessments as are necessary to provide credits, reimbursements, or in-kind funding to the Developer for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements.

**10.7 Other Governmental or Quasi-Governmental Permits.** The Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or state agencies) to the extent required for the development of, or provision of, services and facilities to the Project as set forth in the Development Plan. The City shall cooperate with and assist the Developer in obtaining such permits and approvals, and, where necessary in making application for such approvals or permits. The Developer shall be solely responsible for all costs and shall be responsible for the processing of all such permits.

**10.8 Consistency Between This Agreement and Current Laws.** The City represents that as of the date of the execution of this Agreement, there are no rules, regulations, ordinances or official policies of the City that would interfere with the development of the Project according to the Development Plan.

**10.9 Assessments, Fees, Mitigation and Exactions.** The City shall not impose any future assessment, fee, mitigation measure or exaction on the Project or any portion thereof, except (a) those existing and proposed assessments, fees, mitigation measures and exactions included in Exhibit "C", (b) such other fees, assessments and exactions as may be adopted or imposed by the City in conformance with the requirements of Article XIII D of the California Constitution, (c) such other development impact fees or categories of development impact fees which are adopted on a City or County-wide basis or as required as a condition to obtaining County funding; and (d) such other development impact fees or categories of development impact fees which are imposed on other development projects in the City and are adopted and levied based on a benefit assessment. Fees payable to City shall be at rates applicable on the date the fee is paid. City shall recognize and apply a dollar-for-dollar in-lieu credit against any and all fees, for and equal to the cost of improvements and/or dedications made in the development of the Project by the Developer, or funded by any CFD or Alternative Financing Mechanism including the Property, and for which the fees would otherwise be imposed. City further agrees to use any fees paid with respect to development of the Project to fund improvements which benefit the Project, to the fullest reasonable extent available and applicable under the law. Any payments made to the City as required in that certain settlement agreement between the Developer and the Cherry Valley Acres and Neighbors settling a lawsuit against Specific Plan 318 shall be treated by City as an advance and credit against any fees that may be imposed by the City for the same purposes as the payment.

**10.10 Reimbursement by the City.** Pursuant to Government Code Section 65865.2, the City hereby agrees that as future development fees, assessments and exactions are imposed on future projects which have benefited from the fees, assessments and exactions paid by the Developer, the City shall promptly reimburse the Developer to the extent that such fees, assessments and exactions paid by Developer benefited lands outside of the Property, but only to the extent that the City actually receives or collects such fees, assessments or exactions for a period of ten years from the date the fee was paid.

**11. RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES.**

**11.1 New Rules.** This Agreement shall not prevent the City from applying the following new rules, regulations, requirements and policies, if applied on a City-wide or area of benefit basis:

11.1.1 Processing fees and charges imposed by the City which cover only the estimated actual costs to the City of processing applications for development approvals, for monitoring compliance with any development approvals or for monitoring compliance with environmental impact mitigation measures.

11.1.2 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of

procedure, provided that such changes in procedural regulations do not have the effect of materially interfering with the benefits conferred by this Agreement.

11.1.3 Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code.

11.1.4 Regulations which are necessary to protect public health and safety, provided that to the maximum extent possible such regulations shall be designed, construed and applied in a manner to preserve the benefits of this Agreement.

11.1.5 New or increased fees or categories of fees imposed as a condition of development, for the purpose of defraying all or a portion of the cost of public facilities (as defined in Government Code Sections 66000 *et seq.*) related to development projects.

11.1.6 Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by the Developer.

**11.2 State and Federal Laws.** In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

**12. AMENDMENT OR CANCELLATION OF AGREEMENT.** This Agreement may be amended or canceled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

**13. ENFORCEMENT.** Unless amended or canceled as provided in Section 12 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, or subdivision regulation or standard adopted by the City (or by the voters of the City unless found by a court of competent and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or is inconsistent with this Agreement.

**14. PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT.** The City shall review this Agreement at least once every year from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. If the City Manager finds that the Developer is not in good faith compliance with this Agreement, the Developer shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that the Developer is not in good faith compliance with this Agreement unless so requested by the Developer in writing at the time of the submission of such appeal. The City shall notify the

Developer in writing of the date for review at least thirty (30) days prior thereto. The Developer shall pay or reimburse the City for the City's reasonable costs incurred in connection with such periodic reviews.

**15. Events of Default.**

**15.1 Default by the Developer.** If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 14 hereof that the Developer has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to the Developer, specify the manner in which the Developer has failed to so comply and state the steps the Developer must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the City specifying the manner in which the Developer has failed to so comply, the Developer does not commence action reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the Developer shall be deemed to be in default under the terms of this Agreement and the City may, if such failure persists after thirty (30) days' prior written notice, exercise its rights and remedies pursuant to Section 15.3.

**15.2 Default by the City.** If the Developer determines on the basis of substantial evidence that the City has not complied in good faith with the terms and conditions of this Agreement, the Developer shall, by written notice to the City, specify the manner in which the City has failed to so comply and state the steps the City must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the Developer specifying the manner in which the City has failed to so comply, the City does not commence steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the City shall be deemed to be in default under the terms of this Agreement and if such failure persists after thirty days prior written notice, the Developer may terminate this Agreement or seek specific performance as set forth in Section 15.3.

**15.3 Specific Performance Remedy.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition following development of all or any portion of the Property. After such development, the Developer may be foreclosed from other choices it may have had to utilize the Property. The Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing substantially more time and resources in implementing the Project in reliance upon the terms of this Agreement. It would be difficult or impossible to accurately determine the sum of money which would adequately compensate the Developer for such efforts. For the above reasons, the City and the Developer agree that damages alone would not be an adequate remedy if the City fails to carry out its obligations under this Agreement. Similarly, if the Developer breaches certain of its obligations hereunder, monetary damages may not constitute an adequate remedy for the City. Therefore, the parties agree that specific performance of this Agreement is an appropriate remedy if either party defaults and fails to perform its non-monetary obligations under this Agreement. Notwithstanding the foregoing, nothing in this Agreement is intended to prevent either party from seeking recovery of appropriate damages in the event that the terms of this Agreement are breached. The City and the Developer acknowledge that if the Developer is in default of its obligations under this Agreement, the City shall have the right to refuse to issue any

permits or other approvals to which the Developer would not otherwise have been entitled but for this Agreement.

**16. INSTITUTION OF LEGAL ACTION.** In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court of the State of California for the County of Riverside. The parties hereto waive any right to trial by jury.

**17. WAIVERS AND DELAYS.**

**17.1 Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

**17.2 Third Parties.** Nonperformance shall not be excused because of a failure of a third person except as provided in Section 17.3 below.

**17.3 Force Majeure.** Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by the Developer of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent or delay development of the Project.

**18. NOTICES.** All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

To the City:           The City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223  
Attn: City Manager

With a copy to:       Mr. Joseph Aklufi  
Aklufi & Wysocki  
3403 Tenth Street, Suite 610  
Riverside, CA 92501

To the Developer:    LB/L-Suncal Oak Valley LLC  
c/o SunCal Companies  
5109 E. La Palma, Suite D  
Anaheim, CA 92807  
Attn: Bruce Elieff

With a copy to: Hewitt & O'Neil LLP  
19900 MacArthur Blvd., Suite 1050  
Irvine, California 92612  
Attn: Dennis D. O'Neil, Esq.

Any party may change its address stated herein by giving notice, in writing, to the other parties.

19. **ATTORNEYS' FEES.** If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

20. **TRANSFERS AND ASSIGNMENTS.**

20.1 **Right to Assign.** The Developer shall have the right to sell, assign or transfer this Agreement and any and all of its rights, duties and obligations hereunder, in whole or in part, to any person or entity at any time during the term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon the Developer pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of the Developer in the Property, a portion . The assignment shall not be effective without the City's prior approval, which shall not be unreasonably withheld, to ensure that the assignment will not prevent the orderly development of the Project consistent with the Agreement or Development Plan. In the event of any such assignment, the transferee shall thereafter be solely liable for the performance of all obligations of the Developer relating to the portion of the Property, or interest therein, so transferred. Such transferee or the Developer shall notify the City, in advance, and in writing of their intent to transfer such obligations.

20.2 **Release Upon Transfer.** Upon the sale, transfer or assignment of the Developer's rights and interests under this Agreement as permitted pursuant to Section 20.1, the Developer shall be released from its obligations under this Agreement and all of the Developer's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof, so transferred, provided that (a) the Developer is not then in default under the Agreement, (b) the Developer or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to the City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of the Developer under this Agreement with respect to the Property, or a portion thereof, so transferred.

21. **COOPERATION IN THE EVENT OF LEGAL CHALLENGE.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of this Agreement or any portion thereof, the parties hereby agree to cooperate in defending such action, subject to the provisions of Section 8. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending.

22. **EMINENT DOMAIN.** No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.



23. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the Developer warrant and represent that they have the authority to execute this Agreement on behalf of the Developer and warrant and represent that they have the authority to bind the Developer to the performance of its obligations hereunder.

24. **ESTOPPEL CERTIFICATES.** The City shall at any time upon not less than thirty (30) days' prior written notice from the Developer execute, acknowledge and deliver to the Developer a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); (ii) certifying the amounts of the fees, assessments and exactions that have been received from the Developer and what amounts, if any, remain outstanding; and (iii) acknowledging that there are not, to the City's knowledge, any defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser, lender or joint venture partner.

25. **RECORDATION.** This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of Riverside, by the City Clerk within the period required by Section 65868.5 of the Government Code.

26. **PROTECTION OF MORTGAGE HOLDERS.** The parties hereto agree that this Agreement shall not prevent or limit the Developer, in any manner, at the Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain interpretations, estoppel certificates and modifications to this Agreement and agrees upon request, from time to time, to meet with the Developer and representatives of such lenders to negotiate in good faith any such request for interpretations, estoppel certificates or modifications. The City will not unreasonably withhold its consent to any such requested interpretation, estoppel certificate or modification provided the same is consistent with the intent and purposes of this Agreement. The holder(s) of any mortgage, deed of trust or other security instrument encumbering the Property (each, a "**Mortgagee**") shall have the following rights and privileges:

26.1.1 Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

26.1.2 Any Mortgagee which has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by the Developer in the performance of the Developer's obligations under this Agreement.

26.1.3 If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Developer under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Developer. Mortgagee's not party to this Agreement. If the cure period for a default by the Developer set forth in Section 15.1 above has expired and such default has not been cured, the Mortgagee shall be provided with an additional thirty (30) day period after the

expiration of such cure period in which to commence all steps reasonably necessary to bring the Developer in compliance as required under this Agreement and thereafter diligently pursue such steps to completion. During such cure period, and if the default is ultimately cured, the City shall not terminate this Agreement.

26.1.4 Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of the Developer's obligations or other affirmative covenants of the Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by the Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of this Agreement.

27. **SEVERABILITY OF TERMS.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28. **SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE.** This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 11.2 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29. **INTERPRETATION AND GOVERNING LAW.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. Unless otherwise provided, any ambiguity concerning the content or application of the Development Agreement, arising as a result of any apparent conflict between (a) the conditions, terms and requirements to be applied by City under the Development Agreement and (b) the conditions, terms and requirements previously imposed on the Project by the County of Riverside, shall be resolved by the City's Planning Director, subject to the appeal procedure set forth in the Development Code for appeals of staff determinations.

30. **SECTION HEADINGS.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31. **INCORPORATION OF RECITALS AND EXHIBITS.** Recitals A through L and attached Exhibits "A" through "D" are hereby incorporated herein by this reference as though set forth in full.

**32. RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.**

**32.1 Gender.** The singular includes the plural; the masculine gender includes the feminine; “shall” is mandatory, “may” is permissive.

**32.2 Time of Essence.** Time is of the essence regarding each provision of this Agreement in which time is an element.

**32.3 Cooperation.** Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

**33. TENTATIVE TRACT MAP EXTENSIONS.** In accordance with the provisions of Section 66452.6 of the California Government Code, tentative subdivision tract map(s) or tentative parcel map(s), heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time for the term of this Agreement.

*[Signature page follows]*

The parties have executed this Development Agreement on the date and year first written above.

**“City”**

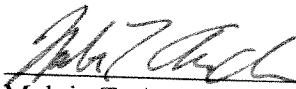
**THE CITY OF BEAUMONT**, a  
municipal corporation of the State of California

By:   
Brian DeForge, Mayor


**“Developer”**

**LB/L - SUNCAL OAK VALLEY LLC**,  
a Delaware limited liability company

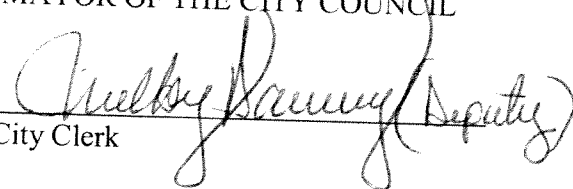
By: **LBREP LAKESIDE OAK VALLEY LLC**,  
a Delaware limited liability company,  
its Managing Member

By:   
Melvin T. Andrews,  
Authorized Signatory

By: **SCC/OAK VALLEY, LLC**,  
a Delaware limited liability company,  
Member

By:   
Bruce Elieff,  
Manager

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE MAYOR OF THE CITY COUNCIL

By:   
City Clerk

### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
County of Riverside } ss.

On February 12, 2004 before me, Shaina J. Harwood  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Brian DeForge  
Names of Signer(s)

- 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.

Shaina J. Harwood  
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: \_\_\_\_\_



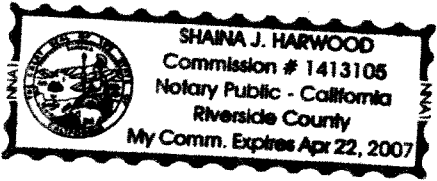
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Riverside } ss.

On February 12, 2004 before me, Shaina J. Harwood  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Sherby Harvey  
Names(s) of Signer(s)

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.  
Shaina J. Harwood  
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: \_\_\_\_\_

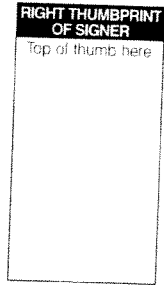
Signer(s) Other Than Named Above: \_\_\_\_\_

**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 ACKNOWLEDGMENT

State of California }  
County of Orange } ss.

On February 5, 2004 before me, Niki Whitney  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Bruce Eliott  
Name(s) of Signer(s)

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.  
Niki Whitney  
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: Development Agreement / City of Beaumont + LBK SunCal Oak Valley, LLC  
Document Date: 11-18-03 Number of Pages: 15

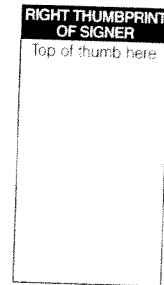
Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: Bruce Eliott

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

Signer Is Representing: LBK SunCal Oak Valley, LLC



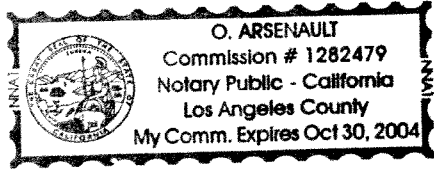
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Los Angeles } ss.

On February 6, 2004 before me, O. Arsenault  
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)  
personally appeared Melvin T. Andrews  
Name(s) of Signer(s)

- 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.  
O. Arsenault  
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: \_\_\_\_\_

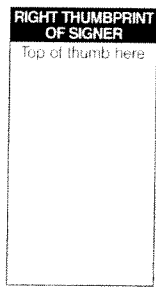
Signer(s) Other Than Named Above: \_\_\_\_\_

**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: \_\_\_\_\_





**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

THOSE PORTIONS OF SECTIONS 25, 26, 27, 31, 32, 35 AND 36 OF TOWNSHIP 2 SOUTH, RANGE 1 WEST AND A PORTION OF SECTION 5 TOWNSHIP 3 SOUTH, RANGE 1 WEST SAN BERNARDINO MERIDIAN, LOCATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**PH1-A**

PARCEL "A" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH1-B**

PARCEL "B" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH1-F**

PARCEL "F" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH1-G**

PARCEL "G" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH1-H**

PARCEL "H" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH2-C**

PARCEL "C" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH2-D**

PARCEL "D" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE AND AMENDED BY LOT LINE ADJUSTMENT NO. 03-LLA-11 (SHOWN AS PARCEL "A") AS INSTRUMENT NO. 2003-500693 RECORDED JULY 7, 2003.

**PH2-E**

PARCEL "E" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

**PH2-R**

PARCEL "R" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE.

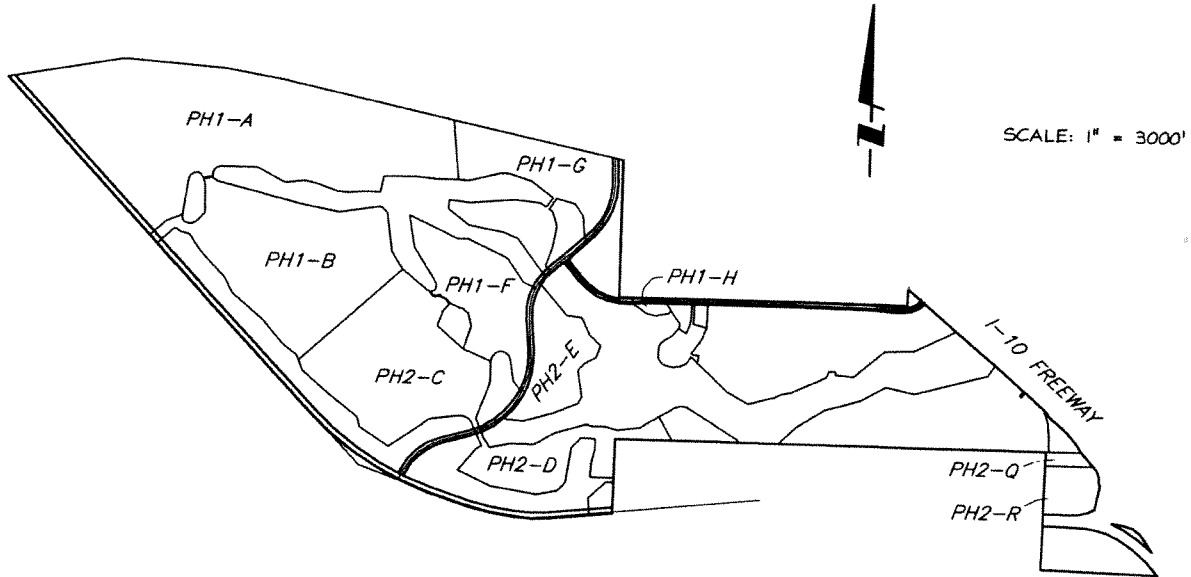
**PH2-Q**

PARCEL "Q" OF LOT LINE ADJUSTMENT NO. 4188 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 109 OF RECORD OF SURVEYS PAGES 7 THROUGH 13 INCLUSIVE AND AMENDED BY LOT LINE ADJUSTMENT NO. 03-LLA-11 (SHOWN AS PARCEL "B") AS INSTRUMENT NO. 2003-500694 RECORDED JULY 7, 2003.

# EXHIBIT B

SHEET 1 OF 1

THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION



PH1-A, PCL A PER LLA# 4188

PH1-B, PCL B PER LLA# 4188

PH1-F, PCL F PER LLA# 4188

PH1-G, PCL G PER LLA# 4188

PH1-H, PCL H PER LLA# 4188

PH2-C, PCL C PER LLA# 4188

PH2-D, PCL D PER LLA# 4188 AS AMENDED (PCL A) PER LLA 03-LLA-11

PH2-E, PCL E PER LLA# 4188

PH2-Q, PCL Q PER LLA# 4188 AS AMENDED (PCL B) PER LLA 03-LLA-11

PH2-R, PCL R PER LLA# 4188

P:\31841.00.Dwg\PRX0008.dwg, 08/19/2003 09:56:57 AM, J JOSEPHANS

Plotted: 8/18/2003 5:18:19 PM By: B. PIERCE DWG: P:\31841.00.Dwg\PRX0008.dwg

**PHASE 1 AND 2**

The Keith Companies **TKC**

22690 Cactus Avenue, Suite 300 Moreno Valley, CA 92553-9024 (909) 653-0234

**EXHIBIT C**  
**LIST OF PERMITS AND APPROVALS**

Specific Plan 318  
Finding of Substantial Conformance  
EIR 418 and Addendum  
Vesting Tentative Tract Map 31462

**EXHIBIT D**  
**CONDITIONS OF APPROVAL**

CITY OF BEAUMONT  
CONDITIONS OF APPROVAL

SPECIFIC PLAN 318

1. HOLD HARMLESS

The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Beaumont (City), its agents, officers, or employees from any claim, action, or proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul an approval of the City, its advisory agencies, appeal boards, or legislative body concerning this SPECIFIC PLAN. The City will promptly notify the applicant of any such claim, action, or proceeding against the City and will cooperate fully in the defense. If the City fails to promptly notify the subdivider of any such claim, action, or proceeding or fails to cooperate fully in the defense, the subdivider shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City.

2. DEFINITIONS

The words identified in the following list that appear in all capitals in the attached conditions of Specific Plan No. 318 shall be henceforth defined as follows:

SPECIFIC PLAN = Riverside County Specific Plan No. 318

CHANGE OF ZONE = City of Beaumont Change of Zone No. 02-RZ-03.

EIR = Riverside County Environmental Impact Report No. 418.

3. SPECIFIC PLAN DOCUMENT

Specific Plan No. 318 shall consist of the following:

- a. Specific Plan Document, which must include, but to be limited to, the following items:
  - 1. City Council Specific Plan Resolution.
  - 2. Conditions of Approval.
  - 3. Specific Plan Zoning Ordinance Text.
  - 4. Land Use Plan in both 8 1/2" x 11" black-and-white and 11"x 17" color formats
  - 5. Specific Plan text.
  - 6. Descriptions of each Planning Area in both graphical and narrative formats.

- b. Environmental Impact Report No. 418 Document, which must include, but not be limited to, the following items:
  - 1. Mitigation Reporting/Monitoring Program (M/M).
  - 2. Agency Notice of Preparation (NOP).
  - 3. Draft EIR.
  - 4. Agency Notice of Completion (NOC).
  - 5. Comments on the NOC.
  - 6. Final EIR, including the responses to comments on the NOC.
  - 7. Technical Appendices
  - 8. Initial Study/Addendum for Oak Valley Specific Plan 318/ Environmental Impact Report No. 418 Amendment

If any specific plan conditions of approval differ from the specific plan text or exhibits, the specific plan conditions of approval shall take precedence.

4. **ORDINANCE REQUIREMENTS**

The development of the property shall be in accordance with the mandatory requirements of all City ordinances not in conflict with the Specific Plan and state laws.

**BUILDING AND SAFETY**

5. **APPLICABLE GRADING REGULATIONS**

Anything to the contrary, proposed by SP 318, shall not supersede the following: All grading shall conform to the Uniform Building Code, City's General Plan, and all other relevant laws, rules and regulations governing grading in City.

6. **COMPLIANCE WITH SOILS REPORTS**

All grading shall be performed in accordance with the recommendations of the approved-geotechnical/soils reports for this Specific Plan.

7. **ALL CLEARANCES REQUIRED BEFORE PERMIT**

Prior to issuance of a grading permit, all certifications affecting grading shall have written clearances. This includes, but is not limited to, additional environmental assessments, erosion control plans, geotechnical/soils reports, and departmental clearances.

**FIRE DEPARTMENT**

**8. HAZARDOUS FIRE AREA**

The specific plan is located in the "Hazardous Fire Area" of Riverside County as shown on a map on file with the Clerk of the Board of Supervisors. Any building constructed on lots created by this project shall comply with the special construction provisions contained in City Ordinances for Hazardous Fire Areas, and the California Code of Regulations, Title 14, and Public Resources Code 4290.

**9. WATER MAINS**

All water mains and fire hydrants providing required fire flows shall be constructed in accordance with the appropriate sections of Riverside County Ordinance 460 and/or No. 787, subject to the approval by the Riverside County Fire Department.

**10. ROOFING MATERIAL**

The proposed project area lies within the **VERY HIGH FIRE HAZARD SEVERITY ZONE** as shown on the California Fire Classification maps on file. All buildings shall be constructed with a class "A" fire retardant roofing material as per the 1999 California Fire Code. Wood shingles and shakes are not recommended as a roof or other exterior covering material.

**11. OPEN SPACE**

Prior to approval of any development for lands adjacent to open space areas, a fire protection/vegetation management (fuel modification) plan shall be submitted to the Riverside County Fire Department for review and approval. The Homeowner's Association or appropriate management entity shall be responsible for maintaining the elements to the plan.

**12. FINAL FIRE REQUIREMENTS**

Final fire protection requirements and impact mitigation measures will be determined when specific project plans are submitted.

**13. DISCLOSURE**

This project lies within the **VERY HIGH FIRE HAZARD SEVERITY ZONE** as shown on the Fire Hazard Zone Maps of California. All roof construction shall meet a minimum class "A" rating as described in the current model building code of California.

A fire fuel analysis of the open space/wildlands within and outside the project area may be required prior to submitting a fuel modification plan.

**NOTICE** - The transferor of real property shall disclose to the transferee that this project lies within a **VERY HIGH FIRE HAZARD** area.



**PUBLIC WORKS DEPARTMENT**

**14. GREENBELT, BASIN MAINTENANCE**

This project proposes detention basins and green belt channels which will require maintenance by a public agency, or a guarantee of maintenance by a public agency in the event the responsible private party fails to meet its maintenance obligation. In particular the detention basin adjacent to Planning Areas 9 and 10 would require such a guarantee because the proposed downstream development would depend on it for public health and safety. These types of flood control facilities are selected at the discretion of the applicant to complement the nature of the proposed development, and do not have a regional benefit commensurate with the maintenance costs which are anticipated to be excessively high. Therefore, to ensure the public is not unduly burdened for future costs, prior to final approval or recordation of any case protected by these drainage facilities, the City will require an acceptable financial mechanism to be implemented to provide for reimbursement of maintenance costs in perpetuity. This may consist of a mechanism to assess individual benefiting property owners, or other means approved by the City. If an acceptable maintenance mechanism cannot be developed, the project should be redesigned to eliminate all high maintenance cost features.

**PLANNING DEPARTMENT**

**15. MAINTAIN PLANNING AREAS**

**ALL PLANNING AREA NUMBERS SHALL BE MAINTAINED THROUGHOUT THE LIFE OF THE SPECIFIC PLAN, UNLESS CHANGED THROUGH THE APPROVAL OF A SPECIFIC PLAN AMENDMENT OR SPECIFIC PLAN SUBSTANTIAL CONFORMANCE ACCOMPANIED BY A REVISION TO THE COMPLETE SPECIFIC PLAN DOCUMENT.**

**16. TRAFFIC STUDY CONDITIONS**

The City has reviewed the traffic study submitted by LSA Associates, Inc. for the referenced project. The study has been prepared in accordance with accepted traffic engineering standards and practices. The study analyzed year 2020 Buildout Impacts for the project and surrounding intersections.

The study indicates that it is possible to achieve a Level of Service "C" for the following intersections (some of which will require additional construction for mitigation at the time of development):

- Singleton Road (NS)/I-10 Fwy EB Ramps (EW)
- Singleton Road (NS)/I-10 Fwy WB Ramps (EW)
- Singleton Road (NS)/Calimesa Boulevard (EW)
- Cherry Valley Boulevard (NS)/I-10 Fwy EB Ramps (EW)
- Cherry Valley Boulevard (NS)/I-10 Fwy WB Ramps (EW)
- Cherry Valley Boulevard (NS)/Calimesa Boulevard (EW)
- Nancy Avenue (NS)/Cherry Valley Boulevard (EW)
- Beaumont Avenue (NS)/Cherry Valley Boulevard (EW)

- Brookside Avenue (NS)/Desert Lawn Drive (EW)
- Nancy Avenue (NS)/Brookside Avenue (EW)
- Oak Valley P'way (NS)/I-10 Fwy EB Ramps (EW)
- Oak Valley P'way (NS)/I-10 Fwy WB Ramps (EW)
- Beaumont Avenue (NS)/I-10 Fwy EB Ramps (EW)
- Beaumont Avenue (NS)/I-10 Fwy WB Ramps (EW)
- Potrero Boulevard (NS)/SR-60 EB Ramps (EW)
- Potrero Boulevard (NS)/Champions Drive (EW)
- "J" Street (NS)/San Timoteo Canyon Road (EW)
- "J" Street (NS/"G" Street (EW)
- San Timoteo Canyon Road (NS)"G" Street (EW)

The study indicates that it is possible to achieve a Level of Service "D" for the following intersections (some of which will require additional construction for mitigation at the time of development).

- Calimesa Boulevard (NS)/Brookside Avenue (EW)
- Beaumont Avenue (NS)/Brookside Avenue (EW)
- Oak Valley Estates (NS)/ Oak Valley P'way
- Nancy Street (NS)/14<sup>th</sup> Street (EW)
- Beaumont Avenue (NS) Oak Valley P'way)
- Elm Avenue (NS)/8<sup>th</sup> Street (EW)
- California Avenue (NS)/6<sup>th</sup> Street (EW)
- Potrero Boulevard (NS)/SR-60 WB Ramps (EW)

Mitigation to improve operations of the following intersection to the required Level of Service standards of the applicable jurisdictions (LOS "C" within the County of Riverside and the City of Calimesa, and LOS "D" within the City of Beaumont) for Year 2020 Buildout conditions is problematic, due either to existing conditions or to infeasible geometrics:

- Singleton Road (NS)/Woodhouse Road (EW)
- Cherry Valley Boulevard (NS)/Roberts Road-Desert Lawn Drive (EW)
- Desert Lawn Drive (NS)/Champions Drive (EW)
- Singleton Road (NS)/ San Timoteo Canyon Road (EW)
- Champions Drive (NS)/San Timoteo Canyon Road (EW)
- Beaumont Avenue (NS)/6<sup>th</sup> Street (EW)

The associated conditions of approval incorporate mitigation measures identified in the traffic study which are necessary to achieve or maintain the required level of service.

17. ROADWAY IMPROVEMENTS

Roadway links wholly within the boundaries of Oak Valley Specific Plan No. 318, as well as the entirety of Champions Drive, shall be constructed at the time of project development per the requirements of the specific plan. Roadway links along the perimeter of the specific plan area (San Timoteo Canyon Road) shall be constructed to

their full half-width section concurrent with development of the adjacent Oak Valley, Specific Plan No. 318 Planning Areas. Intersections located within and adjacent to the boundaries of Oak Valley Specific Plan No. 318 (San Timoteo Canyon Road at "G" Street and "J" Street, Champions Drive at "J" Street Desert Lawn Drive) shall be constructed concurrent with the roadways with the geometrics illustrated in Figure D.1.12c, unless subsequent traffic impact analyses demonstrate that lesser geometrics can be provided which meet applicable LOS standards, as approved by the City Engineer.

18. "P" STREET IMPROVEMENTS

"P" Street shall be constructed to County of Riverside Standard No. 102, Modified Secondary Highway (56'/88' R.O.W.) from Champions Drive to San Timoteo Canyon Road.

19. WARRANTED TRAFFIC SIGNALS

The project is responsible for the following traffic signals when warranted through subsequent traffic studies done for implementing projects within the boundaries of the specific plan:

- San Timoteo Canyon Road/"G" Street
- San Timoteo Canyon Road/"J" Street
- Desert Lawn Drive/Champions Drive
- Potrero Boulevard/Champions Drive
- Champions Drive/"J" Street

20. GEOMETRICS

The following intersections shall be improved to the geometrics as described.

Potrero Boulevard (NS)/San Timoteo Canyon Road (EW) shall be improved to provide the following geometrics:

- Southbound: Two left turn lanes, one right turn lane.
- Eastbound: One left turn lane, two through lanes.
- Eastbound: Two through lanes, one right turn lane.

Potrero Boulevard (NS)/Champions Drive (EW) shall be improved to provide the following geometrics:

- Northbound: Two left turn lanes, one right turn lane.
- Southbound: NA
- Eastbound: Two through lanes.
- Westbound: Two left turn lanes, two through lanes.

Desert Lawn Drive (NS)/Champions Drive (EW) shall be improved to provide the following geometrics:

- Northbound: NA
- Southbound: Two left turn lanes, one right turn lane.
- Eastbound: One left turn lane, two through lanes.
- Westbound: Two through lanes, one right turn lane.

“J” Street (NS)/San Timoteo Canyon Road (EW) shall be improved to provide the following geometrics:

- Northbound: NA
- Southbound: One left turn lane, one right turn lane.
- Eastbound: One left turn lane, two through lanes.
- Westbound: Two through lanes, one right turn lane.

“J” Street (NS)/Champions Drive (EW) shall be improved to provide the following geometrics:

- Northbound: Two through lanes, one right turn lane.
- Southbound: Two left turn lanes, two through lanes.
- Eastbound: NA
- Westbound: One left turn lane, one right turn lane

“J” Street (NS)/“G” Street (EW) shall be improved to provide the following geometrics:

- Northbound: One left turn lane, two through lanes, one through/right turn lane.
- Southbound: Two left turn lanes, three through lanes.
- Eastbound: Two left turn lanes, one through/right turn lane.
- Westbound: One left turn lane, one through lane, one through/right turn lane.

“G” Street (NS)/San Timoteo Canyon Road (EW) shall be improved to provide the following geometrics:

- Northbound: NA
- Southbound: One left turn lane, one right turn lane.
- Eastbound: One left turn lane, two through lanes.
- Westbound: Two through lanes, one right turn lane.

21. TRANSPORTATION MITIGATION FEE

The project proponent shall be required to pay all transportation impact and signal mitigation fees in effect in the City of Beaumont. The project proponent will receive credit against transportation impact and signal mitigation fees for improvements installed which are part of the transportation impact and signal mitigation fee schedule of improvements or similarly covered by the fee(s).

22. "G" STREET IMPROVEMENTS

Concurrent with the construction of "G" Street within the boundaries of Oak Valley Specific Plan No. 318, "G" Street shall be constructed offsite to intersect with "J" Street as Modified Collector Street (78' R.O.W.)

PARKS AND RECREATION DEPARTMENT

23. TRAIL CONSTRUCTION

Prior to the approval of any implementing project, including but not limited to grading permits, the applicant shall have in place a funding or construction mechanism, as approved by the City, to insure the construction of the regional trail along San Timoteo Canyon Road.

PLANNING DEPARTMENT

24. PLANNING AREA STANDARDS

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project, with the blanks filled in at the implementing project:

"This implementing project is within Planning Area[s] \_\_\_\_ of the SPECIFIC PLAN. Accordingly, this project is subject to these development standards:

1. All residential lots must be at least \_\_\_\_ [square feet/acres].
2. The average residential lot size must be at least \_\_\_\_ [square feet/acres].
3. The target density of this planning area is \_\_\_\_ to \_\_\_\_ du/ac.
4. The target range of the number of dwelling units in this planning area is \_\_\_\_ to \_\_\_\_.
5. Entry monumentation is required at the intersection of \_\_\_\_ and \_\_\_\_.
6. Roadway landscaping is required at \_\_\_\_.
7. Recreational trails are located at \_\_\_\_.
8. This implementing map is conditioned to build a park at \_\_\_\_ prior to the \_\_\_\_th building permit.
9. [Residential] [Commercial] [Industrial] buildings must conform to the design guidelines on pages \_\_\_\_ to \_\_\_\_ of the SPECIFIC PLAN."

25. MITIGATION MONITORING PROGRAM (GENERAL)

Prior to approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“The EIR prepared for the SPECIFIC PLAN imposes specific mitigation measures and monitoring requirements on the project. Certain conditions of the SPECIFIC PLAN and this implementing project constitute reporting/monitoring requirements for certain mitigation measures.”

26. NON-IMPLEMENTING MAPS

Prior to approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“A land division filed for the purposes of phasing or financing shall not be considered an implementing development application for the purposes of the Planning Department’s conditions of approval.

Should this project be an application for phasing or financing, all of the other conditions in this implementing project with a prefix of “SP” will be considered as NOTAPPLICABLE, and this condition shall be considered as MET. Should this project not be an application for phasing or financing, this condition shall be considered as NOT APPLICABLE.”

27. PLANNING AREA SUMMARY TABLE

Prior to the approval of any implementing Project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

The following table shows the residential map requirements of the adopted SPECIFIC PLAN:

Planning Areas:	Min. lot size [sq. ft.]	Density Range [du/acre]	Target Density
-----------------	-------------------------	-------------------------	----------------

1	4,000		
2	5,000	5-8	6.0
3	5,000	2-5	4.0
4	3,800	2-5	4.0
7B	10,000	8-12	10.0
8	5,500	2-2	1.0
10	3,800	2-5	4.0
11	6,000	8-12	10.0
12	5,000	2-5	4.0
14	4,000	2-5	4.0
15	7,000	12-20	20.0
16	6,000	2-5	4.0
18	5,000	2-5	4.0
19	8,000	5-8	6.0
20	4,000	2-2	2.0
22	5,500	2-5	4.0
23B	10,000	2-5	4.0
25	3,800	2-2	1.0
26	8,000	8-12	12.0
30	6,000	2-5	4.0
32	4,000	2-5	4.0
36	4,000	5-8	6.0
38	3,800	5-8	6.0
39	5,000	8-12	12.0
		2-5	4.0

This condition shall be considered MET if the implementing residential land division proposal is within the above mentioned standards. This condition may only be considered as NOT APPLICABLE if the implementing project is concurrent with a specific plan amendment that proposes to change the above-mentioned standards, or if this implementing project is either commercial or industrial in nature.

28. PROJECT LOCATION EXHIBIT

Prior to approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“The applicant shall provide to the Planning Department an 8 ½” x 11” exhibit showing where in the SPECIFIC PLAN this project is located. The exhibit shall also show all prior implementing projects within the SPECIFIC PLAN that have already been approved.

This condition shall be considered MET once the applicant provides the Planning Department with the required information. This condition may not be DEFERRED.”

29. **ACOUSTICAL STUDY REQUIRED**

Prior to the approval of any implementing project within Planning Areas 1, 10, 32, 36, and 38 of the SPECIFIC PLAN (i.e., tract map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“PRIOR TO BUILDING PERMIT APPROVAL, an acoustical study shall be submitted to the Planning Department for review and approval.

This condition shall be considered MET if the relevant study has been approved by the Planning Department. This condition may be considered as NOT APPLICABLE if the Planning Department determines that the required study is not necessary.

30. **OAK TREE PLAN REQUIRED PRIOR TO THE APPROVAL OF ANY IMPLEMENTING PROJECT (I.E., TRACT MAP, PARCEL MAP, USE PERMIT, PLOT PLAN, ETC.) WITHIN PLANNING AREAS 10, 11, 15, 16, 21A, 21B, 22, AND 23B OF THE SPECIFIC PLAN, THE FOLLOWING CONDITION SHALL BE PLACED ON THE IMPLEMENTING PROJECT:**

“PRIOR TO PROJECT APPROVAL, an oak tree inventory and conservation plan shall be developed providing detail by planning area. Each oak shall be mapped with its location numbered, its caliper (diameter) at breast height and its drip line (Tree canopy) diameter identified, rated as to qualitative condition and desirability for retention, and assigned a recommended mitigation replacement ratio if removal were required. The plan shall also include general mitigation guidelines covering how oak trees to be retained will be protected during construction activities, how oak trees to be removed will be monitored, and how mitigation plantings for those oak trees removed will be accomplished. Additionally, the plan shall include the following requirements: 1) No mass grading will be permitted within the oak woodlands on site. 2) Residential lots within oak woodlands will be individually sited to avoid mature oak trees (>12” diameter-breast-height (dbh) ) if at all possible. 3) No slab foundations shall be permitted within the drip-line (widest extent of canopy cover) of oak trees. No irrigated sod shall be planted within the drip-line of oak trees. The oak tree plan shall be submitted to the Planning Department for review and approval.

This condition shall be considered MET if the relevant inventory and conservation plan has been approved by the Planning Department. This condition may be considered as NOT APPLICABLE if the Planning Department determines that the required plan is not necessary.”



31. DESIGN PLAN REQUIRED PRIOR TO THE APPROVAL OF ANY IMPLEMENTING PROJECT (I.E., TRACT MAP, PARCEL MAP, USE PERMIT, PLOT PLAN, ETC.) WITHIN PLANNING AREAS 1-4, 8, 10, 12, 14, 18, 20, 22, 25, 32, 36, 38, OR 39 OF THE SPECIFIC PLAN, THE FOLLOWING CONDITION SHALL BE PLACED ON THE IMPLEMENTING PROJECT:

“PRIOR TO PROJECT APPROVAL, the developer shall submit a development plan to the Planning Department for review and approval, showing which amenities described in Exhibit D (which follows this condition) are applicable to this project.

This condition shall be considered MET when the Planning Department approves a plan showing specifically how a given development project will implement the general design concepts in Exhibit D. The development plan submittal may be DEFERRED prior to building permit issuance when incorporated into the Final Site Plan for the proposed project. This condition shall not be considered NOT APPLICABLE.”

32. WATER ANALYSIS/AGREEMENT

Prior to the recordation of any implementing project (i.e., tract map, parcel map, etc.) or prior to the issuance of a building permit for any use permit (i.e., conditional use permit, plot plan, etc.), whichever come first, within any planning area of the SPECIFIC PLAN, the Planning Department shall receive an executed agreement between the developer and either (1) the San Gorgonio Pass Water Agency, (2) the Beaumont-Cherry Valley Water District, or (3) another qualified water service agency. The agreement shall provide for sufficient supplemental water supply to the development for domestic purposes.

This condition shall be considered MET if the applicant submits a satisfactory agreement to the Planning Department. This condition shall be considered NOT APPLICABLE if the Planning Department determines that significant new information (i.e., other documented additions to water supply or documented enhancements to groundwater recharge capability applicable to the project vicinity, etc.) would make such an agreement unnecessary. This condition cannot be DEFERRED.

33. PALEO STUDY REQUIRED

Prior to the approval of any implementing project within any planning area of the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“PRIOR TO GRADING PERMIT ISSUANCE, a Paleontological Resources Impact Mitigation Program (PRIMP) study shall be submitted to the Planning Department for review and approval.

This condition shall be considered MET if the relevant study has been approved by the Planning Department. This condition may be considered as NOT APPLICABLE if the Planning Department determines that the required study is not necessary.

34. **GEO STUDY REQUIRED**

Prior to the approval of any implementing project (i.e., tract map, parcel map, use permit, plat plan, etc.) for which the Public Works Director requires further Geotechnical analysis, the following condition shall be placed on the implementing project:

“PRIOR TO PROJECT APPROVAL”, a Geotechnical investigation and seismic analysis shall be submitted to the Public Works Director for review and approval. The study shall treat the following issues:

1. Slope Stability / Landslide potential
2. Faulting
3. Treatment of recent alluvium
4. Shallow groundwater areas
5. Any other geological/Geotechnical issues identified by the Public Works Director as pertinent to development within the planning area(s) covered by the implementing development application.

This condition shall be considered MET if the relevant study has been approved by the Planning Department. This condition may be considered as NOT APPLICABLE if the Planning Department determines that the required study is not necessary.

The submittal of this study mandates that a CEQA determination of an Addendum to a previously adopted EIR be made, at a minimum.”

35. **AMENDMENT REQUIRED**

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“If this implementing project meets any of the following criteria, an amendment to the SPECIFIC PLAN shall be required and processed concurrently with this implementing project:

1. The implementing project adds any area to, or deletes area from, the SPECIFIC PLAN;
2. The implementing project proposes a substantially different use than currently allowed in the SPECIFIC PLAN or as determined by the Planning Director.

Any amendment to the SPECIFIC PLAN, even though it may affect only one portion of the SPECIFIC PLAN, shall be accompanied by a complete specific plan document which includes the entire specific plan, including both changed and unchanged parts.

This condition shall be considered MET if the specific plan amendment has been filed, and NOT APPLICABLE if a specific plan amendment is determined to be unnecessary.”

36. COMMON AREA

Prior to the approval of any implementing land division project within the SPECIFIC PLAN (i.e., tract map or parcel map), the following condition shall be placed on the implementing application:

PRIOR TO MAP RECORDATION, the following procedures for common area maintenance procedures shall be complied with:

a. A permanent master maintenance organization shall be established for the specific plan area, to assume ownership and maintenance responsibility for all common recreation, open space, circulation systems and landscaped areas. The organization may be public or private. Merger with an area-wide or regional organization shall satisfy this condition provided that such organization is legally and financially capable of assuming the responsibilities for ownership and maintenance. If the organization is a private association then neighborhood associations shall be established for each residential development, where required, and such associations may assume ownership and maintenance responsibility for neighborhood common areas.

b. Unless otherwise provided for in these conditions of approval, common open areas shall be conveyed to the maintenance organizations as implementing development is approved or any subdivision as recorded.

c. The maintenance organization shall be established prior to or concurrent with the recordation of the first land division.

d. The common areas to be maintained by the master maintenance organization shall included, but not be limited to, the following: Planning Areas 5, 7A, 13, 17, 21B, 23A, 24, 31B, 34, and 37.”

37. CC&R'S RES PUB COMMON AREA

Prior to the approval of any implementing land division project (i.e., tract map or parcel map), the following condition shall be applied to the land division PRIOR TO MAP RECORDATION if the permanent master maintenance organization referenced in the condition entitled “SP – Common Area Maintenance” is a public organization:

“The applicant shall convey to the City fee simple title, to all common open space areas, free and clear of all liens, taxes, assessments, leases (recorded or unrecorded) and easement, except those easements which in the sole discretion of the City are acceptable. As a condition precedent to the City accepting title to such areas, the applicant shall

notify the Planning Department that the following documents shall be submitted to the office of the Planning Director and submit said documents for review along with the current fee, which shall be subject to City approval:

1. A cover letter identifying the project for which approval is sought;
2. A signed and notarized declaration of covenants, conditions and restrictions;
3. A sample document, conveying title to the purchase, of an individual lot or unit which provides that the declaration of covenants, conditions and restrictions is incorporated therein by reference; and,

The declaration of covenants, conditions and restrictions submitted for review shall a) provide for a minimum term of 60 years, b) provide for the establishment of a property owners' association comprised of the owners of each individual lot or unit as tenants in common, and c) contain the following provision verbatim:

"Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

The property owners' association established herein shall, if dormant, be activated, by incorporation or otherwise, at the request of the City, and the property owners' association shall unconditionally accept from the City, upon the City's demand, title to all or any part of the 'common area' more particularly described on Exhibit '\_\_\_' attached hereto. Such acceptance shall be through the president of the property owner's association, who shall be authorized to execute any documents required to facilitate transfer of the 'common area'. The decision to require activation of the property owners' association and the decision to require that the association unconditionally accept title to the 'common area' shall be at the sole discretion of the City.

In the event that the 'common area', or any part thereof, is conveyed to the property owners' association, the association, thereafter, shall own such 'common area', and shall not sell or transfer such 'common area' or any part thereof, absent the prior written consent of the Planning Director or the association shall have the right to assess the owner of each individual lot or unit for the reasonable cost of maintaining such 'common area', and shall have the right to lien the property of any such owner who defaults in the payment of a maintenance assessment. An assessment lien, once created, shall be prior to all other liens recorded subsequent to the notice of assessment or other document creating the assessment lien.

This declaration shall not be terminated, 'substantially' amended, or property deannexed therefrom absent the prior written consent of the Planning Director. A proposed amendment shall be considered 'substantial' if it affects the extent, usage or maintenance of the 'common area' established pursuant to this Declaration.

In the event of any conflict between this Declaration and the Articles of Incorporation, the Bylaws, or the property owners' association Rules and Regulations, if any, this Declaration shall control."

Once approved by the Planning Director, the declaration of covenants, conditions and restrictions shall be recorded by the Planning Department with one copy retained for the case file.

38. **ARCHEO MITIGATION MONITORING PROGRAM**

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

"PRIOR TO THE ISSUANCE OF GRADING PERMITS, the project applicant shall enter into an agreement with a qualified archaeologist. This agreement shall include, but not be limited to, the preliminary mitigation and monitoring procedures to be implemented during the process of grading, as found in the EIR. A copy of said agreement shall be submitted to the Planning Department. No grading permits will be issued unless the preliminary mitigation and monitoring procedures required prior to grading permits as described in the EIR are substantially complied with."

39. **GENERIC MITIGATION MONITORING PROGRAM**

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

"PRIOR TO THE ISSUANCE OF GRADING PERMITS, the project applicant shall provide to the Planning Department a detailed proposal for complying with the preliminary mitigation and monitoring procedures described in the EIR during the process of grading. Grading permits will not be issued unless the preliminary mitigation and monitoring procedures as described in the EIR are substantially complied with."

40. **USFWS/CDFG CLEARANCES**

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.) which may result in the disturbance of on-site habitat occupied by any species determined to be endangered or threatened by the United States Fish and Wildlife Service (USFWS) or California Department of Fish and Game (CDFG), the following condition shall be placed on the implementing project:

"PRIOR TO THE ISSUANCE OF GRADING PERMITS, the applicant shall obtain necessary take permit(s) from the USFWS and CDFG. A copy of said permit(s) shall be submitted to the Planning Department."

41. CDFG (SECT 1601/1603)

Prior to the approval of any implementing project (i.e., tract map, parcel map, use permit, plot plan, etc.) within Planning Areas 1, 5, 6, 9, 10, 14, 23B, 29, 30, 31B, 32, 33A, 33B, 34, 36, 37, 38, and 39 of the SPECIFIC PLAN, which may propose grading or construction within or along the banks of any blue-line streams, the following condition shall be placed on the implementing project:

“PRIOR TO THE ISSUANCE OF GRADING PERMITS, the applicant shall obtain written notification to the Planning Department that the appropriate California Department of Fish and Game notification pursuant to Sections 1601/1603 of the California Fish and Game Code has taken place, or obtain an “Agreement Regarding Proposed Stream or lake Alteration: (Sections 1601/1603 Permit) should any grading or construction be proposed within or along the banks of any natural watercourse or wetland determined to be jurisdictional, located either on-site or any required off-site improvement areas. Copies of any agreement shall be submitted with the notification.”

42. ACOE CLEARANCE

Prior to the approval of any implementing project (i.e., tract map, parcel map, use permit, plot plan, etc.) within Planning Areas 1, 5, 6, 9, 10, 14, 23B, 29, 30, 31B, 32, 33A, 33B, 34, 36, 37, 38, and 39 of the SPECIFIC PLAN, which propose grading or construction within or along the banks of any blue-line stream which is determined to be within the jurisdiction of the United States Army Corps of Engineers, the following condition shall be placed on the implementing project:

“PRIOR TO THE ISSUANCE OF GRADING PERMITS, the applicant shall obtain written notification to the Planning Department that the alteration of any watercourse or wetland determined to be jurisdictional, located either on-site or on any required off-site improvement areas, complies with the U.S. Army Corps of Engineers Nationwide Permit Conditions, or obtain a permit under Section 404 of the Clean Water Act should any grading or construction be proposed within or along the banks of any natural watercourse or wetland. Copies of any agreement shall be submitted with the notification.”

43. ENTRY MONUMENTATION

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“PRIOR TO THE ISSUANCE OF BUILDING PERMITS, the following language shall be added to the landscaping requirements of the implementing project:

1. A primary entry monument shall be shown at locations indicated in Figure 4-1, with features as depicted in Figure 4-2 and Figure 4-3.
2. A secondary entry monument shall be shown at locations indicated in Figure 4-1, with features as depicted in figure 4-5.

3. The entry monument shall be in substantial conformance with the design guidelines of Planning Area '\_\_\_\_' of the SPECIFIC PLAN, as shown on pages \_\_\_\_ to \_\_\_\_.”

44. POST GRADING REPORT

Prior to approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“PRIOR TO THE ISSUANCE OF BUILDING PERMITS, the project applicant shall provide to the Planning Department a post grading report. The report shall describe how the mitigation and monitoring program as described in the EIR and pre-grading agreement[s] with the qualified archaeologist and paleontologist were complied with.”

45. SCHOOL MITIGATION

Prior to the approval of any implementing project within the SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

“PRIOR TO BUILDING PERMITS, impacts to the Beaumont Unified School District shall be mitigated in accordance with the existing mitigation agreement with the developer dated December 19, 1989. If said agreement shall be rescinded, then impacts to schools shall be mitigated in accordance with the state law.”

46. PHASE 1 PARKS

Prior to approval of any implementing residential project within Phase One of the SPECIFIC PLAN, a phasing plan for the design and construction of Phase One parks shall be submitted to and approved by the Planning Department. The plan shall provide for parks, design and construction as well as landscape maintenance and upkeep. The plan shall also document a permanent maintenance mechanism for the parks and their facilities. Conditions for applicable thresholds will be developed concurrent with approval of the phasing plan consistent with the City of Beaumont's General Plan standards.

This condition shall be considered MET if a document is submitted that is acceptable to both the Planning Department. This condition may be considered as NOT APPLICABLE if the implementing application is not within Phase One.

47. PHASE 2 PARKS

Prior to the approval of any implementing residential project within Phase Two of the SPECIFIC PLAN, a phasing plan for the design and construction of Phase Two parks shall be submitted to and approved by the Planning Department. The plan shall provide for parks design and construction as well as landscape maintenance and upkeep. The plan shall also document a permanent maintenance mechanism for the parks and their

facilities. Conditions for applicable thresholds will be developed concurrent with approval of phasing plan consistent with the City of Beaumont's General Plan standards.

This condition shall be considered MET if a document is submitted that is acceptable to the Planning Department. This condition may be considered as NOT APPLICABLE if the implementing application is not within Phase Two.

48. PHASE 3 PARKS

Prior to approval of any implementing residential project within Phase Three of the SPECIFIC PLAN, a phasing plan for the design and construction of the parks within Phase Three shall be submitted to and approved by the Planning Department. The plan shall provide for parks design and construction as well as landscape maintenance and upkeep. The plan shall also document a permanent maintenance mechanism for the parks and their facilities. Conditions for applicable thresholds will be developed concurrent with the approval of the phasing plan consistent with the City of Beaumont's General Plan standards.

This condition shall be considered MET if the applicable information is provided to the Planning Department. This condition may be considered as NOT APPLICABLE if the implementing project is not within Phase Three.

49. BIOLOGICAL MITIGATION

Prior to approval of any implementing project within Planning Areas 1, 5, 6, 9, 10, 14, 23B, 29, 30, 31B, 32, 33A, 33B, 37, 38, and 39 of SPECIFIC PLAN (i.e., tract map, parcel map, use permit, plot plan, etc.), the following condition shall be placed on the implementing project:

"PRIOR TO THE ISSUANCE OF GRADING PERMITS, a mitigation program shall be implemented providing for the preservation, creation or enhancement of replacement riparian woodland or wetland habitat. The initial focus for mitigation shall be within the San Timoteo Canyon Creek corridor where the mitigation shall be implemented to the greatest extent feasible. The mitigation program must be acceptable to the Army Corps of Engineers (Corps), Californian Department of Fish and Game (CDFG), and the Regional Water Quality Control Board (BOARD) under their Section 404, 1603, and 401 or other applicable permitting process, respectively. The Planning Department must receive written confirmation of the acceptability of the mitigation measures from the Corps, CDFG and/or the Board.

If the Corps, CDFG, and/or Board will not accept the mitigation or if the implementation of the program in the San Timoteo Canyon Creek corridor is not feasible, the mitigation shall be implemented within the site of the SPECIFIC PLAN or at a suitable off site location in accordance with the EIR.



## TRANS DEPARTMENT

## 50. TRAFFIC STUDY REQUIRED

Site specific traffic studies will be required for all subsequent implementing projects within the boundaries of Specific Plan No. 318, as deemed necessary by the City Engineer. Subsequent traffic studies shall monitor development within the specific plan and its associated trip generation. Traffic signals identified in Condition 19, Warranted Traffic Signals, will be installed by the project without credit for signal mitigation fees unless determined to not be warranted under existing or any future conditions and as approved by the City Engineer.

## 51. OFF-SITE MITIGATION

EIR No. 418 proposes mitigation for traffic impacts to off-site roadways and intersections located within various jurisdictions. The following intersections have been identified within the EIR as requiring mitigation:

Singleton Road/I-10 Fwy EB Ramps  
 Singleton Road/I-10 Fwy WB Ramps  
 Singleton Road/Calimesa Boulevard  
 Cherry Valley Boulevard/Roberts Road – Desert Lawn Drive  
 Cherry Valley Boulevard/I-10 Fwy EB Ramps  
 Cherry Valley Boulevard/I-10 Fwy WB Ramps  
 Cherry Valley Boulevard/ Calimesa Boulevard  
 Nancy Avenue/Cherry Valley Boulevard  
 Beaumont Avenue/Cherry Valley Boulevard  
 Brookside Avenue/Desert Lawn Drive  
 Brookside Avenue/Calimesa Boulevard  
 Beaumont Avenue/Brookside Avenue  
 Champions Drive/San Timoteo Canyon Road  
 Oak Valley P'way/I-10 Fwy EB Ramps  
 Oak Valley P'way/I-10 Fwy WB Ramps  
 Oak Valley P'way/Oak View Drive  
 Nancy Avenue/14<sup>th</sup> Street  
 Beaumont Avenue/14<sup>th</sup> Street  
 Elm Avenue/8<sup>th</sup> Street  
 California Avenue/6<sup>th</sup> Street  
 Beaumont/I-10 Fwy EB Ramps  
 Beaumont Avenue/I-10 Fwy WB Ramps  
 Potrero Boulevard/SR-60 EB Ramps  
 Potrero Boulevard/SR-60 WB ramps  
 Potrero Boulevard/San Timoteo Canyon Road  
 Singleton Road/San Timoteo Canyon Road

The project developer shall participate on a "fair share basis" in a regional mechanism that provides funding for the necessary improvements. Prior to the issuance of the first

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Beaumont  
Attention: City Clerk  
550 East 6th Street  
Beaumont, CA 92223

\*\*This document was electronically submitted  
to the County of Riverside for recording\*\*  
Received by: SOPHIA #466

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(SPACE ABOVE THIS LINE RESERVED FOR  
RECORDER'S USE)

APNs: 414-380-001 THROUGH 414-380-069; 414-390-001 THROUGH 414-390-059; 414-400-001 THROUGH 414-400-084; 414-410-001 THROUGH 414-410-073; 414-110-048; 414-420-001 THROUGH 414-420-072; 414-430-001 THROUGH 414-430-063; 414-440-001 THROUGH 414-440-083; 414-450-001 THROUGH 414-450-062; 414-460-001 THROUGH 414-460-040; 414-470-001 THROUGH 414-470-072; 414-480-001 THROUGH 414-480-081; 414-490-001 THROUGH 414-490-066; 414-500-001 THROUGH 414-500-067; 414-110-056 THROUGH 414-110-064; 414-100-039; AND 414-100-040.

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT**

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT**

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter this "Amendment") is entered into as of November 15, 2016 (the "Effective Date"), by and between THE CITY OF BEAUMONT, CALIFORNIA (the "City"), and LV HEARTLAND LLC, a Delaware limited liability company (the "Owner"). This Amendment is entered into with reference to the following Recitals:

RECITALS

A. Owner owns in fee that certain unimproved real property consisting of approximately four hundred seventeen (417) acres located in the City of Beaumont, County of Riverside, State of California, which property is more fully described on **Exhibit "A"** attached hereto and incorporated by reference herein (the "Property").

B. Heartland Beaumont California L.T.D. ("Original Developer") and the City previously entered into that certain Development Agreement with respect to the Property, which was adopted by the City on October 11, 1993, pursuant to Ordinance No. 726, and which became effective in accordance with its terms on December 9, 1993 (the "Original Development Agreement"). The Original Development Agreement was recorded in the Official Records of Riverside County, California (the "Official Records") on December 9, 1993, as Instrument Number 490898. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Original Development Agreement.

C. Temecula Valley, LLC, a Delaware limited liability company, as successor-in-interest to Original Developer, assigned all of its right, title, and interest in the Original Development Agreement to SunCal Heartland LLC, a Delaware limited liability company ("SunCal"), pursuant to that certain Assignment of Development Agreement dated May 26, 2005, and recorded in the Official Records on May 26, 2005, as Instrument Number 2005-0419668 (the "SunCal Assignment").

D. SunCal, through its Chapter 11 bankruptcy estate, subsequently assigned all of its right, title, and interest in the Original Development Agreement to Owner, as designee of SunCal's creditor Lehman ALI Inc., a Delaware corporation, pursuant to that certain Assignment and Assumption Agreement dated April 27, 2012 (the "Bankruptcy Court Assignment"). The Original Development Agreement is listed as item 1 of Exhibit "A" to the Bankruptcy Court Assignment, under the heading "Assumed Executory Contracts."

E. SunCal, through its Chapter 11 bankruptcy estate, and the City entered into that certain Memorandum of Understanding dated April 7, 2009 (the "Original Memorandum of Understanding"), which, among other things, contemplated that the City would acquire bridge materials from the Chapter 11 estate, and perform the environmental mitigation project.

F. Contemporaneously with entering into this Amendment the City and Owner are entering into that certain Settlement, Waiver, and Release Agreement (the "Settlement Agreement") whereby the parties release one another from certain claims as provided therein.

G. Contemporaneously with entering into this Amendment the City and Owner are also entering into that certain Memorandum of Understanding (the “New Memorandum of Understanding”) to, amongst other things, terminate the Original Memorandum of Understanding, as defined therein.

H. City and Owner now desire to amend the Original Development Agreement to, among other terms, extend the term of the Original Development Agreement, cooperate in the formation of a new community facilities district, and provide for payment to the City as provided therein.

I. Prior to entering into this Amendment, the City complied with all legal requirements for notice, public hearings, findings, votes, and other procedural matters necessary as a condition precedent to entering into this Amendment with Owner, including without limitation the requirements of the California Environmental Quality Act.

#### AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. No Default. The City hereby confirms that (a) the Original Development Agreement, as assigned pursuant to the SunCal Assignment and the Bankruptcy Court Assignment and as amended by this Amendment (collectively, the “Development Agreement”), is in full force and effect and (b) to the best of City’s knowledge no breach or default exists under the Development Agreement, nor has any act or omission occurred which, solely as a result of the giving of notice or passage of time, or both, would constitute a breach or default under the Development Agreement.

2. “Owner” Defined.

(a) Section 1.1.17 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“Owner” means LV Heartland LLC, a Delaware limited liability company, and its successors in interest to all or any part of the Property.

(b) Notwithstanding anything to the contrary set forth in Section 2.7 of the Original Development Agreement, all notices to Owner shall be delivered as follows:

LV Heartland LLC  
c/o Lehman Brothers Holdings Inc.  
3121 Michelson Drive, Suite 200  
Irvine, California 92612  
Attention: Eric Hoffman  
E-mail: eric.hoffman@lehmanholdings.com

with a copy to:

LV Heartland LLC  
 c/o Lehman Brothers Holdings Inc.  
 1271 Avenue of the Americas, 40th Floor  
 New York, New York 10020  
 Attention: Peter Campbell  
 E-mail: peter.campbell@lehmanholdings.com

with a copy to:

Gibson, Dunn & Crutcher LLP  
 333 South Grand Avenue, Suite 4900  
 Los Angeles, California 90071  
 Attention: Douglas M. Champion, Esq.  
 E-mail: dchampion@gibsondunn.com

3. “Property” Defined. Exhibit “A” of the Original Development Agreement is hereby deleted in its entirety and replaced with **Exhibit “A”** attached hereto and incorporated herein by reference.

4. Term. Section 2.3 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“Term.

The term of this Agreement (the “Term”) shall commence on the Effective Date and shall expire on December 9, 2028 (the “Expiration Date”). The Expiration Date shall be subject to a single option to extend the Expiration Date by an additional term of five (5) years provided that Owner has obtained building permits for at least five hundred (500) residential lots within the Project prior to the initial Expiration Date.

5. Exactions. Notwithstanding anything to the contrary set forth in the Original Development Agreement, including without limitation Section 3.7.1(d) therein, the Project shall be subject to all Development Exactions levied by the City against the Project and those imposed by the City on behalf of any other public agency including, but not limited to Transportation Uniform Mitigation Fees (“TUMF”) and Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”) fees, at the rate as required at the time such fees are due and payable, which shall be at the time of issuance of building permits, or otherwise as specified by applicable law.

6. Consideration. In consideration of the mutual covenants, conditions, and agreements in this Amendment, Owner shall remit to City a fee of three million dollars (\$3,000,000.00) which shall be due and payable at the earlier to occur of (a) the time of the close of escrow of the sale of the Property by Owner to a third-party purchaser (“Buyer”), and (b) February 28, 2017. City hereby consents to the transfer of the Property to Buyer to the extent such consent is required by the terms of the Original Development Agreement. City further consents to the assignment by Owner to Buyer or its designee of that certain Deposit Agreement for Expenses

Incurred, dated May 13, 2014, by and among Riverside-Corona Resource Conservation District, City, and Owner. Notwithstanding the forgoing provisions of this Section 6, if City has not timely received the sum of three million dollars (\$3,000,000.00) from Owner as provided in this Section 6, this Amendment, the Settlement Agreement and New Memorandum of Understanding will not take effect, and shall be deemed null and void *ab initio*.

7. Water Well. Section 4.3.1 of the Original Development Agreement is hereby deleted in its entirety and replaced with the following:

“The City acknowledges that Owner’s predecessor-in-interest previously executed a Bill of Sale for a water well (“Well”) located on the Property which Owner believes currently exists on Parcel 14 of Parcel Map 34880. However, City makes no representation or warranty regarding the legal status or effect of such Bill of Sale as it pertains to the ownership and title to the Well or the underlying water rights. The Owner may only make use of the Well for irrigation and construction water on the Property and any habitat mitigation land associated with the Project and not for any other or offsite use. Concurrent with Owner’s payment of the amounts set forth in Section 6, the City agrees, at no cost to City, to execute a Bill of Sale to convey whatever title is held by the City to the Well back to Owner in its “AS IS, WHERE IS” condition, and to cooperate with Owner, at no cost to City, in Owner’s efforts to make such use of the Well and, to that end, shall cooperate with the Owner, at no cost to City, in good faith in Owner’s efforts with any requisite public agencies with jurisdiction over the Well, including but not limited to the California Department of Fish and Wildlife (“CDFW”), the Beaumont Cherry Valley Water District (“BCVWD”), and any other public agencies having jurisdiction over such matters, as applicable. Owner agrees to hold harmless and release City from and against any claims, actions, liability, or costs associated with conveying whatever title is held by the City in the Well to Owner.”

8. Relinquishment of Offer of Dedication. The Parties acknowledge that Parcel Map 34880 contains offers of dedication to the City for part or all of Parcel 15 and Parcel 17. The City has not accepted this offer of dedication, and hereby relinquishes its right to do so provided that Owner conveys Parcel 15 and Parcel 17 for conservation purposes as required by CDFW and in compliance with all land use entitlements and conditions of approval applicable to the Property.

9. Assumption of Mitigation Obligation.

(a) City assigns, and Owner assumes, any remaining habitat mitigation obligations under that certain Habitat Mitigation and Monitoring Plan for the Heartland Project dated November 20, 2006 (as amended, the “HMMP”) subject to the approval of CDFW. Promptly following the execution of this Amendment, the City and Owner shall diligently pursue approval by CDFW of an assignment and assumption agreement whereby the City assigns, and Owner assumes, any remaining obligations, including, but not limited to, habitat mitigation obligations under the HMMP. The form of such documentation shall be reasonably acceptable to both City and Owner. In the event that CDFW does not so approve the assignment and assumption by Owner of the HMMP and/or during the period while the assignment and assumption of the HMMP is pending with CDFW, City shall not be obligated to comply with the terms of the HMMP unless Owner advances the costs of compliance with the terms of the

HMMP to the City or undertakes such compliance efforts on behalf of the City subject to its reasonable approval.

(b) In the event that part of the Property is transferred and the Property is held by two or more parties (other than residential purchasers) all of the parties shall be jointly and severally liable under the Development Agreement.

10. Formation of New Community Facilities District. The provisions set forth in **Exhibit "B"** attached hereto are incorporated herein by reference. All terms and conditions regarding the New CFD (as defined in Exhibit "B") shall be governed by Exhibit "B". References in the Development Agreement to the "CFD" refer to CFD No. 93-1 only and shall not affect the provisions regarding the New CFD in Exhibit "B".

11. HOA Maintenance Obligations. In connection with Owner or its successors and assigns entering into a declaration of covenants, conditions, and restrictions for the Property ("CC&Rs") as and when required by the conditions of approval of the Heartland Specific Plan, the residential property owners' association described in such CC&Rs (the "Association") shall assume responsibility, at the Association's sole cost and expense, for all of the onsite maintenance obligations for the Project including but not limited to those set forth on **Exhibit "C"** attached hereto and incorporated herein by reference (the "Assumed Maintenance Obligations"). The Assumed Maintenance Obligations shall be expressly set forth in the CC&Rs, and the provision of the CC&Rs related to such Assumed Maintenance Obligations shall be subject to the prior written approval of the City Planning Director, in consultation with the City Attorney, and not be amended without the written consent of the City Planning Director, such consent not to be unreasonably withheld, conditioned, or delayed.

12. Lien Contracts. City agrees that Owner and its successors and assigns may utilize lien contracts pursuant to California Government Code Section 66499(a)(4) in lieu of bonds as security under the Subdivision Improvement Agreements executed in connection with the Project. Such lien contracts shall provide that prior to obtaining any ministerial permit for the Project, including a grading or building permit, or prior to commencing the installation and construction of any portion of the Improvements required by a Subdivision Improvement Agreement, Owner shall deposit any application or inspection fees, if any such fees are required under City regulations, applicable law, or ordinance, and Owner shall substitute payment and performance bonds within the entirety of the applicable Tract, for any other improvements which are needed for ingress and egress to the Tract and improvements which are amenities, utilities and other improvements which are related to such Tract in amounts satisfactory to the City in place of the lien contract, and at such time the City shall release the applicable lien contract and the City's lien associated therewith. The lien contracts shall be recorded in a first position ahead of any other mortgage, deed of trust, lien or encumbrance other than the lien for taxes and assessments not yet due and payable. The City shall not be required at any time to subordinate the lien contracts to any mortgage, deed of trust or other lien or encumbrance.

13. Recordation of Amendment; Runs with the Land. This Amendment shall be recorded in the Official Records by City. This Amendment shall run with the land and bind the successors and assigns of Owner.

14. Severability. If any term, provision, covenant or condition of this Amendment shall be determined invalid, void or unenforceable, the remainder of this Amendment shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Amendment.

15. Interpretation and Governing Law. This Amendment and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Amendment shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Amendment, all parties having been represented by counsel in the negotiation and preparation hereof.

16. Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Amendment.

17. Singular and Plural. As used herein, the singular of any word includes the plural.

18. Time of Essence. Time is of the essence in the performance of the provisions of this Amendment as to which time is an element.

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

20. No Third Party Beneficiaries. This Amendment is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right to action based upon any provision of this Amendment.

21. Counterparts. This Amendment may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

22. Approval. This Amendment shall not become effective until it has been approved by both parties and executed by their duly authorized representatives. In the case of City, approval requires compliance with the Development Agreement amendment process contained in Government Code Sections 65867, 65867.5 and 65868 including a notice of intent, public hearing and adoption by an ordinance.

23. Interpretation. Except as specifically amended by this Amendment, the Original Development Agreement shall remain in full force and effect. To the extent of any inconsistency between this Amendment and the Original Development Agreement, this Amendment shall control. The Recitals to this Amendment are hereby incorporated herein by reference.

*[signatures on following page]*

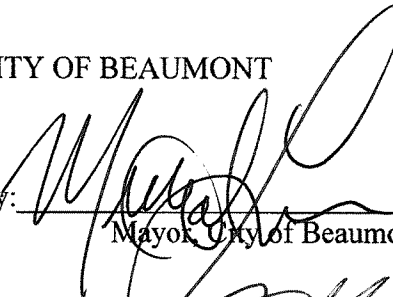


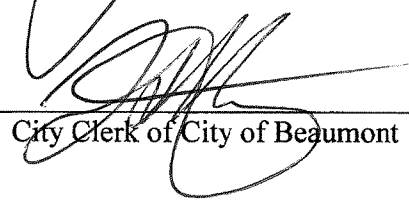
Item No.5.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first set forth above.

