



Real Estate Assets Department

SDC003

TY Investments Inc.
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Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



60



CITY OF SAN DIEGO GROUND LEASE

BY AND BETWEEN

**THE CITY OF SAN DIEGO,
A CALIFORNIA MUNICIPAL CORPORATION**

AND

**TY INVESTMENT, INC.,
A CALIFORNIA GENERAL CORPORATION
DOING BUSINESS AS "CARLTON OAKS COUNTRY CLUB"**

CITY OF SAN DIEGO
GROUND LEASE
[CARLTON OAKS COUNTRY CLUB]

THIS CITY OF SAN DIEGO GROUND LEASE ("Lease") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY") and TY INVESTMENT, INC., a California general corporation doing business as "Carlton Oaks Country Club" ("LESSEE"), to be effective as of **JANUARY 1, 2012** (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

RECITALS

- I. CITY owns certain real property consisting of approximately 106.6 acres of land along and including the San Diego River (the "106-Acre Tract"). Pursuant to this Lease, CITY intends to lease to LESSEE, and LESSEE intends to lease from CITY, a portion of the 106-Acre Tract consisting of approximately 64.3 acres (the "Premises") adjacent to and north of the San Diego River and located on portions of Assessor's Parcel Numbers 383-080-03 and 383-080-04, and as more particularly described in **Exhibit A: Premises Description**, attached hereto. The Premises includes the southerly portion of the Carlton Oaks Golf Course located at 9200 Inwood Drive, Santee, California 92071. CITY intends to reserve from its lease of the Premises a non-exclusive, temporary invasive plant control and restoration project easement, an access easement and a surface easement, all on, over, across and through the Premises, as more particularly described herein, below.
- II. As partial consideration to be credited against the rent under this Lease, LESSEE will grant to CITY certain easements and the right to place a public trail easement on the real property owned by LESSEE and adjacent to the Premises (the "LESSEE-owned Property") and as shown in **Exhibit B: LESSEE-Owned Property**, attached hereto.
- III. The LESSEE-Owned Property includes an out-of-bounds area consisting of approximately 2.6 acres of land (the "West Property") on portions of Assessor's Parcel Numbers 383-060-26 & 383-071-07, and as more particularly described in **Exhibit C: West Property Description**, attached hereto. As additional partial consideration to be credited against the rent under this Lease, LESSEE will convey the West Property to CITY.
- IV. Adjacent to the southerly portion of the Premises consists of a land feature commonly referred to as a berm (the "Berm") which serves in part to limit the flooding of the Carlton Oaks Golf Course. The parties have agreed that the southerly boundary of the Premises is defined by the north toe of the slope of the Berm so that the entire structure of the Berm will lie outside the Premises. Pursuant to this Lease, CITY will grant to LESSEE a maintenance easement on the property containing the Berm (the "Berm Property"), which consists of

approximately 4.7 acres of land, and is more particularly described in **Exhibit D: Berm Property Description**, attached hereto.

SPECIAL PROVISIONS

- A. **TERMINATION OF PRIOR LEASE.** CITY, as lessor, and LESSEE, as lessee, are parties to that certain LEASE AGREEMENT dated January 30, 1959, as amended, and filed in the Office of the San Diego City Clerk as Document No. 586194 on February 10, 1959 (the "1959 Lease") relating to substantially the same real property as this Lease. The 1959 Lease expired on December 31, 2008, and is currently in a holdover, month-to-month tenancy. By the execution and delivery of this Lease, CITY and LESSEE hereby terminate the 1959 Lease as of the Effective Date of this Lease; the 1959 Lease shall be of no further force or effect except as to any rentals and fees that may have accrued thereunder, and any rights and remedies accrued or granted thereunder and which by their nature or by agreement survive such termination.
- B. **MITIGATION AREA IRRIGATION.** CITY and LESSEE acknowledge that CITY performs certain environmental mitigation work in and along the Berm pursuant to that certain Army Corps of Engineers Permit SPL-2005-1545-TCD issued on or about April 26, 2007 (the "ACOE Permit"). LESSEE acknowledges and agrees that CITY currently utilizes LESSEE's irrigation system to accomplish its environmental mitigation under the ACOE Permit within the area shown in **Exhibit E: ACOE Mitigation Area**, attached hereto. During the term of this Lease, LESSEE shall allow CITY to continue utilizing LESSEE's irrigation system to the extent reasonably needed to accomplish the environmental mitigation pursuant to the ACOE Permit. Once such irrigation is no longer required, CITY shall stop using LESSEE's irrigation system and disconnect CITY's access to the system, at CITY's sole cost and expense.

SECTION 1: PREMISES; USES

- 1.1 **Leased Premises.** Subject to certain reservations and the terms and conditions of this Lease, CITY hereby leases the Premises to LESSEE, and LESSEE hereby leases the Premises from CITY.
- 1.1.1 **Monitoring Wells.** CITY reserves from this Lease the right to drill, install, maintain, repair, restore and replace up to two (2) ground-water monitoring wells on the Premises, the locations of which shall be subject to LESSEE's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. The monitoring wells shall not substantially unreasonably interfere with LESSEE's use and enjoyment of the Premises, and shall be reasonably screened from view.
- 1.1.2 **Reserved Access Path.** CITY reserves from this Lease the right to use a fifteen (15)-foot-wide nonexclusive, permanent pedestrian and motorized-vehicle access path ("Reserved Access Path") on, over, across and through the Premises by the most practicable route available at any time and from time to time, and solely for

the purpose of CITY's and CITY's employees', agents' and contractors' access to either or both: (i) the CITY-owned real property adjacent to either or both the Premises and/or the LESSEE-Owned Property ("CITY's Un-Leased Property," as shown in **Exhibit F: CITY's Un-Leased Property**, attached hereto); and (ii) such areas within the Premises and the LESSEE-Owned Property that CITY may at any time and from time to time have the right to use. CITY shall notify LESSEE at least twenty-four (24) hours in advance of its need to use the Reserved Access Path. Notwithstanding the foregoing, in case of emergency, CITY shall provide only as much notice as is reasonably practicable in each instance. LESSEE shall not unreasonably interfere with CITY's access rights reserved hereby in any case.

- 1.1.3 **LESSEE to Grant Access Easement.** LESSEE shall, concurrently with this Lease, grant to CITY a fifteen (15)-foot-wide non-exclusive, permanent pedestrian and motorized-vehicle access easement on, over, across and through the LESSEE-Owned Property (the "Access Easement") solely for the purpose of CITY's and CITY's employees', agents' and contractors' ingress and egress to and from Inwood Drive and both (i) CITY's Un-Leased Property, and (ii) such areas within the LESSEE-Owned Property that CITY may at any time and from time to time have the right to use; each by the most practicable route available at the time and from time to time. If Inwood Drive is not available, access shall be to and from the closest public street adjoining the LESSEE-Owned Property. CITY shall notify LESSEE at least twenty-four (24) hours in advance of its need to use the Access Easement. Notwithstanding the foregoing, in case of emergency, CITY shall provide only as much notice as is reasonably practicable in each instance. LESSEE shall not unreasonably interfere with any access allowed by the Access Easement in any case.

- 1.1.4 **Staging Area.** CITY reserves from this Lease the right to use a portion of the Premises comprising approximately 0.762 acres, as shown in **Exhibit G: Staging Area**, attached hereto, for CITY's and CITY's employees', agents' and contractors' use for staging materials and equipment to be used for both the maintenance of CITY's Un-Leased Property, and the construction, maintenance, repair, restoration and replacement of a public multi-use trail (if such a trail is developed), together with pedestrian and motorized vehicle use reasonably required therefor, provided such use does not substantially unreasonably interfere with LESSEE's use and enjoyment of the Premises. When in use, CITY shall fence and screen the staging area with an opaque material (preferably green in color to match the surroundings).

- 1.2 **Allowed Uses.** LESSEE shall use the Premises for the operation, maintenance, repair, restoration and replacement of a golf course, and for no other purpose whatsoever without CITY's prior written consent in each instance, which shall not be unreasonably withheld or delayed.

- 1.3 Superior Interests. This Lease is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements and rights-of-way pertaining to the Premises, whether or not of record. LESSEE shall obtain all licenses, permits and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Premises, relative to any such superior interest. If LESSEE's use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, LESSEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
- 1.4 Governmental Approvals. By entering into this Lease, neither CITY nor CITY's City Council is obligating itself to any governmental agent, board, commission or agency with regard to any other discretionary action relating to LESSEE's occupancy, use, development, maintenance or restoration of the Premises. Discretionary action includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
- 1.5 CITY's Consent, Approval. CITY's consent or approval under this Lease shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise expressly provided. CITY's discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided.
- 1.6 Quiet Possession. LESSEE, while performing the covenants and agreements in this Lease, shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Premises. If LESSEE is temporarily dispossessed through action or claim of a title superior to CITY's, this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or resulting damages.
- 1.7 Reservation of Rights.
- 1.7.1 Mineral Rights. CITY reserves all rights, title and interest in and to any and all subsurface natural gas, oil, minerals and water on or within the Premises.
- 1.7.2 Easements. CITY reserves the right to grant, establish and use easements and rights-of-way over, under, along, across and through the Premises for utilities, thoroughfares or access as it deems advisable for the public good.
- 1.7.3 Repairs. CITY may at all reasonable times enter the Premises for the purpose of making repairs to or developing municipal resources and services.
- 1.7.4 Water Rights. CITY reserves all of its right, title and interest in and to the water within the Premises. Nothing in this Lease shall result in the transfer of CITY's rights, title or interest in and to the water within the Premises to any other person or entity.

- 1.7.4.1 CITY shall at all times have the right to reasonable access to the Premises to protect its water rights and water quality; to monitor the level and quality of natural surface and groundwater over and under the Premises; and to implement any groundwater management plan that may be adopted by CITY. Should the monitoring indicate surface and/or groundwater quality degradation, CITY may, in its sole discretion, require reasonable alteration of any irrigation or other practices by LESSEE which may cause such water quality degradation as determined by CITY.
- 1.7.4.2 LESSEE shall not have any right to, and shall not, drill or use wells or otherwise access and use groundwater within the Premises, including without limitation the development of ponds or other surface access to such groundwater. If LESSEE requests the use of groundwater within the Premises for any use whatsoever, including without limitation the irrigation of the Premises and/or the LESSEE-Owned Property, such use (and payment therefor) shall be under and subject to a separate agreement to be negotiated between CITY and LESSEE. However, CITY shall be under no obligation to enter into any such water-use agreement. The foregoing shall not be deemed to limit in any way LESSEE's access of groundwater from within the LESSEE-Owned Property.
- 1.7.5 Noninterference. CITY shall not substantially unreasonably interfere with LESSEE's use of the Premises, and shall repair or reimburse LESSEE for reasonable costs incurred by LESSEE to repair any physical damages to Premises or LESSEE's personal property directly caused by CITY's exercising its rights reserved in this section. CITY shall pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.
- 1.7.6 Public Trail Easement Rights. CITY reserves the right to place a public multi-use trail easement on, over, across and through the Premises for public access and the development, construction, maintenance, repair and restoration of a public multi-use trail, including without limitation the installation of interpretive signs, together with pedestrian and motorized vehicle use reasonably required therefor, and the staging of construction materials and equipment related thereto. LESSEE shall grant to CITY the right to place a public multi-use trail easement on, over, across and through the LESSEE-owned Property for public access and the development, construction, maintenance, repair and restoration of a public multi-use trail, including without limitation the installation of interpretive signs, together with pedestrian and motorized vehicle use reasonably required therefor, and the staging of construction materials and equipment related thereto.
- 1.7.6.1.1 Trail Development. If CITY develops such a public trail on the Premises or the LESSEE-Owned Property, CITY shall be responsible

for the expenses associated with any revision of the golf course or of the LESSEE-Owned Property reasonably required thereby.

1.7.6.1.1.1 CITY shall cooperate with LESSEE in ascertaining the location and scope of development of the public trail to minimize its effect on the use of the golf course.

LESSEE shall cooperate with efforts to complete alignment studies to identify the most feasible alternatives for locating the public trail.

1.7.6.1.1.2 Subject to all applicable laws, rules and regulations of competent governmental authority, CITY shall construct a fence between the public trail and the golf course use. Such fencing shall be of a height and material reasonably suited to reasonably restrict persons from trespassing onto the golf course. CITY shall cooperate with LESSEE in determining the materials and type of fencing to be used to maintain a reasonable aesthetic compatibility with the golf course.

1.7.6.1.1.3 CITY shall be solely responsible for the cost of all such fencing and the development and maintenance of the public trail, including without limitation permitting and legal expenses. CITY shall maintain the public trail and the fencing in good condition.

1.7.6.1.1.4 CITY shall be responsible for the liability arising from the use of the public trail, including its adjacency to an active golf course.

1.7.6.1.1.5 CITY may assign any or all of its rights reserved under this Section 1.7.6 to the San Diego River Conservancy, an agency of the State of California, without any further approval or consent required from LESSEE.

1.8 Berm Maintenance Easement. CITY shall, concurrently with this Lease, grant to LESSEE a nonexclusive maintenance easement on, over, across and through the Berm Property solely to maintain (but not the obligation to maintain) the Berm. CITY and LESSEE may each maintain the Berm, but neither shall have any obligation to do so. Neither CITY nor LESSEE shall reduce the height of the Berm.

1.8.1 Maintenance Encroachments. LESSEE acknowledges and agrees that the Berm serves to limit the flooding of the Premises and the LESSEE-Owned Property. The parties acknowledge that the structure of the Berm may change over time due to erosion and other naturally-occurring forces. If in one or more instances the

functionality of the Berm is diminished or reasonably threatened by such erosion or other forces and LESSEE's maintenance of the Berm reasonably requires the addition of reinforcing material to maintain or re-establish the stability of the Berm, and such action will create an encroachment (a "Maintenance Encroachment") onto CITY's Un-Leased Property, CITY shall on each instance grant LESSEE a license to enter upon CITY's Un-Leased Property to install and maintain the Maintenance Encroachment, subject to such usual and customary terms and conditions applied by CITY at the time for similar licenses, and further subject to all applicable laws, rules and regulations of competent governmental authority.

1.8.1.1 LESSEE shall be fully responsible for the installation and maintenance of any and all Maintenance Encroachments installed by LESSEE.

1.8.1.2 LESSEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's officers, employees, sublessees, invitees, guests, agents or contractors, which arise out of or are in any manner directly or indirectly connected with the Berm, Maintenance Encroachments or LESSEE's installation and maintenance thereof, and all reasonable expenses of investigating and defending against same, including without limitation reasonable attorneys' fees and costs; provided, however, that LESSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the sole negligence or intentional misconduct of CITY or its elected officials, officers, employees, representatives, and agents.

1.8.1.3 If CITY installs a public trail on the Berm Property, CITY shall hold LESSEE and its officers, employees, representatives and agents harmless for damages to the public trail resulting from or in any manner directly or indirectly connected with LESSEE's maintenance or non-maintenance of the Berm; provided, however, that CITY's obligation to hold LESSEE harmless for such maintenance shall not include any claims or liability arising from the sole negligence or intentional misconduct of LESSEE or its officers, employees, representatives, contractors and agents.

1.9 Release. LESSEE acknowledges and agrees that a river exists on CITY's Un-Leased Property, and that the Premises and CITY's Un-Leased Property lie within a Special Flood Hazard Area, and that Flooding of the Premises and CITY's Un-Leased Property may naturally occur from time to time. Effective as of the Effective Date, LESSEE, for itself, its successors, assignees, representatives, employees, officers and agents, hereby releases and forever discharges CITY and its elected officials, officers, representatives, agents,

employees, successors in interest and assigns of and from any and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, losses of service, expenses and compensation of any nature whatsoever, whether based on tort, contract, violation of statutory duties, or other theory of recovery, and whether for compensation or punitive damages, injunctive relief or mandamus, or other equitable remedies which LESSEE now has, or which may later accrue or be acquired on account of, or in any way growing out of, or which are the subject of the Berm Property, the condition of the Berm Property, including without limitation its ability or inability to prevent waters from entering the Premises and/or the LESSEE-Owned Property, or any flooding from any cause whatsoever, or CITY's grant to LESSEE of a maintenance easement on the Berm Property, and the maintenance easement itself, including without limitation, any and all known or unknown claims resulting from the actual or alleged acts or omissions related thereto of CITY, its elected officials, officers, employees, representatives or agents.

- 1.9.1 Section 1542 Waiver. LESSEE acknowledges and agrees that the release of liability provision set forth above is a general release, and further expressly waives and assumes the risk of any and all claims against CITY related to or arising from the Berm, the Berm Property, or the condition of the Berm or the Berm Property, including without limitation the Berm's ability or inability to prevent waters from entering the Premises and/or the LESSEE-Owned Property, including without limitation, any and all known or unknown claims resulting from the actual or alleged acts or omissions related thereto of CITY, its elected officials, officers, representatives, employees or agents, and which exist as of the Effective Date, but of which LESSEE does not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect LESSEE's decision to make this release. LESSEE expressly waives, as demonstrated by the signature set forth immediately below, the benefits and provisions of Section 1542 of the California Civil Code, and any similar law of any state or territory of the United States or other jurisdiction. Section 1542 of the California Civil Code provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Waived by: TY INVESTMENT, INC., a California general corporation doing business as "Carlton Oaks Country Club"

BY: _____

Name: _____

Title: _____

Tam Mice

Tam Mice
President

SECTION 2: TERM

- 2.1 Term. The initial term of this Lease ("Term") shall be forty (40) years, commencing on the Effective Date. As used in this Lease, "Lease Year" shall mean each twelve-month period during the Term.
- 2.2 Holdover. Any holding over by LESSEE after the expiration or earlier termination of this Lease shall not be considered a renewal or extension of this Lease. The occupancy of the Premises after the expiration or earlier termination of this Lease shall constitute a month-to-month tenancy at will, and all other terms and conditions of this Lease shall continue in full force and effect, except that CITY may then demand and receive from LESSEE rent up to two (2) times the then fair market rent determined by an appraisal prepared by a qualified appraiser chosen by CITY in its sole discretion.
- 2.3 Surrender of Premises. Upon the expiration or earlier termination of this Lease, LESSEE shall vacate the Premises and surrender them to CITY free and clear of all liens and encumbrances, and in a condition reasonably satisfactory to CITY. At any time after the expiration or earlier termination of this Lease, LESSEE shall execute and deliver to CITY, within thirty (30) days after CITY's demand, a valid and recordable quitclaim deed covering all of the Premises. If LESSEE fails or refuses to deliver the required quitclaim deed, CITY may prepare and record a notice reciting LESSEE's failure to perform this Lease obligation, and the notice shall be deemed conclusive evidence of the termination of this Lease and all of LESSEE's rights in and to the Premises.

SECTION 3: RENT

- 3.1 Rent. LESSEE shall pay rent to CITY in the amount of One Hundred Fifty Thousand Dollars (\$150,000) per year. LESSEE shall pay such rent in equal quarterly installments, in advance, on the first day of the first (1st), fourth (4th), seventh (7th) and tenth (10th) months of each Lease Year.
- 3.2 Rent Adjustments.
- 3.2.1 First 20 Lease Years. For the first twenty (20) Lease Years, the rent shall be automatically increased two and one-half percent (2.5%) annually, effective as of the first day of the second (2nd) through the twentieth (20th) Lease Years.
- 3.2.2 After 20 Lease Years. The rent for the twenty-first (21st) Lease Year shall be determined by an appraisal of the fair market rent for the Premises as a portion of the golf course, with a date of valuation six (6) months prior to the last day of the twentieth (20th) Lease Year. CITY shall select a qualified appraiser to perform the appraisal at CITY's sole cost and expense, and shall deliver a copy of the appraisal to LESSEE.

- 3.2.2.1 LESSEE shall have thirty (30) days after delivery of the appraisal to dispute the appraised value. If LESSEE disputes the appraised value, LESSEE may select another qualified appraiser, subject to CITY's prior written approval (which shall not be unreasonably withheld or delayed), to perform an appraisal of the fair market rent for the Premises as a portion of the golf course, with a date of valuation six (6) months prior to the last day of the twentieth (20th) Lease Year, and shall deliver a copy of the appraisal to CITY. If the two appraisers cannot agree upon a fair market rent within thirty (30) days after the completion of the second appraisal, the two appraisers shall select a third appraiser to determine the fair market rent for the Premises, and that valuation shall be binding on the parties. If the two appraisers do not designate a third appraiser within sixty (60) days after the completion of the second appraisal, a third appraiser shall be designated upon application by either party to any judge of the Superior Court of San Diego County, downtown branch. Such designated appraiser shall determine the fair market rent for the Premises, and that valuation shall be binding on the parties. CITY and LESSEE shall each pay the cost of their own appraiser and shall each pay one-half (1/2) of the cost of the third appraisal.
- 3.2.2.2 If the determination of the rent for the 21st Lease Year is not made final prior to the date such rent becomes payable, then pending such final determination, LESSEE shall pay rent as it becomes due, in an amount calculated by applying a three percent (3%) increase to the rent for the 20th Lease Year. Once the rent for the 21st Lease Year is finally determined, an appropriate payment or credit shall be made to reconcile the rent account.
- 3.2.2.3 Notwithstanding the foregoing, in no event shall the rent for the 21st Lease Year be less than ninety percent (90%) of the rent for the 20th Lease Year.
- 3.2.2.4 The rent shall be automatically increased two and one-half percent (2.5%) annually, effective as of the first day of the twenty-second (22nd) through the fortieth (40th) Lease.

3.3 Other Consideration.

- 3.3.1 West Property. The parties agree that the current value of the West Property is One Hundred Four Thousand Four Hundred Dollars (\$104,400; i.e., \$40,000 per acre). As consideration for LESSEE's transfer to CITY of fee title to the West Property, CITY shall credit LESSEE's rent for the first ten (10) Lease Years in the amount of Fourteen Thousand One Hundred Eighty-Five Dollars (\$14,185) per year, applied in equal quarterly installments as and when the rent comes due.

Such rent credit represents the current value of the West Property amortized at six percent (6%) over ten (10) years.

3.3.2 Access Easement. The parties agree that the current value of the Access Easement is Twenty-Six Thousand Four Hundred Sixty-One Dollars (\$26,461). As consideration for LESSEE's grant of the Access Easement to CITY, CITY shall credit LESSEE's rent for the first ten (10) Lease Years in the amount of Three Thousand Five Hundred Ninety-Five Dollars (\$3,595) per year, applied in equal quarterly installments as and when the rent comes due. Such rent credit represents the current value of the Access Easement amortized at six percent (6%) over ten (10) years.

3.3.3 Public Trail Easement. LESSEE shall grant to CITY the right to place a public multi-use trail easement on, over, across and through the LESSEE-owned Property for public access and the development, construction, maintenance, repair and restoration of a public multi-use trail, including without limitation the installation of interpretive signs, together with pedestrian and motorized vehicle use reasonably required therefor, and the staging of construction materials and equipment related thereto.

3.3.3.1 Public Trail Rent Credit during First 20 Lease Years. If CITY records an easement for such a public multi-use trail on any portion of the LESSEE-owned Property and/or the Premises within the first twenty (20) Lease Years, CITY shall credit LESSEE's rent payable over the next following ten (10) years of the Term, effective as of the recordation of the applicable easement, and in an annual amount to be applied in equal quarterly installments as and when the rent comes due. The amount of the rent credit shall be calculated by multiplying Thirty-Eight Cents (\$.38) times the total square footage of the applicable public trail easement area, as defined in the recorded easement. The resulting amount of the credit shall be amortized at six percent (6%) over ten (10) years.

3.3.3.2 Public Trail Rent Credit after First 20 Lease Years. If CITY records an easement for such a public multi-use trail on any portion of the LESSEE-owned Property and/or the Premises after the first twenty (20) Lease Years, CITY shall credit LESSEE's rent payable over the next following ten (10) years of the Term, effective as of the recordation of the applicable easement, and in an annual amount to be applied in equal quarterly installments as and when the rent comes due. The amount of the rent credit shall be calculated by multiplying the total square footage of the applicable public trail easement area, as defined in the recorded easement, by an amount per square foot determined by an appraisal of the value of the easement performed by a qualified appraiser, with a date of valuation no more than six (6) months prior to the date of recordation

of the applicable easement. The resulting amount of the credit shall be amortized at six percent (6%) over ten (10) years. The applicable easement shall not be recorded unless and until the value of the easement has been finally determined as set forth herein.

3.3.3.2.1 The appraiser shall be selected by mutual agreement of the parties within thirty (30) days after the applicable date of recordation. If the parties cannot agree upon an appraiser, each party shall select an appraiser, and the two appraisers shall select a third appraiser to perform the appraisal. If the parties' appraisers do not designate an appraiser within sixty (60) days after the applicable date of recordation, an appraiser shall be designated upon application by either party to any judge of the Superior Court of San Diego County, downtown branch. The designated appraiser shall determine the fair market value of the applicable easement. CITY and LESSEE shall each pay the fees of their own appraiser and shall each pay one-half (1/2) of the fees and costs of the appraisal.

3.3.3.2.2 If fewer than ten years remain in the Term on the applicable date of recordation, the resulting rent credit shall be amortized at six percent (6%) over the then-remaining Term.

3.3.3.2.3 If this Lease is terminated prior to the full amortization of the rent credit, CITY shall pay LESSEE the principal balance of the rent credit.

3.4 Unauthorized-Use Charge. LESSEE shall pay CITY one hundred (100%) of the gross receipts from any use of the Premises that is not allowed by this Lease, regardless of any related penalties charged LESSEE by competent governmental authorities. Such unauthorized use charge shall be payable to CITY within thirty (30) days after LESSEE receives such gross receipts. The unauthorized use charge shall be considered "rent" under this Lease, and shall be subject to all costs and penalties for delinquent payments hereunder. The existence of such unauthorized use charge and CITY's acceptance thereof shall not constitute authorization for the use in question, and shall not waive any of CITY's rights under this Lease.

3.5 Place of Payment. All rent payments shall made payable to the City Treasurer and mailed to:

The Office of the City Treasurer
City of San Diego
P.O. Box 129030
San Diego, California 92112-9030

or hand-delivered to

The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101

CITY may change the place of payment at any time upon thirty (30) days written notice to LESSEE. Mailed payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed received only upon actual receipt.

- 3.6 **Delinquent Payments.** If LESSEE fails to make any payment under this Lease when due, LESSEE shall pay to CITY, in addition to the unpaid amount, five percent (5%) of the unpaid amount, which shall be additional rent. If any amount of such payment remains unpaid after fifteen (15) days past due, LESSEE shall pay to CITY an additional five percent (5%) of the unpaid amount [being a total of ten percent (10%)], which shall be additional rent. Notwithstanding the foregoing, in no event shall the charge for late payment of rent be less than Twenty-Five Dollars (\$25). After thirty (30) days past due, unpaid amounts due CITY under this Lease may be referred to the San Diego City Treasurer for collection, and shall be subject to San Diego Municipal Code section 22.1707, as may be amended from time to time. LESSEE shall pay to CITY any collection-referral fee and all other fees and charges plus interest as may then be charged by the CITY's City Treasurer under authority of the San Diego Municipal Code. Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of LESSEE's breach or default with respect to the late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity. As required by law, LESSEE is hereby notified that a negative credit report may be submitted to a credit reporting agency if amounts due CITY are not paid when due.

SECTION 4: ENCUMBRANCES; ASSIGNMENT & SUBLETTING

- 4.1 **Leasehold Encumbrances.** Subject to CITY's prior written consent, LESSEE may encumber LESSEE's leasehold estate by deed of trust or other security instrument to assure the payment of LESSEE's debts, upon the express condition that the proceeds of such loan or loans be devoted exclusively to capital expenditures for the purpose of improving, repairing or maintaining the Premises. Each such encumbrance shall be subject to all of the terms, covenants and conditions of this Lease, shall not be deemed to amend or alter any of the terms, covenants or conditions of this Lease, and shall be subordinate to CITY's fee interest in the Premises and any and all CITY encumbrances on that fee interest.
- 4.2 **Assignment and Subletting.** LESSEE shall not assign this Lease or any interest in this Lease, and shall not sublet the Premises or any part of the Premises, or grant any license

or other right or appurtenant privilege to the Premises, or permit any other person, except LESSEE's employees, agents and guests, to use or occupy the Premises or any part of the Premises without CITY's prior written consent. Any such consent shall not be deemed consent to any subsequent assignment, subletting, occupation or use by another person. Neither this Lease nor any interest in it shall be assignable, as to LESSEE's interest, by operation of law, without CITY's written consent. "Assignment" shall include without limitation the transfer of any interest in this Lease and, if LESSEE is other than a natural person, the transfer of a controlling interest in LESSEE or any of LESSEE's general partners, principals or controlling shareholders.

- 4.2.1 Consent Conditions. CITY may require, as a condition to consenting to any assignment, sublease or other grant of rights related to the use and occupancy of the Premises, that this Lease be revised to comply with then-current CITY lease provisions, and that the sublease be subject and subordinate to each and every provision of this Lease.
- 4.2.2 Charter Section 225. Pursuant to San Diego City Charter section 225, LESSEE and each of its subtenants and assignees shall make a full and complete disclosure of the name and identity of any and all persons directly or indirectly involved in this Lease and the precise nature of all interests of all persons therein. Pursuant to City Charter Section 225, every person or entity which will have an interest in this Lease must be reviewed and approved by CITY.
- 4.2.3 Additional Consideration to CITY. If this Lease is assigned or a majority of the Premises are subleased, or in the event of a refinancing that encumbers the leasehold, LESSEE shall pay to CITY an amount equal to: (a) for assignments, two percent (2%) of the gross amount paid for the leasehold; (b) for majority subleases, two percent (2%) of all amounts paid to LESSEE in consideration of such sublease; and (c) in the case of a refinancing, two percent (2%) of the amount of any new loan over and above the sum of the balance of the old loan plus, if applicable, the cost of new permanent improvements constructed on the Premises as required or allowed under this Lease. The amount upon which such two-percent payments shall be based shall be the total consideration resulting from the transaction, including without limitation all cash payments and the market value of non-cash consideration, including without limitation stocks, bonds, deferred payments, secured and unsecured notes, and forbearances regarding claims and judgments. Prior to CITY's consent to any assignment, majority subletting or refinancing, LESSEE shall deliver to CITY a written statement of all sums due and owing to CITY from LESSEE pursuant to the provisions of this section, together with an acknowledgment from the proposed assignee, sublessee, or the source of the refinancing as to the amount due CITY. The additional consideration payable to CITY for each assignment and/or refinancing shall be paid concurrently with the closing of the proposed transaction. For majority subleases, such additional consideration shall be payable to CITY when accrued regardless of actual receipt by LESSEE. The applicable two-percent payment required by this section shall not apply to:

- (a) an assignment or transfer of a beneficial interest in the leasehold resulting from devise, bequest, intestate succession or by operation of law for the benefit of the spouse or descendants of the individual who is the owner of a controlling interest in LESSEE; or
- (b) an assignment deemed by CITY, in its sole reasonable discretion, not to materially affect the legal and equitable ownership interests in the leasehold, such as a change in LESSEE's legal or fictitious name without any other change in the equity, beneficial use of, or legal title to, the leasehold as an asset or the income produced thereby.

SECTION 5: DEFAULT AND REMEDIES

5.1 Default. LESSEE shall be in default of this Lease if any of the following occurs:

- (a) LESSEE fails to make any payment required under this Lease when due;
- (b) LESSEE breaches any of its obligations under this Lease, other than those requiring payment to CITY, and fails to cure the breach within thirty (30) days following written notice thereof from CITY, or if not curable within thirty (30) days, fails to commence to cure the breach within thirty (30) days and diligently pursue the cure to completion;
- (c) LESSEE voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
- (d) LESSEE is adjudicated a bankrupt; or
- (e) LESSEE makes a general assignment for the benefit of creditors.

5.2 Remedies. Upon LESSEE's default, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written "Three Day Notice to Pay or Quit," or CITY may terminate the Lease and all rights of LESSEE, and all persons claiming rights through LESSEE, to the Premises or to possession of the Premises. Upon termination, CITY may enter and take possession of the Premises, and may recover from LESSEE the sum of:

- (a) the worth at the time of award of any unpaid rent that was due at the time of termination;
- (b) the worth at the time of award of the amount by which the unpaid rent that would have been earned after termination until the time of award exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could have been reasonably avoided;

- (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could be reasonably avoided;
- (d) any other amount necessary to compensate CITY for all the detriment proximately caused by LESSEE's breach and default, or that in the ordinary course of things, would be likely to result; and
- (e) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses 5.2(a) and 5.2(b), above, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause 5.2(c), above, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this section, the term "rent" shall include rent and any other amounts payable by LESSEE under this Lease.