CITY:

CITY OF BEAUMONT

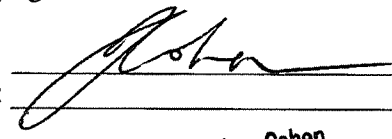
By:  \_\_\_\_\_  
Mayor, City of Beaumont

Attest:  \_\_\_\_\_  
City Clerk of City of Beaumont

OWNER:

LV HEARTLAND LLC

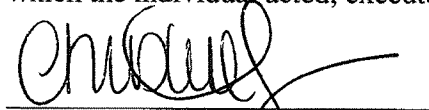
By: LV M/H Ventures LLC, a DE LLC, its managing member

By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Jonathan Cohen  
Authorized Signatory

Item No.5.

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

On the 25<sup>th</sup> day of October in the year 2016 before me, the undersigned, personally appeared Jonathan Cohen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**CHRISTINE NEGROM**  
**NOTARY PUBLIC, STATE OF NEW YORK**  
**NO. 01NE6327770**  
**QUALIFIED IN QUEENS COUNTY**  
**MY COMMISSION EXPIRES JUL 13, 2019**

**EXHIBIT A**

## Legal Description

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

PARCEL 1: (414-380-001 THROUGH 414-380-069)

LOTS 1 THROUGH 69, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-1, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 443, PAGES 95 THROUGH 99, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2: (414-390-001 THROUGH 414-390-059)

LOTS 1 THROUGH 59, INCLUSIVE, AND LETTERED LOTS A THROUGH G, INCLUSIVE, OF TRACT NO. 27971-2, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 443, PAGES 100 THROUGH 104, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3: (414-400-001 THROUGH 414-400-084)

LOTS 1 THROUGH 84, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-3, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 1 THROUGH 5, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 4: (414-410-001 THROUGH 414-410-073)

LOTS 1 THROUGH 73, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-4, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 6 THROUGH 9, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 5: (414-110-048)

LOTS 1 THROUGH 127, INCLUSIVE, AND LETTERED LOTS A THROUGH J, INCLUSIVE, OF TRACT NO. 27971-5, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 448, PAGES 58

THROUGH 63, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 6: (414-420-001 THROUGH 414-420-072)

LOTS 1 THROUGH 72, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-6, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 10 THROUGH 14, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 7: (414-430-001 THROUGH 414-430-063)

LOTS 1 THROUGH 63, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-7, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 15 THROUGH 19, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 8: (414-440-001 THROUGH 414-440-083)

LOTS 1 THROUGH 83, INCLUSIVE, AND LETTERED LOTS A THROUGH G, INCLUSIVE, OF TRACT NO. 27971-8, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 20 THROUGH 24, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 9: (414-450-001 THROUGH 414-450-062 AND 414-460-001 THROUGH 414-460-040)

LOTS 1 THROUGH 102, INCLUSIVE, AND LETTERED LOTS A THROUGH F, INCLUSIVE, OF TRACT NO. 27971-9, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 25 THROUGH 30, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 10: (414-470-001 THROUGH 414-470-072 AND 414-480-001 THROUGH 414-480-081)

LOTS 1 THROUGH 153, INCLUSIVE, AND LETTERED LOTS A THROUGH J, INCLUSIVE, OF TRACT NO. 27971-10, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 31 THROUGH 36, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 11: (414-490-001 THROUGH 414-490-066)

LOTS 1 THROUGH 66, INCLUSIVE, AND LETTERED LOTS A THROUGH D, INCLUSIVE, OF TRACT NO. 27971-11, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 37 THROUGH 40, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 12: (414-500-001 THROUGH 414-500-067)

LOTS 1 THROUGH 67, INCLUSIVE, AND LETTERED LOTS A THROUGH E, INCLUSIVE, OF TRACT NO. 27971-12, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 444, PAGES 41 THROUGH 44, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 13: (414-110-056 THROUGH 414-110-064 AND 414-100-039 AND 414-100-040)

PARCELS 13 THROUGH 23, INCLUSIVE, AND LETTERED LOTS A, C, F, G, H, I, AND X ALL OF PARCEL MAP NO. 34880, RECORDED IN BOOK 237 OF PARCEL MAPS, PAGES 67 THROUGH 76, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA.

**EXHIBIT B**

## Community Facilities District Financing Provisions

1.1 Formation of New CFD

(a) Background. Owner desires to form a New CFD (as defined below) to develop over time approximately two hundred twenty-eight acres of the Property as approximately 981 single-family residential lots (the “**CFD Property**”), and to finance various infrastructure improvements through such New CFD.

(b) Formation. City shall, upon the petition of the Owner described below, take the steps to establish a community facilities district (“**New CFD**”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “**CFD Act**”) in the manner described in this Section 1.1.

(c) Petition. At any time, Owner may petition City under the CFD Act to establish the New CFD over the CFD Property. In its petition, Owner may include proposed specifications for the New CFD, including special tax rates (“**Special Taxes**”), New CFD boundaries and any proposed tax zones, the total tax burden that will result from the imposition of the special taxes (subject to the 2.00% Limitation (as defined below) for residential units), and other provisions. Owner’s proposed specifications will be based on Owner’s development plans, market analysis, and required preferences, but in all cases will be subject to the Development Agreement and the CFD Goals (as defined herein). The City shall have the right to review and object to any market analysis or home price assumptions it believes to be unreasonable. The City reserves the right to hire an independent pricing analyst to review and verify the Owner’s projected pricing. The City’s obligation to form the New CFD shall be subject to the provisions of the Development Agreement, the CFD Goals, and the reasonable exercise of the City Council’s legislative discretion.

(d) Commencement of Formation of New CFD. Within ninety (90) days following City’s receipt of a petition and a deposit of \$50,000.00, the City Council shall adopt a resolution of intention to form the New CFD consistent with the petition. The New CFD shall have a rate and method of apportionment of special tax (the “**RMA**”), authorization to issue one or more series of special tax bonds (“**CFD Bonds**”), and an appropriations limit. A notice of special tax lien required by Section 3114.5 of the California Streets and Highways Code (the “**Notice of Special Tax Lien**”) shall be recorded against each taxable parcel within the New CFD upon completion of formation of the New CFD.

(e) Authorized Financing. The New CFD shall be authorized to finance both of the following:

(i) Refunding of all outstanding bonds of Improvement Area No. 5 of City of Beaumont Community Facilities District No. 93-1 that encumber the CFD Property (the “**Refunding**”); and

(ii) The Facilities (as defined in Section 1.2 below), irrespective of the geographic location of the improvements financed.

(f) Service Special Taxes. The New CFD shall include special taxes to pay for police, fire, and paramedics and other emergency services (“**Public Safety Services**”) of \$419 annually escalating by the greater of 5% or CPI. Such special tax rate shall escalate commencing in Fiscal Year 2018.

(g) Joint Community Facilities Agreements. Under the CFD Act, City may be required to enter into one or more joint community facilities agreements with other governmental entities that will own or operate any of the Facilities to be financed by the New CFD. The City and Owner agree that they will take all reasonable steps to procure the authorization and execution of any required joint community facilities agreements with other governmental entities before the issuance of any CFD Bonds that will finance the construction or acquisition of Facilities that will be owned or operated by such other governmental entities. Owner acknowledges and agrees that the ability of the City to enter into joint community facilities agreements is subject to the discretion of the other governmental entities.

## 1.2 Scope of CFD-Financed Costs

(a) Facilities. The New CFD shall be authorized to finance all or any portion of the items described in Section 53313.5 of the CFD Act, in each case to the extent agreed upon by the City and Owner at the time of formation of the New CFD (collectively, the “**Facilities**”). Under no circumstances shall the New CFD be obligated to finance capital improvement fees in lieu of facilities.

## 1.3 Parameters of CFD Formation

(a) Cooperation. Owner and City agree to cooperate reasonably in developing the RMA to be used in the New CFD. Owner and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop the RMA, such as Owner’s plans for the types, sizes, numbers, and timing for construction of buildings within the New CFD.

(b) Maximum Special Tax Rates for Developed Property. The RMA for the New CFD will specify the maximum Special Tax rates for “**Developed Property**” (property for which a building permit has been issued) within the New CFD (the “**Maximum Special Tax Rates**”). The Maximum Special Tax Rates for Developed Property may vary based on sizes, densities, types of buildings to be constructed, and other relevant factors. The RMA will establish Maximum Special Tax Rates assuming that any CFD Bonds issued will have a minimum debt service coverage-ratio of one hundred ten percent (110%) plus administrative expenses of the City. The Maximum Special Tax Rates shall include a special tax to pay for Facilities (a “**Facilities Special Tax**”) and a special tax to pay for Public Safety Services.

(c) Total Tax Obligation. The Maximum Special Tax Rates which shall include the special taxes levied for Facilities and Public Safety Services will be set so that the Total Tax Obligation (as defined below) on any residential unit within the New CFD at the time of formation of the New CFD will not exceed two percent (2.00%) of the anticipated sales price

of that residential unit (the “**2.00% Limitation**”). The anticipated sales price of a residential unit may be based on reasonable projections of value over time or at the City’s sole discretion a market price study prepared by an independent consultant and paid for by the Owner.

(i) For purposes of this Section 1.3, the term “**Total Tax Obligation**” means, with respect to a residential unit at the time of calculation, the sum of: (a) the ad valorem taxes actually levied or projected to be levied if the residential unit were developed at the time of calculation; (b) the Maximum Special Tax Rates levied or projected to be levied if the residential unit were developed at the time of calculation; and (c) all other special taxes (based on assigned special tax rates) or assessments collected on the secured tax roll by the County and secured by a lien on the residential unit levied or projected to be levied if the residential unit was developed at the time of calculation. Homeowners' association fees shall not be included in the calculation of the Total Tax Obligation.

(d) No Escalation of Facilities Special Tax Rates. The Special Tax Rates for Facilities shall not escalate. The Special Tax Rates for Public Safety Services shall escalate as provided in Section 1.1(f) hereof.

(e) Use of Special Taxes for Direct Payment of Facilities. Owner and City agree that the RMA and the New CFD formation proceedings shall provide that Facilities may be financed directly from Facilities Special Taxes prior to the issuance of the first series of CFD Bonds but there shall be no obligation of the New CFD to levy Facilities Special Taxes directly for Facilities after the issuance of the first series of Bonds. The RMA will contain a provision that levies and apportions the Facilities Special Taxes at the maximum amount on all parcels of Developed Property regardless of debt service until the first series of CFD Bonds are issued, and all Facilities Special Taxes collected that remain after paying administrative expenses shall be used to finance Facilities.

(f) Prepayment. The RMA will include provisions allowing an Owner within an Improvement Area that is not in default of its obligation to prepay the Owner’s Special Tax obligation related to the Facilities. The Special Taxes related to Public Safety Services shall not be subject to prepayment. Prepaid Special Taxes will be placed in a segregated account in accordance with the applicable Indenture (defined below). The RMA and the Indenture will specify the use of prepaid Special Taxes. Before CFD Bonds are issued, all prepayment amounts other than those required for administrative expenses shall be used to finance Facilities (“Prepaid Special Taxes”).

#### 1.4 Issuance of CFD Bonds

(a) Issuance. City, on behalf of the New CFD, intends to issue one or more series of CFD Bonds secured by the maximum Facilities Special Tax in the RMA for purposes of financing the Facilities. Provided that at least twenty percent (20%) of the residential units anticipated for the CFD Property have been closed to homeowners, the Owner may submit a written request that City issue CFD Bonds, specifying requested issuance dates, amounts, and main financing terms. Following Owner’s request, Owner and City will meet with City’s public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with the Development Agreement and the CFD



Goals. CFD Bonds shall be issued pursuant to an indenture, trust agreement, or fiscal agent agreement (however denominated, an “**Indenture**”) between the New CFD and a fiscal agent or trustee (however denominated, the “**Fiscal Agent**”). Owner acknowledges that the City is currently under investigation by the United States Securities and Exchange Commission and may not have access to the public capital markets to issue CFD Bonds in accordance with this Section 1.4 until such investigation is concluded, and such delay shall in no way constitute a default hereunder.

(b) Term. Each issue of CFD Bonds will have a term of not less than thirty (30) years and not more than thirty-five (35) years unless Owner and City agree otherwise; provided that in no event shall the term of the CFD Bonds exceed the term of the Special Tax for Facilities.

(c) For each series of CFD Bonds, the underwriter’s discount shall not exceed 1% of the principal amount of such series of CFD Bonds, and the costs of issuance and incidentals for each series of CFD Bonds shall be not in excess of \$300,000.

#### 1.5 CFD Goals

(a) CFD Goals. Under Section 53312.7 of the CFD Act, prior to formation of the New CFD, the City must consider and adopt local goals and policies concerning the New CFD (the “CFD Goals”). To the extent that CFD Goals have not previously been adopted, the City Council will, on or before initiating formation of the New CFD, adopt CFD Goals consistent with this Section 1.5. The CFD Goals shall apply to the CFD Property in the New CFD on the date of formation. Future amendments to the CFD Goals shall not be applicable to the New CFD or the CFD Property unless required under the CFD Act or other controlling State or federal law. In particular, the CFD Goals include the following provisions, each of which the Owner is relying on:

(i) Value-to-Lien Ratio. The appraised or assessed value-to-lien ratio required for each CFD Bond issue (including all relevant overlapping liens) will be three to one (3:1) or such higher ratio that is (A) required by bond market conditions at the time of bond issuance, or (B) required by the CFD Act.

(ii) Coverage Ratio. An issue of CFD Bonds will not have a debt service coverage-ratio (including all overlapping and outstanding CFD Bonds) of less than one hundred ten percent (110%) plus reasonable administrative expenses, unless otherwise agreed to by the Owner and the City.

(iii) Letter of Credit. If the City reasonably determines that a letter of credit is required in order to issue the CFD Bonds, each landowner that owns property responsible for 20% or more of the Special Taxes for Facilities (a “**Large Landowner**”) shall provide a letter of credit in a stated amount not in excess of the Special Taxes expected to be levied on the portion of the CFD Property then-owned by a Large Landowner in the first year of the term of the CFD Bonds. Each letter of credit shall be reduced as portions of the CFD Property are sold to homeowners and may be terminated when the property owned by the Large

Landowner is no longer responsible for 20% or more of the Special Taxes for Facilities. Under no circumstances shall a homeowner or a model home financing company be required to provide a letter of credit.

#### 1.6 Miscellaneous CFD Provisions

(a) Reserve Fund Earnings. The Indenture for each issue of CFD Bonds will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to: (i) the project fund for the CFD Bonds for allowed uses until it is closed in accordance with the Indenture; then (ii) the debt service fund held by the Fiscal Agent under the Indenture. Notwithstanding the forgoing, if the Project Fund has not closed within three (3) years of the CFD Bond Issuance the City may at its sole discretion direct the reserve fund earnings to the debt service fund.

(b) Authorization of Reimbursements. City will take all actions necessary to satisfy section 53314.9 of the Government Code or any similar statute subsequently enacted to use CFD Bond proceeds and Facilities Special Taxes to reimburse Owner for: (i) New CFD formation and CFD Bond issuance deposits; and (ii) advance funding of Facilities or costs.

(c) Acquisition Agreement. Contemporaneously with the formation of the New CFD, Owner and City will execute an acquisition and funding agreement (the "Acquisition Agreement") that will apply to the acquisition and construction of the Facilities for the New CFD. The Acquisition Agreements shall contain an acknowledgment by the City and Owner as to the following:

(i) Owner may be constructing Facilities before CFD Bond proceeds, Facilities Special Taxes, and Prepaid Special Taxes (herein, "**Funding Sources**") that will be used to acquire them are available;

(ii) The City will inspect Facilities and process payment requests even if Funding Sources for the amount of pending payment requests are not then sufficient to satisfy them in full;

(iii) Facilities may be conveyed to and accepted by the City or other governmental entity before the applicable payment requests are paid in full;

(iv) If the City or other governmental entity accepts Facilities before the applicable payment requests are paid in full, the unpaid balance will be paid when sufficient Funding Sources become available, and the Acquisition Agreement will provide that the applicable payment requests for Facilities accepted by the City or other governmental entity may be paid: (A) in any number of installments as Funding Sources become available; and (B) irrespective of the length of time payment is deferred;

(v) Owner's conveyance or dedication of Facilities to the City or other governmental entity before the availability of Funding Sources to acquire the Facilities is not a dedication or gift, or a waiver of Owner's right to payment of Facilities under the Development Agreement or the Acquisition Agreement; and

(vi) City will have no obligation to acquire the Facilities or reimburse Owner with any moneys other than the Funding Sources.

(d) the Owner acknowledges that in accordance with Section 53313.5 of the CFD Act, that the CFD may only finance the purchase of Facilities completed after the adoption of the resolution of the formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of the local agency that will own or operate the facility, and the Acquisition Agreement will contain the terms necessary to satisfy this condition.

(e) Initial and Continuing Disclosure. In connection with each issue of CFD Bonds, the Owner shall provide customary disclosure about the Owner and its development and financing plans including opinions of counsel and certificates and representations as may be reasonably and customarily required by the City and/or the underwriter of the CFD Bonds. In addition, Owner shall comply with all of its obligations under any continuing disclosure agreement it executes in connection with the offering and sale of any CFD Bonds. Owner acknowledges that a condition to the issuance of any CFD Bonds may be Owner's execution of a continuing disclosure agreement.

(f) No Other Land-Secured Financings. Other than the New CFD and any community facilities district initiated by the City as the result of a qualified petition of registered voters residing in the New CFD, City shall not form any additional community facilities district over any portion of the property in the Project without Owner's written consent which may be given in its sole discretion. The City shall not form any additional land-secured financing district over the property in the New CFD unless the property in the New CFD is found to have special benefit from the improvements being financed; provided, however, under no circumstances may an additional land-secured financing district be formed over the property in the New CFD to pay for any part of the costs of the Potrero Interchange improvements (it being understood and agreed by the City and the Owner that the Property shall have no obligation to fund such Potrero Interchange improvements). Notwithstanding that any such additional land-secured financing district qualifies under the preceding sentence, the Owner reserves the right to oppose or vote against any such formation or levy.

(g) Prevailing Wages. As a condition of the acquisition of Facilities financed through the New CFD, the Owner shall require, and the specifications and bid and contract documents shall require, all contractors engaged to perform work on the Facilities to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code.

(h) Disclosure to Property Owners. Owner agrees to provide, or cause to be provided, the disclosure to purchasers of property in the New CFD in the manner and at the time required by the CFD Act.

(i) Attorneys' and Consultants' Fees. Owner agrees to enter into a deposit agreement whereby it advances the City's attorneys' and consultants' fees associated with implementing the New CFD. The deposit agreement shall provide that any costs so advanced by the Owner may be reimbursed to the Owner out of the proceeds of the CFD Bonds.

**EXHIBIT C**

## HOA Maintenance Obligations

1. Landscape and Tree Maintenance: Lot BB of Parcel Map 34880; Lots 68 and 69 of Tract No. 27971-1; Lots 58 and 59 of Tract No. 27971-2; Lots 83 and 84 of Tract No. 27971-3; Lot 73 of Tract No. 27971-4; Lots 125 through 127, inclusive, of Tract No. 27971-5; Lots 71 and 72 of Tract No. 27971-6; Lots 60 through 63, inclusive, of Tract No. 27971-7; Lots 81 through 83, inclusive, of Tract No. 27971-8; Lots 101 and 102 of Tract No. 27971-9; Lots 152 and 153 of Tract No. 27971-10; Lots 59 through 66, inclusive, of Tract No. 27971-11; and Lots 62 through 67, inclusive, of Tract No. 27971-12
2. Community Walls and Monuments
3. Street Lights
4. Street Sweeping and Maintenance: Lots A through Z, inclusive; lots AA and CC of Parcel Map 34880; lettered lots A through F, inclusive, of Tract No. 27971-1; lettered lots A through G, inclusive, of Tract No. 27971-2; lettered lots A through F, inclusive, of Tract No. 27971-3; lettered lots A Through F, inclusive, of Tract No. 27971-4; lettered lots A through J, inclusive, of Tract No. 27971-5; lettered lots A through E, inclusive, of Tract No. 27971-6; lettered lots A through E, inclusive, of tract No. 27971-7; lettered lots A through G, inclusive, of Tract No. 27971-8; lettered lots A through F, inclusive, of Tract No. 27971-9; lettered lots A through J, inclusive, of Tract No. 27971-10; A through D, inclusive, of Tract No. 27971-11; lettered lots A through E, inclusive, of Tract No. 27971-12
5. Parks Maintenance: Parcels 14, 19, 20, 21, 22, 23 of Parcel Map 34880
6. Mitigation Open Space (to be transferred to 3rd party entity): Parcels 15 and 17 of Parcel Map 34880
7. Trails Maintenance: Parcels 14, 19, 21 and 23 and Lot BB of Parcel Map 34880
8. Graffiti Abatement
9. Drainage Improvements: Parcels 16 and 18 of Parcel Map 34880
10. Water Well: Parcel 14 of Parcel Map 34880

490898

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

City Clerk  
City of Beaumont  
P. O. Box 158  
Beaumont, Ca 92223

RECEIVED FOR RECORD  
AT 8:00 O'CLOCK

DEC 9 - 1993

Recorded in Official Records  
of Riverside County, California  
*W. J. [Signature]* Recorder  
Fees \$

HEARTLAND BEAUMONT CALIFORNIA L.T.D.  
DEVELOPMENT AGREEMENT

490898

This Development Agreement (hereinafter this "Agreement") is entered into effective on the date it is recorded with the Riverside County Recorder (hereinafter the "Effective Date") by and between the City of Beaumont (hereinafter the "City"), and Heartland Beaumont California L.T.D. (hereinafter the "Owner"). This Agreement is entered into with reference to the following Recitals:

RECITALS

A. In order to strengthen the public planning process, to encourage private participation in comprehensive planning, and to reduce the economic risks of development, the Legislature of the State of California has adopted sections 65864 through 65869.5 of the Government code which authorize the City and the Owner to enter into this Agreement for purposes of facilitating the development of the property as described herein.

B. The City, by adopting Resolution No. 1987-34, has adopted rules and regulations establishing procedures and requirements for the consideration of this Agreement.

C. This Agreement is also entered into with reference to and pursuant to the general municipal powers of the City as established by case law made by the courts of the State of California, including, without limitation, such law as has been established in the cases of Morrison Homes Corporation v. City of Pleasanton (1976) 58 Cal.App.3d 724 and Carruth v. City of Madera (1965) 233 Cal.App.2d 688.

D. Owner owns in fee that certain unimproved real property consisting of approximately four hundred twenty-nine (429) acres located in the City of Beaumont, County of Riverside, State of California, which property is more fully described and shown on Exhibit A attached hereto and incorporated by reference herein (hereinafter "Property").

E. Owner has heretofore indicated its desire to develop the Property in the manner provided for in this Agreement within the City. The City has heretofore indicated its desire to mitigate public facility impacts related to the development of the Project as provided for in this Agreement. To accomplish their mutual intent, the Owner and the City have heretofore taken the actions described in the Recitals set forth herein.

F. Prior to February 8, 1993, the City prepared the City of Beaumont General Plan and Environmental Impact Report (respectively the "General Plan" and "General Plan EIR"). On February 8, 1993, the City Council of the City, after duly complying with the California Environmental Quality Act and all statutes, ordinances and resolutions applicable to the adoption of the General Plan and certification of the General Plan EIR, adopted its Resolution No. 1993-04 certifying that the EIR had been completed in compliance with the California Environmental Quality Act and adopted its Resolution No. 1993-05 approving the General Plan.

G. On June 29, 1993, the City Council approved the City of Beaumont Community Facilities District No. 93-1 ("CFD No. 93-1" or the "CFD") as part of the City Comprehensive Public Facilities Financing Program (the "City Program") pursuant to which the City determined that it was appropriate to provide for certain public facilities and services in order to implement the General Plan and, further, that such facilities and services could best be facilitated through the City issuing bonds secured by liens on real property to be developed within the City. City and Owner determined that it is in the best interests of the City and Owner to participate in the CFD and, as part of such participation, to cooperate in the issuance of the bonds and the placing of a lien upon the Property to secure repayment of a portion of the bonded indebtedness created as a result of the establishment of the CFD.

H. This Agreement is consistent with the General Plan.

I. Prior to adopting this Agreement, City and Owner complied with all procedures and requirements of the California Environmental Quality Act with respect to the Project and the Agreement.

J. The terms and conditions of this Agreement have been extensively reviewed by the City, its Planning Commission and its City Council and have been found to be fair, just and reasonable, to be in the best interest of the citizens of the City, and to serve public health, safety, and welfare, and the City Council has further found that the Development of the Property in accordance with the General Plan, the General Plan EIR, the Development Plan, the EIR and this Agreement will provide substantial benefits to the City with respect to implementing City policies and goals which promote community, economic, public infrastructure, and high quality, managed development.

K. Owner has (i) advanced funds for CFD No. 93-1 public facility planning, design, environmental compliance and CFD No. 93-1 formation and issuance costs, (ii) incurred and will in the future incur substantial costs in order to develop the Property in accordance with this Agreement, and Owner would not incur such future costs without obtaining the legally enforceable assurances with respect to the Development of the Property as contained in the Development Plan, the CFD No. 93-1 formation documents, the Bond Sale Limitation Agreement and this Agreement. In addition, by participating in CFD No. 93-1, Owner has incurred and will incur in the future substantial costs in excess of the requirements generally applicable to Development of the Property such as that contemplated by this Agreement in order to insure vesting of legal rights related to Development of the Property in accordance with this Agreement.

L. Prior to entering into this Agreement, City complied with all legal requirements for notice, public hearings, findings, votes, and other procedural matters necessary as a condition precedent to entering into this Agreement with Owner.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "Bond Sale Limitation Agreement" means the agreement by and between the City and the Owner relating to the timing and amount of bonds to be issued under the CFD No. 93-1 proceedings.

1.1.3 "BSFF" means the \$500.00 component of the per EDU fee for City facility and service mitigation entitled the City Basic Services and Facilities Fee adopted pursuant to Ordinance No. 506 of the City.

1.1.4 "CFD" or "CFD No. 93-1" means Community Facilities District No. 93-1 of the City of Beaumont.

1.1.5 "City" means the City of Beaumont, a municipality duly incorporated under the laws of the State of California.

1.1.6 "City Program" means the City Comprehensive Public Facilities Financing Program which includes policies and procedures related to public infrastructure financing which are or will be adopted and/or implemented on a City-wide and/or area of benefit basis.

1.1.7 "Completion Date" means the date the City wastewater engineer certifies completion of construction of the City Stage I Wastewater Treatment Plant Expansion partially funded by the CFD.

1.1.8 "Critical Facilities and Services" means facilities and services of the City relating to law enforcement, fire protection, transportation, wastewater treatment and parks, recreation and open space.

1.1.9 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of

buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.10 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with Development of the Property including:

- (a) General Plan designations and amendments;
- (b) Specific plans and specific plan amendments;
- (c) Zoning;
- (d) Tentative and final subdivision and parcel maps;
- (e) Conditional use permits, public use permits and plot plans;
- (f) Planned unit development and planned development approvals;
- (g) Variances;
- (h) Lot line adjustments;
- (i) Grading and building permits; and
- (j) Occupancy permits

1.1.11 "Development Exaction" means any requirements of the City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction or improvement of public facilities, or the payment of fees adopted by action of the City Council in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests; excepting therefrom development exactions by agencies other than the City applied through the Land Use Regulations or Development Approvals over which the City has no direct control, and Development Exactions with respect to sewer connection fees.

1.1.12 "Development Plan" means the Existing Development Approvals and the Existing Land Use Regulations applicable to Development of the Property.

1.1.13 "Effective Date" means the date this Agreement is recorded with the County Recorder.



1.1.14 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Development Approvals identified in Recital G herein and those incorporated herein as Exhibit "C," together with all other Development Approvals which are a matter of public record on the Effective Date.

1.1.15 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Land Use Regulations incorporated herein as Exhibit "D" and all other Land Use Regulations which are a matter of public record on the Effective Date.

1.1.16 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the Development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. The term "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) The conduct of businesses, professions, and occupations;
- (b) Taxes and assessments;
- (c) The control and abatement of nuisances;
- (d) The granting of encroachment permits, extensions of time and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) The exercise of the power of eminent domain.

1.1.17 "Owner" means Heartland Beaumont California L.T.D. and its successors in interest to all or any part of the Property.

1.1.18 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender and their successors and assigns.

1.1.19 "Project" means the Development of the Property contemplated by the Development Plan as such Plan may be further defined, enhanced, or modified pursuant to the provisions of this Agreement.

1.1.20 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement.

1.1.21 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to Owner under this Agreement and reserved to City under Subsection 3.7.1 of this Agreement.

1.1.22 "Subsequent Development Approvals" means all Development Approvals required or requested by Owner and approved by City subsequent to the Effective Date in connection with Development of the Property.

1.1.23 "Subsequent Development Exaction" means all Development Exactions applied to the Development Plan following the Effective Date of this Agreement.

1.1.24 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A" -- Legal Description of the Property.

Exhibit "B" -- Map showing Property and its location.

Exhibit "C" -- Existing Development Approvals.

Exhibit "D" -- Existing Land Use Regulations.

Exhibit "E" -- CFD Resolutions of Formation.

Exhibit "F" -- Sewer Service Facilities Construction Schedule.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of twenty five (25) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement.

## 2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign the Property in whole or in part at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall be made only with notice to the City and shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within thirty (30) business days thereafter, Owner shall notify the City in writing, of such sale, transfer or assignment, ~~and shall provide the City with an executed release agreement, in a form acceptable to the City, by the purchaser, transferee or assignee and providing expressly and unconditionally that the purchaser, transferee, or assignee assumes all the rights, duties and obligations of the Owner under this Agreement with respect to the property interest sold, transferred or assigned.~~ *SPW III*

(c) In the event there is a transfer of a portion of the Property, then the Owner and the transferee may elect by written agreement to allocate between themselves fee credits available pursuant to Section 4.7, sewer connection rights pursuant to Section 4.2.5, or other benefits available to the Owner under this Agreement, in any manner they see fit and such allocations shall be as set forth in the written agreement between the Owner and the transferee, a copy of which agreement shall be filed with the City. In the event the Owner and the transferee have not made a written allocation of such benefits, then such benefits of the Agreement shall be allocated between the Owner and the transferee on a prorata (by area of land) basis as determined in the sole and reasonable discretion of the City.

Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by the Owner under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the rights, duties and obligations of this Agreement shall be binding upon such purchaser, transferee or assignee until and unless such agreement is executed.

A sale, transfer, or assignment of the Property, in whole or in part, shall not, in and of itself, give City the right to apply subsequent Development Exactions or Subsequent Land Use Regulations upon the Project.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring Owner shall continue to be obligated under this

Agreement unless such transferring Owner applies for a release request and is given a release in writing by City, which release shall be provided by City upon the full satisfaction by such transferring Owner of the following conditions:

(a) Owner no longer has a legal or equitable interest in the Property (or portion of the Property) sold, transferred or assigned.

(b) Owner has provided City with the release request notice and executed release agreement required under Paragraph (b) of Subsection 2.4.1.

2.4.3 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

2.4.4 Partial Release of Purchaser, Transferee or Assignee of School Lot. A purchaser, transferee or assignee of a lot, which has been subdivided as provided for in the Development Plan and for which a school lot has been approved pursuant to the Development Plan, may submit a release request, in writing, to the City to release, ~~concurrently with the issuance of an occupancy permit~~, said lot from the rights, duties and obligations under this Agreement. Within ninety (90) days of such request, the City shall review, and if the above conditions are satisfied shall approve the request for release and notify the purchaser, transferee or assignee in writing thereof. The City shall not unreasonably withhold its approval of such a release. *SPWII*

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user.

(b) A Certificate of Occupancy has been issued for a building on the lot in accordance with the Development Plan and this Agreement.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of the parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of City or Owner as provided by this Agreement.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by the City and applicable public agencies of all required dedications and public improvements.

2.7 Notices

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown in the records of the telegraph company after transmission by telegraph to the recipient named below. All notices shall be addressed as follows:

If to City: City Clerk  
City of Beaumont  
550 East Sixth Street  
Beaumont, CA 92223-0158

and City Manager  
City of Beaumont  
550 East Sixth Street  
Beaumont, CA 92223-0158

If to Owner: Stephen P. Walker, III  
Heartland Beaumont California L.T.D.  
701 Fifth Avenue  
Seattle, WA 98104

*c/o Heartland  
4650 Columbia Center  
SPWII*

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or

representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement, including the Reservations of Authority, the Owner shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. Development of the Project shall be subject to all Subsequent Development Approvals and, subsequent to the date specified in Subsection 3.7.1(d), Subsequent Development Exactions required by the City to complete the Project as set forth in the Development Plan and this Agreement. The City agrees to process in good faith the balance of approvals needed to develop the Property in accordance with the Development Plan. Once approved, all Subsequent Development Approvals shall be deemed part of the Development Plan and subject to the vested rights set forth herein. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan. The Development Plan entitles the Owner to develop 1,291 single-family detached units on the Property. The exact mixture of each residential product type (single-family detached, single-family attached, and multi-family apartments) proposed in relation to Subsequent Development Approvals shall be at the sole election of the Owner, subject only to the limits set forth in the Development Plan. The Development Plan also entitles the Owner to develop retail commercial and/or industrial buildings, and such other uses as have been approved within the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, including the Reservations of Authority; the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations and the Development Plan. In connection with any Subsequent Development Approval, the City shall exercise its discretion in accordance with the Development Plan, and as provided by this Agreement including, but not limited to, the Reservations of Authority. The City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters.

3.3 Effect of Agreement on General Plan. The City and the Owner acknowledge that the feasibility of the Development Plan and the value of the Property is dependent in part upon the City permitting the Development of the Property in accordance with the General Plan as set forth in the Existing Land Use Regulations and in accordance with the City Program. Therefore, the City shall not amend the General Plan in any manner which would materially and adversely impact the Owner's Development or use of the Property as provided in the Development Plan.

3.4 Timing of Development. The parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of the Owner, such as market conditions, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the time of development to prevail over such parties' agreement; it is the parties' intent to cure that deficiency by acknowledging and providing that the Owner shall have the right to develop the Property in such order and at such rate and at such times as the Owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan or the Phasing Plan set forth in Section 3.5.

3.5 Phasing Plan. Development of the Property shall be subject to all timing and phasing requirements established by the Development Plan.

3.6 Changes and Amendments. The parties acknowledge that refinement and further Development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event the Owner finds that a change in the Existing Development Approvals is necessary or appropriate, the Owner shall apply for Subsequent Development Approvals to effectuate such change and the City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in the City's reasonable sole discretion, a change in the Existing Development Approvals shall be deemed "minor," shall not require a public hearing, and not require an amendment to this Agreement, and shall be made administratively by the City at the request of the Owner, provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,
- (b) Increase the density or intensity of use of the Property as a whole; or,
- (c) Increase the maximum height and size of permitted buildings; or,
- (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,
- (e) Constitute a project requiring an environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.7 Reservations of Authority.

3.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations, and no others, shall apply to the Development of the Property.

(a) Processing fees and charges reasonably imposed by City to cover the reasonable estimated actual costs to the City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued provided that such fees and charges are applied uniformly or on an area of benefit basis to development in the City.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations and policies governing construction standards, extensions of time and specifications including, without limitation, the City's Building Code, Plumbing code, Mechanical Code, Electrical Code, Fire Code and Grading Code.

(d) Subsequent Development Exactions; provided, however, that such exactions shall be only those for Critical Facilities and Services which are imposed on (1) residential development after the earlier of (a) ten (10) years from the Effective Date or (b) issuance of two hundred fifty nine (259) residential building permits for the Property, or any portion thereof, and, (2) non-residential development within the Project after twelve (12) years from the Completion Date; and, that no such exactions shall be applicable to the Development of the Property unless such exaction (i) is applied uniformly to development, either throughout the City or within a defined area of benefit which includes the Property, and (ii) complies with all laws applicable to such exactions. Any Subsequent Development Exactions which the City is empowered to levy pursuant to this Agreement shall not exceed the "fair share" of the benefit allocable to the specific parcel(a) against which such exaction is imposed, determined pro rata in proportion to the benefit allocable to all properties, developed or undeveloped, in the area of benefit of the program, facility or service to be funded, as provided by law.

No subsequently adopted Development Exaction shall apply if its application to the Property would substantially interfere with the Development of the Property in accordance with the existing development approvals.

(e) Regulations which are not in conflict with the Development Plan; however, any ordinance, resolution, regulation, or measure which is enacted, whether by action of the City, by initiative, referendum, or otherwise, which relates to the rate, timing or sequencing of the Development or construction of the Project, shall be deemed to be in conflict with the Development Plan and shall therefore not be applicable to



the Development of the Property. Without limiting the foregoing, any limitation affecting timing of the availability of permits, approvals, or other entitlements relating to subdivision maps, building permits, utility connections, or other entitlements necessary for the Development of the Project shall be deemed to be in conflict with the Development Plan and shall therefore not be applicable to Development of the Property.

3.7.2 Subsequent Development Approvals. This Agreement shall not restrict the City in acting on Subsequent Development Approvals and from applying Subsequent Land Use Regulations which do not conflict with but which may provide definition to the Development Plan, nor shall this Agreement prevent the City from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.7.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.7.4 Intent. The parties acknowledge and agree that the City is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to the City all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to the City all such power and authority which cannot be restricted by contract.

3.8 Provision of Real Property Interests by City. Except as otherwise provided herein, in any instance where the Owner is required, pursuant to a condition of approval of the Development of the Property, to construct any public improvement on land not owned by the Owner; the Owner shall attempt in good faith to provide or cause to be provided at its sole cost and expense the real property interests necessary for the construction of such public improvements. In the event the Owner is unable, after exercising reasonable efforts, including, but not limited to, the rights under Sections 1001 and 1002 of the Civil Code, to acquire the real property interests necessary for the construction of such public improvements, the City shall, if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire such required real property interests. The Owner shall pay all costs associated with such acquisition and condemnation proceedings, including City administration and legal costs. In the event of the advance funding of costs, City shall endeavor to provide a mechanism for Owner to recover such costs, including an adjustment for the cost of moneys advanced, from other owners of property benefiting from such improvements on a fair-share basis.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of the City possess authority to regulate aspects of the Development of the Property separately from or jointly with the City and this Agreement does not limit the authority of such other public agencies acting separately from or jointly with the City. The City agrees to cooperate with and use its reasonable efforts in support of the Owner's efforts to obtain any required approvals from such other public agencies which may be necessary for the Development of Property in accordance with the Development Plan.

3.10 Tentative Tract Map Extension. Existing tentative subdivision or tentative parcel maps in connection with the Development of the Property shall be effective for the longer of the following periods of time:

(a) The period of time within which tentative subdivision or tentative parcel maps may be finalized on property which is not affected by a development agreement entered into pursuant to Government Code sections 65864 through 65869.5; or

(b) A term of ten (10) years from the Completion Date, provided that Owner may apply for and City may grant two (2) additional one-year extensions.

The terms of any tentative subdivision or tentative parcel map hereafter approved in connection with the Development of the Property pursuant to this Agreement shall be the longer of the following periods of time:

(a) The period of time within which tentative subdivision or tentative parcel maps may be finalized on property which is not affected by a development agreement entered into pursuant to Government Code sections 65864 through 65869.5; or

(b) Pursuant to Government Code section 66452.6(a), an initial term of ten (10) years from the approval of the tentative map, provided that Owner may apply for and City may grant two (2) additional one-year extensions and further provided that the total term of any such tentative map shall not exceed the term of this Agreement.

3.11 Vesting Tentative Maps. If any tentative or final subdivision map, or tentative or final parcel map, heretofore or hereafter approved in connection with Development of the Property, is a vesting map under Subdivision Map Act (Government Code Section 66410, *et seq.*) and if this Agreement is determined by a final judgment to be invalid or unenforceable insofar as it grants a vested right to develop to the Owner, then and to that extent the rights and protections afforded to the Owner under the laws and ordinances applicable to vesting maps shall supersede the provisions of this Agreement. Except as set forth immediately above, Development of the Property shall occur only as provided in this Agreement, and the provisions in this Agreement shall be controlling over any conflicting provision of law or ordinance concerning vesting maps.

#### 4. PUBLIC IMPROVEMENTS AND FINANCING.

##### 4.1 Streets and Highways.

4.1.1 Generally. The City has approved the conceptual Circulation Plan included within the Development Plan. Except as otherwise expressly provided herein, as Development of the Project proceeds and construction of various components of the Circulation Plan are required to serve the Project, the Owner shall dedicate to the City those specified streets and highways and related improvements to be constructed thereon which are designated as "public" streets and highways within the Circulation Plan of the Development Plan and subsequent Development Approvals; and the Owner shall construct or cause to be constructed the specified improvement for the streets and highways depicted within the Circulation Plan of the Development Plan and subsequent Development Approvals as Development of the Property proceeds. It is understood that such dedication and construction of the identified circulation improvements will proceed incrementally as reasonably determined by the City based upon traffic demands and in accordance with the phasing of the development of the Project. The City reserves the right to make minor changes to the Circulation Plan if the City determines in its sole reasonable judgement based upon traffic studies that such minor changes are necessary in order to accommodate projected traffic demands. Such minor changes shall in no event materially and adversely impact the Development Plan or the benefits to accrue to the Owner thereunder. The City agrees to use its best efforts to facilitate the construction of the circulation improvements in accordance with this Agreement.

4.1.2 Transportation Benefit District. The City agrees to use its best efforts to form and implement a "Transportation Benefit District" ("TBD") within two (2) years of the sale of CFD 1993A bonds for the purpose of allocating to and imposing fees and/or assessments upon other properties which benefit from the costs incurred by the Owner in improving streets identified by the General Plan or streets having four (4) or more travel lanes. The TBD shall provide for the allocation of costs, including interest on moneys advanced, fees and assessments based upon the City traffic indexes, credits and reimbursements, and shall be developed in conjunction with the City Program.

4.1.3 Through Streets. It is agreed that the streets with four (4) or more travel lanes which are identified in the Circulation Plan of the Development Plan ("Through Streets") will be improved such that their traffic carrying capacities will be sufficient to serve area-wide traffic requirements and meet traffic demands beyond those created by the Project. Therefore, the City agrees to use its best efforts to facilitate the formation and implementation of a TBD to provide reimbursement to the Owner of street improvement costs which exceed those improvement costs which would be required to serve only the Project. Owner agrees to grant or dedicate without cost to the City, rights-of-way within the Property necessary for the Through Streets, including the right-of-way necessary to serve non-Project related traffic demand. The dedications shall take place only as such streets are required in order to facilitate the incremental Development of the Project or to serve area-wide traffic requirements as determined by the City. The TBD to be created shall be

designed so as to allocate and assess all properties benefitting from the Through Streets, as and when such properties develop, with a fair share of the costs, including interest on moneys advanced, associated with the Through Streets based upon the City traffic indices and the City polices and procedures adopted, concurrently or subsequent to the adoption of the City Program and provide for reimbursement to properties charged or assessed in amount in excess of its fair share cost.

4.1.4 Off-Site Streets. The Owner shall construct or otherwise cause to be constructed off site streets in accordance with the Development Plan and the standards and specifications of the City and other agencies having jurisdiction. The City shall use its best efforts to assist the Owner in obtaining all necessary agency approvals associated with improving off site streets. In the event the other agencies having jurisdiction or any other jurisdiction, requires the Owner to construct any off site street improvements, then the City shall use its best effort to assist the Owner in obtaining reimbursement from such agencies, or other potentially responsible or benefitted parties, of those costs, including interest on moneys advanced, associated with acquiring the right-of-way and constructing improvements related to the off-site streets.

4.2 Sewer Service.

4.2.1 Generally. The City agrees to use its best efforts to provide public financing mechanisms to construct and operate wastewater collection, treatment and disposal facilities sufficient to collect, treat, and dispose of all sewage and wastewater generated in connection with the Project ("Sewer Service"). The Sewer Service facilities to be constructed and operated by the City to serve the Project shall be constructed in accordance with the City Program. The Owner shall be responsible for the cost of constructing and dedicating to the City those Sewer Service facilities necessary to serve the Project at such time as its Development requires such facilities. The Owner acknowledges that the availability of Sewer Service facilities is contingent upon the Owner's participation in the funding of Sewer Service facilities as determined by the City to be the Owner's fair share cost as determined by an area of benefit analysis defined in Section 4.2.2 of this Agreement and as set forth in this Agreement.

4.2.2 Sewer Benefit District. The City agrees to use its best efforts to form and implement a Sewer Benefit District (SBD) for the purpose of allocating to and imposing assessments or fees upon other properties which benefit from the costs incurred by the Owner in constructing Sewer Service facilities. The SBD shall provide for (i) the allocation of costs, fees and assessments to all affected parties based upon City engineering criteria and an area of benefit analysis and (ii) the reimbursement of any amounts paid on behalf of any parcel, including interest on moneys advanced, in excess of the benefit received, in the form of fee credits, redemption of bonds secured by such parcel or cash payment. The SBD shall be established in conjunction with the City Program.

4.2.3 "Will Serve" Commitment by City. The City will use its best efforts to serve the Project with Sewer Service in accordance with the development phasing

schedule of the Development Plan, and subject to City regulations, policies and procedures related to the issuance of sewer connection permits and this Agreement.

4.2.4 Schedule. The Sewer Service facilities funded by the CFD shall be completed by City in accordance with the City Program and in compliance with the schedule set forth in Exhibit "F" attached hereto and incorporated herein by reference. If, by reason of events or circumstances outside the reasonable control of City, City is unable to comply with the schedule set forth in Exhibit "F", then City may give notice to Owner of the need for such reasonable delays as are required as a result of such events or circumstances and City shall then diligently proceed with the completion of the Sewer Service in accordance with the adjusted schedule.

4.2.5 Priority Wastewater Treatment Plant Capacity Rights. By reason of the Owner's payment and City collection of sewer connection fees applicable at the time of issuance of a building permit, or by participation in the sale of CFD 1993A bonds secured by Improvement Area No. 5 to construct wastewater treatment plant capacity, the Owner shall receive an entitlement to sewer service for the number of units so paid or financed. This entitlement shall be calculated as the total of the Owner and/or Improvement Area No. 5 funded wastewater treatment plant facilities divided by the amount of the City sewer connection fee on (i) the date the sewer connection permits are issued or (ii) the date on which the bonds are sold to fund expansion of the wastewater treatment plant. Sewer Service is to be provided out of the expanded wastewater treatment plant to serve the Project. The City guarantees that this number of units of wastewater treatment plant capacity so paid or financed shall be reserved and, upon completion of the wastewater treatment plant expansion, available to the Owner without further payment. If Owner's participation in the CFD with respect to the funding of the expansion of the wastewater treatment plant takes the form of a cash contribution to the CFD rather than utilizing a special tax lien on the Property to secure repayment of CFD bonds, then Owner shall have the right to assign Owner's sewage treatment plant capacity rights to any other CFD participant, provided that City shall have the first right of refusal to purchase such capacity rights from Owner on the same terms and conditions agreed to between Owner and such CFD participant. If such sewer capacity was funded by the CFD, then City shall permit Owner to purchase capacity from other Improvement Areas of the CFD and/or the City if the owner of the Improvement Area land is a willing seller and such purchase conforms to the requirements of this Section. Such purchase shall be facilitated by City in a manner to be approved by bond counsel, which may include, among other mechanisms, a purchase by City and resale to Owner of the capacity from the selling Improvement Area, along with a reallocation of the infrastructure line item budget for the selling Improvement Area.

4.2.6 Package Sewage Treatment Plant. In the event that the City is unable to provide wastewater treatment plant capacity to the Owner for any phase of the Development of the Project, then the Owner may elect to pay in cash or privately finance the construction of a permitted package wastewater treatment plant to receive, treat, reclaim and discharge wastewater generated by the Project. The initial minimum treatment and disposal capacity of the package wastewater treatment plant is 150,000 gallons per day. The City

agrees to use its best efforts to assist the Owner in obtaining any necessary permits or public agency approvals for permitting construction and certification of the package wastewater treatment plant. The City shall maintain and operate the package wastewater treatment plant and shall establish a separate budget and financing system for performing its obligations of operation and maintenance with respect to the package wastewater treatment plant. The Owner agrees to pay all costs associated with the design, permitting, and construction of the package wastewater treatment plant, and of removing the package wastewater treatment plant when it is mutually agreed upon between the City and the Owner that the plant is no longer necessary for providing Sewer Service to the Property, or any portion thereof. Owner and City may decommission and/or sell the package wastewater treatment plant or sublease unused treatment capacity within the package wastewater treatment plant to other developments within the City as mutually agreed upon by the Owner and the City. The City shall have the right to approve any such sublease, but such approval shall not be unreasonably withheld. The City shall have a right of first refusal to purchase and/or sublease any capacity and shall be entitled to collect reasonable sewer service charges to pay for the City costs to operate and maintain the package wastewater treatment plant. The decision of the Owner to support and finance a package wastewater treatment plant shall not operate as a waiver of any claims the Owner may have against the City by reason of City's failure to provide wastewater treatment plant capacity to the Project. The City will cooperate to permit occupancy in January 1995, including support of alternate methods of disposal in accordance with City's policies and requirements.

4.2.7 Gravity and Force Mains. The Owner has agreed to pay, on a pro rata basis, CFD costs to fund a Master Sewer Plan which may require the construction of major gravity and force main sewer lines, and a sewage lift station within the Property. The major sewer lines may convey sewage from properties tributary thereto to a major sewage lift station and ultimately to a wastewater treatment plant owned and operated by the City.

(a) The City shall cause the major gravity and force main pipelines within the Property to be designed and constructed in accordance with the City Program; provided, however, that such design and construction shall not unreasonably burden the Development of the Property as contemplated by this Agreement. Prior to the commencement of any construction by the City pursuant to said plans for such facilities, the City shall submit such plans to the Owner for the Owner's approval. The Owner agrees to not unreasonably withhold its approval of said plans and the City agrees to make such changes in the design of such facilities as may be reasonably requested by the Owner which do not substantially increase the cost of construction of such facilities within the Property.

(b) The City shall cause the Sewer Service facilities located within the Property to be designed, whenever feasible, by the City to permit the Owner to make service lateral connections to the collector mains at locations reasonably appropriate for the Development of the Project. The cost of such service lateral connections shall be paid by the Owner, including as necessary, the construction of manholes, wyes and appurtenances in appropriate locations. The Owner shall be responsible for the prompt payment of said actual incremental costs so as to not unreasonably delay construction of the Sewer Service facilities.

The Owner and the City agree to cooperate and coordinate with each other in connection with the design and construction of the service lateral connection facilities within the collector mains.

(c) Sewer Service facilities may be located in right-of-way traversing the Property on alignments which generally correspond to the Development Plan, but which may be precisely determined by the City, or as otherwise agreed to by Owner. The Owner agrees to grant in fee to the City, at no cost to the City, any land which the Owner owns on the Effective Date necessary to construct the Sewer Service facilities. If additional right-of-way or easements are necessary within the Property to accommodate the Sewer Service facilities required for the development of adjacent properties in CFD 93-1, and such additional right-of-way adversely impacts the design or building densities of the Project as set forth in the Development Plan, then the Owner shall grant the right-of-way contemplated by this subsection and the City shall create a fee credit for the benefit of the Owner equal to the fair market value of the land acquired for the right-of-way as of the time the right-of-way is granted to the City. This credit may be used by the Owner as an offset against any fees, charges, or payments required to be made by the Owner to the City in connection with the development of the Project, excepting therefrom sewer connection fees. The granting of the Owner's land and the City fee credit to create the right-of-way above shall be done on the basis of appraised fair market value which shall be established by the Owner paying and the City retaining an independent MAI qualified appraiser which is reasonably acceptable to Owner and the City to determine the appraised fair market value of the land being granted for the right-of-way. In the event either the City or the Owner find the appraised value rendered by the first appraiser unacceptable, then either or both of them may elect to retain and pay another MAI qualified appraiser to appraise the right-of-way being granted to the City, and the appraised value determined by the first appraiser and the appraised value determined by the subsequent appraiser or appraisers retained by the City or the Owner shall be averaged in order to determine the value of the fee credits and the right-of-way being granted.

4.2.8 Major Lift Station. Pursuant to the City Program, the City may construct from funds provided by benefiting land owners as determined pursuant to Section 4.2.2 of this Agreement, a major lift station for the purpose of pumping wastewater from areas tributary to the major lift station to a City wastewater treatment plant. The City shall locate the major lift station in such a way as to assure the Owner that the major lift station will not impose conditions, constraints, or limitations (such as noise impacts, odor impacts, public safety impacts, architectural impacts, or similar impacts) upon the Property which might interfere with the Owner's Development of the Property pursuant to this Agreement. The City shall submit to the Owner the architectural plans for the structural components of the major lift station in order to give the Owner an opportunity to review and approve the architectural aspects of the structure. The Owner agrees it will not unreasonably withhold its approval of the architectural components of the major lift station. The Owner may reasonably require that the major lift station be appropriately screened and landscaped in order to mitigate impacts upon the Property and the cost of such landscaping shall be paid by benefiting landowners. If it is necessary to locate the major lift station on the Property, then

the land necessary to construct and maintain the major lift station shall be granted by the Owner to the City. The Owner shall, in all events, receive credits as described in Section 4.2.7(c) for the fair market value of the Property granted for the construction of the major lift station in the event the Property granted materially adversely impacts the design or building densities of the Project as set forth in the Development Plan.

4.8

4.3 Water Service. The City agrees that it will use its best efforts to cause the Project to be served with potable water for residential, industrial, commercial and municipal uses. Such service shall be facilitated by the City Program in accordance with the General Plan and the Cooperative Water Agreements between the City and the Beaumont-Cherry Valley Water District and among the City, the Beaumont-Cherry Valley Water District and the San Gorgonio Pass Water Agency.

4.3.1 Owner's Well on the Property. The City acknowledges that the Owner has a domestic water well ("Well") located on the Property. It is the Owner's intention to make economic use of the Well in connection with the Project. The City agrees to cooperate with Owner in Owner's efforts to make economic use of the Well and, to that end, shall cooperate with the Owner in the Owner's efforts to make water from the Well available at competitive rates to users within the Project, users outside the Project, or users within the Beaumont-Cherry Valley Water District municipal water system.

4.4 Other Utilities. The Owner shall have the right to establish its own cable television or satellite earth station and/or television communications systems or enter into a contract with another franchised and/or non-franchised cable television operator for service to the Property at the Owner's sole election and in accordance with City, state and federal laws related to the operation of cable television in the City. Electric service and telephone service may be provided to the Project by public utilities providing such service generally in the area. Electrical and telephone service within the Project shall be installed underground unless conditions make underground installation unreasonable, uneconomical, or impractical as mutually determined by the City and the Owner. Temporary overhead electric and telephone lines shall be permitted within the Project in order to facilitate phased construction of the Project.

4.5 Drainage Facilities. The Parties acknowledge the necessity of constructing and/or improving drainage facilities needed for the Development of the Project in accordance with the Development Plan. The City and the Owner shall use their best efforts to coordinate the drainage facility improvements with adjacent property owners and all public agencies which have jurisdiction over the construction and/or improvement of drainage facilities needed for the Development of the Project in accordance with the Development Plan.

4.6 CFD Implementation and Participation. The City and the Owner shall use their best efforts to establish the CFD and issue the bonds pursuant thereto in accordance with the formation documents of the CFD and the City Program. Provided that the CFD complies with the terms and conditions set forth in Exhibit "E" or future formation



documents, the Owner shall participate in the formation of the CFD and shall cooperate in causing the Property to be encumbered by a lien securing payment of the special tax necessary to support repayment of the Series 1993 A Bonds or subsequently approved bonded indebtedness of the CFD authorized by the Owner and approved by the City, as limited by the terms of the Bond Sale Limitation Agreement by and between the City and the Owner..

4.7 Fee Credits. Fee Credits shall be available to the Owner in the amounts, for the term and in the order listed below:

(a) In consideration of the Owner's participation in the CFD funding of the City Program, including the payment of CFD issuance, formation and facility master plan costs, and upon the issuance of the CFD Series 1993 A bonds and for a period of ten (10) years thereafter, Owner shall be entitled to a credit against BSFF fees attributable to the Project at the time payment of such fees would be due, calculated as an amount equal to the 1994-95 and 1995-96 fiscal years' CFD scheduled debt service payments attributable to Undeveloped Property, based on an assumed issuance date of November 1, 1993, and available incrementally for the corresponding period if Owner is not delinquent in the payment of its special taxes. If Owner elects to pay the amount of the special tax lien attributable to its Property for the Series 1993A bonds in full prior to sale, the credit shall be similarly calculated as if the Series 1993A special tax bonds for its Property had been issued on November 1, 1993. The credit may be used only to offset BSFF fees imposed at the time of issuance of building permits; provided, however, that if the City discontinues imposition of the BSFF, or adopts a new fee in lieu thereof, then this credit may be applied against any successor fees imposed by the City for the same purpose in connection with the issuance of building permits for the Project.

(b) In anticipation of entering into this Agreement and in anticipation of the City implementing a public financing program to facilitate the construction of the public facilities contemplated by the City Program, the Owner has advanced to the City the sum of One Hundred Eighty-Seven Thousand, Three Hundred Twenty and 94/100 Dollars (\$187,320.94) ("Advanced Funds"). The Advanced Funds were used by the City in connection with the design of the facilities and the formation of the CFD. The Owner is therefore entitled to a credit against BSFF fees, or successor or additional fees for the same purpose, attributable to the Project up to the amount of the Advanced Funds, to be taken at the time of the issuance of building permits for the Project, for the full period of this Agreement. The parties acknowledge, however, that this credit is available only as an offset against BSFF fees, or successor or additional fees for the same purpose, attributable to the Project as they become due and may not be fully recoverable in the event no fees are due. Such credit may only be applied in the event that all credits due under Section 4.7(a) of the Agreement have been taken or have expired. As full consideration for the Advanced Funds fee credit, the Owner agrees to release and hold harmless the City from all claims and causes of action resulting from or arising out of the previous Sewer Agreement and the proceedings related to formation of Assessment District No. 92-1, applicable only to those owners which were parties to that previous Sewer Agreement.

4.8 Financing Generally of Public Improvements. In addition to specific obligations with respect to the financing of public improvements as set forth in this Agreement and the City Program, the City and the Owner agree, whenever feasible as determined in the sole discretion of the City, to facilitate and utilizing various methods of public finance for the construction of the public streets, wastewater treatment and wastewater reclamation facilities, storm drains, and other public improvements and infrastructure located within the Project or required to serve the Project. It is contemplated that the Owner and the City will consider various public financing programs, including tax-exempt lease-purchase, the formation of community facility districts, formation of assessment districts through the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915, the issuance of Industrial Development Bonds, the formation of maintenance districts and the formation of Benefit Districts.

The City shall use its best efforts to adopt ordinances and/or resolutions providing for the collection of mitigation fees for the construction of sewer facilities, storm drains, street improvements, and other infrastructure facilities which serve the Project and other developments within the City, which ordinances or resolutions shall provide for the collection of mitigation fees with respect to property which receives the benefits of the various public facilities, and reimbursement to other properties which have paid or been assessed for the acquisition and construction necessary to complete the various improvements in excess of a proportionate share based upon the fair assessment of the relative benefits of the various properties as set forth in the City Program. Such ordinances and/or resolutions shall further provide that when the reimbursement to properties participating in the bond program occurs in accordance with the City Program, then such reimbursement shall be used by the City (i) to retire any outstanding assessments or bonded indebtedness imposed upon the properties which initially financed the public improvements for which the mitigation fees are being paid or (ii) pay in cash to the Owner if such facilities costs were paid by the Owner in cash.

The City further agrees to cooperate with the Owner and any school districts serving the Project in reaching acceptable mitigation and reimbursement agreements with respect to the amount of school impact mitigation fees and, when appropriate, the waiver of school impact mitigation fees for Development of the Project which does not impact school facilities, as determined by the Beaumont Unified School District. The City shall not unlawfully impose assessments, special taxes, or similar financial burdens upon the Property.

4.9 Timing of Public Facilities to be Provided by Owner. To the extent this Agreement or the Development Plan require Owner to provide public facilities by, for example, dedicating land or constructing a public improvement, Owner shall not be obligated to provide the required public facilities until such time as Development takes place within the Project which necessitates provision of the public facilities as set forth in the Development Plan. It is understood that Development within the Project will take place incrementally and over several years as set forth in the Development Plan. Therefore, it is understood and agreed that the public facilities to be provided by Owner will be provided incrementally and over a period of years in coordination with the actual Development of the Property.

4.10 Subdivision Security. Owner shall be relieved from the requirement for posting subdivision security, including payment and performance bonds, for any and all infrastructure improvements for which construction funding is provided by sales of bonds of Improvement Area No. 5 of CFD 93-1. In the event that Owner has posted subdivision security prior to the sale of such CFD bonds then Owner shall be entitled to the immediate release of such subdivision security upon receipt of CFD bond proceeds intended for the bonded facilities.

4.11 No Cross-Collateralization. City has informed Owner that it intends to sell and deliver bonds of the CFD pursuant to provisions of the Marks-Roos Local Bond Pooling Act of 1985, Government Code § 6584, et seq. City agrees that no special taxes shall be levied on the Property within Improvement Area No. 5 to (i) replenish a bond reserve fund applicable to bonds of any other Improvement Area of the CFD, (ii) provide any funds to secure against the default or possible default of debt service payments to bondholders of any other Improvement Area of the CFD, or (iii) provide any other benefit for any Improvement Area in the CFD save and except for the benefit of Improvement Area No. 5. However, the reserve fund established for the bonds of the Marks-Roos Local Bond Pool shall be available to cover delinquencies in any Improvement Area, notwithstanding the restriction on replenishment thereof.

In the event the City does not finance any of the required public infrastructure improvements in the City Program through a public financing mechanism, the City shall cooperate with the Owner in obtaining the necessary permits for such improvements and entering into owner participation agreements and/or reimbursement agreements, as appropriate, to facilitate the construction and funding of the improvements and the repayment of Owner on a fair-share basis based on a benefit analysis from payments received from other benefiting owners.

5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Planning Director shall review this Agreement annually, within a period of ninety (90) days following the anniversary of the Effective Date, in order to ascertain the good faith compliance by the Owner with the terms of the Agreement. The Owner agrees to pay the City for administrative and legal costs which are reasonable, customary and related to such review; provided that the charge to Owner for each annual review shall not exceed \$800, while the land is undeveloped, or \$2,000, once development has commenced, both fees adjusted for 1995 and subsequent years based on the increase in the Engineering News-Record Cost Index for Los Angeles over its value on January 1, 1994.

5.2 Special Review. The City Council or the City Planning Commission may order a special review of compliance with this Agreement at any time at no cost to Owner. The City Planning Director shall conduct such special reviews.

5.3 Procedure.

(a) During either a periodic review or a special review, the Owner shall be required to demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue shall be on the Owner.

(b) Upon completion of a periodic review or a special review, the City Planning Director shall submit a report to the City Council setting forth the evidence concerning good faith compliance by the Owner with the terms of this Agreement and shall present the recommended finding on that issue in writing.

(c) If the City Council finds on the basis of substantial evidence that the Owner has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the City Council makes a preliminary finding that the Owner may not have complied in good faith with the terms and conditions of this Agreement, including failure to pay CFD special taxes in a timely manner, the City Council shall commence proceedings as provided in Section 5.4 and Section 5.5. Notice of possible default as provided under Section 6.4 of this Agreement shall be given to Owner prior to or concurrent with, proceedings under Section 5.4 and Section 5.5.

5.4 Proceedings Upon Modification or Termination. If, upon a finding under Section 5.3, the City determines to proceed with modification or termination of this Agreement, the City shall give written notice to the Owner of its intention to do so. The notice shall be given at least thirty (30) calendar days prior to the scheduled hearing and shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not City proposes to terminate or to modify the Agreement; and,

(c) Such other information as is reasonably necessary to inform Owner of the nature of proceeding.

5.5 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the Owner shall be given an opportunity to be heard. The Owner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the Owner. If the City Council finds, based upon substantial evidence that the Owner has not complied in good faith with the Agreement, and that the decision of the City Council is in the best interest of the City, then pursuant to authority of Government Code Section 65865.1 the City Council may extend, terminate or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City and the participants of CFD No.

93-1, subject to first complying with the requirement of Section 6.3 hereof. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

5.6 Certificate of Agreement Compliance. If, at the conclusion of a periodic or special review, the Owner is found to be in compliance with this Agreement, the City shall, upon request by the Owner, issue a Certificate of Agreement Compliance ("Certificate") to the Owner stating that after the most recent periodic or special review and based upon the information known or made known to the City Planning Director and the City Council that (i) this Agreement remains in effect and (ii) the Owner is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a periodic or special review and shall state the anticipated date of commencement of the next periodic review. The Owner may record the Certificate with the County Recorder.

Whether or not the Certificate is relied upon by assignees or other transferees or The Owner, the City shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the City Planning Director or the City Council.

6. DEFAULT AND REMEDIES.

6.1 Remedies in General. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement.

6.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to all parties. Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implemented, and the Owner or the City may be foreclosed from other choices related to the Development of the Property or portions thereof, in accordance with the Development Plan and the City Program. The Owner and the City have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing significant time and resources with respect to the Development of the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate the Owner or the City for such efforts.

6.3 Suspension of Agreement for Default of Owner. The City may suspend Owner's rights under this Agreement for any failure of the Owner to perform any material duty or obligation of the Owner under this Agreement or to pay CFD special taxes in a timely manner or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, the City may suspend this Agreement pursuant to this Section only after providing written notice to the Owner of the default setting forth the nature

of the default and the actions, if any, required by the Owner to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

6.4 Termination of Agreement for Default of City. The Owner may terminate this Agreement only in the event of a default by the City in the performance of a material term of this Agreement and only after providing written notice to the City of default setting forth the nature of the default and the actions, if any, required by the City to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

7. THIRD PARTY LITIGATION.

7.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan and that the General Plan meets all requirements of law. The Owner has reviewed the General Plan and concurs with the City's determination. The City shall have no liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Owner to develop the Property in accordance with the Development Plan as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

7.2 Third Party Litigation Concerning Agreement. The Owner shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless the City, its agents, officers, employees and subcontractors or independent contractors from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void, or annul the approval, enforcement or operation of this Agreement. The City shall promptly notify the Owner of any such claim, action or proceeding, and the City shall cooperate in the defense. If the City within sixty (60) days of being so notified of any claim, action or proceeding fails to notify the Owner of any such claim, action or proceeding, or if the City fails to cooperate in the defense, the Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City. The City may in its sole discretion participate in the defense of any such claim, action or proceeding.

7.3 Indemnity. In addition to the provisions of 7.2 above, the Owner shall indemnify and hold the City, its agents, officers, employees, subcontractors and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of the Owner, its agents, officers, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (Owner's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with

or arising from Owner's acts or omissions related to the Development of the Property, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements save and except claims for damages arising through the active negligence or willful misconduct of the City. The Owner shall defend, at its expense, including attorneys' fees, the City, its agents, agents, employees, subcontractors and independent contractors in legal action based upon such alleged acts or omissions. The City may in its discretion participate in the defense of any such legal action.

7.4 Environmental Assurances. The Owner shall indemnify and hold the City, its agents, officers, employees, subcontractors and independent contractors free and harmless from any liability, based or asserted, upon any act or omission of Owner, its agents, officers, employees, subcontractors, ~~predecessors in interest, successors, assigns~~ and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and the Owner shall defend, at its expense, including attorneys' fees, the City, its agents, officers, employees, subcontractors and independent subcontracts in any action based or asserted upon any such alleged act or omission. The City may in its discretion participate in the defense of any such action.

SP-III

7.5 Reservation of Rights. With respect to Sections 7.2, 7.3 and 7.4 herein, the City reserves the right to either (i) approve the attorney(s) which the Owner selects, hires or otherwise engages to defend the City hereunder, which approval shall not be unreasonably withheld, or (ii) if the Owner fails to provide such defense to the City, conduct its own defense, provided, however, that the Owner shall reimburse the City forthwith for any and all reasonable expenses incurred for such defense, including reasonable attorneys' fees, upon billing and accounting therefor.

7.6 Survival. The provisions of this Section 7.1 through 7.6, inclusive, shall survive the termination of this Agreement.

8. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit the Owner, in any manner, at the Owner's sole discretion, from encumbering the Property or any portion thereof or any private improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with the Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from the City of any default by the Owner in the performance of the Owner's obligations under this Agreement.

(c) If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Owner under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement.

9. MISCELLANEOUS PROVISIONS.

9.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the Clerk of the City within the period required by Section 65868.5 of the Government Code.

9.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

9.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.



9.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 Singular and Plural. As used herein, the singular of any word includes the plural.

9.7 Obligations Run With the Land. If at any time during the term of this Agreement, an ownership interest in the Property is transferred to another entity, (i) any obligation under this Agreement which relates to or depends on the area of land owned shall be apportioned to the underlying ownership interest (by area of land) as though the successor owner had been an original party to this Agreement and (ii) all obligations which are not subject to apportionment shall additionally become an obligation of such successor owner. Notwithstanding the foregoing, no Owner of a single lot which has been finally subdivided and sold to such Owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement.

9.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

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

9.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right to action based upon any provision of this Agreement.

9.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for Performance by either party of any of its obligation hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

9.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefitted thereby of the covenants to be performed thereunder by such benefitted party.

9.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to Development of the Property: (i) is for the benefit of and is a burden upon every portion of the Property; (ii) runs with the Property and each portion thereof; and, (iii) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

9.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

9.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private undertaking, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Owner is that of a government entity regulating the development of private property and the owner of such property.

9.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplate hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment of affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

9.19 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, the Owner shall file with the City Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State

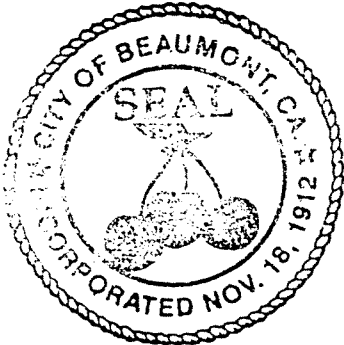
of California, giving his or her name, resident and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of the County of Riverside, State of California and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests hereto.

9.20 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/they have the authority to execute this Agreement on behalf of his/their corporation, partnership or business entity and warrants and represents that he/they has/have authority to bind the Owner to the performances of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

CITY:

CITY OF BEAUMONT



By: Jan Lopez  
Mayor, City of Beaumont

Attest: Daphne Kelle  
City Clerk of City of Beaumont

OWNER:

HEARTLAND BEAUMONT CALIFORNIA  
L.T.D.

By: [Signature]  
President Heartland Group, Inc  
Its: General Partner

By: \_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

I, \_\_\_\_\_ before me, \_\_\_\_\_  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared \_\_\_\_\_  
NAME(S) OF SIGNER(S)

personally known to me - OR -  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.

\_\_\_\_\_  
SIGNATURE OF NOTARY

**OPTIONAL SECTION**

**CAPACITY CLAIMED BY SIGNER** Item No.5

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)
- \_\_\_\_\_  
TITLE(S)
- PARTNER(S)  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

**OPTIONAL SECTION**

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT \_\_\_\_\_

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

**FORNIA ALL-PURPOSE ACKNOWLEDGMENT**

No. 515

State of Washington }  
County of King }

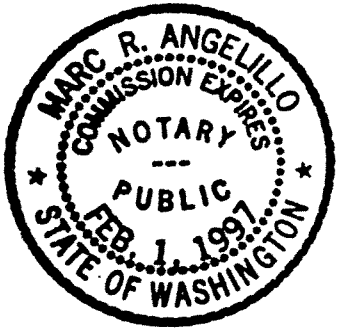
On 11/24/99 before me, MARC R. Angelillo  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Stephen P. Walker III  
NAME(S) OF SIGNER(S)

personally known to me - OR -  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.