5.3 Default if Leasehold is Encumbered. If there is a CITY-approved encumbrance on LESSEE's leasehold interest, CITY shall give the mortgagee or beneficiary written notice of LESSEE's default under this Lease, and the same mortgagee or beneficiary shall have thirty (30) days from the notice to cure the default, or, if the default is not curable within thirty (30) days, to commence to cure the default and diligently pursue the cure to completion. CITY may extend the cure period if the mortgagee or beneficiary uses reasonable diligence to pursue a cure. If the mortgagee or beneficiary chooses to cure the default through litigation or foreclosure, then CITY may exercise any of the following options:

- (a) CITY may correct the default and charge the costs to the account of LESSEE, which charge shall be due and payable on the date that the rent is next due after CITY's notice of such costs to LESSEE, and mortgagee or beneficiary;
- (b) CITY may correct the default and pay the costs from the proceeds of any insurance fund held by CITY, CITY and LESSEE, or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default or to pay the costs of correction performed by or at the direction of CITY; and
- (c) CITY may terminate this Lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE shall assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition of early payoff of the related obligations by CITY. CITY may, as an alternative, substitute the terminated LESSEE with a new lessee

reasonably satisfactory to the mortgagee or beneficiary. LESSEE shall pay to CITY all reasonable costs incurred by CITY in re-leasing to a new lessee.

If the default is non-curable by LESSEE, then any lender holding a beneficial interest in the Premises, whose qualifications as an assignee have been approved by CITY, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this Lease. If the mortgagee or beneficiary gives notice in writing of its election to substitute itself within the thirty (30) day period after receiving CITY's written notice of a default, and the default, if curable, is cured by the mortgagee or beneficiary, then this Lease will not terminate pursuant to the default. In that event, CITY consents to the substitution and authorizes the mortgagee or beneficiary to perform under this Lease with all the rights, privileges and obligations of LESSEE, subject to the curing of the default, if possible, by mortgagee or beneficiary. In that event, LESSEE shall assign to mortgagee or beneficiary all of its interest in and to the leasehold estate under this Lease.

- 5.4 Abandonment by LESSEE. If LESSEE abandons the Premises, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all of its rights and remedies under this Lease, including without limitation the right to recover rent as it becomes due, plus damages.
- 5.5 Waiver. Any waiver by CITY of a breach or default by LESSEE shall not be a waiver of any other breach or default. No waiver shall be valid and binding unless in writing and executed by CITY. CITY's delay or failure to enforce a right or remedy shall not be a waiver of that or any other right or remedy under this Lease. The enforcement of a particular right or remedy for a breach or default shall not waive any other right or remedy for the same breach or default, or for any other or later breach or default. CITY's acceptance of any rents shall not be a waiver of any default preceding such payment. LESSEE acknowledges that the Premises are a part of publicly-owned property held in trust for the benefit of the citizens of the City of San Diego, and that any failure by CITY to discover a breach or default, or take prompt action to require the cure of any breach or default, shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any breach or default. CITY's acceptance of a partial payment of rent shall not constitute a waiver of the balance of the rent payment due.

SECTION 6: EMINENT DOMAIN

- 6.1 Eminent Domain. If all or part of the Premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) shall be as follows:
- 6.1.1 Full Taking. If the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

- 6.1.2 Partial Taking - Remainder Usable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises are suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to reflect the portion of the Premises taken, only to the extent that LESSEE's operations are reduced or impaired.
- 6.1.3 Award. All monies awarded in any taking shall belong to CITY, whether the taking results in diminution in value of the leasehold or the fee or both. LESSEE shall be entitled to any award attributable to the taking of, or damages to LESSEE's then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
- 6.1.4 Transfer. CITY has the right to transfer CITY's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.
- 6.1.5 No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

SECTION 7: INDEMNITY; HOLD HARMLESS; INSURANCE

- 7.1 Indemnification & Hold Harmless. LESSEE shall protect, defend, indemnify and hold CITY and its elected officials, officers, employees, representatives and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's officers, employees, invitees, guests, agents or contractors, which arise out of or are in any manner directly or indirectly connected with LESSEE's acts or omissions in the performance of its obligations under this Lease, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that LESSEE's duty to indemnify and hold CITY harmless shall not include any claims or liability arising from the sole negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives and agents.
- 7.2 Insurance. LESSEE shall deliver to CITY's Real Estate Assets Department a current certificate of insurance for:
- (1) Commercial General Liability Insurance, providing coverage on the Premises for bodily injury, including death, personal injury and property damage with limits of at

least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000);

- (2) Automobile Liability Insurance, providing coverage on the Premises for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired and non-owned vehicles) operated in performing any and all work pursuant to this Lease. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
 - (3) Workers' Compensation Insurance, as required by the laws of the State of California for all of LESSEE's employees who are subject to this Lease, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).
- 7.2.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives and agents" shall be named as additional insureds in all policies.
 - 7.2.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY.
 - 7.2.3 Qualified Insurer(s). All insurance required by the terms of this Lease must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
 - 7.2.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of LESSEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
 - 7.2.5 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Lease. LESSEE shall provide proof of continuing insurance at least annually during the Term. If insurance lapses or is discontinued

for any reason, LESSEE shall immediately notify CITY and obtain replacement insurance as soon as possible.

- 7.2.6 Modification. To assure protection from and against the kind and extent of risk existing with the allowed uses of the Premises under this Lease or the Premises, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving LESSEE thirty (30) days prior written notice. LESSEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the allowed uses of the Premises under this Lease or the Premises.
- 7.2.7 Accident Reports. LESSEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the allowed uses of the Premises under this Lease or the Premises. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 7.2.8 Causes of Loss - Special Form Property Insurance. LESSEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of LESSEE's insurable property related to the allowed uses of the Premises under this Lease or the Premises in an amount to cover 100 percent (100%) of the replacement cost. LESSEE shall deliver to CITY a certificate of such insurance.

SECTION 8: IMPROVEMENTS; ALTERATIONS; REPAIRS; MAINTENANCE

- 8.1 Waste, Damage or Destruction. LESSEE shall not commit or allow to be committed any waste or any public or private nuisance on the Premises, shall keep the Premises clean and clear of refuse and obstructions, and shall dispose of all garbage, trash and rubbish in a manner satisfactory to CITY.
- 8.2 Acceptance of Premises. LESSEE acknowledges that the Premises are in good order and condition and shall take possession of the Premises "as is." CITY has not made and makes no representation or warranty as to the condition or suitability of the Premises for LESSEE's intended use, and assumes no obligation to alter or improve the Premises. LESSEE has relied solely on its own independent investigations of the condition and suitability of the Premises, and is satisfied with the condition thereof.
- 8.3 Entry and Inspection. CITY may at all times enter and inspect the Premises and the operations conducted on the Premises.
- 8.4 Maintenance. LESSEE shall maintain the Premises in a decent, safe, healthy and sanitary condition reasonably satisfactory to CITY.

- 8.5 Improvements/Alterations. No improvements, structures or installations shall be constructed on the Premises, and the Premises may not be altered, by LESSEE without CITY's prior written approval. Notwithstanding the foregoing sentence, LESSEE may alter the Premises as reasonably necessary to maintain and/or utilize existing (as of the Effective Date) golf course amenities without CITY's prior written approval if LESSEE provides CITY with reasonable prior notice of the alteration. LESSEE shall not make any structural or architectural design alterations to approved improvements, structures or installations on the Premises without CITY's prior written approval. This provision shall not relieve LESSEE of any maintenance obligation under this Lease. CITY shall not be obligated by this Lease to make or assume any expense for any improvements or alterations to the Premises, except as required otherwise by this Lease.
- 8.6 Utilities. LESSEE shall order, obtain and pay for all water, utilities and service and installation charges in connection with the operation of the Premises. All utilities shall be installed underground.
- 8.7 Construction Bond. If LESSEE constructs improvements on the Premises, CITY may require LESSEE to deposit with CITY, prior to commencement of the construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to CITY. The bond or cash shall be held in trust by CITY for the purpose specified above, or at CITY's option may be placed in an escrow approved by CITY.
- 8.8 Liens. LESSEE shall protect, defend, indemnify and hold CITY harmless from and against all claims for labor or materials in connection with LESSEE's operations, improvements, alterations or repairs on or to the Premises and the costs of defending against such claims, including without limitation reasonable attorneys' fees, if such claims arise against LESSEE. If LESSEE causes improvements, alterations or repairs to be made to the Premises, and a lien or notice of lien is filed against the Premises, LESSEE shall notify CITY of the lien within five (5) days after LESSEE first becomes aware of the existence of the lien, and within thirty (30) days after the filing either: (a) take all actions necessary to record a valid release of the lien; or (b) file with CITY a bond, cash or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.
- 8.9 Taxes. Subject to the provisions of Article XIII, Section 3(d) of the California Constitution and Section 202.2 of the California Revenue and Taxation Code, LESSEE shall pay, before delinquency, all taxes, assessments and fees assessed or levied upon the Premises or upon LESSEE's use and occupancy of the Premises, including without limitation licenses and permits, and including the land and any improvements or fixtures installed or maintained by LESSEE thereon. LESSEE acknowledges that this Lease may

create a possessory interest subject to property taxation and that LESSEE may be subject to the payment of taxes levied on that possessory interest. LESSEE shall pay all such possessory interest taxes. LESSEE's payment of taxes, fees and assessments shall not reduce any rent due to the CITY. CITY shall not assume any responsibility for any taxes whatsoever resulting from LESSEE's possession, use or occupancy of the Premises.

8.10 Ownership of Improvements and Personal Property.

8.10.1 Improvements. LESSEE shall own all improvements, fixtures, structures and installations or additions to the Premises constructed or installed on the Premises by LESSEE. Upon expiration or termination of this Lease, all such improvements, fixtures, structures and installations or additions shall be deemed a part of the Premises and owned by CITY. Notwithstanding the foregoing, CITY may, upon notice to LESSEE at Lease termination or at any time prior to the expiration of the Term, elect to have part or all of such improvements, fixtures, structures and installations or additions removed by LESSEE at the end of the Term. In that case, LESSEE shall, at LESSEE's sole cost and expense, remove those items designated for removal in CITY's notice and restore the Premises to CITY's reasonable satisfaction as soon as practicable, but in no event later than sixty (60) days after the expiration or earlier termination of this Lease. LESSEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of such items. If LESSEE fails to remove the items as required herein, CITY may, at its option, remove them at LESSEE's sole cost and expense.

8.10.2 Personal Property. LESSEE shall remove LESSEE-owned machines, appliances, equipment, trade fixtures and other items of personal property upon the expiration of the Term, or as soon as practicable after termination, but in no event later than thirty (30) days after the expiration or earlier termination of this Lease. Any such items which LESSEE fails to so remove shall be deemed abandoned and become CITY's Property free of all claims and liens, or CITY may, at its option, remove such items at LESSEE's sole cost and expense. LESSEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of its personal property from the Premises.

8.10.3 Late Removal. Notwithstanding any provision of this Lease to the contrary, LESSEE shall pay rent to CITY for any period of time after the expiration or termination of this Lease reasonably needed to remove improvements or personal property as required by this Lease, whether by CITY or LESSEE. Such rent shall be calculated on a per diem basis using the then-current fair market rental rate as determined by an appraisal prepared by qualified CITY staff.

8.10.4 CITY's Right to Acquire Personal Property. If LESSEE wants to dispose of any of its personal property used in its operations on the Premises upon expiration or

termination of this Lease, CITY shall have the first right to acquire such personal property.

- 8.11 Unavoidable Delay. If the performance of an act required by this Lease is directly prevented or delayed by a cause beyond the reasonable control of the party required to perform the act, that party shall be excused from performing the act for a period equal to the period of the prevention or delay. This provision shall not apply to obligations to pay rent. The party claiming a delay shall notify the other party in writing within ten (10) days after the beginning of any claimed delay.
- 8.12 Hazardous Substances. LESSEE shall not allow the illegal installation, storage, utilization, generation, sale or release of hazardous or otherwise regulated substances in, on, under or from the Premises. LESSEE and LESSEE's agents and contractors shall not install, store, utilize, generate or sell any hazardous substance on the Premises without CITY's prior written consent. LESSEE shall obtain and maintain all required licenses and permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing or any other presence of a hazardous substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a hazardous substance or hazardous waste.
- 8.12.1 Release. For the purposes of this provision, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of hazardous substances. "Hazardous substances" shall mean any hazardous liquid, solid or gaseous material substances listed by the Environmental Protection Agency or the State of California as a hazardous substance, and any type of petroleum-related substances and their chemical constituents.
- 8.12.2 Remediation. If LESSEE's occupancy, use, development, maintenance or restoration of the Premises results in a release of a hazardous substance, or petroleum related substance or its chemical constituents, LESSEE shall pay all costs of remediation and removal for unrestricted reuse of the Premises in accordance with all applicable laws, rules and regulations of governmental authorities.
- 8.12.3 Removal. If LESSEE or LESSEE's contractor or agent has received approval and permits to store, utilize, generate or install, or otherwise bring hazardous materials or hazardous wastes to the Premises, LESSEE and/or LESSEE's contractor or agent shall remove all hazardous substances and hazardous wastes in any type of container, equipment or device from the Premises immediately upon or prior to the expiration or earlier termination of this Lease. CITY reserves the right to

conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Premises. LESSEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.

8.12.4 Indemnity. LESSEE shall protect, defend, indemnify and hold CITY harmless from any and all claims, costs and expenses related to environmental liabilities resulting from LESSEE's occupancy, use, development, maintenance or restoration of the Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, LESSEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies. CITY shall protect, defend, indemnify and hold LESSEE harmless from any and all claims, costs and expenses related to environmental liabilities resulting from CITY's occupancy, use, development, maintenance or restoration of the Premises.

8.12.5 Notice of Release. If LESSEE knows or has reasonable cause to believe that a hazardous substance or petroleum related substance or its chemical constituents has been released on, from or beneath the Premises, LESSEE shall immediately notify CITY and any appropriate regulatory or reporting agency per California Administrative Code Title 19 and any other applicable laws or regulations. LESSEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If LESSEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, LESSEE shall take all actions necessary to alleviate the danger. LESSEE shall immediately notify CITY in writing of any violation, notice to comply or notice of violation received or the initiation of environmental actions or private suits related to the Premises.

8.12.6 Environmental Assessment. Upon reasonable cause to believe that LESSEE's occupancy, use, development, maintenance or restoration of the Premises ("LESSEE's Operations"), resulted in any hazardous substance being released on, from or beneath the Premises, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at LESSEE's sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by LESSEE's Operations on, in, from or under the Premises, and in

what quantities. If any such hazardous substances exist in quantities greater than allowed by city, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Premises, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause, or if LESSEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Premises and compliance with environmental law and regulations are achieved, and LESSEE shall pay all costs and expenses therefor. In the event that either: (1) no hazardous substances exist on the suspect area or (2) any hazardous substances discovered on the suspect area were more likely than not caused by something other than LESSEE's Operations on, in, from or under the Premises, CITY shall reimburse LESSEE for the environmental assessment .