Marc R. Angelillo  
SIGNATURE OF NOTARY



**OPTIONAL SECTION**

**CAPACITY CLAIMED BY SIGNER**

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)
- \_\_\_\_\_  
TITLE(S)
- PARTNER(S)  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: Corporate officer of General Partner

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

**OPTIONAL SECTION**

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT \_\_\_\_\_

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

EXHIBIT "A"

Legal Description of Property

CFD 93-1  
 LEGAL DESCRIPTION FOR  
 HEARTLAND CALIFORNIA BEAUMONT LIMITED PARTNERSHIP  
 IMPROVEMENT AREA NO. 5

APN 414-110-018

THAT PORTION OF LOT 7, OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN, WHICH IS WITHIN THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 6;

THENCE SOUTH 00° 00' 15" EAST, A DISTANCE OF 4498.96 FEET TO THE SOUTH LINE OF THE LAND CONVEYED TO MARY CORDEIRO BY DEED RECORDED SEPTEMBER 18, 1974 AS INSTRUMENT NO. 120470, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE ALONG SAID SOUTH LINE NORTH 88° 36' 23" WEST, A DISTANCE OF 4131.73 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTH LINE NORTH 88° 36' 23" WEST, A DISTANCE OF 880.00 FEET;

THENCE ALONG SAID SOUTH LINE NORTH 64° 00' 41" WEST, A DISTANCE OF 299.00 FEET TO THE WEST LINE OF SECTION 6;

THENCE ALONG SAID WEST LINE NORTH 00° 08' 55" WEST, A DISTANCE OF 465.00 FEET;

THENCE NORTH 83° 55' 20" EAST, A DISTANCE OF 650.00 FEET;

THENCE SOUTH 54° 07' 32" EAST, A DISTANCE OF 625.00 FEET;

THENCE SOUTH 00° 33' 00" WEST, A DISTANCE OF 320.00 FEET TO THE TRUE POINT OF BEGINNING.

APN 414-110-020

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "THENCE SOUTH 64° 05' 00" EAST, 299.00 FEET," IN DEED TO MARY CORDEIRO RECORDED SEPTEMBER 18, 1974 AS INSTRUMENT NO. 120470, OFFICIAL RECORDS OF SAID COUNTY;

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID CORDEIRO PARCEL SOUTH 88° 39' 33" EAST 5012.15 FEET TO THE EAST LINE OF SAID SECTION 6;

CFD 93-1  
Heartland California Beaumont L.P.  
Improvement Area No. 5  
Page 2

APN 414-110-020

THENCE ALONG SAID EAST LINE, SOUTH 00° 14' 42" EAST, 146.99 FEET TO A POINT WHICH IS NORTH 00° 14' 42" WEST, 133.04 FEET FROM A THREE-QUARTER (3/4) INCH IRON PIPE AS SHOWN BY RECORD OF SURVEY IN BOOK 17 OF RECORDS OF SURVEY, PAGE 21, IN THE RIVERSIDE COUNTY RECORDER'S OFFICE, MARKING THE SOUTHEAST CORNER OF SAID SECTION 6;

THENCE NORTH 89° 21' 30" WEST, 638.34 FEET TO A TANGENT CURVE CONCAVE SOUTH HAVING A RADIUS OF 2200.00 FEET;

THENCE WESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 15° 17' 30" A DISTANCE OF 587.16 FEET;

THENCE SOUTH 75° 21' 00" WEST, 754.82 FEET TO A TANGENT CURVE CONCAVE NORTH HAVING A RADIUS OF 2827.00 FEET;

THENCE WESTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 15° 27' 30" A DISTANCE OF 762.72 FEET;

THENCE NORTH 89° 11' 30" WEST, 816.26 FEET TO A NON-TANGENT CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 2000.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE FROM A TANGENT BEARING OF NORTH 87° 47' 31" EAST, THROUGH AN ANGLE OF 28° 05' 07" A DISTANCE OF 980.36 FEET;

THENCE NORTH 64° 07' 22" WEST, 476.14 FEET;

THENCE NORTH 30° 12' 59" WEST, 222.95 FEET TO THE POINT OF BEGINNING.

SUBJECT TO THE RESERVATION OF SOUTHERN CALIFORNIA EDISON COMPANY RECORDED SEPTEMBER 20, 1970 AS INSTRUMENT NO. 93335, OFFICIAL RECORDS OF SAID COUNTY.

THERE SHALL BE NO ABUTTERS RIGHTS OF ACCESS APPURTENANT TO THE ABOVE-DESCRIBED REAL PROPERTY IN AND TO THE ADJACENT STATE FREEWAY.

THE ABOVE-DESCRIBED REAL PROPERTY IS LANDLOCKED AND WITHOUT ANY DIRECT ACCESS TO THE FREEWAY OR TO ANY PUBLIC OR PRIVATE ROAD. THE STATE OF CALIFORNIA IS WITHOUT OBLIGATION OR LIABILITY TO PROVIDE ACCESS TO THE SAID REAL PROPERTY.



CFD 93-1  
Heartland California Beaumont L.P.  
Improvement Area No. 5  
Page 3

APN 414-110-014 and 414-110-016

PARCEL 1

GOVERNMENT LOT 6 IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THAT PORTION DESCRIBED IN DEED TO THE CITY OF BEAUMONT, A MUNICIPAL CORPORATION RECORDED MAY 31, 1984 AS INSTRUMENT NO. 116461 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN 414-100-006

PARCEL 2

THAT PORTION OF GOVERNMENT LOT 5 AND THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY;

EXCEPT THAT PORTION THEREOF DESCRIBED IN DEED TO THE COUNTY OF RIVERSIDE RECORDED MAY 5, 1905 IN BOOK 202, PAGE 54 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN 414-110-003 (A Portion)

PARCEL 3

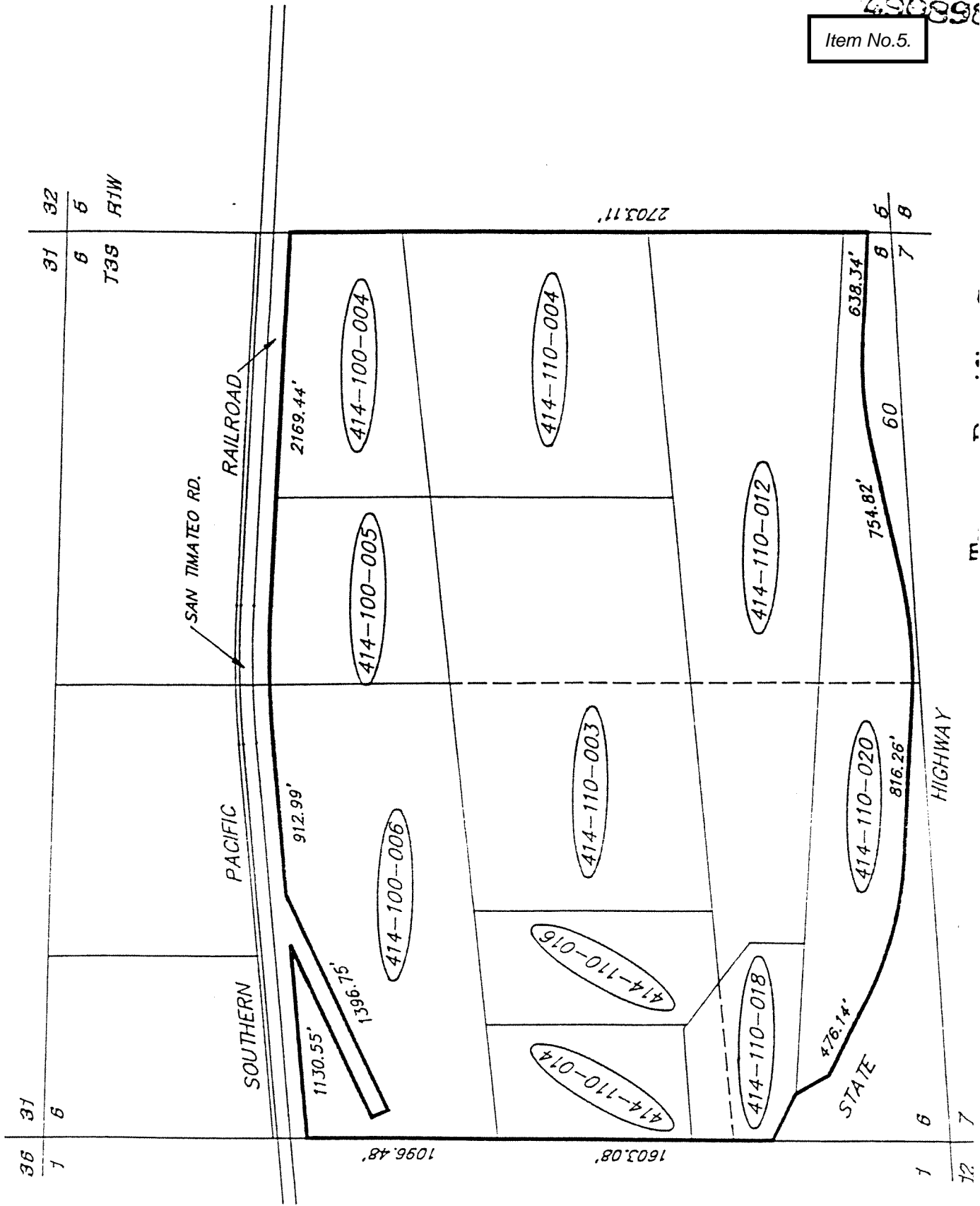
THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, ALL IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXHIBIT "B"

Map Showing Property and Its Location

# HEADLAND CFD 93-1 IMPROVEMENT AREA NO. 5

Item No.5.



SCALE: 1" = 800'

CFD 93-1  
Heartland California Beaumont L.P.  
Improvement Area No. 5  
Page 4

APN 414-100-005 AND 414-110-003 (A Portion)

PARCEL 4

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHEAST QUARTER LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY AND WESTERLY OF THE LINE DESCRIBED BELOW, ALL IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, WHICH SAID POINT IS 1,545.56 FEET WESTERLY, MEASURED ON SAID SOUTHERLY LINE FROM THE EAST LINE OF SAID SECTION;

THENCE NORTHERLY, TO A POINT ON THE SOUTHERLY LINE OF SAID RAILROAD RIGHT OF WAY REFERRED TO ABOVE, WHICH POINT IS 1,539.60 FEET WESTERLY, MEASURED ON SAID RIGHT OF WAY, FROM THE EASTERLY LINE OF SAID SECTION.

APN 414-100-004 and 414-110-004

PARCEL 5

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE NORTHEAST QUARTER LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY AND EASTERLY OF THE LINE DESCRIBED BELOW, IN FRACTIONAL SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, WHICH SAID POINT IS 1,545./56 FEET WESTERLY, MEASURED ON SAID SOUTHERLY LINE, FROM THE EAST LINE OF SAID SECTION;

THENCE NORTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID RAILROAD RIGHT OF WAY REFERRED TO ABOVE, WHICH SAID POINT IS 1,539.60 FEET WESTERLY, MEASURED ON SAID RIGHT OF WAY FROM THE EASTERLY LINE OF SAID SECTION.

Section 14. This Resolution shall take effect immediately upon its adoption.

MOVED, PASSED AND ADOPTED this 29th day of June, 1993 by the following vote:

- AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.
- NOES: None.
- ABSTAIN: None.
- ABSENT: None.

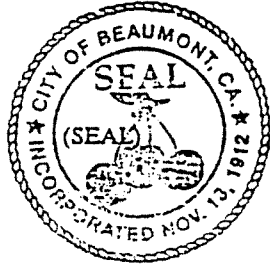
*Jan Leja*  
 Mayor of the City of Beaumont

ATTEST:

*Julia White*  
 CITY CLERK (Deputy)

CERTIFICATION

The foregoing is certified to be a true copy of Resolution No. 1993- 14 duly adopted by the said City Council of the City of Beaumont on the date herein set forth.



*Julia White (Deputy)*  
 CITY CLERK, CITY OF BEAUMONT

CFD 93-1  
Heartland California Beaumont L.P.  
Improvement Area No. 5  
Page 5

APN 414-110-012

PARCEL 6

THAT PORTION OF THE SOUTH HALF OF THE SOUTH HALF OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING ON THE WEST LINE OF SAID SECTION 6, DISTANT ON SAID WEST LINE NORTH  $00^{\circ} 13' 14''$  WEST, 1,035.04 FEET FROM A 3 INCH IRON PIPE AND BRASS CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 6;

THENCE SOUTH  $64^{\circ} 05' 00''$  EAST, 299.00 FEET;

THENCE SOUTH  $88^{\circ} 39' 33''$  EAST, 5,012.15 FEET TO THE EAST LINE OF SAID SECTION 6, DISTANT ON SAID EAST LINE NORTH  $00^{\circ} 14' 42''$  WEST, 280.03 FEET FROM A THREE QUARTER INCH IRON PIPE, AS SHOWN BY MAP ON FILE IN BOOK 17, PAGE 21 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MARKING THE SOUTHEAST CORNER OF SAID SECTION 6;

EXCEPT THAT PORTION DESCRIBED IN DEED TO THE CITY OF BEAUMONT, A MUNICIPAL CORPORATION, DATED MARCH 7, 1984 AS INSTRUMENT NO. 116462 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

CONTAINS 420.39 ACRES, MORE OR LESS.

EXHIBIT "C"

Existing Development Approvals

## Exhibit "C"

## Existing Development Approvals

- ▶ General Plan Designation of Specific Plan as part of Beaumont General Plan Update, February 1993



EXHIBIT "D"  
Existing Land Use Regulations

## Exhibit "D"

## Existing Land Use Regulations

- ▶ Beaumont General Plan
- ▶ Beaumont Municipal Code
- ▶ Heartland Beaumont Specific Plan (Subsequent to approval by the City Council)

EXHIBIT "E"

CFD Resolutions of Formation

RESOLUTION NO. 1993-13

RESOLUTION OF THE CITY OF BEAUMONT ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 93-1, CREATING SEPARATE IMPROVEMENT AREAS THEREIN (INCLUDING CERTAIN TERRITORY REFERENCED IN RESOLUTION NO. 1993-24 WHICH WAS TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 93-1), PROVIDING FOR A SPECIAL TAX WITHIN EACH IMPROVEMENT AREA TO PAY FOR CERTAIN PUBLIC FACILITIES AND CALLING A SPECIAL ELECTION WITHIN EACH IMPROVEMENT AREA TO SUBMIT TO THE QUALIFIED ELECTORS OF EACH IMPROVEMENT AREA THE QUESTION OF LEVYING SUCH SPECIAL TAX AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT, DESIGNATING THE CITY CLERK OF THE CITY AS THE ELECTION OFFICIAL.

WHEREAS, the City Council (the "City Council") of the City of Beaumont, California ("the City") on February 22, 1993, duly adopted Resolution No. 1993-06 declaring its intention to establish "City of Beaumont Community Facilities District No. 93-1" (the "Community Facilities District"), including twelve separate improvement areas therein (each an "Improvement Area," and collectively, the "Improvement Areas") and to levy special taxes to pay for certain public facilities and services in and for the Community Facilities District under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, and calling a public hearing on the question of the establishment of such Community Facilities District and the Improvement Areas therein; and

WHEREAS, the City Council has heretofore on February 22, 1993, duly adopted Resolution No. 1993-07 declaring its intention to incur a bonded indebtedness with respect to each Improvement Area in the amounts set forth in Exhibit A to Resolution No. 1993-07 to finance certain public facilities as set forth in Exhibit B to Resolution No. 1993-06 (as more specifically enumerated herein, the "Facilities") which bonded indebtedness shall be secured by the levy of a special tax within the applicable Improvement Area; and

WHEREAS, prior to the time for such hearing, in accordance with said Resolution No. 1993-06, a report on such proposal entitled "Public Report for Community Facilities District No. 93-1" and dated April 12, 1993 was filed with the City Council and subsequent to April 12, 1993, said report has been revised to incorporate comments received in connection with the proceedings and a second report entitled "Public Report for Community Facilities District No. 93-1" and dated June 14, 1993 (said June 14, 1993 report being referred to herein as the "Public Report"), and such Public Report was filed with the City Clerk of the City and is incorporated herein and made a part of the record of the hearing on said Resolution No. 1993-06 and Resolution No. 1993-07; and

WHEREAS, pursuant to Resolution No. 1993-06 and Resolution No 1993-07, a public hearing was held by the City Council on April 12, 1993, at the hour of 6:00 P.M. or as soon thereafter as the matter could be heard, at the regular meeting place of the City Council, 550 East Sixth Street, Beaumont, California 92223, at which hearing the City Council considered the establishment of the Community Facilities District, the establishment of the Improvement Areas, the type and extent of the proposed Facilities and services (as enumerated in Resolution No. 1993-06, the "Services"), the proposed rate and method of apportionment of special tax in each Improvement Area therein, the proposed appropriations limit therefor, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-06 and Resolution No. 1993-07, and at the above-mentioned time and place for such public hearing, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the establishment of the Community Facilities District, the establishment of the Improvement Areas therein, the acquisition and construction of the Facilities, the provision of Services, the levy of the special tax within each respective Improvement Area, the extent of the Community Facilities District, the establishment of an appropriations limit for the Community Facilities District, the necessity for incurring bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No. 1993-06 and Resolution No. 1993-07, were heard; and

WHEREAS, said public hearing was continued to May 17, 1993, and subsequently thereafter, the May 17, 1993 meeting was not held and the public hearing was reconvened on June 14, 1993 at which time all of the foregoing matters were considered and the City Council at the conclusion of said hearing was fully advised in the premises, and was authorized to proceed as hereinafter provided; and

WHEREAS, on April 26, 1993, the City Council by Resolution No. 1993-24 declared its intention to annex certain territory to the Community Facilities District, to levy a special tax to pay for certain public facilities and services in and for such Community Facilities District and declaring its intention to issue bonds secured by the special tax to finance certain facilities of such District and set June 14, 1993 at the regular meeting place of the City Council as the date, time and place for the public hearing relating to the annexation; and

WHEREAS, the City Council has received an amended map of the Community Facilities District and the Improvement Areas therein (the "Amended Map") in the form attached hereto as Exhibit B, which incorporates the territory to be included in the Community Facilities District, including the area encompassed by Improvement Area No. 6A and Improvement Area No. 6B as set forth in Resolution No. 1993-24, and does not increase the special tax to any remaining parcel within any Improvement Area; and

WHEREAS, the City Council has received an amended Rate and Method of Apportionment of Special Tax for each Improvement Area of the Community Facilities District (the "Amended Rate and Method of Apportionment of Special Taxes") in the form attached as Exhibit C to the revised Public Report presented on the date hereof, which reduces the special tax to be levied in certain categories and may result in some increases to the probable special tax to be paid by the owners of lots or parcels in Improvement Area Nos. 9, 10 and 11; and

WHEREAS, pursuant to Resolution No. 1993-24, a public hearing was held by the City Council on June 14, 1993, at the hour of 6:00 P.M. or as soon thereafter as the matter could be heard, at the regular meeting place of the City Council, 550 East Sixth Street, Beaumont, California 92223, at which hearing the City Council considered the inclusion of the parcels referenced in Resolution No. 1993-24 within the Community Facilities District, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-24, and at the above-mentioned time and place for such public hearing, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District and within the parcels to be included within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the inclusion of the parcels to Improvement Area No. 6B, the levy of the special tax in the parcels, the necessity to incur bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No. 1993-24 were heard; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and the Improvement Areas therein as provided by said Resolution No. 1993-06 and as provided by Resolution No. 1993-24 encompassing the land area shown on the Amended Map and to submit to the qualified electors of each Improvement Area the proposition in substantially the form attached hereto as Exhibit A, with appropriate changes to reflect the respective Improvement Areas therein, to authorize the levy of a special tax pursuant to the Amended Rate and Method of Apportionment of Special Tax for the respective Improvement Area and to pay for the Facilities proposed to be provided for the Community Facilities District as initially described in Exhibit B to Resolution No. 1993-06 and as further described in Exhibit D hereto to eliminate Services therefrom and to further clarify the Facilities which may be provided; and

WHEREAS, the City Council has determined, based on a Certificate of the Riverside County Registrar of Voters dated March 2, 1993, that there are two registered voters residing in the Community Facilities District and that the qualified electors in each respective Improvement Area are the owners of land within such Improvement Area; and

WHEREAS, the City Council has received the "Petition (including Consent and Waiver)" or a Consent and Waiver of the owners of land within certain Improvement Areas waiving certain election requirements; and

WHEREAS, the City Council is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT AS FOLLOWS:

Section 1. All of the above recitals are true and correct.

Section 2. The City Council, acting as the legislative body of the Community Facilities District, hereby approves and adopts said Resolution No. 1993-06, notice of which was published and mailed prior to the public hearing as required by law, and, except as otherwise provided herein, reconfirms all of its findings and determinations contained in said Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24. The City Council hereby approves and adopts the respective Amended Rate and Method of Apportionment of Special Tax for each Improvement Area and the manner of collection of the special tax as set forth in Exhibit C to the Public Report. To the extent required by Section 53325.1(a) of the Act, all of the information contained in Resolution No. 1993-06 is incorporated herein and made a part hereof.

Section 3. The City Council hereby approves and ratifies the Map filed by the City Clerk in the Office of the County Recorder of the County of Riverside as the boundaries of each Improvement Area and the Community Facilities District, subject to modifications made at the time of adoption of this Resolution. In accordance with Section 3111 and 3113 of the California Streets and Highways Code, said map was recorded on March 9, 1993, in book 36, page 82 in the Book of Maps of Assessments and Community Facilities Districts in the County Recorder's Office of the County of Riverside and an amended map was recorded on May 6, 1993, in book 36, page 87 in the Book of Maps of Assessments and Community Facilities Districts in the County Recorder's Office of the County of Riverside. In accordance with Section 53325.5 of the Act, the City Council hereby approves the boundaries of the Community Facilities District as revised to incorporate parcel numbers 418-240-008, 418-250-005, and 419-260-004 as referenced in Resolution No. 1993-24 and as more particularly described in the Amended Map attached hereto as Exhibit B. The special tax in and for each Improvement Area shall be as set forth in the Amended Rate and Method of Apportionment of Special Tax and the boundaries of the Community Facilities District and each Improvement Area shall be as set forth in the Amended Map, both in the form incorporated herein and made a part hereof.

Section 4. The City Council finds and determines that written protests to the establishment of the Community Facilities District, each Improvement Area thereof (including the establishment of Improvement Area No. 6A and Improvement Area No. 6B as referenced in Resolution No. 1993-24), or the extent thereof, or to the acquisition, construction and installation of the Facilities, the type or extent of the Facilities or the Services, the levy of the special tax proposed to be levied in each Improvement Area are insufficient in number and in amount under the Act to require abandonment of these proceedings, and the City Council hereby further orders and determines that all protests to the establishment of the Community Facilities District, the Improvement Areas thereof, or the extent thereof, or the type and extent of the Facilities, or the establishment of the appropriations limit, and the levy of the special tax proposed to be levied within each Improvement Area are hereby overruled and denied. The proposed special tax to be levied in each Improvement Area has not been precluded by majority protest pursuant to Section 53324 of the Act.

Section 5. Consistent with Section 53325 of the Act, the City Council hereby finds that the complexity of the proposed District and the need for public participation required additional time necessitating the continuation of the public hearing from April 12, 1993 to the date hereof. Furthermore, the exhibits to the Public Report contain reports that include brief analyses of the impact of modifications to the Rate and Method of Apportionment of Special Tax for Improvement Area Nos. 9, 10 and 11 and the special tax to be paid by the owners of lots or parcels in such Improvement Areas, and the City Council has received and considered such reports before adopting this Resolution.

Section 6. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within each Improvement Area, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products will be benefitted by the Facilities proposed to be provided within the respective Improvement Areas.

Section 7. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the Community Facilities District, including the designation of the Improvement Areas therein, are valid and in conformity with the requirements of the Act, and the City Council determines to proceed to establish the Community Facilities District as Improvement Areas. Accordingly, the City Council finds,

determines and orders that, consistent with Resolution No. 1993-06, the Community Facilities District and the Improvement Areas therein are hereby formed under and pursuant to the terms and provisions of the Act, the boundaries of which are as set forth on the Amended Map, filed with the City Clerk and to be filed in the Office of the County Recorder of the County of Riverside pursuant to Section 13 hereof.

Section 8. A general description of the Facilities which the City Council is authorized by law to provide within each respective Improvement Area is set forth in Exhibit D hereto, and the City Council hereby finds and determines that such Facilities are necessary to meet present or increased demand placed upon the City as a result of existing or projected development within each Improvement Area. The City Council further finds and determines based on comments received in connection with the public hearing not to include Services within the authorization of these proceedings.

Section 9. Except where funds are otherwise available, a special tax sufficient to pay for all the Facilities, including the payment of interest on and principal of bonds proposed to be issued to finance the Facilities and including the repayment of funds advanced to or on behalf of an Improvement Area or the Community Facilities District, annual administration expenses of the City and the Community Facilities District in determining, apportioning, levying and collecting such taxes, secured by recordation of a continuing lien against all non-exempt real property in each respective Improvement Area, will be levied annually within the boundaries each respective Improvement Area. For particulars as to the Amended Rate and Method of Apportionment of the Special Tax and the manner of collection of the Special tax for each Improvement Area, reference is made to Exhibit C of the Public Report which sets forth the rate and method of apportionment and the manner of collection of such special tax in sufficient detail to allow each landowner or resident within each respective Improvement Area to estimate the maximum amount that such person will have to pay for the Facilities.

Section 10. The City Council hereby declares that the question of levying a special tax within each Improvement Area shall be submitted to the qualified electors within each such Improvement Area, in accordance with and subject to the Act and the waivers of the landowners, all the terms of which shall be applicable to such election; provided, however, that no election shall be called for any Improvement Area for which the City Clerk has not received waivers of certain election requirements as required by the Act.

Section 11. The office which will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and which will be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Act is the Office of the City Manager, 550 East Sixth Street, Beaumont, California 92223, 909/845-4321. The City Manager is further directed to establish procedures to promptly respond to inquires concerning current and future tax liability. The Office of the City Manager shall also prepare a form of Notice of Special Tax as set forth in Section 53340.2 of the Act and to prepare information required to be filed with the California Debt Advisory Commission by October 30 of each year as required by Section 53359.5 of the Act, and to notify the Commission within 10 days of the failure to pay principal and interest due on any scheduled payment date of any bonds if funds are withdrawn from a reserve fund to pay principal and interest on such bonds.

Section 12. Upon recordation of a notice of special tax lien in connection with each Improvement Area pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax within such Improvement Area shall attach to all non-exempt real property in each such Improvement Area, and this lien shall continue in force and effect until the special tax obligation is paid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases in accordance with the rate and method of apportionment of special tax within the Community Facilities District.

Section 13. Pursuant to Section 53325.5 of the California Streets and Highways Code and Section 3111 of the Streets and Highways Code, the revised boundary map of the Community Facilities District has been recorded in the Book of Maps of Assessment and Community Facilities Districts in the County Recorder's Office of the County of Riverside as referenced in Section 3 hereof. Pursuant to Section 53325.5 of the Act and Section 3113 of the California Streets and Highways Code, to the extent the map attached as Exhibit B hereto differs from said amended map, the City Clerk is hereby authorized and directed to endorse the Certificate on the Amended Map evidencing the date and adoption of this Resolution and is further authorized to file said map in accordance with the provisions of Section

3313.5 of the California Streets and Highways Code within 10 days after the approval of the Amended Map which shall be within 10 days of the adoption hereof.

Section 14. As the Registrar of Voters of the County of Riverside has notified the City Council that there are fewer than 12 registered voters within the Community Facilities District, the levy of the special tax and the establishment of the appropriations limitation shall be submitted to the owners of land within each respective Improvement Area as the qualified electors of each respective Improvement Area, with each acre or portion thereof within an ownership representing one (1) vote; provided, however, that such election shall not be called at this time for any Improvement Area for which the City Clerk has not received waivers of certain election requirements as provided by the Act. The requirements of Section 53326 of the Act pertaining to the shortening of time and the requirement for notice having been waived by each landowner in such Improvement Areas, upon the concurrence with such waiver by the election official as designated by the City Council in this Resolution, a special election shall be and is hereby called and ordered to be held on July 20, 1993, at which election there shall be submitted to the qualified electors within each such Improvement Area, the ballot proposition of levying a special tax which shall read as set forth in Exhibit A hereto, with appropriate changes with respect to each Improvement Area. The ballots for each special election shall be distribute by personal or mailed delivery to each of the landowners within each such Improvement Area. Pursuant to Section 53326(b) of the Act, with respect to elections by landowners, the City Council has determined that the Facilities to be financed by each respective Improvement Area within the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development in each Improvement Area. The ballots for the special election shall be distributed by mail or personal delivery to each of the owners of land within each respective Improvement Area. Each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the applicable Improvement Area, as provided in Section 53326 and Section 53351 of the Act.

Section 15. If the proposition for the levying of such special tax within an Improvement Area, receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, the City Council, as legislative body for the District, may levy the special tax within the applicable Improvement Area.

Section 16. The City Clerk of the City of Beaumont is hereby designated as the election official for the purposes of conducting the election in each Improvement Area and is hereby requested to take all steps necessary to hold the election in accordance with the Act and these specifications; provided, however, that such specifications may be waived by the landowners if such waiver is concurred with by the election official.

Section 17. The City Council hereby further directs that the election at which the question of levying such special tax and the establishment of an appropriations limit is submitted to the qualified electors within each Improvement Area shall be consolidated with the election at which the question of incurring a bonded indebtedness in an amount as set forth in Exhibit A to Resolution No. 1993-07 for each such Improvement Area, as modified by Resolution No. 1993-24, is submitted to the qualified electors within each Improvement Area, and the question of levying such special tax shall be combined in one ballot proposition with the question of incurring such bonded indebtedness and the question of establishing an appropriations limit for the Community Facilities District, all as provided by the Act; and the City Council further directs that Resolution No. 1993-14 adopted declaring the necessity to incur such bonded indebtedness shall constitute the notice of the consolidated election on the combined proposition of authorizing the levy of such special tax, of establishing the appropriations limit and of incurring such bonded indebtedness.

Section 18. The City Clerk as the election official is authorized to canvass the returns of the election pursuant to Section 23306 of the Elections Code, and the City Council is thereafter authorized to certify the results of the election.

(a) Said special election shall be held and conducted, and the votes canvassed and the returns made, and the results thereof ascertained and determined, as herein and in Resolution No. 1993-14 provided; provided, however, that such specification may be waived by the landowners if such waiver is concurred with by the election official.

(b) The requirements of Section 53326 of the Act have been waived by each landowner within each Improvement Area; the ballots for each respective special election (which shall be prepared for each Improvement Area) shall be distributed by personal or mailed delivery to each of the landowners within the applicable Improvement



Area. Each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the applicable Improvement Area, which number of votes to be voted shall be specified on the ballot provided to such landowner, as provided in Section 53326 of the Act.

(c) On the ballots to be used at said special elections, in addition to all other matters required by law to be printed thereon, shall appear the appropriate proposition described in Section 14 hereof for the related Improvement Area. Each voter to vote for said proposition and for levying said special tax, establishing such appropriations limit and incurring said bonded indebtedness shall mark the ballot card in the space opposite the word "YES" or to vote against said proposition and against levying said special tax, establishing such appropriations limit and incurring said bonded indebtedness shall mark the ballot card in the space opposite the word "NO."

(d) The ballots to be used at each respective special election must be received in the office of the City Clerk by 4:30 p.m. the date of the election at which time the election shall be closed.

(e) The City Clerk shall commence the canvass of the returns of each special election at 9:00 A.M. on the day following the date of such special election and at the conclusion thereof shall determine the results of the special election and shall certify said results to the City Council.

(f) The City Council shall declare the results of said special elections at the next regular meeting following the date of the elections, and shall cause to be spread upon its minutes a statement of the results of said special elections as ascertained by said canvass.

Section 19. The City Clerk as the election official is hereby directed to distribute to the owners of land within each Improvement Area copies of this Resolution, together with a description and map of the Community Facilities District in sufficient scale and clarity to show the boundaries thereof and the Assessor's parcel numbers for the land therein.

Section 20. If two-thirds (2/3) of the votes cast upon the question of levying such special tax within an Improvement Area are cast in favor of levying that tax, as determined by the City Council after the canvass of the returns of such election, the City Council may levy such special taxes within the territory of the applicable Improvement Area under the Act in the amounts and for the purposes as specified in this Resolution. Such special tax may be levied only at the respective rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that such special tax may be levied at a rate lower than that specified herein. Such special tax may be levied only so long as it is needed to pay for the funding, financing, acquisition, construction and installation of the Facilities, or so long as it is needed to pay the principal of and interest on the bonded indebtedness, together with administrative expenses and other expenses of the Community Facilities District with respect to the applicable Improvement Area incurred by the City and the Community Facilities District.

Section 21. The officers of the City and their authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and all documents and agreements and do and perform any and all acts and things, from time to time, consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry out its purpose.

Section 22. This Resolution shall take effect immediately upon its adoption.

MOVED, PASSED AND ADOPTED this 29th day of June, 1993 by the following vote:

AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.  
NOES: None.  
ABSTAIN: None.  
ABSENT: None.

*Jan Leja*  
Mayor of the City of Beaumont

ATTEST:

*Julia White*  
CITY CLERK (Deputy)

CERTIFICATION

The foregoing is certified to be a true copy of Resolution No. 1993- 13 duly adopted by the said City Council of the City of Beaumont on the date herein set forth.

*Julia White (Deputy)*  
CITY CLERK, CITY OF BEAUMONT

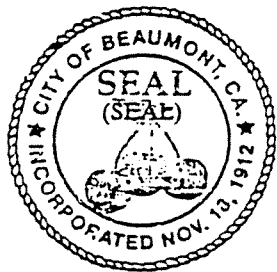


EXHIBIT A

Improvement District No.       
PROPOSITION XXX:

Shall City of Beaumont Community Facilities District No. 93-1 be authorized to finance all or a portion of the design, acquisition, construction and equipping of certain real and other tangible property with an estimated useful life of five years

or longer, which is to be acquired or constructed for Community Facilities District No. 1993-1, including all facilities authorized by the Act, including sewage facilities, water facilities, school facilities, transportation facilities, flood control and drainage facilities, public utility facilities, parks and open space, civic facilities, other landscaping and erosion control facilities and financing costs and incidentals, all as more particularly described in Exhibit D to Resolution No. 1993-13 adopted by the City Council of the City of Beaumont on     , 1993 by incurring a bonded indebtedness in the principal amount of \$[insert applicable amount for the Improvement Area] and shall an appropriations limit in the amount of \$10,000,000 per fiscal year in connection therewith be established for the Community Facilities District, and shall a special tax with a maximum rate and method of apportionment as provided with respect to such Improvement Area in Exhibit C to the Public Report presented in connection with the adoption of Resolution No. 1993-13 adopted by the City Council of the City of Beaumont on     , 1993, which is incorporated by reference herein, be levied to pay for such facilities, including the payment of current and future principal of and interest on such bonds and the annual administration expenses of the City and the Community Facilities District in determining, apportioning, levying and collecting the special tax, and including the repayment of funds advance to or on behalf of the Community Facilities District?

SHEET 1 OF 1 SHEET

33

AMENDED MAP OF

**PROPOSED BOUNDARIES OF  
COMMUNITY FACILITIES DISTRICT NO. 93-1**  
CITY OF BEAUMONT, COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA.  
TRANS-PACIFIC CONSULTANTS, INC. MARCH, 1993

THIS MAP SHOWS THE PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT NO. 93-1 FOR THE CITY OF BEAUMONT IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE CITY OF BEAUMONT IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS MAP OR FOR ANY ERRORS OR OMISSIONS THEREOF.

SCALE 1" = 2000'

Page 436

THIS MAP WAS PREPARED BY THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE CITY OF BEAUMONT IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS MAP OR FOR ANY ERRORS OR OMISSIONS THEREOF.

BY: [Signature] CITY CLERK  
DATE: 3/12/93

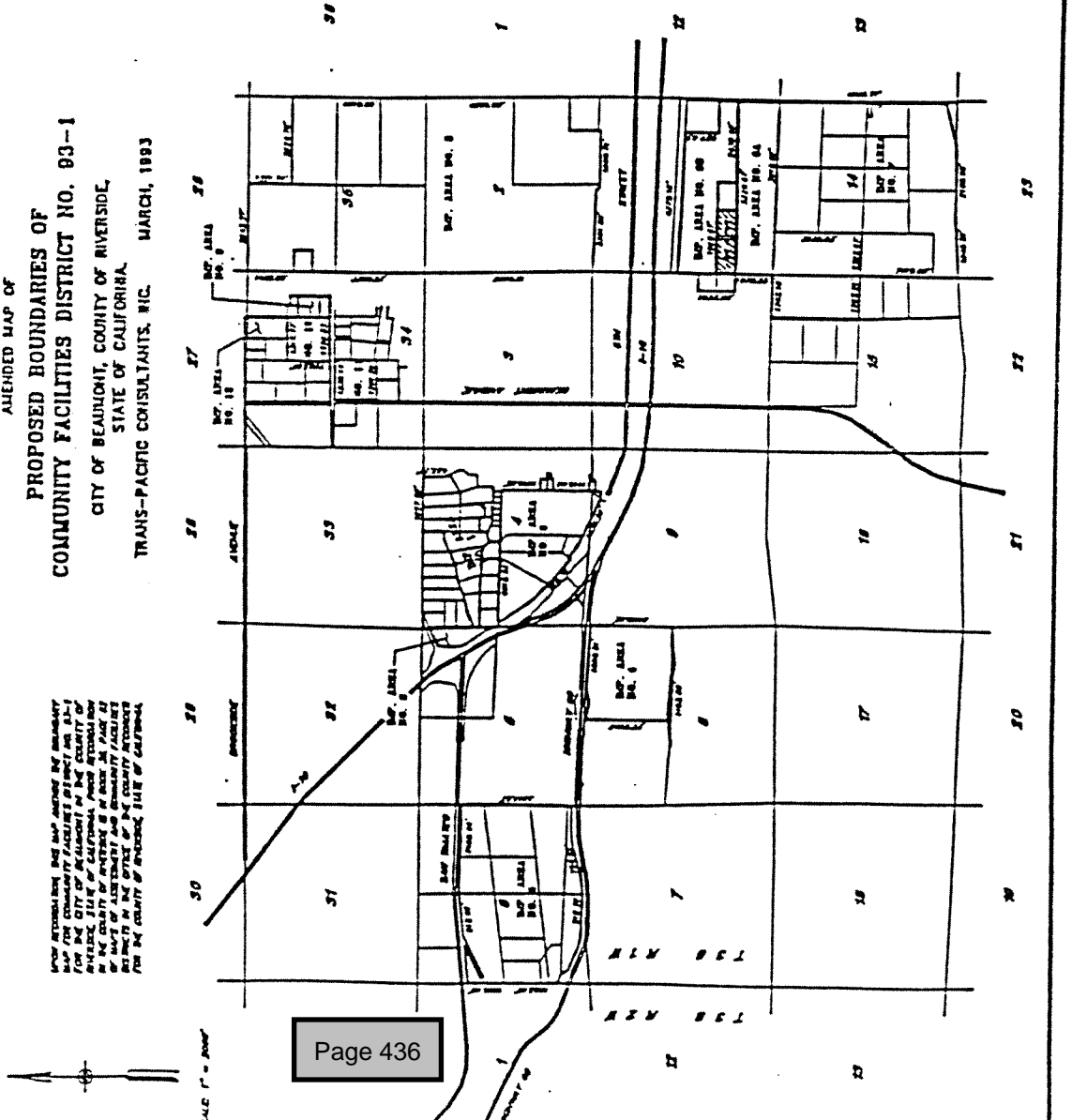
WILLIAM E. COMPANY COUNTY ATTORNEY

I HEREBY CERTIFY THAT THE ABOVE MAP SHOWS THE PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 93-1 IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE CITY OF BEAUMONT IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS MAP OR FOR ANY ERRORS OR OMISSIONS THEREOF.

BY: [Signature] CITY CLERK

THIS MAP WAS PREPARED BY THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE CITY OF BEAUMONT IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS MAP OR FOR ANY ERRORS OR OMISSIONS THEREOF.

BY: [Signature] CITY CLERK



Trans-Pac/Inc  
931111111111  
27447 Enterprise Circle West  
Fermisburg, Ca. 92590

CSL3008 DWG

430898

EXHIBIT C

REFERENCE IS HEREBY MADE TO EXHIBIT C OF THE PUBLIC REPORT DATED JUNE 14, 1993 PRESENTED IN CONNECTION WITH RESOLUTION NO. 1993-13 FOR THE AMENDED RATE AND METHOD OF APPORTIONMENT FOR EACH IMPROVEMENT AREA

EXHIBIT D

DESCRIPTION OF FACILITIES

The proposed project involves creation of a Mello-Roos Community Facilities District to finance the design, acquisition and construction of public facilities relating thereto to benefit the areas of land proposed for development within the boundaries of the City, and include all facilities authorized by the Act. All facilities shall have a useful life in excess of five years. The improvements which can be acquired and constructed which may be provided include, but are not limited to, the following:

Sewage Facilities:

City treatment plant or plants designed to serve the needs of the City with an ultimate capacity up to approximately 6-8 million gallons per day, sewer improvements, industrial sewer improvements, trunk sewers, local sewage collection systems, sewer lift systems, sewer force mains, appurtenant bedding material, backfill, encasement, anchors, joint seals/bands, easements, rights-of-way, and sewer capacity and connection charges paid in connection with any of the foregoing facilities.

Water Facilities:

Water improvements for domestic, imported and reclaimed facilities, including water storage reservoirs and systems, reclamation systems, treatment systems, water mains, booster systems valves, fire hydrants, air vacuum release valves, blow-offs, pressure reducing facilities and appurtenant hardware, bedding material, backfill, encasement, thrust blocks, irrigation systems, water well rehabilitation, easements, rights-of-way, and applicable capital facilities fees or charges for imported water supplies, imported facilities, domestic facilities and Agency facilities paid in connection with facilities with a useful life in excess of five years.

School Facilities:

Elementary and secondary school sites and structures which meet the building area and cost standards established by the State Allocation Board and appurtenances.

Transportation Facilities:

Road improvements, access ramps, overcrossings, underpasses, bridges, traffic signal and control facilities, rail crossings, sidewalks, freeway interchanges, grading, paving, and base material, full or partial width paving, curb, gutter, sidewalk, landscape and irrigation in parkways, street signs, street lights, striping, easements and rights-of-way.

Flood Control and Drainage:

Storm drains, canal improvements, retention and detention basins or enhancement areas, easements, rights-of-way, inlet structures, outlet structures, junctions and reinforced concrete box structures in various streets.

Public Utilities:

Backbone power and natural gas lines, public utility facilities, pipelines, relocations, conversions, extensions, easements and rights-of-way.

Parks and Open Space:

RESOLUTION NO. 1993-14

RESOLUTION OF THE CITY OF BEAUMONT DECLARING THE NECESSITY TO INCUR BONDED INDEBTEDNESS WITH RESPECT TO IMPROVEMENT AREAS TO PAY FOR CERTAIN PUBLIC FACILITIES WITHIN COMMUNITY FACILITIES DISTRICT NO. 93-1, CALLING SPECIAL ELECTIONS WITHIN EACH SUCH IMPROVEMENT AREAS TO SUBMIT TO THE QUALIFIED ELECTORS OF SUCH IMPROVEMENT AREAS THE PROPOSITION OF INCURRING SUCH BONDED INDEBTEDNESS AND DESIGNATING THE CITY CLERK OF THE CITY AS THE ELECTION OFFICIAL

WHEREAS, the City Council (the "City Council") of the City of Beaumont, California ("the City") on February 22, 1993, duly adopted Resolution No. 1993-06 declaring its intention to establish "City of Beaumont Community Facilities District No. 93-1" (the "Community Facilities District"), including twelve separate improvement areas therein (each an "Improvement Area," and collectively, the "Improvement Areas") and to levy special taxes to pay for certain public facilities and services in and for the Community Facilities District under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 25, Part 1, Division 2, Title 5 of the Government Code of the State of California, and calling a public hearing on the question of the establishment of such Community Facilities District and the Improvement Areas therein; and

WHEREAS, the City Council has heretofore on February 22, 1993, duly adopted Resolution No. 1993-07 declaring its intention to incur a bonded indebtedness with respect to each Improvement Area in the amounts set forth in Exhibit A to Resolution No. 1993-07 to finance certain public facilities and services as set forth in Exhibit B to Resolution No. 1993-06 (as such facilities are more specifically enumerated in Resolution No. 1993-13, the "Facilities") which bonded indebtedness shall be secured by the levy of a special tax within the applicable Improvement Area; and

WHEREAS, on April 26, 1993, the City Council by Resolution No. 1993-24 declared its intention to annex certain territory to the Community Facilities District, to levy a special tax to pay for certain public facilities and services in and for such Community Facilities District and declaring its intention to issue bonds secured by the special tax to finance certain facilities of such District and set June 14, 1993 at the regular meeting place of the City Council as the date, time and place for the public hearing relating to the annexation; and

WHEREAS, as described in Resolution No. 1993-13, prior to the time for the April 12, 1993 hearing, in accordance with said Resolution No. 1993-06, a report on such proposal entitled "Public Report for Community Facilities District No. 93-1" and dated April 12, 1993 was filed with the City Council and subsequent to April 12, 1993, said report has been revised to incorporate comments received in connection with the proceedings and a second report entitled "Public Report for Community Facilities District No. 93-1" and dated June 14, 1993 (said June 14, 1993 report being referred to herein as the "Public Report"), and such Public Report was filed with the City Clerk of the City and is incorporated herein and made a part of the record of the hearing on said Resolution No. 1993-06 and Resolution No. 1993-07; and

WHEREAS, as described in Resolution No. 1993-13 pursuant to Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, public hearings have been held in connection with the formation of Community Facilities District and the incorporation of the territory referenced in Resolution No. 1993-24 within the Community Facilities District, at which hearings the City Council considered the establishment of the Community Facilities District, the establishment of the Improvement Areas, the type and extent of the proposed Facilities and Services (as defined in Resolution No. 1993-06), the proposed rate and method of apportionment of special tax in each Improvement Area therein, the proposed appropriations limit therefor, the necessity for incurring bonded indebtedness to finance Facilities and all other matters as set forth in Resolution No. 1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, and at the above-mentioned time and place for such public hearings, all persons interested, including all taxpayers, property owners and registered voters within each Improvement Area within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons for or against the establishment of the Community Facilities District, the establishment of the Improvement Areas therein, the acquisition and construction of the Facilities, the provision of the Services, the levy of the special tax within each respective Improvement Area, the extent of the Community Facilities District, the establishment of an appropriations limit for the Community Facilities District, the necessity for incurring bonded indebtedness to finance the Facilities, and any other matters set forth in said Resolution No.

Park and trail facilities, open space proposed for public dedication and public use, easements and rights-of-way.

Civic Facilities:

Civic facilities, police facilities, fire protection facilities, and other facilities for the purpose of providing administrative, justice, cultural, recreational and public safety services.

Other:

Landscaping, erosion control.

Financing Costs and Incidentals:

Costs and expenses necessary to form the district, authorized the special tax and the issuance of notes or bonds, including environmental proceedings, preliminary engineering, preliminary design, citywide planning, design surveys, soils engineering and testing, aerial photography, construction surveys, staking, insurance and bonding, city plan check and inspection fees, other public agency plan check or inspection fees, construction and project management, property owner and agency coordination, title reports, title insurance, appraisals, market absorption studies, special tax consultants, city administrative charges, legal costs, reserve funds, interest during construction, underwriter's discounts, underwriters counsel, rating agency, bond insurance, credit support, trustee fees and expenses, fiscal or paying agent fees and expenses, printing and mailing costs for disclosure statements, and note and bond printing.



1993-06, Resolution No. 1993-07 and Resolution No. 1993-24, were heard and considered by the City Council at the conclusion of said hearings was fully advised in the premises, and was authorized to proceed as hereinafter provided; and

WHEREAS, following such public hearings, the City Council duly adopted Resolution No. 1993-13 establishing the Community Facilities District, the Improvement Areas therein and the Rate and Method of Apportionment of Special Tax for each Improvement Area as set forth therein; and

WHEREAS, the City Council has determined, based on a Certificate of the Riverside County Registrar of Voters dated March 2, 1993, that there are two registered voters residing in the Community Facilities District and that the qualified electors in each respective Improvement Area are the owners of land within each such Improvement Area; and

WHEREAS, the City Council has received the "Petition (including Consent and Waiver)" or a "Consent and Waiver" of the owners of land within certain of the Improvement Areas waiving certain election requirements; and

WHEREAS, the City Council is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT AS FOLLOWS:

Section 1. All of the above recitals are true and correct.

Section 2. The City Council, acting as the legislative body of the Community Facilities District, hereby declares and deems that the public convenience and necessity require and it is necessary that bonded indebtedness with respect to each Improvement Area be incurred to finance all or a portion of the Facilities.

Section 3. The purpose for the proposed bonded indebtedness with respect to each Improvement Area is to finance the Facilities, including any capacity or connection fees representing such public facilities, with an estimated useful life of five (5) years or longer, which are public facilities that the City or a public agency is authorized by law to construct, own or operate, together with incidental expenses consisting of the costs of planning and designing such facilities, including the costs of environmental evaluations thereof, all costs associated with the establishment of the Community Facilities District and the Improvement Areas therein, the issuance of bonds with respect to each Improvement Area, the determination of the amount of any special taxes to be levied, the cost of collecting any special taxes, and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District, together with any other expenses incidental to the acquisition, construction, completion and inspection of the Facilities.

Section 4. Pursuant to Section 53351(c) of the Act, the City Council hereby determines that each Improvement Area will pay for the bonded indebtedness to finance Facilities relating to such Improvement Area.

Section 5. The whole of the territory within each Improvement Area of the Community Facilities District, as indicated on the Amended Map approved by the City Council on this date, will be benefitted by such bonded indebtedness and will be subject to a special tax to pay for such bonded indebtedness, as set forth in the Resolution establishing the Community Facilities District.

Section 6. The amount of the proposed bonded indebtedness to be incurred with respect to each Improvement Area to finance all or a portion of the Facilities (including incidental expenses as authorized by the Act) is the respective amount set forth in Exhibit A to Resolution No. 1993-07, as modified by Resolution No. 1993-24.

Section 7. The maximum term of the bonds with respect to an Improvement Area shall not exceed forty (40) years from the date of the bonds, or the date of any series thereof.

Section 8. The maximum annual rate or rates of interest to be paid on the bonds with respect to each Improvement Area shall not exceed the maximum annual rate permitted by law at the time of the sale of the bonds, as determined at that time, payable semiannually commencing the first March 1 or September 1 following their date, or to the extent permitted by law as set forth in the fiscal agent agreement pursuant to which such bonds are issued.

Section 9. The City Council hereby declares that the proposition of incurring such bonded indebtedness in the respective amounts set forth in Exhibit A to Resolution 1993-07, as modified by Resolution No. 1993-24, shall be submitted to the qualified electors within the applicable Improvement Area of the Community Facilities District which have submitted either the Petition (including Consent and Waiver) or the Consent and Waiver and shall be combined in one ballot proposition with the question of levying a special tax within each such Improvement Area and the establishment of an appropriations limit for the entire Community Facilities District in the amount of \$10,000,000 per fiscal year in connection therewith, all in accordance with and subject to the Act, all the terms of which shall be applicable to each such election, including terms permitting the waiver of certain election requirements by the landowners with the consent of the election official.

Section 10. A special election shall be and is hereby called and ordered to be held in each Improvement Area on Tuesday, July 20, 1993, at which elections there shall be submitted to the qualified electors within the applicable Improvement Area the combined ballot proposition of levying a special tax, of establishing an appropriations limit and of incurring such bonded indebtedness, such combined ballot proposition to read substantially as set forth in Exhibit A to Resolution No. 1993-13, with such changes therein as shall be appropriate to reflect the Improvement Area encompassed by such election and with such further changes therein as shall be requested by the City Clerk as the designated election official of the Community Facilities District.

Section 11. If the combined proposition for each Improvement Area receives the approval of more than two-thirds (2/3) of the votes cast on the proposition with respect to an Improvement Area, the bonds of such Improvement Area may be issued and sold for the purpose for which authorized, and such bonds (except where funds are otherwise available) shall be paid exclusively from the annual levy of such special tax within such Improvement Area and such bonds are not and shall not be secured by any other taxing power or funds of the City or other public agency or the Community Facilities District.

Section 12. The City Council does hereby submit to the qualified electors within each Improvement Area of the Community Facilities District at said special election the combined ballot proposition described in Section 10 of this Resolution, and designates and refers to said proposition in the form of ballot prescribed for use at said election.

Section 13. The officers of the City and their authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and all documents and agreements and do and perform any and all acts and things, from time to time, consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry out its purpose. The officers are directed to diligently pursue the issuance of the first series of bonds following a favorable election and to use their best efforts to issue such bonds subject to satisfaction of underwriting criteria and favorable market conditions.

EXHIBIT "F"

Sewer Service Facilities Construction Schedule

## EXHIBIT "F"

Sewer Service Facilities Construction Schedule

Start of Construction Stage 1 Wastewater Treatment Plant	August 31, 1993
Sale of CFD 1993A Bonds	November 23, 1993
Completion of Stage 1 Wastewater Treatment Plant Capacity	June 1, 1995
Completion of any force mains, lift stations and gravity mains funded by Improvement Area which are necessary to serve the Development of the Property	June 1, 1995

MEMORANDUM

TO: George McFarlin

FROM: *D* Dave Dillon

DATE: October 13, 1993

SUBJECT: Development Agreements Exhibits, City of Beaumont

RECEIVED  
OCT 14 1993



Please find the enclosed exhibit package for execution copies of the above referenced agreements.

cc: Dayle Keller

ORDINANCE NO. 726

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA, ADOPTING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BEAUMONT AND HEARTLAND BEAUMONT CALIFORNIA L.T.D. (PURSUANT TO GOVERNMENT CODE SECTIONS 65864 - 65869.5)

WHEREAS, in order to strengthen the public planning process, to encourage private participation in comprehensive planning, and to reduce the economic risks of development, the Legislature of the State of California has adopted sections 65864 through 65869.5 of the Government Code which authorize the City of Beaumont (hereinafter referred to as the "City") to enter into a Development Agreement.

WHEREAS, the City, by adopting Resolution No. 1987-34, has adopted rules and regulations establishing procedures and requirements for the consideration of development agreements.

WHEREAS, on February 8, 1993, the City Council of the City, after duly complying with the California Environmental Quality Act and all statutes, ordinances and resolutions applicable to the adoption of the General Plan and General Plan Environmental Impact Report, adopted its Resolution No. 1993-04 certifying that the General Plan Environmental Impact Report had been completed in compliance with the California Environmental Quality Act and its Resolution No. 1993-05 approving the General Plan.

WHEREAS, the applicant proposed and submitted and City Staff has reviewed and negotiated the Development Agreement between the City and the Owner of Improvement Area No. 5 in the CFD to govern development of 420 acres, hereinafter referred to as the "Property".

WHEREAS, on June 29, 1993, the City Council approved the City of Beaumont Community Facilities District No. 93-1, hereinafter referred to as the "CFD", as part of the City Comprehensive Public Facilities Financing Program, hereinafter referred to as the "Program", pursuant to which the City determined that it was appropriate to provide for certain public facilities and services in order to implement the General Plan and, further, that such facilities and services could best be facilitated through the City issuing bonds secured by liens on the Property to be developed within the City.

WHEREAS, the Planning Commission of the City of Beaumont by its recommendation of approval of said Development Agreement adopted on August 17, 1993, has made the following findings relative to several proposed Development Agreements between the City and several Owners of Improvement Areas in the CFD:

1. The proposed agreements are consistent with the objectives, policies, general land uses and programs specified in the General Plan and the respective Specific Plans;
2. The proposed agreements facilitate land uses which are compatible with the uses authorized in, and the regulations prescribed for, the land use districts in which the real property is located;
3. The proposed agreements are in conformity with public convenience, general welfare and good land use practice;
4. The proposed agreements will not be detrimental to the health, safety and general welfare;
5. The proposed agreements will not adversely affect the orderly development of

property or the preservation of property values;

6. The proposed agreements will enhance the stability of CFD No. 93-1 and other City infrastructure financing programs;

7. The proposed agreements will facilitate quality master planned development which will aid in the economic development of the City; and

8. The proposed agreements will not have an adverse affect on the environment.

WHEREAS, the City Council of the City of Beaumont has reviewed the reasons for the recommendation of approval by the Planning Commission as included in the materials submitted by them to the City Council accompanying said recommendation; and

WHEREAS, a duly noticed public hearing as required by law was conducted by the Planning Commission of the City of Beaumont on September 21, 1993, and a duly noticed public hearing as required by law was conducted by the City Council of the City of Beaumont on September 27, 1993;

THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN AS FOLLOWS:

SECTION 1: It has been determined that:

A. The provisions of the Development Agreement between the City of Beaumont and the applicant are consistent with the General Plan; and

B. The Development Agreement complies with all applicable zoning, subdivision and building regulations and with the General Plan of the City of Beaumont; and

C. The Development Agreement states the duration of the Agreement to be a period not to exceed twenty-five (25) years, sets forth the uses of the property, and the density and intensity of use, and sets forth the maximum height and size of proposed buildings and provides for the reservation, dedication and improvement of land for public facility uses.

SECTION 2: The Development Agreement between the City of Beaumont and the applicant attached hereto as Exhibit "A" is approved and the Mayor of the City of Beaumont is authorized and directed to execute said Development Agreement on behalf of the City of Beaumont on or after the date when by law this Ordinance shall take effect.

SECTION 3: This Ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage the City Clerk shall cause a summary to be published in the Community Advisor, a newspaper of general circulation printed and published in the City of Beaumont in the manner prescribed by law for publishing of ordinances of said City.

MOVED, PASSED AND ADOPTED on this 11th day of October, 1993 upon the following roll call vote.

AYES: Council Member Brey, McLaughlin, Parrott, Russo and Mayor Leja.

NOES: None.

ABSTAIN: None.

ABSENT: None.

  
MAYOR OF THE CITY OF BEAUMONT

ATTEST:

*Julia White*  
DEPUTY CITY CLERK

CERTIFICATION

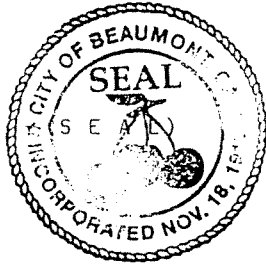
I, Julia White, Deputy City Clerk of the City of Beaumont DO  
HEREBY CERTIFY that the foregoing Ordinance was introduced at a  
regular meeting of the City Council of said City held on the  
27th day of September, 1993, and was duly adopted upon  
second reading on the 11th day of October, 1993, upon  
the following roll call vote:

AYES: Council Member Brey, McLaughlin, Parrott, Russo and  
Mayor Leja.

NOES: None.

ABSTAIN: None.

ABSENT: None.



*Julia White*  
DEPUTY CITY CLERK  
CITY OF BEAUMONT



RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO:

City Ventures, LLC  
1900 Quail Street  
Newport Beach, CA 92660  
Attn: R. Mark Buckland

(Space Above For Recorder's Use)

ASSIGNMENT AND ASSUMPTION  
OF DEVELOPMENT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (this "Assignment") is made as of December 21, 2012 ("Effective Date"), by and between Sunny-Cal Egg & Poultry Company, a California corporation ("Assignor"), and CV Communities, LLC, a Delaware limited liability company ("Assignee").

RECITALS

A. Assignor is the owner of certain real property in Riverside County, California more particularly described on Exhibit "A" attached hereto ("Property").

B. Assignor is an "Owner" under that certain Pre-Annexation and Development Agreement No. 06-DA-01, entered into to be effective on September 18, 2007, between the City of Beaumont, a municipal corporation organized and existing under the laws of the State of California ("City"), Assignor and Manheim, Manheim & Berman, a California general partnership, recorded on October 18, 2012, as Document No. 2012-0497525, in the Official Records of the County Recorder of Riverside County, California (the "Development Agreement").

C. Assignor is selling the Property to Assignee and Assignor desires to assign to Assignee all of its rights and obligations under the Development Agreement relating to the Property, and Assignee wishes to accept such assignment as more particularly set forth below.

Agreement

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

1. Assignment. Assignor does hereby transfer and assign to Assignee all of its right, title and interest in and to, and obligations under, the Development Agreement (and all documents and instruments relating to or implementing the Development Agreement) with respect to the Property.

2. Assumption. Assignee hereby accepts said assignment and agrees to keep, perform and be bound by all the terms, covenants and conditions contained in the Development Agreement (and all documents and instruments relating to or implementing the Development Agreement) relating to the Property on the part of the "Owner" therein, first arising on and after the Effective Date, as though Assignee were the original "Owner" under the Development Agreement.

3. Miscellaneous. This Assignment can only be amended only by an amendment in writing signed by all the parties, and any term herein can be waived only by a written waiver signed by the party against whom such waiver is to be asserted. This Assignment is intended to be the final expression of the parties' agreement and supersedes any and all prior restrictions, promises, representations, warranties, agreements, understandings and undertakings between the parties with respect to the within subject matter. There are no restrictions, promises, representations, warranties, agreements, understandings or undertakings with respect to such subject matter other than those set forth or referred to herein.

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment as of the Effective Date.

"Assignor"

"Assignee"

Sunny-Cal Egg & Poultry Company,  
a California corporation

CV Communities, LLC,  
a Delaware limited liability company

By: Kathi L. Berman VP  
Kathi L. Berman, Vice President

By: August Belmont  
August Belmont, President

By: Michael G. Manheim pres.  
Michael G. Manheim, President

By: [Signature] R.  
Mark Buckland  
Chief Executive Officer

ACKNOWLEDGMENT BY SECOND OWNER

As the second "Owner" under the Development Agreement, but not the owner and seller of the Property, the undersigned hereby acknowledges and agrees to this Assignment to the extent such agreement is necessary for its effectiveness.

Manheim, Manheim & Berman, a California  
general partnership

By: Kathi Berman  
Title: VP

CONSENT TO ASSIGNMENT

City hereby consents to and approves the Assignment, which consent is conditioned on the purchase of the Property by Assignee and shall be effective on the effective date of the Development Agreement.

“City”

The City of Beaumont, a municipal corporation organized and existing under the laws of the State of California

By: Ron By

Title: Mayor City Council

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE MAYOR AND THE CITY COUNCIL

By: Karen Thompson  
City Clerk

**Exhibit "A"**  
**to**  
**Assignment and Assumption of Development Agreement**

**Description of the Property**

That certain real property located in the unincorporated area of the County of Riverside, State of California, more particularly described as follows:

PARCEL ONE:

THE WESTERLY 208.71 FEET OF THE NORTHERLY 1,073.55 FEET OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146636.

PARCEL TWO:

THAT PORTION OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF SECTION 29, SAID POINT BEING ALSO A POINT IN THE CENTER OF WOODLAND AVENUE;

THENCE NORTH 89° 33' 30" EAST ON THE CENTER LINE OF WOODLAND AVENUE, 786.12 FEET, MORE OR LESS, TO A POINT DISTANT SOUTH 89° 33' 30" WEST, 791 FEET, FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J. VINCENT HANNON AND JEREMIAH C. HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;

THENCE SOUTH 0° 28' 50" WEST AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL CONVEYED TO HANNON, 1975 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO MELVIN F. KLAGUOS AND PAULINE M. KLAGUOS, HUSBAND AND WIFE BY DEED RECORDED AUGUST 4, 1959 AS INSTRUMENT NO. 67500;

THENCE WESTERLY ON THE NORTHERLY LINE OF SAID PARCEL  
CONVEYED TO KLAGUOS TO A POINT IN THE WEST LINE OF SAID SECTION  
29;

THENCE NORTH 0° 07' 40" EAST ON THE WEST LINE OF SAID SECTION 29,  
TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE WESTERLY 208.71 FEET OF THE NORTHERLY  
1,073.55 FEET; ALSO EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN  
WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE  
BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

PARCEL TWO A:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2  
SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE  
OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID  
SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM  
THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND  
CONVEYED TO J. VINCENT HANNAN BY DEED RECORDED JANUARY 28,  
1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;  
SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET  
FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID  
SECTION;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE  
PARCEL CONVEYED TO J. VINCENT HANNON 313.5 FEET TO THE TRUE  
POINT OF BEGINNING;

THENCE EASTERLY ON SAID SOUTHERLY LINE OF THE PARCEL  
CONVEYED TO GEORGEUS GEORGE AND ELIZABETH B. GEORGE, BY  
DEED FILED FOR RECORD AUGUST 21, 1952 AS INSTRUMENT NO. 35786, IN  
BOOK 1394 PAGE 352 OFFICIAL RECORDS, 11 FEET;

THENCE SOUTHERLY 1, 221.5 FEET TO A POINT ON THE SOUTHERLY LINE  
OF THAT CERTAIN PARCEL CONVEYED TO FRANK J. FABIAN AND MARY R.  
FABIAN BY DEED RECORDED NOVEMBER 4, 1939 IN BOOK 434, PAGE 587 OF  
OFFICIAL RECORDS, RIVERSIDE COUNTY RECORDS, 20.5 FEET OF THE  
SOUTHWEST CORNER OF SAID PARCEL SO CONVEYED TO FRANK J.  
FABIAN AND WIFE;

THENCE WEST ON SAID SOUTH LINE 20.5 FEET;

THENCE NORTH 1,221.5 FEET TO THE POINT OF BEGINNING.

PARCEL TWO C:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL CONVEYED TO J. VINCENT HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS; SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE PARCEL CONVEYED TO J. VINCENT HANNON 313.4 FEET;

THENCE NORTH 89° 33' 30" EAST, 30 FEET;

THENCE NORTH 0° 28' 50" EAST, 313.4 FEET, TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 89° 33' 30" WEST, 30 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE NORTH 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

PARCEL THREE:

PARCELS 1 TO 5, INCLUSIVE, AND 7, AND LOTS A TO K, INCLUSIVE OF PARCEL MAP NO. 12218, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN PARCEL MAP BOOK 85, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

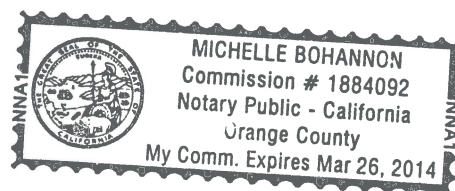
State of California )  
County of Orange ) ss.

On December 17, 2012, before me, Michelle Bohannon, Notary Public, personally appeared August Belmont & Mark Burkland 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 Michelle Bohannon (Seal)



State of California )  
County of Riverside ) ss.

On December 18, 2012, before me, Jennifer D. Oberg, Notary Public, personally appeared Kathi L. Burman and Michael G. Mandim, 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 Jennifer D. Oberg (Seal)



# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

Item No.5.

State of California

County of Riverside

On 12/18/2012 before me, Chelsea Sinske  
(Here insert name and title of the officer)

personally appeared Roger Berg

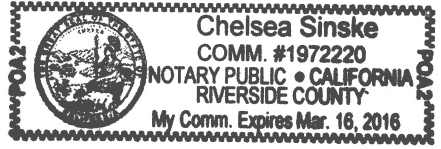
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she ~~they~~ executed the same in ~~his~~ her ~~their~~ authorized capacity(ies), and that by ~~his~~ her ~~their~~ signature(s) on 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]  
Signature of Notary Public

(Notary Seal)



## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*

- 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). attach this document to the signed document

**DESCRIPTION OF THE ATTACHED DOCUMENT**

Assignment + Assumption  
(Title or description of attached document)

of development Agreement  
(Title or description of attached document continued)

Number of Pages 7 Document Date 12/18/12

(Additional information)

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)

Corporate Officer

\_\_\_\_\_ (Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other \_\_\_\_\_



Agenda Item No. \_\_\_\_\_

**STAFF REPORT**

**To:** Mayor and Council Members  
**From:** Community and Economic Development Department  
**Date:** December 18, 2012  
**Subject:** Approval of Assignment and Assumption of the Sunny-Cal Pre-annexation and Development Agreement 06-DA-01.

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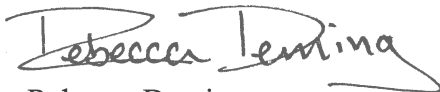
**Background and Analysis:**

The Sunny-Cal Pre-annexation and Development Agreement requires the City approve any assignment or transfer of the rights, duties and obligation under the terms of the agreement. The Sunny-Cal property is being sold to CV Communities, LLC and therefore staff recommends approval of the assignment subject to the purchase of the Property by Assignee and shall be effective on the effective date of the Development Agreement.

**Recommendation:**

Staff recommends APPROVAL of the proposed Assignment and Assumption of Development Agreement 06-DA-01.

Respectfully submitted;  
CITY OF BEAUMONT



Rebecca Deming,  
Director of Planning

DOC # 2012-0497525

10/18/2012 08:28A Fee:NC

Page 1 of 42

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

Item No.5.

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223



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**PRE-ANNEXATION AND  
DEVELOPMENT AGREEMENT**

**NO. 06-DA-01**

**BETWEEN**

**THE CITY OF BEAUMONT**

**AND**

**SUNNY-CAL EGG & POULTRY, INC. AND MANHEIM, MANHEIM & BERMAN**



*(Pursuant to California Government Code Sections 65864 - 65869.5  
and City of Beaumont Resolution No. 1987-34)*

September 18, 2007

**ORIGINAL**

**PRE-ANNEXATION AND  
DEVELOPMENT AGREEMENT**

This **PRE-ANNEXATION AND DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into to be effective on September 18, 2007, between **SUNNY-CAL EGG & POULTRY, INC.**, a California corporation and **MANHEIM, MANHEIM & BERMAN**, a California general partnership (collectively the "**Owner**"), and the **CITY OF BEAUMONT**, a municipal corporation organized and existing under the laws of the State of California (the "**City**"). The Owner and the City are sometimes collectively referred to herein as the "**parties**."

**RECITALS:**

This Agreement is predicated upon the following facts:

A. These Recitals use certain capitalized terms which are defined in this Agreement.

B. Government Code Sections 65864 - 65869.5 authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. The City has implemented the law contained in such sections by adopting Resolution No. 1987-34, titled "Establishing Procedures and Requirements for Consideration of Development Agreements" (such Resolution, together with the aforementioned Government Code Sections, are being referred to herein as the "**Development Agreement Law**").

C. This Agreement is adopted pursuant to the Development Agreement Law.

D. The Owner is the owner of approximately 200 acres of land currently located in unincorporated Riverside County, California ("**County**"), but which the parties intend to be annexed to the City, all as more particularly described on Exhibit "A" attached hereto and shown on Exhibit "B" attached hereto (the "**Property**").

E. The Owner desires that the Property be developed in accordance with the Development Plan (as hereinafter defined) (the "**Project**"). The Project is highly capital intensive, especially in its initial phases, which, in order to make the Project economically and fiscally feasible, requires major commitment to and investment in public facilities and on-site and off-site improvements prior to the construction and sale or leasing of residential buildings. This Agreement is intended to facilitate the logical and orderly development of the Project in the City.

F. The City has determined that the Development Plan is consistent with the City General Plan and has approved the Development Plan in order to promote the health, safety

and welfare of its citizens and to protect the quality of the community and environment. The Development Plan includes The Sunny-Cal Specific Plan which was approved for the Property by the City on August 21, 2007, for which the City prepared and certified the Environmental Impact Report for the Sunny-Cal Specific Plan, Annexation, and Sphere of Influence Amendment (State Clearinghouse No. 2004121092"), adopted Findings of Fact, Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program (collectively the "EIR"). As part of that process of approving the Development Plan, the City has prepared and reviewed the EIR, pursuant to the California Environmental Quality Act ("CEQA"), with respect to the potential significant impacts of the Project resulting from its annexation to the City. The City has determined, based on that review, that the EIR adequately addresses the potential significant impacts of the Project, and that accordingly neither a supplemental nor subsequent environmental impact report is required for the Development Plan and this Agreement.

G. All of the proceedings relating to the approval of this Agreement have been conducted in accordance with the Development Agreement Law.

H. On August 21, 2007, the City Council of the City adopted Ordinance No. 918 approving this Agreement with the Owner, as an inducement for the Owner to support annexation of the Property to the City.

I. The terms and conditions of this Agreement have undergone extensive review by the City and its City Council and have been found to be fair, just and reasonable, and the City has found and determined that the execution of this Agreement is in the best interest of the public health, safety and general welfare of the City and its residents and that adopting this Agreement constitutes a present exercise of its police power.

**AGREEMENT**

In light of the foregoing Recitals, which are an operative part of this Agreement, the parties agree as follows:

**1 DEFINITIONS.**

"Agreement" is this Pre-Annexation and Development Agreement.