SECTION 9: GENERAL PROVISIONS

- 9.1 Notices. Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or by United States mail, postage prepaid, addressed as follows:

If to LESSEE:

TY INVESTMENT, INC.
Attn: Toru Mise, President
Carlton Oaks Country Club
9200 Inwood Drive
Santee, California 92071

With a copy by First Class Mail to:

Lounsbery Ferguson Altona & Peak, LLP
Attn: Felix Tinkov, Esq.
402 W. Broadway, Suite 400
San Diego, California 92101

If to CITY:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101

(619) 236-6020

With a copy by First Class Mail to: SAN DIEGO CITY ATTORNEY
Attn: Real Property Section
1200 Third Avenue, Suite 1100
San Diego, California 92101-4106

- 9.2 Compliance with Law. LESSEE shall at all times in the construction, maintenance, occupancy, restoration and operation of the Premises comply with all applicable laws, rules, regulations and requirements of competent governmental authority at LESSEE's sole cost and expense. LESSEE shall promptly deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to LESSEE.
- 9.3 California Public Records Act. CITY shall determine, in its sole discretion, whether information provided to CITY by LESSEE pursuant to this Lease is or is not a public record subject to disclosure under the California Public Records Act. LESSEE shall hold CITY, its elected officials, officers and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.
- 9.4 Equal Opportunity. LESSEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375 and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations. LESSEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. Upon CITY's request, LESSEE shall submit a current Workforce Report and, if required, an Equal Opportunity Plan which set forth the actions LESSEE will take to achieve the CITY's goals for the employment of African Americans, Native Americans, Asians, Latinos, women and people with disabilities. LESSEE shall cause the foregoing provisions to be inserted in all subleases and all contracts for any work covered by this Lease so that such provisions will be binding upon each sublessee and contractor. LESSEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.
- 9.5 Equal Benefits. LESSEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require lessees of CITY-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. LESSEE shall certify that it will maintain such equal benefits throughout the term of this Lease. LESSEE's failure to maintain equal benefits shall be a default of this Lease.
- 9.6 Disabled Access Compliance. LESSEE shall, as applicable to the Premises and LESSEE's possession, use and occupancy thereof, comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973,

Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:

- 9.6.1 LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs and termination of employment.
- 9.6.2 No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of LESSEE.
- 9.6.3 LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- 9.6.4 Where required by law, any improvements made to the Premises by LESSEE shall comply with municipal disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All improvements and alterations shall be at the sole cost of LESSEE.
 - 9.6.4.1 LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own ADA employment programs.
 - 9.6.4.2 LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.
- 9.7 Drug-free Workplace. LESSEE shall abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:
 - 9.7.1 Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances are prohibited on the Lease Area and specifying the actions that will be taken against employees for violations of the prohibition.
 - 9.7.2 Establish a drug-free awareness program to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;

- b. LESSEE's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations.
- 9.7.3 LESSEE shall include in each of its sublicenses and contracts related to this Lease language obligating each sublicensee and contractor to comply with the provisions of this section to maintain a drug-free workplace. LESSEE, and each of its sub-licensees and contractors, shall be individually responsible for their own drug-free workplace program.
- 9.8 CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Lease if LESSEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego City Council related to the selection of LESSEE for this Lease. It is not the intent of this policy that these provisions apply to members of the City Council.
- 9.9 Local Business and Employment. LESSEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. For work associated with this Lease and to the extent legally possible, LESSEE shall use its best efforts to solicit applications for employment and bids and proposals for contracts from local residents and firms as opportunities occur. LESSEE shall use its best efforts to hire qualified local residents and firms whenever practicable.
- 9.10 Water Quality Assurances. LESSEE shall, at its sole cost and expense, comply with all laws, rules, regulations and direction of competent governmental authority (such as the San Diego Regional Water Quality Control Board) relating to water quality assurance and storm water management. LESSEE acknowledges and agrees that such legal requirements may change at any time and from time to time.
- 9.10.1 NPDES. LESSEE shall comply with all applicable requirements of the National Pollutant Discharge Elimination System ("NPDES") permit in force on the Effective Date of this Lease (i.e., Permit No. R9-2007-0001), and any and all amendments thereto and all applicable succeeding NPDES permits.
- 9.10.2 Municipal Code. LESSEE shall comply with San Diego Municipal Code Article 3, Division 3: Stormwater Management and Discharge Control (the "Stormwater Code"), and employ "Best Management Practices" including a "Storm Water Pollution Prevention Plan" as those terms are defined by the Stormwater Code (collectively, "Prevention Plan") and as approved by CITY under its Stormwater Management Program.

- 9.10.2.1 Within the first thirty (30) days of the Term, LESSEE shall submit a Prevention Plan satisfactory to CITY that will control erosion and reduce the amount of "Pollutants," as defined by the Stormwater Code, and other sediments discharged from the Premises. LESSEE shall inform its employees, contractors, subcontractors, agents and vendors of the Prevention Plan and ensure their compliance therewith. CITY may review the Prevention Plan periodically.
- 9.10.2.2 Within thirty (30) days after written notice from CITY requesting an update of the Prevention Plan, LESSEE shall submit an updated Prevention Plan to CITY's satisfaction. LESSEE shall implement all changes to the Prevention Plan as required by CITY and to ensure compliance with all applicable laws, ordinances and regulations.
- 9.10.2.3 LESSEE shall at all times keep and maintain "Best Management Practices" as required by the Prevention Plan in a manner which controls and prevents discharge of Pollutants to the "Maximum Extent Practicable" (as defined in the Stormwater Code).
- 9.11 Nondiscrimination. This Lease is made and accepted upon and subject to the covenant and condition, which shall run with the land, that LESSEE or any person claiming under or through LESSEE shall not establish or allow any discrimination against or segregation of any person or group of persons on account of race, color, religion, gender, disability, sexual orientation, marital status, national origin, ancestry, familial status or source of income in the possession, use and occupancy of the Premises or in the selection, location, number, use or occupancy of tenants, subtenants or vendees in the Premises.
- 9.12 Cumulative Remedies. CITY's rights and remedies under this Lease are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
- 9.13 Survival. Any obligation which accrues under this Lease prior to its expiration or termination shall survive such expiration or termination.
- 9.14 Joint and Several Liability. If LESSEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of LESSEE under this Lease.
- 9.15 No Affiliation. Nothing contained in this Lease shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and LESSEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of LESSEE or any other party or entity.
- 9.16 Entire Agreement. This Lease constitutes the entire agreement between the parties and

supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Lease and LESSEE's occupancy, use, development, maintenance and restoration of the Premises. Any modification, alteration or amendment of this Lease shall be in writing and signed by all the parties hereto.

- 9.17 Legal Proceedings. If any party brings an action or proceeding against another party under this Lease, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses thereof, including without limitation reasonable attorneys' fees and costs. The "prevailing party" shall be that party who obtains substantially the result sought, whether by settlement, dismissal or judgment.
- 9.18 Partial Invalidity. If any term, covenant, condition or provision of this Lease is found invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
- 9.19 Authority to Contract. Each individual executing this Lease on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws or other written rules of conduct or governing agreement, and that this Lease is binding upon such person or entity in accordance with its terms. Each person executing this Lease on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this Lease is executed to be effective as of the Effective Date.

TY INVESTMENT, INC., a California general corporation doing business as "Carlton Oaks Country Club"

Date: _____

By: _____

Name: _____

Title: _____

THE CITY OF SAN DIEGO, a California municipal corporation

Date: _____

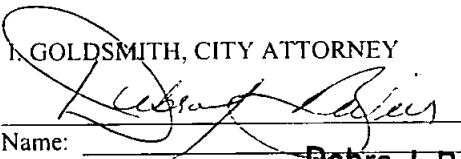
By: _____

James F. Barwick, CCIM

Director, Real Estate Assets Department

Approved as to form and legality:

JAN I. GOLDSMITH, CITY ATTORNEY

By:  7/9/12

Name: _____

Title: _____

Debra J. Bevier

Deputy City Attorney

Exhibit A: Premises Description

Exhibit B: LESSEE-Owned Property

Exhibit C: West Property Description

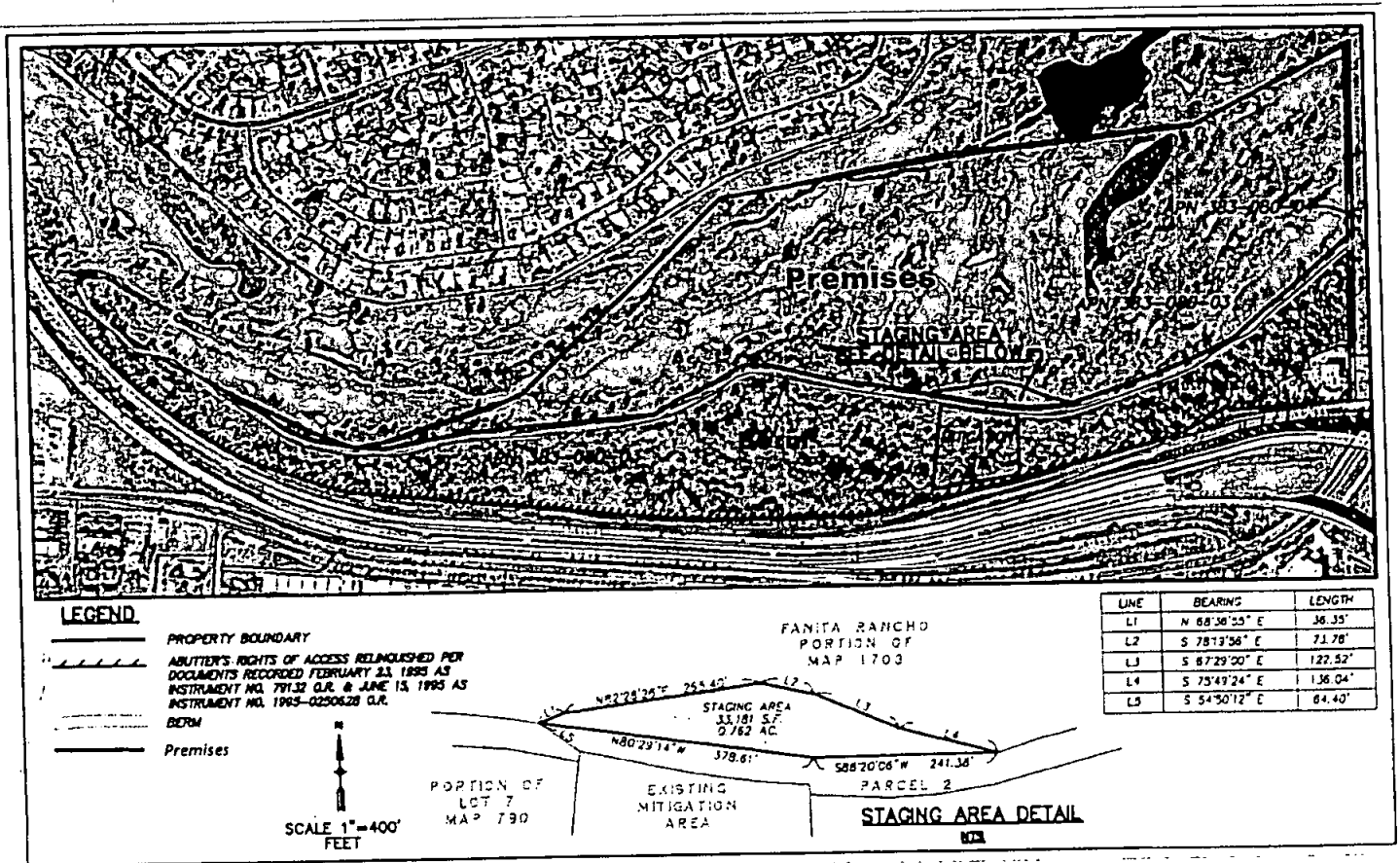
Exhibit D: Berm Property Description

Exhibit E: ACOE Mitigation Area

Exhibit F: CITY's Un-Leased Property

Exhibit G: Staging Area

Exhibit A: Premises Description



APN's 383-071-06 and 383-071-07

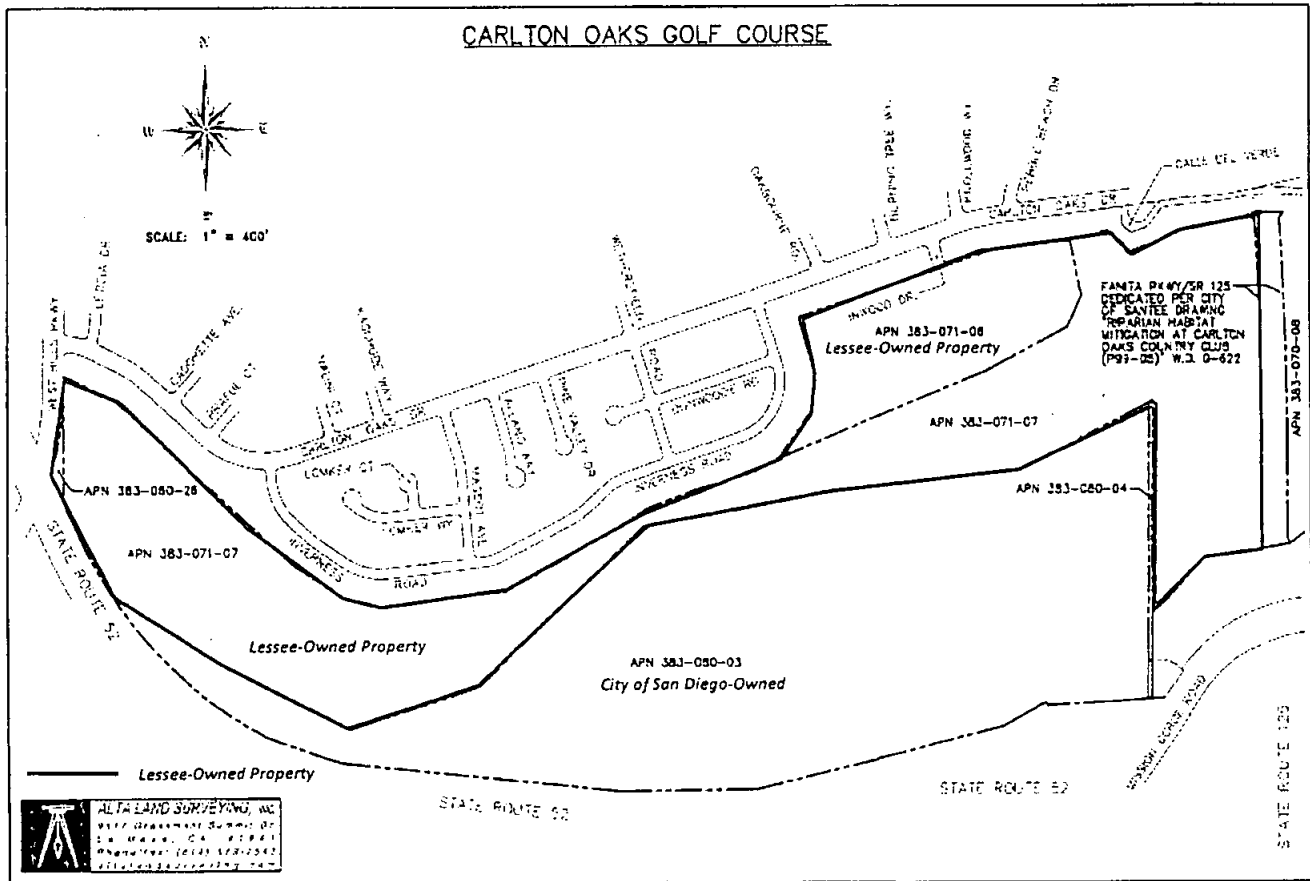


Exhibit C: West Property Description

**LEGAL DESCRIPTION
LAND SALE PARCEL**

PARCEL 1

THOSE PORTIONS OF PARCEL 2 OF PARCEL MAP NO. 16978 IN THE CITY OF SANTEE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 19, 1992 AS INSTRUMENT NO. 1992-0665040 OF OFFICIAL RECORDS, AND TRACT "O" AND "T" OF RANCHO EL CAJON, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO PARTITION MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CONVEYED IN PARCEL 3 OF A DEED IN MIDWEST TELEVISION, INC., AS CONVEYED TO THE STATE OF CALIFORNIA, IN FINAL ORDER OF CONDEMNATION RECORDED APRIL 13, 1992 AS INSTRUMENT NO. 1992-0211997, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 2; THENCE ALONG THE NORTHERLY LINE THEREOF,

1. SOUTH 64°26'42" EAST 25.56 FEET ; THENCE LEAVING SAID NORTHERLY LINE
(SOUTH 64°26'24" EAST
PER PM 16978)
2. SOUTH 00°19'52" WEST 48.03 FEET ; THENCE
3. SOUTH 12°45'51" EAST 94.92 FEET ; THENCE
4. SOUTH 00°39'05" WEST 104.80 FEET ; THENCE
5. SOUTH 02°56'24" WEST 134.58 FEET ; THENCE
6. SOUTH 11°30'40" WEST 79.42 FEET ; THENCE
7. SOUTH 17°31'15" EAST 98.82 FEET ; THENCE
8. SOUTH 78°13'39" EAST 50.69 FEET ; THENCE
9. SOUTH 58°35'37" EAST 14.26 FEET ; THENCE
10. SOUTH 42°43'44" EAST 58.10 FEET ; THENCE
11. SOUTH 26°02'46" EAST 93.28 FEET ; THENCE
12. SOUTH 20°18'21" EAST 50.78 FEET ; THENCE

13. SOUTH 32°29'18" EAST 173.31 FEET ; THENCE
14. SOUTH 28°00'27" EAST 45.31 FEET ; THENCE
15. SOUTH 25°42'01" EAST 69.30 FEET ; THENCE
16. SOUTH 19°41'12" EAST 172.77 FEET TO THE SOUTHERLY LINE OF PARCEL 2 OF SAID PARCEL MAP 16978; THENCE ALONG SAID SOUTHERLY LINE
17. NORTH 57°49'21" WEST 214.36 FEET TO AN ANGLE POINT IN SAID SOUTHERLY LINE, BEING THE BEGINNING OF A NON-TANGENT 2,012.00-FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 56°38'45" WEST; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 2 AND ARC OF SAID CURVE,
18. NORTHWESTERLY 287.66 FEET THROUGH A CENTRAL ANGLE OF 08°11'30"; THENCE TANGENT TO SAID CURVE
19. NORTH 25°09'45" WEST 364.63 FEET ALONG SAID SOUTHWESTERLY LINE OF PARCEL 2 AND ITS NORTHWESTERLY PROLONGATION TO A POINT ON A 1,551.00-FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 73°23'11" EAST, BEING ALSO THE WESTERLY LINE OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN THE FINAL ORDER OF CONDEMNATION FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY APRIL 13, 1992 AS DOCUMENT NO 1992-0211197 OF O.R.; THENCE ALONG SAID WESTERLY LINE AND ARC OF SAID CURVE
20. NORTHERLY 443.13 FEET THROUGH A CENTRAL ANGLE OF 16°22'11" TO A POINT ON THE WESTERLY LINE OF PARCEL 2 OF SAID PARCEL MAP 16978.