"Agreement Date" is the date this Agreement is approved by the City Council.

"Alternative Financing Mechanism" has the meaning given that phrase in Section 10.8 below.

"CEQA" is the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*

"CFD" is a Community Facilities District formed pursuant to the Mello Roos Community Facilities Act of 1982, Government Code Section 53312, *et seq.*

"City" is the City of Beaumont, California

"City's Discretion" is discretion exercised by the City in accordance with the policies and principles set forth in the Development Plan, this Agreement and the procedures in effect as of the Effective Date such that the approvals given by the City to the Owner pursuant to the exercise of such discretion shall not be unreasonably withheld or delayed.

"Development Agreement Law" is Government Code Sections 65864, et seq., and Resolution No. 1987-34, titled "Establishing Procedures and Requirements for Consideration of Development Agreements."

"Development Plan" is, collectively, the permits and approvals listed on Exhibit "C."

"Effective Date" is that date which is the later to occur of (a) the expiration of the time for filing a referendum petition relating to this Agreement if no such petition is filed within such period, and (b) the certification of the results of a referendum election are declared approving this Agreement if a referendum petition is filed within the applicable period, or (c) the date that the annexation of the Property to the City is completed.

"EIR" is, collectively, the Sunny-Cal Specific Plan, Annexation, and Sphere of Influence Amendment Environmental Impact Report (State Clearinghouse No. 2004121092) certified by the City on August 21, 2007, prepared for the Project and dated August 18, 2006, Findings of Fact, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program adopted by the City on August 21, 2007, copies of the EIR are on file with the City.

"Owner" is Sunny-Cal Egg & Poultry, Inc., a California corporation and Manheim, Manheim & Berman, a California general partnership, and their successors in interest to all or any part of the Property.

"Project" is the proposed development of the Property included within the Development Plan and associated amenities, including, without limitation, on-site and off-site improvements contemplated by the Development Plan, as the same may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

"Property" is the real property on which the Project is, or will be, located as described on Exhibit "A" attached hereto and shown on Exhibit "B" attached hereto

2 EXHIBITS. The following documents are referred to in this Agreement, attached hereto and incorporated herein by this reference:

Exhibit Designation	Description
A	Legal Description of the Property
B	Map of the Property
C	List of Permits and Approvals
D	City Conditions of Approval
E	Statement of Benefits to the City

**3 MUTUAL BENEFITS.** This Agreement is entered into for the purpose of annexing the Property to the City and implementing the Development Plan for the Project in a manner that will secure certain assurances to the Owner that the Property may be developed in accordance with the Development Plan and this Agreement, and certain benefits to the City as set forth on Exhibit "E" as set forth in this section. The City and the Owner agree that, due to the size and duration of the Project, the Agreement is necessary to achieve those desired benefits.

**4 INTEREST OF THE OWNER.** The Owner represents that the Owner owns fee title to the Property.

**5 BINDING EFFECT OF AGREEMENT.** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns as set forth herein

**6 PROJECT AS A PRIVATE UNDERTAKING.** It is specifically understood and agreed that the development of the Project is a private and not a public sector development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Owner is that of a government entity regulating the development of private property by the owner of such Property

**7 TERM.** The term of this Agreement shall be twenty five (25) years following the Effective Date. Expiration of the term of this Agreement shall not in any manner affect rights which have otherwise vested under applicable law

**8 HOLD HARMLESS.** The Owner shall hold the City, its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage, arising on the Property from the wrongful or negligent activities of the Owner or those of the Owner's contractors, subcontractors, agents, employees or other persons acting on the Owner's behalf which relate to the Project. In the event any person not a party or a successor to a party to this Agreement institutes any type of action against the City with respect to this Agreement, City and Owner shall cooperate in defending against the action, provided that City may, in its sole discretion, elect to tender the defense of such action to the Owner. If the Owner accepts the tender, the Owner shall thereafter hold City harmless from and defend City from all costs and expenses incurred in the defense of such action, provided that City frilly cooperates with the Owner in the defense of such action. If the Owner declines the tender, then City shall have no further obligation or duty to defend the action.

**9 VESTED RIGHT.** By entering into this Agreement the City grants to the Owner a vested right to develop the Property in accordance with the Development Plan. The City shall not enact and enforce against the Project an ordinance, policy, rule, regulation or other measure which significantly alters the rate, type, manner, density, timing or sequencing of the Project. In addition to and not in limitation of the foregoing, it is the intent of the Owner and the City that no moratorium, whether relating to the rate, type, manner, density, timing or sequencing of the Project and whether or not enacted by initiative or otherwise, except a moratorium imposed by the City to implement State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2, affecting parcel or subdivision maps, building permits, plot plans, special use

permits, conditional use permits, occupancy certificates or other entitlements to use or permits approved, issued or granted within the City, or portions of the City, shall apply to the Project to the extent such moratorium or other limitation is in conflict with the Development Plan. Notwithstanding the foregoing, should an ordinance, general plan or zoning amendment, measure, moratorium, policy, rule, regulation or other limitation enacted by the citizens of the City through the initiative process be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of the Development Plan, the Owner shall have no recourse against the City pursuant to this Agreement. The foregoing shall not be deemed to limit the Owner's right to appeal any such determination of such ordinance, general plan or zoning amendment, measure, policy, rule, regulation, moratorium or other limitation which purports to invalidate or prevail over all or any part of this Agreement.

**10 DEVELOPMENT OF THE PROJECT.**

**10.1 Annexation.** The City and the Owner shall cooperate and use their best reasonable efforts to cause the Property to be annexed into the City, subject only to terms and conditions set forth in the Development Plan and Exhibit "D" hereto, and the mitigation measures set forth in the EIR.

**10.2 Phasing and Timing of Development.** When or the order in which Project phases will be developed, or whether it will be developed at all, depend upon numerous factors which are not within the control of the Owner or City, such as market orientation and demand, interest rates, availability of funding, competition and other similar factors. Accordingly, to the extent permitted by the Development Plan and this Agreement, the Owner shall have the right to develop the Project in phases in such order and at such times as the Owner, in its sole discretion, deems appropriate within the exercise of its subjective business judgment; provided, however, that the City reserves the right to review, condition and approve each phase through discretionary and ministerial approvals consistent with this Agreement.

**10.3 Effect of Agreement on Land Use Regulations.** The rules, regulations and policies governing permitted uses of property, the density and intensity of use of property, the maximum height and size of proposed buildings and the design, improvement, construction and development standards and specifications applicable to development of property are those rules, regulations and policies in force as of the date of the Agreement, and those rules, regulations and official policies which may hereinafter be adopted by the City in accordance with Section 11.1 hereof or State or Federal laws, statutes, regulations, policies or orders as provided in Section 11.2.

**10.4 Application Processing.** In connection with any approval which the City is permitted or has the right to make under this Agreement relating to the Project, or otherwise under its rules, regulations and official policies, the City shall exercise the City's Discretion or take action in a manner which is as expeditious as reasonably possible.

**10.5 Administrative Changes and Amendments.** The parties acknowledge that further planning and development of the Project may demonstrate that refinements and changes are appropriate with respect to the details of the Project or interpretation of the Development Plan. If and when the parties find that minor changes or adjustments are necessary or appropriate to the Project or the Development Plan, they shall, unless otherwise required by law, effectuate such

changes or adjustments through administrative amendments approved by the Director of Planning, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by the Director of Planning as may be requested by the Owner. Minor changes or amendments shall be those which are consistent with the overall intent of the Development Plan and this Agreement and which do not materially alter the overall nature, scope, or design of the Project. Any such minor administrative changes or amendments shall not be deemed to be an amendment to this Agreement under Government Code Section 65868 and, unless otherwise required by law, no such administrative amendments shall require prior notice or hearing.

**10.6 Mello Roos Communities Facilities Districts; Other Assessment Districts or Financing Mechanisms.** Pursuant to Chapter 2.5 (commencing with Section 53312) Part 1, Division 2, Title 5 of the Government Code of the State of California, commonly known as the "Mello Roos Community Facilities Act of 1982," the Owner may, at its sole election, petition the City Council of the City or a joint powers agency in which the City is a member to establish a Community Facilities District ("CFD"), in accordance with the City's policies in existence on the Effective Date. Alternatively, or in addition thereto, the Owner may request that the City initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, or any and all other available public financing mechanisms, to provide public conduit financing for the construction of public infrastructure improvements on the Property ("**Alternative Financing Mechanisms**"). If so requested by the Owner, the City shall cooperate with the Owner (or, for matters beyond its control, shall use its best efforts) in taking all steps necessary to cause the CFD or Alternative Financing Mechanisms to issue bonds for such purposes. If the Property is included within a CFD or Alternative Funding Mechanism with other surrounding properties, the special taxes or special assessments burdening the various properties so included shall be apportioned on a fair share basis related to the benefit derived by each of such properties in accordance with City policies at the time such property is included.

**10.7 Public Services and Facilities.** The Development Plan requires an integrated roadway system, and other public facilities including parks, schools, storm drains, and water and sewer facilities. City will reasonably assist Owner in obtaining public facilities and services for the Project on a timely basis in keeping with the pace of development of the Property. To the extent that the Owner constructs, installs or provides financing for public facilities or other public infrastructure improvements that benefit lands outside of the Property, the City shall use best reasonable efforts to adopt such ordinances, mitigation fees, liens or assessments as are necessary to provide credits, reimbursements, or in kind funding to the Owner for the fair share of the benefits conferred upon such lands other than the Property by such public facilities or infrastructure improvements.

**10.8 Other Governmental or Quasi Governmental Permits.** The Owner shall apply for such other permits and approvals as may be required by other governmental or quasi governmental agencies having jurisdiction over the Project (such as public utilities or utility districts, or other federal or state agencies) to the extent required for the development of, or provision of services and facilities to the Project as set forth in the Development Plan. The City shall cooperate with and assist the Owner in obtaining such permits and approvals, and, where



necessary in making application for such approvals or permits. The Owner shall be solely responsible for all costs and shall be responsible for the processing of all such permits.

**10.9 Consistency Between This Agreement and Current Laws.** The City represents that as of the date of the execution of this Agreement, there are no rules, regulations, ordinances or official policies of the City that would interfere with the development of the Project according to the Development Plan, provided the Property is annexed into the City.

**10.10 Assessments, Fees, Mitigation and Exactions.** The City shall not impose any future assessment, fee, mitigation measure or exaction on the Project or any portion thereof except (a) those existing and proposed assessments, fees, mitigation measures and exactions included in Exhibit "C", (b) such other fees, assessments and exactions as may be adopted or imposed by the City in conformance with the requirements of Article XIII D of the California Constitution, (c) such other development impact fees or categories of development impact fees which are adopted on a City or County wide basis or as required as a condition to obtaining County funding, such as the County of Riverside Traffic Uniform Mitigation Fee; and (d) such other development impact fees or categories of development impact fees which are imposed on other development projects in the City and are adopted and levied based on a benefit assessment. Fees payable to City shall be at rates applicable on the date the fee is paid. City shall recognize and apply a dollar for dollar in lieu credit against any and all fees, for and equal to the cost of improvements and/or dedications made in the development of the Project by the Owner, or funded by any CFD or Alternative Funding Mechanism including the Property, and for which the fees would otherwise be imposed. City further agrees to use any fees paid with respect to development of the Project to fund improvements which benefit the Project, to the fullest reasonable extent available and applicable under the law.

**10.11 Reimbursement by the City.** Pursuant to Government Code Section 65865.2, the City hereby agrees that as future development fees, assessments and exactions are imposed on future projects which have benefited from the fees, assessments and exactions paid by the Owner, the City shall promptly reimburse the Owner to the extent that such fees, assessments and exactions paid by Owner benefited lands outside of the Property, but only to the extent that the City actually receives or collects such fees, assessments or exactions for a period of ten years from the date the fee was paid.

**11 RULES, REGULATIONS, REQUIREMENTS AND OFFICIAL POLICIES.**

**11.1 New Rules.** This Agreement shall not prevent the City from applying the following new rules, regulations, requirements and policies, if applied on a City-wide or area of benefit basis:

11.1.1 Processing fees and charges imposed by the City which cover only the estimated actual costs to the City of processing applications for development approvals, for monitoring compliance with any development approvals or for monitoring compliance with environmental impact mitigation measures.

11.1.2 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided that such changes in procedural regulations do not

have the effect of materially interfering with the benefits conferred by this Agreement.

- 11.1.3 Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code.
- 11.1.4 Regulations which are necessary to protect public health and safety, provided that to the maximum extent possible such regulations shall be designed, construed and applied in a manner to preserve the benefits of this Agreement.
- 11.1.5 New or increased fees or categories of fees imposed as a condition of development, for the purpose of defraying all or a portion of the cost of public facilities (as defined in Government Code Sections 66000, *et seq.*) related to development projects.
- 11.1.6 Regulations which are in conflict with the Development Plan or this Agreement if such regulations have been consented to in writing by the Owner.

**11.2 State and Federal Laws.** In the event that State or Federal laws or regulations enacted after this Agreement is executed prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

**12 AMENDMENT OR CANCELLATION OF AGREEMENT.** This Agreement may be amended or canceled in whole or in part only by mutual consent of the parties in the manner provided for in Government Code Section 65868.

**13 ENFORCEMENT.** Unless amended or canceled as provided in Section 12 above, or modified or suspended pursuant to Government Code Section 65869.5, this Agreement is enforceable by either party hereto notwithstanding any change in any applicable general or specific plan, zoning, or subdivision regulation or standard adopted by the City (or by the voters of the City unless found by a court of competent and final jurisdiction to prevail over this Agreement) which alters or amends the Development Plan or is inconsistent with this Agreement.

**14 PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT.** The City shall review this Agreement at least once every year from the date this Agreement is executed. During each periodic review, each party is required to demonstrate good faith compliance with the terms of this Agreement. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. If the City Manager finds that the Owner is not in good faith compliance with this Agreement, the Owner shall have the right to appeal such finding to the City Council. The City Council on appeal shall not hold a public hearing to review a finding that the Owner is not in good faith compliance with this Agreement unless so requested by the Owner in writing at the time of the submission of such appeal. The City shall notify the Owner in writing of the date

for review at least thirty (30) days prior thereto. The Owner shall pay or reimburse the City for the City's reasonable costs incurred in connection with such periodic reviews.

**15 EVENTS OF DEFAULT.**

**15.1 Default by the Owner.** If the City Council determines on the basis of substantial evidence upon appeal of the City Manager's decision pursuant to Section 14 hereof that the Owner has not complied in good faith with the terms and conditions of this Agreement, it shall, by written notice to the Owner, specify the manner in which the Owner has failed to so comply and state the steps the Owner must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the City specifying the manner in which the Owner has failed to so comply, the Owner does not commence action reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the Owner shall be deemed to be in default under the terms of this Agreement and the City may, if such failure persists after thirty (30) days' prior written notice, exercise its rights and remedies pursuant to Section 15.3.

**15.2 Default by the City.** If the Owner determines on the basis of substantial evidence that the City has not complied in good faith with the terms and conditions of this Agreement, the Owner shall, by written notice to the City, specify the manner in which the City has failed to so comply and state the steps the City must take to bring itself into compliance. If, within sixty (60) days after the effective date of notice from the Owner specifying the manner in which the City has failed to so comply, the City does not commence steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the City shall be deemed to be in default under the terms of this Agreement and if such failure persists after thirty (30) days prior written notice, the Owner may terminate this Agreement or seek specific performance as set forth in Section 15.3.

**15.3 Specific Performance Remedy.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition following development of all or any portion of the Property. After such development, the Owner may be foreclosed from other choices it may have had to utilize the Property. The Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing substantially more time and resources in implementing the Project in reliance upon the terms of this Agreement. It would be difficult or impossible to accurately determine the sum of money which would adequately compensate the Owner for such efforts. For the above reasons, the City and the Owner agree that damages alone would not be an adequate remedy if the City fails to carry out its obligations under this Agreement. Similarly, if the Owner breaches certain of its obligations hereunder, monetary damages may not constitute an adequate remedy for the City. Therefore, the parties agree that specific performance of this Agreement is an appropriate remedy if either party defaults and fails to perform its non-monetary obligations under this Agreement. Similarly, if the Owner breaches certain of its obligations hereunder, monetary damages may not constitute an adequate remedy for the City. Therefore, the parties agree that specific performance of this Agreement is an appropriate remedy if either party defaults and fails to perform its non-monetary obligations under this Agreement. Notwithstanding the foregoing, nothing in this Agreement is intended to prevent either party from seeking recovery of appropriate damages in the event that the terms of this Agreement are breached. The City and the Owner acknowledge that if the Owner is in

default of its obligations under this Agreement, the City shall have the right to refuse to issue any permits or other approvals to which the Owner would not otherwise have been entitled but for this Agreement.

**16 INSTITUTION OF LEGAL ACTION.** In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court of the State of California for the County of Riverside. The parties hereto waive any right to trial by jury.

**17 WAIVERS AND DELAYS.**

**17.1 Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, and failure by a party to exercise its rights upon a default by the other party hereto, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future.

**17.2 Third Parties.** Nonperformance shall not be excused because of a failure of a third person except as provided in Section 17.3 below.

**17.3 Force Majeure.** Neither party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes, other labor difficulties, government regulations (other than actions by the City in violation of or not consistent with the terms and provisions of this Agreement) or other causes beyond either of the parties' control. If any such event shall occur, the term of this Agreement and the time for performance by the Owner of any of its obligations hereunder or pursuant to the Development Plan shall be extended by the period of time that such events prevent or delay development of the Project.

**18 NOTICES.** All notices required or provided for under this Agreement shall be in writing and delivered in person and deposited in the United States mail, postage prepaid and addressed as follows:

- To the City:                   The City of Beaumont  
550 East Sixth Street  
Beaumont, California 92223  
Attn: City Manager
  
- With a copy to:               Mr. Joseph Aklufi, Esq.  
Aklufi & Wysocki  
3403 Tenth Street, Suite 610  
Riverside, CA 92501
  
- To the Owner:                 Sunny-Cal Egg & Poultry, Inc.  
37251 Cherry Valley Boulevard  
Cherry Valley, CA 92223  
Attn: Kathi L. Berman

With a copy to: Best Best & Krieger, LLP  
3750 University Avenue, Suite 500  
Riverside, CA 92502  
Attn: Michael Grant, Esq.

Any party may change its address stated herein by giving notice, in writing, to the other parties.

**19 ATTORNEYS' FEES.** If legal action is brought by either party against the other for breach of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

**20 TRANSFERS AND ASSIGNMENTS.**

**20.1 Right to Assign.** The Owner shall have the right to sell, assign or transfer this Agreement and any and all of its rights, duties and obligations hereunder, in whole or in part, to any person or entity at any time during the term of this Agreement; provided, however, in no event shall the rights, duties and obligations conferred upon the Owner pursuant to this Agreement be at any time so transferred or assigned except through a transfer of an interest of the Owner in the Property or a portion thereof. An assignment shall not be effective without the City's prior approval, which shall not be unreasonably withheld, to ensure that the assignment will not prevent the orderly development of the Project consistent with the Agreement or Development Plan. In the event of any such assignment, the transferee shall thereafter be solely liable for the performance of all obligations of the Owner relating to the portion of the Property, or interest therein, so transferred. Such transferee or the Owner shall notify the City, in advance, and in writing of their intent to transfer such obligations.

**20.2 Release Upon Transfer.** Upon the sale, transfer or assignment of the Owner's rights and interests under this Agreement as permitted pursuant to Section 20.1, the Owner shall be released from its obligations under this Agreement and all of the Owner's obligations pursuant to the Development Plan, or other agreements assumed by transferee with respect to the Property, or portion thereof so transferred, provided that (a) the Owner is not then in default under the Agreement, (b) the Owner or transferee has provided the City notice of such transfer and (c) the transferee executes and delivers to the City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of the Owner under this Agreement with respect to the Property, or a portion thereof, so transferred. Regardless of whether such notice is given or such documents are executed by the transferee, no such sale, transfer or assignment shall relieve the City from any of its obligations hereunder.

**21 COOPERATION IN THE EVENT OF LEGAL CHALLENGE.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of this Agreement or any portion thereof the parties hereby agree to cooperate in defending such action, subject to the provisions of Section 8. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending.

**22 EMINENT DOMAIN.** No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

**23 AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the Owner warrant and represent that they have the authority to execute this Agreement on behalf of the Owner and to bind the Owner to the performance of its obligations hereunder.

**24 ESTOPPEL CERTIFICATES.** The City shall at any time, upon not less than thirty (30) days' prior written notice from the Owner, execute, acknowledge and deliver to the Owner a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); (ii) certifying the amounts of the fees, assessments and exactions that have been received from the Owner and what amounts, if any, remain outstanding; and (iii) acknowledging that there are not, to the City's knowledge, any defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser, lender or joint venture partner.

**25 RECORDATION.** This Agreement and any amendment or cancellation hereto shall be recorded in the Official Records of the County of Riverside, by the City Clerk within the period required by Section 65868.5 of the Government Code.

**26 PROTECTION OF MORTGAGE HOLDERS.** The parties hereto agree that this Agreement shall not prevent or limit the Owner, in any manner, at the Owner's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. The City acknowledges that the lenders providing such financing may require certain interpretations, estoppel certificates and modifications to this Agreement and agrees upon request, from time to time, to meet with the Owner and representatives of such lenders to negotiate in good faith any such request for interpretations, estoppel certificates or modifications. The City will not unreasonably withhold its consent to any such requested interpretation, estoppel certificate or modification provided the same is consistent with the intent and purposes of this Agreement. The holder(s) of any mortgage, deed of trust or other security instrument encumbering the Property (each, a "Mortgagee") shall have the following rights and privileges:

- 26.1.1 Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.
- 26.1.2 Any Mortgagee which has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by the Owner in the performance of the Owner's obligations under this Agreement.
- 26.1.3 If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to the Owner under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Owner. If the cure period for a default by the Owner set forth in Section 15.1 above has expired and such default has not been cured, the Mortgagee shall be provided with an additional thirty (30) day period after the expiration of such cure period in which to commence all steps reasonably necessary to bring the Owner in compliance as required under this Agreement and

thereafter diligently pursue such steps to completion. During such cure period, and if the default is ultimately cured, the City shall not terminate this Agreement.

26.1.4 Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of the Owner's obligations or other affirmative covenants of the Owner hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by the Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of this Agreement.

27 **SEVERABILITY OF TERMS.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.

28 **SUBSEQUENT AMENDMENT TO AUTHORIZING STATUTE.** This Agreement has been entered into in reliance upon the provisions of the Development Agreement Law in effect as of the Agreement Date. Accordingly, subject to Section 11.2 above, to the extent a subsequent amendment to the Development Agreement Law would affect the provisions of this Agreement, such amendment shall not be applicable to the Agreement unless necessary for this Agreement to be enforceable or unless this Agreement is modified pursuant to the provisions set forth in the Agreement and Government Code Section 65868 in effect on the Agreement Date.

29 **INTERPRETATION AND GOVERNING LAW.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. Unless otherwise provided, any ambiguity concerning the content or application of the Development Agreement, arising as a result of any apparent conflict between (a) the conditions, terms and requirements to be applied by City under the Development Agreement and (b) the conditions, terms and requirements previously imposed on the Project by the County of Riverside, shall be resolved by the City's Planning Director, subject to the appeal procedure set forth in the Development Code for appeals of staff determinations.

30 **SECTION HEADINGS.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

31 **INCORPORATION OF RECITALS AND EXHIBITS.** Recitals A through I and attached Exhibits "A" through "E" are hereby incorporated herein by this reference as though set forth in full.

**32 RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.**

**32.1 Gender.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

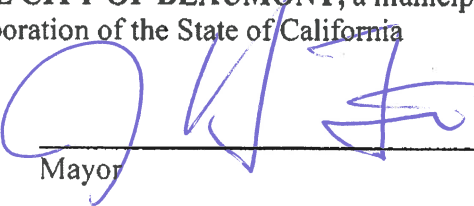
**32.2 Time of Essence.** Time is of the essence regarding each provision of this Agreement in which time is an element.

**32.3 Cooperation.** Each party covenants to take such reasonable actions and execute all documents that may be necessary to achieve the purposes and objectives of this Agreement.

The parties have executed this Development Agreement on the date and year first written above.

"City"

**THE CITY OF BEAUMONT**, a municipal corporation of the State of California

By:  8-29-12  
Mayor

"Owner"

**SUNNY-CAL EGG & POULTRY, INC.**, a California corporation

By: \_\_\_\_\_

By: 

[SIGNATURES CONTINUED ON FOLLOWING PAGE]



**32 RULES OF CONSTRUCTION AND MISCELLANEOUS TERMS.**

**32.1 Gender.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory, "may" is permissive.

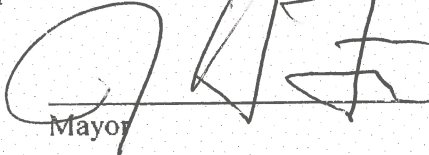
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The parties have executed this Development Agreement on the date and year first written above.

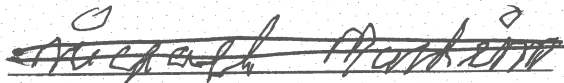
"City"

**THE CITY OF BEAUMONT**, a municipal corporation of the State of California

By:  8-29-12  
Mayor

"Owner"

**SUNNY-CAL EGG & POULTRY, INC.,** a California corporation

By:  ✓

By: \_\_\_\_\_

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

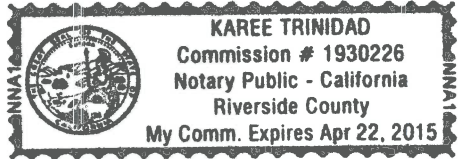
State of California

County of Riverside

On 8/29/2012 before me, Karee Trinidad, Notary Public

personally appeared Jeff Fox

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: Karee Trinidad

Place Notary Seal Above OPTIONAL

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

Description of Attached Document

Title or Type of Document:

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

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



Signer Is Representing:

Signer's Name:

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



Signer Is Representing:

MANHEIM, MANHEIM & BERMAN, a  
California general partnership

By: <sup>6</sup> ~~Michael Manheim~~ <sup>8</sup>

By: \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE MAYOR AND THE CITY COUNCIL

By: Shucky Ramsey (Deputy)  
City Clerk

MANHEIM, MANHEIM & BERMAN, a  
California general partnership

By: \_\_\_\_\_

By: Hani Berman

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE MAYOR AND THE CITY COUNCIL

By: Shirley Damm (Deputy)  
City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Riverside

On 8/29/2012 before me, Karee Trinidad, Notary Public

personally appeared Shelby Hanvey

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: Karee Trinidad

Place Notary Seal Above OPTIONAL

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

Description of Attached Document

Title or Type of Document:

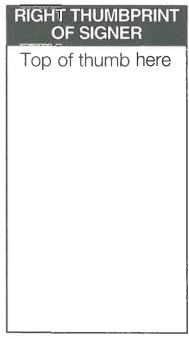
Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

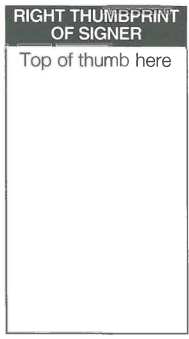
- Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, Other



Signer Is Representing:

Signer's Name:

- Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, Other



Signer Is Representing:

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

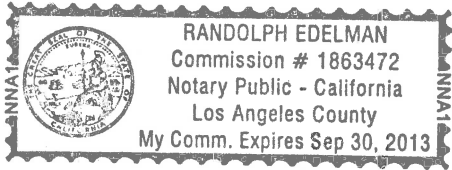
On Aug. 15, 2012 before me, RANDOLPH EDELMAN (here insert name and title of the officer), personally appeared NATHY DEZMAN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed 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 *Randolph Edelman*

(Seal)



STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

On AUG 15, 2012 before me, RANDOLPH EDELMAN <sup>NOTARY PUBLIC</sup> (here insert name and title of the officer), personally appeared KATHY BERMAN, 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 *Randolph Edelman*

(Seal)

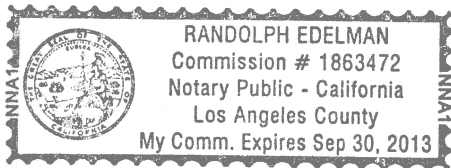






EXHIBIT A-2  
LEGAL DESCRIPTION OF THE PROPERTY

Exhibit A-2-1

EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

PARCEL A:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE QUARTER SECTION LINE RUNNING EAST AND WEST THROUGH SECTIONS 29 AND 30 OF SAID TOWNSHIP AND RANGE, 23 CHAINS AND 90 LINKS EAST OF THE QUARTER SECTION CORNER OF SAID SECTIONS 29 AND 30;

THENCE EAST ON SAID QUARTER SECTION LINE, 10 CHAINS;

THENCE SOUTH 0° 8' EAST, 10 CHAINS; THENCE WEST 10 CHAINS;

THENCE NORTH 0° 8' WEST 10 CHAINS TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM A RIGHT OF WAY OVER CHERRY VALLEY BOULEVARD;

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE COUNTY OF RIVERSIDE BY DEEDS RECORDED MARCH 8, 1974 AS INSTRUMENT NO. 27055 AND 27056 RESPECTIVELY.

PARCEL B:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE LAND DESCRIBED IN THE DEED OF J. VINCENT HANNON, RECORDED JANUARY 28 1909 IN BOOK 276, PAGE 324 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

THENCE SOUTHERLY, 313.50 FEET ON THE WEST LINE OF SAID LAND;

THENCE WESTERLY, 395.50 FEET; PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE NORTHERLY, 313.50 FEET, PARALLEL WITH SAID WEST LINE TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE EASTERLY 395.50 FEET ON SAID NORTH LINE TO THE POINT OF BEGINNING.

EXCEPT THE WEST 150.00 FEET OF THE NORTH 145.50 FEET THEREOF;

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY INSTRUMENT RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17483 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL C:

THE WESTERLY 150.00 FEET OF THE NORTHERLY 145.50 FEET OF THAT CERTAIN PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO J. VINCENT HANNON BY JEREMIAH C. HANNON, BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;

THENCE SOUTHERLY ON THE WESTERLY LINE OF SAID TRACT OF LAND SO CONVEYED TO HANNON, 313 FEET, 6 INCHES;

THENCE WESTERLY, PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395 FEET, 6 INCHES;

THENCE NORTHERLY, PARALLEL WITH THE WESTERLY LINE OF SAID TRACT SO CONVEYED TO HANNON, 313 FEET, 6 INCHES, TO THE NORTHERLY LINE OF THE SOUTHWEST QUARTER;

THENCE EASTERLY ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER, 395 FEET, 6 INCHES, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17484.

**PARCEL D:**

THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, A DISTANCE OF 395.50 FEET WEST OF THE NORTHWEST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN DEED TO J. VINCENT HANNON, RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS,

THENCE CONTINUING WEST, A DISTANCE OF 215.00 FEET ON SAID NORTH LINE TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN DEED TO SEBASTIANO CONSALYO, ET UX, RECORDED MARCH 15, 1968 AS INSTRUMENT NO. 23714, OFFICIAL RECORDS;

THENCE SOUTH, A DISTANCE OF 313.58 FEET ON THE EAST LINE OF SAID PARCEL TO THE SOUTHEAST CORNER THEREOF;

THENCE EAST, A DISTANCE OF 215.00 FEET, PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE NORTH, A DISTANCE OF 313.58 FEET, PARALLEL WITH THE WEST LINE OF SAID HANNON PARCEL, HEREIN ABOVE REFERRED TO, TO THE POINT OF BEGINNING;

EXCEPT THEREFROM THAT PORTION LYING NORTHERLY OF THE SOUTHERLY LINE OF CHERRY VALLEY BOULEVARD AS DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE, RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17482 OF OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE.

**PARCEL E:**

THE WESTERLY 208.71 FEET OF THE NORTHERLY 1,073.55 FEET OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1975 AS INSTRUMENT NO. 146636

**PARCEL F-1:**

THAT PORTION OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF SECTION 29, SAID POINT BEING ALSO A POINT IN THE CENTER OF WOODLAND AVENUE;

THENCE NORTH 89° 33' 30" EAST ON THE CENTER LINE OF WOODLAND AVENUE, 786.12 FEET, MORE OR LESS, TO A POINT DISTANT SOUTH 89° 33' 30" WEST, 791 FEET, FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J. VINCENT HANNON AND JEREMIAH C. HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;

THENCE SOUTH 0° 28' 50" WEST AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL CONVEYED TO HANNON, 1975 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO MELVIN F. KLAGUOS AND PAULINE M. KLAGUOS, HUSBAND AND WIFE BY DEED RECORDED AUGUST 4, 1959 AS INSTRUMENT NO. 67500;

THENCE WESTERLY ON THE NORTHERLY LINE OF SAID PARCEL CONVEYED TO KLAGUOS TO A POINT IN THE WEST LINE OF SAID SECTION 29;

THENCE NORTH 0° 07' 40" EAST ON THE WEST LINE OF SAID SECTION 29, TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE WESTERLY 208.71 FEET OF THE NORTHERLY 1,073.55 FEET;

ALSO EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

**PARCEL F-2:**

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J. VINCENT HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS; SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE PARCEL CONVEYED TO J. VINCENT HANNON 313.5 FEET TO THE TRUE POINT OF BEGINNING;

THENCE EASTERLY ON SAID SOUTHERLY LINE OF THE PARCEL CONVEYED TO GEORGEOS GEORGE AND ELIZABETH B. GEORGE, BY DEED FILED FOR RECORD AUGUST 21, 1952 AS INSTRUMENT NO. 35786, IN BOOK 1394 PAGE 352 OFFICIAL RECORDS, 11 FEET;

THENCE SOUTHERLY 1,221.5 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO FRANK J. FABIAN AND MARY R. FABIAN BY DEED RECORDED NOVEMBER 4, 1939 IN BOOK 434, PAGE 587 OF OFFICIAL RECORDS, RIVERSIDE COUNTY RECORDS, 20.5 FEET OF THE SOUTHWEST CORNER OF SAID PARCEL SO CONVEYED TO FRANK J. FABIAN AND WIFE;

THENCE WEST ON SAID SOUTH LINE 20.5 FEET;

THENCE NORTH 1,221.5 FEET TO THE POINT OF BEGINNING.

**PARCEL F-3:**

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL CONVEYED TO J. VINCENT HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS; SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE PARCEL CONVEYED TO J. VINCENT HANNON 313.4 FEET;

THENCE NORTH 89° 33' 30" EAST, 30 FEET;

THENCE NORTH 0° 28' 50" EAST, 313.4 FEET, TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 89° 33' 30" WEST, 30 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE NORTH 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

**PARCEL G:**

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 395.50 FEET WESTERLY FROM THE NORTHWEST CORNER OF THAT CERTAIN TRACT, DESCRIBED BY DEED TO J. VINCENT HANNON BY JEREMIAH C. HANNON, RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE WESTERLY ON THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395.50 FEET;

THENCE SOUTHERLY, PARALLEL WITH THE WESTERLY LINE OF THE TRACT OF LAND SO DESCRIBED TO J. VINCENT HANNON, 313.50 FEET;

THENCE EASTERLY, PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395.50 FEET;

THENCE NORTHERLY, PARALLEL WITH THE WESTERLY LINE OF TRACT OF LAND DESCRIBED TO J. VINCENT HANNON, 313.50 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION DESCRIBED BY DEED TO GEORGEUS GEORGE, ET UX RECORDED AUGUST 21, 1952 IN BOOK 1394, PAGE 352 AS INSTRUMENT NO. 35786 OF OFFICIAL RECORDS; SAID WESTERLY PORTION THEREOF BEING DESCRIBED IN SAID DEED TO GEORGEUS GEORGE AS FOLLOWS:

THE PORTION OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, AS SHOWN BY UNITED STATES GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID SOUTH HALF OF SECTION 29, DISTANT SOUTH 89° 33' 30" WEST, 791.00 FEET FROM THE NORTHWEST CORNER OF THE LAND DESCRIBED BY DEED TO J. VINCENT HANNON BY JEREMIAH C. HANNON RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 89° 33' 30" EAST, 786.12 FEET, FROM THE NORTHWEST CORNER OF SAID <SOUTH HALF OF SECTION 29;

THENCE SOUTH 0° 28' 50" WEST, AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL DESCRIBED TO J. VINCENT HANNON 313.50 FEET;

THENCE NORTH 89° 33' 30" EAST AND PARALLEL WITH SAID NORTH LINE OF THE SOUTH HALF OF SECTION 29, 30.00 FEET;

THENCE NORTH 0° 28' 50" EAST, 313.50 FEET TO SAID NORTH LINE;

THENCE SOUTH 89° 33' 30" WEST, 30.00 FEET TO THE POINT OF BEGINNING;

ALSO EXCEPT THE EASTERLY 215.00 FEET THEREOF;

ALSO EXCEPT THAT PORTION IN CHERRY VALLEY BOULEVARD FORMERLY KNOWN AS WOODLAND ROAD.

ALSO EXCEPT THAT PORTION DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE RECORDED JANUARY 20, 1975 AS INSTRUMENT NO. 6757 OF OFFICIAL RECORDS.

**PARCEL H:**

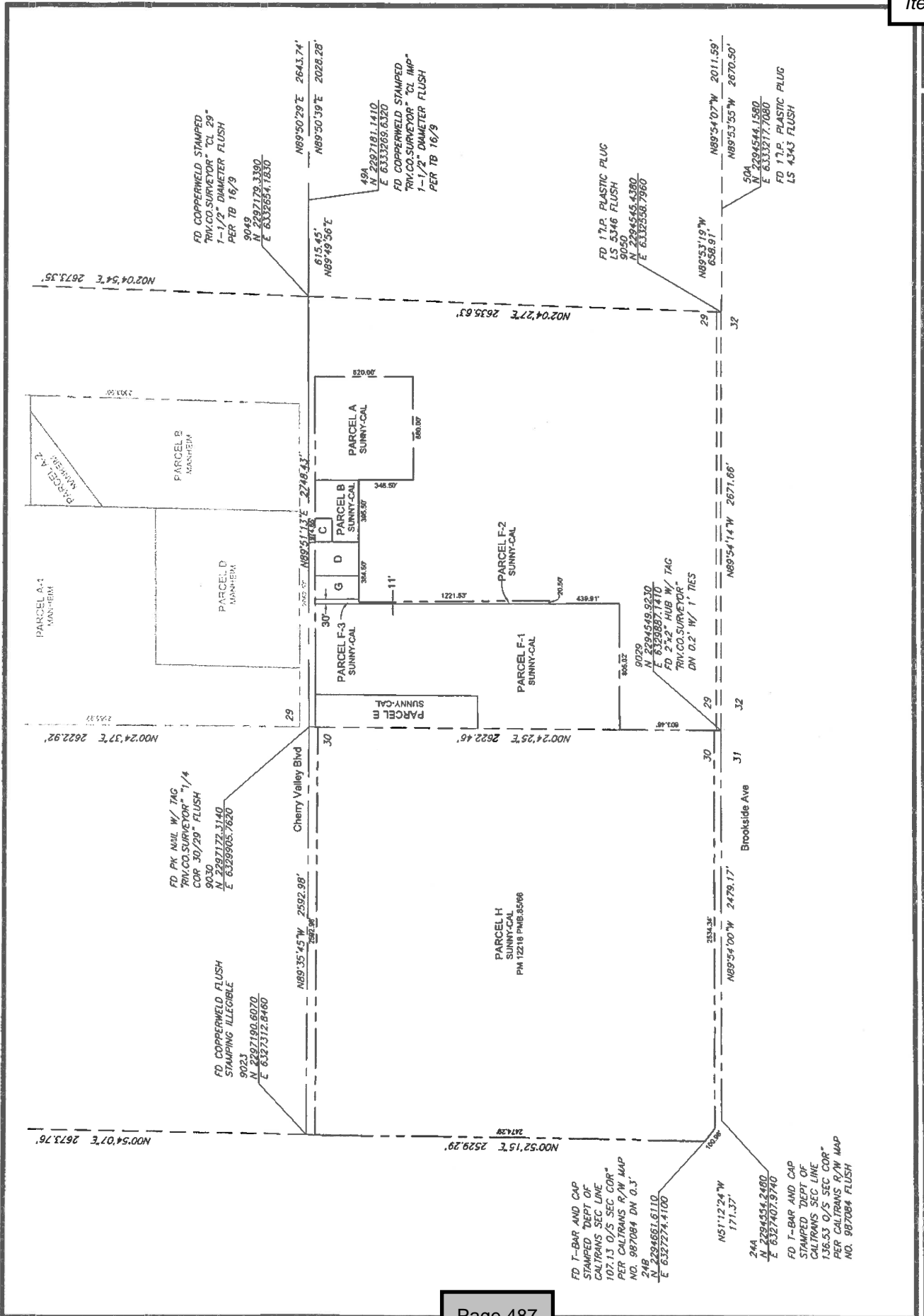
PARCELS 1 TO 7 INCLUSIVE, AND LOTS A TO K, INCLUSIVE OF PARCEL MAP NO. 12218, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN PARCEL MAP BOOK 85, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.



Exhibit B

Ownership Map for ( Order No. 22035688-K26 )

22490 CACTUS ME. SUITE 300, MERCED VALLEY, CA 92253  
Plotted 3/25/2005 12:58 PM By: c\_burder DVG PLS194400 Jng urp0031-amerstg.com



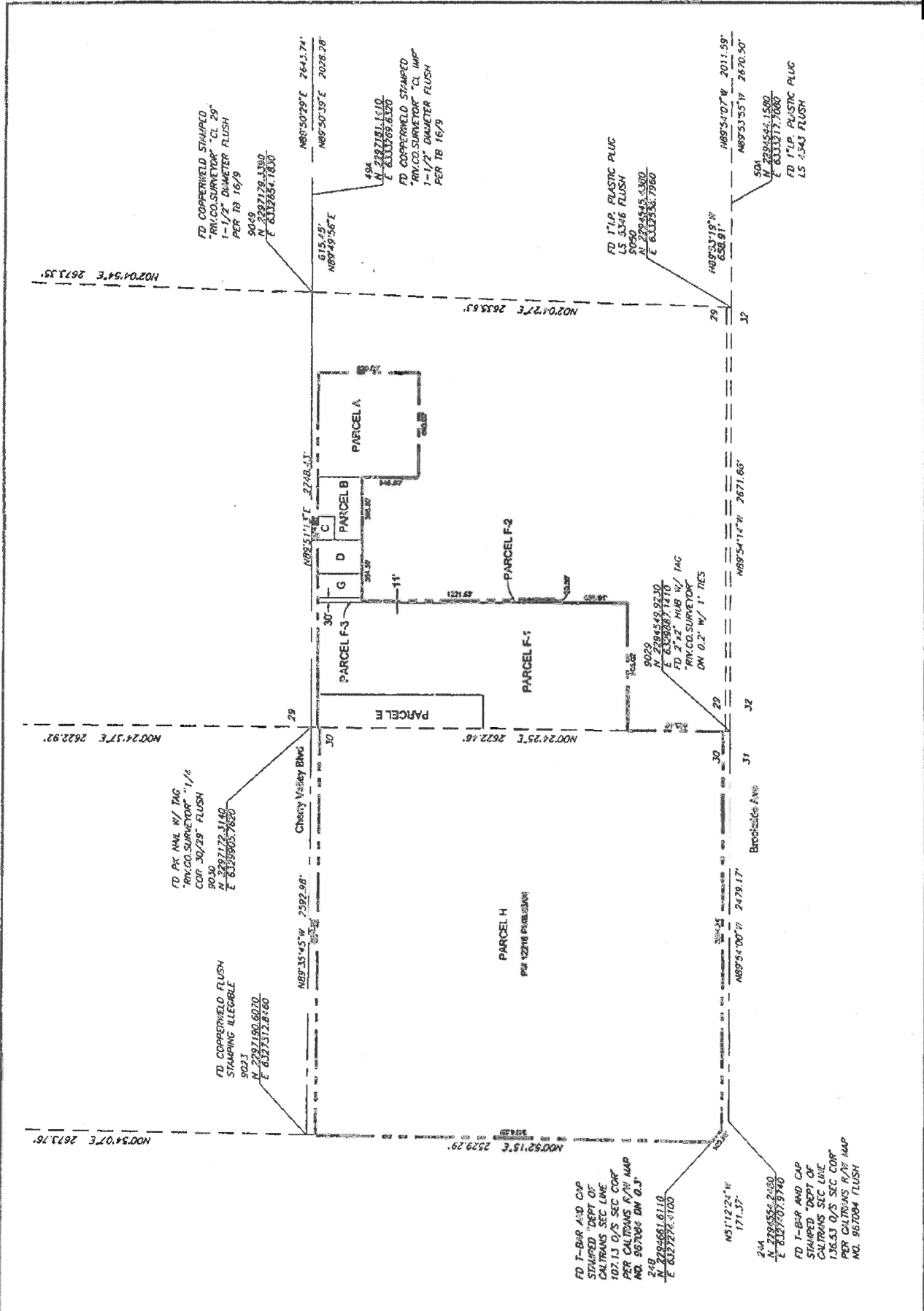


Exhibit A

Specific Plan 05-01 (Sunny-Cal Specific Plan)

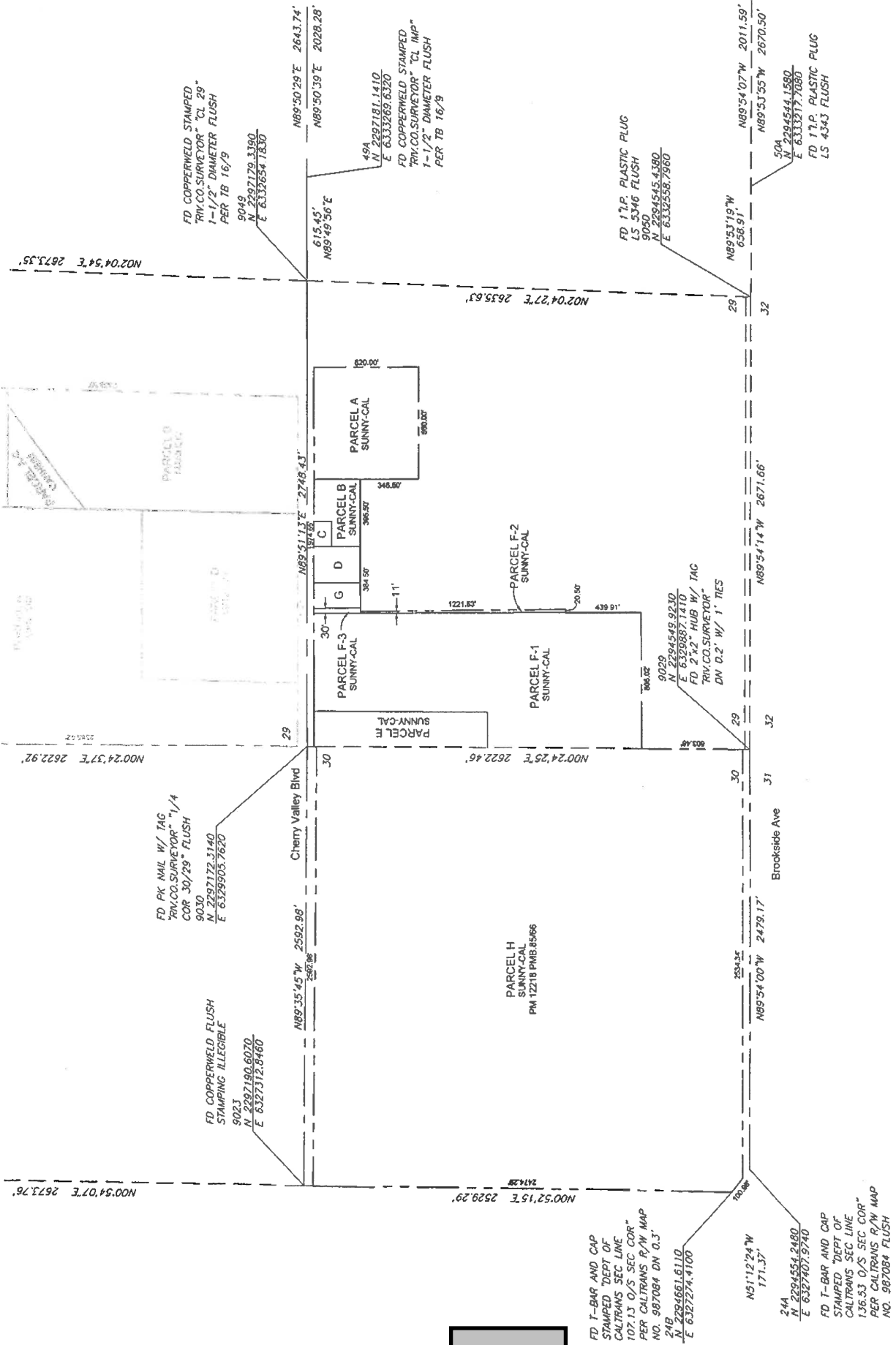
**Stantec**  
 2255 OCTAVIUS BLVD, SUITE 200, LOS ANGELES, CA 90007  
 213.691.1100

Plotted: Sep 10, 2007 - 3:57pm By: caroline DWG: P:\31944\00\bug\spk0071-corrme-sfp.dwg



**EXHIBIT B  
MAP OF THE PROPERTY**

Exhibit B-2



**EXHIBIT C**

**LIST OF PERMITS AND APPROVALS**

Actions and entitlements to implement the Specific Plan include:

- Amendment of the Sphere of influence and Annexation to the City of Beaumont
- Annexation to Beaumont-Cherry Valley Water District
- Detachment from the Riverside County Waste Management Resources District
- City of Beaumont General Plan Amendment
- City of Beaumont Sunny-Cal Specific Plan
- Rezoning
- Parcel Map
- Tentative Tract Maps
- Environmental Impact Report, Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program
- Grading and Improvement Plans
- Final Map Review, Approval, and Recordation
- Discretionary Approvals

Exhibit C

**EXHIBIT "D"**  
**SUNNY-CAL  
SPECIFIC PLAN  
CONDITIONS OF APPROVAL**

GENERAL CONDITIONS

1. The following conditions of approval are for the **SUNNY-CAL SPECIFIC PLAN** and consist of **Conditions 1 through 34 inclusive**.
2. The Sunny-Cal Specific Plan shall consist of the following, components as approved through City of Beaumont City Council Resolution No. 2007-46.
  - a. Approved Sunny-Cal Specific Plan Text (final document incorporating all changes made through public hearing process).
  - b. Final Environmental Impact Report, Findings of Fact and Mitigation Monitoring Program
  - c. Specific Plan Conditions of Approval

All mitigation measures as contained in the Final EIR shall be conditions of approval for the project. Subsequent to the completion of the public hearing process, the Applicant shall finalize the Specific Plan to incorporate all changes and modifications, and provide the Director with five (5) bound and one reproducible copies of the Specific Plan text and exhibits, and the Final Environmental Impact Report. Twenty-five (25) compact disks with each of the aforementioned documents shall also be submitted.

3. If any of the following conditions of approval differ from the specific plan text or exhibits, the conditions enumerated herein shall take precedence.
4. Mitigation measures for impacts to the Beaumont Unified School District and any other districts which may ultimately serve the project shall be identified prior to the recordation of implementing tentative subdivision maps in accordance with the State laws and City Council policies in effect at the time of application submittal.
5. The development standards contained in the approved Specific Plan shall become the prevailing land use regulations for the areas contained within the Sunny-Cal Specific Plan. These regulations will have full force of the Zoning Ordinance of the Beaumont Municipal Code through application of the SPA (Specific Plan Area) Zone. Where conflicts exist between approved Specific Plan and the Beaumont Zoning Ordinance, the Specific Plan regulation shall prevail. Subject to the vesting effect of the Development Agreement, where

**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 2**

conflicts existing between the Specific Plan and the provisions of the Municipal Code, other than the Zoning Ordinance, the provisions of the Municipal Code shall prevail.

6. Development applications for development portions of the Specific Plan area which incorporate common areas shall be accompanied by design plans for the common area. Such plans shall specify the location and extent of landscaping and irrigation systems. Additionally, all circulation components (vehicular, pedestrian and/or equestrian) shall be indicated, and the approximate locations of structures or groups of structures shall be indicated.
7. A parcel map filed for the purposes of phasing or financing shall not be considered a development application for the purpose of these conditions.
8. The Planning Director may require special studies or reports in connection with implementing development applications for each planning area, if and to the extent reasonably necessary for appropriate review of a development application or as required under applicable law. Such reports may include, where appropriate:

Study/Report

- a. Preliminary Soils and Geotechnical Report
  - b. Erosion and Sedimentation Control Plan
  - c. Streetscape, parkway and median landscape plan
  - d. Fencing and wall plan
  - e. Traffic and circulation assessment to document adequacy/function of proposed improvements
  - f. Fuel modification plan
  - g. Acoustical Study
  - h. Cultural Resource Assessment
9. Common areas identified in the Specific Plan (i.e., parks, entry features, parkways, medians and open space features) shall be owned and maintained either through a Homeowners' Association or through the City's Community Facilities District (CFD), as approved by the Director of Planing, to ensure the long-term maintenance of such improvements.

**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 3**

10. Prior to issuance of a building permit for the construction of any use contemplated by this approval, any developer shall first obtain clearance from the Planning Department that all pertinent conditions of approval of the specific plan have been satisfied for the subject phase of development.
11. If and to the extent required by applicable law, an environmental assessment shall be conducted for each subsequent development applications including, but not limited to, parcel map, tract, change of zone, plot plan, use permit, variance or specific plan amendment. Said environmental assessment shall, to the greatest extent feasible under the California Environmental Quality Act (CEQA), utilize the evaluation of impacts addressed in the EIR prepared for the Sunny-Cal Specific Plan. The Sunny-Cal Specific Plan EIR shall be used as a Program EIR in evaluating subsequent discretionary entitlement actions.
12. The Sunny-Cal Specific Plan shall remain unmodified (except for modifications requested by the Applicant and approved by the City) for 25 years. Should the entire project not be built out in that period of time, the City shall be entitled to adopt specific plan amendments for any portion of the project which has not been constructed within 25 years.
13. The Applicants (or their successors-in-interest, as the case may be) shall defend, indemnify, and hold harmless the City of Beaumont, its agents, consultants, officers, and employees from any third-party claim, action or proceeding against the City of Beaumont or this agents, consultants, officers, or employees to attach, set aside, void or annul an approval of the City of Beaumont, its advisory agencies, appeal boards or legislative body concerning the Sunny-Cal Specific Plan. The City of Beaumont will promptly notify the Applicants or their successors of any such claim, action, or proceeding against the City of Beaumont and will cooperate fully in the defense.
14. The Applicants shall defend, indemnify and hold harmless the City of Beaumont and its employees, agents, consultants, officers and contractors from any third-party claim, action or proceeding related to the environmental documentation pursuant to the California Environmental Quality Act associated with the Sunny-Cal Specific Plan.
15. In accordance with Section 711.4 of the California Fish and Game Code, the Applicants/subdividers are obligated to pay a filing fee to defray cost incurred by the Department of Fish and Game in managing and protecting fish and wildlife trust resources. The Applicants/subdividers are also obligated to pay a documentary handling fee to defray costs incurred by the City of Beaumont in implementing the Department of Fish and Game filing fee program. These fees shall be paid to the County Clerk if the County of Riverside at the time of filing a notice of determination pursuant to Section 21152 of the Public Resources Code. Applicants shall not be entitled to exercise their rights under the Specific Plan or the Development Agreement until such fees have been paid. The amount of the fees

**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 4**

shall be in accordance with legally adopted fees at the time of the filing of the notice of determination.

LAND USE CONDITIONS

- 16. The Specific Plan may be developed up to a maximum yield of 597 dwelling units. Densities for each Planning Area shown the Specific Plan shall be determined through the appropriate development application, but not limited to, the following:
  - a. Adequate availability of services;
  - b. Adequate access and circulation;
  - c. Sensitivity to land forms;
  - d. Innovation in housing types, design, conservation, or opportunities; and
  - e. Sensitivity to neighborhood design through appropriate lot and street layouts.

Applicants shall, however, be permitted, through the density transfer provisions contained in the Specific Plan, to achieve the overall maximum densities for each Planning Area specified in the Specific Plan, as modified by these conditions of approval.

- 17. A multi-purpose trail, subject to the design approval of the Planning Director, shall be provided along the entire Brookside Avenue frontage.
- 18. Lots created pursuant to this specific plan shall be in conformance with the development standards of the SPA zone as established by this Specific Plan and the corresponding Planning Area standards for each Planning Area. The minimum lot size in the project shall be 7,000 square feet.
- 19. All grading within the specific plan shall be performed in accordance with the following conditions and development criteria:
  - a. All grading shall take place in accordance with the City's adopted policies in effect at the time permits are issued and the grading criteria contained in the Specific Plan.
  - b. Where cut and fill slopes are created in excess of three (3) feet in height, detailed landscaping and irrigation plans shall be submitted to the City prior to approval of grading plans. The plans will be reviewed for type and density of ground cover, seed mix, plant materials, staking details, and sizes and irrigation systems.
- 20. Applicants shall incorporate the following defensible space concepts into the design of projects which shall be included within all development plans and reviewed and approved by the City Police Department prior to approval of implementing projects:

**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 5**

- a. Circulation for pedestrians, vehicles and police patrols.
  - b. Lighting of streets, walkways, bikeways, and commercial and industrial areas.
  - c. Visibility of doors and windows from the street and between buildings.
  - d. Fencing heights and materials.
21. In the event that, during or following grading of the project site or portions thereof, economic or other conditions prevent the Developer(s) from continuing with the project within a reasonable amount of time, as determined by the City, the City shall so notify the Developer(s) who shall contact the City Planning Department to identify necessary activities that the Developer must implement to protect public safety and minimize/prevent environmental degradation, particularly due to wind and water erosion. The Developer(s) shall be required to reimburse the City for the cost of activities to satisfy this condition.
22. Density transfer within the various components of the project and planning areas shall be subject to the limitations contained in the Administrative section of the Sunny-Cal Specific Plan. In conjunction with any request to transfer density, the Developer(s) shall submit a report outlining the status of the entire project in terms of (a) areas developed and undeveloped, (b) density previously transferred, and (c) quantitative impact on remaining development entitlement allocations.
23. Each developer shall use its best efforts to ensure that all construction contractors and subcontractors properly dispose of all wastes generated in permitted landfills or with a licensed recycling company. If any improper dumping of construction waste occurs, the developer of the portion of the Specific Plan area from which such wastes were taken shall guarantee reimbursement to the City of costs incurred by it associated with clean up, proper disposal, any necessary revegetation and legal penalties and remedies.
24. Construction areas shall be fenced as required by the City to preclude the creation of an attractive nuisance and to limit access to and disturbance of sensitive habitat areas.
25. In conjunction with the submittal of any tentative subdivision map, the applicant shall submit conceptual architectural and landscape architectural plans, as determined appropriate by the Planning Director, which illustrate and further develop the architecture and landscape elements suggested in the Specific Plan. The direction of the site design shall reflect the prevailing rural environment and the site's role as a land use transitional area between urban and rural areas.

**PHASING CONDITIONS**

26. Construction of the development permitted hereby, including recordation of final subdivision maps, may be conducted progressively in stages, provided adequate vehicular access,



**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 6**

infrastructure and public services are provided for all dwelling units and non-residential land uses in each stage of development, and further, provided that such phase of development conforms substantially with the intent and purpose of the Specific Plan Master Phasing Program and subsequent amendment as determined by the Planning Director.

- 27. Prior to the approval of any phase of development and/or approval of a tentative tract map, a focused traffic study shall be prepared for the respective phase of development. The purpose of the traffic study shall be to identify the specific traffic improvements necessary to achieve acceptable levels of service, as set forth in the Beaumont General Plan and Sunny Cal Environmental Impact Report. Identified improvements shall be made in conjunction with the respective development phase.

**PARKS AND RECREATION CONDITIONS**

- 28. Development of the property shall be accompanied by the concurrent phased dedication and improvement of not less than 10.45 acres of fully improved and usable park area. That phased dedication shall be to the City for maintenance by a Community Facilities District or other suitable maintenance entity as determined by the City.
- 29. Prior to recordation of the first implementing subdivision map, Applicants shall obtain City (and, if necessary, LAFCO) approval for the formation of a Community Facilities District or other appropriate financing mechanism, as determined by the City, to ensure the perpetual maintenance of dedicated lands for parks and recreational purposes, and for maintenance of other landscaped areas contained within public rights-of-way, or held in fee title by the City of Beaumont.

**INFRASTRUCTURE CONDITIONS**

- 30. Drainage and flood control facilities and improvements shall be provided in accordance with Riverside County Flood Control and Water Conservation District standards. A detailed engineered hydrology study shall be submitted for the approval of the Public Works Director prior to the recordation of any subdivision map.
- 31. An amendment to CEQA required the preparation of a program to ensure that all mitigation measures are fully and completely implemented. The Environmental Impact Report (EIR) prepared for the Sunny-Cal Specific Plan imposes certain mitigation measures on the project. Certain conditions of approval for the Sunny-Cal Specific Plan constitute self contained reporting/monitoring programs for certain mitigation measures. At the time of approval of subsequent development applications, further environmental reporting/monitoring programs may be established if additional mitigation is determined to be necessary through further

**SUNNY-CAL SPECIFIC PLAN**

**Conditions of Approval**

**Page 7**

environmental review. The mitigation monitoring program for the Sunny-Cal Specific Plan EIR is hereby incorporated and performance of the mitigation measures set forth therein is a condition of approval of the Specific Plan.

32. Through Community Facilities District No. 93-1, an assessment district and/or through payment of development impact fees, the Developer shall be responsible for funding the project's fair share infrastructure and facility costs, as will be determined by the City of Beaumont Comprehensive Public Facilities Financing Plan.
33. Right-of-way shall be provided for and dedicated for the ultimate improvement of all roadways within or adjoining the project area in accordance with the City of Beaumont General Plan Circulation Element and the Sunny-Cal Specific Plan.
34. The City shall reserve the authority to determine the ultimate disposition and maintenance responsibility for any on- or off-site drainage facilities, water quality basins, and water quality or biological mitigation areas. Such features may, at the City's sole option, be accepted by the City of CFD 93-1 for maintenance, or shall, at the City's direction, be accepted and maintained by a Homeowners' Association or capable third party as approved by the City.

**EXHIBIT E**

**STATEMENT OF BENEFITS TO THE CITY**

The City will benefit from the high quality development, as well as the functional integrity, economic viability, environmental sensitivity, and positive aesthetic impact of the Project. As a master planned community the Sunny-Cal Specific Plan:

- Provides a high quality transition from facilities remaining on former egg ranch to suburban land uses consistent with recent development in the surrounding area
- Provides appropriate buffers with the surrounding development through the use of landscaped berms, and placement of large lots along Cherry Valley Boulevard.
- Is sensitive to the existing physical and other environmental and planning constraints of the site and surrounding area;
- Provides for the recreation and open space needs for the Project residents and surrounding community by incorporating a neighborhood park, two pocket parks, and a paseo system;
- Provides for connectivity between residential neighborhood and recreational areas through a network of pedestrian sidewalks paseos, and on- and off-street bicycle trails.
- Provides a land use plan that is sensitive to the environment, aesthetically pleasing, and places compatible land uses and facilities in an appropriate location;
- Establishes a circulation system that contributes to local and regional transportation needs and accommodates transit;
- Provides a system of infrastructure that includes public and private transportation, sewer, water, drainage, solid waste disposal energy, and other essential facilities to serve the needs of Project residents;
- Provide access patterns that minimize traffic conflicts;
- Develops community identity through the identification of project design elements such as architecture, landscaping, walls, fencing, signage, and entry treatments;
- Provides a comprehensive land use plan that designates the distribution, location, and extent of land uses;
- Provides housing opportunities that respond to market demands and provides a reasonable return on investment.
- Develops a project that promotes the public's health, safety and welfare.



## Staff Report

**TO:** Mayor, and City Council  
**FROM:** Jeff Mohlenkamp, Finance Director  
**DATE:** March 17, 2020  
**SUBJECT:** **FY 2019-20 Review of Budget to Actual for General Fund and Wastewater Fund**

---

### **Background and Analysis:**

Staff has prepared a budget to actual summary for the General Fund and Wastewater Fund operating account. Both reports provide a comparison of actual results to budget through January 2020 – 7 months of activity.

The summary worksheets include a discussion and analysis of the operating results.

### **Fiscal Impact:**

There is no financial impact.

### **Recommended Action:**

Receive and file the FY 2020 update to the General Fund and Wastewater Fund budget to actual reports.

### **Attachments:**

- A. FY 2020 General Fund budget to actual report through January 2020
- B. FY 2020 Wastewater Fund budget to actual report through January 2020



# Budget Comparison Report

General Fund Budget to Actual  
FY 2020 through January

SubCategory	2017-2018 YTD Activity Through Per	2018-2019 YTD Activity Through Per	2019-2020 YTD Activity Through Per	Parent Budget 2019-2020 REV 2	Notes	
					% of Budget	
<b>Revenue</b>						
<b>Category: 40 - TAXES</b>						
400 - Real Property Taxes	\$ 2,895,681	\$ 2,140,268	\$ 3,112,026	\$ 4,823,562		
403 - Personal Property Taxes	\$ -	\$ -	\$ 254,416	\$ 228,000		
406 - Franchise Fees	\$ 172,217	\$ 172,278	\$ 6,799,342	\$ 2,953,875		FY 2020 includes a one time payment of \$5 million related to the solid waste contract.
409 - Sales Taxes	\$ 2,124,205	\$ 2,381,765	\$ 2,393,141	\$ 5,436,227		Collections are highest in the final two months of the fiscal year.
420 - Other Taxes	\$ 997,971	\$ 984,152	\$ 975,407	\$ 6,891,381		Motor Vehicle in Lieu tax is received in June - approx \$5 million
<b>Total Category: 40 - TAXES:</b>	<b>\$ 6,190,074</b>	<b>\$ 5,678,463</b>	<b>\$ 13,534,332</b>	<b>\$ 20,333,045</b>	<b>66.6%</b>	
<b>Category: 41 - LICENSES</b>						
430 - Business Licenses	\$ 54,160	\$ 86,392	\$ 138,185	\$ 214,221		
<b>Total Category: 41 - LICENSES:</b>	<b>\$ 54,160</b>	<b>\$ 86,392</b>	<b>\$ 138,185</b>	<b>\$ 214,221</b>	<b>64.5%</b>	
<b>Category: 42 - PERMITS</b>						
450 - Building Permits	\$ 716,921	\$ 3,031,882	\$ 1,342,516	\$ 3,349,500	40.1%	Trending low - unlikely to hit budget target
453 - Inspections	\$ 1,061,693	\$ 192,893	\$ 112,172	\$ 1,080,100	10.4%	Tied directly to development activity, unlikely to hit budget target
456 - Other Permits	\$ 338,902	\$ 364,573	\$ 252,003	\$ 738,285		
515 - Public Works	\$ 857	\$ 263	\$ -	\$ -		
<b>Total Category: 42 - PERMITS:</b>	<b>\$ 2,118,373</b>	<b>\$ 3,589,611</b>	<b>\$ 1,706,691</b>	<b>\$ 5,167,885</b>	<b>33.0%</b>	
<b>Category: 45 - INTERGOVERNMENTAL</b>						
465 - State	\$ 7,288	\$ 20,062	\$ -	\$ 21,288		
470 - Local	\$ -	\$ 9,257	\$ 2,550	\$ -		
<b>Total Category: 45 - INTERGOVERNMENTAL:</b>	<b>\$ 7,288</b>	<b>\$ 29,319</b>	<b>\$ 2,550</b>	<b>\$ 21,288</b>	<b>12.0%</b>	
<b>Category: 47 - CHARGES FOR SERVICE</b>						
500 - Sanitation	\$ 4,456,765	\$ 4,209,446	\$ 282,362	\$ -		Outsourcing of solid waste services began in FY 2020
505 - Animal Control	\$ 84,531	\$ 51,421	\$ 52,223	\$ 118,000		
510 - Community Development	\$ 2,844	\$ 3,846	\$ 2,878	\$ 5,000		
515 - Public Works	\$ 36,331	\$ 8,329	\$ 4,387	\$ 13,000		
525 - Abatements	\$ 31,502	\$ 5,052	\$ 31,212	\$ 66,000		
530 - Public Safety	\$ 27,696	\$ 115,765	\$ 136,146	\$ 247,000		
535 - Facilities	\$ 117,978	\$ 126,368	\$ 75,238	\$ 125,000		
540 - Programs	\$ 81,806	\$ 78,687	\$ 69,457	\$ 110,500		
545 - Other	\$ 24,161	\$ 68,331	\$ 44,647	\$ 68,450		
<b>Total Category: 47 - CHARGES FOR SERVICE:</b>	<b>\$ 4,863,614</b>	<b>\$ 4,667,245</b>	<b>\$ 698,550</b>	<b>\$ 752,950</b>	<b>92.8%</b>	
<b>Category: 50 - FINES AND FORFEITURES</b>						
555 - Vehicle	\$ 41,651	\$ 35,986	\$ 41,941	\$ 111,780		
557 - Other	\$ 1,079	\$ 13,700	\$ 19,643	\$ 22,070		

<b>Total Category: 50 - FINES AND FORFEITURES:</b>	\$ 42,730	\$ 49,686	\$ 61,584	\$ 133,850	46.0%
<b>Category: 53 - COST RECOVERY</b>					
465 - State	\$ -	\$ 8,139	\$ 24,854	\$ -	
565 - Other Income	\$ 221,985	\$ 291,640	\$ 363,819	\$ -	
<b>Total Category: 53 - COST RECOVERY:</b>	\$ 221,985	\$ 299,779	\$ 388,673	\$ -	
<b>Category: 54 - MISCELLANEOUS REVENUES</b>					
560 - Investment Earnings	\$ -	\$ 484	\$ 76,299	\$ 1,000	
565 - Other Income	\$ 16,223	\$ 8,274	\$ 25,125	\$ 21,500	
<b>Total Category: 54 - MISCELLANEOUS REVENUES:</b>	\$ 16,223	\$ 8,759	\$ 101,424	\$ 22,500	450.8%
<b>Category: 58 - OTHER FINANCING SOURCES</b>					
595 - Sale of Assets	\$ -	\$ 16,649	\$ 13,417	\$ 5,000	
599 - Other	\$ -	\$ 7,500	\$ -	\$ -	
<b>Total Category: 58 - OTHER FINANCING SOURCES:</b>	\$ -	\$ 24,149	\$ 13,417	\$ 5,000	
<b>Category: 90 - TRANSFERS</b>					
900 - Transfers	\$ (4,611)	\$ (190,108)	\$ 1,302,712	\$ 5,687,300	
<b>Total Category: 90 - TRANSFERS:</b>	\$ (4,611)	\$ (190,108)	\$ 1,302,712	\$ 5,687,300	22.9%
<b>Total Revenue:</b>	\$ 13,509,836	\$ 14,243,295	\$ 17,948,119	\$ 32,338,039	55.5%
<b>Expenses</b>					
<b>Category: 60 - PERSONNEL SERVICES</b>					
600 - SALARIES AND WAGES	\$ 5,125,814	\$ 6,056,986	\$ 6,834,281	\$ 12,724,112	
610 - BENEFITS	\$ 2,353,472	\$ 2,871,447	\$ 4,037,361	\$ 6,239,431	
615 - OTHER	\$ 232,717	\$ 410,497	\$ 540,735	\$ 456,089	
<b>Total Category: 60 - PERSONNEL SERVICES:</b>	\$ 7,712,003	\$ 9,338,930	\$ 11,412,376	\$ 19,419,632	58.8%
<b>Category: 65 - OPERATING COSTS</b>					
650 - UTILITIES	\$ 881,205	\$ 1,053,295	\$ 1,016,158	\$ 2,064,300	
655 - ADMINISTRATIVE	\$ 194,976	\$ 195,928	\$ 228,016	\$ 370,237	
660 - FLEET COSTS	\$ 209,815	\$ 184,211	\$ 213,321	\$ 364,062	
665 - PROGRAM COSTS	\$ 339,719	\$ 364,119	\$ 466,269	\$ 493,200	
670 - REPAIRS AND MAINTENANCE	\$ 244,955	\$ 202,513	\$ 167,361	\$ 538,039	
675 - SUPPLIES	\$ 168,979	\$ 177,457	\$ 166,846	\$ 524,183	
680 - SPECIAL SERVICES	\$ 3,168,233	\$ 3,867,120	\$ 469,316	\$ 1,061,000	
					Most of this expenditure in prior years was related to solid waste

**Budget Comparison Report**

SubCategory	Parent Budget			
	2017-2018 YTD Activity Through Per	2018-2019 YTD Activity Through Per	2019-2020 YTD Activity Through Per	2019-2020 REV 2
690 - CONTRACTUAL SERVICES	\$ 2,154,625	\$ 1,713,313	\$ 2,390,422	\$ 6,366,106
697 - ADMIN OVERHEAD	\$ (350,000)	\$ (356,000)	\$ (375,000)	\$ (750,000)
699 - OTHER	\$ 782,147	\$ 952,777	\$ 1,179,767	\$ 1,347,311
<b>Total Category: 65 - OPERATING COSTS:</b>	\$ 7,794,653	\$ 8,354,733	\$ 5,922,475	\$ 12,378,438
<b>Category: 70 - CAPITAL IMPROVEMENTS</b>				
700 - EQUIPMENT	\$ 75,224	\$ 166,187	\$ 32,501	\$ 105,950
703 - FURNITURE	\$ 18,324	\$ -	\$ 6,087	\$ 6,038
705 - VEHICLE	\$ 359,662	\$ 68,399	\$ 226,857	\$ 351,020
710 - STRUCTURE	\$ -	\$ -	\$ -	\$ -
750 - OTHER	\$ -	\$ -	\$ -	\$ -
<b>Total Category: 70 - CAPITAL IMPROVEMENTS:</b>	\$ 453,210	\$ 234,586	\$ 265,446	\$ 463,009
<b>Category: 77 - CONTINGENCY</b>				
770 - CONTINGENCY	\$ -	\$ -	\$ -	\$ 47,961
<b>Total Category: 77 - CONTINGENCY:</b>	\$ -	\$ -	\$ -	\$ 47,961
<b>Category: 78 - CAPITAL OUTLAY</b>				
780 - CAPITAL OUTLAY	\$ -	\$ -	\$ -	\$ -
<b>Total Category: 78 - CAPITAL OUTLAY:</b>	\$ -	\$ -	\$ -	\$ -
<b>Category: 80 - DEBT SERVICE</b>				
800 - Debt Service	\$ -	\$ -	\$ -	\$ -

Total Category: 80 - DEBT SERVICE:	\$	-	\$	-	\$	-	\$	-		
Total Expense:	\$	15,959,867	\$	17,947,234	\$	17,600,297	\$	32,309,039	54.5%	Expenses are tracking very close to budget overall
Revenues Over/ (Under) Budget	\$	(2,450,031)	\$	(3,703,939)	\$	347,822				
Overall Assessment:	The General Fund is trending towards a surplus (revenues exceeding expenditures) of \$6 to \$8 million for FY 2020. This is due in large part to the one-time solid waste franchise fee of \$5 million.									