;THENCE NON-TANGENT ALONG SAID
WESTERLY LINE

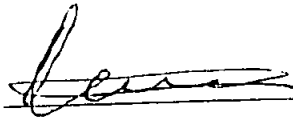
21. NORTH 00°23'48" WEST 34.28 FEET TO THE POINT OF BEGINNING.

CONTAINS 113,495 SQUARE FEET (2.61 ACRES), MORE OR LESS.

ATTACHED HERETO IS DRAWING NO. 36564-B LABELED AS EXHIBIT "B" AND BY THIS
REFERENCE MADE A PART HEREOF.

PREPARED BY:

ALTA LAND SURVEYING, INC.

 7/18/11

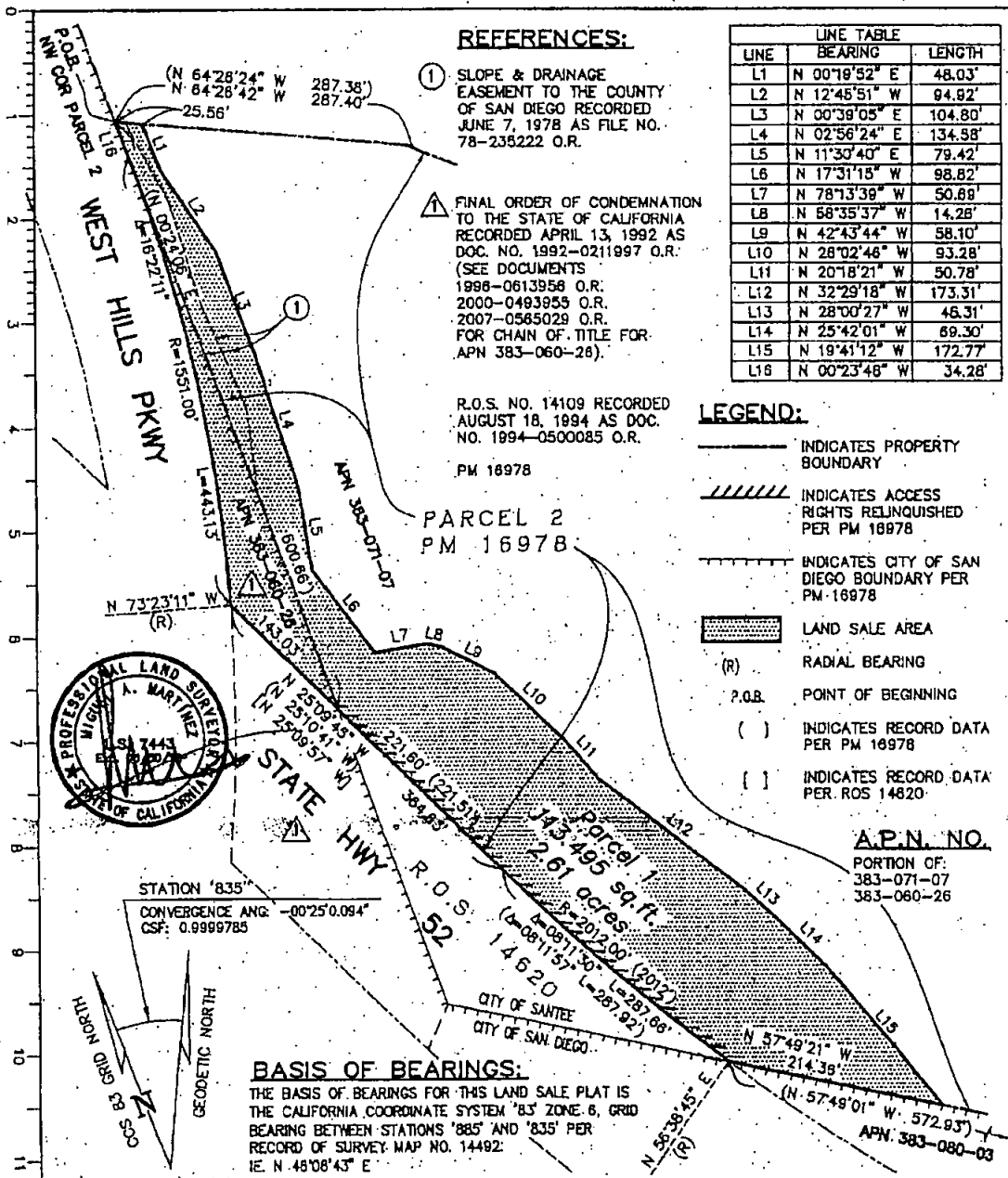
MIGUEL A. MARTINEZ

DATE

L.S. 7443

L.I.C. EXP. 06/30/12

Exhibit B to West Property Description



Alta Land Surveying

9517 GROSSMONT SUMMIT DR.
LA MESA, CA 91941
PHONE / FAX: (619) 579-2582
1830-B-SH-PM 18978.DWG JLN 10-1530 DATE 02/03/12



SCALE: 1" = 100'

LAND SALE PLAT

PORTIONS OF PARCEL 2, PM 18978, IN THE CITY OF SANTEE, COUNTY OF SAN DIEGO, AND OF TRACT 'O' & 'T' OF RANCHO EL CAJON, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA
ORIGINAL					
					SHEET 1 OF 1 SHEET
					<i>Gregory P. Hogue</i> 9-29-2012 FOR CITY ENGINEER DATE
					1886-6323 CCS 83 COORDINATES
					244-1783 LAMBERT COORDINATES
					36564-B

Exhibit D: Berm Property Description

LEGAL DESCRIPTION

PARCEL 1

THAT PORTION OF LOT 7 T-TRACT OF FANITA RANCHO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 790, FILED IN THE OFFICE OF SAN DIEGO COUNTY RECORDER ON DECEMBER 21, 1894, CONVEYED TO THE CITY OF SAN DIEGO BY DEED RECORDED ON FEBRUARY 16, 1933 IN BOOK 191, PAGE 287 OF OFFICIAL RECORDS OF SAID COUNTY RECORDER (APN 383-080-03), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN ANGLE POINT IN THE SOUTHWESTERLY LINE OF PARCEL 2 OF PARCEL MAP NO. 16978, IN THE CITY OF SANTEE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 19, 1992 AS INSTRUMENT NO. 1992-0665040 OF OFFICIAL RECORDS; BEING THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE (SOUTH 57°49'01"EAST, 572.93'); THENCE ALONG SAID SOUTHWESTERLY LINE

- | | | | |
|-----|------------------------|-------------|------------------------------------|
| 1. | SOUTH 57°49'21" EAST | 214.36 FEET | TO THE TRUE POINT OF BEGINNING |
| | (SOUTH 57°49'01" EAST, | | ;THENCE LEAVING SAID SOUTHWESTERLY |
| | PER PM 16978) | | LINE |
| 2. | SOUTH 44°49'17" EAST | 39.62 FEET | ;THENCE |
| 3. | SOUTH 48°42'40" EAST | 82.06 FEET | ;THENCE |
| 4. | SOUTH 34°03'28" EAST | 58.59 FEET | ;THENCE |
| 5. | SOUTH 81°02'26" EAST | 115.46 FEET | TO SAID SOUTHWESTERLY LINE OF |
| | | | PARCEL 2; THENCE ALONG SAID |
| | | | SOUTHWESTERLY LINE |
| 6. | NORTH 57°49'21" WEST | 59.71 FEET | ;THENCE LEAVING SAID SOUTHWESTERLY |
| | | | LINE |
| 7. | NORTH 82°40'13" WEST | 20.38 FEET | ;THENCE |
| 8. | SOUTH 78°19'56" WEST | 20.15 FEET | ;THENCE |
| 9. | NORTH 70°01'41" WEST | 12.66 FEET | ;THENCE |
| 10. | NORTH 36°09'44" WEST | 30.80 FEET | ;THENCE |
| 11. | NORTH 18°45'05" WEST | 17.20 FEET | ;THENCE |
| 12. | NORTH 17°34'51" WEST | 4.62 FEET | ;THENCE |
| 13. | NORTH 57°49'21" WEST | 128.73 FEET | TO THE TRUE POINT OF BEGINNING. |

CONTAINS 4,366.5 SQUARE FEET (0.100 ACRES), MORE OR LESS.

PARCEL 2

THOSE PORTIONS OF LOT 7 T-TRACT OF FANITA RANCHO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 790, FILED IN THE OFFICE OF SAN DIEGO COUNTY RECORDER ON DECEMBER 21, 1894, CONVEYED TO THE CITY OF SAN DIEGO BY DEED RECORDED ON FEBRUARY 16, 1933 IN BOOK 191, PAGE 287 OF OFFICIAL RECORDS OF SAID COUNTY RECORDER (APN 383-080-03), AND AS CONVEYED BY FANNIE MCKOON, ET AL TO NACKIE H. SCRIPPS, JANUARY 25, 1913 BY DEED RECORDED IN BOOK 597, PAGE 93 OF DEEDS (APN 383-080-04), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN ANGLE POINT IN THE SOUTHWESTERLY LINE OF PARCEL 2 OF PARCEL MAP NO. 16978, IN THE CITY OF SANTEE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 19, 1992 AS INSTRUMENT NO. 1992-0665040 OF OFFICIAL RECORDS; BEING THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE (SOUTH 57°49'01"EAST, 572.93'); THENCE ALONG SAID SOUTHWESTERLY LINE

- | | | | |
|-----|---------------------------------|------------------------|-------------------------------------|
| 1. | SOUTH 63°40'57" EAST | 18.25 FEET | TO THE TRUE POINT OF BEGINNING |
| | (REC. SOUTH 63°41'16" | | ; THENCE LEAVING SAID SOUTHWESTERLY |
| | EAST, PER PM 16978) | | LINE |
| 2. | SOUTH 56°20'32" EAST | 35.31 FEET | ; THENCE |
| 3. | SOUTH 42°28'24" EAST | 42.29 FEET | ; THENCE |
| 4. | SOUTH 49°03'27" EAST | 143.68 FEET | ; THENCE |
| 5. | SOUTH 62°40'49" EAST | 65.44 FEET | ; THENCE |
| 6. | SOUTH 70°16'34" EAST | 68.26 FEET | ; THENCE |
| 7. | SOUTH 48°50'21" EAST | 140.36 FEET | ; THENCE |
| 8. | SOUTH 72°44'45" EAST | 128.34 FEET | ; THENCE |
| 9. | SOUTH 80°33'38" EAST | 111.54 FEET | ; THENCE |
| 10. | SOUTH 81°25'50" EAST | 138.72 FEET | ; THENCE |
| 11. | NORTH 84°49'51" EAST | 82.64 FEET | ; THENCE |
| 12. | NORTH 79°08'42" EAST | 112.34 FEET | ; THENCE |
| 13. | NORTH 82°08'32" EAST | 216.39 FEET | ; THENCE |
| 14. | SOUTH 89°05'29" EAST | 200.13 FEET | ; THENCE |
| 15. | NORTH 85°08'59" EAST | 142.97 FEET | ; THENCE |
| 16. | NORTH 82°50'24" EAST | 122.70 FEET | ; THENCE |
| 17. | NORTH 85°34'14" EAST | 137.37 FEET | ; THENCE |
| 18. | NORTH 81°27'01" EAST | 152.38 FEET | ; THENCE |
| 19. | NORTH 67°58'13" EAST | 132.62 FEET | ; THENCE |

20.	NORTH 61°59'55" EAST	88.39 FEET ; THENCE
21.	NORTH 55°57'27" EAST	84.96 FEET ; THENCE
22.	NORTH 63°22'33" EAST	77.76 FEET ; THENCE
23.	NORTH 83°49'25" EAST	85.56 FEET ; THENCE
24.	SOUTH 77°10'21" EAST	209.10 FEET ; THENCE
25.	SOUTH 74°04'03" EAST	126.83 FEET ; THENCE
26.	SOUTH 81°39'31" EAST	200.09 FEET ; THENCE
27.	SOUTH 85°32'56" EAST	76.47 FEET ; THENCE
28.	SOUTH 78°53'08" EAST	94.95 FEET ; THENCE
29.	NORTH 06°32'44" EAST	13.87 FEET ; THENCE
30.	SOUTH 78°39'24" EAST	48.97 FEET ; THENCE
31.	SOUTH 77°39'54" EAST	66.27 FEET TO THE BEGINNING OF A NON-TANGENT 1160.21 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 12°14'03" EAST; THENCE ALONG THE ARC OF SAID CURVE
32.	EASTERLY	189.96 FEET THROUGH A CENTRAL ANGLE OF 09°22'51" ;THENCE
33.	SOUTH 85°05'03" EAST	6.03 FEET ; THENCE
34.	SOUTH 01°03'33" EAST	13.00 FEET ; THENCE
35.	SOUTH 82°51'55" EAST	9.46 FEET ; THENCE
36.	SOUTH 86°51'43" EAST	96.46 FEET ; THENCE
37.	NORTH 86°51'59" EAST	68.24 FEET ; THENCE
38.	NORTH 80°40'30" EAST	72.02 FEET ; THENCE
39.	NORTH 75°30'50" EAST	182.84 FEET ; THENCE
40.	NORTH 67°47'03" EAST	203.11 FEET ; THENCE
41.	NORTH 69°19'04" EAST	89.48 FEET ; THENCE
42.	NORTH 66°21'01" EAST	157.19 FEET ; THENCE
43.	NORTH 65°56'17" EAST	97.76 FEET ; THENCE
44.	NORTH 51°56'14" EAST	132.14 FEET ; THENCE
45.	NORTH 53°15'50" EAST	108.24 FEET ; THENCE
46.	NORTH 51°35'54" EAST	87.13 FEET ; THENCE
48.	NORTH 53°32'20" EAST	78.43 FEET ; THENCE
49.	NORTH 45°25'46" EAST	76.52 FEET ; THENCE

50.	NORTH 52°28'16" EAST	44.65 FEET ;	THENCE
51.	NORTH 44°24'31" EAST	56.94 FEET ;	THENCE
52.	NORTH 61°57'19" EAST	27.74 FEET	TO A POINT ON THE WEST LINE OF PARCEL 2 OF PARCEL MAP 16978, SAID POINT DISTANT 185.52 FEET FROM THE SOUTHWEST CORNER THEREOF; THENCE ALONG SAID WEST LINE
53.	NORTH 00°29'09" EAST	65.30 FEET ;	THENCE LEAVING SAID WEST LINE
54.	SOUTH 32°35'30" WEST	19.79 FEET ;	THENCE
55.	SOUTH 52°41'23" WEST	38.37 FEET ;	THENCE
56.	SOUTH 50°57'18" WEST	136.12 FEET ;	THENCE
57.	SOUTH 49°28'23" WEST	56.34 FEET ;	THENCE
58.	SOUTH 49°31'12" WEST	82.94 FEET ;	THENCE
59.	SOUTH 55°17'15" WEST	29.01 FEET ;	THENCE
60.	SOUTH 51°26'47" WEST	10.53 FEET ;	THENCE
61.	SOUTH 77°23'25" WEST	11.59 FEET ;	THENCE
62.	SOUTH 43°49'26" WEST	8.88 FEET ;	THENCE
63.	SOUTH 56°38'51" WEST	30.57 FEET ;	THENCE
64.	SOUTH 56°57'03" WEST	36.35 FEET	TO THE BEGINNING OF A NON-TANGENT 6.80' FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 43°11'54" EAST; THENCE ALONG THE ARC OF SAID CURVE
65.	SOUTHERLY AND SOUTHWESTERLY	8.75 FEET	THROUGH A CENTRAL ANGLE OF 73°42'34" TO THE BEGINNING OF A NON-TANGENT 173.41 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 55°56'12" EAST; THENCE ALONG THE ARC OF SAID CURVE
66.	SOUTHWESTERLY	59.16 FEET	THROUGH A CENTRAL ANGLE OF 19°32'54" ; THENCE
67.	SOUTH 59°01'52" WEST	23.83 FEET ;	THENCE
68.	SOUTH 39°28'19" WEST	23.83 FEET ;	THENCE
69.	SOUTH 59°55'29" WEST	96.37 FEET ;	THENCE
70.	SOUTH 60°04'30" WEST	80.59 FEET ;	THENCE

71.	SOUTH 67°40'37" WEST	39.43 FEET ;	THENCE
72.	SOUTH 62°21'01" WEST	53.90 FEET ;	THENCE
73.	SOUTH 66°36'26" WEST	52.77 FEET ;	THENCE
74.	SOUTH 63°52'31" WEST	21.19 FEET ;	THENCE
75.	SOUTH 69°27'18" WEST	41.46 FEET ;	THENCE
76.	SOUTH 71°24'44" WEST	71.88 FEET ;	THENCE
77.	SOUTH 69°24'56" WEST	63.54 FEET ;	THENCE
78.	SOUTH 67°37'23" WEST	52.23 FEET	TO THE BEGINNING OF A NON-TANGENT 36.27 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 28°36'54" EAST; THENCE ALONG THE ARC OF SAID CURVE
79.	WESTERLY	21.18 FEET	THROUGH A CENTRAL ANGLE OF 33°27'12"
80.	SOUTH 70°04'47" WEST	22.08 FEET ;	THENCE
81.	SOUTH 72°24'29" WEST	36.71 FEET ;	THENCE
82.	SOUTH 74°05'16" WEST	13.44 FEET ;	THENCE
83.	SOUTH 76°44'50" WEST	50.28 FEET ;	THENCE
84.	SOUTH 72°42'09" WEST	61.09 FEET ;	THENCE
85.	SOUTH 78°22'21" WEST	57.49 FEET ;	THENCE
86.	SOUTH 80°25'33" WEST	51.94 FEET ;	THENCE
87.	NORTH 88°44'39" WEST	52.80 FEET ;	THENCE
88.	NORTH 87°24'50" WEST	80.66 FEET ;	THENCE
89.	NORTH 79°40'26" WEST	59.86 FEET ;	THENCE
90.	NORTH 85°51'10" WEST	55.03 FEET ;	THENCE
91.	NORTH 69°56'17" WEST	19.59 FEET ;	THENCE
92.	NORTH 84°55'28" WEST	68.89 FEET ;	THENCE
93.	NORTH 78°26'58" WEST	157.74 FEET	TO THE BEGINNING OF A NON-TANGENT 1265.67 FOOT RADIUS CURVE CONCAVE SOUTHERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 11°16'00" EAST; THENCE ALONG THE ARC OF SAID CURVE
94.	WESTERLY	164.82	THROUGH A CENTRAL ANGLE OF 07°27'41"
95.	NORTH 82°17'35" WEST	95.43 FEET ;	THENCE
96.	NORTH 79°56'00" WEST	34.81 FEET ;	THENCE

97.	NORTH 58°25'45" WEST	20.71 FEET ; THENCE
98.	NORTH 85°09'55" WEST	57.09 FEET ; THENCE
99.	NORTH 79°15'18" WEST	71.37 FEET ; THENCE
100.	NORTH 73°24'19" WEST	62.85 FEET ; THENCE
101.	NORTH 77°05'05" WEST	43.97 FEET ; THENCE
102.	NORTH 72°42'35" WEST	54.12 FEET ; THENCE
103.	NORTH 72°40'26" WEST	73.44 FEET ; THENCE
104.	SOUTH 78°59'04" WEST	46.99 FEET ; THENCE
105.	SOUTH 79°51'59" WEST	31.00 FEET ; THENCE
106.	SOUTH 69°36'38" WEST	40.78 FEET ; THENCE
107.	SOUTH 71°38'00" WEST	30.14 FEET ; THENCE
108.	SOUTH 62°20'24" WEST	52.15 FEET ; THENCE
109.	SOUTH 65°07'03" WEST	52.15 FEET ; THENCE
110.	SOUTH 69°25'16" WEST	35.55 FEET ; THENCE
111.	SOUTH 64°13'43" WEST	35.55 FEET ; THENCE
112.	SOUTH 69°06'54" WEST	95.05 FEET ; THENCE
113.	SOUTH 40°15'52" WEST	26.47 FEET ; THENCE
114.	SOUTH 58°42'49" WEST	39.23 FEET ; THENCE
115.	SOUTH 81°23'50" WEST	117.75 FEET ; THENCE
116.	SOUTH 84°23'25" WEST	122.74 FEET ; THENCE
117.	SOUTH 86°40'47" WEST	96.64 FEET ; THENCE
118.	SOUTH 82°48'03" WEST	79.66 FEET ; THENCE
119.	SOUTH 77°40'52" WEST	67.99 FEET ; THENCE
120.	SOUTH 85°09'23" WEST	44.22 FEET ; THENCE
121.	SOUTH 86°15'30" WEST	67.34 FEET ; THENCE
122.	NORTH 84°17'16" WEST	67.34 FEET ; THENCE
123.	SOUTH 89°31'01" WEST	95.74 FEET ; THENCE
124.	SOUTH 74°02'07" WEST	39.21 FEET ; THENCE
125.	SOUTH 80°30'33" WEST	57.92 FEET ; THENCE
126.	SOUTH 82°16'56" WEST	98.89 FEET ; THENCE
127.	SOUTH 76°21'17" WEST	25.32 FEET ; THENCE
128.	SOUTH 44°22'47" WEST	5.47 FEET ; THENCE
129.	SOUTH 78°23'14" WEST	65.08 FEET ; THENCE
130.	SOUTH 87°07'30" WEST	49.61 FEET ; THENCE

- | | | |
|------|----------------------|---|
| 131. | NORTH 83°26'54" WEST | 44.42 FEET ; THENCE |
| 132. | NORTH 87°34'22" WEST | 32.93 FEET TO A POINT ON THE SOUTHERLY LINE OF
PARCEL 2 OF SAID PARCEL MAP 16978;
THENCE ALONG SAID SOUTHERLY LINE |
| 133. | SOUTH 72°35'38" WEST | 57.00 FEET TO AN ANGLE POINT IN SAID SOUTHERLY
LINE, BEING THE SOUTHWESTERLY
TERMINUS OF THAT CERTAIN COURSE
(NORTH 72°36'14" EAST, 695.06' PER PM
16978); THENCE CONTINUING ALONG SAID
SOUTHERLY LINE |
| 134. | NORTH 63°40'57" WEST | 53.29 FEET ; THENCE LEAVING SAID SOUTHERLY LINE |
| 135. | NORTH 82°47'18" WEST | 72.17 FEET ; THENCE |
| 136. | NORTH 78°39'09" WEST | 55.89 FEET ; THENCE |
| 137. | NORTH 70°13'51" WEST | 55.89 FEET ; THENCE |
| 138. | NORTH 63°02'38" WEST | 62.51 FEET ; THENCE |
| 139. | NORTH 50°51'57" WEST | 62.51 FEET ; THENCE |
| 140. | NORTH 51°14'53" WEST | 55.69 FEET ; THENCE |
| 141. | NORTH 60°59'04" WEST | 55.69 FEET ; THENCE |
| 142. | NORTH 74°38'10" WEST | 59.37 FEET ; THENCE |
| 143. | NORTH 51°40'02" WEST | 38.01 FEET ; THENCE |
| 144. | NORTH 11°03'21" EAST | 18.90 FEET ; THENCE |
| 145. | NORTH 75°10'38" WEST | 41.03 FEET ; THENCE |
| 146. | NORTH 47°21'19" WEST | 11.59 FEET ; THENCE |
| 147. | NORTH 56°42'31" WEST | 35.56 FEET ; THENCE |
| 148. | NORTH 48°10'10" WEST | 3.70 FEET ; THENCE |
| 149. | NORTH 63°40'57" WEST | 109.83 FEET TO THE TRUE POINT OF BEGINNING. |

CONTAINS 202,185.8 SQUARE FEET (4.642 ACRES), MORE OR LESS.

PARCEL 3

THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 16978 IN THE CITY OF SANTEE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 19, 1992 AS INSTRUMENT NO. 1992-0665040 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN ANGLE POINT IN THE SOUTHWESTERLY LINE OF SAID PARCEL 2 OF PARCEL MAP NO. 16978, BEING THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE (SOUTH 57°49'01"EAST, 572.93'); THENCE ALONG SAID SOUTHWESTERLY LINE FROM SAID ANGLE POINT

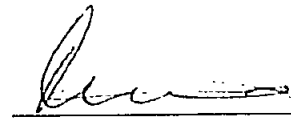
1. SOUTH 63°40'16" EAST 18.25 FEET TO THE TRUE POINT OF BEGINNING
(SOUTH 63°41'57" EAST, ;THENCE CONTINUING ALONG SAID
PER PM 16978) SOUTHWESTERLY
2. SOUTH 63°40'57" EAST 109.83 FEET ; THENCE LEAVING SAID SOUTHWESTERLY
LINE
3. NORTH 48°10'10" WEST 15.31 FEET ; THENCE
4. NORTH 33°32'43" WEST 27.97 FEET ; THENCE
5. NORTH 79°31'40" WEST 14.36 FEET TO THE BEGINNING OF A NON-TANGENT
50.18-FOOT RADIUS CURVE CONCAVE
NORTHEASTERLY, A RADIAL LINE TO SAID
POINT BEARS SOUTH 05°11'30" WEST;
THENCE ALONG THE ARC OF SAID CURVE
6. WESTERLY AND 37.75 FEET THROUGH A CENTRAL ANGLE OF 43°06'23"
NORTHWESTERLY TO THE BEGINNING OF A COMPOUND
215.56- FOOT RADIUS CURVE CONCAVE
NORTHEASTERLY; THENCE ALONG THE
ARC OF SAID CURVE
7. NORTHWESTERLY 25.10 FEET THROUGH A CENTRAL ANGLE OF 06°40'22"
;THENCE NON-TANGENT TO SAID CURVE
8. NORTH 53°59'39" WEST 24.52 FEET ; THENCE
9. NORTH 62°10'05" WEST 24.52 FEET ; THENCE
10. NORTH 85°24'32" WEST 19.50 FEET ; THENCE
11. NORTH 82°40'13" WEST 55.89 FEET TO A POINT ON THE SOUTHWESTERLY
LINE OF SAID PARCEL 2 OF PARCEL MAP
16978; THENCE ALONG SAID
SOUTHWESTERLY LINE

12. SOUTH 57°49'21" EAST 59.71 FEET ; THENCE LEAVING SAID SOUTHWESTERLY
LINE
13. SOUTH 81°02'26" EAST 10.50 FEET ; THENCE
14. SOUTH 56°20'32" EAST 88.12 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINS 5,144.70 SQUARE FEET (0.118 ACRE), MORE OR LESS.

ATTACHED HERETO IS DRAWING NO. 36567-B LABELED AS EXHIBIT "B" (4 SHEETS) AND BY
THIS REFERENCE MADE A PART HEREOF.

PREPARED BY:

ALTA LAND SURVEYING, INC.

 07/18/11

MIGUEL A. MARTINEZ DATE

L.S. 7443

LIC. EXP. 06/30/12

LINE TABLE		
LINE	BEARING	LENGTH
L11	N 56°20'32" W	39.31'
L12	N 42°28'24" W	42.29'
L13	N 49°03'27" W	143.88'
L14	N 62°48'49" W	85.44'
L15	N 70°18'34" W	88.28'
L16	N 48°30'21" W	140.36'
L17	N 72°44'46" W	126.34'
L18	N 80°33'38" W	111.54'
L19	N 81°28'50" W	138.72'
L20	N 84°49'51" E	82.84'
L21	N 78°08'42" E	112.34'
L22	N 82°08'32" E	216.35'
L23	N 89°05'29" W	200.13'
L24	N 85°08'59" E	142.97'
L25	N 82°50'24" E	122.70'

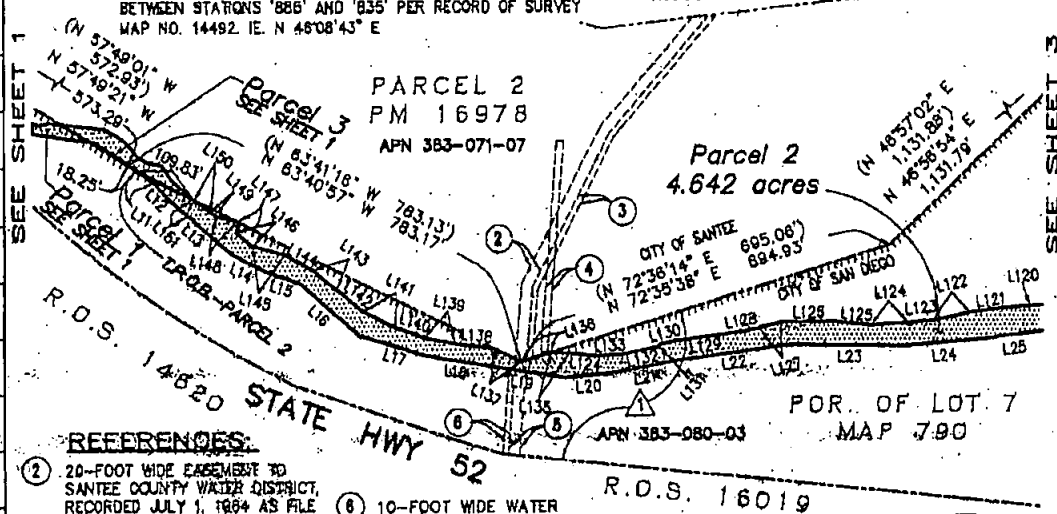
LINE TABLE		
LINE	BEARING	LENGTH
L120	N 86°40'47" E	98.84'
L121	N 82°48'03" E	78.88'
L122	N 77°49'52" E	67.99'
L123	N 89°09'23" E	44.22'
L124	N 88°15'30" E	87.34'
L125	N 84°17'18" W	67.34'
L126	N 89°31'01" E	95.74'
L127	N 74°02'07" E	39.21'
L128	N 80°30'33" E	57.82'
L129	N 82°18'56" E	98.89'
L130	N 78°21'17" E	23.32'
L131	N 44°22'47" E	3.47'
L132	N 78°23'14" E	65.08'
L133	N 87°07'30" E	48.81'
L134	N 83°26'54" W	44.42'
L135	N 87°34'22" W	32.93'

LINE TABLE		
LINE	BEARING	LENGTH
L138	N 72°35'38" E	57.00'
L137	N 83°40'57" W	53.28'
L136	N 82°47'18" W	72.17'
L135	N 78°39'09" W	89.89'
L140	N 70°33'51" W	56.89'
L141	N 83°02'38" W	82.51'
L142	N 50°31'57" W	82.81'
L143	N 81°14'33" W	55.89'
L144	N 80°59'04" W	56.69'
L145	N 74°38'10" W	89.37'
L146	N 81°40'02" W	38.01'
L147	N 113°32'1" E	18.90'
L148	N 75°10'38" W	41.03'
L149	N 47°21'19" W	11.59'
L150	N 56°42'31" W	35.56'
L151	N 48°10'10" W	3.70'

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS PLAT IS THE CALIFORNIA COORDINATE SYSTEM '83' ZONE 8, GRID BEARING BETWEEN STATIONS '886' AND '835' PER RECORD OF SURVEY MAP NO. 14492. IE. N 45°08'43" E