# Budget Comparison Report

## FY 2020 - Wastewater Operating Fund through January 2020

SubCategory	2017-2018 YTD Activity Through Per	2018-2019 YTD Activity Through Per	2019-2020 YTD Activity Through Per	Parent Budget		Notes
				2019-2020 REV 2	% of Budget	
<b>Fund: 700 - WASTEWATER FUND</b>						
<b>Revenue</b>						
<b>Category: 50 - FINES AND FORFEITURES</b>						
557 - Other	\$ -	\$ 3,500	\$ -	\$ -		
<b>Total Category: 50 - FINES AND FORFEITURES:</b>	<b>\$ -</b>	<b>\$ 3,500</b>	<b>\$ -</b>	<b>\$ -</b>		
<b>Category: 53 - COST RECOVERY</b>						
565 - Other Income	\$ 4,699	\$ -	\$ 6,236	\$ -		
<b>Total Category: 53 - COST RECOVERY:</b>	<b>\$ 4,699</b>	<b>\$ -</b>	<b>\$ 6,236</b>	<b>\$ -</b>		
<b>Category: 54 - MISCELLANEOUS REVENUES</b>						
560 - Investment Earnings	\$ -	\$ 24,678	\$ 26,907	\$ 10,000	269.1%	Investment earnings were budgeted too low and this budget is proposed to increase.
<b>Total Category: 54 - MISCELLANEOUS REVENUES:</b>	<b>\$ -</b>	<b>\$ 24,678</b>	<b>\$ 26,907</b>	<b>\$ 10,000</b>		
<b>Category: 56 - PROPRIETARY REVENUES</b>						
570 - WasteWater	\$ 5,350,249	\$ 4,447,838	\$ 4,840,511	\$ 9,862,625	49.1%	3 of 6 payments have been recorded. This buget is tracking slightly below budget.
<b>Total Category: 56 - PROPRIETARY REVENUES:</b>	<b>\$ 5,350,249</b>	<b>\$ 4,447,838</b>	<b>\$ 4,840,511</b>	<b>\$ 9,862,625</b>		
<b>Category: 58 - OTHER FINANCING SOURCES</b>						
595 - Sale of Assets	\$ -	\$ 635	\$ -	\$ -		
599 - Other	\$ -	\$ 831	\$ 780	\$ -		
<b>Total Category: 58 - OTHER FINANCING SOURCES:</b>	<b>\$ -</b>	<b>\$ 1,466</b>	<b>\$ 780</b>	<b>\$ -</b>		
<b>Category: 90 - TRANSFERS</b>						
900 - Transfers	\$ (3,725,106)	\$ (100,000)	\$ -	\$ -		
<b>Total Category: 90 - TRANSFERS:</b>	<b>\$ (3,725,106)</b>	<b>\$ (100,000)</b>	<b>\$ -</b>	<b>\$ -</b>		
<b>Total Revenue:</b>	<b>\$ 1,629,842</b>	<b>\$ 4,377,482</b>	<b>\$ 4,874,434</b>	<b>\$ 9,872,625</b>	<b>49.4%</b>	
<b>Expense</b>						
<b>Category: 60 - PERSONNEL SERVICES</b>						
600 - SALARIES AND WAGES	\$ 82,554	\$ 237,900	\$ 653,705	\$ 1,313,356		
610 - BENEFITS	\$ 38,524	\$ 94,836	\$ 215,281	\$ 543,485		
615 - OTHER	\$ 1,406	\$ 4,448	\$ 10,957	\$ 38,528		
<b>Total Category: 60 - PERSONNEL SERVICES:</b>	<b>\$ 122,485</b>	<b>\$ 337,184</b>	<b>\$ 879,942</b>	<b>\$ 1,895,369</b>	46.4%	Trending below budget through 7 months.
<b>Category: 65 - OPERATING COSTS</b>						
650 - UTILITIES	\$ 362,600	\$ 439,683	\$ 478,275	\$ 827,618		
655 - ADMINISTRATIVE	\$ 95,387	\$ 110,134	\$ 91,840	\$ 246,946		

SubCategory	2017-2018 YTD Activity Through Per	2018-2019 YTD Activity Through Per	2019-2020 YTD Activity Through Per	Parent Budget	
				2019-2020 REV 2	
660 - FLEET COSTS	\$ 1,059	\$ 4,783	\$ 17,102	\$ 36,880	
670 - REPAIRS AND MAINTENANCE	\$ 11,497	\$ 18,106	\$ 38,512	\$ 115,500	



675 - SUPPLIES	\$ 82,161	\$ 133,577	\$ 98,274	\$ 321,610		
690 - CONTRACTUAL SERVICES	\$ 764,488	\$ 795,490	\$ 356,887	\$ 647,140		
697 - ADMIN OVERHEAD	\$ 300,000	\$ 306,000	\$ 325,000	\$ 650,000		
699 - OTHER	\$ 9,094	\$ 11,721	\$ 91,003	\$ 77,304		
<b>Total Category: 65 - OPERATING COSTS:</b>	<b>\$ 1,626,287</b>	<b>\$ 1,819,495</b>	<b>\$ 1,496,894</b>	<b>\$ 2,922,998</b>	<b>51.2%</b>	Trending below budget through 7 months. Unforeseen costs may drive this budget above budget by year end.
<b>Category: 70 - CAPITAL IMPROVEMENTS</b>						
700 - EQUIPMENT	\$ -	\$ 1,832	\$ 19,523	\$ 10,000		
750 - CONTINGENCY	\$ -	\$ -	\$ 300,000	\$ 300,000		<b>Note:</b> Emergency repairs currently underway will expend most of these funds.
<b>Total Category: 70 - CAPITAL IMPROVEMENTS:</b>	<b>\$ -</b>	<b>\$ 1,832</b>	<b>\$ 319,523</b>	<b>\$ 310,000</b>	<b>103.1%</b>	
<b>Category: 90 - TRANSFERS</b>						
900 - Transfers (Debt Service)	\$ -	\$ -	\$ 2,993,663	\$ 4,732,326		There are two debt service payments each year. The first payment (which included both interest and principal) has been made. The second payment is scheduled for September and will only include interest. This line item will match the budgeted level.
<b>Total Category: 90 - TRANSFERS:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,993,663</b>	<b>\$ 4,732,326</b>	<b>63.3%</b>	
<b>Total Expense:</b>	<b>\$ 1,748,772</b>	<b>\$ 2,158,510</b>	<b>\$ 5,690,022</b>	<b>\$ 9,860,693</b>	<b>57.7%</b>	Overall expenditures are tracking very close to budget.
<b>Revenues less Expenses</b>	<b>\$ (118,930)</b>	<b>\$ 2,218,972</b>	<b>\$ (815,588)</b>	<b>\$ 11,932</b>		

**Overall Assessment:** Revenues are trending slightly below budget. Expenditures are tracking close to budget. Emergency repairs and unforeseen costs are likely to cause this budget to exceed the authority. Budget adjustments have been developed and a proposed increase will address these concerns.





## Staff Report

**TO:** Mayor, and City Council Members

**FROM:** Jeff Hart, Director of Public Works

**DATE:** March 17, 2020

**SUBJECT:** **Public Hearing and Consideration of Approval of a Resolution for the Second Amendment of the City’s FY19/20-FY23/24 Capital Improvement Plan**

### Background and Analysis:

On June 4, 2019, City Council adopted the City’s 5-year capital improvement plan (CIP) and approved the FY19/20 CIP budget. The plan identifies the City’s planned projects through a determined period of time, as well as the prospective financial sources.

On November 19, 2019, City Council approved the first amendment to the FY 19/20-FY23/24 CIP. The first amendment included the following projects:

- Wastewater Master Plan,
- Programmable Logic Controllers Upgrade Design,
- City Hall Council Chambers, and
- Rangel Park Improvements.

A notice of public hearing was published on March 7, 2020, for an amendment to the 19/20 – 23/24 Fiscal Year CIP. Staff is now proposing to amend the FY 19/20-FY23/24 CIP for the following projects:

- Potrero Fire Station - Staff is proposing to amend the total amount of this project to \$8,650,000. The revised project amount is reflective of the most recent estimates for construction costs. Recent increases in construction costs project the cost for the building to be \$6,850,000, off-site improvements are estimated at \$1,500,000, and consultant services for both necessary on and off-site work are estimated to be \$300,000, and
- Beaumont Master Drainage Plan (MDP) Line 2, Stage 1 – Staff is proposing to create a project for the Beaumont MDP Line 2, Stage 1 project. This project will entail the design and construction of Riverside County Flood Control’s master planned drainage facility within Pennsylvania Avenue. This project will commence within Pennsylvania Avenue near Sixth Street and convey water

southerly to a discharge point located at the intersection of First Street and the Seneca Springs Wash, approximately 600 feet east of the intersection of Pennsylvania Avenue and First Street (see attached).

**Fiscal Impact:**

The Potrero Fire Station is currently funded in the CIP via the Fire Protection Impact Fee in an amount of \$4,100,000. Staff is proposing that the additional amount expected to complete the project of \$4,550,000 come from General Fund reserves.

The anticipated costs to complete the Beaumont MDP Line 2, Stage 1 project is \$5,000,000. Funding for this project will come from the Riverside County Flood Control and Water Conservation District whom has already allocated costs associated with this project.

The cost to prepare this staff report is estimated to be \$350.

**Recommended Action:**

Hold a Public Hearing, and  
Waive the full reading and approve by title only, "Resolution of the City of Beaumont Making Modification Amendment to the Five-Year Capital Improvement Plan for Fiscal Years 2019/2020 through 2023/2024 Pursuant to the Requirements of California Department of Transportation."

**Attachments:**

- A. Beaumont MDP Map
- B. Resolution CIP Amendment 2

**MOUNTAIN VIEW RETENTION BASIN**  
 100 YR PEAK INFLOW = 1330 cfs  
 100 YR PEAK OUTFLOW = 270 cfs  
 100 YR MAX WATER SURFACE EL. = 2074.8  
 TOTAL STORAGE VOL. = 55.4 Ac. Ft.  
 ACREAGE REQUIREMENT = 5.0 Ac.

**LITTLE SAN GORGONIO CREEK DEBRIS BASIN**  
 DEBRIS STORAGE VOL. = 206 Ac. Ft.  
 ACREAGE REQUIREMENT = 23.9 Ac.  
 RCFO OWNED ACREAGE = 19.3 Ac.

**WINESAP RETENTION BASIN**  
 100 YR PEAK INFLOW = 1300 cfs  
 100 YR PEAK OUTFLOW = 258 cfs  
 100 YR MAX WATER SURFACE EL. = 2673.9  
 TOTAL STORAGE VOL. = 51.7 Ac. Ft.  
 ACREAGE REQUIREMENT = 9.25 Ac.

**STEWART PARK RETENTION BASIN**  
 10 YR PEAK INFLOW = 208 cfs  
 10 YR PEAK OUTFLOW = 114 cfs  
 10 YR MAX WATER SURFACE EL. = 2612.9  
 TOTAL STORAGE VOL. = 9.2 Ac. Ft.  
 ACREAGE REQUIREMENT = 1.1 Ac.

SCALE 1"=800'

**PRELIMINARY  
 SUBJECT TO REVISION**

RIVERSIDE COUNTY FLOOD CONTROL  
 WATER CONSERVATION DISTRICT

# BEAUMONT MASTER DRAINAGE PLAN

**LEGEND**

- DRAINAGE BOUNDARY
- PROPOSED STORM DRAIN
- PROPOSED OPEN CHANNEL
- EXISTING FACILITY
- 10 YEAR FLOW IN CFS
- 100 YEAR FLOW IN CFS
- 100 YEAR FLOOD PLAIN LIMITS (FIA MAPPING)
- CITY LIMITS BOUNDARY

**NOTES**  
 1. DIGITAL EXHIBIT MAP  
 CREATED OCT. 2014  
 2. SATELLITE IMAGERY  
 CREATED IN 2013

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEAUMONT  
AMENDING THE FIVE-YEAR CAPITAL IMPROVEMENT PLAN FOR FISCAL  
YEARS 2019/2020 THROUGH 2023/2024**

**WHEREAS**, on June 4, 2019, the City Council of the City of Beaumont adopted the City’s Five Year Capital Improvement Plan for Fiscal Years 2019/2020 through 2023/2024 (“CIP”) at a duly noticed public hearing; and

**WHEREAS**, this amendment is to amend the budget for seven projects and their budgets in order to proceed and appropriate the available funds; and

**WHEREAS**, these specific revisions are detailed in **Exhibit “A”** attached hereto; and

**WHEREAS**, on March 7, 2020 pursuant to Government Code, section 66002, the City duly gave public notice of the public hearing of the proposed amendments and revisions to the CIP, a copy of which has been on file with the City Clerk Board at least 10 calendar days prior to the City Council’s commencement of such public hearing; and

**WHEREAS**, the City Council desires to revise and amend the Capital Improvement Plan as set forth herein;

**NOW, THEREFORE BE IT RESOLVED BY THE BEAUMONT CITY COUNCIL  
AS FOLLOWS:**

**Section 1.** The City Council hereby amends and approves the Capital Improvement Plan for Fiscal Years 2019/2020 through 2023/2024 by amending project numbers 2017-028 and 2019-019 as shown in **Exhibit “A”**.

**Section 2.** The Capital Improvement Plan may be updated by the City Council from time to time pursuant to California Government Code, section 66002, or as otherwise provided by law.

**Section 3.** This Resolution shall take effect immediately upon its passage and adoption.

**MOVED, PASSED, and ADOPTED** this 17th day of March, 2020, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

By: \_\_\_\_\_  
Rey Santos, Mayor  
City of Beaumont

ATTEST:

By: \_\_\_\_\_  
Steven Mehlman, City Clerk  
City of Beaumont

**EXHIBIT A**  
**SUMMARY OF 2019/2020 – 2023/2024 CIP BUDGET AMENDMENT**



Five Year Capital Improvement Plan FY 19/20-23/24 Amendment 2

**Funding Source: PEG**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
City Hall Council Chambers	2019-006	\$ 325,000	\$ 325,000						\$ 325,000
<b>TOTAL</b>		<b>\$325,000</b>	<b>\$325,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 325,000</b>

**Funding Source: Basic Services DIF**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
City Hall and Plaza - Construction	Future							\$ 18,000,000	\$ 18,000,000
<b>TOTAL</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$18,000,000</b>	<b>\$ 18,000,000</b>

**Funding Source: Road & Bridge DIF**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Oak Valley Parkway Rehab Phase 2	2018-008							\$ 500,000	\$ 500,000
2nd Street Extension Design	2019-009	\$ 200,000	\$ 200,000						\$ 200,000
2nd Street Extension Construction	Future							\$ 2,510,000	\$ 2,510,000
Pennsylvania Ave/UPRR Grade Separation - Final Design	Future							\$ 1,000,000	\$ 1,000,000
California Ave/UPRR Grade Separation - Final Design	Future							\$ 800,000	\$ 800,000
Oak Valley/I-10 Interchange - Design	Future							\$ 500,000	\$ 500,000
1st Street Widening Design & Construction	Future							\$ 1,600,000	\$ 1,600,000
<b>TOTAL</b>		<b>\$200,000</b>	<b>\$200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,910,000</b>	<b>\$ 7,110,000</b>

**Funding Source: Traffic Signal DIF**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Beaumont Ave Signalization, 8th to 10th Street Construction	2019-017	\$ 795,000	\$ 795,000						\$ 795,000
<b>TOTAL</b>		<b>\$795,000</b>	<b>\$795,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$795,000</b>

**Funding Source: CFD Public Safety**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Rehab Existing Fire Stations	2021-004				\$ 500,000	\$ 500,000			\$ 1,000,000
PD Server Room	2019-007	\$ 40,000	\$ 40,000						\$ 40,000
<b>TOTAL</b>		<b>\$40,000</b>	<b>\$40,000</b>	<b>\$0</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 1,040,000</b>

**Funding Source: Fire Station DIF**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Potrero Fire Station	2017-028	\$ -	\$4,100,000						\$ 4,100,000
<b>TOTAL</b>		<b>\$0</b>	<b>\$4,100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 4,100,000</b>

**Funding Source: CFD**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Park and Right of Way Upgrades	2019-003	\$ 300,000	\$ 300,000						\$ 300,000
Community Recreation Center Repairs & Upgrades	2020-004			\$50,000	\$100,000				\$ 150,000
Pool	2020-006			\$50,000					\$ 50,000
<b>TOTAL</b>		<b>\$300,000</b>	<b>\$300,000</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 500,000</b>

**Funding Source: Measure A**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Beaumont Ave Reconstruction Project	2018-004	\$ 734,000	\$ 734,000						\$ 734,000
Annual Slurry Seal 19/20	2019-001	\$ 400,000	\$ 400,000						\$ 400,000
Annual Citywide Street Rehab 19/20	2019-002	\$ 500,000	\$ 500,000						\$ 500,000
Annual Slurry Seal 20/21	2020-001			\$400,000					\$ 400,000
Annual Citywide Street Rehab 20/21	2020-002			\$500,000					\$ 500,000
Annual Slurry Seal 21/22	2021-001				\$500,000				\$ 500,000
Annual Citywide Street Rehab 21/22	2021-002				\$400,000				\$ 400,000
Annual Slurry Seal 22/23	2022-001					\$500,000			\$ 500,000
Annual Citywide Street Rehab 22/23	2022-002					\$400,000			\$ 400,000
Annual Slurry Seal 23/24	2023-001						\$500,000		\$ 500,000
Annual Citywide Street Rehab 23/24	2023-002						\$400,000		\$ 400,000
<b>TOTAL</b>		<b>\$ 1,634,000</b>	<b>\$ 1,634,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$0</b>	<b>\$ 5,234,000</b>

**Funding Source: RMRA/SB 1**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Beaumont Ave Reconstruction Project	2018-004	\$ 700,000	\$ 700,000						\$ 700,000
Annual Slurry Seal 19/20	2019-001	\$ 600,000	\$ 600,000						\$ 600,000
Annual Citywide Street Rehab 19/20	2019-002	\$ 300,000	\$ 300,000						\$ 300,000
Annual Slurry Seal 20/21	2020-001			\$600,000					\$ 600,000
Annual Citywide Street Rehab 20/21	2020-002			\$300,000					\$ 300,000
Annual Slurry Seal 21/22	2021-001				\$500,000				\$ 500,000
Annual Citywide Street Rehab 21/22	2021-002				\$400,000				\$ 400,000
Annual Slurry Seal 22/23	2022-001					\$500,000			\$ 500,000
Annual Citywide Street Rehab 22/23	2022-002					\$400,000			\$ 400,000
Annual Slurry Seal 23/24	2023-001						\$500,000		\$ 500,000
Annual Citywide Street Rehab 23/24	2023-002						\$400,000		\$ 400,000
<b>TOTAL</b>		<b>\$ 1,600,000</b>	<b>\$ 1,600,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$0</b>	<b>\$ 5,200,000</b>

**Funding Source: Grants**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Potrero Interchange Improvements	2016-003			\$45,000,000					\$ 45,000,000
Police Annex	2019-005	\$ 14,800	\$ 14,800						\$ 14,800
Pennsylvania Ave/UPRR Grade Separation - Construction	Future							\$ 34,000,000	\$ 34,000,000
California Ave/UPRR Grade Separation - Construction	Future							\$ 34,000,000	\$ 34,000,000
Oak Valley/I-10 Interchange - Construction	2017-027							\$ 65,000,000	\$ 65,000,000
<b>TOTAL</b>		<b>\$14,800</b>	<b>\$14,800</b>	<b>\$45,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 133,000,000</b>	<b>\$ 178,014,800</b>

**Funding Source: Transit Grants**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
CNG Station - Construction	2019-004	\$1,700,000	\$1,700,000						\$ 1,700,000
EV Charging Station	2019-016	\$ 240,000	\$ 240,000						\$ 240,000
<b>TOTAL</b>		<b>\$1,940,000</b>	<b>\$1,940,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 1,940,000</b>

**Funding Source: Asset Forfeiture**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Police Annex	2019-005	\$ 26,500	\$ 26,500						\$ 26,500
<b>TOTAL</b>		<b>\$26,500</b>	<b>\$26,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 26,500</b>

**Funding Source: Riverside County Flood Control**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Beaumont Master Drainage Plan Lien 2, Stage 1	2019-019	\$ -	\$ 100,000	\$ 1,500,000	\$3,400,000				\$ 5,000,000
<b>TOTAL</b>		<b>\$0</b>	<b>\$ 100,000</b>	<b>\$1,500,000</b>	<b>\$3,400,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,000,000</b>

**Funding Source: CDBG Grants**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Rangel Park Improvement Project	2018-005	\$ 261,470	\$ 261,470	\$ 200,000					\$ 461,470
Citywide Sidewalk Improvements 20/21 - CDBG	Closed			\$ -					\$ -
Citywide Sidewalk Improvements 21/22 - CDBG	2021-003				\$130,000				\$ 130,000
Citywide Sidewalk Improvements 22/23 - CDBG	2022-003					\$130,000			\$ 130,000
Citywide Sidewalk Improvements 23/24 - CDBG	2023-003						\$130,000		\$ 130,000
<b>TOTAL</b>		<b>\$ 261,470</b>	<b>\$ 261,470</b>	<b>\$200,000</b>	<b>\$130,000</b>	<b>\$130,000</b>	<b>\$130,000</b>	<b>\$0</b>	<b>\$ 851,470</b>

**Funding Source: General Fund**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
PD Server Room	2019-007	\$ 14,000	\$ 14,000						\$ 14,000
Housing Element Update	2019-008	\$ 40,000	\$ 40,000	\$ 50,000					\$ 90,000
Security Infrastructure Upgrades	2019-015	\$ 40,000	\$ 40,000						\$ 40,000
Facility Roofs	2020-007			\$90,000	\$10,000	\$100,000	\$10,000		\$ 210,000
Storm Drain Facilities	Future							\$1,000,000	\$ 1,000,000
Storm Drain Master Plan	Future							\$500,000	\$ 500,000
Street Light Conversion to Solar	Future							\$1,500,000	\$ 1,500,000
<b>TOTAL</b>		<b>\$94,000</b>	<b>\$94,000</b>	<b>\$140,000</b>	<b>\$10,000</b>	<b>\$100,000</b>	<b>\$10,000</b>	<b>\$ 3,000,000</b>	<b>\$ 3,354,000</b>

**Funding Source: General Fund Reserves**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
Potrero Fire Station	2017-028	\$ -	\$4,550,000						\$ 4,550,000
<b>TOTAL</b>		<b>\$0</b>	<b>\$4,550,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 4,550,000</b>

**Funding Source: Wastewater**

Project Name	Project Number	FY19/20	Proposed	FY20/21	FY21/22	FY22/23	FY23/24	Future Funding	TOTAL
PLC Upgrade Design	2019-018	\$ 50,000	\$ 50,000						\$ 50,000
PLC Upgrade Construction	2019-010	\$ 240,000	\$ 240,000	\$ 110,000					\$ 350,000
CMOM	2019-011	\$ 100,000	\$ 100,000						\$ 100,000
WQMP and Permit	2019-012	\$ 50,000	\$ 50,000						\$ 50,000
Wastewater Master Plan	2019-013	\$ 350,000	\$ 350,000						\$ 350,000
Mesa Force Main Preliminary Design	Closed	\$ -	\$ -						\$ -
Sewer Collection and Treatment	2020-005			\$ 1,677,000	\$1,727,000	\$1,889,000	\$1,900,000		\$ 7,193,000
Seneca Springs Lift Station Design	2018-010							\$ 200,000	\$ 200,000
Seneca Springs Lift Station Construction	Future							\$ 800,000	\$ 800,000
Recycled Water Feasibility Study	2018-007							\$ 100,000	\$ 100,000
<b>TOTAL</b>		<b>\$ 790,000</b>	<b>\$ 790,000</b>	<b>\$ 1,787,000</b>	<b>\$ 1,727,000</b>	<b>\$ 1,889,000</b>	<b>\$ 1,900,000</b>	<b>\$ 1,100,000</b>	<b>\$ 9,193,000</b>



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Jeff Mohlenkamp, Finance Director  
**DATE:** March 17, 2020  
**SUBJECT:** **FY 2020 Mid-Year Budget Adjustments**

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### Background and Analysis:

On June 4, 2019, the City Council approved the FY 2020 Budget. Staff has reviewed operating results through January 31, 2020, and recommends several budget adjustments that are summarized below.

### General Fund:

#### Expenses

- *Increase* Police Department workers compensation allocation budget by \$400,000 to address on going costs and final settlements,
- *Increase* Human Resource recruiting budget by \$13,000 to address personnel recruitment and hiring costs,
- *Reduce* Public Works (Street Maintenance) utility budget by \$150,000 being moved to the Parks and Grounds Maintenance budget – an increase is requested for that budget below,
- *Increase* Community Services (Parks and Grounds Maintenance) weed abatement line item by \$100,000 to reflect the cost shift from Public Works,
- *Increase* Community Services (Parks and Ground Maintenance) utilities by \$100,000 to consolidate utility costs under one department,
- *Increase* Community Development (Community Enhancement) new weed abatement line item by \$15,000, property owners will bear this cost and revenues will be adjusted accordingly,
- *Increase* the City Council budget by \$48,397 to cover Registrar of Voter charges for election services from 2018,
- *Reduce* Community Services (Parks and Recreation) health insurance budget by \$80,000 due to actual expenses being significantly lower than projected,
- *Increase* the Community Services (Parks and Grounds Maintenance) budget by \$5,000 for a contribution to the Beaumont Cherry Valley Park and Recreation

District toward their newly installed fitness circuit. This increase will be covered through the realization of Transit Occupancy Tax revenues.

These adjustment have a net increase of \$451,397 to the General Fund.

Revenues

- *Increase* the one-time Retention Franchise Fee revenue by \$5,000,000 pursuant to the solid waste contract effective July 1, 2019,
- *Increase* transfers in by \$433,937 comprised of \$224,000 from Gas Tax Fund 200 and \$209,937 from CFD Admin Fund 250,
- *Increase* the transient occupancy tax revenue forecast by \$5,000, and
- *Increase* School Resource Officer Program revenue by \$12,460 to reflect the actual FY 2019/20 contract pricing.

The adjustments to the expenses and revenues maintain a fully balanced budget.

Wastewater Fund:

- *Increase* the contractual services expense budget by \$500,000 to cover the costs of a sludge hauling contract that were originally covered through the Utility Partners' contract,
- *Increase* the contingency expenditure line item by \$200,000 due to unexpected emergency repairs to major utility infrastructure, and
- *Increase* projected interest revenues by \$65,000 to reflect actual revenues.

These budget adjustments require the budget allocation of \$303,000 from reserves. The resulting fund balance is \$6.6 million or 62% of operating costs well above the target of 25%.

**Fiscal Impact:**

The impact to the *General Fund* of these budget adjustments are:

- *Increase* in expenditure authority of \$451,397, and
- *Increase* in the revenue budget of \$5,451,397.

The impact to the *Gas Tax Fund* of these budget adjustment is:

- *Increase* in the revenue budget of \$224,000, and
- *Increase* in Transfers Out to the General Fund of \$224,000.

The impact on the *Wastewater Fund* of these budget adjustments is:

- *Increase* in expenditure authority of \$700,000, and
- *Increase* in revenue to the revenue budget of \$65,000.

The impact on the *CFD Admin Fund* of these budget adjustments is:

- *Increase* in Transfers Out to General Fund of \$209,937.

**Recommended Action:**

Approve the proposed budget adjustments to the FY 2020 City Budget.

**Attachments:**

- A. Summary Fund Schedules Demonstrating Proposed Budget Adjustments

**FY 2019/2020 MID YEAR BUDGET ADJUSTMENTS FOR COUNCIL APPROVAL**

**General Fund 100**

**Fund 700 - Waste Water**

**Revenue**

Dept	Name	Current Budget	Mid Year Budget Adjustments	New Current Budget	NOTES
0000	Taxes	\$ 17,379,170	\$ 5,000	\$ 17,384,170	Transient Occupancy Tax increase
0000	Franchise Fees	\$ 853,875	\$ 5,000,000	\$ 5,853,875	**One Time - Solid Waste
0000	Transfers In	\$ 5,687,300	\$ 433,937	\$ 6,121,237	Gas Tax - \$224,000 CFD Trans - \$209,937
0000	Refuse Collection	\$ 2,100,000		\$ 2,100,000	
0000/1200	General permits/Fees/Fines	\$ 103,765		\$ 103,765	
2000	Animal Control Fees/Cost Recovery	\$ 118,000		\$ 118,000	
2030	Code Enforcement Revenue	\$ 71,175		\$ 71,175	
2050/2080/2090/2100	Police/Fire Revenue	\$ 652,575	\$ 12,460	\$ 665,035	School Resource Officer - contract revenue increase
2150	Building Fees/Revenue	\$ 3,349,500		\$ 3,349,500	
3100	Public Works Fees/Revenue	\$ 1,500,788		\$ 1,500,788	
6150	City Pool	\$ 26,400		\$ 26,400	
1550	Parks and Recreation Revenue	\$ 209,100		\$ 209,100	
1350	Planning Dept Revenue	\$ 176,170		\$ 176,170	
	Misc Revenue/Interest	\$ 235,221		\$ 235,221	
	<b>Totals</b>	<b>\$ 32,463,039</b>	<b>\$ 5,451,397</b>	<b>\$ 37,914,436</b>	

Dept	Name	Current Budget	Mid Year Budget Adjustments	New Current Budget	NOTES
4050	Waste Water - Revenue	\$ 9,872,625	\$ 65,000	\$ 9,937,625	Increase Interest Revenue
4050	Waste Water - Expense	\$ 9,860,693	\$ 700,000	\$ 10,560,693	Sludge Hauling Contract - \$500,000 Additional Contingency Funds - \$200,000
4050	Variance (Rev - Exp)	\$ 11,932	\$ (635,000)	\$ (623,068)	Budget Surplus/ (Deficit)
	Estimated Personnel Cost Savings			\$ 320,000	
				\$ (303,068)	Projected Reduction in Operating Reserve Balance

**Fund 200 - Highway Users Gas Tax**

Dept	Name	Current Budget	Mid Year Budget Adjustments	New Current Budget
0000	2103 Gas Tax - Revenue	\$ 176,000	\$ 224,000	\$ 400,000
0000	Transfers Out - Expense	\$ 948,000	\$ 224,000	\$ 1,172,000
0000	Variance (Rev - Exp)		\$ -	

**Expense**

Dept	Name	Current Budget	Mid Year Budget Adjustments	New Current Budget	NOTES
0000	Transfers Out	\$ 154,000		\$ 154,000	
1050	City Council	\$ 51,103	\$ 48,397	\$ 99,500	Registrar of Voters Invoice
1150	City Clerk	\$ 174,506		\$ 174,506	
1200	Admin	\$ 1,096,331	\$ -	\$ 1,096,331	0
1225	Finance/Budget	\$ 965,839		\$ 965,839	
1230	IT	\$ 1,159,042		\$ 1,159,042	
1240	Risk/HR	\$ 1,637,109	\$ 13,000	\$ 1,650,109	Recruiting Costs
1300	Legal	\$ 750,454		\$ 750,454	
1350	Community Development	\$ 524,610		\$ 524,610	
1550	Parks and Recreation	\$ 842,419	\$ (80,000)	\$ 762,419	Health Insurance decrease
2000	Animal Control	\$ 318,204		\$ 318,204	
2030	Community Enhancement	\$ 280,406	\$ 15,000	\$ 295,406	Weed abatement (private property)
2040	OES	\$ 6,000		\$ 6,000	
2050	Police	\$ 10,155,647	\$ 400,000	\$ 10,555,647	Worker's Comp costs
2080	Police K9	\$ 5,900		\$ 5,900	
2090	Police Support	\$ 1,696,951		\$ 1,696,951	
2100	Fire	\$ 4,420,400		\$ 4,420,400	
2150	Building and Safety	\$ 1,292,734		\$ 1,292,734	
3100	Public Works	\$ 1,296,005		\$ 1,296,005	
3250	Street Maintenance	\$ 1,839,662	\$ (150,000)	\$ 1,689,662	Utilities decrease
6000	Building Maintenance	\$ 525,381		\$ 525,381	
6050	Parks and Grounds Maint	\$ 3,209,255	\$ 205,000	\$ 3,414,255	Weed abatement \$100K Utilities \$100K Equipment \$5K
6150	City Pool	\$ 61,081		\$ 61,081	
	<b>TOTAL</b>	<b>\$ 32,463,039</b>	<b>\$ 451,397</b>	<b>\$ 32,914,436</b>	

**Fund 250 - CFD Admin**

Dept	Name	Current Budget	Mid Year Budget Adjustments	New Current Budget
0000	Transfers Out - Expense	\$ 890,465	\$ 209,937	\$ 1,100,402

Variance (Rev - Exp)	\$ -	\$ 5,000,000	\$ 5,000,000
Less One Time Franchise Refuse Fee	\$ -	\$ (5,000,000)	\$ (5,000,000)
Difference	\$ -	\$ 0	\$ 0



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Jeff Mohlenkamp, Finance Director  
**DATE:** March 17, 2020  
**SUBJECT:** FY 2020-21 Budget Discussion and Direction

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### Background and Analysis:

The City Council has conducted two budget workshops on November 21, 2019, and December 17, 2019, to begin the preparation of the FY 2020-21 Budget. At those meetings, the Council had the opportunity to consider the following elements of the budget building process:

- A review of services provided by the City, including survey results from the Council and senior management;
- An update on the current General Fund and Waste Water Fund unassigned balances;
- A review of the financial challenges for the City in future years; and
- A review of the General Fund Long Term Financial Forecast (FY 2020 through FY 2029) – including the assumptions used in developing the forecast.

This meeting is the next step in the budget process. The City Council will be asked to provide further direction to allow staff to move forward as follows:

1. Confirm core assumptions for building the FY 2020-21 budget,
2. Review additional information regarding services prioritized through the recent Council/ Management survey,
3. Provide direction to City staff regarding the timing and process for allocating unassigned General Fund dollars (One-Time funds), and
4. Overview of the budget preparation process and confirm the planned budget timeline.

**Budget Assumptions**

A base budget will be created that reflects actual expenditures for the current fiscal year as well as final numbers for the two prior fiscal years. These estimates will be refined by each department to identify where savings may be realized and to determine when enhancements may be appropriate. This will include elimination of any one-time expenditures, annualization of contract costs and evaluation of economic trends/factors.

After the base budget is established, adjustments will be requested based upon assumptions to account for inflation and ensure funds are adequate to continue existing services at current levels. Revenues will also be adjusted to reflect certain base assumptions that are listed below. The following assumptions are proposed for the FY 2021 budget:

**Revenues**

<b>Revenue Type</b>	<b>Proposed Adjustment</b>	<b>Notes/ Reasoning</b>
Property Tax and Motor Vehicle In Lieu	7.0%	Growth continues as a strong pace but slower than the recent two-year average of 8.5%. This is in line with the HdL conservative forecast. Property tax for FY 2021 will not be impacted by the Coronavirus as the taxable property values were established on January 1, 2020.
Sales Tax	2.5%	The two-year average is 7%. The forecast would have been for slower growth at 5.5%. However, due to recent volatility – it is prudent to project lower growth. We have reduced to 2.5% at the current time due to the economic impacts from the Coronavirus.
Utility Users Tax	1.5%	Growth continues at a pace consistent with the recent two-year average
Franchise Fees	3.5%	Growth moderates and is less than the recent two-year average of 6%. Part of this reduction is to account for the Coronavirus.
All other Taxes	2.5%	Estimated to keep pace with inflation
CFD operational transfers	5.0%	These transfers, which support City operations, are expected to grow by 5% from FY 2020 to FY 2021. The estimate



		would have been closer to 7%, but this is reduced to account for the Coronavirus.
Permits and Inspection Fees	N/A	This will be a quantitative analysis by management to estimate development projects and the timing of revenue recognition. Staff will consider the current economic climate in these assumptions.
Other charges for Services	2.5%	CPI level increase unless specific information is available to warrant other changes

**Note:** At the time this report was drafted, the Coronavirus was causing significant market disruption that may lead more significant economic challenges and a need to reduce revenue forecasts.

**Expenses** - the Riverside County area Consumer Price Index (CPI) reported as of January 2020, had an annual increase of 2.5% (excluding food and energy) over the prior year. This will be used for all areas where inflation costs need to be considered and direct knowledge of cost increases is not known.

Expense Type	Proposed Adjustment	Notes/ Reasoning
<i>Personnel Costs - Wages</i>	MOU or CPI	If there is a memorandum of understanding with labor groups (MOU), this will be factored into the payroll costs. If no MOU exists, CPI will be used as a cost estimate.
<i>Personnel Costs - PERS</i>	Cal PERS rates/ estimates	Staff will use the rates for normal costs and the liability cost portion from Cal PERS.
<i>Personnel Costs – Health Insurance</i>	Contracted Adjustment/ MOU	We will use the contracted cost levels for this cost area and follow MOU for cost apportionment.
<i>Personnel Costs - Other</i>	CPI	Use CPI unless specific information warrants a different adjustment
<i>Operating Costs - Utilities</i>	3.0%	The estimated annual increase based upon the most recent 12 months change.
<i>Operating Costs – Contractual Services</i>	CPI	Unless a rate is identified in contract, this will be generally increased to keep pace with CPI – 2.5%
<i>Operating Costs - Fuel</i>	3.5%	Fuel prices can be very volatile/ the most recent year had an 8% increase – while a 5-year trend has minimal inflation
<i>Operating Costs – Repairs and Maintenance</i>	CPI	Use CPI unless specific cost changes are identified

Operating Costs - Supplies	CPI	Use CPI unless specific cost changes are identified
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Review of City Services needing additional Focus

At the December 17, 2019, budget workshop, the City Council discussed 5 of the 70 city services/ functions that were identified by both Council and management as having deficiencies in the performance of those services.

Fire Protection

Primary Concerns/ Comments

- 1. The City needs expanded coverage and needs to open a new fire station as quickly as possible, and
- 2. The contract with Riverside County has administrative costs that appear to be very high and possibly excessive.

Streets and Pavement Management Programs

Primary Concerns/ Comments

- 1. This has been a source of community concern and complaints,
- 2. Needs will increase as the City continues to grow, and
- 3. There is a backlog of projects and funding has not been sufficient to address this backlog.

Business Attraction and Development

Primary Concerns/ Comments

- 1. Targeting businesses with higher paying jobs and those that provide needed services is important,
- 2. More resources or staffing is needed to make this an effective program, and
- 3. The strategic plan is not well understood and needs to be executed to add better diversity of businesses.

Real Estate Revitalization/ Entrepreneurial Development

Primary Concerns/ Comments

- 1. Target businesses that offer higher pay, provide specific needed services and add to the tax base,
- 2. Develop relationships with key players in the industries we are trying to attract, and
- 3. Add resources or more positions to implement the strategic plan.

City-owned Right of Way Maintenance

Primary Concerns

- 1. We need consistent effort in this area and target areas where lack of maintenance could cause dangerous conditions,
- 2. Policies, procedures and training is needed to ensure consistency, and

3. We should consider contracting out some of these functions to keep up with demand.

Staff has reviewed these areas and have identified potential solutions to improve these services. Summary information is identified in Attachment A to this report. Staff is preparing budget enhancement requests for City Council consideration in future budget discussions.

#### Allocation of Unassigned General Fund Balance (One-Time Funds)

As of June 30, 2019, the City had an unassigned General Fund balance of \$14,980,384. This is approximately 42% of expenditures for the last fiscal year (\$14.9 million divided by total expenses \$35.5 million)

City Council has discussed a goal of keeping 25% of expenditures in the unassigned balance as a safety net to address unplanned needs for funds or an economic downturn. This equates to approximately \$8.9 million that should be left in unassigned reserves. The balance of \$6 million is available for City Council action.

Further, the FY 2020 budget is currently trending to have a surplus of \$6 to \$8 million. These funds will be available for Council action near the end of calendar year 2020 once the audit of those funds is complete.

Any action by the City Council to allocate one-time funds should target projects or expenses that do NOT require ongoing allocation of resources. As such, new positions or contractual obligations that extend beyond the availability of dollars allocated should not be funded with unassigned fund balance.

Staff is seeking direction from the City Council as to the timing and process it wants to follow to make an allocation of unassigned General Fund balance.

#### Budget Preparation Process/ Timeline for Completion

The budget building process began with the budget workshops completed in November and December 2019. Staff officially began the process of internal budget building with a kickoff meeting on February 25, 2020.

**Base Budget Preparation**

Department managers will review the estimated expenditures for FY 2020 and compare that to actual expenditures for FY 2019 and FY 2018. This analysis, along with direct operational expertise, will form the basis for reviewing base budget expenditures. This will involve reviewing contracts, evaluating equipment needs determining what resources are needed to continue operations at current levels. In this process, costs will be adjusted for inflation and expected increases in the cost of providing services.

**Enhancements**

All requests for new funding that allows for expansion or improvement of services will be requested as budget enhancements. Departments will request any funding that allows for new services or expanding existing services separately from the base budget. All enhancements will be ranked by departments and then ultimately ranked by the City Manger for City Council consideration. **Note:** Any new positions will be requested through the enhancement process.

The Finance Department will evaluate the overall change in the budget and provide an estimated budget surplus (revenues less expenditures) that could be used to support enhancement requests.

Budget Timeline

The City is required to adopt a budget by June 30, 2020. With this time limitation in mind, staff have developed the following schedule for budget preparation:

- 2/25 Budget Kickoff Meeting – department heads and those involved in the budget process
- 2/26 Budget packages sent to departments with instructions
- 3/13 Budget packages due to Finance Dept (departments deadline)
- 3/17 Final Budget building guidance sought from City Council
- 3/16- 3/23 Review budget packages and follow-up with departments
- 3/25 or 3/26 Finance Dept reviews proposed budget with the City Manager (Finance Dept deadline)
- 3/27 to 4/10 City Manager meets with departments to review proposed budgets
- 4/13 to 4/17 Finance Department compiles the City Manager proposed budget for City Council review
- 4/28 Budget to City Council for initial review
- May 2020 Budget Book Preparation

6/09 Final budget to Council for Approval

**Fiscal Impact:**

There is no cost associated with this item.

**Recommended Action:**

- Provide guidance to staff if any changes are desired in the planned budget building assumptions,
- Provide direction to staff if there is additional information needed to consider increased funding allocation to services identified as needing attention during the recent Council/ Management survey,
- Provide direction to staff regarding the timing and process for allocation of unassigned General Fund balance (one time funds), and
- Provide feedback to staff regarding the planned budget preparation process and the proposed timeline.

**Attachments:**

- A. Options for Improvement of Services – 5 Services Areas ranked as deficient

Attachment A

**City Services Needing Attention identified in the Council/ Management Survey**

Staff reviewed the following service areas that were identified by both City Council and management as needing improvement:

- Fire Protection
- Street and Pavement Management
- Business Attraction and Development
- Real Estate Revitalization/ Entrepreneurial Development
- City-owned Right of Way Maintenance

Managers of these programs have evaluated the deficiencies and are preparing operational and budgetary plans to address the concerns. A brief summary of the plans currently under development are discussed below. Staff are preparing budget enhancements for these service areas for Council consideration in future budget discussions.

**Fire Protection**

Concerns/ Deficiencies

Expanded coverage is needed through the opening of a new Fire Station and administrative costs within our contract with Riverside County appear very high.

Proposed Solution

The City is moving forward with a project to construct and staff a new fire station. This project has previously been approved as a capital improvement project (CIP) by the City Council. Funds are now available to move forward with construction, which is planned to begin in September 2020. The City added staffing to the existing fire station in FY 2019 and will plan to further augment staffing in FY 2022 to open and operate the newly constructed facility.

Staff are reviewing the contract with Riverside County and evaluating comparative data. We contemplate discussions with County officials in the near future to gain greater transparency regarding the administrative charges to the City. Depending upon the results of this evaluation and the proposed meeting, options may be available for Council consideration.

## **Street and Pavement Management**

### Concerns/ Deficiencies

There is a backlog of street maintenance projects and this has been a source of community concern. A pavement condition analysis was recently completed that documented the backlog of maintenance needs. As the City grows, these concerns are likely to increase.

### Proposed Solution

In accordance with the Pavement Management Report provided by AMS consulting, as well as the Road & Rehabilitation Program CC workshop held on 08/27/19, the City is developing a program to maintain streets City wide. Staff is currently working with a consultant (Michael Baker International) for the development of engineered plans for construction in early 2020. Public Works is currently projecting annual funding needs of about \$2M± to maintain the current City-wide Pavement Condition Index (PCI) of 71 which is a measure of the overall health of City streets. Additionally, we have reviewed the following scenarios in addition to maintaining the current PCI:

- Increase PCI from 71 to 78-80 - \$4M-\$4.5M needed annually over the next 5 years
- Allow PCI to decrease from 71 to 66 - \$0.5M needed annually over the next 5 years

Staff has recommended that the City pursue an increase of the PCI from 71 to 80, but recognizes the projected funding shortfall to implement is about \$2M annually.

While one-time funds would help reduce the backlog and allow the City to address critical needs or projects that are cost effective in the long term, an increase in ongoing resources is needed to improve this service area overall.

## **Business Attraction and Development**

### Concerns/ Deficiencies

The City needs to improve in its ability to target businesses that provide higher paying jobs and services that are needed within the community. The strategic plan is not well understood and needs to be executed to add better diversity of businesses.

### Proposed Solution

We need to focus on the strengths of the city and region and develop a strategy to shore up the city's weaknesses. These functions of the city are dedicated to implement the vision of the City Council and community, while understanding the City is only one cog in the commercial real estate development machine. Targeted attraction includes small and large firms and is a key function to strengthen the City's financial position by creating new revenues.

Develop a Marketing plan to promote economic growth, development and investment in the city. The plan shall set realistic goals and objectives, contain strategies to support those marketing goals, as well as contain elements to measure the success of the initiatives.

Enhancement Description

At the current time, the program is limited on how many projects it can proactively pursue, as the level of reactionary participation is high.

Current staffing levels are adequate for current (mostly reactionary) operations yet lack the ability to enhance the attraction functions performed by the City. The program would benefit from the creation of a new position, Economic Development Senior Management Analyst (\$162k fully loaded) to aid in the development and implementation of the program and from the utilization of an outside retail attraction consultant (\$60k) that specializes in retail / service attraction which will perform data analysis, create targeted marketing materials, and enhance staff's efforts to navigate the ever-changing retail development market. A formal multi-faceted marketing plan (\$50k) would aid in citywide marketing efforts and employer targeting.

The program would benefit from a business attraction incentive program which would allow for loans to be provided to targeted industries (sit down restaurants for example) to locate within certain areas of town (downtown) to aid the business owner is dealing with the costs associated with starting a business in a second generation building. (\$100k-200K per year)

Staff realizes that there are many needs within the City. As a result, an enhancement request is being developed that will prioritize needs and be scalable to achieve the best results within resources that may be available.

**Real Estate Revitalization/ Entrepreneurial Development**

Concerns/ Deficiencies

The City needs to target businesses that offer higher pay, provide specific services needed in the community and that add to the tax base. Relationship building with key players in the industries we are trying to attract is lacking.

Proposed Solution

The core function of the program is to establish, build, and maintain relationships with landowners, commercial brokers, and commercial developers. These relationships mature over time and must not be taken for granted. The program encourages investment into the community and serves as a precursor to the attraction program. In order to attract businesses and industry to the City, we must have projects and a community to support them. The program consists of providing data, information and general knowledge of the City's past, present, and future to guide private development. Work within this program often represents the first contact with the city with outsiders looking to invest in the community.



Entrepreneurial Development is a separate function that consists on discovering business start-ups and providing those businesses access to resources provided by the City and its many Economic Development partners. Examples of resources include: business planning, consulting, mentoring, funding, workforce development, etc. The City's role is to find these entrepreneurs and educate them that government entities are willing and able to help small businesses, rather than impede their progress.

Enhancement Description

There have been recent areas of success throughout the city. These successful projects have been years in the making, with an average timeline from first contact to opening of 3-4 years. Currently Staff are working on potential projects today that may be built 3-4 years from now. A formal marketing plan for the City in general would aid in explaining where Beaumont is currently and where the City is headed.

The program could be greatly enhanced by the addition of new a position, Management Analyst (\$129k fully loaded). Additional resources and work hours could be devoted to a proactive approach to building new relationships and encouraging investment. New programs could be developed to engage brokers and developers with the residents. Participation in local and regional trade shows, industry associations, and regional ED efforts would be fully staffed and beneficial as a result of months of preparation required to attend these events. A dedicated Economic Development website (\$10k) should be designed to provide relevant data, available properties, incentives, and assistance in a focused manner, rather than having interested parties search the city website.

Additional positions are needed to expand and enhance the current program. The program needs a formal marketing plan which may also include a component for City image, presentation, and overall awareness that Beaumont of today is much different than Beaumont 20 years ago.

**City-owned Right-of-Way Maintenance**

Concerns/ Deficiencies

Consistency is lacking in maintenance and can result in dangerous situations. Policies and procedures are lacking and need to be developed. Contracting out services should be considered as a solution to keep up with demand.

Proposed Solution

The City of Beaumont is responsible for approximately 30 acres of right-of-way (streetscape), not including parks, vacant lots, trails, and facilities, and is scattered throughout the 32 square miles of the city limits. Of this approximate 30 acres, most of the landscape maintenance includes handwork, such as edging, trimming, and raking. A small portion is maintained with powered lawn mowers. A majority of the right-of-way maintenance is contained within the new subdivisions and is funded with community facilities district funding.

Much of the area has lacked adequate maintenance over the past decade and irrigation sources have been removed or significantly reduced, causing vegetation to die. Proper staff training on landscape maintenance techniques, turf management, and equipment safety is needed to bring staff knowledge of landscaping methods up to acceptable minimum standards.

One immediate solution could be a hybrid approach to maintenance utilizing contract employees in some areas, while continuing with City employees in others. This would allow the organization to adopt adequate policies and procedures, properly train staff, and build a solid landscape maintenance foundation for the future of landscape maintenance throughout the City-owned right-of-way.

One-time funding vs. Ongoing funding

To bring the maintenance of the City's rights-of-way up to an acceptable level, ongoing funding is needed to improve the areas. An alternative approach could be to utilize one-time funding to redesign some of the high traffic/highly visible areas and use less labor-intensive vegetation such as hardscapes, particularly in the center dividers throughout the City's main thoroughfares i.e. 2<sup>nd</sup> St. Marketplace, First St., and Potrero Blvd.

Funding levels for FY 2021

Maintaining current funding levels for FY 2021 is appropriate. As personnel changes are made and staff training is completed, the current staffing level is adequate for the next two to three years. With that said, utilizing one or two part-time employees on weekends in lieu of full-time staff would allow for 20% more manpower during the weekdays, giving the department the ability to focus on re-landscaping areas that are sparse with vegetation, bringing life back to areas that once had adequate plant pallets.

Improvement Timeline

Optimally, it would take a minimum of two fiscal years to accomplish necessary improvements to the rights-of-way if hardscapes are not used in key areas as outlined above. An important factor to adding hardscapes to the rights-of-way, particularly in center medians, is safety of personnel. Having personnel working in center medians, specifically in four-lane roads, exponentially increases the risk to personnel and the community.



## Staff Report

**TO:** Mayor, and City Council Members

**FROM:** Elizabeth Gibbs, Community Services Director

**DATE:** March 17, 2020

**SUBJECT:** **Award a Subscription Agreement to Dude Solutions, Inc., for Computerized Maintenance Management Software and Facility Condition Assessment**

### Background and Analysis:

The Community Services Department has actively been exploring the purchase of a comprehensive computerized maintenance management software (CMMS) to fundamentally change the way that staff manages the maintenance of City-owned facilities and the assets within those facilities. These assets include infrastructure components within each facility such as major plumbing fixtures, electrical, HVAC, generators, and lighting fixtures.

A CMMS combines several critical functions into one integrated platform:

#### *Asset Inventory and Facility Condition Assessment*

At the core of a CMMS is a detailed catalogue of all assets along with attributes associated with the asset type. For example, a water heater may include the location, barcode tag data, model number, condition, warranty information, maintenance history, preventative maintenance schedule, forecasted replacement date, etc.

Part of the asset inventory includes a Facility Condition Assessment (FCA) process which provides a base line condition of City facilities and associated infrastructure. The FCA is an integral part of establishing the data needed to effectively administer the software program. The information gathered allows the City to properly establish timelines for repairs, maintenance, and replacements.

Historically, the City has deferred a considerable amount of facility maintenance and necessary equipment repairs due to lack of appropriate management oversight. If necessary, an FCA can result in a detailed inspection of facilities, documentation of attributes and condition of buildings and equipment, including affixing barcode

identification tags to such equipment as air conditioning units and water heaters, just to name a few. Having this information would allow staff to immediately prioritize repairs or replacement of key equipment and forecast a 5-year plan on future replacement of other equipment.

#### *Geographic Information System (GIS) Integration*

Another feature of the CMMS is a GIS integration for all assets, facilities, and equipment. A user can select an asset or facility on a map, view its attributes, and create a work order.

#### *Vendor and Staff Management*

The expertise of different vendors and City staff members can be stored in the system so that work orders can be properly assigned and maintenance and repair invoices from external vendors can be attached to different assets. This is particularly useful to ensure optimum fiscal responsibility, as well as for budgeting purposes.

#### *Work Order Management*

A work order is generated when action needs to be taken on an asset, either automatically when a scheduled maintenance activity is required, or manually when an asset needs repair or other attention. The work order is routed to the property vendor or staff member, the work is performed, and the work order is closed when the work performed has been documented. Documentation can include who performed the work and when it was done, how much time was required, the cost of materials used to fix the issue, and if follow-up or further inspection is required. The work order is associated with the asset and can be retrieved at any time.

#### *Maintenance Scheduling*

Many assets have a predetermined preventative and predictive maintenance schedule which can be stored for each asset in the system and trigger automatic work orders.

#### *Long-term Capital Forecasting*

When the current condition, expected lifespan, replacement cost, and total lifecycle cost is known, then the system can estimate when an asset will need to be replaced. Having that information for all assets across all City-owned facilities allows the system to estimate a long-term capital replacement budget which will allow the City to properly forecast, budget, and prioritize replacement projects.

#### *Reports/Dashboard Module*

A variety of reports can be created that can track the costs of maintaining a single asset or an entire facility, specifically, the total number of man-hours and materials costs

attributed to a particular type of work order. For example, staff can understand the number of man-hours and total materials costs attributed to the repair of an HVAC system at the Police Department.

Vendor Selection Process

Staff reviewed several CMMS vendors, including the one currently being used by the City, and determined that Dude Solutions, Inc. (DSI), provides a system with robust functionality, is user-friendly, cost effective, and provides the following benefits:

- A fully cloud based solution hosted on DSI’s servers, relieving the burden of maintenance on our internal IT staff, and avoids purchasing costly hardware;
- Accessibility across multiple platforms including mobile devices by staff;
- An energy management module consisting of integration with Southern California Edison, SoCal Gas, and other utilities to track utility usage by facility, allowing staff to analyze overall annual costs of operating a facility;
- Multi-channel issue reporting so that City-staff are able to report a variety of maintenance issues 24 hours a day, 7 days a week; and
- Custom work-flow management that automatically creates a work order and routes it to the appropriate staff to resolve.

DSI has over twenty years of experience providing facilities management software to thousands of clients across various industries, including: government, education, manufacturing, and healthcare facilities. In the immediate area, DSI provides software and service to such cities as Riverside, Dana Point, Ranch Cucamonga, Ontario, and Palm Springs.

Finally, DSI was awarded a contract through a competitive bidding process by Sourcewell, a cooperative purchasing program in which the City is a member (Attachment A). This allows the City to take advantage of the cooperative purchasing award and competitive contract pricing.

**Fiscal Impact:**

Initial startup costs of the CMMS program are \$24,435 with additional annual maintenance costs of \$35,649 thereafter. Funding for the startup costs is available in the current fiscal year in general ledger account 100-6000-7071, while the annual maintenance costs, effective July 1, 2020, will be programmed in the operating budget for Fiscal Year 2020-2021.

**Recommended Action:**

Award a subscription agreement to Dude Solutions, Inc., for Computerized Maintenance Management Software and Facility Condition Assessment; and Authorize the Mayor to execute the agreement on behalf of the City of Beaumont.

**Attachments:**

- A. Draft subscription agreement with Dude Solutions, Inc.



## SUBSCRIPTION AGREEMENT

This Subscription Agreement (this “Agreement”) made this 24th day of February, 2020, by and between City of Beaumont, California, a Municipal Corporation duly organized and existing under and by virtue of the laws of the State of California (“Customer” or “City”) shall govern Customer’s (as defined below) access and use of the Service (as defined below) provided by Smartware Group, Inc. (“Provider”), an Affiliate (as defined below) of Dude Solutions, Inc. (including its successors and assigns, “DSI”); and with reference to the following facts which are acknowledged by each Party as true and correct:

### RECITALS

- A. CITY is a general law city, formed and existing pursuant to the provisions of the California Government Code.
- B. CITY is authorized to enter into consultant agreements under the provisions of California Government Code section 53060.
- C. CITY desires or is in need of Asset Essentials software as a service solution services as more fully described in DSI's quote Q-168630, a copy of which is attached as Exhibit “A”.
- D. DSI, in conjunction with Provider, has special knowledge, experience and facilities for accomplishing the above services.
- E. CITY now desires to retain DSI to accomplish the above services, and DSI is willing to be so retained pursuant to the terms and conditions of this Agreement.

### **Section 1.0 Definitions**

As used in this Agreement, the following terms shall have the meanings set forth below:

- 1.1 “Access Credentials” means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify an individual’s identity and authorization to access and use the Service.
- 1.2 “Account” means Customer’s specific account where Customer subscribes to access and use the Service.
- 1.3 “Account User” means each employee, consultant and contractor of Customer that has been granted Access Credentials.
- 1.4 “Affiliate” means, with respect to any legal entity, any other legal entity that (i) controls, (ii) is controlled by or (iii) is under common control of such legal entity. A legal entity shall be deemed to “control” another legal entity if it has the power to direct or cause the direction of the management or policies of such legal entity, whether through the ownership of voting securities, by contract, or otherwise.
- 1.5 “Annual Fee” means the annual fee invoiced to Customer by Provider (or its sales agent) prior to the Initial Term and each applicable Renewal Term, which is required to be paid in order for Customer to be permitted to access and use the Service and, if Customer purchases the Asset Essentials Connector Toolkit, the API. The Annual Fee for the Initial Term and the first Renewal Term is as indicated on Q-168630, a copy of which is attached hereto as Exhibit “A”.

- 1.6 “API Toolkit” or “API” means Provider’s proprietary application programming interface and any accompanying or related documentation, software libraries, software tools, published specifications, and other materials, as amended from time-to-time in Provider’s sole discretion.
- 1.7 “Asset Essentials Connector Toolkit” means Provider’s add-on module that (i) enables Provider’s customers to integrate (import/export) Customer Data with the Service in batch-mode or real-time, and (ii) consists of the “Connector Tool”, which is a client-side executable program installed locally on Customer’s computer, and the API.
- 1.8 “Confidential Information” means any non-public information and/or materials disclosed in writing or orally by a party under this Agreement (the “Disclosing Party”) to the other party (the “Receiving Party”), which (i) is designated in writing as confidential at the time of disclosure, or (ii) with respect to non-public information disclosed orally, the Disclosing Party sends the Receiving Party a written notice to Receiving Party within 15 days after oral disclosure identifying the non-public information that was disclosed as its confidential information, including when, where, how and to whom such non-public information was disclosed. For avoidance of doubt, Provider’s Confidential Information shall include the source code, data structure, algorithms and logic of the Applications and Service. Notwithstanding the foregoing, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a Third Party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 1.9 “Content” means all of the audio and visual information, documents, content, materials, products and/or software contained in, or made available through, the Service.
- 1.10 “Customer” means the legal entity identified on the Account.
- 1.11 “Customer Data” means all data, information and other content provided by or on behalf of Customer to the Service, including that which the Account Users input or upload to the Service.
- 1.12 “Documentation” means the user documentation relating to the Service, including but not limited to descriptions of the functional, operational and design characteristics of the Service.
- 1.13 “DSI Data” means all data, information and other content provided by or on behalf of DSI customers to any of the DSI Services.
- 1.14 “DSI Services” means DSI’s suite of facility management software-as-a-service applications, solution and services, as updated, enhanced or otherwise modified from time-to-time.
- 1.15 “Highly-Sensitive Personal Information” means an Account User’s (i) government-issued identification number (including social security number, driver’s license number or state-issued identified number), (ii) financial account number, credit card number, debit card number, credit report information, in each case with or without any required security code, access code, personal identification number or password that would permit access to such Account User’s financial account; and/or (iii) biometric data.
- 1.16 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191) and all



regulations promulgated thereunder (45 C.F.R. §§ 160-164), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act and all regulations promulgated thereunder, as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), as amended from time to time.

1.17 “Implementation, Training and Support Program” or “ITSP” means Provider’s comprehensive implementation, training and support program provided to Provider’s customers with respect to the Service.

1.18 “Intellectual Property Rights” means all ideas, concepts, designs, drawings, packages, works of authorship, processes, methodologies, information, developments, materials, inventions, improvements, software, and all intellectual property rights worldwide arising under statutory or common law, including without limitation, all (i) patents and patent applications owned or licensable by a party hereto; (ii) rights associated with works of authorship, including copyrights, copyright applications, copyright registrations, mask work rights, mask work applications and mask work registrations; (iii) rights related to protection of trade secrets and Confidential Information; (iv) trademarks, trade names, service marks and logos; (v) any right analogous to those set forth in clauses (i) through (iv); and (vi) divisions, continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, hereafter filed, issued or acquired.

1.19 “Service” means the “Asset Essentials” SaaS-based application or the “Asset Essentials Enterprise” SaaS-based application, as applicable, which Customer subscribes to pursuant to this Agreement, in each case as updated, enhanced or otherwise modified from time-to-time.

1.20 “Third Party” means a party other than Customer, Provider or DSI.

## **Section 2.0 Use of the Service and the API; Proprietary Rights**

### **2.1 Use of the Service and the API.**

(a) *Service Subscription.* Subject to the terms of this Agreement (including, without limitation, the responsibilities, limitations and restrictions set forth in this Section 2.1 and payment of the Annual Fees required hereunder), (i) Provider shall permit Customer’s Account Users to access and use the Service during the Term, including access and use of all of the Content contained in or made available through the Service, (ii) Customer shall be automatically enrolled in the ITSP, and (iii) Provider shall use commercially reasonable efforts to make available to Customer each of the components described in the ITSP. Customer agrees that it shall use the Service solely for internal business purposes, and access and use of the Service and the ITSP shall be limited to Account Users.

(b) *API License.* Subject to the terms of this Agreement (including, without limitation, the responsibilities, limitations and restrictions set forth in this Section 2.1 and payment of the Annual Fees required hereunder), provided that Customer is purchasing the right to use the Asset Essentials Connector Toolkit, Provider hereby grants to Customer a limited, non-exclusive, non-transferable, revocable license (without the right to sublicense) to use and make calls to the API solely for the purpose of (i) extracting and transferring Customer Data from the Service to other Third Party applications used by the Customer for internal business purposes, and/or (ii) Customer’s internal development efforts to develop applications to work in conjunction with the functionality and capabilities of the Service purchased by Customer (“Customer Applications”). Customer shall have no right to distribute, license (whether or not through multiple tiers) or otherwise transfer the API to any Third Party or incorporate the API in any software, product, or technology.

(c) *Account Setup.* To subscribe to the Service, Customer must establish its Account, which may only be accessed and used by its Account Users. To setup an Account User, Customer must provide Provider (and agree to maintain, promptly update and keep) true, accurate, current and complete information for such Account User. If Customer or any applicable Account User provides any information that is untrue, inaccurate, not current or incomplete, Provider has the right to immediately suspend or terminate Customer's Account and usage of the Service and the API and refuse any and all future use. Each Account User must establish and maintain personal, non-transferable Access Credentials, which shall not be shared with, or used by, any other Third Party. Customer may not transfer an Account User's Access Credentials and/or its right to access and use the Service to a different user. Customer shall be solely responsible for any and all activities that occur under its Account, including all acts and omissions of its Account Users. Customer shall notify Provider immediately of any unauthorized use of its Account and/or any other breach of security of the Service that it suspects or becomes aware of.

(d) *Customer Responsibilities.* Customer shall: (i) take appropriate action to ensure that non-Account Users do not access or use the Service or the API; (ii) ensure that all Account Users comply with all of the terms and conditions of this Agreement, including the limitations and restrictions set out in Section 2.1(e); (iii) be solely responsible for the accuracy, integrity, legality, reliability and appropriateness of all Customer Data created by Account Users using the Service; (iv) access and use the Service solely in compliance with the Documentation and all applicable local, state, federal, and foreign laws, rules, directives and regulations (including those relating to export, homeland security, anti-terrorism, data protection and privacy); (v) allow e-mail notifications generated by the Service on behalf of Customer's Account Users to be delivered to Customer's Account Users; and (vi) promptly update and upgrade its system as requested or required in order to ensure continued performance and compatibility with upgrades to the Service and/or API Modifications (as defined in Section 2.1(g)). Customer shall be responsible for any breach of this Agreement by Account Users and any access or Use of the Service by persons other than Account Users.

(e) *Limitations and Restrictions.* Customer agrees that it shall not, and shall not permit any Third Party to, directly or indirectly: (i) modify, alter, revise, decompile, disassemble, reverse engineer, create derivative works or attempt to derive the source code of the Service or the API; (ii) assign, transfer, lease, rent, sublicense, distribute or otherwise make available the Service or the API, in whole or in part, to any Third Party, including on a timesharing, software-as-a-service or other similar basis; (iii) share Access Credentials or otherwise allow access or use the Service or the API to provide any service bureau services or any services on a similar basis; (iv) use the Service or the API in a way not intended by Provider or for any unlawful purpose; (v) use the Service or the API to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of Third Party privacy rights; (vi) attempt to tamper with, alter, disable, hinder, by-pass, override, or circumvent any security, reliability, integrity, accounting or other mechanism, restriction or requirement of the Service or the API; (vii) remove, obscure or alter any copyright, trademark, patent or proprietary notice affixed or displayed by or in the Service; (viii) perform load tests, network scans, penetration tests, ethical hacks or any other security auditing procedures on the Service or the API; (ix) interfere with or disrupt the integrity or performance of the Service, the API or the data contained therein; (x) access or use the Service or the API in order to replicate applications, products or services offered by Provider or DSI and/or otherwise build a competitive product or service, copy any features, functions or graphics of the Service or the API or monitor the availability and/or functionality of the Service or the API for any benchmarking or competitive purposes; (xi) under any circumstances, through a Third Party application, a Customer Application or otherwise, repackage or resell the Service, the API or any data received via the API; (xii) store, manipulate, analyze, reformat, print, and display the Content for personal use; (xiii) upload or insert code, scripts, batch files or any other form of scripting or coding into the Service; and

(xiv) store Highly-Sensitive Personal Information. Highly-Sensitive Personal Information should not be entered into the Service, as there are no data fields requesting this type of information.

(f) *Additional Service Guidelines.* Provider reserves the right to establish or modify general practices and limits concerning use of the Service, including without limitation, the maximum number of days that Customer Data shall be retained by the Service and the maximum disk space that shall be allotted on Provider servers on Customer's behalf. Provider shall provide at least sixty (60) days' prior notice of any such modification. Provider also reserves the right to block IP addresses originating a Denial of Service (DoS) attack or IP addresses causing excessive amounts of data to be sent to Provider servers. Provider shall notify Customer should this condition exist and inform Customer of its action. Once blocked, an IP address shall not be able to access the Service or the API and the block may be removed once Provider is satisfied corrective action has taken place to resolve the issue.

(g) *API Modifications.* Provider may modify, amend, change, or deprecate all or part of the API in its sole discretion at any time (an "API Modification"). Provider shall use reasonable efforts to provide notice to Customer of any such API Modifications as soon as reasonably practical. Customer acknowledges that an API Modification may have a material adverse effect on any applications utilizing or relying upon the API (including Customer Applications), including but not limited to causing such applications not to operate as designed. Provider shall have no liability of any kind to Customer or any user of such applications with respect to such API Modifications or any adverse effects resulting from such API Modifications.

(h) *Controlled API Usage.* Provider may limit or suspend Customer's usage of or access to the API if, in Provider's sole discretion, Customer or Customer's use of the API are adversely affecting the performance or operation of the API or the Service. Provider shall use reasonable efforts to provide notice to Customer of any such actions as soon as reasonably practical.

(i) *Third Party Software.* The Service may incorporate and/or embed software and other technology owned and controlled by Third Parties. Any such Third Party software or technology that is incorporated and/or embedded into any Service shall be provided to Customer on the license terms set forth this Agreement, unless additional or separate license terms apply as indicated by Provider. To the extent that the Service links to any Third Party website, application or service, the terms and conditions thereof shall govern Customer's rights with respect to such website, application or service, unless otherwise expressly provided Provider. Provider shall have no obligations or liability arising from Customer's access and use of such linked Third Party websites, applications and services.

## 2.2 Proprietary Rights.

(a) Customer acknowledges and agrees that (as between Customer and Provider) Provider retains all ownership right, title, and interest in and to the Service, the API, the Documentation and the Content, including without limitation all corrections, enhancements, improvements to, or derivative works thereof (collectively, "Derivative Works"), and in all Intellectual Property Rights therein or thereto. To the extent any Derivative Work is developed by Provider based upon ideas or suggestions submitted by Customer to Provider, Customer hereby irrevocably assigns all rights to modify or enhance the Service and/or the API using such ideas or suggestions or joint contributions to Provider, together with all Intellectual Property Rights related to such Derivative Works. Nothing contained in this Agreement shall be construed to convey to Customer (or to any party claiming through Customer) any Intellectual Property Rights in or to the Service, the API, the Documentation and the Content, other than the rights expressly set forth in this Agreement.

(b) Provider acknowledges and agrees that (as between Customer and Provider) Customer retains all ownership right, title, and interest in and to the Customer Data, including all Intellectual Property Rights therein or thereto. Notwithstanding the foregoing, Customer hereby grants Provider and its Affiliates a non-exclusive, royalty-free license to: (i) access, display, copy, distribute, transmit, publish, disclose and otherwise use all or any portion of the Customer Data to improve the Service, the API and the performance of Provider, including without limitation, submitting and sublicensing the Customer Data to Third Parties for analytical purposes, provided that (x) such Third Parties have entered into a written agreement with Provider to maintain the confidentiality of the Customer Data and (y) Provider shall not specifically identify the Customer Data as originating from Customer when providing the Customer Data to such Third Parties; (ii) integrate and incorporate the Customer Data with and into the DSI Data (collectively, the "Combined Data"); (iii) access, copy, view, analyze, process and use the Combined Data for the purpose of hosting, operating and providing the DSI Services; and (iv) use, copy and publish, and disclose, transmit and re-distribute all or any portion of the Combined Data to DSI customers in connection with their access and use of the DSI Services.

### Section 3.0 Provider Responsibilities

3.1 Implementation, Training and Support Program. During the Term Provider (or its agent, representative or designee) shall provide and maintain the ITSP. The ITSP shall be performed in accordance with the terms set forth at: [www.dudesolutions.com](http://www.dudesolutions.com), as amended from time-to-time.

3.2 Professional Services. Provider shall provide and perform professional, technical, consulting and/or other services (collectively, "Professional Services") that are mutually agreed upon and described in one or more statements of work that expressly reference this Agreement. Each statement of work shall be effective, incorporated into and form a part of this Agreement when duly executed by an authorized representative of each of the parties. Each statement of work shall (i) describe the fees and payment terms with respect the Professional Services being provided pursuant to such statement of work, (ii) identify any work product that will be developed pursuant to such statement of work, and (iii) set forth each party's respective ownership and proprietary rights with respect to any work product developed pursuant to such statement of work. Provider represents and warrants that all such Professional Services shall be performed in a professional and workmanlike manner.

3.3 Customer Data. Provider shall not edit or disclose any information regarding Customer's Account, including any Customer Data, without Customer's prior permission, except in accordance with this Agreement. Notwithstanding the foregoing, Provider is hereby permitted to provide certain statistical information (e.g., usage, average costs or time values, or user traffic patterns) in aggregated and de-identified form to Third Parties or to other subscribers.

#### 3.4 Service Levels.

(a) Provider shall use commercially reasonable efforts to make the Service available (i) 99.9% of the time during the hours of 6:00 a.m. (Eastern time) to 10:00 p.m. (Eastern time), Monday through Friday, excluding holidays ("Business Hours"), and (ii) 99.5% of the time, determined on a twenty-four (24) hours a day, seven (7) days a week basis. Availability shall be calculated on a monthly basis. For purposes of calculating availability, the Service shall not be deemed unavailable during any period arising from: (i) routine system maintenance that is performed weekly during non-Business Hours; (ii) scheduled downtime for extended system maintenance (of which Provider shall give at least 8 hours' prior notice and which Provider shall schedule to the extent reasonably practicable outside of Business Hours); and (iii) any unavailability caused by circumstances beyond Provider's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or

other labor problem (other than one involving Our employees), Internet service provider failure or delay, non-Provider software or hardware, or denial of service attack.

(b) Provider shall use reasonable efforts to ensure the availability of the API in accordance with the service levels described in Section 3.4(a). Notwithstanding the foregoing, Provider does not guarantee any required uptime, performance, or integrity of any product, application or service that integrates with and/or otherwise utilizes the API (including, without limitation, any such product, application or service developed by Customer). Moreover, Provider shall not be liable to Customer or any Third Party for the unavailability of the API or the failure of the API to perform in accordance with its specifications. Customer shall not represent to any Third Party any availability or performance levels with respect to the API.

3.5 Protection of Customer Data. Provider shall maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. In addition, if Customer is a "Covered Entity" under HIPAA, Provider shall be Customer's "Business Associate" under HIPAA, and any Customer Data provided by Customer to Provider in their capacities as a Covered Entity and Business Associate, respectively, Provider and Customer shall enter into a Business Associate Agreement (the form of which shall be reasonably satisfactory to Provider).

3.6 Affiliation with DSI. As the sales agent and third party beneficiary under and signatory of this Agreement, DSI shall be responsible for ensuring that Provider complies with any and all duties and obligations of Provider and is liable for failure to do so.

#### **Section 4.0 Third Party Interactions**

4.1 Relationship to Third Parties. In connection with Customer's use of the Service, Customer may: (i) enter into correspondence with and/or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service; (ii) purchase goods and/or services, including implementation, customization, content, forms, schedules, integration and other services; (iii) exchange data, integrate, or interact between Customer's Account, the Service, the API and a Third Party provider; (iv) be offered additional functionality within the user interface of the Service through use of the API; and/or (v) be provided content, knowledge, subject matter expertise in the creation of forms, content and schedules. Any such activity, and any terms, conditions, warranties or representations associated with such activity, shall be solely between Customer and the applicable Third Party. Provider shall have no liability, obligation or responsibility for any such correspondence, purchase, promotion, data exchange, integration or interaction between Customer and any such Third Party.

4.2 Ownership. Customer is the owner of all Third Party content and data loaded into the Customer Account. As the owner, it is Customer's responsibility to make sure it meets its particular needs. Provider shall not comment, edit or advise Customer with respect to such Third Party content and data in any manner.

4.3 No Warranty or Endorsement. Provider does not warrant any Third Party providers or any of their products or services, whether or not such products or services are designated by Provider as "certified," "validated," "premier" and/or any other designation. Provider does not endorse any sites on the Internet which are linked through the Service. Provider is providing these links to Customer only as a matter of convenience, and in no event shall Provider be responsible for any content, products, or other materials on or available from such sites.

4.4 Additional Terms. The Disclaimer of Warranties (Section 8.1) and Limitation of Liability (Section 8.3) set forth herein shall apply to all Third Party interactions.

## Section 5.0 Provider's Sales Agent

5.1 Sales Agent. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that DSI has acted on Provider's behalf under this Agreement in DSI's limited capacity as Provider's sales agent. Customer acknowledges and agrees that (i) Customer will process payment for all Annual Fees or expenses owing to Provider under this Agreement through DSI, as Provider's collection agent, and not through Provider directly, (ii) except as provided in clause (iii), Customer will direct all ITSP inquiries to DSI and not to Provider directly, and (iii) DSI did not design, develop or create the Service or the API and DSI has not itself provided any warranties with respect to the Service and/or the API, and therefore Customer will direct any warranty claims with respect to the Service directly to Provider and not to DSI.

5.2 Third-Party Beneficiary. Customer acknowledges and agrees that DSI is third-party beneficiary to this Agreement and this Agreement shall not be amended in any manner that affects DSI's rights hereunder without DSI's prior written consent.

## Section 6.0 Annual Fees

6.1 Annual Fees. Customer shall, on or before the commencement of the Initial Term of a Service subscription, pay to DSI (as Provider's collection agent) the Annual Fee for such Service subscription. Thereafter, DSI (as Provider's collection agent) shall invoice Customer for each applicable Annual Fee at least sixty (60) days prior to the commencement of the applicable Renewal Term. Unless Customer provides written notice of non-renewal in accordance with Section 7.1, Customer agrees to pay all Annual Fees no later than thirty (30) days after the receipt of DSI's applicable invoice therefor. Customer is responsible for providing complete and accurate billing and contact information to DSI and Provider and notifying DSI and Provider of any changes to such information.

6.2 Automatic Payments. Customer shall, upon the written request from Provider or DSI, establish and maintain valid and updated credit card information or a valid ACH auto debit account (in each case, the "Automatic Payment Method"). Upon establishment of such Automatic Payment Method, DSI (as Provider's collection agent) is hereby authorized to charge any applicable Annual Fee using such Automatic Payment Method.

6.3 Renewal Charges. Provider maintains the right to increase Annual Fees and other applicable fees and charges in connection with each Renewal Term.

6.4 Taxes. Provider's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Provider has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 6.4, DSI (as Provider's collection agent) shall invoice Customer and Customer shall pay that amount unless Customer provides DSI with a valid tax exemption certificate authorized by the appropriate taxing authority. Customer agrees to indemnify and hold Provider harmless from any encumbrance, fine, penalty or other expense which Provider may incur as a result of Customer's failure to pay any Taxes required hereunder. For clarity, Provider is solely responsible for taxes assessable against Provider based on its income, property and employees.

## Section 7.0 Term and Termination

7.1 Term. This Agreement commences on the date Customer establishes its Account and continues until the Service subscription hereunder has expired or have been terminated (the "Term"). The initial term of the Service subscription shall be for a period as indicated on the quote (the "Initial Term"). Thereafter, the Service subscription may renew for successive one year periods (each, a "Renewal Term"), not to exceed five years total, upon Customer's written notice of its intent to renew the Service subscription, not less than thirty (30) days prior to the expiration of the then-current Initial or Renewal Term applicable to the Service subscription

7.2 Termination of Agreement for Breach. Either party may terminate this Agreement (including its Service subscription and Account) prior to the expiration of the Term if the other party commits a material breach of this Agreement and fails to cure such breach within thirty (30) days after written notice of such breach is given by the non-breaching party; provided that if the breach involves a failure of Customer to pay any of the fees required under this Agreement, the cure period shall be reduced to ten (10) days. Without limiting the foregoing, in the event of a breach that gives rise to the right by Provider to terminate this Agreement, Provider may elect, as an interim measure, to suspend Customer's access and use of the Service, the API (if applicable) and the Account until the breach is cured. Provider's exercise of its suspension right shall be without prejudice to Provider's right to terminate this Agreement upon written notice to Customer.

7.3 Termination for Convenience. Customer may terminate this Agreement (including its Service subscription and Account) at any time for convenience by providing DSI (as Provider's sales agent) forty-five (45) days' prior written notice to the following email address: [notice@dudesolutions.com](mailto:notice@dudesolutions.com). Upon termination by Customer pursuant to this Section 7.3, Customer may request in writing and be granted a refund in accordance with the following: (i) if Provider receives Customer's written notice of termination within the first sixty (60) days after the commencement of the Initial Term, Provider shall refund to Customer eighty percent (80%) of the Annual Fee prepaid for the Initial Term (the "Initial Year Subscription Fee"); (ii) if Provider receives Customer's written notice of termination during the Initial Term but after the first sixty (60) days thereof, Provider shall refund to Customer a pro rata portion of the Initial Year Subscription determined based upon the number of full months remaining in the Initial Term (based upon the effective date of termination); (iii) if Provider receives Customer's written notice of termination during a Renewal Term, Provider shall refund to Customer a pro rata portion of the Annual Fee prepaid for such Renewal Term determined based upon the number of full months remaining in such Renewal Term (based upon the effective date of termination). For avoidance of doubt, no refund shall be granted with respect to fees for Professional Services.

7.4 Effect of Termination. Upon termination of this Agreement, (i) Customer's access and use of the Service shall automatically cease. Within thirty (30) days of receiving Customer's written request, DSI will perform one (1) export of Customer Data in a generally accepted commercially reasonable format as mutually agreed upon by Customer and DSI, provided such written request is received within sixty (60) days of the termination date. Provider shall have no obligation to maintain the Customer Data or to forward the Customer Data to Customer or any Third Party for a period of more than ninety (90) days from the termination date.

7.5 Survival. The following portions of this Agreement shall survive termination of this Agreement and continue in full force and effect: Sections 2.1(e), 2.2, 7.4, 8, 9 and 10. Termination of this Agreement, or any of the obligations hereunder, by either party shall be in addition to any other legal or equitable remedies available to such party, except to the extent that remedies are otherwise limited hereunder.

## Section 8.0 Insurance, Disclaimers and Indemnification

8.1 Disclaimer of Warranties. TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICE, THE API, ALL SERVER AND NETWORK COMPONENTS, WEB SERVICES, SOFTWARE AND THE DOCUMENTATION, ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND. PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT WARRANT THAT THE SERVICE OR THE API WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE, OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, OR THAT ANY DEFECT IN THE SERVICE OR THE API WILL BE CORRECTED. IN ADDITION, PROVIDER MAKES NO WARRANTIES THAT THE API SHALL NOT CAUSE DISRUPTIONS, ERRORS, LOSS OF DATA, LOSS OF USE, OR OTHER PROBLEMS WITH ANY THIRD PARTY APPLICATION, CUSTOMER APPLICATION AND/OR ANY COMPUTER ON WHICH ANY SUCH APPLICATION IS INSTALLED OR USED. PROVIDER IS NOT RESPONSIBLE FOR ANY DAMAGES OR HARM ARISING FROM CUSTOMER'S USE OF THE API AND/OR ANY CUSTOMER APPLICATION. NO INFORMATION OR ADVICE OBTAINED BY CUSTOMER OR OTHER THIRD PARTIES FROM PROVIDER OR THROUGH THE SERVICE OR THE API SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

### 8.2 Indemnification.

(a) Indemnity by Provider. Provider shall defend, indemnify and hold harmless Customer from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Customer, in connection with any Third Party claim (each, a "Claim") alleging that Customer's use of the Service as expressly permitted hereunder infringes upon any United States patent, copyright or trademark of such Third Party, or misappropriates the trade secret of such Third Party; provided that Customer (x) promptly gives Provider written notice of the Claim; (y) gives Provider sole control of the defense and settlement of the Claim; and (z) provides to Provider all reasonable assistance, at Provider's expense. If Provider receives information about an infringement or misappropriation claim related to the Service, Provider may in its sole discretion and at no cost to Customer: (i) modify the Service so that it no longer infringes or misappropriates, (ii) obtain a license for Customer's continued use of the Service, or (iii) terminate this Agreement (including Customer's Service subscriptions and Account) upon prior written notice and refund to Customer any prepaid Annual Fee covering the remainder of the term of the terminated Service subscriptions. Provider shall defend, indemnify and hold harmless Customer from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Customer, in connection with any Claim arising from bodily injury or property damage to the extent caused by the negligence or willful misconduct of Provider. Notwithstanding the foregoing, Provider shall have no liability or obligation with respect to any Claim that is based upon or arises out of (A) use of the Service in combination with any software or hardware not expressly authorized by Provider, (B) any modifications or configurations made to the Service by Customer without the prior written consent of Provider, and/or (C) any action taken by Customer relating to use of the Service that is not permitted under the terms of this Agreement. This Section 8.2(a) states Customer's exclusive remedy against Provider for any Claim of infringement of misappropriation of a Third Party's Intellectual Property Rights related to or arising from Customer's use of the Service.



(b) RESERVED.

8.3 Limitation of Liability. EXCEPT FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF PROVIDER, IN NO EVENT SHALL PROVIDER, IN THE AGGREGATE, BE LIABLE FOR DAMAGES TO CUSTOMER IN EXCESS OF THE AMOUNT OF ANNUAL FEES PAID BY CUSTOMER TO PROVIDER (INCLUDING PAYMENTS TO DSI, AS PROVIDER'S COLLECTION AGENT, FOR USE OF THE SERVICE) PURSUANT TO THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE LAST ACT OR OMISSION GIVING RISE TO THE LIABILITY. UNDER NO CIRCUMSTANCES SHALL PROVIDER HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL SPECIAL OR PUNITIVE DAMAGES, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. FOR AVOIDANCE OF DOUBT, CUSTOMER ACKNOWLEDGES AND AGREES THAT DSI IS NOT A PARTY TO THIS AGREEMENT AND, THEREFORE, IN NO EVENT SHALL DSI BE LIABLE FOR DAMAGES TO CUSTOMER HEREUNDER.

8.4 Insurance. Provider shall not begin the services under this Agreement until it has: (a) obtained, and upon the Customer's request, provided to the Customer, insurance certificates reflecting evidence of all insurance required in this Section 8.4; however, Customer reserves the right to request, and Provider shall submit, copies of any policy upon reasonable request by Customer; and (b) confirmed that all policies contain the specific provisions required in Section 8.4.

(a) Types of Insurance. At all times during the term of this Agreement, Provider shall maintain insurance coverage as follows:

(i) Commercial General Liability. Commercial General Liability (CGL) Insurance written on an occurrence basis to protect Provider and Customer against liability or claims of liability which may arise out of this Agreement in the amount of One Million Dollars (\$1,000,000) per occurrence and subject to an annual aggregate of One Million Dollars (\$1,000,000). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability.

(ii) Workers' Compensation. For all of Provider's employees who are subject to this Agreement and to the extent required by applicable state or federal law, Provider shall keep in full force and effect a Workers' Compensation policy. That policy shall provide employers' liability coverage as required by applicable state and/or federal Workers' Compensation laws, and Provider shall provide an endorsement that the insurer waives the right of subrogation against Customer and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against Customer by a bona fide employee of Provider participating under this Agreement, Provider agrees to defend and indemnify Customer from such claim.

(iii) Technology Professional Liability. For all of Provider's employees who are subject to this Agreement, Provider shall keep in full force and effect Technology Professional Liability coverage for technology professional liability with a limit of One Million Dollars (\$1,000,000) per claim and One Million

Dollars (\$1,000,000) annual aggregate. Provider shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of services under this Agreement; and (2) the policy will be maintained in force for a period of one year after termination of this Agreement or substantial completion of services under this Agreement, whichever occurs last. Provider agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the Customer's exposure to loss.

(b) Insurer Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that are rated "A-" and "V" or better by the A.M. Best Key Rating Guide, and are licensed to do business in the State of California. Customer will accept insurance provided by non-admitted "surplus lines" carriers only if the carrier is authorized to do business in the State of California.

(c) Deductibles. All deductibles on any policy shall be the responsibility of Provider and shall be disclosed to Customer at the time the evidence of insurance is provided.

(d) Specific Provisions Required. Each policy required under this Section 7.4 shall expressly provide, and an endorsement shall be submitted to Customer, that the CGL policy is primary and non-contributory to any insurance that may be carried by Customer. Additionally, the CGL policy shall expressly provide, and an endorsement shall be submitted to Customer, that the City of Murrieta and its respective officers and employees are included as additional insureds under the policy.

(e) Indemnity Not Limited by Insurance. Provider's liabilities, including, but not limited to, Provider's indemnity and defense obligations under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement, and Provider's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by Customer.

## **Section 9.0 Confidentiality**

9.1 Protection of Confidential Information. Subject to applicable law including the California Public Records Act, the Receiving Party agrees that it shall (i) hold the Disclosing Party's Confidential Information in strict confidence and shall use the same degree of care in protecting the confidentiality of the Disclosing Party's Confidential Information that it uses to protect its own Confidential Information, but in no event less than reasonable care, (ii) not use the Confidential Information of the Disclosing Party for any purpose not permitted by this Agreement; (iii) not copy any part of the Disclosing Party's Confidential Information except as expressly permitted by this Agreement, (iv) limit access to the Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

9.2 Compelled Disclosure. To the extent permissible under applicable law, the Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure for a computer program, computer code or algorithm or mask work rights recognized by the laws of California to the Receiving Party (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure,

the Disclosing Party shall reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

9.3 Remedies. To the extent permissible under applicable law, recipient acknowledges that Disclosing Party would have no adequate remedy at law should Receiving Party breach its obligations relating to a computer program, computer codes or algorithm or mask work rights recognized by the laws of California and agrees that Disclosing Party shall be entitled to enforce its rights by obtaining appropriate equitable relief, including without limitation a temporary restraining order and an injunction.

## **Section 10.0 Miscellaneous**

10.1 Authority. Customer represents and warrants that: (i) it has full right, title and authority to enter into this Agreement; and (ii) this Agreement constitutes a legal, valid and binding obligation of Customer, enforceable against it in accordance with its terms.

10.2 Acceptance of Privacy Policy. All data and information provided by Customer through its use of the Service is subject to Provider's privacy policy, as amended from time-to-time, which can be viewed by clicking the "Privacy" hypertext link located within the Service. By using the Service, Customer accepts and agrees to be bound and abide by such privacy policy.

10.3 Governing Law. This Agreement and any dispute arising out of or in connection with this Agreement shall be governed by and construed under the laws of the State of California, without regard to the principles of conflict of laws.

10.4 Relationship of the Parties. Provider is performing pursuant to this Agreement only as an independent contractor. Provider has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed its obligations set forth in this Agreement, except as otherwise agreed upon by the parties. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between Provider and Customer. Provider shall not act or attempt to act or represent itself, directly or by implication, as an agent of Customer or its affiliates or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, Customer or its affiliates.

10.5 Waiver. No failure or delay by either party in enforcing any of its rights under this Agreement shall be construed as a waiver of the right to subsequently enforce any of its rights, whether relating to the same or a subsequent matter.

10.6 Assignment. Customer shall have no right to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement to any Third Party and any attempt to do so shall be null and void. Provider shall have the ability to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement only upon prior written consent by Customer, which consent shall not be unreasonably withheld.

10.7 Force Majeure. Subject to the limitations set forth below and except with respect to any payment obligations of Customer, neither party shall be held responsible for any delay or default, including any damages arising therefrom, due to any act of God, act of governmental entity or military authority, explosion, epidemic casualty, flood, riot or civil disturbance, war, sabotage, unavailability of or interruption or delay in telecommunications or Third Party

services, failure of Third Party software, insurrections, any general slowdown or inoperability of the Internet (whether from a virus or other cause), or any other similar event that is beyond the reasonable control of such party (each, a “Force Majeure Event”). The occurrence of a Force Majeure Event shall not excuse the performance by a party unless that party promptly notifies the other party of the Force Majeure Event and promptly uses its best efforts to provide substitute performance or otherwise mitigate the force majeure condition.

10.8 Notices. Except as otherwise specified in Section 7.3 of this Agreement, all notices, instructions, requests, authorizations, consents, demands and other communications hereunder shall be in writing and shall be delivered by one of the following means, with notice deemed given as indicated in parentheses: (a) by personal delivery (when actually delivered); (b) by overnight courier (upon written verification of receipt); (c) by certified or registered mail, return receipt requested (upon verification of receipt); or (d) solely with respect to notices to Customer, via electronic mail to the e-mail address maintained on Customer’s Account. All notices to Provider shall be addressed as follows: Smartware Group, Inc., P.O. Box 188, Center Harbor, NH 03226, Attention: Legal Department.

10.9 Interpretation of Agreement. The Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties, and shall not affect in any way the meaning or interpretation of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

10.10 Third Party Beneficiaries. Customer acknowledges and agrees that DSI is third-party beneficiary to this Agreement and this Agreement shall not be amended in any manner that affects DSI’s rights hereunder without DSI’s prior written consent. Except as expressly provided in the foregoing sentence, no person or entity not a party to this Agreement will be deemed to be a third-party beneficiary of this Agreement or any provision hereof.

10.11 Severability. The invalidity of any portion of this Agreement shall not invalidate any other portion of this Agreement and, except for such invalid portion, this Agreement shall remain in full force and effect.

10.12 Entire Agreement. This Agreement is the entire agreement between Customer and Provider regarding Customer’s use of the Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in any purchase order or in any other order documentation is void.

10.13 Modifications. Provider may revise the terms of this Agreement from time-to-time and shall post the most current version of this Agreement on its website. If a revision meaningfully reduces Customer’s rights, Provider shall notify Customer.


[Remainder of page intentionally left blank; signature page to follow]

IN WITNESS WHEREOF, the undersigned have executed this Agreement.

**City Of Beaumont**

**Dude Solutions, Inc.**

Signature

DocuSigned by:  
  
Signature

Print Name

Ed Roshitsh

Print Name

Title

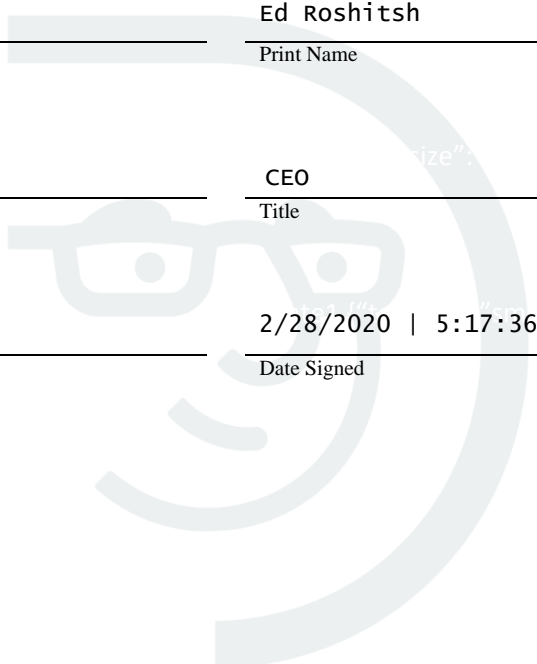
CEO

Title

Date Signed

2/28/2020 | 5:17:36 AM PST

Date Signed



# EXHIBIT A



Software for Smarter Operations

Item No. 10.

## PREPARED FOR

City Of Beaumont

Elizabeth Gibbs

Community Services Director

550 East 6Th Street

Beaumont, CA 92223

## PREPARED BY

Dude Solutions, Inc.

## PUBLISHED ON

January 23, 2020

Quote number Q-168630



# EXHIBIT A



Software for Smarter Operations

Item No. 10.

Pricing is based on

Solutions - Subscription	
Asset Essentials Capital Forecast	
Asset Essentials Pro	
- Pro Facilities/Physical Plant Module	
- Pro Streets/Signs/Sidewalks Module	
- Pro Parks, Recreation and Forestry Module	
- Pro Fleet Module	
<b>Subscription Term:</b> 4 months	<b>Subtotal:</b> \$0.00
4 months included at no additional cost	
Implementation & Services	
Facility Condition Assessment for 100,000 Sq. Ft.	
PM Schedule Creation for 100,000 Sq. Ft.	
Equipment Barcode Tagging for 100,000 Sq. Ft.	
1 Week (4 days) Onsite Consulting Package for 1Week(s)	
Virtual Consulting Service for 2 days	
	<b>Subtotal:</b> \$24,435.00
<b>Total Initial Investment</b>	<b>\$24,435.00 USD</b>

Pricing for the first renewal term is \$35,649.00





## Legendary Support Team

Your subscription entitles you to world class support from the Legendary Support Team. From 8 am – 6 pm EST, we're standing by ready to assist with any feature/functionality questions. We promise a live person will answer your call within 3 rings and quickly direct you to a knowledge Advisor. We're committed to responding to all emails sent to [support@dudesolutions.com](mailto:support@dudesolutions.com) (<mailto:support@dudesolutions.com>), within one hour. If you prefer to keep a support dialogue open at your work station, our Advisors are also available via Chat. The Legendary Support Team is dedicated to your success. Our mission is to effectively communicate, efficiently resolve problems, and delight clients with every interaction.

## Client Success Team

You have partnered with Dude Solutions because you believe we will deliver overwhelming value to you and your organization. Our Client Success team is dedicated to ensuring you meet the outcomes you and your organization expect by implementing our solutions. You will have the opportunity to work with a member of our Client Success team on an ongoing basis. Your Client Success Representative will be strategic in their efforts to drive results, keeping your success as their primary goal.

## One Week On-Site Implementation Services for Work Management

### System Configuration and planning

- Develop organized plan that accelerates full implementation
- Create a strategy for data collection, including preventive maintenance (PM) work orders, data transference and organization, naming conventions and more

### Work Order Management

- Assist in creating a strategy that supports your work order management goals, such as request best practices and PM work order schedules
- Design a plan for data collection

### Implementation Support

- Interview key staff for goals
- Identify objectives to focus on for best time to value

### Legendary Ongoing Support

All Dude Solutions clients have ongoing support which includes:

- Phone support answered within 3 rings
- Email support responses within 1 hour (or less) during business hours
- Immediate assistance available via chat 8 AM to 6 PM ET

### Travel and lodging for Dude Solutions consultants

- Travel to your location







- Cost of lodging for Dude Solutions consultants during their stay at your location

## Facility Condition Assessment Scope of Work

### Purpose

Dude Solutions' (DSI) facility condition assessment (FCA) is a visual assessment evaluating the facility systems based on the following Standard Scope of Work (SOW). This FCA service will collect data on major facility assets, as well as provide narratives that summarize assessment observations and comments. An inventory of Equipment Items as well as a forecast model of upcoming System/Sub-System replacements will be imported into DSI's work & asset management and capital forecasting solutions respectively.

### Value

By partnering with Dude Solutions you not only gain the engineering expertise of DSI's Service Providers; you also are provided with assurance that the data collected as a result of the facility condition assessment is properly integrated into your Dude Solutions software applications. Dude Solutions has successfully completed more than 800 projects ranging from Facility Condition Assessments, Asset Inventory Collection (including barcoding) and preventive maintenance schedule creation. Our methodology provides you with confidence to make better data, decision-making on both short-term and long-term capital investment needs of your organization.

### Deliverables

All FCA's will include a deliverable containing the following items:

- Narrative report with descriptions of major systems and corresponding conditions
- Primary digital photos of key components and deficiencies are included in the narrative
- 20-year capital Reserve table with System/Sub-System replacement costs and dates
- Import of Systems-level detail into client's DSI capital forecasting solution
- Import major Equipment Items into client's Dude Solutions work & asset management solution.

### Methodology and Approach

A Certified Dude Solutions Service Provider (DSI Service Provider) will collect, document, and analyze the facilities assessment data to achieve the following:

- At the start of each building or facility assessment we will interview client's staff to understand what improvements have been made in the last three years, what improvements are planned in the next three years and known problems that may exist.
- Inventory all major building equipment including quantity, size, asset tag number, manufacturer, model and serial number.



# EXHIBIT A



- Identify deficient conditions in terms of deferred maintenance and building condition.
- Provide a reasonable cost analysis for the above-mentioned efforts.
- For single building projects, provide a report for the property that details the assessment data.
- For multi-building projects, data will be collected from every building in the portfolio. The narrative report will include an executive role up for all sites included with the service.

The field data collection will be performed at an individual and system level as described below:

1. Detailed data collection of individual equipment items will be captured to build an equipment inventory which will be imported into DSI's work & asset management solution as defined in the Asset Inventory and System/Component table below.
2. A condition assessment of major building systems, including HVAC, Electrical, Plumbing, Roofing, Site Paving, Vertical Transportation, Structural and Building Envelope to be imported into DSI's capital forecasting solution as defined in the Asset Inventory and System/Component table below.
1. HVAC equipment items only will also be tracked in the capital forecast as specific Sub-Systems. For these items, Make/Model/Serial Number will be captured and tracked in the Equipment Inventory, and the item will also be included as a Sub-System in the capital forecast.
2. All other major Systems will be collected at the Systems Level in DSI's capital forecasting solution as a general Sub-Systems

## Asset Inventory and Systems/Component Table

The following table defines the standard SOW that will be followed to capture the equipment data used to build the Equipment Inventory, which will be imported into the Work & Asset Management Solution as well as the System-Sub-System data used to build the Capital Reserve Table that will be imported into the Capital Forecasting Solution.

### Table Column Header Descriptions

Individual or System Level Capture

Individual = Item will be collected individually

System = Item will be grouped by system or sub-system, location will correspond to the associated building structure

Item Represented in Capital Forecast? Y/N



# EXHIBIT A



No = Cost information related to individually captured items will be provided at a system or sub-system level only in Capital Forecast

Included in Equipment Inventory? Y/N

No = Item will not be setup in the work & asset management solution

\*Items captured as a system will be setup as a single equipment inventory item so that work can be tracked against it.

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecast? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
<b>Exterior Systems</b>				
Exterior Doors	System Level	Yes	No	
Exterior Walls (Finish)	System Level	Yes	No	
Exterior Windows	System Level	Yes	No	
Roofing	System Level	Yes	No	
<b>Electrical</b>				
Automatic Transfer Switch	Individual	No	Yes	Make/Model/Serial number will be captured when available
Electric Door Systems	Individual	No	Yes	Exterior Doors Only
Emergency Generators	Individual	No	Yes	Must be Permanently Installed, does not include mobile units
Main Distribution Panels	Individual	No	Yes	Primary panel bringing utility into building only
Motor Control Centers	Individual	No	Yes	
Switchgear	Individual	No	Yes	



# EXHIBIT A



Software for Smarter Operations

Item No. 10.

Transformers	Individual	No	Yes	Primary Service to Building (Must be Client Owned)
Breakers, switches or starters	Not Included in Service			
Individual light fixtures (emergency, exterior, etc.)	Not Included in Service			
Motors	Not Included in Service			
Portable Generators	Not Included in Service			
Secondary Electrical Panels	Not Included in Service			
VFDs	Not Included in Service			
Emergency Back-Up Lights	System Level	Yes	Yes	Cost model based upon building SQ FT cost
Lighted Exit Signs	System Level	Yes	Yes	
<b>Equipment</b>				
Commercial Laundry (washers, dryers)	Individual	No	Yes	
Commercial Trash Compactors	Individual	No	Yes	Client-Owned, Permanently-installed facility infrastructure units only
Residential Type Appliances, Shop Tools and Equipment	Not Included in Service			Residential Washer/Dryers, Refrigerators, Microwaves and Ranges Not Included
<b>Exterior Enclosure</b>				
Garage Door & Garage Door Opener	Individual	No	Yes	Commercial Type Garage Openers Only (Excludes Residential single care garage doors)
<b>Fire Protection</b>				
Eyewash / Safety Showers	Individual	No	Yes	Permanently Installed Items



# EXHIBIT A



Software for Smarter Operations

Item No. 10.

Fire Pump	Individual	No	Yes	Main Fire Pump and Jockey Pumps greater than 1 HP
Main Fire Panel	Individual	No	Yes	
Fire valves, hydrants	Not Included in Service			Included in Alarm System SF Cost
Smoke detectors, horn strobes	Not Included in Service			Included in Alarm System SF Cost
AEDs	System Level	Yes	Yes	
Fire Alarm System	System Level	Yes	Yes	Barcode applied to Main Fire Panel
Fire Extinguishers	System Level	Yes	Yes	
Specialty Fire Suppression System	System Level	Yes	Yes	Kitchen-Style Suppression System
Sprinkler System	System Level	Yes	Yes	
<b>HVAC</b>				
Air Handling Units	Individual	Yes	Yes	Includes Rooftop and Ground
Boilers	Individual	Yes	Yes	
Building Automation System	Individual	Yes	Yes	
Chilled Water pumps	Individual	Yes	Yes	
Chillers	Individual	Yes	Yes	
Cooling Tower pumps	Individual	Yes	Yes	
Cooling Towers	Individual	Yes	Yes	
Deaerators	Individual	Yes	Yes	
Energy Recovery Units	Individual	Yes	Yes	
Exhaust Fans	Individual	Yes	Yes	Rooftop Only
Exhaust hoods	Individual	Yes	Yes	



# EXHIBIT A



Furnaces	Individual	Yes	Yes	Non-Residential
Heat Pumps	Individual	Yes	Yes	Make/Model/Serial number will be captured for both interior and exterior when accessible; otherwise it will be captured as one single cost and item
Hot Water pumps	Individual	Yes	Yes	
Make Up Air Units	Individual	Yes	Yes	
Package AC Units	Individual	Yes	Yes	Includes Rooftop and Ground
Split Systems	Individual	Yes	Yes	Ductless Split Systems will be captured as one single item. The barcode will be located on the exterior unit
Unit Heaters	Individual	Yes	Yes	
Fan Coil Units*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. <b>*No visual capture.</b>
Unit Ventilators*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. <b>*No visual capture.</b>
VAV Boxes*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. <b>*No visual capture.</b>
Window Units	Not Included in Service			
Radiators	Not Included in Service			
Thermostatic Controls	Not Included in Service			
<b>Interior Systems</b>				
Interior Ceiling	System Level	Yes	No	
Interior Doors	System Level	Yes	No	



# EXHIBIT A



Software for Smarter Operations

Item No. 10.

Interior Floor	System Level	Yes	No	
Interior Walls	System Level	Yes	No	
<b>Kitchen</b>				
Dishwashers	Individual	No	Yes	Commercial-Style, non-residential
Freezer (Walk In, Reach In)	Individual	No	Yes	
Grease Traps	Individual	No	Yes	Will not receive a barcode if barcoding services is included
Large Kitchen Equipment	Individual	No	Yes	Valued above \$2,000
Oven, Stoves	Individual	No	Yes	
Refrigerator (Walk In, Reach In)	Individual	No	Yes	Commercial-Style, non-residential
Broilers, Grills, Fryers	Individual	No	Yes	Valued above \$2,000
Counter Top Appliances	Not Included in Service			
Cutlery	Not Included in Service			
Tables, Racks	Not Included in Service			
<b>Plumbing</b>				
Domestic Hot Water Heaters	Individual	No	Yes	80 Gallons and Above. Does not include Instant Hot Water Heaters
Domestic Water Booster Pumps	Individual	No	Yes	1 HP and above
Hot Water Storage Tank	Individual	No	Yes	
Main Backflow Preventer	Individual	No	Yes	Includes Domestic and Fire Suppression
Sump Pumps	Individual	No	Yes	
Fixtures	System Level	Yes	No	



# EXHIBIT A



Filters	Not Included in Service			
Strainers	Not Included in Service			
Valves	Not Included in Service			
<b>Site Improvements</b>				
Drainage Systems	System Level	Yes	No	
Parking, Paving, Sidewalks	System Level	Yes	No	
Utilities	System Level	Yes	No	Under the floor, behind the wall related items – electrical distribution, Domestic water/sewer & HVAC Ductwork. Cost per sq. ft. estimation for replacement/rehab.
<b>Vertical Transportation</b>				
Dumb Waiter	Individual	No	Yes	
Elevators	Individual	No	Yes	
Escalators	Individual	No	Yes	

For the Equipment Items and Systems/Sub-Systems listed in the Asset Inventory and Systems/Component Table above, the following attributes will be captured as follows depending on whether the item is included in the Equipment Inventory and/or as a General or Specific System Component of the Capital Forecast:

	Work & Asset Management Data Population (Y/N)	Capital Forecast Data Population (Y/N)	
Field Name	Equipment Items	General Sub-System	Specific Sub-System





# EXHIBIT A

Item No. 10.



Software for Smarter Operations

Equipment Item Number	Y	N	Y*
			Corresponding Equipment Item Number will replace Sub-System ID
System-Component ID	N	Y	N*
			Corresponding Equipment Item Number will replace Sub-System ID
Site/Location/Building Name	Y	Y	Y
Description	Y	Y	Y
System/Sub-System	N	Y	Y
Classification/Type	Y	N	N
Unit of Measure	N	Y	Y
Quantity	N	Y	Y
Unit Cost	N	Y	Y
Manu/Model/Serial Numbers	Y	N	N*
			Will be included on Individual Equipment Record
Tag (if available)	Y	N	N
Date In Service (if available)	Y	Y	Y
Condition	Y	Y	Y
Estimated Replacement Cost	Y	Y	Y



# EXHIBIT A



Estimated Next Replacement Date	Y	Y	Y
Life Cycle	Y	Y	Y
Included in 20-year Capital Forecast?	N	Y	Y

## Evaluation

At the conclusion of the assessment(s), the DSI Service Provider will prepare reports as described above that include:

- A general description of the property and improvements and comment generally on observed conditions.
- Comments for components that are exhibiting deferred maintenance issues and provide estimates for "immediate" and "capital repair" costs based on observed conditions, available maintenance history and industry-standard useful life estimates. If applicable, this analysis will include the review of any available documents pertaining to capital improvements completed within the last three years, or currently under contract. The DSI Service Provider shall also inquire about available maintenance records and procedures and interview current available on-site maintenance staff.
- A schedule for recommended replacement or repairs (schedule of priorities).
- Address critical repairs separately from repairs anticipated over the term of the analysis.
- A FCI index number for each building.
- A twenty year capital plan with an Executive Summary with graphic presentation of results to provide a quick, "user-friendly" summary of the property's observed condition and estimated costs assigned by category.

## Cost Estimating

Each single building report will include an estimated cost for each System/Sub-System repair or replacement anticipated during the evaluation term. The capital needs analysis will be presented as an Excel-based cost table that includes a summary of the description of each component, the age and estimated remaining useful life, the anticipated year of repair or replacement, quantity, unit cost and total cost for the repair of each line item. A consolidated Capital Needs Analysis will be presented that includes all anticipated capital needs for all buildings.

In addition to the detailed description of the deficiencies, we will provide cost estimates for the deficiencies noted. The cost estimate for capital deficiencies will be based on the estimate for maintenance and repair. Project management costs, construction fees, and design fees will be derived using actual costs from previous projects, if available.

DSI Service Providers use the ASTM Unifomat II system for categorization and a proprietary blend of national prevailing industry-standard cost models for cost estimating. DSI also maintains and updates our cost estimating system with information received from the field. Through our construction monitoring work,





we have current cost data from hundreds of in-progress construction and rehabilitation projects. This allows us to project costs based on local conditions and to maintain a cost database that in most cases is more current than published models.

## Assumptions

- Average building square footage is greater than 10,000 sq. feet. If average square footage of all buildings to be included to receive the service is less than 10,000 sq. feet, custom pricing is needed.
- All buildings are located within one primary geographic zone/region (Example – School District, Higher Education, Main Campus, and Town). If multiple or scattered locations across the state are to receive the service a custom quote must be obtained. (Example – Multiple Higher Education Satellite Campuses locations, State Department Agencies)
- Residence Halls – A sampling would be based upon visits to approx. 20% of the rooms. When calculating the projected replacement cost of the in-residence items, these items will be treated as a system. A cost based upon the sampling will be generated for the system. Individual in-room collection of assets would not be provided, if desired a custom quote would be needed.
- Reconciliation of existing equipment in DSI work & asset management solutions and updating of historical records will not be performed. If reconciliation is required this is subject to additional costs depending upon the amount of changes requested.
- Capture of Data plate information is subject to readily accessible, legible information plate.
- DSI team members make final determination of whether areas housing assets are safely accessible for data collection.
- DSI team members will not move assets or interfere with asset functionality to collect nameplate information.
- All Data on SOW is captured at the asset level – subcomponents of assets listed on the SOW will not be captured.
- Equipment not in service or identified as "Run-to-Fail" are excluded from data gathering service unless inventory is required for compliance purposes.

## Client Responsibility

1. Client will provide the needed input, resources, and documentation to support the tasks of the service and associated timelines for delivery of the service.
2. Any data to be migrated from client drawings or spreadsheets has to be provided to the DSI Service Provider within 15 business days of completion of onsite activity.
3. Client will review and provide any feedback related to data sent to them for review by DSI Service Provider or DSI within 15 business days or unless otherwise determined.
4. If Data is not reviewed within the 15 business day time period DSI will assume that the Data provided by the DSI Service Provider is approved and will load into the client's software.



# EXHIBIT A



5. Client will be responsible for scheduling and coordinating all meetings and interviews involving other teams, departments, management teams or other necessary resources required for the success of this project.
6. Client will provide adequate access to working facilities (i.e., access badge, parking pass), if specific authorization or clearance is required client will notify DSI and/or DSI Service Provider in advance of onsite.
7. Client will ensure that the DSI Service Provider is granted accessibility to the facilities and/or systems required to conduct the necessary work defined in this SOW. If DSI Service Provider is not granted access to all areas, this could result in missed information gathering and/or delays in implementation timelines. For Flat Roofs, this means providing the DSI Service Providers with access to a ladder so that they are able to conduct a visual assessment.
8. Client will ensure that the DSI Service Provider is granted accessibility to DSI Software, for Clients with Connect Authenticate/Single Sign On this may require your Technology Team to setup the DSI Service Provider in your organizations Identity Provider service.
9. Client will provide a knowledgeable escort for work defined in this SOW and access to personnel as necessary.
10. Reconciliation of existing equipment in DSI work & asset management solutions and cleanup of historical records and/or data within the software is subject to additional costs depending upon the amount of changes requested.
11. DSI is not responsible for reconciliation of portable or moveable assets after onsite collection is performed.
12. Addition of Equipment Barcode Tagging services must be purchased prior to onsite activity by the DSI Service Provider and is not included in the Standard FCA SOW.

### Milestone Billing - Invoice Schedule

Invoicing for the Facility Condition Assessment service will be provided as delivery milestones are completed for projects equal or greater than 154,000 square feet. Below is the schedule for the billing milestones and the related percentage.

Facility Condition Assessment Milestones	Description	Percentage
Mobilization	Project acquisition template set up, Vendor kickoff call with client, Travel arrangement costs; other miscellaneous pre-visit preparation	15%



# EXHIBIT A



On-Site Field Data Capture	Project launch meeting with client first day of onsite, acquisition of data to Scope of Work at all locations included in project, and closing meeting at end of onsite activity to confirm completion and review next step actions.	35%
Data Management	Data activity, including quality assurance and control that occurs after field work is completed to produce the data file.	35%
Report	Creation and delivery of final narrative reports (FCA), and data files (FCA/ Data Gathering) to client.	15%

\*If project is greater than 1.5M Square feet additional milestones will be leveraged.

## Equipment Inventory Barcoding Service

### Purpose

The Equipment Inventory Barcoding Service works with your Dude Solutions Work & Asset Management solution in conjunction with an "Equipment Inventory" (Data Gathering) or a Facility Condition Assessment (FCA) service offering.

### Value

Barcoding identifies equipment by assigning a unique number to that equipment item which will then serve as an identifier in your Dude Solutions Work & Asset Management system database allowing for easier identification and tracking of the item. The barcoding of equipment inventory occurs during the onsite equipment data gathering/collection process.

Deliverables by Dude Solutions to the Client include the following:

- Commercially produced weather resistant barcodes will be applied to the major pieces of equipment covered in the scope of work provided in the Data Gathering or Facility Condition Assessment services.
- Barcode numbers will be available for use at the time equipment inventory data is imported into your Dude Solutions Work & Asset Management solution.

The Dude Solutions Service Provider will make an effort to apply barcodes in a convenient location so the facility's maintenance staff can easily identify them. Based upon our professional expertise, we recommend the following –



# EXHIBIT A



- Application of the barcode shall be placed **next to the Data Plate of an Asset**. Placing barcodes in this location ensures that the barcode can be easily identified and associated to the asset in a CMMS software.
- If data plate is not present, or is inaccessible, the barcode will be placed in an accessible area that is easily seen by maintenance technicians, does not detract from the appearance of the equipment, isn't in danger of being tampered with, or will be otherwise destroyed through normal use and cleaning of the asset.

## Assumptions

- Purchase of service is made prior to onsite activity. If onsite activity has been completed, custom pricing would be required as a revisit would be needed for the placement of the barcodes.
- For Asset Essentials Clients, determination of 1D (Standard) vs 2D (QR Codes) is required prior to onsite activity. URL creation along with QR code purchase and encoding is needed prior to onsite activity. If determination is not provided prior to onsite activity, 1D (Standard) barcodes will be used.

## Invoice Schedule

Invoicing for the Barcoding Service will be provided upon completion of onsite activity at 100%

## Preventive Maintenance Schedule Creation

### Purpose

Preventive Maintenance (PM) Schedule creation is a service offering provided in conjunction with an "Equipment Inventory" (Data Gathering) service or Facility Condition Assessment (FCA). PM Schedules will be generated off the equipment inventory collected by the DSI Service Provider during either the Data Gathering or FCA service. The intent of this service is to identify needed procedures and inspections required to maintain facilities systems in safe, reliable and efficient condition.

### Value

By leveraging DSI's PM Schedule Creation service, DSI clients are able to leverage and incorporate regular preventive maintenance best practices of their equipment. By performing regular or routine maintenance best practices, you ensure that your equipment is operating under safe and optimal conditions thus preventing the potential for downtime and shorter life expectancy.

### Deliverables

All Preventive Maintenance Schedule Creation services include the following deliverables:

- Creation of PM Schedules for populating your Dude Solutions Work & Asset Management solution
- Data population within DSI Software. No report will be provided.

### Methodology and Approach



# EXHIBIT A



DSI Service Providers leverage multiple libraries of PM standards to create PM schedules. These standards are based upon prevailing national codes and standards such as ASTM, ASHRAE, NFPA and BOMA. Procedures related to performing the tasks within the schedule will include:

- Safety Points
- Tools Required
- Estimated Time to Complete Maintenance
- Step-by-step procedure to complete maintenance work order

Prior to the import or population within the DSI Software, the DSI Service Provider will:

- Review of PM Task Check-off Lists with Client
- Setup baseline PM schedules for the equipment inventory collected
- Work with the Client to determine PM Schedule assignment. Assignment includes setting up the appropriate Technician or contractor who will be performing the related PM tasks into the master import template to ensure that the routing of work flows accordingly in the Work & Asset Management Solution. Assignment will be made at the location or craft level. Anything above and beyond this level of assignment will be managed and maintained by the client within the software or require a custom scope of work for the DSI Service Provider to deliver. For assignment to occur, the client must have the Technician or contractor created in the software prior to onsite activity.
- Work with the Client to determine the start date, frequency and load balancing based upon client staffing. If start dates cannot be determined or agreed upon within a timely manner, the PM Schedules will be loaded into the Client's Work & Asset Management solution as "Inactive".

## Assumptions

- Client will provide feedback/review of PM Schedules within 15 business days of delivery from the DSI Service Provider. If feedback/review of PM Schedules exceeds 30 business days, DSI will provide a Deliverable Acceptance Form to the client to complete review within 30 days. If feedback is not provided during this time period, DSI will assume delivery of the service and import the PM schedules as "inactive" in the system. DSI will provide training on how updates can be made within the software or perform mass updates if needed for a fee.
- Once PM Schedules are imported into the DSI Work and Asset Management applications, any updates and/or alterations of those schedules need to be communicated to DSI within 30 days. DSI will only make updates related to the below items:
  - Discontinuation of PM Schedules created with the service
  - Alteration of frequency on existing schedules created with the service
  - Alteration of start dates for the schedules created with the service

Otherwise, any revisions beyond this 30 day period will be the responsibility of the client to perform within the software or DSI to perform at an additional fee.



# EXHIBIT A

Item No. 10.



Software for Smarter Operations

- Reconciliation of existing PM Schedules in the client's account is subject to additional costs depending upon the number of active PM's and is not a part of the standard SOW.

## Invoice Schedule

Invoicing for the PM Schedule Creation Service will be provided upon receipt of PM Schedule drafts at 100%

## Terms of Service:

- Proposal has been prepared for City Of Beaumont
- Proposal expires in 60 days
- Initial Term: 4 months
- Payment: Terms are net 30 days
- Billing frequency other than annual is subject to additional processing fees
- Automatic invoicing of annual fee will occur at the end of each term unless request for non-renewal is received in writing 30 days prior to renewal date.
- Applicable sales taxes are in addition to the quoted price. If your organization is tax exempt, please email a copy of your Tax Exemption Certificate to [accountsreceivable@dudesolutions.com](mailto:accountsreceivable@dudesolutions.com) (<mailto:accountsreceivable@dudesolutions.com>)
- Please address purchase order to: Dude Solutions, 11000 Regency Parkway, Suite 110, Cary, NC 27518
- Service dates are scheduled Monday-Friday
- If a service day is rescheduled or cancelled by City Of Beaumont, then City Of Beaumont is responsible for any cancellation fees incurred by rescheduling or cancelling travel and living fees.
- Onsite service days rescheduled less than 2 weeks before the scheduled delivery date will incur cancellation fees.
- Services will be scheduled upon written acceptance of the terms and conditions of this proposal.
- We must allow six weeks of lead time from the purchase date for booking service for travel and living purposes.
- Dude Solutions, Inc. maintains the necessary liability coverage for their products and services. Proof of insurance can be provided upon request.
- Asset Essentials is offered based upon the terms and conditions ("Terms") set forth in the Asset Essentials [Online Subscription Agreement](https://dudesolutions.com/aeterms.html). (<https://dudesolutions.com/aeterms.html>)
- Acceptance is expressly limited to these Terms. Any additional or different terms proposed by you (including, without limitation, any terms contained in any document incorporated by reference into the Purchase Order) are objected to and rejected and will be deemed a material alteration hereof.





We are committed to helping you build your knowledge, network and skills – and [Dude University 2020](#) is the best training and professional development for operations management professionals. Join us for four days of intensive training where you can: (<http://www.university2019.com/>)

- Build a strategic vision for your department and ensure goals align with the mission and vision of your organization.
- Save your organization time and money by investing in the training you need to keep your operations excellent and highly efficient.
- Learn how your peers are successfully overcoming similar challenges so you can be a leader of positive change.
- Receive hands on training and 1on1 guidance from our Client Success experts.

Your registration also includes:

- Professional development and leadership sessions
- Beginner and advanced solution training classes
- Peer-led best practices roundtables and panel discussions
- Hands-on solution training
- Sunday Opening General Session & Motivational Keynote Speaker
- Registered conference attendees also receive the following meals included:
  - **Sunday Welcome Reception & Dinner**
  - **Hot breakfast Monday, Tuesday and Wednesday**
  - **Networking lunch on Monday & Tuesday**
  - **Tuesday Client Appreciation Dinner**

### Dude University Policies

#### **CANCELLATION & SUBSTITUTION POLICY**

If you are no longer able to attend this event, you may transfer your registration to another individual within your organization up to April 24, 2020. In the event you are unable to transfer your registration, you may cancel in accordance with the following refund terms:

- Cancellations received up until 11:59 pm ET on February 28, 2020 will be fully refunded.
- Cancellations received up until 11:59 pm ET on March 31, 2020 will receive a 50% refund.
- After 11:59 pm ET on March 31, 2020, we are unable to issue a refund.

#### **SPOUSE/GUEST POLICY**



# EXHIBIT A

Item No. 10.



Software for Smarter Operations

Attendees can add a guest when registering for Dude University. Guest passes are available for \$200 and include admission to both Sunday and Tuesday evening networking events. Guests must be 21 years or older, and cannot attend conference keynotes, breakout sessions or any other conference meals.

## PHOTOGRAPHY, AUDIO AND VIDEO RECORDING

Dude Solutions has photographers and videographers taking pictures and video of events and people. We do not prohibit participants, exhibitors, sponsors, news organizations or other companies from photographing, video, or audio- taping activities in public spaces. By attending this event, you agree that Dude Solutions has the right to use, reproduce, broadcast or incorporate in any manner whatsoever, all or any portion of photographs and/or videos of you for use in marketing materials and/or training materials and for internal use ("Materials"). You grant, irrevocably transfer and assign to Dude Solutions your entire right, title and interest, if any, in and to the Materials and all copyrights in the Materials arising in any jurisdiction throughout the world, including the right to register and sue to enforce such copyrights against infringers. You also waive any right to royalties or other compensation related to the use of the Materials. You understand that the Materials may be substantially edited, altered, rearranged or modified. You hereby waive any right to inspect or approve the use of the Materials in any media.

## BADGE SCANNING

By allowing an exhibitor and/or sponsor to scan your badge throughout the event, you are opting-in to receiving communications from that entity. You will be subject to their communications and privacy policy and must opt-out with them directly.

## ADMITTANCE

Dude Solutions, at its sole discretion reserves the right to refuse admittance to or expel from the event anyone for any lawful reason, including but not limited to circumstances where attendee(s) are behaving in a manner that could be disruptive or dangerous to the event or other attendee(s). Attendee(s) who are refused admission or expelled from the event will not receive a refund of any payment rendered.

## VIEWS

The views expressed by any event attendee, speaker, exhibitor or sponsor are not necessarily those of Dude Solutions. All event attendees, speakers, exhibitors and sponsors are solely responsible for the content of any and all individual or corporation presentations, marketing collateral, advertising and online Web content. If applicable, Dude Solutions reserves the right to substitute an equally qualified speaker in case of an emergency or cancellation. Dude Solutions has no duty with respect to presenters, exhibitors or sponsors, and makes no endorsements of any presentation or product.

## LIMITATION OF LIABILITY

# EXHIBIT A



In no event shall Dude Solutions, in the aggregate, be liable for injury or damages of any Attendee during this event or traveling to or from this event. Dude Solutions disclaims any liability for the acts of any outside entities related to this event and reserves the right to cancel the event without liability. Airline tickets, hotel reservations and any other accompaniments in anticipation of attending the event are done at Attendee's own risk. In the event that Dude Solutions cancels the event, Dude Solutions may, at its sole discretion, issue a refund of registration payment.

Each Attendee shall be personally responsible for his/her/their behavior. The organizers do not accept responsibility for the behavior of any Attendee or outside entity during the event. Dude Solutions shall not be liable for any delays or failure in performance or interruption of services resulting directly or indirectly from any cause or circumstance beyond the reasonable control of Dude Solutions.

Attendee(s) at this event agree to indemnify, defend, and hold harmless Dude Solutions, its officers, directors and agents, against all claims arising out of actions or omissions of Attendee(s) at or in connection with this event. Under no circumstances shall Dude Solutions have liability with respect to its obligations under this agreement or otherwise for loss of profits or direct, exemplary, consequential, indirect, incidental, punitive or other indirect damages of any kind whether alleged as a breach of contract or tortious conduct, including negligence, or based on any other cause of action.

Registering to attend this event acknowledges acceptance of these terms and provisions of registration.





## Staff Report

**TO:** Mayor, and City Council Members

**FROM:** Kari Mendoza, Administrative Services Director

**DATE:** March 17, 2020

**SUBJECT:** **Adopt Resolution (A) Appointing the Representative and Alternate Representative to the ERMAC Board of Directors; and Resolution (B) Approve Amendments to the ERMAC Joint Powers Agreement**

### Background and Analysis:

The Exclusive Risk Management Authority of California (ERMAC) was founded in 2003, specifically for the purpose of providing risk-sharing and risk-transfer municipal liability protection to California Governmental Agencies. The City is a member of ERMAC. The attached resolution (Attachment A) appoints Administrative Services Director, Kari Mendoza, as the City’s representative and City Manager, Todd Parton, as the City’s alternate to the ERMAC Board of Directors.

ERMAC is a self-insured joint powers authority created for the purpose of providing liability protection to California governmental agencies. ERMAC provides high-value insurance coverages for all City activity – approximately 45 programs or activities are covered such as liability exposure for police practices, auto and property losses, employment practices, environmental contamination, internal theft/embezzlement, library literacy activity, and so on. Coverages generally are \$50 million for tort and injury losses, and \$1 billion for property losses.

The ERMAC Board of Directors recently approved several amendments to the ERMAC Joint Powers Agreement. The attached resolution (Attachment B) approves these amendments to the ERMAC Joint Powers Agreement.

### Appointment of City Representative and Alternate to ERMAC:

Article 6 of the joint powers agreement creating ERMAC requires the governing body of each member entity to appoint one representative and one alternate to the ERMAC Board of Directors. Administrative Services Director Kari Mendoza serves as the City’s sole representative to the ERMAC Board. The City does not currently have an authorized alternate to the ERMAC Board of Directors. The alternate will be authorized

to act in the absence of the representative and shall have the same responsibility, power and authority as the representative. It is recommended that City Manager, Todd Parton, serve as the City's alternate representative to the ERMAC Board. The City's alternate and representative will be authorized to bind the City on all matters pertaining to the ERMAC Joint Powers Agreement.

Approval of Amendments to the ERMAC Joint Powers Agreement:

The Board of Directors and the member agencies of ERMAC adopted a joint powers agreement dated June 27, 2003. Thereafter, the joint powers agreement was amended by Resolution 2004-01 to change the name of the authority and by Resolution 2004-02 to add Section 15 related to contractual liability of member agencies. Recently, the Board of Directors determined that further amendments to the joint powers agreement would be in the best interests of ERMAC. After review and discussion, the ERMAC Board of Directors approved the following amendments to the joint powers agreement:

1. Add to Section 3, Purpose of the Agreement: Common Exercise of Powers, the following sentence as a new paragraph at the end: "New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies."
2. Add to Section 4, Powers, "(H) To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted."
3. Replace Section 5, Termination, "giving of thirty (30) days written notice to the primary officer of the authority" with "giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31."
4. Add to Section 6, Board of Directors, the following sentence as a new paragraph at the end: "At least one regular meeting shall be held each program year."
5. Add as a new Section 16: "Member Agency Responsibilities. The member Agencies shall have the following responsibilities:
  - A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
  - B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;

- C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
  - D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
  - E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
  - F. to comply with the Bylaws and all policies and procedures adopted by the Board; and
  - G. to appoint a representative and alternate to the Board of Directors.”
6. Add as a new Section 17: “Assessments and Surplus Distributions. The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority’s obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position.”
7. Add as a new Section 18: “Expulsion. The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.”
8. Add as new Section 19: “Withdrawal. Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:
- A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;
  - B. to pay assessments due and payable for program years in which the member Agency participated;
  - C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and
  - D. to cooperate and assist the Authority and any insurer, claims adjuster, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years which the member Agency

participated will remain in effect and continue until the conclusion of their respective program years.”

9. Add as a new Section 20: “Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.”

As a result of the addition of Section 18, Expulsion City staff and the City attorney recommended ERMAC include a minimum notice period. Therefore, the BYLAWS of the Exclusive Risk Management Authority of California were amended at the February 19, 2020 meeting to add the following:

1. Add to Article II, Section 1: Expulsion of a member Agency pursuant Section 18 of the JPA Agreement, effective at the end of the program year in which notice is given, shall only occur upon a minimum of one hundred and twenty (120) days advance notice to the member agency.

By-law revisions do not require Council approval.

The City Attorney’s office has reviewed these amendments.

**Fiscal Impact:**

There is no fiscal impact to the City of Beaumont at this time.

**Recommended Action:**

Waive the full reading and adopt by title only, a “Resolution Appointing the Representative and Alternate to the ERMAC Board of Directors” Appointing Administrative Services Director Kari Mendoza as the City’s Representative and City Manager Todd Parton as the City’s Alternate to the ERMAC Board of Directors, and

Waive the full reading and adopt by title only, “Resolution Approving Amendments to the Exclusive Risk Management Authority of California Joint Powers Agreement.”

**Attachments:**

- A. Resolution Appointing the Representative and Alternate to ERMAC
- B. Resolution Approving Amendments to the ERMAC JPA
- C. Redlined JPA Agreement
- D. JPA Amendment as Amended
- E. Redlined By Laws
- F. By Laws as Amended



Resolution 2020-\_\_\_\_\_

**RESOLUTION APPOINTING THE REPRESENTATIVE AND ALTERNATE TO THE ERMAC BOARD OF DIRECTORS**

**WHEREAS**, the City is a member of the Exclusive Risk Management Authority of California (ERMAC), a self-insured joint powers authority created for the purpose of providing liability protection to California Governmental Agencies;

**WHEREAS**, Article 6 of the Joint Powers Agreement creating ERMAC requires the governing body of each member entity to appoint one Representative and one Alternate to the ERMAC Board of Directors; and

**WHEREAS**, said Representative or Alternate, shall have authority to bind the City on all matters pertaining to the ERMAC Joint Powers Agreement; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council does hereby resolve that Administrative Services Director Kari Mendoza is hereby appointed to serve as the City's Representative on the ERMAC Board of Directors and City Manager Todd Parton is hereby appointed to serve as the Alternate to the City's Representative on the ERMAC Board of Directors; and

**BE IT FURTHER RESOLVED** that said Representative or Alternate, is hereby authorized to bind the City on all matters pertaining to the ERMAC Joint Powers Agreement;

**MOVED, PASSED, and ADOPTED** this 17th day of March 2020, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

\_\_\_\_\_  
Rey Santos, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Resolution 2019-\_\_\_\_\_

**RESOLUTION APPROVING AMENDMENTS TO  
THE EXCLUSIVE RISK MANAGEMENT  
AUTHORITY OF CALIFORNIA JOINT POWERS  
AGREEMENT**

**WHEREAS**, the City is a member of the Exclusive Risk Management Authority of California (ERMAC), a self-insured joint powers authority created for the purpose of providing liability protection to California Governmental Agencies;

**WHEREAS**, the Board of Directors and the member agencies of ERMAC have adopted and approved a Joint Powers Agreement dated June 27, 2003; subsequently amended by Resolution 2004-01 to change the name of the Authority; and subsequently amended by Resolution 2004-02 to add Section 15 relating to contractual liability of agencies;

**WHEREAS**, the ERMAC Board of Directors have deemed it to be in the best interests of ERMAC that the Joint Powers Agreement be further amended;

**WHEREAS**, amendments to the Joint Powers Agreement require consent of member agencies; and

**WHEREAS**, the City has reviewed the amendments and agrees upon adoption of this Resolution to be bound by the terms of the Amended Joint Powers Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council does hereby approve the following Amendments to the Joint Powers Agreement (a copy of said amendments being attached hereto as an “Exhibit” and by this reference made a part hereof):

1. Add to Section 3, Purpose of the Agreement: Common Exercise of Powers the following sentence as a new paragraph at the end: “New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies.”
2. Add to Section 4, Powers, “(H) To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted.”
3. Replace Section 5, Termination, “giving of thirty (30) days written notice to the primary officer of the authority” with “giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31.”
4. Add to Section 6, Board of Directors the following sentence as a new paragraph at

the end: “At least one regular meeting shall be held each program year.”

5. Add as a new Section 16: “Member Agency Responsibilities. The member Agencies shall have the following responsibilities:
  - A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
  - B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
  - C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
  - D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
  - E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
  - F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,
  - G. to appoint a representative and alternate to the Board of Directors.”
  
6. Add as a new Section 17: “Assessments and Surplus Distributions. The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority’s obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position.”
  
7. Add as a new Section 18: “Expulsion. The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.”
  
8. Add as new Section 19: “Withdrawal. Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:
  - A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;
  - B. to pay assessments due and payable for program years in which the member Agency participated;
  - C. to provide such statistical and loss experience data and other information

as may be necessary for the Authority to carry out the purposes of this Agreement; and

D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years which the member Agency participated will remain in effect and continue until the conclusion of their respective program years.”

9. Add as a new Section 20: “Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.”

**MOVED, PASSED, and ADOPTED** this 17th day of March, 2020, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

\_\_\_\_\_  
Rey Santos, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**JOINT EXERCISE OF POWERS AGREEMENT  
CREATING THE  
CALIFORNIA RISK MANAGEMENT AUTHORITY**

This Agreement is made and entered into as of the 24<sup>th</sup> day of June 2003, by and between the Agencies that are parties to the Agreement.

**RECITALS**

A. Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (section 6500 et seq.) permits two or more public agencies by Agreement to exercise jointly powers common to the contracting parties.

B. The public agencies executing this Agreement desire to join together for the purpose of jointly funding, purchasing and/or establishing insurance and risk management programs as determined.

C. Article 16, Section 6 of the California Constitution provides that insurance pooling arrangements under joint exercise of power Agreements shall not be considered the giving or lending of credit as prohibited therein.

D. California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these.

E. California Government Code Section 990.6 provides that the cost of insurance is a proper charge against the local public entity.

F. California Government Code Section 990.8 provides that two or more local public entities by a joint powers Agreement may provide insurance by any one or more of the methods specified in Government Code Section 990.4, and the pooling of self-insured claims losses is not considered insurance nor subject to regulation under the Insurance Code.

G. California Government Code Section 990.8 also provides that a joint powers Agreement may provide that if any peril insured or covered under a contract has existed and the joint powers authority or other parties participating in the pool have been liable for any period, the Agreement may provide that the insured or covered agency is not entitled to the return of premiums, contributions, payments, or advances so far as the particular risk insured or covered is concerned.

In consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

**PURPOSE AND POWERS**

1. Authority Created.

This Authority is created pursuant to Government Code section 6502. This Agreement shall become effective, and the Authority shall be authorized to exercise the powers provided in this Agreement, when executed by at least two (2) of the Agencies. The primary officer of the Authority shall promptly notify all member Agencies in writing of the effective date of this Agreement. This Agreement shall remain in effect until terminated as provided herein. This Agreement does not create a separate entity (as permitted by Government Code section 6503.5).

2. Authority Name.

The Authority shall be known as the Exclusive Risk Management Authority of California.

3. Purpose of the Agreement: Common Exercise of Powers.

The Agencies enter into this Agreement in order to jointly develop and fund insurance and other related programs as determined by the Agencies wishing to participate in such programs or obtain services. Programs may include, but are not limited to, the creation of joint insurance funds, including excess insurance funds, the pooling of self-insured claims and losses, purchase of insurance, including reinsurance, and the provision of necessary administrative and other services. Such services may include, but shall not be limited to, risk management consulting, loss prevention and control, centralized loss reporting, actuarial consulting, claims adjusting and legal defense services. New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies.

4. Powers.

The Authority has, and the Agencies delegate to the Authority, all powers reasonably necessary or prudent to perform and provide the services as generally described in Section 3 of this Agreement. In the exercise of the powers as provided in this agreement, the Authority shall conduct its business and perform its services in the same manner as a general law city. The agencies acknowledge that the powers delegated to the Authority are common to the Agencies. This delegation of powers includes, but is not limited to, the following:

- (A) To make and enter into contracts.

(B) To employ agents and employees.

(C). To incur debts, liabilities, and obligations.

(D). To acquire, hold, or dispose of property, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and public agencies.

(E). To receive and use contributions and advances from members as provided in Government Code Section 6504, including contributions or advances of personnel, equipment or property.

(F). To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5.

(G). To carry out all provisions of this Agreement.

~~(G).~~ (H). To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted.

The delegated powers shall be exercised pursuant to the terms of this Agreement and in the manner provided by law.

#### 5. Termination.

Each agency can terminate this Agreement upon the giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31~~thirty (30) days~~  
~~written notice to the primary officer of the Authority~~ prior to the renewal date of the Agency's Memorandum of Coverage.

#### 6. Board of Directors.

The governing body of each Agency shall appoint one person to serve as a member of the Board of Directors of the Authority. The Board of Directors shall have the authority to act on behalf of the Authority and all actions shall be approved by a majority of the members of the Board of Directors. The Board of Directors shall conduct meetings and operate in accordance with bylaws it shall create. At least one regular meeting shall be held each program year.

#### 7. Limitations on Returns of Premiums.

Consistent with the provisions of California Government Code Section 990.8, each Agency shall not be entitled to the return of premiums, contributions, payments, or advances if any peril insured or covered under a

contract has existed and the Authority or other parties participating in this Authority have been liable for any period, so far as the particular risk insured or covered is concerned.

8. Notices.

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid to each party to this Agreement at the primary business location of that agency.

9. Severability.

Should any provision of this Agreement be held by a court of competent jurisdiction or by a legislative or rule making act to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

10. Sole and Entire Agreement.

This Agreement constitutes the sole and entire Agreement between the agencies with respect to the subject matter hereof. This Agreement correctly set forth the obligations of the parties hereto to each other as of the date of this Agreement. All agreements or representations respecting the subject matter of this Agreement not expressly set forth or referred to in this Agreement are null and void.

11. Due Authority.

The agencies hereby represent that the individuals executing this Agreement are expressly authorized to do so on and in behalf of the agencies.

12. Construction.

The agencies agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

13. Amendments.

Amendments to this Agreement shall be made only with the



mutual written consent of **both** of the agencies to this Agreement.

14. Indemnification and Hold Harmless.

Each agency herein agrees to save free and hold harmless the other agencies, their elected officers, employees, volunteers and agents for any claim, damage, or liability in connection the joint exercise of common powers described herein.

15. Contractual Liability of Agencies.

Pursuant to California Government Code §6508.1, the Agencies agree that the Authority is not one or more of the parties to this Agreement but is a board constituted to administer the agreement and the debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of the individual Agencies that are parties to this Agreement.

Furthermore, neither the Authority nor the Authority's Board of Directors shall have the power or the authority to bind the Agencies to any debt, liability, contract, or obligation, or to employ any person on behalf of the Agencies; no debt, liability, contract, obligation, employee, or agent of the Authority or the Board of Directors of the Authority shall be or constitute thereby a debt, liability, contract, obligation, employee, or agent of the Agencies or any of them.

16. Member Agency Responsibilities.

The member Agencies shall have the following responsibilities:

- A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
- B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
- C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
- D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
- E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
- F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,

G. to appoint a representative and alternate to the Board of Directors.

17. Assessments and Surplus Distributions.

The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority's obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position. Withdrawn members are not eligible for surplus distributions.

18. Expulsion.

The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.

19. Withdrawal.

Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:

A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;

B. to pay assessments due and payable for program years in which the member Agency participated;

C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and

D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years in which the member Agency participated will remain in effect and continue unless and until their respective program year(s) are closed to further claims by a two-thirds vote of the Board.

20: Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.

Executed pursuant to X City Council Resolution No. 03-098 this \_\_\_ day  
of \_\_\_ at City, California.

By:

Attest:

**JOINT EXERCISE OF POWERS AGREEMENT  
CREATING THE  
CALIFORNIA RISK MANAGEMENT AUTHORITY**

This Agreement is made and entered into as of the 24<sup>th</sup> day of June 2003, by and between the Agencies that are parties to the Agreement.

**RECITALS**

A. Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (section 6500 et seq.) permits two or more public agencies by Agreement to exercise jointly powers common to the contracting parties.

B. The public agencies executing this Agreement desire to join together for the purpose of jointly funding, purchasing and/or establishing insurance and risk management programs as determined.

C. Article 16, Section 6 of the California Constitution provides that insurance pooling arrangements under joint exercise of power Agreements shall not be considered the giving or lending of credit as prohibited therein.

D. California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these.

E. California Government Code Section 990.6 provides that the cost of insurance is a proper charge against the local public entity.

F. California Government Code Section 990.8 provides that two or more local public entities by a joint powers Agreement may provide insurance by any one or more of the methods specified in Government Code Section 990.4, and the pooling of self-insured claims losses is not considered insurance nor subject to regulation under the Insurance Code.

G. California Government Code Section 990.8 also provides that a joint powers Agreement may provide that if any peril insured or covered under a contract has existed and the joint powers authority or other parties participating in the pool have been liable for any period, the Agreement may provide that the insured or covered agency is not entitled to the return of premiums, contributions, payments, or advances so far as the particular risk insured or covered is concerned.

In consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

**PURPOSE AND POWERS**

1. Authority Created.

This Authority is created pursuant to Government Code section 6502. This Agreement shall become effective, and the Authority shall be authorized to exercise the powers provided in this Agreement, when executed by at least two (2) of the Agencies. The primary officer of the Authority shall promptly notify all member Agencies in writing of the effective date of this Agreement. This Agreement shall remain in effect until terminated as provided herein. This Agreement does not create a separate entity (as permitted by Government Code section 6503.5).

2. Authority Name.

The Authority shall be known as the Exclusive Risk Management Authority of California.

3. Purpose of the Agreement: Common Exercise of Powers.

The Agencies enter into this Agreement in order to jointly develop and fund insurance and other related programs as determined by the Agencies wishing to participate in such programs or obtain services. Programs may include, but are not limited to, the creation of joint insurance funds, including excess insurance funds, the pooling of self-insured claims and losses, purchase of insurance, including reinsurance, and the provision of necessary administrative and other services. Such services may include, but shall not be limited to, risk management consulting, loss prevention and control, centralized loss reporting, actuarial consulting, claims adjusting and legal defense services. New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies.

4. Powers.

The Authority has, and the Agencies delegate to the Authority, all powers reasonably necessary or prudent to perform and provide the services as generally described in Section 3 of this Agreement. In the exercise of the powers as provided in this agreement, the Authority shall conduct its business and perform its services in the same manner as a general law city. The agencies acknowledge that the powers delegated to the Authority are common to the Agencies. This delegation of powers includes, but is not limited to, the following:

- (A) To make and enter into contracts.

(B) To employ agents and employees.<sup>[MB1]</sup>

(C). To incur debts, liabilities, and obligations.

(D). To acquire, hold, or dispose of property, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and public agencies.

(E). To receive and use contributions and advances from members as provided in Government Code Section 6504, including contributions or advances of personnel, equipment or property.

(F). To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5.

(G). To carry out all provisions of this Agreement.

~~(G)~~ (H). To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted.

The delegated powers shall be exercised pursuant to the terms of this Agreement and in the manner provided by law.

#### 5. Termination.

Each agency can terminate this Agreement upon the giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31~~thirty (30) days~~  
~~written notice to the primary officer of the Authority~~ prior to the renewal date of the Agency's Memorandum of Coverage.

#### 6. Board of Directors.

The governing body of each Agency shall<sup>[MB2]</sup> appoint one person to serve as a member of the Board of Directors of the Authority. The Board of Directors shall have the authority to act on behalf of the Authority and all actions shall be approved by a majority of the members of the Board of Directors. The Board of Directors shall conduct meetings and operate in accordance with bylaws it shall create. At least one regular meeting shall be held each program year.

#### 7. Limitations on Returns of Premiums.

Consistent with the provisions of California Government Code Section 990.8, each Agency shall not be entitled to the return of premiums, contributions, payments, or advances if any peril insured or covered under a

contract has existed and the Authority or other parties participating in this Authority have been liable for any period, so far as the particular risk insured or covered is concerned.

8. Notices.

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid to each party to this Agreement at the primary business location of that agency.

9. Severability.

Should any provision of this Agreement be held by a court of competent jurisdiction or by a legislative or rule making act to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

10. Sole and Entire Agreement.

This Agreement constitutes the sole and entire Agreement between the agencies with respect to the subject matter hereof. This Agreement correctly set forth the obligations of the parties hereto to each other as of the date of this Agreement. All agreements or representations respecting the subject matter of this Agreement not expressly set forth or referred to in this Agreement are null and void.

11. Due Authority.

The agencies hereby represent that the individuals executing this Agreement are expressly authorized to do so on and in behalf of the agencies.

12. Construction.

The agencies agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

13. Amendments.

Amendments to this Agreement shall be made only with the

mutual written consent of both [MB3] of the agencies to this Agreement.

14. Indemnification and Hold Harmless.

Each agency herein agrees to save free and hold harmless the other agencies, their elected officers, employees, volunteers and agents for any claim, damage, or liability in connection the joint exercise of common powers described herein.

15. Contractual Liability of Agencies.

Pursuant to California Government Code §6508.1, the Agencies agree that the Authority is not one or more of the parties to this Agreement but is a board constituted to administer the agreement and the debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of the individual Agencies that are parties to this Agreement.

Furthermore, neither the Authority nor the Authority's Board of Directors shall have the power or the authority to bind the Agencies to any debt, liability, contract, or obligation, or to employ any person on behalf of the Agencies; no debt, liability, contract, obligation, employee, or agent of the Authority or the Board of Directors of the Authority shall be or constitute thereby a debt, liability, contract, obligation, employee, or agent of the Agencies or any of them.

16. Member Agency Responsibilities.

The member Agencies shall have the following responsibilities:

- A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
- B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
- C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
- D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
- E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
- F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,



G. to appoint a representative and alternate to the Board of Directors.

17. Assessments and Surplus Distributions.

The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority's obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position. Withdrawn members are not eligible for surplus distributions.

18. Expulsion.

The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.

19. Withdrawal.

Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:

A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;

B. to pay assessments due and payable for program years in which the member Agency participated;

C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and

D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years in which the member Agency participated will remain in effect and continue unless and until their respective program year(s) are closed to further claims by a two-thirds vote of the Board.

20: Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.

Executed pursuant to X City Council Resolution No. 03-098 this \_\_\_ day  
of \_\_\_ at City, California.

By:

Attest:

**BYLAWS  
OF  
EXCLUSIVE RISK MANAGEMENT AUTHORITY OF CALIFORNIA**

**ARTICLE I. OFFICES**

Section 1.           Principal office. The principal executive office of the Exclusive Risk Management Authority of California (JPA) shall be located in the State of California. The Board of Directors (herein called the "Board") is hereby granted full power and authority to change said principal executive office from one location to another within the State of California.

Section 2.           Other Offices. Branch or subordinate offices may at any time be established by the Board at any place or places within the State of California.

**ARTICLE II. MEMBERS**

Section 1.           Membership. Each member of the JPA shall be a member of the JPA during the term of their respective Memorandum of Coverage with all rights and obligations of such membership. Any California public agency may be a member of the JPA.

Expulsion of a member Agency pursuant Section 18 of the JPA Agreement, effective at the end of the program year in which notice is given, shall only occur upon a minimum of one hundred and twenty (120) days' advance notice to the member Agency."

Section 2.           Directors and Alternates. Each member agency's elected body shall appoint either the chief executive officer or member legal counsel as the initial member Director. The Director may designate an Alternate Director to represent the member agency with the JPA. All Alternate designations must be made by the Director in writing and delivered to the JPA. Alternates will be appointed annually.

Section 3.           Powers. Subject to limitations of the JPA Agreement, these Bylaws, and California Law, the business and affairs of the JPA shall be managed and all corporate

powers shall be exercised by or under the direction of the Board of Directors made up of the representative or their alternates from each member of the JPA.

Section 4. Place of Meetings. Regular and special meetings of the Board of Directors may be held at any place within the State of California as designated by the Board. In the absence of a designation, regular and special meetings shall be held at the principal executive office of the JPA. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, provided that all directors participating can hear one another.

Section 5. Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board or the Secretary or a majority of the directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail or telegram, charges prepaid, addressed to each director at that director's address as it is shown on the records of the JPA. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is delivered personally, or by telephone or telegram, it shall be delivered personally or by telephone or to the telegraph company at least forty-eight (48) hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the representative who the person giving the notice has reason to believe will promptly communicate it to the director.

Section 6. Quorum. A majority of the authorized number of directors shall constitute a quorum for the transaction of business.

Section 8. Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. If a quorum is not established, no business other than adjournment may be transacted.

Section 9. Notice of Adjournment. A copy of the order for adjournment shall be posted as required by Government Code Section 54955. No other notice of an adjourned meeting shall be necessary, unless the adjournment is for a period of 30 days or more, in which case notice of the adjourned meeting shall be given in the same manner as notice of the original meeting.

Section 10. Fees and Compensation of Directors. Directors and members of committees may not receive compensation for their services except such reimbursement of expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 11. Chairman of Meetings. The Chairman of the Board may be elected by the Board and shall, preside at all meetings of the members and at all meetings of the Board. If the Chairman is not elected, not present or is unwilling to act, the directors or members present shall elect one of their number to be chairman of the meeting.

Section 12. Committees of Directors. The Board of Directors may, by resolution passed by a majority of the authorized number of directors, designate one or more committees of the Board of Directors. Any such committee, to the extent provided by the resolution, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the JPA.

#### **ARTICLE IV. OFFICERS**

Section 1. Officers. The officers of the JPA shall be President, Secretary, and Treasurer. The JPA may also have such other officers as the JPA may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine officers shall be elected by the Board of Directors and each shall serve at the pleasure, of the Board, subject to the rights, if any, of an officer under a contract of employment

Section 2. President. The President shall be the general manager and chief executive officer of the JPA and shall have, subject to the control of Board, general supervision, direction, and control of the business and officers of the JPA. The President shall have the general powers and duties of management usually vested in the office of President and general manager of a JPA and shall have such other powers and duties as may be prescribed by the Board.

Section 3. Secretary. The Secretary shall keep or cause to be kept, at the principal executive office and such other places that the Board may order, a book of minutes of all meetings of the members, the Board, and its committees.

The secretary shall give, or cause to be given, notice of all the meetings of the members and of the Board and any committees thereof required by the bylaws or by the law to be given, shall keep the seal of the JPA in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or the bylaws.

Section 4. Treasurer. The Treasurer of the JPA shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the JPA, and shall send or cause to be sent to the members of the JPA such financial statements and reports as the law or these bylaws require. The books of account shall at all times be open to inspection by any director.

The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the JPA with any depository designated by the Board. The Treasurer shall disburse the funds of the JPA as may be ordered by the Board, shall render to the Treasurer and the directors, whenever they request it, an account of all the financial transactions and the financial condition of the JPA, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 5. Chairman of the Board. The Chairman of the Board, if such an officer be elected, shall, if present, preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by these bylaws. If there is no President, the Chairman of the Board shall in addition be the chief executive officer of the JPA.

Section 6. Election of Officers. The officers of the JPA shall be chosen annually at the first meeting of the fiscal year by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 7. Subordinate Officers. The Board of Directors may appoint, and may empower the President to appoint, such other officers as the business of the JPA may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these bylaws or as the Board of Directors may from time to time determine.

Section 8. Removal and Resignation of Officers. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the Board of Directors, at any regular or special meeting of the Board except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the JPA. Any resignation shall take effect on the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the JPA under any contract to which the officer is a party.

Section 9. Vacancies in Offices. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office.

**ARTICLE V. INDEMNITY**

Section 1. Indemnification of Directors, Officers, Employees, and Other Agents.  
The JPA is authorized to provide indemnification of agents for breach of duty to the JPA and its members against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that such person is or was an agent of the JPA, and shall have the power to advance to each such agent expenses incurred in defending any such proceeding to the maximum extent permitted by that law. For purposes of this Article an "agent" of the JPA includes any person who is or was a director, officer, employee, or other agent of the JPA, or is or was serving at the request of the JPA as the director, officer, employee, or agent of another JPA or other enterprise, or was the director, officer, employee, or agent of the JPA which was a predecessor JPA of the JPA or other enterprise serving at the request of such predecessor JPA.

Section 2. Required Approval. Any indemnification under this Article shall be made by this JPA only if authorized in the specific case upon a determination that indemnification of the agent is proper under the circumstances because the agent acted in good faith and in a manner that person reasonably believed to be in the best interest of the JPA and; in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful, by:

- (a) a majority vote of a quorum consisting of directors who are not parties to the proceeding; or by
- (b) approval by the affirmative vote of a majority of the members of this JPA entitled to vote represented at a duly held meeting at which a quorum is present or by the written consent of



holders of a majority of the members entitled to vote. For this purpose, the vote by the member to be indemnified shall not be considered or entitled to vote thereon; or by

(c) the court in which the proceeding is or was pending, on application made by this JPA or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by this JPA.

Section 3. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by this JPA before the final disposition of the proceeding as authorized by the Board upon receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

Section 4. Other Contractual Rights. Nothing contained in this Article shall affect any right to indemnification to which persons other than directors and officers of this JPA or any subsidiary hereof may be entitled by contract or otherwise.

Section 5. Limitations. No indemnification or advance shall be made under this Article in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the JPA Agreement, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 6. Insurance. This JPA shall have the power, upon and in the event of an appropriate determination by the Board of Directors, to purchase and maintain insurance on behalf of any agent of the JPA against any liability asserted against or incurred by

the agent in such capacity or arising out of the agent's status as such, regardless of whether the JPA would have the power to indemnify the agent against that liability under the provisions of this Article.

## ARTICLE VI. RECORDS AND REPORTS

Section 1. Maintenance and Inspection of Records. The JPA shall keep at its principal executive office a record of its members, giving the names and addresses of all members.

Section 2. Maintenance and Inspection of Bylaws. The JPA shall keep at its principal executive office, original or a copy of these Bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during usual business hours.

Section 3. Maintenance and Inspection of Other Corporate Records. The accounting books and records and minutes of proceedings of the members and the Board of Directors and any committee or committees of the Board of Directors shall be kept at such place or places in California designated by the Board of Directors, or, in the absence of such designation, at the principal executive office of the JPA. The minutes shall be kept in written form and the accounting books and records shall be kept either in written form or in any other form capable of being converted into written form. The minutes and accounting books and records shall be open to inspection upon the written demand of any members or holder of a voting trust certificate, at any reasonable time during usual business hours, for a purpose reasonably related to the holder's interests as a member. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts.

Section 4. Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the JPA and each of its subsidiary JPAs. This inspection by a director may

be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts of documents.

**ARTICLE VII. GENERAL CORPORATE MATTERS**

Section 2. Checks, Drafts. Evidences of Indebtedness. All checks, drafts, or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the JPA, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors

Section 3. Corporate Contracts and Instruments; How Executed. The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the JPA, and this authority may be general or confined to specific instances; and, unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent, or employee shall have any power or authority to bind the JPA by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 4. Fiscal Year. The fiscal year of the JPA shall be from July 1 to June 30.

**ARTICLE VIII. AMENDMENTS**

These Bylaws may be amended or repealed either by approval of a majority of the members entitled to vote or by the approval of a majority of the Board.

**ARTICLE IX. RISK RETENTION**

The JPA shall be empowered to retain risk on behalf of its agencies in an amount not to exceed \$500,000 per occurrence as defined in the Memorandum of Coverage adopted by the JPA. Any increase in this limit of retention must be approved by a two-thirds vote of the membership of the JPA.

**BYLAWS  
OF  
EXCLUSIVE RISK MANAGEMENT AUTHORITY OF CALIFORNIA**

**ARTICLE I. OFFICES**

Section 1. Principal office. The principal executive office of the Exclusive Risk Management Authority of California (JPA) shall be located in the State of California. The Board of Directors (herein called the "Board") is hereby granted full power and authority to change said principal executive office from one location to another within the State of California.

Section 2. Other Offices. Branch or subordinate offices may at any time be established by the Board at any place or places within the State of California.

**ARTICLE II. MEMBERS**

Section 1. Membership. Each member of the JPA shall be a member of the JPA during the term of their respective Memorandum of Coverage with all rights and obligations of such membership. Any California public agency may be a member of the JPA.

Expulsion of a member Agency pursuant Section 18 of the JPA Agreement, effective at the end of the program year in which notice is given, shall only occur upon a minimum of one hundred and twenty (120) days' advance notice to the member Agency.

Section 2. Directors and Alternates. Each member agency's elected body shall appoint either the chief executive officer or member legal counsel as the initial member Director. The Director may designate an Alternate Director to represent the member agency with the JPA. All Alternate designations must be made by the Director in writing and delivered to the JPA. Alternates will be appointed annually.

Section 3. Powers. Subject to limitations of the JPA Agreement, these Bylaws, and California Law, the business and affairs of the JPA shall be managed and all corporate

powers shall be exercised by or under the direction of the Board of Directors made up of the representative or their alternates from each member of the JPA.

Section 4. Place of Meetings. Regular and special meetings of the Board of Directors may be held at any place within the State of California as designated by the Board. In the absence of a designation, regular and special meetings shall be held at the principal executive office of the JPA. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, provided that all directors participating can hear one another.

Section 5. Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board or the Secretary or a majority of the directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail or telegram, charges prepaid, addressed to each director at that director's address as it is shown on the records of the JPA. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is delivered personally, or by telephone or telegram, it shall be delivered personally or by telephone or to the telegraph company at least forty-eight (48) hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the representative who the person giving the notice has reason to believe will promptly communicate it to the director.

Section 6. Quorum. A majority of the authorized number of directors shall constitute a quorum for the transaction of business.

Section 8. Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. If a quorum is not established, no business other than adjournment may be transacted.

Section 9. Notice of Adjournment. A copy of the order for adjournment shall be posted as required by Government Code Section 54955. No other notice of an adjourned meeting shall be necessary, unless the adjournment is for a period of 30 days or more, in which case notice of the adjourned meeting shall be given in the same manner as notice of the original meeting.

Section 10. Fees and Compensation of Directors. Directors and members of committees may not receive compensation for their services except such reimbursement of expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 11. Chairman of Meetings. The Chairman of the Board may be elected by the Board and shall, preside at all meetings of the members and at all meetings of the Board. If the Chairman is not elected, not present or is unwilling to act, the directors or members present shall elect one of their number to be chairman of the meeting.

Section 12. Committees of Directors. The Board of Directors may, by resolution passed by a majority of the authorized number of directors, designate one or more committees of the Board of Directors. Any such committee, to the extent provided by the resolution, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the JPA.

#### **ARTICLE IV. OFFICERS**

Section 1. Officers. The officers of the JPA shall be President, Secretary, and Treasurer. The JPA may also have such other officers as the JPA may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine officers shall be elected by the Board of Directors and each shall serve at the pleasure, of the Board, subject to the rights, if any, of an officer under a contract of employment

Section 2. President. The President shall be the general manager and chief executive officer of the JPA and shall have, subject to the control of Board, general supervision, direction, and control of the business and officers of the JPA. The President shall have the general powers and duties of management usually vested in the office of President and general manager of a JPA and shall have such other powers and duties as may be prescribed by the Board.

Section 3. Secretary. The Secretary shall keep or cause to be kept, at the principal executive office and such other places that the Board may order, a book of minutes of all meetings of the members, the Board, and its committees.

The secretary shall give, or cause to be given, notice of all the meetings of the members and of the Board and any committees thereof required by the bylaws or by the law to be given, shall keep the seal of the JPA in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or the bylaws.

Section 4. Treasurer. The Treasurer of the JPA shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the JPA, and shall send or cause to be sent to the members of the JPA such financial statements and reports as the law or these bylaws require. The books of account shall at all times be open to inspection by any director.

The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the JPA with any depository designated by the Board. The Treasurer shall disburse the funds of the JPA as may be ordered by the Board, shall render to the Treasurer and the directors, whenever they request it, an account of all the financial transactions and the financial condition of the JPA, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 5. Chairman of the Board. The Chairman of the Board, if such an officer be elected, shall, if present, preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by these bylaws. If there is no President, the Chairman of the Board shall in addition be the chief executive officer of the JPA.

Section 6. Election of Officers. The officers of the JPA shall be chosen annually at the first meeting of the fiscal year by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 7. Subordinate Officers. The Board of Directors may appoint, and may empower the President to appoint, such other officers as the business of the JPA may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these bylaws or as the Board of Directors may from to time determine.

Section 8. Removal and Resignation of Officers. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the Board of Directors, at any regular or special meeting of the Board except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the JPA. Any resignation shall take effect on the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the JPA under any contract to which the officer is a party.



Section 9. Vacancies in Offices. A vacancy in any office because of death Item No. 11.

resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office.

#### **ARTICLE V. INDEMNITY**

Section 1. Indemnification of Directors, Officers, Employees, and Other Agents.

The JPA is authorized to provide indemnification of agents for breach of duty to the JPA and its members against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that such person is or was an agent of the JPA, and shall have the power to advance to each such agent expenses incurred in defending any such proceeding to the maximum extent permitted by that law. For purposes of this Article an "agent" of the JPA includes any person who is or was a director, officer, employee, or other agent of the JPA, or is or was serving at the request of the JPA as the director, officer, employee, or agent of another JPA or other enterprise, or was the director, officer, employee, or agent of the JPA which was a predecessor JPA of the JPA or other enterprise serving at the request of such predecessor JPA.

Section 2. Required Approval. Any indemnification under this Article shall be made by this JPA only if authorized in the specific case upon a determination that indemnification of the agent is proper under the circumstances because the agent acted in good faith and in a manner that person reasonably believed to be in the best interest of the JPA and; in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful, by:

(a) a majority vote of a quorum consisting of directors who are not parties to the proceeding; or by

(b) approval by the affirmative vote of a majority of the members of this JPA entitled to vote represented at a duly held meeting at which a quorum is present or by the written consent of

holders of a majority of the members entitled to vote. For this purpose, the vote by the member to be indemnified shall not be considered or entitled to vote thereon; or by

(c) the court in which the proceeding is or was pending, on application made by this JPA or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by this JPA.

Section 3. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by this JPA before the final disposition of the proceeding as authorized by the Board upon receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

Section 4. Other Contractual Rights. Nothing contained in this Article shall affect any right to indemnification to which persons other than directors and officers of this JPA or any subsidiary hereof may be entitled by contract or otherwise.

Section 5. Limitations. No indemnification or advance shall be made under this Article in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the JPA Agreement, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 6. Insurance. This JPA shall have the power, upon and in the event of an appropriate determination by the Board of Directors, to purchase and maintain insurance on behalf of any agent of the JPA against any liability asserted against or incurred by

the agent in such capacity or arising out of the agent's status as such, regardless of whether Item No. 11.

JPA would have the power to indemnify the agent against that liability under the provisions of this Article.

## **ARTICLE VI. RECORDS AND REPORTS**

Section 1.           Maintenance and Inspection of Records. The JPA shall keep at its principal executive office a record of its members, giving the names and addresses of all members.

Section 2.           Maintenance and Inspection of Bylaws. The JPA shall keep at its principal executive office, original or a copy of these Bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during usual business hours.

Section 3.           Maintenance and Inspection of Other Corporate Records. The accounting books and records and minutes of proceedings of the members and the Board of Directors and any committee or committees of the Board of Directors shall be kept at such place or places in California designated by the Board of Directors, or, in the absence of such designation, at the principal executive office of the JPA. The minutes shall be kept in written form and the accounting books and records shall be kept either in written form or in any other form capable of being converted into written form. The minutes and accounting books and records shall be open to inspection upon the written demand of any members or holder of a voting trust certificate, at any reasonable time during usual business hours, for a purpose reasonably related to the holder's interests as a member. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts.

Section 4.           Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the JPA and each of its subsidiary JPAs. This inspection by a director may

be made in person or by an agent or attorney and the right of inspection includes the right to Item No. 11.

copy and make extracts of documents.

## **ARTICLE VII. GENERAL CORPORATE MATTERS**

Section 2.           Checks, Drafts. Evidences of Indebtedness. All checks, drafts, or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the JPA, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors

Section 3.           Corporate Contracts and Instruments; How Executed. The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the JPA, and this authority may be general or confined to specific instances; and, unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent, or employee shall have any power or authority to bind the JPA by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 4.           Fiscal Year. The fiscal year of the JPA shall be from July 1 to June 30.

## **ARTICLE VIII. AMENDMENTS**

These Bylaws may be amended or repealed either by approval of a majority of the members entitled to vote or by the approval of a majority of the Board.

## **ARTICLE IX. RISK RETENTION**

The JPA shall be empowered to retain risk on behalf of its agencies in an amount not to exceed \$500,000 per occurrence as defined in the Memorandum of Coverage adopted by the JPA. Any increase in this limit of retention must be approved by a two-thirds vote of the membership of the JPA.



## Staff Report

**TO:** Mayor, and City Council Members

**FROM:** Jeff Hart, Director of Public Works

**DATE:** March 17, 2020

**SUBJECT:** **Approval of the Third Amendment to the Professional Services Agreement with Falcon Engineering Services, Inc., for Construction Management Services of the State Route 60 (SR-60) and Potrero Boulevard Interchange Project Phase 1/1A in the amount of \$83,371.76 with the Total Not to Exceed Contract Amount of \$2,360,831.16**

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### Background and Analysis:

On October 18, 2017, City Council approved an agreement with Falcon Engineering Services, Inc. (Falcon), to provide construction management and inspection services in an amount not-to-exceed \$1,727,886.60 for the SR-60/Potrero Boulevard Interchange Project.

Phase 1 of the project includes the construction of a six (6) lane bridge, with a center median and bicycle lanes; extension of Potrero Boulevard over SR-60; freeway widening of the north and south sides at Western Knolls Avenue connection and freeway widening at the Potrero Bridge location (a few hundred feet east and west of the new bridge).

Additionally, Phase 1A of this project consists of the construction of acceleration and deceleration lanes, and median barriers on westbound SR-60.

Construction of this project has been impacted in two areas requiring costs, in a not to exceed amount of \$83,371.16 with the total not to exceed contract amount of \$2,360,831.16. The areas of impact include:

- Additional construction management related to the installation of three new waterlines within the project footprint in the amount of \$54,889.09 (paid by developer), and

- Additional construction management related to Change Order 5A in the amount of \$23,833.67. Staff was able to authorize the contractor to fully widen Potrero Boulevard from the south edge of the bridge structure to 600 feet north of the Potrero Boulevard and Fourth Street intersection. This additional widening necessitated additional construction management services to implement.

The total amount of this change order is \$83,371.16, with \$54,498.09 of the total amount being offset from additional funds received by the Lassen Development for the aforementioned installation of three additional waterlines. The remaining \$23,833.67 is for construction management related services for the Potrero Boulevard widening. There is sufficient contingency remaining within the project budget to cover the additional expenses.

**Fiscal Impact:**

The cost to prepare this staff report is estimated to be \$350.

**Recommended Action:**

Approve the third amendment to the Professional Services Agreement with Falcon Engineering Services, Inc., for construction management services of the State Route 60 (SR-60) and Potrero Boulevard Interchange Project Phase 1/1A in the amount of \$83,371.16 with the total not to exceed contract amount of \$2,360,831.16.

**Attachments:**

- A. Contract Amendment

**THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF BEAUMONT AND FALCON ENGINEERING SERVICES, INC., FOR CONSTRUCTION MANAGEMENT SERVICES FOR SR-60/POTRERO BOULEVARD INTERCHANGE PROJECT (PHASE 1)**

THIS THIRD AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the 2<sup>nd</sup> day of April, 2019, by and between the CITY OF BEAUMONT, a general law city, (“CITY”) whose address is 550 E. 6th Street, Beaumont, California 92223 and FALCON ENGINEERING SERVICES, INCORPORATED, a California corporation whose address is 341 Corporate Cir # 101, Corona CA 92879 (“CONTRACTOR”) in consideration of the mutual promises and purpose contained herein, the parties agree as follow:

1. RECITALS

This Third Amendment is made with respect to the following facts and purpose that the parties agree are true and correct:

A. On October 18<sup>th</sup>, 2017, the City and FALCON ENGINEERING, INC., entered into that certain agreement entitled “Agreement for Professional Services by Independent Contractor” for CONSTRUCTION MANAGEMENT SERVICES FOR SR-60/POTRERO BOULEVARD INTERCAHGE PROJECT (PHASE 1) Services (“Agreement”).

B. On or about, January 15<sup>th</sup>, 2019, the City and FALCON ENGINEERING, INC., entered into that certain FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (“First Amendment”) whereby the scope of services and compensation under the Agreement was increased.

C. On or about, April 2<sup>nd</sup>, 2019, the City and FALCON ENGINEERING, INC., entered into that certain SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (“Second Amendment”) whereby the scope of services and compensation under the Agreement was increased.

D. City has requested a further change in scope to the work under the Agreement regarding the installation of 24” water lines and widening of Potrero Boulevard and CONTRACTOR has requested that the scope of work should be increased as provided in the Proposal dated August 20, 2019, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by this reference.

2. AMENDMENT

Section 2 of the Agreement is hereby amended to add to the Services those services identified in the Proposal attached hereto as Exhibit “A”.

Section 4.01 of the Agreement is hereby amended to increase the maximum compensation under the Agreement as follows: Under the original Agreement, compensation was set at One Million Seven Hundred Twenty Seven Thousand Eight Hundred and Eighty Six Dollars and sixty cents (\$1,727,886.60). Under the First Amendment compensation was increased by the maximum amount of Three Hundred Fifty Nine Thousand Eight Hundred Dollars (\$359,800.00) resulting in total compensation under the Agreement not to exceed Two Million Eighty Seven Thousand Six Hundred and Eighty Six Dollars and Sixty Cents (\$2,087,686.60).

Under the Second Amendment compensation was increased by the maximum amount of One Hundred Eighty Nine Thousand Eight Hundred Twelve Dollars and eighty cents (\$189,812.80) resulting in total compensation under the Agreement not to exceed Two Million Two Hundred Seventy Seven Thousand Four Hundred and Ninety Nine Dollars and forty Cents (\$2,277,499.40). Per this Third Amendment, compensation of Two Million Two Hundred Seventy Seven Thousand Four Hundred and Ninety Nine Dollars and forty Cents (\$2,277,499.40) is increased by the maximum amount of Eighty Three Thousand Three Hundred Thirty One Dollars and seventy six cents (\$83,331.76) as provided in the Proposal attached hereto as Exhibit "A" resulting in total compensation under the Agreement not to exceed Two Million Three Hundred Sixty Thousand Eight Hundred Thirty One Dollars and sixteen cents (\$2,360,831.16).

The recitals to this Amendment are deemed incorporated herein by this reference. All other terms of the Agreement not expressly amended by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereby have made and executed this Third Amendment to Professional Services Agreement to be effective as of the day and year first above-written.

**CITY:**

**CONTRACTOR:**

CITY OF BEAUMONT

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Rey Santos, Mayor

Print Name: \_\_\_\_\_

ATTEST

Title: \_\_\_\_\_

\_\_\_\_\_



City Clerk

APPROVED AS TO FORM

---

John Pinkney, City Attorney

**EXHIBIT "A"**  
**PROPOSAL DATED AUGUST 20<sup>th</sup>, 2019**

August 20, 2019  
**Attention: Jeff Hart**  
**550 E 6<sup>th</sup> Street**  
**Beaumont, Ca 92223**

**RE: Time Impacts and Contract Extension**

Dear Jeff Hart

As requested please consider this letter as Falcon's request to amend the management contract for this project. The project has been impacted by the following factors:

1. Added additional work to be performed on Change Cost Order #005 which will include paving Potrero Blvd. full width, south of the new Potrero Blvd. Over Crossing. Falcon will continue to provide management and inspection services for this work.

The scheduled completion date of is being extended to September 20<sup>th</sup>, 2019.

Falcon Management Rate \$2,083.29/day x 40 days = \$83,331.76

Total of this request is \$83,331.76  
Falcon Engineering Services

Sincerely,



Kurt Pegg, PE  
Resident Engineer  
FALCON Engineering Services, Inc.

**CITY OF BEAUMONT**

*Staffing Schedule & Cost Proposal for CM Inspection Services*

**Potrero Overcrossing at SR-60, City of Beaumont CIP**

Date: July 26, 2019



**Cost to Complete**

<b>Estimated Fees</b>		Discounted Rate	Aug	Sept	Oct	Nov	<b>Total Hours</b>	<b>Total Cost</b>
<b>Description</b>	<b>Name</b>							
Resident Engineer/Scheduler	Kurt Pegg, PE	\$220.00	40	40	40	40	160	\$ 35,200.00
A.RE/ASR	Tariq Malik, PE	\$182.00	0			0	0	\$ -
Office Engineer	Sarah Alina	\$92.42	40	40	40	20	140	\$ 12,938.80
SWPPP Review & Inspection (PT-As Needed)	Dion Catsro, QSD, T	\$174.56	8	4	4	0	16	\$ 2,792.96
Inspector	Naim Abu-Laban	\$180.00	60	60	40	20	180	\$ 32,400.00
							1064	\$ 83,331.76
	<b>Annual Budget Needed</b>							\$ 83,331.76

Page 620

**Extension: Additional waterline work and HMA paving will extend the contract completion date to September 30th, 2019. Project closeout in October and November**

- 1- Cost Proposal is based on Average number of hours per month (Working Days) as detailed above for the remaining construction duration.
- 2- Direct Costs are estimates, based on project duration. Invoicing will be based on submitted hourly rates with Overhead and Fee multipliers included.
- 3- Prevailing Wage - Wages for inspection subject to Calif. Labor Code Section 1772. Overtime will be paid in accordance with applicable labor laws.



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Kyle Warsinski, Economic Development Manager  
**DATE:** March 17, 2020  
**SUBJECT:** Economic Development Strategic Plan Update

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### Background and Analysis:

On July 2, 2019, City Council approved Beaumont’s first Economic Development Strategic Plan. The Strategic Plan was created with input from numerous community stakeholders, City staff and the City Council. The plan included a mission statement and eight main goals.

*The City of Beaumont strives to create a balanced, sustainable and diverse economic environment by leveraging existing local business, recruiting targeted industries, and encouraging outside investment, that will enhance Beaumont’s quality of life and support community values.*

1. Develop an economically balanced community,
2. Recruit new business, while retaining and expanding local business, that promote growth of primary jobs and/or sales tax revenue,
3. Develop an online Economic Development presence to provide business owners and site selectors resources they need,
4. Create a Quality of place that establishes Beaumont as a community to build and grow a business, as well as attract and retain talent,
5. Connect with and assist local small business start-ups and entrepreneurs,
6. Ongoing review of development review processes and identify streamlining and efficiency techniques,
7. Work with regional workforce development partners to provide needed resources to the area and begin to develop a retraining program for positions under threat of automation, and
8. Leverage the City’s strengths to maximize business opportunities.

The plan included 13 major strategy areas designed to accomplish these goals. These areas are detailed in terms of 43 specific action items (Attachment A). The 13 major strategy groups are:

1. EDSP Organization and Operation (i.e., internal capacity building to support implementation of the Plan);
2. Economic Development Marketing;
3. Existing-Business Retention and Expansion;
4. Industry Targeting (local-serving businesses);
5. Industry Targeting (employers);
6. Entrepreneurial Development;
7. Real Estate Development and Redevelopment/Revitalization;
8. Development Streamlining;
9. Interface with City's Fiscal and Other Policies;
10. Infrastructure Development Coordination;
11. Workforce Development;
12. Placemaking Initiatives; and
13. Quality of Life Initiatives.

Since July, staff has been working to implement the plan and accomplish the high priority action items. The first step was to create an overall implementation approach and establish a system of partners who will participate in the action items contained within the plan.

#### Strategy Group 1: EDSP Organization and Operations

Work has been completed to create a list of deliverables, consisting of meetings, working documents, and programs. Staff has completed its work to create the system of partners and have firm commitments from outside organizations and internal staff from other departments. Staff is currently finalizing the list of persons to be included on the Economic Development Taskforce.

#### Strategy Group 2: Marketing

Staff has completed certain marketing pieces and is refining those materials developed for distributor at major economic development events such as the ICSC conference in May 2020. The marketing strategy is derived from the strategic communications plan and highlights Beaumont as a place to live, work and play. This incorporates the City's mission concepts related to sustainability, quality of life and citizen values. The City has utilized these materials in the Inland Empire Magazine advertisements and is exploring other ways to reach corporate executives and site selectors.

By the end of the fiscal year staff will have completed its review of marketing programs used by economic development partners and competitors to determine the City's current marketing position in the region.

Strategy Group 3: Business Retention and Expansion (BRE)

Staff is currently scheduling business site visits with 12 key businesses within the community which will be held this year. The City conducted a funding your business seminar in November 2019, and will be hosting two other information events before July. The Mayor's Roundtable held in February 2020, served as a great forum to perform BRE functions. The City will also be hosting two more events this year, a developer and broker forum and a public agency forum to expand the City's engagement with outside entities and increase communication.

Strategy Group 4: Industry Targeting, Local Serving

Staff has completed a sales tax surplus / gap analysis which has been attached for review (Attachment B). Upon completion of the analysis, staff identified which businesses in each sector are expanding within the region and made contact. Staff is also working closely with commercial developers and brokers to attract certain local serving businesses to reduce our sales tax leakage and provide more goods and services to the residents.

Part of attracting the right business is maximizing the resources the City has available. City Council's approval of temporary moratoriums on storage facilities and tire sales has aided the economic development departments efforts in attracting the right businesses to the City.

Strategy Group 5: Industry Targeting, Employers

Staff has concluded meetings with industrial landowners in the City and continues to target businesses that meet the target industry analysis report contained in the EDSP. These include e-commerce facilities, manufacturing facilities, healthcare, datacenters, and professional offices.

Strategy Group 6: Entrepreneurial Development

Staff has a series of entrepreneurial meetings slated for the year, in which staff meets with business owners and startups to provide information on what the City and its partners can do to help a business grow. Staff has completed tours of the regions three closest business development centers and/or incubators and met with management at each facility to establish a partnership between the City and the facility to provide access to Beaumont residents. Staff has started attending local entrepreneurial networking, One Million Cups, meetings in Riverside.

Strategy Group 7: Real Estate Development and Revitalization

Staff continues to coordinate with developers, prioritize industry targets, and facilitate an orderly entitlement process at City Hall with other departments. Staff has prepared in initial assessment of market incentives options: attraction incentives, downtown incentives, expedited processing with fees, etc.

Strategy Group 8: Development Streamlining

Staff is currently observing the development approval process and exploring options to streamline the process, if needed.

Strategy Group 9: City Fiscal Interface

Significant fiscal planning is being conducted to ensure the City's sustainability. Economic development staff has taken the Long-Term Financial Forecast Model developed by the finance department and combined the economic development absorption model to determine the impact new development could have on the long-term fiscal outlook of the City. This updated model may be used to coordinate general policy positions and maximize development opportunities. Staff has also had multiple meetings with two of the regions leading economists to better understand the state of the economy, nationally and regionally, and how the economy impacts the City of Beaumont.

Strategy Group 10: Infrastructure Development Coordination

Staff has been coordinating with the Public Works Department on capital improvements that could affect industry-targeting, BRE, and other economic development functions.

Strategy Group 11: Workforce Development

Critical partners include Riverside County Economic Development Agency and workforce development division, Mount San Jacinto Community College, Coachella Valley Economic Partnership, and the University of California Riverside. The monthly career development center program with Mount San Jacinto Community College is a direct product of this action step.

Strategy Group 12: Placemaking



Staff is focusing on new and revitalization efforts throughout the community for welcoming visitors, providing public spaces for residents to congregate, and working with project developers to implement similar concepts in their own projects.

Strategy Group 13: Quality of Life Enhancements

Staff is working closely with other departments to support the need for affordable housing and attract employers which can aid in employing local residents. Coordination of these efforts is reflected in policy positions at the state level and work conducted by the City with the recent Regional Housing Needs Assessment process. Staff is working closely with current and potential homebuilders to provide economic development materials.

**Fiscal Impact:**

None.

**Recommended Action:**

Receive and file.

**Attachments:**

- A. EDSP Strategy Groups and Action items
- B. Sales Tax Surplus / Gap Analysis

TABLE 13. ACTION ITEM SUMMARY AND PRIORITIZATION

Strategy Group Action Item	City lead	Partners, coord. agencies	Priority level/City role
<b>1. EDSP ORGANIZATION AND OPERATIONS</b>			
A. Establish overall implementation approach and milestones.	ED		High
B. Institutionalize a system of partners who will participate in EDSP implementation.	ED		High
C. Establish an Economic Development taskforce around the work program established by the EDSP.	ED		High
<b>2. MARKETING, GENERAL</b>			
A. Develop marketing materials that reflect the comprehensive nature of planning and economic development programs within the City; closely coordinate economic development marketing with the Strategic Communications Plan and overall branding initiative currently being implemented by the City (e.g., the recently adopted tagline “A City Elevated” should be modified for ED marketing purposes, effectively expressing both current conditions and plans for further improvements).	ED PIO	PLn	High
B. Incorporate City’s mission concepts related to sustainability, quality-of-life, and citizen values into marketing materials.	ED		High
C. Within economic development marketing materials, reflect the technology-focused framework that has helped inform industry targeting, including its relevance to prospective employers (tech-related or otherwise).	ED		High
D. Coordinate messages to jointly promote real estate development / revitalization and industry targeting (for both local-serving businesses and employers). (See separate strategy groups below for Real Estate Development and Industry Targeting.)	ED	BCC EVAR	Med
E. Embed in marketing materials, as appropriate, messages that include mention of expected benefits to the local citizenry from economic development efforts.	ED		High
F. Establish an Economic Development Website dedicated to providing a platform market the City's message, engage with partners and companies, and publish data and programs to better serve customers and prospects.	ED	BCC RCEDA	Low
G. Review marketing programs and materials used by economic development partners, and key competitors, locally and regionally, for message-consistency with Beaumont programs/materials and to secure Beaumont’s market positioning.	ED	BCC RCEDA	High
<b>3. EXISTING-BUSINESS RETENTION AND EXPANSION</b>			
A. <b>Business Outreach.</b> Utilize online surveys, business site visits and other typical economic development tools to expand communication with existing firms, to achieve any or all of the following purposes: <ul style="list-style-type: none"> <li>Identify any needs for business assistance.</li> </ul>	ED	BCC IESBDC RCEDA PLn B&S	Med

Strategy Group Action Item	City lead	Partners, coord. agencies	Priority level/City role
<ul style="list-style-type: none"> <li>• Connect businesses with available support resources.</li> <li>• Probe businesses’ sense of locational advantages and disadvantages of being in Beaumont (and having regional assets such as the two nearest airports), including such issues as the desirability of and potential for bringing key suppliers or business-service firms to the City. Relate these findings to the process of refining/updating industry targets.</li> <li>• Identify any needs for coordinating operational or expansion requirements with local regulatory bodies.</li> </ul>			
<b>4. INDUSTRY TARGETING, LOCAL-SERVING BUSINESSES</b>			
A. Use data from research conducted for the EDSP to detail conditions related to, and define strategies for addressing, retail leakage conditions in the City, in relation to the City’s competitive position with respect to commercial development characteristics (including market advantages / disadvantages) of surrounding communities.	ED	BCC	Med
B. Implement retail tenant recruitment program, in partnership with interested property owners, as part of expanded marketing efforts.	ED	BCC EVAR	Med
<b>5. INDUSTRY TARGETING, EMPLOYERS</b>			
<p>A. Refine, prioritize, and update target-industry prospects, through:</p> <ul style="list-style-type: none"> <li>• Monitoring large-scale patterns of change in technology and application of technology – to manufacturing and distribution, offshoring/onshoring of production, and similar considerations.</li> <li>• Exploring opportunities for leveraging the presence of the two nearest airports as business attractors, by expanding awareness of the different types of companies/industries now taking advantage of each of those facilities, the airports’ plans for expansion and development, and other considerations. (Business parks co-located with the airports may represent, for Beaumont, one of the nearest aspirational developments of this type.)</li> <li>• Incorporating consideration of how changes in technology can improve connectivity of outlying communities, for both the general development and specifically for tech-related businesses (e.g., expanded use of autonomous vehicles could enhance access to metropolitan-fringe communities such as Beaumont by facilitating lengthy commutes both in and out of the community).</li> <li>• Join and Attend Trade Association conferences of city’s largest employers, Regional Site Selectors, and the Inland Empire Regional Broadband consortium</li> </ul>	ED	HL RCEDA ONT PSP PW PLn SCAG RCTC	High
B. Implement target industry marketing program in partnership with industrial property owners and regional economic development organizations.	ED	RCEDA	Med

Strategy Group Action Item	City lead	Partners, coord. agencies	Priority level/City role
<b>6. ENTREPRENEURIAL DEVELOPMENT</b>			<b>Coordination Role</b>
A. Investigate extent to which existing entrepreneurial-development programs / facilities in the region meet the needs for the kinds of entrepreneurs present and anticipated in Beaumont, recognizing the different types of support needed by local-consumer startups and tech-oriented startups.	ED	CVEP HL IECE IESBDC SCORE	Med
B. Confirm the relevance of tying into an existing networking system / program directed towards entrepreneurs (1 Million Cups), which already has a presence in the region, as a means of expanding entrepreneurs’ awareness of one another and relevant resources, etc.	ED		Med
C. Explore ways the City can maximize its coordination with the business model of the most accessible / relevant incubator operators in the region and their tenant focus.	ED	CVEP / iHUB UCR / EPIC IECE IESBDC SCORE	Med
D. Incorporate real estate development / revitalization programs into entrepreneurial development programs, as appropriate to the extent that entrepreneurs’ space-using options are currently constrained.	ED	PLn	Low
E. Incorporate initiatives within the Quality of Life Enhancements strategy group (below) into strategies promoting entrepreneurial development.	ED	PLn B&S	Low
<b>7. REAL ESTATE DEVELOPMENT AND REVITALIZATION/REDEVELOPMENT</b>			
A. <i>Continually monitor coordination efforts between the General Plan and other research work and economic development objectives and actions. For example:</i> <ul style="list-style-type: none"> <li>• Explicitly relate planned commercial/industrial areas to industry targets and the City’s overall economic development approach.</li> <li>• Show how areas designated for revitalization relate to economic development targets and programs.</li> <li>• Show how the repurposing of certain structures/areas can support startup companies.</li> </ul> <p><i>The intent of this ongoing monitoring effort would be to ensure that the City’s various development-related policies remain in sync and, when appropriate, to make future policy adjustments to maximize the alignment of these closely related programs.</i></p>	ED	PLn	High
B. Market key “development opportunity sites” in partnership with interested property owners.	ED	BIA-RC EVAR	Low
C. Create and market incentives for redevelopment / revitalization of older properties (potentially including non-financial incentives such as expedited entitlements and permit processing).	ED	PLn B&S PW	Low

Strategy Group Action Item	City lead	Partners, coord. agencies	Priority level/City role
D. Implement the economic development components of the Downtown Specific Plan (through marketing, focused incentives, etc.).	ED	PLn	Low
E. As appropriate, contact the owners of commercial properties that might benefit from revitalization efforts to assess interest and potential partnerships or other forms of public support to achieve revitalization / redevelopment goals.	ED		Low
<b>8. DEVELOPMENT STREAMLINING</b>			
A. Analyze current development approval processes (including Planning, Public Works and Building & Safety) and investigate options for expediting approvals (including expanded use of program-level environmental impact reports; online permitting tools, etc.).	PLn	PW B&S BIA-RC ED	High
B. Review City user and processing fees and processes; Evaluate options to create Economic Development incentive packages structured based on industry targets	ED	PLn PW	High
C. Tie whatever development streamlining procedures are put in place to a system for expediting in-City business relocations and expansions (through entitlements, permitting, etc.), as part of a Business Attraction and Business Retention and Expansion (BRE) program.	ED		High
<b>9. CITY FISCAL AND OTHER POLICY INTERFACE</b>			
A. Coordinate industry targeting and retention / expansion programs to align with opportunities to add to City fiscal health and resilience, and to steer development activity where and when infrastructure capacity exists to accommodate it.	ED	FD	Low
B. Coordinate with general policy positions in the City to maximize compatibility with economic development efforts.	ED	City Mgr.	Low
<b>10. INFRASTRUCTURE DEVELOPMENT COORDINATION</b>			
A. Coordinate with other agencies / service providers to ensure that core resources are adequate to accommodate targeted development and business growth.	PW	PLn ED	High
B. Review the existing Capital Improvements Plan (CIP) to identify planned projects particularly supportive of economic development efforts as outlined in the EDSP, and for opportunities to re-prioritize such projects, as appropriate. Include consideration of how certain improvements can also contribute to attractiveness of the community, quality-of-life, etc. (e.g. alternative transportation options).	ED	PW	High
C. Prioritize projects in future CIP updates based on the EDSP and its progress in implementation.	ED	PW PLn	Med
D. Monitor ongoing technology-driven changes in infrastructure requirements, for all user types and create “technology infrastructure” improvements plan that prioritizes critical investments.	ED	IT	Low

Strategy Group Action Item	City lead	Partners, coord. agencies	Priority level/City role
<b>11. WORKFORCE DEVELOPMENT</b>			<b>Coordination Role</b>
A. <b>Workforce Development Coordination.</b> Coordinate with local / regional educational / workforce-development organizations to ensure that available workforce training resources are in sync with the City’s business development efforts (including retention / expansion and findings of employer outreach) and industry targeting.	ED	HL BUSD RCEDA WDC	Low
B. Identify workforce development programs that can be positioned as “incentives” in marketing and industry targeting efforts.	ED	WDC	Low
C. Direct marketing and planning efforts toward positioning Beaumont as an attractive place for tech-oriented workers to live. (See also Quality of Life Enhancements strategy group, below, and Placemaking.)	ED	PLn BCC	Low
<b>12. PLACEMAKING</b>			
A. Within the framework of activities related to real estate development / revitalization (see relevant strategy group above), identify and cultivate the potential for new and revitalizing areas to serve as a focus for the community: for welcoming visitors and providing public spaces, landmark structures, etc.	ED	PLn CS	Low
B. Identify and promote actions to encourage the placemaking potential of the Downtown area within the framework of the Downtown Specific Plan.	ED	PLn CS	Low
C. Consider expanding the range of special events in the city, focusing on events that have strong potentials to reinforce placemaking efforts.	CS	BCC	Low
<b>13. QUALITY OF LIFE ENHANCEMENTS</b>			
A. Activities in this category need to be closely coordinated with the Real Estate Development, Placemaking, Entrepreneurial Development and Workforce Development sections, above, prioritizing projects and initiatives that incorporate the concept of creating assets that also improve quality of life.	PLn		Low
B. Reinforce, in City policy positions related to housing, the economic development connection to the following two aspects of housing supply: 1) the need for affordable housing to assure a wide range of employers that housing would be available for their workforce; and 2) the desirability of having a full spectrum of housing price levels, to accommodate relatively affluent high-skilled workers, entrepreneurs and business owners. The City’s role in this can be limited to maintaining the appropriateness of planning and zoning documents, making economic development promotional material available to homebuilders as well as other developers, and assisting homebuilders through Development Streamlining processes as outlined above.	ED	PLn B&S EVAR	High

**CITY OF BEAUMONT**

48401

**PER CAPITA SALES TAX SURPLUS/GAP COMPARISON - 4 QUARTERS ENDING 4Q 2018**

Retail Category	Per Cap Sales Capture (+) or Gap (-)	Sales Tax Deviation	Typical Sales Per Sq Ft by Retail Type	Approx Sq Ft to Close Gap			
Lumber/Building Materials	\$470	\$226,945	\$300	n/a			
Electronics/Appliance Stores	321	154,682	500	n/a			
Discount Dept Stores	312	150,364	475	n/a			
Department Stores	57	27,273	175	n/a			
Auto Repair Shops	31	15,089	215	n/a			
Grocery Stores	(15)	(7,438)	110	7,000	-726015	-7260.15	Grocery Outlet, Vons, Ralphs, Trader Joes, Sprouts
Drug Stores	(16)	(7,511)	350	2,000	-774416	-7744.16	Rite-Aid
Men's Apparel	(18)	(8,654)	225	4,000	-871218	-8712.18	Tommy Bahama, Casual Male, Patrick James, Mens Warehouse, Jos A Bank, Brooks Brothers
Variety Stores	(18)	(8,769)	100	9,000	-871218	-8712.18	
Fast-Casual Restaurants	(21)	(9,946)	520	2,000	-1016421	-10164.21	Panera Bread, Ono, Pieology
Art/Gift/Novelty Stores	(36)	(17,168)	150	11,000	-1742436	-17424.36	
Jewelry Stores	(50)	(24,326)	500	5,000	-2420050	-24200.5	
Quick-Service Restaurants	(53)	(25,768)	500	5,000	-2565253	-25652.53	
Automotive Supply Stores	(55)	(26,352)	275	10,000	-2662055	-26620.55	
Fine Dining	(63)	(30,462)	800	4,000	-3049263	-30492.63	
Convenience Stores/Liquor	(68)	(32,927)	375	9,000	-3291268	-32912.68	
Service Stations	(73)	(34,981)	n/a	n/a	-3533273	-35332.73	
Home Furnishings	(77)	(36,993)	175	21,000	-3726877	-37268.77	Ashley, MOR, Jeromes, Living Spaces, IKEA
Sporting Goods/Bike Stores	(81)	(39,255)	225	17,000	-3920481	-39204.81	Dicks, REI
Office Supplies/Furniture	(86)	(41,368)	225	18,000	-4162486	-41624.86	Office Depot, IKEA
Shoe Stores	(109)	(52,337)	200	26,000	-5275709	-52757.09	Cole Hann, DSW, Shoe City, WSS, Famous Footwear, Boot Barn
Women's Apparel	(161)	(77,449)	375	21,000	-7792561	-77925.61	Ann Taylor, Express, H&M, Charlotte Russe, Kate Spade, Lululemon, Banana Republic,
Specialty Stores	(171)	(82,500)	175	47,000	-8276571	-82765.71	BevMo, Totalwine, Costco, Ulta Beauty, Sephora, Harbor Freight, Tractor Supply,
Family Apparel	(242)	(116,550)	375	31,000	-11713042	-117130.42	Burlington, Buy Buy Baby, Carters, Gap, Old Navy, TJ Max
Casual Dining	(319)	(153,784)	525	29,000	-15439919	-154399.19	Islands, BJs, Cheesecake factory, Claim jumper, Slaters 50-50, Texas Roadhouse, cracker barrel, black bear dinner, golden corral, TGI Fridays, souplantation, Stonefire Grill,
Average sales per square foot are based on HdL's overview of average statewide chain store sales. The square footage needed to close the gap is					(83,830,532.00)	<b>(838,305.32)</b>	
only							



## Staff Report

**TO:** Mayor, and City Council Members  
**FROM:** Todd Parton, City Manager  
**DATE:** March 17, 2020  
**SUBJECT:** Discussion and Direction to City Staff Regarding the Riverside County Transportation Commission Draft Traffic Relief Plan

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### Background and Analysis:

In January 2020, the Riverside County Transportation Commission (RCTC) has finalized its Draft Traffic Relief Plan (TRP). This plan is intended to implement portions of RCTC's Riverside County Long Range Transportation Study (LRTS), dated December 2019. Both documents are attached to this memorandum.

The LRTS identified a total of \$19,907,532,000 in transportation projects through 2040. Projects include improvements and upgrades to the highway and transit systems. It should be noted that the projected costs are in 2020 numbers and are not adjusted for inflation. Actual project costs could increase significantly over time, especially in the later years.

As stated, the TRP is intended to implement elements of the LRTS. The TRP is a half-cent sales tax measure that RCTC proposes to place on the November 2020 ballot. RCTC's preliminary revenue projections anticipate sales tax revenues of \$8,583,680,911 from 2022 through 2051 for all Riverside County. It is proposed that these revenues be divided between Western County (\$6.7 billion), Coachella Valley (\$1.8 billion), and Palo Verde Valley (\$37.3 million). RCTC draft revenue projections are attached to this memorandum. No sunset provision is proposed in the sales tax measure and the tax would remain in effect unless/until repealed by the voters.

Should the sales tax measure be approved, RCTC may leverage them to issue bonds to increase project revenues in the near term.

Specific TRP projects have been identified for each of the three geographic area. Western County projects address local streets and roads; local interchanges, bridges, on ramps, and off ramps; highways; passenger rail transit expansion; separating local



streets from railroad tracks; bus transit; regional trails; operations and maintenance; services; and investment in technologies. All told, costs for Western County TRP projects total \$10,405,000,000 in 2020 dollars. Projected revenues from the sales tax measure account for 64.4% of the funds needed. RCTC's Draft Western Riverside County Traffic Relief Plan Investments are attached to this memorandum. Either alternative revenues must be secured, or sales tax revenues leveraged to support bonds to address the remaining project balance.

RCTC provided a TRP update to the Western Riverside Council of Governments Executive Committee on March 2, 2020. A copy of the PowerPoint presentation is included as an attachment to this memorandum. It provides an overview of the TRP and compares existing project funding to the list of projects included in the TRP. It should be noted that the comparison is to the entire list of projects identified for Western County irrespective of the actual means or ability to fund.

The TRP project schedule identifies funding for the Highland Springs, Pennsylvania, Cherry Valley, and Potrero interchanges. It also includes the IH-10 Bypass and widening of SR-91, SR-60, IH-15, and IH-215.

RCTC has created [www.TrafficReliefPlan.org](http://www.TrafficReliefPlan.org) that contains a copy of the TRP and allows citizens to take a brief survey.

**Fiscal Impact:**

Fiscal impacts to the City of Beaumont are not known at this time. It is anticipated that the City may opt to engage in various engineering and design projects should the measure be approved, and project funding become available to address community priorities.

City estimates that preparation of this report cost approximately \$585.

**Recommended Action:**

City recommends that the City Council discuss the TRP, direct City staff to forward any City Council questions or comments to RCTC, and schedule this item for a future agenda for discussion and action once RCTC responses have been received.

**Attachments:**

- A. [Click here for link to: Riverside County Long Range Transportation Study – December 2019](#)
- B. Draft Traffic Relief Plan – January 2020
- C. Draft Riverside County Sales Tax Revenue Projections – 2022 to 2051
- D. Draft Western Riverside Riverside County Traffic Relief Plan Investments
- E. Riverside County Transportation Commission Presentation to Western Riverside Council of Governments – March 2, 2020.

# TRAFFIC RELIEF PLAN





Overview of the Traffic Relief Plan ..... 1

Trust and Accountability to Taxpayers ..... 3

Equity and Balance..... 4

Traffic Relief Plan: Your Guide to Projects and Services..... 5

Coachella Valley ..... 6

Palo Verde Valley (Blythe)..... 10

Western Riverside County ..... 14

    Easier Highway Access/Faster Highways ..... 17

    Better Roads..... 18

    New East-West Routes ..... 19

    Revitalizing the Hemet-San Jacinto Valley ..... 20

    More Train Service ..... 21

    Frequent Bus Service..... 23

    Longer Trails ..... 25

    Help with My Commute ..... 25

    New Technology ..... 26

# OVERVIEW OF THE TRAFFIC RELIEF PLAN

Item No. 14.



## Your voice. Your plan.

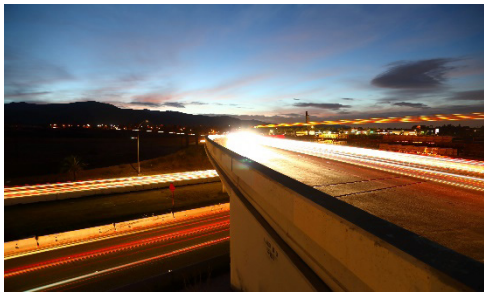
The Traffic Relief Plan is a local strategy to reduce traffic bottlenecks, improve safety, and help create a stronger, more sustainable economy for our communities.

Over the past year, you and thousands of your neighbors spoke up for improved transportation through the #RebootMyCommute community engagement initiative, surveys, and at public events and meetings. From freeways that move faster, to more frequent trains, and specific local streets that need upgrades, you told us that these improvements will make a difference to your life. You also told us that creating more jobs in Riverside County is essential to solving our transportation woes. We've listened and want to engage with you once again.

Highlights of the Traffic Relief Plan include:

- **Improving freeway traffic flow** on I-10, I-15, the 60, 91, and I-215 by adding lanes, upgrading on- and off-ramps and bridges, and increasing bus and Metrolink frequencies;
- **Improving traffic flow and safety on major roads** such as Alessandro Boulevard, Bob Hope Drive, Bundy Canyon Road, Clinton Keith Road, Cook Street, Fred Waring Drive, Heacock Street, Highway 111, Indian Canyon Drive, Keller Road, Limonite Avenue, Monroe Street, Redlands Boulevard, Sun Lake Boulevard, Temescal Canyon Road, and Van Buren Boulevard.
- **Improving safety** on highly-traveled two-lane roads such as Gilman Springs Road and Grand Avenue and at intersections with railroad tracks.
- **Improving safety for pedestrians and cyclists** including for children going to and from school.
- **Increasing frequency and reliability of Metrolink** train service by adding new tracks and more trains, and making existing train service more sustainable over the long-term.

- **Revitalizing the Hemet-San Jacinto Valley** by accelerating completion of a new east-west highway called the Mid County Parkway and a new Route 79, and extending Metrolink service to Hemet and San Jacinto.
- **Increasing frequency and convenience of express bus services** throughout Riverside County, enabling more commuters to enjoy reduced-stress alternatives to driving, complete with wi-fi enabled buses.
- **Improving the condition of existing roads** by providing funds to local governments for basic pothole repairs, paving of dirt roads, and synchronizing signals.
- **Providing more independence and opportunity** for residents who rely on public transportation services, such as seniors, individuals with disabilities, students, and residents of rural communities.
- **Supporting veterans** who have served our country and need assistance accessing medical care and employment opportunities.
- **Innovating with new technologies** that can improve the efficiency and safety of the current roadway and public transit systems, paving the way for connected and autonomous vehicles.
- **Completing the regional trail system** in Riverside County to improve safe routes to school, and offer safe bicycle commuting for those who would take their cars off the road at commute times
- **Constructing rail stations in the Coachella Valley and San Geronio Pass** to prepare for daily train service to the desert from L.A. via Riverside and Orange County.



# OVERVIEW OF THE TRAFFIC RELIEF PLAN

The Traffic Relief Plan represents a change in the thinking of the past by:

- **Encouraging more local employment.** Incentives are created for cities to plan for local job-creation and the infrastructure to support those new jobs so residents can have careers closer to home.
- **Tackling the toughest bottlenecks and traffic problems.** Speeding up how quickly new lanes and public transit options can be implemented where traffic is the worst and funding is not otherwise available.
- **Connecting our own county.** The Traffic Relief Plan prioritizes modernizing our own transportation system within Riverside County.
- **Providing equity** to small, rural, and underserved communities in need of essential infrastructure.
- **Implementing new technology** that can increase efficiency of existing infrastructure, increase convenience of public transportation, and prepare for autonomous and connected vehicles.

If the Traffic Relief Plan is approved by two-thirds of Riverside County voters on November 3, 2020:

- **The sales tax in Riverside County will go up by 1/2-cent until ended by voters.** This will generate approximately \$200 million per year (in 2020 dollars) for investment directly into Riverside County’s transportation system.
- **All funds will stay local.** Coachella Valley funds stay in the Coachella Valley. Western Riverside County funds stay in Western Riverside County. Palo Verde Valley (Blythe) funds stay in Palo Verde Valley. Sacramento and D.C. cannot raid these locally-controlled funds.

- **Projects will get done faster.** Many transportation improvements that Riverside County residents want are decades away from reality, at best. The Traffic Relief Plan provides funding to speed up completion of these projects.
- **Local leaders** representing every city and unincorporated community in Riverside County will oversee implementation of the Traffic Relief Plan. These leaders serve on the board of the Riverside County Transportation Commission (RCTC), which is the legally responsible public entity for regional transportation planning and funding in Riverside County. To ensure local control in the Coachella Valley, RCTC will delegate implementation of the Traffic Relief Plan to the Coachella Valley Association of Governments (CVAG).
- **Independent financial audits** are required and must be disclosed to the public to ensure that the Traffic Relief Plan is being implemented lawfully and in accordance with the will of voters.
- **No more than 1%** of net revenues generated by the Traffic Relief Plan will be used for administrative salaries and benefits to administer the entire Plan.

# TRUST AND ACCOUNTABILITY TO TAXPAYERS

Item No. 14.



## Independent Audits Required

No less than annually, RCTC will obtain an independent fiscal audit of the expenditure of all funds raised through the Plan. The audit will determine compliance with requirements of the Plan and its governing Ordinance. The audit will be published on the internet.

## Efficiency, Responsibility, Local Control

### *Local Voice. Local Control.*

Riverside County residents hold the power to enact the Plan, which will then be implemented through their locally elected representatives and local public works professionals. By law, the Plan is implemented by RCTC, which is governed by local city council members or mayors of every city and all five members of the County Board of Supervisors.

*Protection from Sacramento and Washington.* State and federal governments cannot legally divert, take, or direct funds raised through this local Plan and its governing ordinance.

### *Fiscal Responsibility and Efficiency.*

Administrative salaries and benefits to administer the Plan are limited to no more than 1% of net revenues generated under the Plan's governing ordinance. Implementation of this Plan will not require the creation of any new government entity. To achieve efficiency and local control, RCTC may delegate appropriate responsibilities for administering components of the Plan to existing local governments at its discretion.

## Transparency and Openness

Implementation of the Plan will occur in compliance with all transparency, disclosure, and open meetings laws.

## Mandatory Plan Review and Updates

Through a public process, RCTC must formally review this Plan at least every 10 years after it takes effect to ensure the Plan reflects the current and anticipated future needs of Riverside

County's residents. If RCTC wishes to amend the Plan after its review or at any other point in time, RCTC must follow current state law and this Plan's voter-approved governing ordinance to do so.

## Innovation and Partnership

To reduce the burden on taxpayers to fully fund the transportation needs of Riverside County, there are opportunities to partner with the private sector to offset costs, generate revenue to pay for public services and projects, or increase the efficiency of existing infrastructure. Where the law allows and adequate public benefits can be demonstrated, RCTC may use Plan funds to partner with non-governmental entities on projects, services, and technologies. Examples of potential partnerships include, but are not limited to, joint development of rail stations, leasing of RCTC property, ride-sharing and alternative transportation services, construction of rail tracks on private rights of way, and partnering on advanced roadway and vehicle technologies that improve traffic flow or reduce emissions.

## Flexibility to Expedite Projects

To expedite priority projects and services, reduce costs to taxpayers, prevent loss of services to the public, or avoid loss of other funding, RCTC may make maximum use of funds by temporarily shifting funds between transportation purposes. In borrowing and making loans, the proportionate shares for areas and purposes over the duration of the Plan may not be changed without an amendment of the Plan as required by law.

RCTC may issue bonds or other debt against future revenue to achieve any objectives of the Plan. RCTC will issue bonds or other debt in a reasonable and prudent manner and in accordance with applicable laws. The issuances of bonds or other debt will be limited by a threshold adopted by RCTC in a public meeting compliant with open meetings laws.





# EQUITY AND BALANCE

### Equity and Fairness

Equity for all residents of Riverside County is the foundation of the Traffic Relief Plan.

Many residents of Riverside County live in areas that lack basic infrastructure and public transportation services. A growing number of residents are besieged by traffic congestion. Many are at risk of losing critical access during emergencies and natural disasters.

Lack of adequate transportation infrastructure can impair health, safety, economic opportunity, and social and familiar relationships.

Therefore, the Traffic Relief Plan commits to providing equity for Riverside County residents in the following ways:

### Geography

The Plan recognizes the three distinct subregions of Riverside County and ensures that revenues raised by the Plan in each subregion remain there and cannot be moved to other parts of the county:

- Coachella Valley
- Palo Verde Valley (Blythe area)
- Western Riverside County (Riverside and Corona areas, Moreno Valley and Perris areas, Hemet-San Jacinto Valley, San Gorgonio Pass, and Temecula-Murrieta-Lake Elsinore areas)

### Small, Rural, Underserved Communities

*Decisions based on needs.* Priority for investments in areas requiring significant infrastructure repairs and upgrades will be determined based on objective needs.

*Maintenance of local roads.* All communities will have access to new funding to keep local streets and roads in good condition.

*Independence for those who need it.* The Traffic Relief Plan places significant focus on seniors, students, veterans, individuals with disabilities, and residents of rural and underserved communities for whom public transportation is essential to access medical care, education, employment, and other critical services. The Plan also supports veterans to ensure they are able to access medical care and employment opportunities.

### Balanced Transportation System

The Traffic Relief Plan recognizes that Riverside County needs improvement in all types of transportation.

Proactively addressing the transportation problems in Riverside County and creating a healthy and vibrant community for decades to come requires a flexible and all-of-the-above approach.

# TRAFFIC RELIEF PLAN: YOUR GUIDE TO PROJECTS & SERVICES

Item No. 14.



## Investment Types

The Plan includes nine investment types. In the Coachella Valley, all investment types are funded through the valleywide Transportation Project Prioritization Study (TPPS). In Western Riverside County, a specific percentage of funding is reserved for each investment type, with several sub-types. In the Palo Verde Valley (Blythe), all funds are dedicated to Better Roads and Frequent Bus Service.



**Better Roads** – Widening and extending major roadways for traffic flow and safety; repairing potholes and repaving roads; adding stop signs, signals and other safety features; retrofitting bridges; coordinating traffic signal timing on major streets; adding crosswalks, sidewalks and signage for pedestrians, especially for students traveling to and from school; and separating streets from railroad tracks



**Faster Highways** – Adding lanes to the 91, 60, Interstate 15, and Interstate 215, improving traffic flow on Highway 111 and Interstate 10 in the Coachella Valley, and constructing the Mid County Parkway and a new Route 79



**Easier Highway Access** – Building and improving interchanges, bridges, on-ramps and off-ramps with interstates and state routes



**More Train Service** – Increasing frequency, reliability, and safety of Metrolink trains; building new tracks, parking and stations; extending service from Perris to Hemet and San Jacinto; and building stations in the San Geronio Pass and Coachella Valley to support daily passenger service between L.A. and the Coachella Valley; sustaining operation of rail service throughout the county



**Frequent Bus Service** – Expanding express/rapid bus service options; modernizing and adding zero-emission buses; providing targeted transit services and keeping bus fares low for seniors, veterans, students and individuals with disabilities; upgrading bus stops and amenities; and improving connections between home, transit and workplaces



**Help with My Commute** – Expanding Freeway Service Patrol roadside assistance and maintaining and expanding carpool/vanpool service and Park & Ride Lots



**Longer Trails** – Expanding and improving access to hiking, cycling, and walking/running by completing Riverside County's master-planned regional trail system to improve safe routes to school, and offer safe bicycle commuting for those who would take their cars off the road at commute times



**New Technology** – Using innovation and new technology to improve traffic flow, provide better information to travelers, improve movement of commerce and support local, and regional economic development



**Flood and Dust Control** – Reinforcing roadways and infrastructure against natural hazards in the Coachella Valley

# Coachella Valley



# Traffic Relief: Coachella Valley



Easier Highway Access



Faster Highways



Better Train



New Technology



Flood & Dust Control



# TRAFFIC RELIEF PLAN

## Coachella Valley

The Coachella Valley component of the Traffic Relief Plan calls for improvements to all aspects of the transportation system.

All revenues generated under the Plan in the Coachella Valley will remain in the Coachella Valley for expenditure. Funding will provide investments in communities that fully participate in, and are compliant with, the Coachella Valley’s Transportation Uniform Mitigation Fee (TUMF) and Multiple Species Habitat Conservation Plan (MSHCP) policies and procedures.

The Coachella Valley Association of Governments (CVAG) will administer the Plan in the Coachella Valley. CVAG is a public agency governed by an Executive Committee consisting of the mayor or an elected official representing every city council in the Coachella Valley and the City of Blythe, all five County Supervisors, and the Tribal Chairmen from the Agua Caliente Band of Cahuilla Indians and Cabazon Band of Mission Indians.

CVAG will establish priorities according to the Transportation Project Prioritization Process (TPPS), which is a merit-based method of scoring all regional projects in the Coachella Valley. Project priorities are based on criteria adopted by the CVAG Executive Committee, as recommended by civil engineers and public works professionals serving on technical sub-committees that represent every CVAG member jurisdiction.

The TPPS is the guiding document for transportation investments on regional roadways, including highway interchanges, road widenings and improvements, bridge projects and valleywide signal synchronization. The TPPS will continue to broaden to include proposed investments in creating and maintaining transportation infrastructure, including but not limited to:

- Passenger rail investments, such as train stations, that help connect the Coachella Valley to Los Angeles and/or Orange County;
- Upgrading infrastructure to eliminate or reduce road closures associated with natural disasters, such as flooding and blow sand;
- Infrastructure and systems to improve all forms of mass transit;
- Active transportation, such as facilities for biking and walking safely;
- New mobility concepts and technologies to connect the workforce to the workplace and to reduce seasonal and event-related traffic congestion; and
- Creating consistency across the Coachella Valley’s regional roadways by providing additional maintenance programs and enhancements that improve the travel experience for residents and visitors.



# TRAFFIC RELIEF PLAN

## Coachella Valley

Item No. 14.



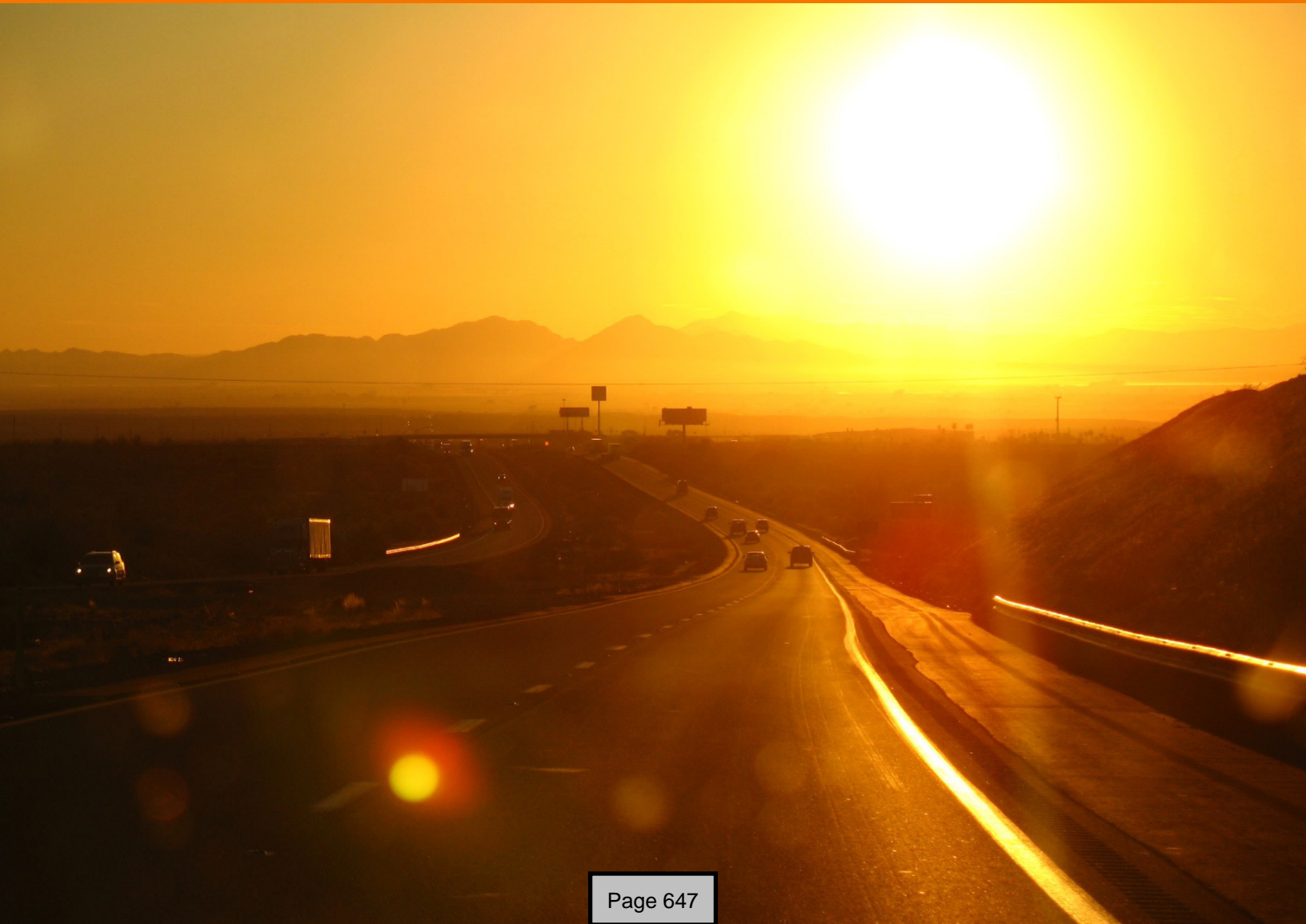
The Plan in the Coachella Valley will also be consistent with countywide strategies to accelerate investments, achieve balance and equity, provide economic opportunities, and accommodate changing transportation technologies.

The Coachella Valley portion of the Plan will also fund operations and maintenance (O&M) of regional transportation corridors as identified in the TPPS. The CVAG regional O&M program would support operations, repairs, and replacement of traffic management systems, pavement surfaces and traffic control devices. This program will enhance existing efforts to promote uniform standards, keep transportation infrastructure in good condition, and extend the life cycle of Coachella Valley's transportation infrastructure. These regional corridors span cities and unincorporated communities and include, but are not limited to:

- Highway 111
- Washington Street
- Ramon Road
- Monterey Avenue
- Cook Street
- Bob Hope Drive
- Fred Waring Drive
- Dinah Shore Drive
- Gene Autry Trail/Palm Drive
- Date Palm Drive
- Indio Boulevard
- Jefferson Street
- Vista Chino
- Varner Road
- Palm Canyon Drive
- Country Club Drive
- Monroe Street
- Avenue 48
- Avenue 50
- Cesar Chavez Street
- Sunrise Way
- Indian Canyon Drive
- Jackson Street



# Palo Verde Valley (Blythe)



# Traffic Relief: Blythe



Better Roads



Frequent Bus Service

Funds will be allocated for transit services and to keep fares low to support veterans, seniors, students and individuals with disabilities





# TRAFFIC RELIEF PLAN Palo Verde Valley

All revenues generated in the Palo Verde Valley will remain in the Palo Verde Valley, with local streets and roads funding returned directly to the City of Blythe and County of Riverside. Funding for public transportation services will be directed by RCTC in consultation and collaboration with the Palo Verde Valley Transit Agency. Of the revenues generated through the Traffic Relief Plan, 60% will be devoted to improving roads and 40% will be devoted to improving public transportation services.

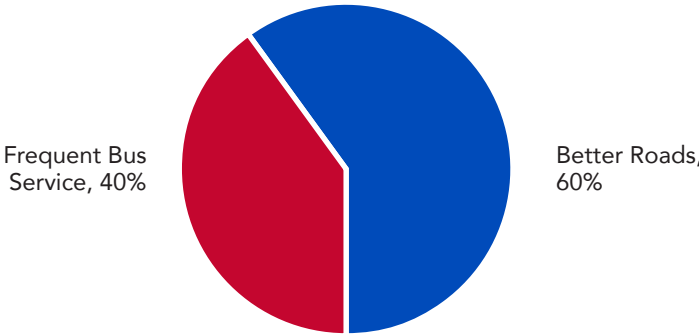
Addressing transportation needs in rural areas, such as the Palo Verde Valley, will be community-centered to strengthen community health, quality of life, the agricultural economy, and tourism. The Plan will focus on:

- Safety and maintenance of local streets and roads;
- Ensuring public infrastructure complies with the Americans with Disabilities Act;
- Closing sidewalk gaps and enhancing bike lanes for improved pedestrian access to and from schools;

- Establishing a new vanpool program for residents commuting to major employment areas, such as Ironwood and Chuckawalla Valley prisons, Coachella Valley, and Arizona;
- Providing reduced- or free-fare public transit to increase access to education, healthcare, employment, and basic services;
- Replacing and expanding the bus fleet to improve air quality with low- and zero-emission vehicles;
- Upgrading transit operating and maintenance facilities to maintain transit vehicles and keep transportation infrastructure in good condition; and
- Increasing frequency and expanding public transit options for education, healthcare, employment and basic services in underserved neighborhoods.

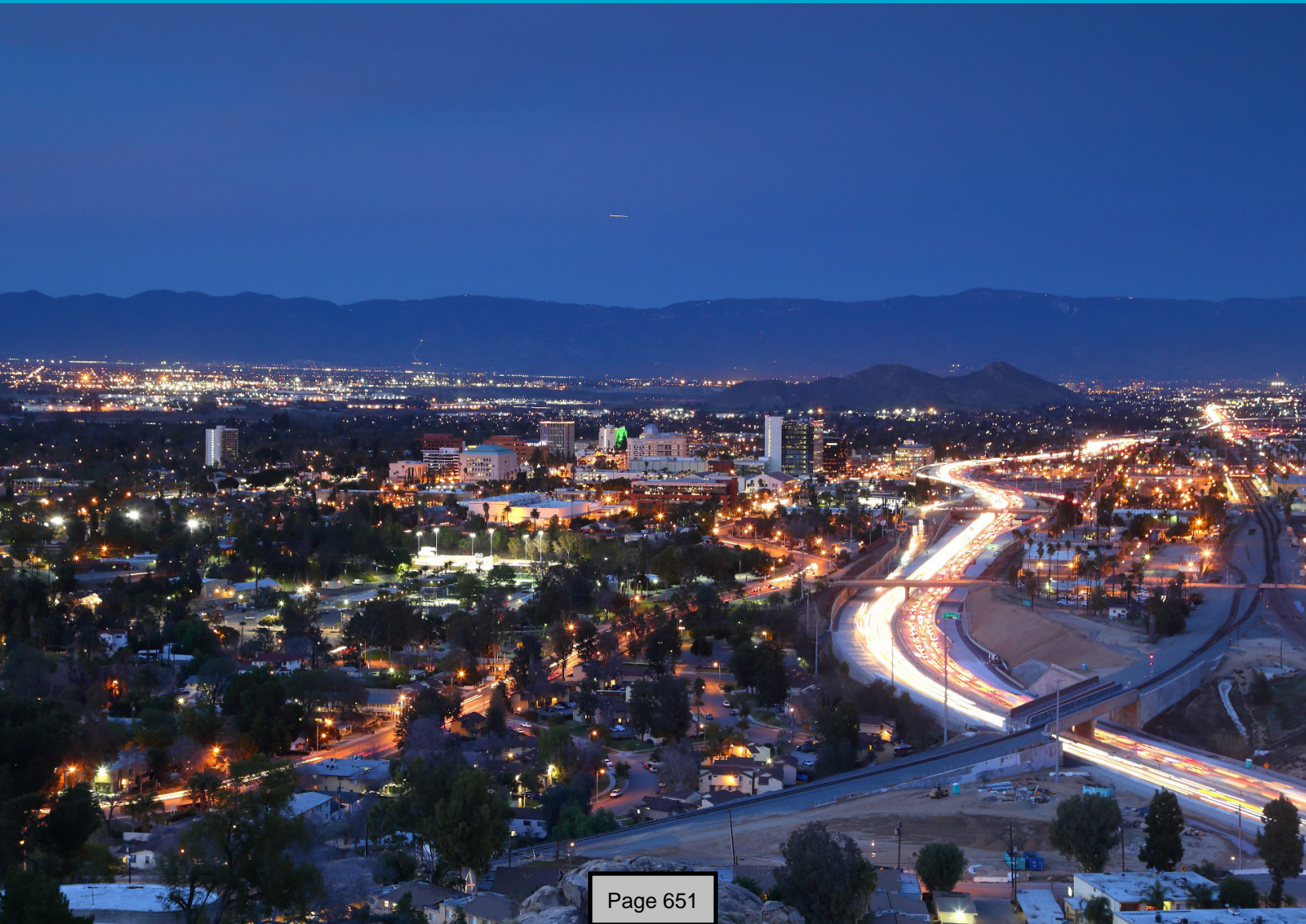
Transportation investments through the Plan will also serve as a driver for economic development in the community. Establishing a more sustainable public transportation network will leverage other public and private investments and encourage new businesses to invest.

### Palo Verde Valley Transportation Investments

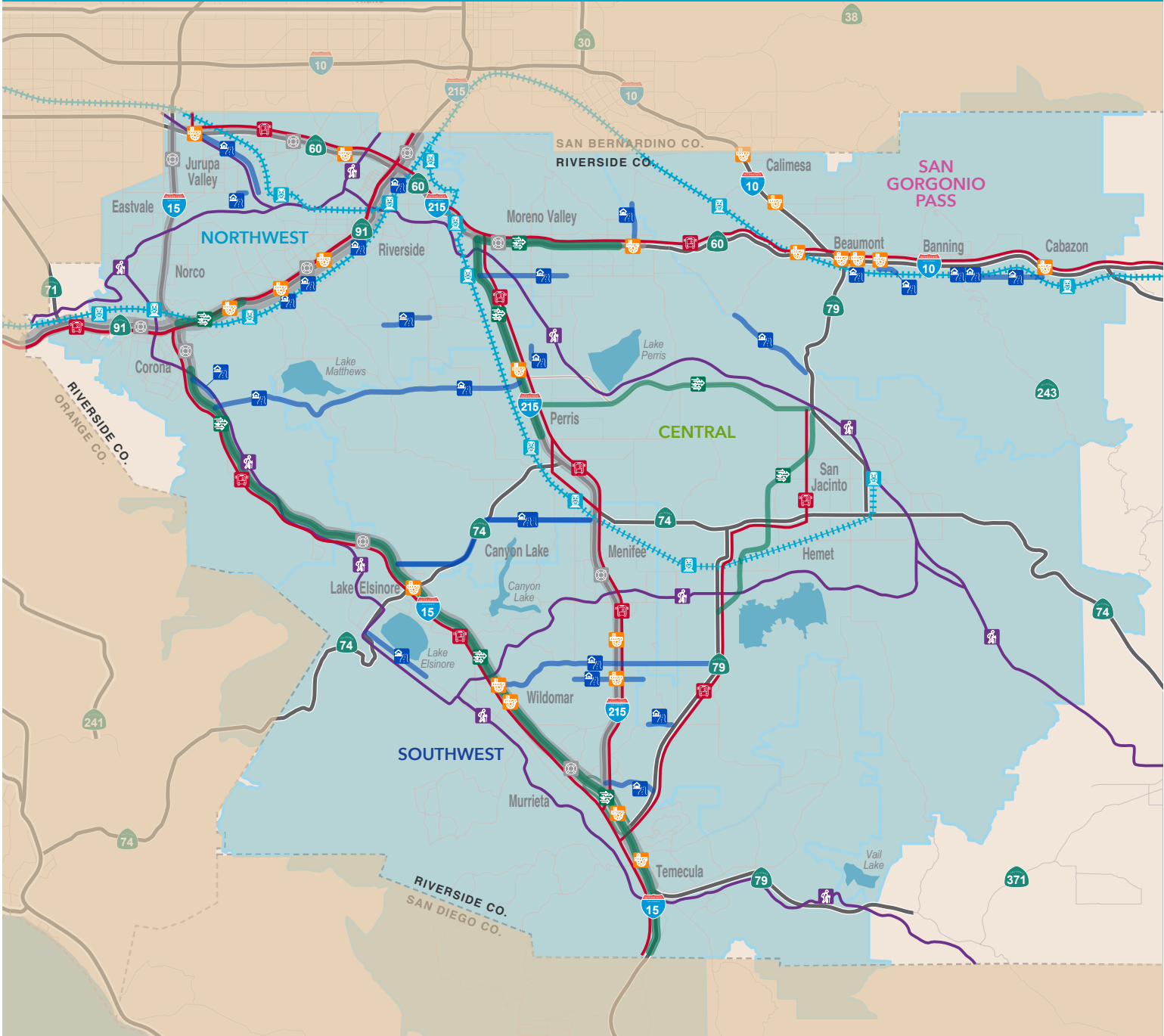


# NOTES

# Western Riverside County



# Traffic Relief: Western Riverside County



Better Roads



Easier Highway Access



Faster Highways



Frequent Bus Service



Help with Commute



Longer Trails



More Train Service



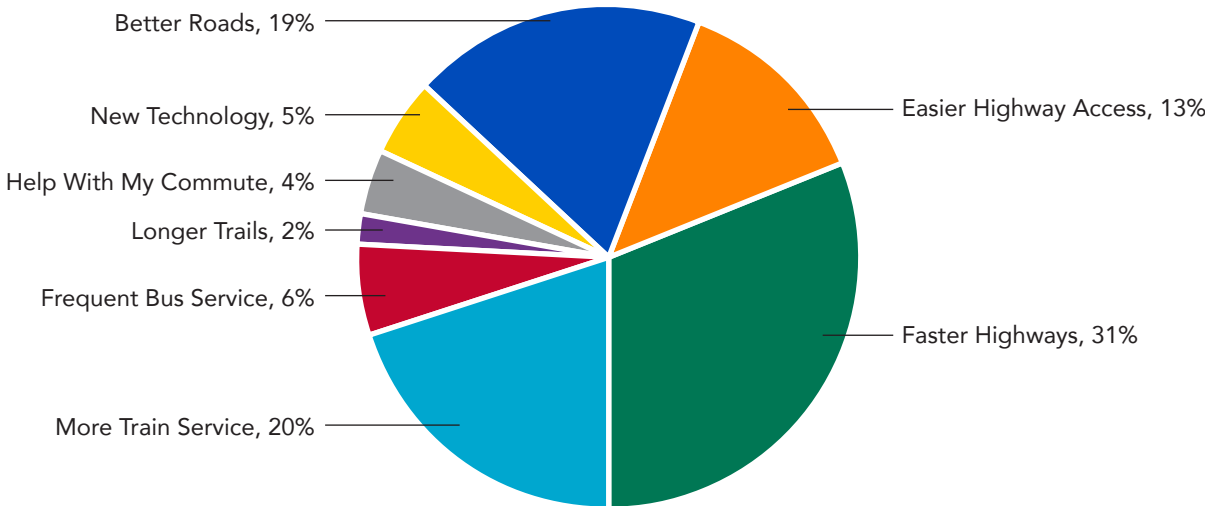
New Technology



# TRAFFIC RELIEF PLAN

## Western Riverside County

### Western Riverside County Traffic Relief Investments



Western Riverside County traffic relief funds will be allocated to transportation projects and services as shown in the chart above. RCTC will establish criteria to prioritize projects and services based upon the recommendation of civil engineers and public works professionals serving on the Technical Advisory Committee. Prioritization must be consistent with the vision, goals, objectives, principles, policies, and desired outcomes described in the Traffic Relief Plan. For any local jurisdiction to receive funds through the Traffic Relief Plan, the jurisdiction must be a participant in good standing in the Transportation Uniform Mitigation Fee (TUMF) program, which ensures that new development pays for its fair share of impacts on the transportation system, and the Multiple Species Habitat Conservation Program (MSHCP), which protects locally endangered and threatened plants and animals and ensures that transportation projects can receive streamlined environmental approvals.

The following pages describe the projects and services envisioned to be implemented. These projects and services were identified by RCTC Commissioners, members of the public, local transportation experts, and civic leaders in Riverside County through extensive public outreach and engagement. RCTC may add projects and services not mentioned in the Plan if those projects and services are consistent with the Plan or achieve the same result as a project or service mentioned in the Plan.

# TRAFFIC RELIEF PLAN

## Western Riverside County



The Traffic Relief Plan makes substantial investments in improving the flow of local highways and residents' abilities to get on and off them

more easily. Many of these improvements have already been identified in local plans and are awaiting funding to be constructed. The Traffic Relief Plan devotes 31% of funding in Western Riverside County toward faster highways and 13% toward easier highway access. Combined, these investments can achieve the following on the county's major highway corridors:

### I-15 Corridor

- Add at least one lane in each direction to I-15 between Cajalco Road in Corona and the San Diego County line
- Eliminate the "lane drops" on southbound I-15 between Magnolia Avenue and Cajalco Road in Corona
- Construct the final phase of the French Valley Parkway interchange at I-15 in Temecula, which includes:
  - o Widening ramps at Winchester Road
  - o Constructing on and off ramps to I-15 from French Valley Parkway and a bridge over I-15
  - o Constructing the French Valley Parkway from Jefferson Avenue to Ynez Road
- Reconstruct interchanges with:
  - o Central Avenue (Route 74) in Lake Elsinore
  - o Baxter Road in Wildomar
  - o Bundy Canyon Road in Wildomar

### I-215 Corridor

- Add at least one lane in each direction between Route 60 and Van Buren Boulevard

- Construct new interchanges (on and off ramps) to I-215 at Keller Road in Murrieta and Garbani Road in Menifee
- Reconstruct interchange at Harley Knox Boulevard in Moreno Valley

### 91 Corridor

- Accelerate construction of at least one new lane in each direction on Route 91 between I-15 in Corona and Pierce Street in Riverside
- Reconstruct interchanges on the 91 at:
  - o Adams Street in Riverside
  - o Tyler Street in Riverside

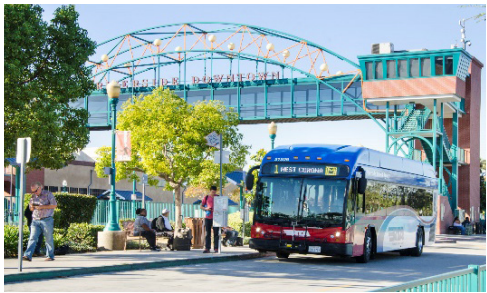
### 60 Corridor

- Add at least one lane in each direction on Route 60 in Moreno Valley
- Reconstruct interchanges on Route 60 at:
  - o Etiwanda Avenue in Jurupa Valley
  - o Rubidoux Boulevard in Jurupa Valley
  - o Redlands Boulevard in Moreno Valley
  - o Potrero Boulevard in Beaumont

### I-10 Corridor

- Reconstruct interchanges on I-10 at:
  - o Route 79 in Beaumont
  - o Highland Springs Avenue in Beaumont and Banning
  - o Pennsylvania Avenue in Beaumont
  - o Morongo Parkway in Cabazon
  - o County Line Road in Calimesa
  - o Cherry Valley Boulevard in Calimesa

In addition to assisting automobile drivers, many of the above investments will alleviate bottlenecks and safety concerns related to growing truck traffic.



# TRAFFIC RELIEF PLAN

## Western Riverside County



### Maintaining Local Roads and Repairing Potholes

In Western Riverside County, 19% of funds will be invested in keeping local roads in good condition and repairing potholes. Cities and the County of Riverside will receive road maintenance funds based on objective factors recommended by local city and county public works directors serving on the Technical Advisory Committee, consisting of representatives of every city and the County of Riverside, and adopted by RCTC. The Technical Advisory Committee shall take into consideration equity for smaller cities and unincorporated communities.

### Separating Local Roads from Railroad Tracks

The large number and length of freight trains operating in Riverside County causes rail crossings to be blocked, creates traffic delays, and restricts first responder access to emergencies. The Plan calls for construction of under- or overpasses at rail crossings, such as:

- Bellegrave Avenue
- Hargrave Street
- Jackson Street
- Mary Street
- Pennsylvania Avenue
- San Gorgonio Avenue
- Spruce Street
- Tyler Street

Projects will be prioritized based on factors including, but not limited to, readiness for construction, accident and fatality rates, hours of vehicle delay at the crossing, noise and air pollution, and availability of matching funds. Funding may be used to make projects more competitive to receive state or federal grants.

### Reducing Accidents and Fatalities on Major County Roads

Major upgrades are needed to several county roads where high numbers of fatalities occur, such as Gilman Springs Road and Grand Avenue. The Traffic Relief Plan creates a funding program to specifically address such roads.

### Improving Traffic Flow on Major Local Roads

Some of the most frustrating traffic chokepoints in Riverside County are the main roads that connect our neighborhood streets to highways and transit centers. Growing employment and economic activity in Riverside County will continue to add strain on these roads. Therefore, the Traffic Relief Plan will provide comprehensive investments to major roads, including but not limited to:

- Alessandro Boulevard
- Bundy Canyon Road
- Clinton Keith Road
- Heacock Street
- Keller Road
- Limonite Avenue
- Redlands Boulevard
- Sun Lake Boulevard
- Temescal Canyon Road
- Van Buren Boulevard

### Safe Routes to School

The Plan will add to work that has done to improve the safety of children going to and from school. The Plan will provide funding to cities, the County of Riverside, school districts, and other governmental and nonprofit entities through an application process to build infrastructure that provides safer routes for children to walk or bike to school and decreases injuries and fatalities. Eligible improvements include sidewalks, crosswalks, and bicycle lanes. Funding may be used to make projects more competitive to receive state or federal grants.

# TRAFFIC RELIEF PLAN

## Western Riverside County

Item No. 14.



### New East-West Routes

Routes 60 and 91 are congested at most times of the day. Limited east-west connections leave drivers with few options, especially in the southern parts of Riverside County, where people need to travel I-15 and I-215 to get to these east-west routes. Also, when there is an incident or severe traffic on I-10, especially around the holidays and festival seasons, there are no alternative routes between Banning and Cabazon. This creates a safety issue that the Traffic Relief Plan intends to remedy.

The County of Riverside is developing two east-west corridors between I-15 and I-215 and a parallel roadway to I-10 that currently lack funding:

- Cajalco Road
- Ethanac Expressway
- I-10 Bypass between Banning and Cabazon

With the Traffic Relief Plan, these routes can be constructed in the near future, something that cannot be achieved with current funding.





# TRAFFIC RELIEF PLAN

## Western Riverside County



Faster Highways

### Revitalizing the Hemet-San Jacinto Valley

RCTC has invested nearly two decades into obtaining federal and state environmental clearances and community consensus for two major new transportation facilities. Commitments for environmental mitigation have been made. However, after all this work, the funding needed to construct these routes does not exist and the plans will sit on a shelf until funding is available, which may take several more decades. The state and federal governments are not investing in new highways, meaning that local leadership and action is necessary.



More Train Service

Therefore, the Plan calls for accelerated construction and local operation and maintenance of the following two major projects:



Frequent Bus Service

- **A new Highway 79**, which will align the 79 from Gilman Springs Road to Domenigoni Parkway to improve traffic flow and safety and allow regional traffic to bypass local roads.
- **Mid County Parkway**, a new 16-mile transportation corridor designed to relieve east-west traffic congestion between the San Jacinto and Perris areas. The Mid County Parkway will connect to Route 79, I-215, and multimodal bus and rail facilities that support the Metrolink 91/Perris Valley Line.

Additionally, the Plan calls for construction of a rapid transit system between the Hemet-San Jacinto valley and the Perris/Moreno Valley/Riverside area to provide an alternative mode of travel. RCTC owns a rail line that extends from Perris to San Jacinto and could be used to provide this new service. Rapid transit connections could also be considered to the Temecula/Menifee/Murrieta area.

RCTC will collaborate with local cities, the County of Riverside, public transit agencies, tribal governments and the community in constructing these improvements.



# TRAFFIC RELIEF PLAN

## Western Riverside County



The Traffic Relief Plan devotes 20% of revenue to a historic modernization of rail service in Western Riverside County. Increased train frequencies, upgraded, safe, and well-maintained stations, and

expansion of service into new areas of Riverside County will increase economic opportunities within the region, reduce traffic congestion, and enhance the passenger experience.

### Increasing Frequency and Reliability of Metrolink

More frequent and reliable train service to current and future destinations in Riverside County will support Metrolink’s goal to double ridership by 2025 and support local efforts to attract more employers and jobs to Riverside County. Recognizing the benefit of train transportation to commuters, the economy, and the environment, the Traffic Relief Plan makes the largest commitment to rail in the history of Riverside County. Specifically:

- Increasing frequency of Metrolink train service on the 91/Perris Valley Line and Inland Empire-Orange County Line
- Constructing new railroad tracks within existing rights of way to allow more Metrolink trains to operate.

### Extending Train Service to New Destinations in Riverside County

To make possible daily train service between the **Coachella Valley** (Palm Springs, Indio, etc.) and Riverside, Orange County, and L.A., the Traffic Relief Plan calls for construction of a new passenger rail station in the San Geronio Pass.

Additionally, the Traffic Relief Plan provides funding to extend Metrolink service to **Hemet and San Jacinto** via the existing railroad tracks which must be rehabilitated between Perris and San Jacinto.

The Traffic Relief Plan also envisions a new rail station at **Ramona Expressway** near Perris and the existing rail line.

### Maintaining, Operating, and Upgrading Train Stations, Tracks, and Service

The Traffic Relief Plan will modernize rail-related infrastructure in Riverside County and ensure that services can continue to operate safely and sustainably. Investments include but are not limited to:

- Constructing new parking capacity at Metrolink stations in Corona, Riverside, and Perris
- Constructing accessibility improvements at the Moreno Valley/March Field station
- Operating and maintaining existing and future Metrolink rail stations. There are currently nine stations in Corona, Riverside, Jurupa Valley, Perris, and near Moreno Valley. Future stations are envisioned for an extension of service to Hemet and San Jacinto
- Operating Metrolink trains through Riverside County at current and future increased frequencies
- Maintaining locally-owned railroad right of way to ensure public safety and proper care of the tracks
- Investing in zero-emission trains

# TRAFFIC RELIEF PLAN

## Western Riverside County



### Attracting Jobs to Riverside County through Rail Investment

Rail stations provide an excellent opportunity for economic development and bringing new jobs to our communities and increasing the convenience of public transportation. The Traffic Relief Plan will create an incentive program for public-private partnerships to enhance existing and future rail stations through joint development opportunities.

The Traffic Relief Plan also calls for new “reverse-commute” trains that bring passengers to Riverside County job centers, in addition to the current schedules that focus more on taking local residents to other counties.

### Balancing Road Expansion with Alternatives

The Traffic Relief Plan makes significant improvements to the roadway network in Riverside County through adding lanes and improving efficiency through technology. However, because we cannot build our way out of congestion, as the population grows and demand for road use increases, alternatives such as rail service and other public transportation options will be an essential piece of solving the problem. Additionally, the State of California now requires road projects to mitigate any increases in vehicle miles traveled to provide greater balance in the overall transportation system. To ensure that these needed road projects can be built in accordance with state laws and regulations, and to increase the viability of non-automobile alternatives in Riverside County, the Traffic Relief Plan establishes a program for mitigating increases to vehicle miles traveled.



# TRAFFIC RELIEF PLAN Western Riverside County



Frequent Bus Service

The Traffic Relief Plan dedicates 6% of revenue to enhancing Western Riverside County’s bus transit system to reduce traffic congestion, increase sustainability, and provide more independence to residents who rely on public

transit to access medical care, employment, education, and essential services.

### Expanding Rapid/Express Bus

Rapid/Express buses provide an affordable, comfortable, and reduced-stress travel experience, especially for commuters traveling to other counties or across the county. These buses carry wi-fi and more comfortable seats than traditional buses.

The Traffic Relief Plan expands rapid/commuter bus service along the major freeway corridors in Riverside County to destinations, such as San Diego, Orange, and San Bernardino Counties, downtown Riverside, Temecula, Moreno Valley, Corona, and Perris. Rapid/commuter bus service can also connect to major destinations within Riverside County and the Inland Empire, such as commercial airports, business, retail, and entertainment centers.

### Modernizing and Sustaining Public Transportation

In changing times, public transportation must adapt. To increase ridership, provide more efficient service, and reduce air pollution, the Traffic Relief Plan invests in new technologies:

- Traffic signals and bus equipment that improve bus travel times.
- Zero-emission buses and related maintenance and operations.

Improving Riverside County’s public transportation system also requires investment in transportation hubs throughout Western Riverside County, where residents can connect to other forms of transportation, employment centers, and services.

The Traffic Relief Plan also ensures the continued operation of bus service in Riverside County.





# TRAFFIC RELIEF PLAN

## Western Riverside County



### **Increasing Independence and Mobility for Seniors, Veterans, Students, Individuals with Disabilities, and Underserved and Rural Communities**

An equitable transit network is complete only when it addresses the needs of seniors, veterans, students, individuals with disabilities, and underserved and rural communities. Approximately 13% of Riverside County residents are age 65 and older; about 11% are individuals with disabilities; 11% are low-income; 6% are veterans; and 25% are under age 18.

A survey of public and human service providers in Riverside County indicates that about 40% of their constituents' transportation needs are not being met with existing services. For some, it may be the long distance to see a specialty doctor or treatment that is preventing them from achieving improved health outcomes. For others, financial constraints may restrict them from purchasing even discounted bus fares to seek education and employment opportunities. Addressing the needs of these groups requires a multifaceted approach that can be tailored to meet varying degrees of mobility and independence.

Transportation needs and gaps of services for these groups are documented in local studies, which have found that increased independence and mobility can be achieved through expanded transit service; transportation for long-distance regional medical trips; safe pedestrian and bicyclist pathways; transit affordability; and coordination with human service agencies. There is growing concern in many cities that as the population grows, the available resources to meet these target groups' needs will not keep pace.

### **Specialized Transit Grant Program**

The Traffic Relief Plan increases investment in specialized transportation providers that serve seniors, veterans, students, individuals with disabilities, and rural and underserved communities. The Citizens and Specialized Transit Advisory Council, with representatives from these important populations, will assist RCTC in administering and providing oversight to the program. The Traffic Relief Plan will make investments such as:

- Expansion of destinations and hours of operation for paratransit service such as Dial-A-Ride;
- Keeping transit fares low for seniors, veterans, students, and individuals with disabilities;
- Improved access to and from schools, colleges and universities, and employment centers for low-income families and rural communities;
- Bus fares for the truly needy who require access to medical appointments, job interviews, or other needed services;
- Bringing infrastructure into compliance with the Americans with Disabilities Act; and
- Continued operation of the 2-1-1 network, which provides individualized assessments with transportation and social service specialists.

A locally developed, coordinated public transit-human services transportation plan will improve the lives of thousands of Riverside County residents.

# TRAFFIC RELIEF PLAN

## Western Riverside County

Item No. 14.



Longer Trails

### Completing the Regional Trail System

Riverside County is home to world-renowned natural open spaces with active transportation corridors for cycling, hiking, walking, and running. These trails provide alternative transportation options, as well as options for healthier lifestyles for Riverside County residents. These facilities also provide economic opportunities for local businesses and residents and strengthen the tourism economy. The Plan invests in major regional trails identified in the master plan for the Riverside County Parks & Open Space District, to which local cities and the County can connect. These backbone trails include:

- Butterfield Ranch Trail/Southern Emigrant Trail
- Santa Ana River Trail
- California Riding and Hiking Trail
- Juan Bautista de Anza Historical Trail
- Salt Creek Trail

Additionally, the Plan will invest in providing trail access to Riverside County's many treasured publicly owned and preserved open spaces. All together, 2% of the Traffic Relief Plan in Western Riverside County will invest in these improvements.



Help with My Commute

### Freeway Service Patrol

When accidents occur on highways or when vehicles break down, traffic can build quickly, creating additional safety hazards to motorists and delaying thousands of people. Freeway

Service Patrol provides roving tow trucks to quickly assist motorists so that traffic can flow again. This public service is operated with strict performance and accountability measures by the California Highway Patrol, Caltrans, and RCTC, and must achieve a benefit-to-cost ratio of at least 3:1 (meaning for every dollar invested, the service must yield at least \$3 in benefits in the form of reduced congestion, increased safety, and decreased air pollution).

The Plan will sustain and increase Freeway Service Patrol levels on Interstates 15 and 215 and Routes 60 and 91, including weekend service. The Plan will also enable new service to begin on Interstate 10.

### More Park & Rides

Creating more convenient locations for commuters to meet and travel together reduces the burdens of solo commuting and decreases the number of cars on the road during peak hours. Through the Traffic Relief Plan, RCTC will be able to enter more partnerships with local businesses and governments to create better Park & Ride options.

### More Employer Partnerships to Reduce Stressful Commutes

The Traffic Relief Plan recognizes that improving commutes is not just about the commuter, but also about employers stepping up to help. The Plan calls for enhancing current Commuter Assistance Programs with employers in Riverside County with better options and incentives to encourage ridesharing, vanpooling, telecommuting, and public transit use.



# TRAFFIC RELIEF PLAN

## Western Riverside County



New Technology

### Rethinking Transportation

New and innovative thinking is needed to combat traffic congestion as our population increases, technology advances rapidly, and our economy grows. Therefore, 5% of the Traffic Relief Plan in Western Riverside County is devoted to new technologies and innovative public policy.

**Creating Smart Roads:** deployment of new technologies that better synchronize traffic signals and ramp meters, detect on-road incidents and congestion and proactively manage traffic and improve roadway safety. These technologies lay the foundation for Riverside County's infrastructure to connect with autonomous and connected vehicles, as well as future innovations in transportation technology. Technologies such as these have begun deployment in other parts of the United States and the world; this program would bring these cutting-edge approaches to Riverside County. This program will also support electric vehicle charging infrastructure.

**Commuting Alternatives:** modernizing and increasing current efforts to help frustrated commuters find alternatives to driving alone over long distances to get to work or school and back home and help save time by using technology to make existing infrastructure operate more efficiently.

**Bringing Jobs Home:** an incentive program for local governments to develop infrastructure that will secure new permanent living-wage jobs in Riverside County and reduce the demand for residents to commute to other counties for work. These funds can also be used to invest in public transportation services that will assist local residents in accessing employment opportunities more easily.



# NOTES



# NOTES



**RIVERSIDE  
COUNTY  
TRANSPORTATION  
COMMISSION**

*Item No. 14.*

**Riverside County Transportation Commission**

Page 666

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Riverside County Revenue Projection for New Expenditure Plan  
Amounts in 2020 Real \$

FY	Projected Revenue <sup>1</sup>	Allocation by Geographic Area			
		WC	CV	PV	Total
2022	\$ 214,710,494	\$ 167,724,996	\$ 46,052,146	\$ 933,352	\$ 214,710,494
2023	220,185,206	172,001,667	47,226,389	957,151	220,185,206
2024	225,714,821	176,321,226	48,412,407	981,188	225,714,821
2025	231,099,968	180,527,931	49,567,440	1,004,598	231,099,968
2026	236,182,642	184,498,354	50,657,596	1,026,692	236,182,642
2027	241,243,220	188,451,516	51,743,013	1,048,690	241,243,220
2028	246,413,445	192,490,331	52,851,948	1,071,166	246,413,445
2029	251,591,898	196,535,573	53,962,648	1,093,676	251,591,898
2030	256,875,126	200,662,663	55,095,820	1,116,643	256,875,126
2031	262,136,830	204,772,939	56,224,376	1,139,516	262,136,830
2032	267,374,913	208,864,762	57,347,865	1,162,286	267,374,913
2033	272,510,602	212,876,599	58,449,393	1,184,611	272,510,602
2034	277,529,703	216,797,361	59,525,914	1,206,429	277,529,703
2035	282,385,445	220,590,512	60,567,397	1,227,537	282,385,445
2036	287,096,591	224,270,709	61,577,866	1,248,016	287,096,591
2037	291,749,672	227,905,547	62,575,881	1,268,243	291,749,672
2038	296,325,395	231,479,956	63,557,305	1,288,134	296,325,395
2039	300,867,668	235,028,235	64,531,553	1,307,879	300,867,668
2040	305,375,633	238,549,714	65,498,444	1,327,476	305,375,633
2041	309,758,408	241,973,398	66,438,482	1,346,528	309,758,408
2042	313,788,806	245,121,816	67,302,941	1,364,048	313,788,806
2043	317,721,053	248,193,562	68,146,349	1,381,142	317,721,053
2044	321,579,070	251,207,322	68,973,835	1,397,912	321,579,070
2045	325,327,122	254,135,181	69,777,735	1,414,205	325,327,122
2046	328,967,557	256,978,973	70,558,554	1,430,030	328,967,557
2047	332,567,099	259,790,820	71,330,601	1,445,678	332,567,099
2048	336,175,362	262,609,481	72,104,518	1,461,363	336,175,362
2049	339,812,355	265,450,584	72,884,598	1,477,173	339,812,355
2050	343,479,115	268,314,940	73,671,063	1,493,113	343,479,115
2051	347,135,693	271,171,342	74,455,343	1,509,008	347,135,693
	<b>\$ 8,583,680,911</b>	<b>\$ 6,705,298,010</b>	<b>\$ 1,841,069,418</b>	<b>\$ 37,313,482</b>	<b>\$ 8,583,680,911</b>
Subregional Return to Source <sup>2</sup>		78.1%	21.4%	0.4%	100.0%

Source: Revenue projections per UCR Center for Economic Forecasting and Development updated September 4, 2019)

<sup>1</sup> Scenario is a new 1/2-cent sales tax beginning 7/1/2021 through 6/30/2051  
<sup>2</sup> Assuming revenues are allocated to Western County, Coachella Valley, and Palo Verde Valley areas proportionate to the funds generated within those areas, these percentages represent the taxable sales for each geographic area generated in FY 2018, the most recent data available. Such allocations are subject to change annually.

## **DRAFT Western Riverside County Traffic Relief Plan Investments**

Dollars represent the estimated investment needed from a new sales tax as part of a total investment.

Projects added to the investment list at the November 13th, 2019 Traffic Relief Strategy Committee meeting.

	Investment (\$2020)
<b>Local Streets and Roads</b>	<b>\$1,600,000,000</b>
1 Cajalco Road widening and safety enhancements (Temescal Canyon Road to I-215)	
2 Ethanac Expressway (new east-west inter-regional highway)	
3 I-10 Bypass (new east-west road connecting Banning to Cabazon)	
4 Temescal Canyon Road widening (Tom Barnes Street to State Street)	
5 Gilman Springs Road safety enhancements (SR-60 to SR-79)	
6 Van Buren Boulevard (King Avenue to Bountiful Street)	
7 Grand Avenue (Corydon Road to SR-74)	
8 Clinton Keith Road (Leon Road to SR-79)	
9 Sun Lakes Boulevard (Highland Home to Lincoln Street / Sunset Avenue)	
10 Street repairs	
11 Safety improvements	
12 Traffic signal synchronization	
13 Safe routes to schools	
108 Limonite widening (Bane Street to Beach Street)	
109 Van Buren Boulevard rehabilitation	
113 Heacock Street Connection (San Michelle to Harley Knox)	
114 Redlands Boulevard (SR-60 north to city limits)	
115 Alessandro Boulevard widening (I-215 East to La Salle)	
<b>Local Interchanges, Bridges, On and Off Ramps</b>	<b>\$835,000,000</b>
14 I-10 / Highland Springs Avenue	
15 I-10 / Pennsylvania Avenue	
16 I-10 / Morongo Parkway	
17 I-10 / County Line Road	
18 I-10 / Cherry Valley Boulevard	
19 I-15 / Bundy Canyon Road	
20 I-15 / Baxter Road	
21 I-15 / Central Avenue (SR-74)	
22 SR-60 / Potrero Boulevard	
23 SR-91 / Adams Street	
24 SR-91 / Tyler Street	
25 I-215 / Keller Road	
26 I-215 / Harley Knox Boulevard	
27 Rancho California Road roundabouts	
110 SR-60 / Etiwanda interchange reconstruction	
111 SR-60 / Rubidoux interchange	
116 Redlands Boulevard / SR-60 interchange and auxiliary lanes	
120 Buchanan Street bridge	

**\$4,850,000,000****Highways**

- 28 I-15 / French Valley Parkway phase 3
- 29 SR-79 Realignment
- 30 Mid-County Parkway
- 31 I-10 / SR-79 interchange
- 32 I-15 lane addition (San Diego County line to SR-74)
- 33 SR-91 lane addition (I-15 to Pierce Street)
- 34 I-215 lane addition (Van Buren Boulevard to SR-60)
- 35 Mitigation for increasing road capacity
- 36 Managing highway congestion through technology (active traffic management, smart freeways)
- 112 SR-60 lane addition (I-215 to Redlands Boulevard)
- 118 I-15 auxiliary lanes to Weirick Road
- 119 Additional lane on SR-91

**Passenger Rail Transit Expansion****\$580,000,000**

- 37 Railroad crossing safety improvements
- Metrolink passenger rail service:
  - 38 New 2nd main track from Moreno Valley to Perris
  - 39 New 3rd main track from Highgrove to Colton
  - 40 New 3rd main track from Riverside to Fullerton
  - 41 New 4th main track and West Corona / Corona / La Sierra station improvements
  - 42 Parking expansion at existing stations
  - 43 New Perris-South station track and layover facility
  - 44 Moreno Valley / March Field station ADA and access improvements
  - 45 New train station, Ramona Expressway
  - 46 New new low / zero-emission technology trains
- 47 Coachella Valley - San Gorgonio rail service: new San Gorgonio Pass station
- 48 Perris - San Jacinto rail service: full development and implementation of track and facilities

**Separating Local Streets from Railroad Tracks****\$190,000,000**

- 49 San Gorgonio Avenue
- 50 Hargrave Street
- 51 Pennsylvania Avenue
- 52 Bellegrave Avenue
- 53 Jackson Street
- 54 Mary Street
- 55 Spruce Street
- 56 Tyler Street

**Bus Transit****\$285,000,000**

- 57 New operations and maintenance facility for zero emission buses
- 58 New multimodal transit centers
- 59 Bus fleet electrification: replacement and expansion program
- 60 High quality transit corridor improvements to bus stops, transit signal prioritization, amenities
- 61 Expanded RapidLink service in Riverside, Moreno Valley, and Perris
- 62 Technology infrastructure modernization, intelligent transportation and traveler information systems

**Regional Trails****\$170,000,000**

- 63 Butterfield Ranch Trail / Southern Emigrant Trail (66.8 miles)
- 64 Santa Ana River Trail (25.7 miles)
- 65 California Riding and Hiking Trail (89 miles)
- 66 Juan Bautista de Anza Historical Trail (84.9 miles)
- 67 Salt Creek Trail (16 miles)
- 68 Public lands trail access

**Operations and Maintenance****\$1,090,000,000**

## Metrolink passenger rail service:

- 69 Existing station routine maintenance
- 70 Existing station capital reinvestment
- 71 New station routine maintenance
- 72 New station capital reinvestment
- 73 Annual capital subsidy (30 years)
- 74 Annual operating subsidy (30 years)
- 75 Maintenance of existing and new RCTC rail property
- 76 Maintenance and replacement of new low / zero-emission technology trains for the 91 / Perris Valley Line
- 77 Additional operations and maintenance due to Metrolink expansion (SCORE)
- 78 SR-79 Realignment roadway maintenance
- 79 Mid-County Parkway roadway maintenance
- 80 Freeway active traffic management technology operations and maintenance
- 81 Bus Service: annual operating subsidy (30 years)


**Services****\$575,000,000**

- 82 Motorist assistance: maintain existing and expand Freeway Service Patrol service
- 83 Commuter assistance: maintain existing rideshare, vanpool, and park and ride services
- 84 Commuter assistance: expand rideshare, vanpool, and park and ride services, pilot projects, incentives
- 85 Commuter assistance: park-and-ride lot development
- 86 Specialized transit: further subsidize fares for seniors, veterans, students, and individuals with disabilities
- 87 Bus/rail transit: further subsidize fares for seniors, veterans, students, and individuals with disabilities
- 88 Express bus: subsidize new service and increase frequency of existing service

**Investments, Incentives, and Technologies****\$230,000,000**

- 89 Metrolink passenger rail service: Station development incentives to encourage new amenities and services
- 90 Transportation investments supporting local and regional economic development
- 91 Emerging technology and other innovative programs
- 92 1st / last mile transit connections: incentives, subsidize existing / new services, innovation pilot programs

**Total Investment \$10,405,000,000**



# DRAFT TRAFFIC RELIEF PLAN


## YOUR VOICE. YOUR PLAN.

### WESTERN RIVERSIDE COUNTY

*Riverside County Transportation Commission*

13

13



## Why a Traffic Relief Plan?

- Connect communities
- Reduce traffic congestion
- Improve safety
- Focus on travel within our County – bring jobs home
- Local control with a new funding source
  - State gas tax: mostly road maintenance and transit, not expansion
  - Fed sources = status quo at best
- New funding needed or projects delayed for decades


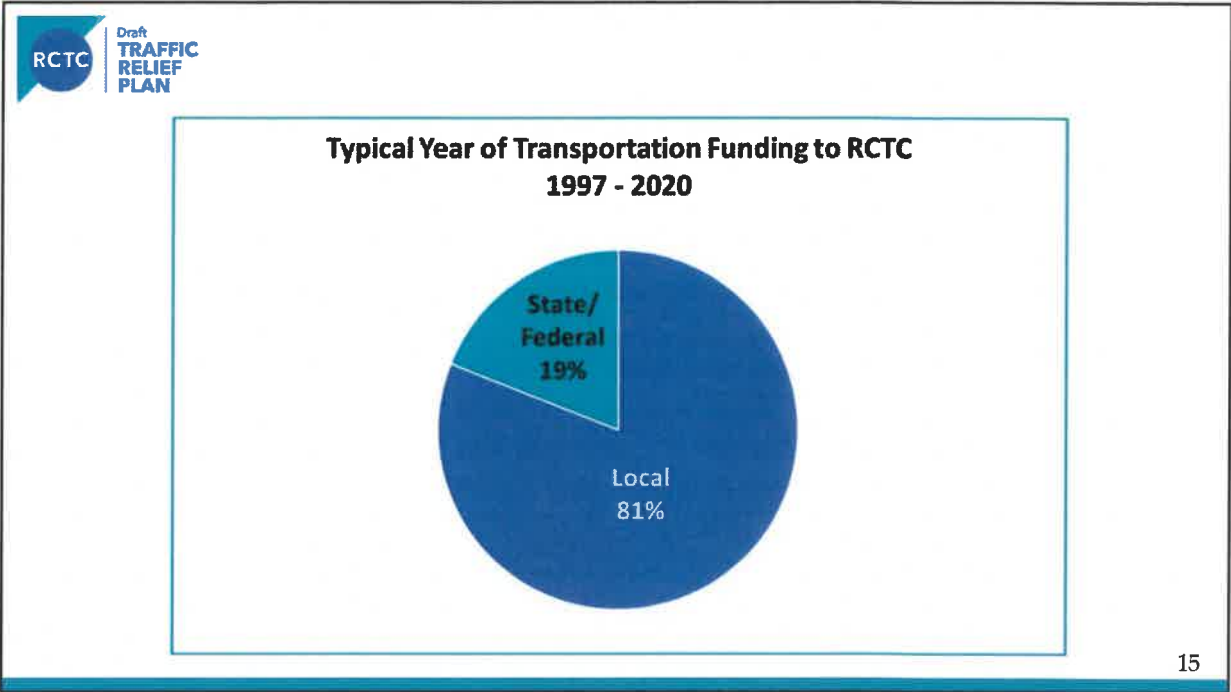


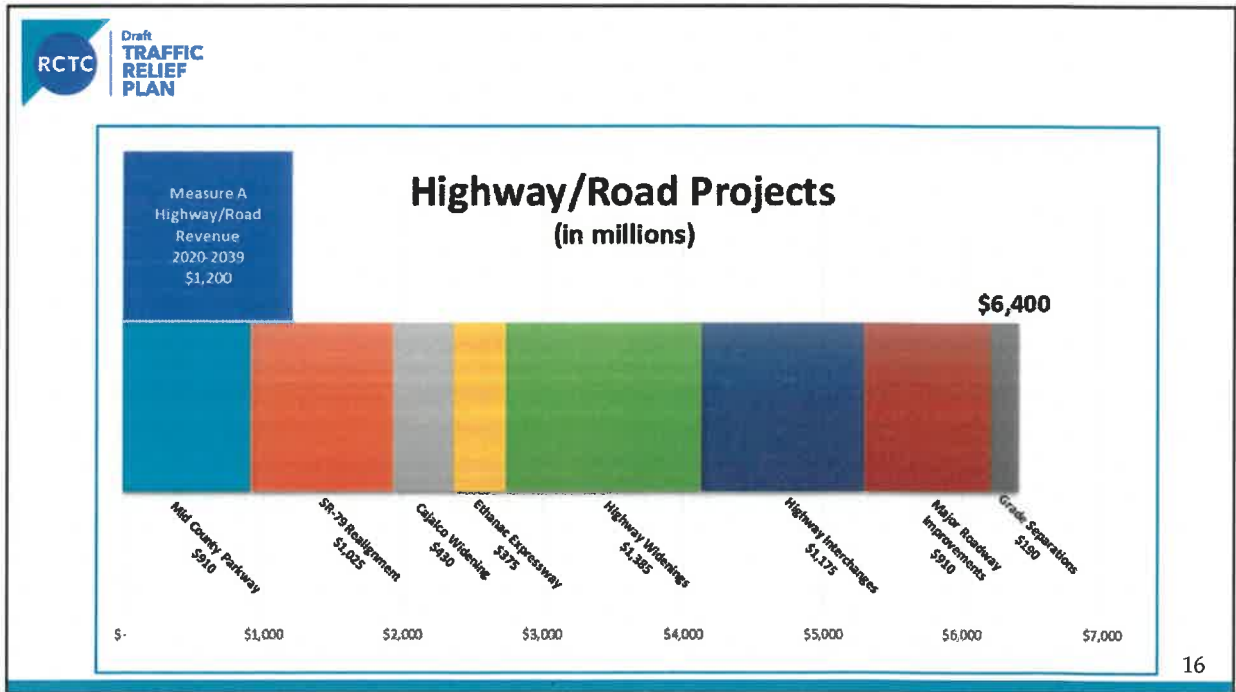
Photo Credit: The Press-Enterprise

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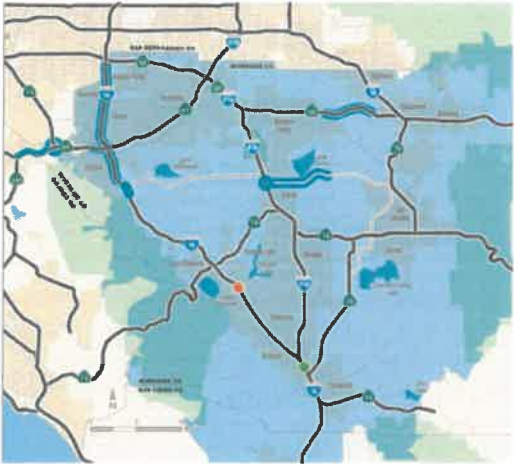


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**RCTC** Draft **TRAFFIC RELIEF PLAN**

### Current Funding



### Traffic Relief Plan

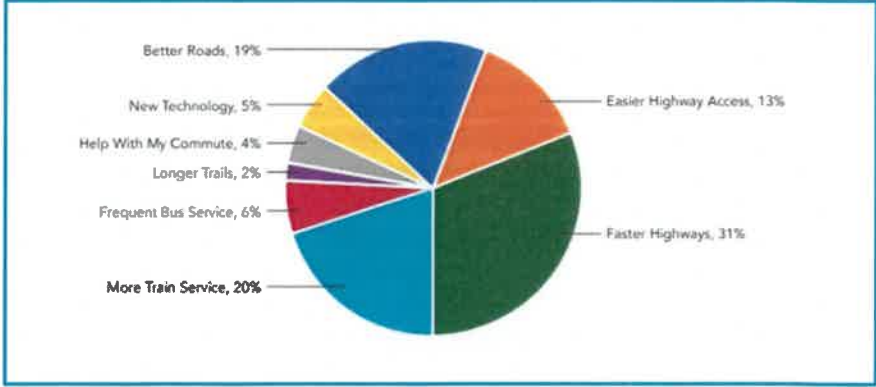


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**RCTC** Draft **TRAFFIC RELIEF PLAN**

### Investments by Type



Investment Type	Percentage
Faster Highways	31%
More Train Service	20%
Better Roads	19%
Easier Highway Access	13%
Frequent Bus Service	6%
New Technology	5%
Help With My Commute	4%
Longer Trails	2%

18

18



## Highlights – connecting communities

- Widen 91, I-15, I-215, 60
- Build new Mid County Parkway; new Route 79
- Construct I-10 Bypass
- Build new Ethanac Expressway
- Improve interchanges: Highland Springs, Pennsylvania, Morongo, County Line, Cherry Valley, Potrero, Harley Knox, Tyler, Adams, Etiwanda, Rubidoux, French Valley, Bundy Canyon, Baxter, Keller, Garbani

19

19



## Highlights – improving safety



- Widen/improve Cajalco Road
- Separate streets from rail tracks: San Gorgonio, Hargrave, Pennsylvania, Bellegrave, Jackson, Mary, Spruce, Tyler
- Improve major roads across Riverside County

20

20



## Highlights – access for seniors, youth, low-income



- Increase Metrolink frequency
- Extend service, Perris - Hemet/San Jacinto
- Build stations – 91/PVL, Coachella Valley
- Improve station amenities
- Expand commuter bus service
- Implement zero-emission technology

21

21




## UCR Economic Impact Study Findings


- Revenue projection: \$8.58 billion (2020 \$)
- Covers 30 years
- Revenue supports \$7.69 billion in design, engineering, construction



22

22






## Economic Benefits

\$7.69 billion would:

- Generate \$10.95 billion in economic output
- Support 59,710 jobs
  - 38,040 in direct transportation infrastructure jobs
  - 21,670 in secondary jobs by businesses/workers down the supply chain
- Generate \$3.47 billion in labor income

23

23



## Estimated Impact by Selected Industry

Industry	Output (\$ Millions)	Employment	Labor Income (\$ Millions)
Highway/street construction	6,781.2	32,587	2,087.3
Engineering, related services	983.4	5,872	406.2
Machinery, equipment rental/leasing	166.2	567	33.9
Asphalt paving mixture & block manufacturing	37.8	43	6.6

24

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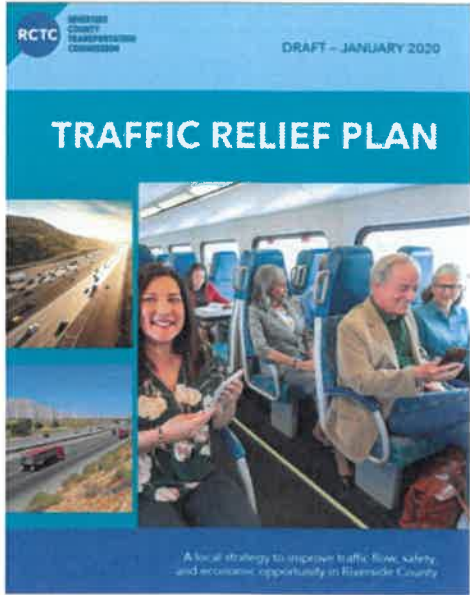
**RCTC** Draft **TRAFFIC RELIEF PLAN**

# We are listening

**TrafficReliefPlan.org**

SEE THE PLAN TAKE THE SURVEY

Accepting feedback until June 10



**RCTC** RIVERSIDE COUNTY TRANSPORTATION COMMISSION DRAFT - JANUARY 2020

## TRAFFIC RELIEF PLAN

A local strategy to improve traffic flow, safety, and economic opportunity in Riverside County

25

25

**RCTC** RIVERSIDE COUNTY TRANSPORTATION COMMISSION

# QUESTIONS, DISCUSSION



26

26



Item No. 15.

ROXANN M. VOTAW  
votaw@sbemp.com  
FIRM ADMINISTRATOR

REPLY TO:  
Palm Springs, California

MARCH 3, 2020

CITY OF BEAUMONT PROFESSIONAL SERVICES THRU: 2/29/2020

**TOTAL DUE: \$124,742.25**

Sincerely,  
SBEMP, LLP

By: Roxann M Votaw

---

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*Peters

Professional services through: 2/17/2020:

Invoice # 56883

Amount

BALANCE DUE – PLEASE SUBMIT PAYMENT:

\$2,750.00

---

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2240 Fifth Avenue.  
San Diego, California 92101  
Tel. (619) 501-4540

# SBEEMP

A T T O R N E Y S

1800 E Tahquitz Canyon Way  
Palm Springs, CA 92262  
Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*ULC Defense

Professional services through: 2/27/2020:

Invoice # 56856

Amount

**BALANCE DUE – PLEASE SUBMIT PAYMENT:**

**\$6,648.50**

---

## SLOVAK BARON EMPHEY MURPHY & PINKNEY LLP

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*Hatcher

Professional services through: 2/29/2020:

Invoice # 56857

	<u>Amount</u>
BALANCE DUE – PLEASE SUBMIT PAYMENT:	<u>\$456.70</u>

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# SBEEMP

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Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*Kritzberger

Professional services through: 2/29/2020:

Invoice # 56858

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b><u>\$1,899.50</u></b>

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# SBEEMP

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Fed. ID #33-0833010  
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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*McFarlinAnder

Professional services through: 2/29/2020:

Invoice # 56859

Amount

**BALANCE DUE – PLEASE SUBMIT PAYMENT:**

**\$26,230.15**

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## SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

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Palm Springs, California 92262  
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# S-BEMP

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Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*MV

Professional services through: 2/29/2020:

Invoice # 56860

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b><u>\$302.50</u></b>

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# SBEEMP

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Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*Norton Rose

Professional services through: 2/29/2020:

Invoice # 56861

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b><u>\$47,458.00</u></b>

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Tel. (619) 501-4540

# S-BEMP

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Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*TalleyAguirre

Professional services through: 2/29/2020:

Invoice # 56882

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b>\$1,155.00</b>

## SLOVAK BARON EMPY MURPHY & PINKNEY LLP

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# SBEEMP

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont\*Urban Logic

Professional services through: 2/29/2020:

Invoice # 56862

	<u>Amount</u>
BALANCE DUE – PLEASE SUBMIT PAYMENT:	<u>\$3,873.00</u>

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# S-BEMP

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-3rdPartyClaim

Professional services through: 2/29/2020:

Invoice # 56864

	<u>Amount</u>
BALANCE DUE – PLEASE SUBMIT PAYMENT:	<u>\$39.00</u>

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-Gen Lit

Professional services through: 2/29/2020:

Invoice # 56865

Amount

**BALANCE DUE – PLEASE SUBMIT PAYMENT:**

**\$3,481.00**

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# SBEEMP

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-Hidden Canyon

Professional services through: 2/29/2020:

Invoice # 56866

	<u>Amount</u>
BALANCE DUE – PLEASE SUBMIT PAYMENT:	<u>\$167.30</u>

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# SBEEMP

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Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-Labor&Employ

Professional services through: 2/29/2020:

Invoice # 56867

	<u>Amount</u>
BALANCE DUE – PLEASE SUBMIT PAYMENT:	<u>\$764.80</u>

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## SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

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# SBEEMP

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Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-OverRetainer

Professional services through: 2/29/2020:

Invoice # 56868

Amount

**BALANCE DUE – PLEASE SUBMIT PAYMENT:**

**\$15,104.80**

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## SLOVAK BARON EMPY MURPHY & PINKNEY LLP

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# SBEEMP

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Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-Retainer

Professional services through: 2/29/2020:

Invoice # 56869

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b>\$7,500.00</b>

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Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-Serrato

Professional services through: 2/29/2020:

Invoice # 56870

	<u>Amount</u>
<b>BALANCE DUE – PLEASE SUBMIT PAYMENT:</b>	<b><u>\$220.00</u></b>

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Palm Springs, CA 92262  
Fed. ID #33-0833010  
Telephone 760-322-2275  
Facsimile 760-322-2107

MARCH 3, 2020

City of Beaumont  
E-MAIL INVOICES

Our file no:  
City of Beaumont-UtilityAuthor

Professional services through: 2/29/2020:

Invoice # 56871

Amount

**BALANCE DUE – PLEASE SUBMIT PAYMENT:**

\$6,692.00

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## SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

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MEMORANDUM

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**To:** City of Beaumont  
**From:** Townsend Public Affairs  
**Date:** March 12, 2020  
**Subject:** Legislative Report for the City of Beaumont

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**State Legislative Update**

TPA is currently reviewing the bills after the introduction deadline last week and will provide a more comprehensive list in the upcoming weeks. Currently many of the bills introduced are non-substantive and are place holders for a bill that will be amended in the future.

Below is a list of upcoming legislative deadlines:

**April 2:** Spring Recess begins  
**April 13:** Legislature Reconvenes from Spring Recess  
**June 15** – State budget must be passed by midnight

**COVID-19**

On March 12, 2020, Governor Newsom issued an executive order further enhancing State and Local Government's Ability to respond to COVID-19. Among other items, the order "*Allows local or state legislative bodies to hold meetings via teleconference and to make meetings accessible electronically.*" The full executive order can be found here. Item #11 in the executive order also addresses suspension of certain Brown Act rules.

Last night, the California Department of Public Health (CDPH) issued an updated policy for public gatherings in response to COVID-19. CSDA is following this policy and encourages all special districts to thoroughly review the policy and consider its application to your district's operations and activities.

In times where the health and safety of our communities are at stake, it is important for public officials at all levels to inform ourselves of the best available facts and provide clear and accurate communication. We want to ensure that we are taking the appropriate steps and that our actions and communications do not lead to worse outcomes than necessary. This means following the guidance of health experts to demonstrate calm and thoughtful leadership.



LAO Report on Governor’s Homelessness Plan

On February 11, the nonpartisan LAO issued a report on the Governor’s homelessness plan that was included in his January Budget proposal. The report highlights both the 16 percent increase in the number of homeless individuals in the State from 2018 to 2019 (the total number now at approximately 151,000), as well as the increase in homelessness funding provided by local, state, and federal governments. It also highlights the \$1.2 billion investment from the State over the past two years to assist local governments in addressing the homelessness crisis.

Most notably, the report states that the “Governor’s proposal raises key questions and falls short of articulating a clear strategy” for homelessness. The report also states that the “Governor’s proposed approach is less likely to make a meaningful ongoing impact on the state’s homelessness crisis.” The LAO criticizes the Governor’s plan to spend an additional \$750 million that would flow to regional administrators who would decide how the funds will be spent. The LAO instead credits local governments as the experts on the homeless challenges facing their communities.

This report was followed up by a joint committee hearing between the Senate Committees on Human Services, Governance and Finance, and Housing. The purpose of the hearing was to hear about the impacts of housing in different parts of the state and how the Governor’s proposal would affect different areas. Although purely informational, homelessness will be a key priority for both budget and policy discussions.

Housing

SB 902 is aimed at providing a streamlined process for “middle density” projects. The bill authorizes two, three, or four homes per parcel to be built by-right in residential areas, as follows: 2 units per parcel in unincorporated areas or cities less than 10,000 people; 3 units per parcel in cities between 10,000 – 50,000 people; and 4 units per parcel in cities with populations above 50,000. The bill would require these projects to comply with local height limits, setbacks, objective design standards, and demolition restrictions. SB 902 also contains renter protection provisions. These provisions do not apply to projects that would be located in a very high fire severity zone.

SB 902 also authorizes local governments to rezone neighborhoods for up to 10 homes per parcel. This would require a city council to pass a resolution to adopt the greater density and exempts that zoning action from being considered a project under CEQA. To be eligible for increased zoning, the area must be urban infill, or be near high quality public transportation or a jobs-rich area (to be determined by HCD/OPR).

SB 902 has been referred to the Senate Housing Committee, which is Chaired by Senator Wiener. The bill has not yet been scheduled for a hearing, but the measure will need to pass out of the committee prior to the House of Origin policy committee deadline of April 24<sup>th</sup>.

LEAP Funding

On February 11, the Department of Housing and Community Development (HCD) announced the release of the Local Early Action Plan (LEAP) grant NOFA. There is approximately \$119 million available for local governments statewide. This funding comes from the housing trailer bill (AB 101) that was signed into law last year.

The funding is for cities to help prepare for the upcoming Regional Housing Needs Assessment (RHNA) cycle. The funding is non-competitive, and awards will be based on population. Awards will range from \$65,000 for populations under 20,000 to \$1.5 million for populations over 750,000. Most mid-size cities are expected to receive between \$300,000 - \$500,000. The due date for applications is July 1, 2020

**Federal Legislative Update**

Congress has spent the past two weeks working on a bill package to mitigate the uncertainties due the COVID 19 outbreak. House leadership finalized a second emergency spending package to provide billions for paid sick leave, nutrition aid, expanded unemployment insurance and other measures in a coronavirus bill they plan to pass today, possibly without much bipartisan support.

The week of March 2, Congress voted to approve emergency funding to help speed the development of vaccines, bolster access to testing and treatments, and expand access to telemedicine services. Funding included:

- \$8.3 Billion in emergency funding appropriations, including
  - \$1 billion to administer up to \$7 billion in Small Business Administration loans
  - \$2.2 billion for the CDC to support public health agencies at the federal, state and local levels
  - \$1 billion for state and local governments
    - Roughly half of that money, \$475 million, will be available immediately within the next 30 days.
  - \$6.5 Billion to the Health and Human Services funding

Funding will become available the week of March 16. As of Mar 2, 2.5 million test kits have been disbursed, and 3 million more kits are being delivered by the end of this week. Those over 65 or those with chronic diseases that affect immune system are more vulnerable and will have more severe symptoms. Children with lung issues are also more vulnerable as well. The federal government is encouraging healthy people to keep donating blood, as there is a shortage. We will continue to follow up with any information as it is received. If you have any questions, please feel free to reach out.

**Second Package Bill Provisions**

- New Paid Leave Program: The bill creates an emergency paid leave program through the Social Security Administration for people who have a diagnosis, have been quarantined, are caring for someone who is quarantined, or are caring for someone who is unable to care for themselves, such as a child whose school has been closed.
  - They would take 14 days or more off of work and would receive two-thirds of their average monthly pay, with a \$4,000 cap
  - Eligibility starts Jan. 19, 2020, and would run for a year after enactment. Benefits would be available retroactively
- \$1 Billion in Unemployment Insurance Grants: The bill provides \$1 billion in unemployment insurance grants, including \$500 million in grants to states that experience a 10% increase

in unemployment—not a 10 percentage point increase, a point briefly debated at the Rules Committee meeting—and \$500 million for administrative costs.

- **Fast Medicaid Funds:** The bill would increase the federal reimbursement to states to encourage them to expand Medicaid eligibility to low-income individuals.
  - The measure, similar to a provision in the 2009 stimulus (Public Law 111-5), is a fast way to get money to states and give them incentives to expand Medicaid coverage.
- **Nutrition Measures:** The bill would suspend work requirements for Supplemental Nutrition Assistance Program (SNAP) recipients. The bill would also provide funding for USDA programs such as:
  - \$500 million for the Special Supplemental Nutrition Program for Women, Infants and Children
  - \$400 million for the Emergency Food Assistance Program
  - \$100 million in nutrition assistance grants for Puerto Rico, the Northern Mariana Islands, and American Samoa
  - Enough funds to provide benefits up to the value of meals for households with a child in a school that closes for at least five consecutive days due to a public health emergency
  - Enough funds, if necessary, for the secretary of the Agriculture Department to purchase commodities for emergency distribution
  - An additional \$250 million for the Senior Nutrition Program in the Administration for Community Living to provide about 25 million additional home-delivered meals to low-income seniors is also included.
- **OSHA Plan for Health Care Workers:** The bill would direct the Occupational Safety and Health Administration to require health care employers to develop an infectious disease exposure control plan within 30 days to protect workers from the virus.

### Next Steps

The funds provided under the bill would be designated as emergency requirements and wouldn't count against the discretionary spending cap for fiscal 2020. On March 11, President Donald Trump said in a national address that travel from European countries would be suspended for 30 days. He also ordered the Treasury Department to defer some tax deadlines, and called on Congress to pass a payroll tax cut and boost funding for the Small Business Administration. Those provisions aren't included in the package. Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin are also negotiating additional legislation.