MAP 6978

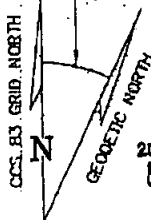


REFERENCES:

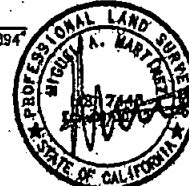
- ② 20-FOOT WIDE EASEMENT TO SANTEE COUNTY WATER DISTRICT, RECORDED JULY 1, 1984 AS FILE NO. 118613, O.R.
- ③ 10-FOOT WIDE EASEMENT TO SANTEE COUNTY WATER DISTRICT, RECORDED MAY 7, 1971 AS FILE NO. 95224, O.R.
- ④ 12-FOOT WIDE EASEMENT TO S.D.G.&E. RECORDED FEB. 18, 1988 IN BK. 7504, PG. 247, O.R.
- ⑤ 20-FOOT WIDE SEWER EASEMENT TO SANTEE COUNTY WATER DISTRICT PER DOC. RECORDED DEC. 11, 1958 IN BK. 7392, PG. 215, O.R.
- ⑥ 10-FOOT WIDE WATER EASEMENT TO CARLTON SANTEE CORP. PER DOC. RECORDED OCT. 4, 1982 AS FILE/PG. NO. 171434, O.R.
- ⑦ GRANT DEED TO THE CITY OF SAN DIEGO, REG. FEBRUARY 14, 1933 IN BOOK 191, PAGE 287 OF O.R. (PORTION)

STATION '835'

CONVERGENCE ANG. -00°25'0.094"
CSF: 0.9999785



SCALE: 1" = 200'



Alta Land Surveying
9517 GROSSMONT SUMMIT DR.
LA MESA, CA 91841
PHONE / FAX: (619) 528-2582
1830-B-SUTZ TRAILING LN. 1D-183D DATE 7/12/11

PORTIONS OF LOT 7 TRACT 'F' OF FANITA RANCHO, MAP 790, AND A PORTION OF PARCEL 2 OF PARCEL, MAP 16978, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

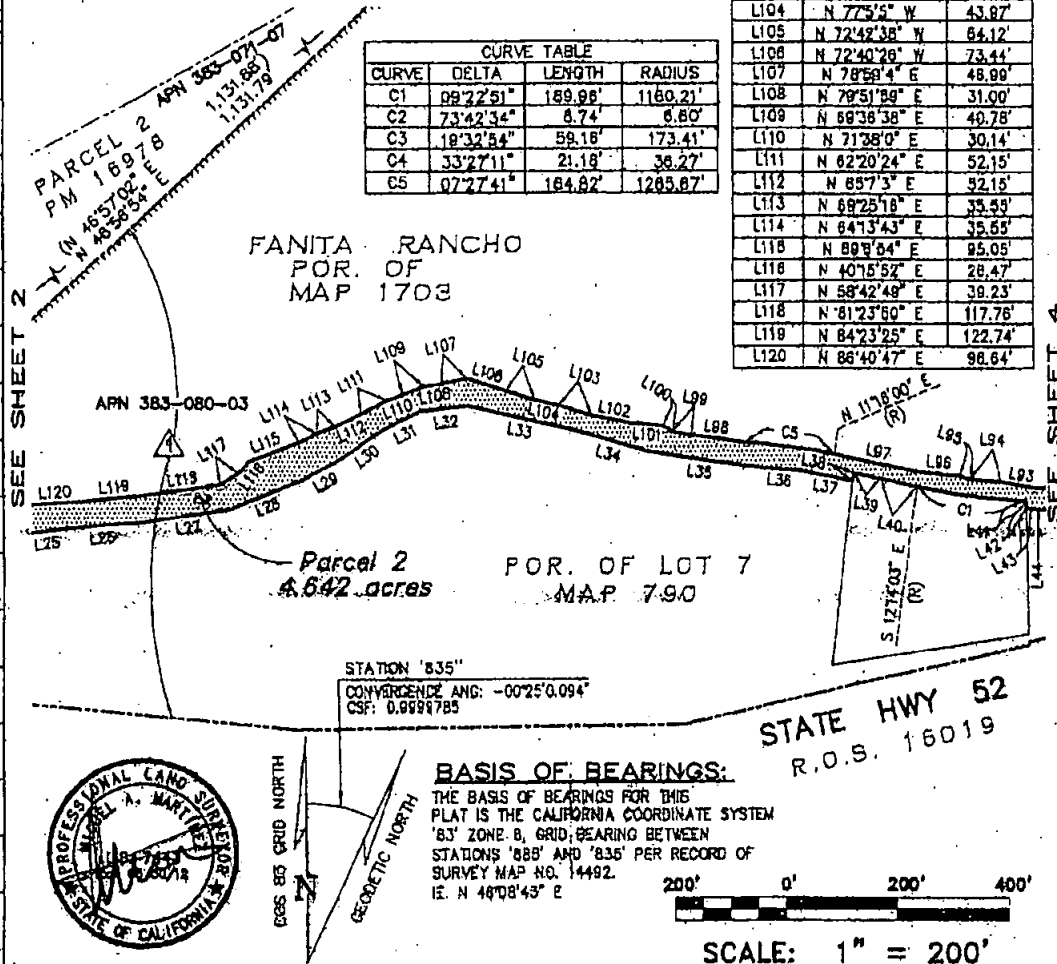
DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL					SHEET 2 OF 4 SHEETS	
					FOR CITY ENGINEER: <i>Gregory J. Hoffman</i> 8-18-2011	
					DATE	
					1884-8323	
					C.S. 83 COORDINATES	
					244-1763	
					LAMBERT COORDINATES	
					36567-2-B	

LINE TABLE		
LINE	BEARING	LENGTH
L25	N 82°50'24" E	122.70'
L26	N 85°34'14" E	137.37'
L27	N 81°27'1" E	152.38'
L28	N 87°38'13" E	132.62'
L29	N 81°59'55" E	88.39'
L30	N 55°37'27" E	84.86'
L31	N 63°22'33" E	77.76'
L32	N 83°49'25" E	85.86'
L33	N 72°10'21" W	209.10'
L34	N 74°4'3" W	126.83'

LINE TABLE		
LINE	BEARING	LENGTH
L35	N 81°38'31" W	200.08'
L36	N 85°32'58" W	76.47'
L37	N 78°55'8" W	94.85'
L38	N 63°24'4" E	13.87'
L39	N 78°38'24" W	48.97'
L40	N 77°39'54" W	85.27'
L41	N 85°3'3" W	6.03'
L42	N 1°33'3" W	13.00'
L43	N 82°51'59" W	9.48'
L44	N 86°31'43" W	98.45'

LINE TABLE		
LINE	BEARING	LENGTH
L93	N 79°40'28" W	89.86'
L94	N 85°51'10" W	55.03'
L95	N 89°58'17" W	18.59'
L96	N 84°33'28" W	68.89'
L97	N 76°28'36" W	157.74'
L98	N 82°17'36" W	95.43'
L99	N 78°56'0" W	34.81'
L100	N 88°28'45" W	20.71'
L101	N 89°3'55" W	57.09'
L102	N 78°15'18" W	71.37'
L103	N 73°24'19" W	82.85'
L104	N 77°5'5" W	43.87'
L105	N 72°42'38" W	64.12'
L106	N 72°40'26" W	73.44'
L107	N 78°59'4" E	48.99'
L108	N 79°51'59" E	31.00'
L109	N 89°38'38" E	49.78'
L110	N 71°38'0" E	30.14'
L111	N 82°20'24" E	52.15'
L112	N 85°7'3" E	32.15'
L113	N 88°25'18" E	33.53'
L114	N 84°13'43" E	35.55'
L115	N 89°3'54" E	25.05'
L116	N 40°15'52" E	28.47'
L117	N 58°42'48" E	39.23'
L118	N 81°23'50" E	117.76'
L119	N 84°23'25" E	122.74'
L120	N 86°40'47" E	98.64'

CURVE TABLE			
CURVE	DELTA	LENGTH	RADIUS
C1	09°22'51"	189.96'	1160.21'
C2	73°42'34"	8.74'	6.80'
C3	18°32'54"	59.16'	173.41'
C4	33°27'11"	21.18'	36.27'
C5	07°27'41"	184.82'	1285.87'



Alta Land Surveying
 9517 GROSSMONT SUMMIT DR.
 LA MECA, CA 91841
 PHONE / FAX: (818) 579-2882
 1830-B-SHA TRAILING LN. 10-1830 DATE 2/13/11

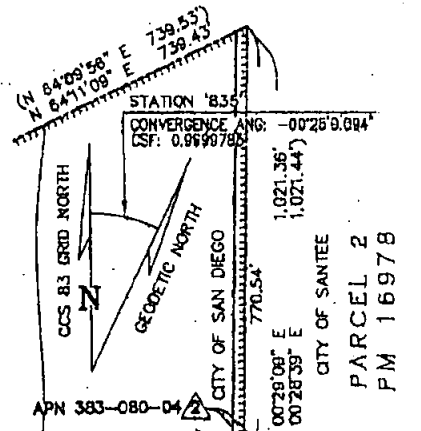
PORTIONS OF LOT 7 TRACT T OF FANITA RANCHO, MAP 790, AND A PORTION OF PARCEL 2 OF PARCEL MAP 1897B, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA
ORIGINAL	AM		1/8/17/2011		
					SHEET 3 OF 4 SHEETS
					George R. Thompson 8-18-2011 FOR CRY ENGINEER DATE
					1884-6323 GCS 83 COORDINATES
					244-1783 LAMBERT COORDINATES
					38567-3-B

LINE TABLE		
LINE	BEARING	LENGTH
L41	N 88°05'03" W	8.03'
L42	N 01°53'33" W	13.00'
L43	N 82°51'55" W	9.48'
L44	N 88°51'43" W	98.48'
L45	N 86°51'59" E	88.84'
L46	N 80°40'30" E	72.02'
L47	N 75°30'50" E	182.84'
L48	N 87°47'03" E	203.11'
L49	N 88°19'04" E	89.48'
L50	N 88°21'01" E	157.19'
L51	N 88°58'17" E	97.78'
L52	N 51°58'14" E	132.14'
L53	N 53°19'50" E	108.24'
L54	N 51°35'54" E	87.13'
L55	N 53°32'20" E	78.43'
L56	N 45°25'48" E	76.92'
L57	N 52°28'16" E	44.69'
L58	N 44°24'31" E	58.94'
L59	N 61°57'19" E	27.74'
L60	N 00°28'09" E	86.30'
L61	N 32°35'30" E	19.79'
L62	N 82°41'23" E	38.37'
L63	N 80°57'18" E	138.12'
L64	N 49°28'23" E	58.34'
L65	N 49°31'12" E	82.04'
L66	N 85°17'15" E	29.01'
L67	N 51°28'47" E	10.53'
L68	N 77°23'25" E	11.98'
L69	N 43°49'28" E	8.88'
L70	N 58°38'51" E	30.57'
L71	N 58°57'03" E	28.35'
L72	N 59°01'22" E	23.83'

LINE TABLE		
LINE	BEARING	LENGTH
L73	N 38°28'19" E	23.83'
L74	N 69°56'29" E	98.37'
L75	N 80°04'30" E	80.99'
L76	N 87°40'37" E	38.43'
L77	N 82°21'01" E	53.90'
L78	N 88°38'28" E	52.77'
L79	N 83°52'31" E	21.19'
L80	N 68°27'18" E	41.46'
L81	N 71°24'44" E	71.88'
L82	N 68°28'58" E	83.54'
L83	N 87°37'23" E	52.83'
L84	N 70°04'47" E	22.08'
L85	N 72°24'28" E	38.71'
L86	N 74°05'16" E	13.44'
L87	N 78°44'50" E	50.28'
L88	N 72°42'09" E	61.09'
L89	N 78°22'21" E	57.49'
L90	N 80°25'33" E	91.94'
L91	N 88°44'39" W	52.80'
L92	N 87°24'50" W	80.88'
L93	N 78°45'28" W	59.88'
L94	N 85°51'10" W	55.03'

PARCEL 2
PM 16978
APN 383-071-07



FANITA RANCHO
TRACT T
MAP 790

APN 383-080-03

LOT 1
MAP 1703

Parcel 2
4.642 acres

POR. OF LOT 7
MAP 790

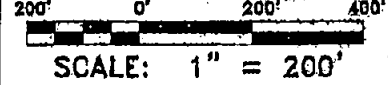
WEST RAMP
STATE HWY 52
ROB 16019

REFERENCES:

GRANT DEED TO THE CITY OF
SAN DIEGO, REC: FEBRUARY
16, 1933 IN BOOK 181, PAGE
283 OF O.R. (PORTION)

GRANT DEED TO THE CITY OF
SAN DIEGO, REC: JANUARY
25, 1913 IN BOOK 597, PAGE
93 OF DEEDS (PORTION)

CURVE TABLE			
CURVE	DELTA	LENGTH	RADIUS
C1	08°22'3"	189.96'	1160.21'
C2	73°42'34"	8.75'	6.80'
C3	18°32'54"	88.16'	173.41'
C4	33°27'12"	21.18'	36.27'
C5	07°27'41"	164.82'	1265.87'



SCALE: 1" = 200'



Alta Land Surveying

9517 GROSSMONT SUMMIT DR.
LA MESA, CA 91941
PHONE / FAX: (619) 578-2582
1930-B-SHT4 TRAILING JLN 10-1930 DATE 7/18/11

PORTIONS OF LOT 7 TRACT 'T' OF FANITA RANCHO, MAP 790, AND A PORTION OF PARCEL 2
OF PARCEL MAP 16978, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL	DE	V. 8/17/2011			SHEET 4 OF 4 SHEETS	
					1884-6323	
					CCS 83 COORDINATES	
					244-1783	
					LAMBERT COORDINATES	
					36567-4-8	

Exhibit E: ACOE Mitigation Area

**MITIGATION SITE
FANITA RANCHO TRACT T LOT 7**

APN: 383-080-03

That portion of Lot 7 in "T" Tract of Fanita Rancho, as shown on Map 790, Filed in the office of the County of San Diego Recorder, December 21, 1894, City of San Diego, County of San Diego, State of California, described as follows:

Commencing at the City of San Diego Horizontal Control Station GPS 885, having a coordinate value of North 1,883,938.18 East 6,323,439.44 based on the North American Datum of 1983 (NAD 83), as shown on Record of Survey No. 14492, filed in the office of the County Recorder of the above said San Diego County on 3/31/1994, said station bears South 46°08'43" West 7,403.25 feet from City of San Diego horizontal Control Station GPS 835, having a coordinate value of North 1,889,067.39 East 6,328,777.91 as shown on said Record of Survey No. 14492; Thence North 76°10'34" East 4,580.90 feet to the **POINT OF BEGINNING**; Thence North 06°32'44" East 339.05 feet to a point which bears South 12°58'09" West 3,794.61 feet from said City of San Diego horizontal Control Station GPS 835; Thence South 78°28'03" East 174.46 feet; Thence South 83°17'52" East 137.12 feet; Thence South 01°03'33" East 231.59 feet to a point which bears North 06°10'14" West 19.00 feet, Found Lead and Disk CALDOT, said monument being the Easterly terminus of a line bearing North 77°17'25" East 634.49 feet as shown on California Division of Highways Record of Survey 16019, Filed in the office of the County of San Diego Recorder, January 8, 1999, said line also being the Northerly Right of Way of State Route 52; Thence South 81°09'56" West 354.25 feet to the **POINT OF BEGINNING**.

Above parcel of land contains 92,343.8611 Sq. Ft. (2.1199 acres).

City of San Diego drawing # 20679 - B attached and by this reference made a part hereof.

The bearings and distances used in the above description are on the California Coordinate System 1983, Zone 6. Multiply all distances used in this description by 0.99997846 to obtain ground level distances per City of San Diego Horizontal Control Station GPS 885 as shown on Record of Survey 14492.

Ronald J. Dodds 6/08/2011

Ronald J. Dodds, LS No. 5771
Senior Land Surveyor, Field Engineering
City of San Diego My Registration Expires 06/30/2012

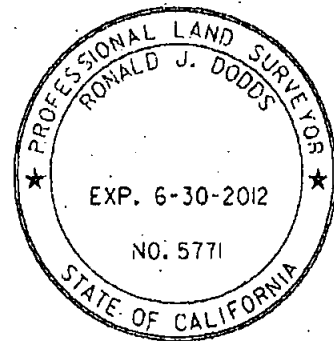
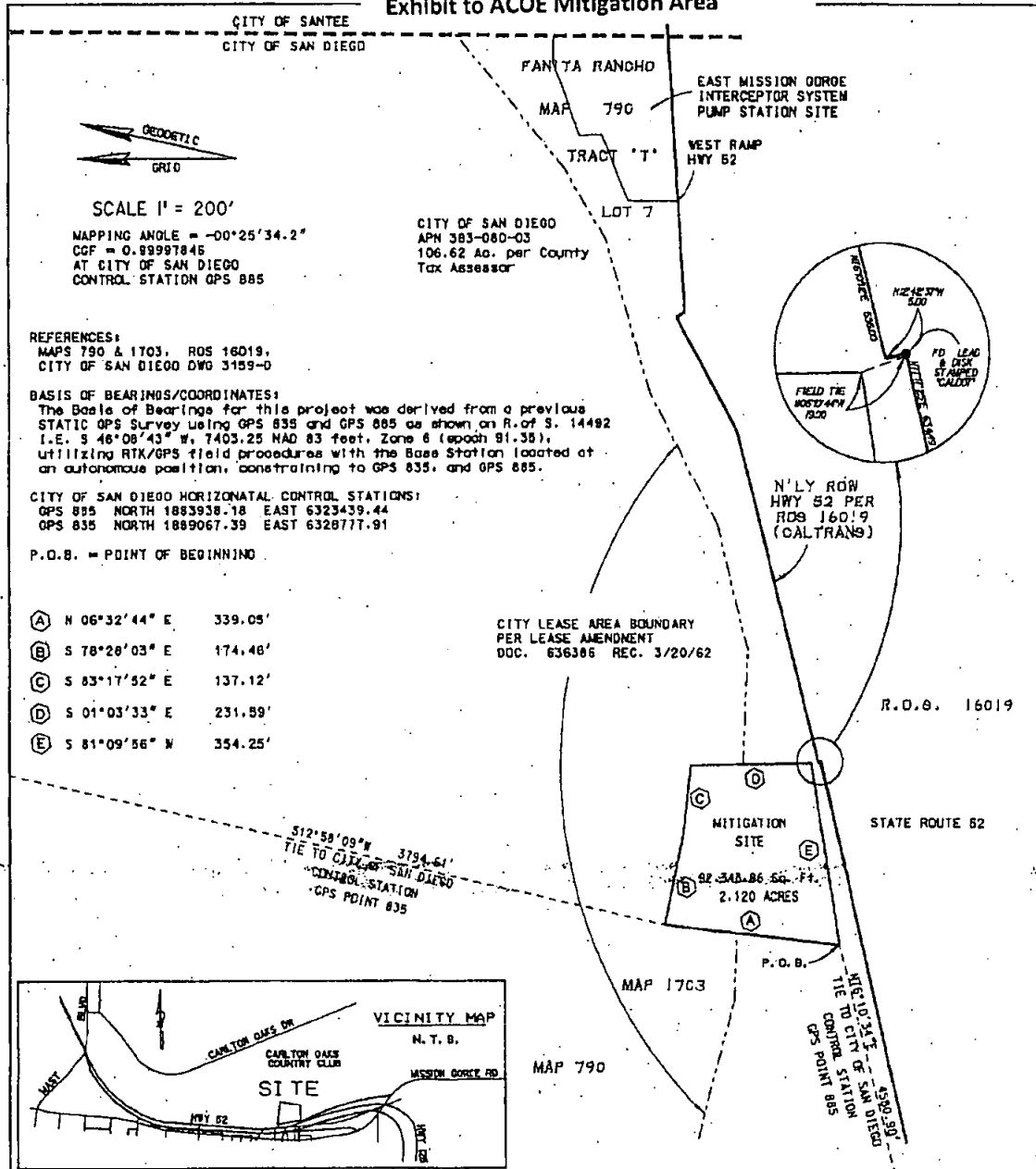


Exhibit to ACOE Mitigation Area



REFERENCES:

MAPS 790 & 1703, RDS 16019,
CITY OF SAN DIEGO DWG 3159-0

BASIS OF BEARINGS/COORDINATES:

The Basis of Bearings for this project was derived from a previous
STATIC GPS Survey using GPS 835 and GPS 885 as shown on R. of S. 14492
I.E. S 46°08'43" W, 7403.25 NAD 83 feet, Zone 6 (epoch 91.38),
utilizing RTK/GPS field procedures with the Base Station located at
an autonomous position, constraining to GPS 835, and GPS 885.

CITY OF SAN DIEGO HORIZONTAL CONTROL STATIONS:

GPS 885 NORTH 1883938.18 EAST 6323439.44
GPS 835 NORTH 1889067.39 EAST 6328777.91

P.O.B. = POINT OF BEGINNING

- (A) N 06°32'44" E 339.05'
- (B) S 78°28'03" E 174.48'
- (C) S 83°17'52" E 137.12'
- (D) S 01°03'33" E 231.89'
- (E) S 81°09'56" W 354.25'

CITY LEASE AREA BOUNDARY
PER LEASE AMENDMENT
DOC. 636386 REC. 3/20/62

R.O.G. 16019

STATE ROUTE 52

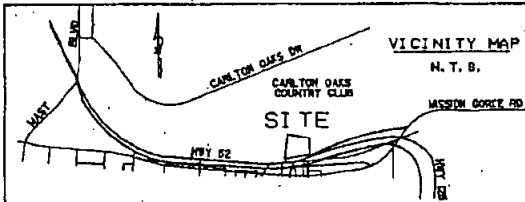
MITIGATION SITE

2.120 ACRES

P.O.B.

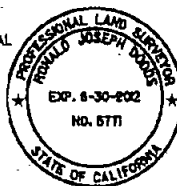
MAP 17C3

MAP 790



PREPARED BY:

CITY OF SAN DIEGO ENGINEERING AND CAPITAL
PROJECTS DEPARTMENT, FIELD DIVISION,
SURVEY SECTION, UNDER THE DIRECTION
OF RONALD J. DODDS,
SENIOR LAND SURVEYOR, PLS 5771



Ronald J. Dodds 6/08/2011
DATE

RESOLUTION NO. _____

ADOPTED: _____

F/P: _____

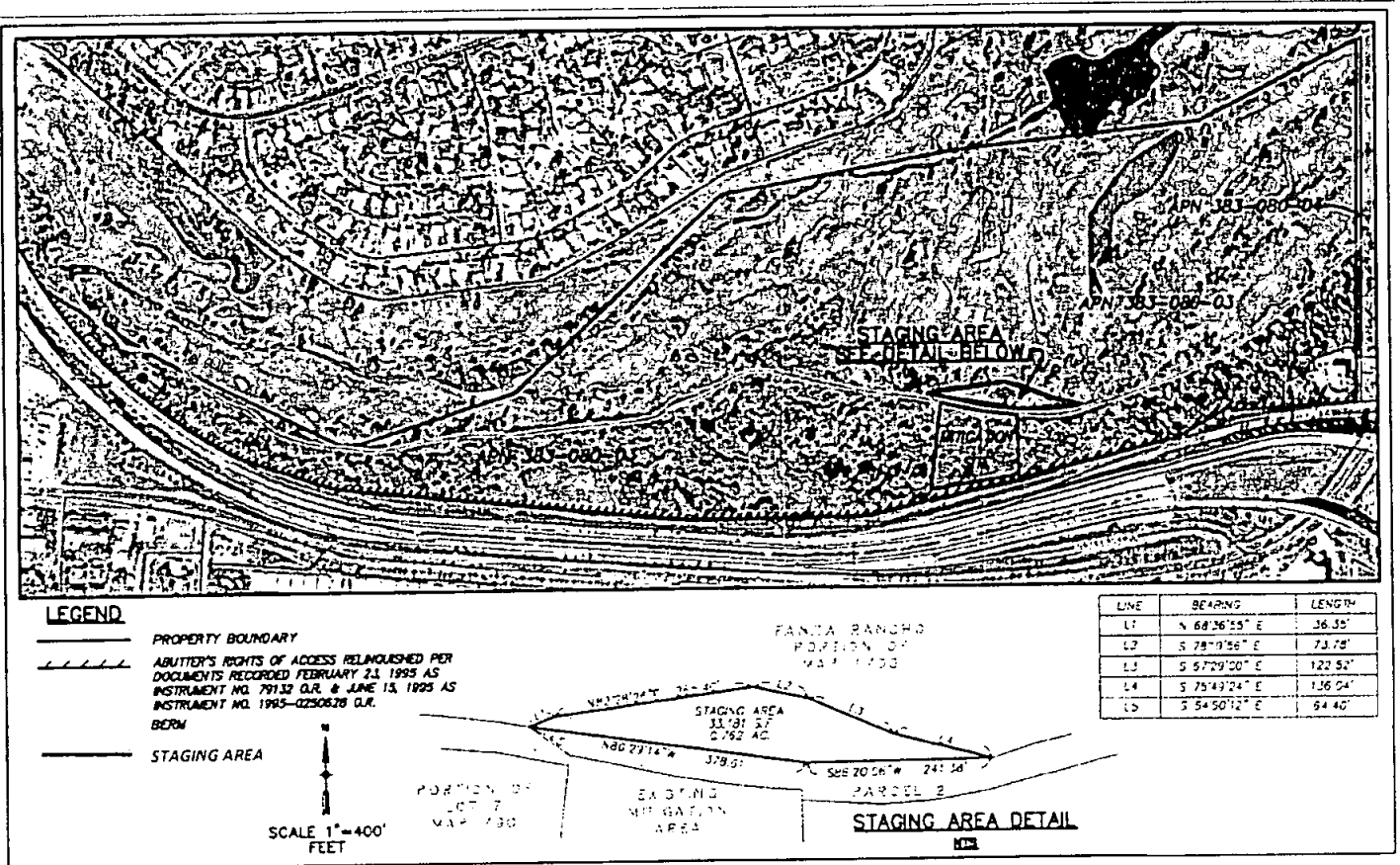
RECORDED: _____

MITIGATION SITE FANITA RANCHO TRACT T LOT 7

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	T.M.
ORIGINAL	TAM	RJD	6/7/11		SHEET 1 OF 1 SHEET	W.O. 201003
					<i>Ronald J. Dodds</i> 6/08/2011	1796-6329
					FOR CITY ENGINEER DATE	CCS 83 COORDINATES
						244-1767
						LAMBERT COORDINATES
						20679 - B
STATUS						

[illegible]

Exhibit G: Staging Area



RESOLUTION NUMBER R- 307498

DATE OF FINAL PASSAGE JUN 26 2012

A RESOLUTION AUTHORIZING THE CITY OF SAN DIEGO TO ENTER INTO A 40-YEAR GROUND LEASE WITH TY INVESTMENT, INC, FOR THE LEASE OF APPROXIMATELY 64.3 ACRES OF CITY OWNED WATER FUND PROPERTY; AUTHORIZING THE ACCEPTANCE OF FEE TITLE TO 2.6 ACRES OF ADJACENT PROPERTY; AUTHORIZING THE ACCEPTANCE OF AN ACCESS EASEMENT OVER ADJACENT PROPERTY; AUTHORIZING THE GRANT OF A MAINTENANCE EASEMENT OVER CITY OWNED PROPERTY; AND AUTHORIZING THE ACCEPTANCE AND DEPOSIT OF LEASE REVENUES.

WHEREAS, the City of San Diego (City) owns approximately 106 acres of Water Fund property (City Property) in and around the Carlton Oaks Golf Course in the City of Santee; the City Property was originally acquired in 1933 for the then-planned Mission Reservoir and to allow for the dredging of the San Diego River; and

WHEREAS, the northern portion of the City Property has been leased for golf course purposes since 1959; the lease is currently on hold-over, on a month-to-month status, generating annual revenues of \$237,869.76; and

WHEREAS, TY Investment, Inc., a California corporation (TY), owns 105 acres of property on the north and east sides of the City Property, and operates the Carlton Oaks Golf Course over both its privately-owned property and the portion of the City Property it leases from the City; and

WHEREAS, City staff has negotiated a proposed market rate ground lease with TY which would lease approximately 64.3 acres of the City Property to TY for golf course purposes; and

WHEREAS, the balance of the City Property, including the portion of the City Property which runs along and includes the San Diego River, will not be leased; however, as a condition of the proposed ground lease with TY, the City would grant to TY a non-exclusive maintenance easement on, over, across and through said non-leased City Property (referred to in the ground lease as the "Berm Property"); and

WHEREAS, in order to provide connectivity between the City Property along the southerly boundary of the golf course and West Hills Parkway, TY will convey fee title for 2.6 acres of its property to the City. As compensation for this conveyance, the ground lease rent for the first ten (10) years of the proposed lease term will be offset by the appraised value of the 2.6 acre property, which has been determined to be \$104,400 (\$40,000 per acres), amortized at six percent (6%) over ten (10) years, which equates to approximately \$14,185 per year of rent credits; and

WHEREAS, TY has also agreed to grant the City a 15-foot wide, non-exclusive, access easement over TY's property, which will give the City ingress and egress to City Property to and from Inwood Drive. As compensation for these easement rights, the ground lease rent will be offset by the appraised value of the property, which has been determined to be \$26,461, amortized at six percent (6%) over ten (10) years, which equates to approximately \$3,595 per year of rent credits; and

WHEREAS, the proposed ground lease includes further possible rent credit(s) which could be applied to the lease rental rate if, during the first twenty (20) years of the lease term, a public trail is developed by City through any portion of TY's privately-owned property or through the subject leasehold property; and

WHEREAS, City reserves the right to use, at no charge, an approximately 0.762 acre area of the proposed leasehold estate, located adjacent to the existing ACOE Mitigation Area, for staging materials and equipment to develop a possible future public trail and to maintain the unleased portions of the City Property; and

WHEREAS, the rent for the first twenty (20) years of the proposed ground lease, before deductions for the above-described rent credits, will start at \$150,000 per year and will increase annually by 2.5%. For the 21st year, an appraisal of the property will be conducted to determine the then fair market rent, which thereafter will again be increased annually by 2.5%; NOW, THEREFORE,

BE IT RESOLVED, that the Mayor, or his designee, is hereby authorized to enter into and execute a 40-year Ground Lease with TY Investment, Inc., a California corporation, for the purposes of operating a golf course, subject to the terms and conditions therein, which are more fully set forth in Document No. RR- 307498 on file with the City Clerk.

BE IT FURTHER RESOLVED, that the Mayor, or his designee, is hereby authorized to accept a grant deed conveying 2.6 acres of real property, located on portions of APN 383-060-26 and APN 383-071-07, from TY Investment, Inc., a California corporation, to the City of San Diego.

BE IT FURTHER RESOLVED, that the Mayor, or his designee, is hereby authorized to accept an easement deed, conveying easement rights, over and upon TY Investment, Inc.'s property, for ingress and egress purposes to City Property, to and from Inwood Drive, from TY Investment, Inc., a California corporation, to the City of San Diego.

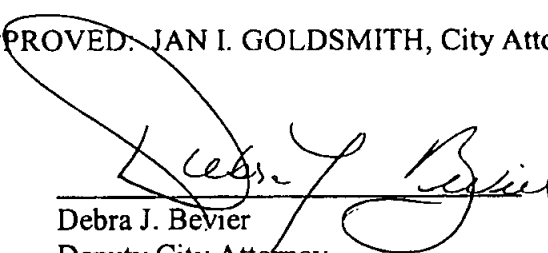
BE IT FURTHER RESOLVED, that the Mayor, or his designee, is hereby authorized to grant to TY Investment, Inc., a California corporation, a non-exclusive maintenance easement

on, over, across and through a portion of the 106 acres of Water Fund property in and around the Carlton Oaks Golf Course in the City of Santee, referred to as the "Berm Property" and further described in the 40 Year Ground Lease.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to accept and deposit the lease revenues from the leased property into Water Operating Fund 700011.

APPROVED: JAN I. GOLDSMITH, City Attorney

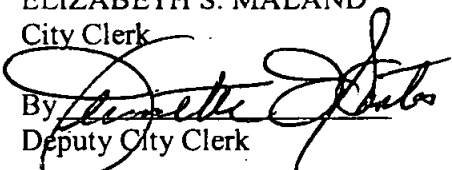
By


Debra J. Bevier
Deputy City Attorney

DJB:mm
04/20/2012
Or.Dept:READ
PL#2010-03135
Doc. No. 356706

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 12 2012

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6.26.12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor