

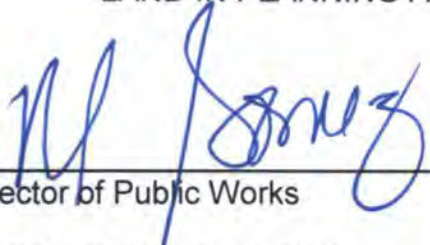
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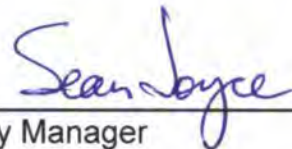
REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: JANUARY 13, 2015

TITLE: PURCHASE AND SALE AGREEMENT BETWEEN CITY OF IRVINE AND ORANGE COUNTY TRANSPORTATION AUTHORITY FOR 21.3 ACRES OF LAND IN PLANNING AREA 51



Director of Public Works



City Manager

RECOMMENDED ACTION

Approve the Purchase and Sale Agreement with Orange County Transportation Authority for the sale of 21.3 acres of City property for the amount of \$14,150,500 and authorize the Mayor to execute the agreement.

EXECUTIVE SUMMARY

The proposed Purchase and Sale Agreement allows Orange County Transportation Authority (OCTA) to purchase a 21.3-acre parcel from the City for a purchase price of \$14,150,500, consistent with prior City Council approval and direction.

COMMISSION/BOARD/COMMITTEE RECOMMENDATION

Not applicable.

ANALYSIS

The 2003 Orange County Great Park Final EIR analyzed the rezoning of a portion of a 135-acre parcel at the former El Toro base as future institutional use by the County of Orange and OCTA. This property was further refined based on the development of the Great Park Master Plan to provide 100 acres to the County and to designate 21.3 acres for OCTA for a Metrolink Commuter Rail Maintenance Facility.

In March 2010, the City Council authorized the City Manager to execute a Cooperative Agreement with OCTA for the Sand Canyon Grade Separation and Metrolink Rail Maintenance Facility Property. A copy of the March 23, 2010 staff report and executed Cooperative Agreement are included as Attachments 1 and 2. The Cooperative Agreement committed the City to reserve the City-owned 21.3-acre parcel (depicted in Attachment 3) for purchase by OCTA for future development of a Metrolink Commuter Rail Maintenance Facility. The City also agreed to reserve this property for OCTA for a period of 15 years and provided OCTA the option to acquire the property at its then-current appraised value for a period of four years from the effective date of the Cooperative Agreement, June 11, 2010.

At that time, the City and OCTA memorialized the purchase price as \$14,150,500 based on independent property appraisals by each agency in accordance with the Cooperative Agreement.

On June 2, 2014, OCTA notified the City of its interest in exercising its option to purchase the property at the previously agreed upon price. The proposed Purchase and Sale Agreement (Attachment 4) has been prepared by the City Attorney in collaboration with OCTA for this purpose. The following is a summary of the main terms included in the proposed Purchase and Sale Agreement that implements the provisions of the 2010 Cooperative Agreement:

- The basis for the sale by City and purchase by OCTA of the property is OCTA's future use of the property for a Commuter Rail Maintenance Facility or other transportation-related uses.
- OCTA and any successors in interest specifically waive any claim that they are exempt, for any reason, from the requirements of the Irvine Zoning Code and the Irvine Municipal Code, and agree to abide by the City's land use regulatory authority.
- Interim uses of the property are subject to the approval of the City.
- OCTA will not lease or transfer any portion of its ownership interest in the property without approval from the City.
- The City will have the right of first refusal for the purchase of any portion of the property OCTA considers selling to a third party.
- City and OCTA will discuss the potential future sale by City to OCTA of a nearby site for access to the property, solely for use by OCTA.
- OCTA will be responsible for its fair share of roadway capacity improvements.

Legal Counsel for OCTA has advised the City Attorney that the OCTA Board has approved the terms as presented in the proposed Agreement and is prepared to complete the transaction subject to City Council approval of the proposed Agreement.

ALTERNATIVES CONSIDERED

The City Council can direct staff to modify any of the terms presented in the proposed agreement. This alternative is not recommended because the proposed terms are consistent with the provisions of the Cooperative Agreement previously approved by the City Council and the recommended Purchase and Sale Agreement is consistent with prior City Council approval to sell the property to OCTA.

FINANCIAL IMPACT

Approval of the recommended Purchase and Sale Agreement will result in the City receiving \$14,150,500 from OCTA. These funds will be received as General Fund revenue with the deposit increasing the unallocated fund balance available for future appropriation by the City Council.

REPORT PREPARED BY Shohreh Dupuis, Deputy Director of Public Works

ATTACHMENTS

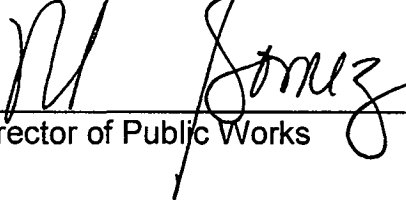
1. March 23, 2010 Staff Report for Cooperative Agreement with OCTA
2. Cooperative Agreement C-0-1511
3. Site Map
4. Purchase and Sale Agreement

REQUEST FOR CITY COUNCIL ACTION

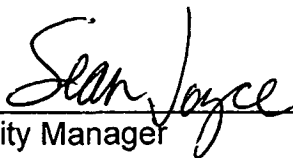


MEETING DATE: March 23, 2010

TITLE: SAND CANYON GRADE SEPARATION FUNDING AGREEMENT



Director of Public Works



City Manager

RECOMMENDED ACTION:

1. Approve the Sand Canyon Grade Separation Funding Term Sheet agreement between the City of Irvine and the Orange County Transportation Authority.
2. Authorize the City Manager to jointly submit the Sand Canyon Grade Separation Project with the Orange County Transportation Authority to the California Transportation Commission for approval and allocation.
3. Authorize the City Manager to execute a cooperative agreement between the City of Irvine and the Orange County Transportation Authority for implementation of the Funding Term Sheet agreement.

EXECUTIVE SUMMARY:

The City of Irvine and the Orange County Transportation Authority (OCTA) have developed a Funding Term Sheet that outlines agreement for full funding of the Sand Canyon Grade Separation Project. The recommended actions are necessary to submit the project to the California Transportation Commission (CTC) for approval and funding.

COMMISSION/BOARD/COMMITTEE RECOMMENDATION:

Not applicable.

STATEMENT OF THE ISSUE:

History:

On February 23, 2010, City Council approved the plans, specifications and contract documents for the Sand Canyon Grade Separation Project. The City must submit the approved plans along with a complete funding package to the CTC for consideration by the Commission at its meeting scheduled for May 20, 2010.

Analysis/Discussion:

The City has secured funding for the Sand Canyon Grade Separation Project primarily from external grant programs. The funding sources include Measure M, Regional Surface Transportation Program Federal funds, Developer Fees, and State Proposition 1B and 116. The combination of these non-City funding sources provides over 80 percent of the project budget.

Project construction will require relocation of an existing Metrolink Maintenance-of-Way (MOW) facility that will be displaced by the project. The MOW facility is located on OCTA property at Sand Canyon adjacent to the railroad tracks. The OCTA property will be transferred to the City as part of the construction phase of the project.

OCTA is interested in locating a new Metrolink Rail Maintenance Facility in the vicinity of the future Marine Way south of the Great Park and adjacent to the railroad tracks. The City and OCTA have identified a suitable 21.3-acre parcel for this purpose for purchase by OCTA.

A Funding Term Sheet (Attachment 1) has been developed by staff to provide for the exchange and purchase of property and to provide a full funding plan for the project. The OCTA Board unanimously approved the Funding Term Sheet on March 8, 2010. The Funding Term Sheet provides for:

1. The City and OCTA to equally share the \$9 million estimated cost shortfall risk for the project;
2. The City to reserve 21.3 acres for the rail maintenance yard with a 15-year option for OCTA to purchase the property within the first four years at current appraised value;
3. OCTA to provide the City with 1.34 acres of MOW facility property needed for the project and approximately 4 acres for relocation of the MOW facility;
4. Credit to OCTA for the appraised value of the MOW facility property against the purchase of the rail maintenance yard;
5. OCTA to manage the project construction phase with the City overseeing community outreach.

A significant portion of the funding for this project includes \$22 million in State Proposition 116 funds and \$8 million in State Proposition 1B funds. In order to secure these funds, the City and OCTA must submit a request for allocation to the CTC including a full funding plan. The CTC will schedule the allocation request for consideration at its May 20, 2010 meeting. The construction phase of the project is contingent upon the sale of bond proceeds by the State Treasurer's Office.

ALTERNATIVES CONSIDERED:

The City Council could elect not to approve the Funding Term Sheet and defer construction of the Sand Canyon improvements to a future date. Staff does not recommend this alternative because the City would relinquish over \$30 million in grant funds if the project is not submitted to the CTC by the funding deadline of June 30, 2010.

FINANCIAL IMPACT:

The total cost estimate for this project is \$55.6 million. Approximately \$46.6 million in various funding sources including Measure M, Regional Surface Transportation Program, Proposition 1B, and Proposition 116 are available for this project. The estimated shortfall of \$9 million will be reassessed following the competitive bidding process for construction. Staff will return to the City Council with a revised estimate and will identify additional funding sources, if needed, based on the results of the competitive bidding process. A construction contract will not be awarded unless full funding has been secured from the State and City Council approval has been provided for any additional City funding that may be needed in accordance with the Funding Term Sheet agreement.

CONCLUSION:

The Sand Canyon Grade Separation Project is ready for submittal to the CTC for funding approval and allocation. Staff recommends approval of the Funding Term Sheet and the recommended actions.

Report prepared by: Shohreh Dupuis, Manager of Transit and Transportation

Reviewed by: Joyce Amerson, Deputy Director of Public Works

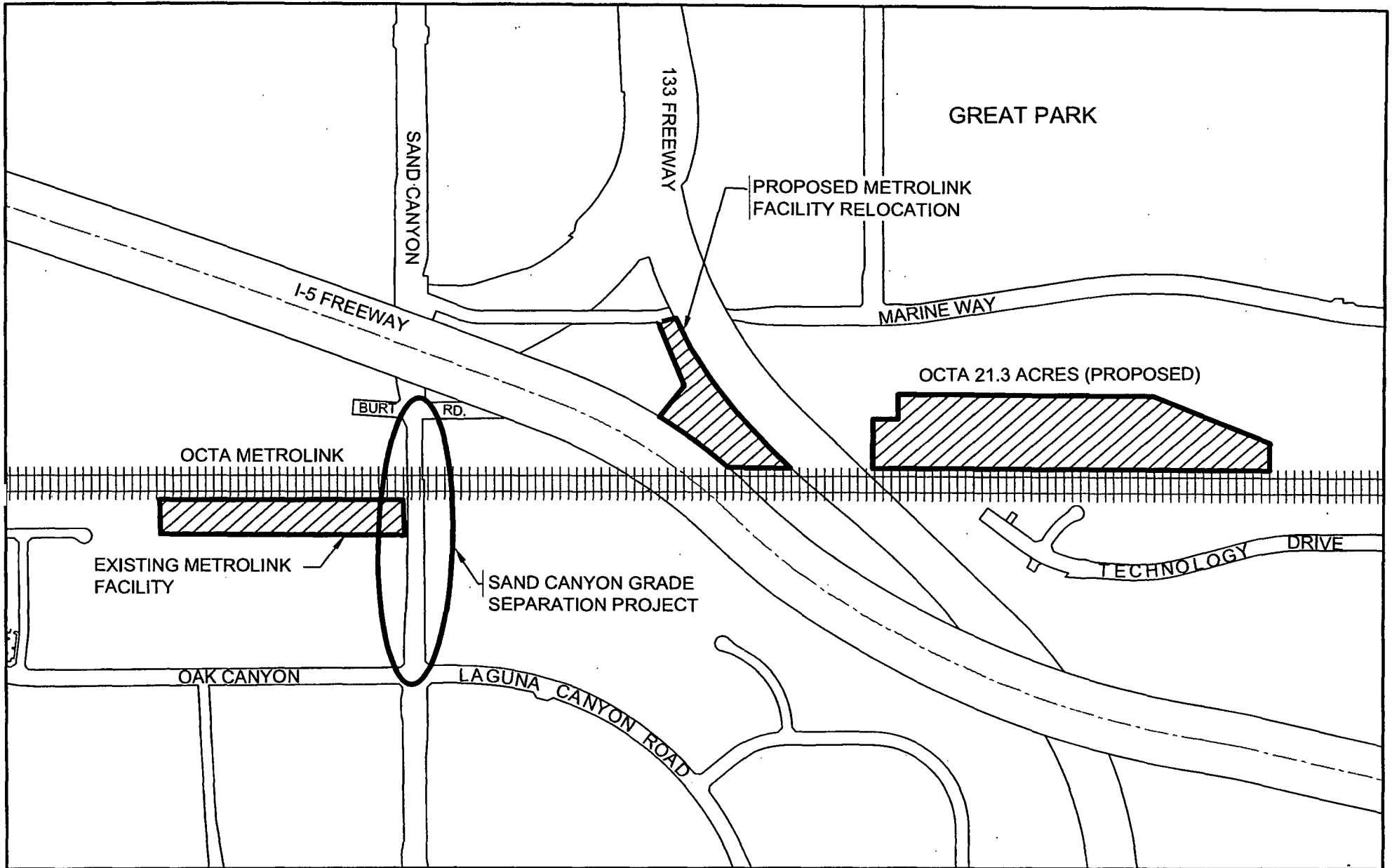
Attachments:

Attachment 1: Sand Canyon Grade Separation Project Funding Term Sheet

Attachment 2: Vicinity Map

**OCTA and City of Irvine
Sand Canyon Grade Separation Project Funding Term Sheet**

1. OCTA and the City of Irvine (City) both wish to support timely submission of a fully funded Sand Canyon Grade Separation Project to the California Transportation Commission in order to meet the conditions for Proposition 116 funding.
2. Approximately \$46.6 million in funding is identified for the Sand Canyon Grade Separation project. The current cost estimate for the project is approximately \$55.6 million, resulting in a \$9 million estimated shortfall.
3. The City, OCTA, and the County of Orange have cooperated in determining a location for a future 21.3-acre Metrolink Rail Maintenance Facility (MRMF) within the City adjacent to the Great Park property.
4. OCTA and the City agree to the following:
 - a. OCTA and City agree to contribute equally to the estimated \$9 million cost shortfall for the Sand Canyon Grade Separation Project. Generally, the responsible party shall cover project cost increases for betterments, change orders or delays during construction, which shall be outlined in a separate Construction and Maintenance Agreement between OCTA and the City.
 - b. OCTA agrees to provide approximately 1.34 acres of Metrolink maintenance-of-way (MOW) facility property for the Sand Canyon Grade Separation Project and approximately four (4) acres of property for the relocation of the Metrolink MOW facility.
 - c. City agrees to exclusively reserve the 21.3-acre MRMF parcel for OCTA for a period of fifteen (15) years.
 - d. OCTA has the option to acquire the MRMF parcel at its current appraised value for a period of four (4) years, and for the appraised value at time of purchase thereafter.
 - e. City agrees to credit the current appraised value of approximately 1.34 acres of Metrolink MOW property required for the Sand Canyon Grade Separation Project against the value of the MRMF parcel.
 - f. OCTA agrees to assume construction management responsibility for the Sand Canyon Grade Separation Project contingent upon approval of this agreement. City retains primary responsibility for community outreach during construction.



NTS

VICINITY MAP



1 COOPERATIVE AGREEMENT NO. C-0-1511

2 BETWEEN

3 ORANGE COUNTY TRANSPORTATION AUTHORITY

4 AND

5 CITY OF IRVINE

6 FOR

7 SAND CANYON AVENUE GRADE SEPARATION

8 AND

9 METROLINK RAIL MAINTENANCE FACILITY PROPERTY

10
11 THIS AGREEMENT, is effective this 11th day of June, 2010, by and between the
12 Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California
13 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"),
14 and the City of Irvine, 1 Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575, a municipal
15 corporation (hereinafter referred to as "CITY"). Herein, AUTHORITY and the CITY are sometimes
16 individually referred to as the "PARTY" and collectively as the "PARTIES".

17 **RECITALS:**

18 **WHEREAS**, Sand Canyon Avenue crosses the Orange subdivision of the Los Angeles-San
19 Diego-San Luis Obispo (LOSSAN) rail corridor by an at-grade crossing and is identified with the
20 California Public Utilities Commission (CPUC) as Crossing No. 101 OR-182.90; and

21 **WHEREAS**, AUTHORITY owns the right-of-way and facilities at this crossing location and the
22 Southern California Regional Rail Authority (SCRRA), and Burlington Northern Santa Fe (BNSF)
23 Railway operate passenger and freight trains along the right-of-way; and

24 **WHEREAS**, AUTHORITY and CITY, in cooperation and partnership with BNSF, and SCRRA,
25 desire to improve the existing at-grade crossing by constructing a new crossing at separated grades
26 (hereinafter referred to as "PROJECT") as shown in Exhibit A; and

COOPERATIVE AGREEMENT NO. C-0-1511

1 **WHEREAS**, AUTHORITY and CITY both wish to support timely submission of a fully funded
2 PROJECT to the California Transportation Commission (CTC) in order to meet the conditions for
3 Proposition 116 funding; and

4 **WHEREAS**, AUTHORITY and CITY acknowledge that approximately \$46.6 million in funding is
5 currently identified for PROJECT, and is comprised of Measure M, Proposition 116, Proposition 1B,
6 federal, and local funds. The current cost estimate for PROJECT is not-to-exceed \$55.6 million,
7 resulting in an estimated \$9 million shortfall; and

8 **WHEREAS**, AUTHORITY and CITY agree to contribute equally to the estimated \$9 million cost
9 shortfall for PROJECT. The responsible party shall cover project cost increases for betterments above
10 and beyond the project cost; and

11 **WHEREAS**, CITY and AUTHORITY have identified a suitable 21.3-acre parcel for use as a
12 Metrolink Rail Maintenance Facility (MRMF) within the CITY and adjacent to the Great Park property as
13 shown in Exhibit B; and

14 **WHEREAS**, CITY has agreed to exclusively reserve the MRMF parcel for the AUTHORITY for
15 a period of fifteen (15) years; and

16 **WHEREAS**, CITY has agreed that AUTHORITY has the option to acquire the MRMF parcel
17 at its current appraised value for a period of four (4) years from the date of execution of this
18 Agreement, and for the appraised value at the time of purchase thereafter; and

19 **WHEREAS**, City has agreed to credit the current appraised value of the Metrolink
20 maintenance-of-way (MOW) parcel against the value of the MRMF parcel; and

21 **WHEREAS**, AUTHORITY owns and agrees to provide approximately 1.34 acres of property as
22 shown in Exhibit C adjacent to PROJECT that is currently being used as a Metrolink MOW facility
23 property for PROJECT and approximately four (4) acres of property for the relocation of the existing
24 Metrolink MOW facility; and

25 /

26 /

COOPERATIVE AGREEMENT NO. C-0-1511

1 **WHEREAS**, on April 27, 2009, AUTHORITY awarded \$2.66 million of funding to CITY for the
2 planning and project development work to improve and expand the Irvine Station (hereinafter
3 referred to as "STUDY"); and

4 **WHEREAS**, AUTHORITY conditioned that funding is contingent upon an agreement being
5 reached between the CITY and AUTHORITY to reserve approximately 22 acres of CITY property for
6 a MRMF; and

7 **WHEREAS**, AUTHORITY agrees that execution of this Agreement shall satisfy the condition
8 of funding imposed by the April 27, 2009 AUTHORITY funding allocation; and

9 **WHEREAS**, CITY agrees to act as the lead agency for the environmental, final design, right-of-
10 way acquisition, and utility relocation of PROJECT; and

11 **WHEREAS**, AUTHORITY agrees to act as the lead agency for the construction and
12 construction management of PROJECT; and

13 **WHEREAS**, CITY agrees to provide approved plans, specifications, and estimates (PS&E) and
14 right-of-way certification prior to advertisement for bids for construction of PROJECT; and

15 **WHEREAS**, CITY and AUTHORITY agree that PROJECT will be turned over to CITY after one
16 (1) year warranty period; and

17 **WHEREAS**, upon completion of construction and acceptance by CITY of PROJECT, CITY will
18 take control and maintain PROJECT in accordance with the terms of the Railroad Construction and
19 Maintenance (C&M) Agreement, at its own cost and expense. Upon acceptance by CITY of
20 PROJECT, CITY shall also be responsible for liability, including tort liability, for PROJECT at no cost or
21 expense to AUTHORITY; and

22 **WHEREAS**, this Cooperative Agreement defines the specific terms, conditions and funding
23 responsibilities between the AUTHORITY and CITY for the completion of PROJECT; and

24 **WHEREAS**, AUTHORITY's Board of Directors approved this Agreement on May 24, 2010; and

25 **WHEREAS**, CITY's City Council authorized the City Manager to execute this Agreement;

26 /

1 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CITY as
2 follows:

3 **ARTICLE 1. COMPLETE AGREEMENT**

4 A. This Agreement, including all exhibits and documents incorporated herein and made
5 applicable by reference, constitute the complete and exclusive statement of the term(s) and condition(s)
6 of this Agreement between AUTHORITY and CITY and supersedes all prior representations,
7 understandings and communications. The invalidity in whole or part of any term or condition of this
8 Agreement shall not affect the validity of other term(s) and condition(s) of this Agreement. The above
9 referenced Recitals are true and correct and are incorporated by reference herein.

10 B. AUTHORITY'S failure to insist on any instance(s) of CITY's performance of any term(s) or
11 condition(s) of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's
12 right to such performance or to future performance of such term(s) or condition(s), and CITY's obligation
13 in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall
14 not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized
15 representative of AUTHORITY by way of a written amendment to this Agreement and issued in
16 accordance with the provisions of this Agreement.

17 C. CITY's failure to insist on any instance(s) of AUTHORITY's performance of any term(s) or
18 condition(s) of this Agreement shall not be construed as a waiver or relinquishment of CITY's right to
19 such performance or to future performance of such term(s) or condition(s), and AUTHORITY's
20 obligation in respect thereto shall continue in full force and effect. Changes to any portion of this
21 Agreement shall not be binding upon CITY except when specifically confirmed in writing by an
22 authorized representative of CITY by way of a written amendment to this Agreement and issued in
23 accordance with the provisions of this Agreement.

24 **ARTICLE 2. SCOPE OF AGREEMENT**

25 This Agreement specifies the roles and responsibilities of the Parties as they pertain to the
26 subjects and projects addressed herein. Both AUTHORITY and CITY agree that each will cooperate

1 and coordinate with the other in all activities covered by this Agreement and any other supplemental
2 agreements that may be required to facilitate purposes thereof.

3 **ARTICLE 3. RESPONSIBILITES OF AUTHORITY**

4 AUTHORITY agrees to the following responsibilities for PROJECT:

5 A. To act as the lead agency for the construction and construction management of PROJECT.

6 B. To advertise, award construction contracts, and provide construction administration,
7 construction management, construction inspection, construction surveying, and materials testing for
8 PROJECT.

9 C. To reimburse CITY, as a project cost, for utilities and all other already encumbered and
10 future project support costs, except for right-of-way, within 30 days of an acceptable invoice and
11 supporting documentation.

12 D. To fund a portion of PROJECT costs not-to-exceed Eight Million Dollars (\$8,000,000) of
13 Measure M1 Transit funds and approximately Four Million Five Hundred Thousand Dollars
14 (\$4,500,000) of Measure M2 Transit funds, for a total of \$12,500,000, as described in Exhibit D.

15 E. To agree to be designated as the direct recipient for Propositions 116 and 1B funds.

16 F. To provide approximately 1.34 acres of the MOW facility property as shown in Exhibit C for
17 PROJECT and approximately four (4) acres of the property for the relocation of the existing Metrolink
18 MOW facility as detailed in Exhibit B.

19 G. To have the option to acquire the MRMF parcel at its current appraised value for a period of
20 four (4) years from the date of execution of this Agreement, and for the appraised value at time of
21 purchase thereafter.

22 H. To agree that the execution of this Agreement shall satisfy the condition of reservation of an
23 approximate 22 acre parcel for a MRMF placed on the April 27, 2009 AUTHORITY funding allocation
24 for STUDY.

25 I. To process the required Federal Transportation Improvement Program (FTIP) amendment to
26 program Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000) for STUDY, whereby

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1 AUTHORITY's performance under this Agreement is contingent upon the Southern California
2 Association of Governments (SCAG) and Federal Transit Administration (FTA) approval.

3 J. To remit to CITY Federal Funds in an amount not to exceed Two Million Three Hundred Fifty
4 Thousand Dollars (\$2,350,000), within thirty (30) days of receipt of an acceptable invoice for STUDY,
5 subject to grant agreement executed between AUTHORITY and FTA and reimbursement by FTA.

6 K. To remit to CITY Three Hundred Ten Thousand Dollars (\$310,000) of Measure M (M1)
7 Transit funds within thirty (30) days of receipt of an acceptable invoice.

8 L. To prepare and submit a request for "Transfer of Federal Funds" no later than October 1,
9 2010 to facilitate the execution of FTA grant.

10 M. To notify CITY when the FTA grant is executed.

11 N. To provide, as a PROJECT cost, all staff, employees, agents, consultants and contractors
12 deemed necessary and appropriate by AUTHORITY to manage, administer, coordinate, and oversee
13 construction, and construction management of PROJECT.

14 O. To require AUTHORITY's contractor to provide a one (1) year warranty period in the
15 construction contract for workmanship and materials furnished for PROJECT.

16 P. To comply with all applicable federal, state, local and third party contracting laws and
17 regulations as required.

18 Q. To work in partnership with CITY during the implementation of construction of PROJECT and
19 to collaborate and cooperate with CITY staff, its consultants, employees, outside funding and utility
20 agencies and agents during construction of PROJECT.

21 R. To implement a quality assurance and quality control program during construction of
22 PROJECT.

23 S. To monitor the activities of staff, agents, contractors, consultants and employees to ensure
24 compliance with the approved PROJECT schedules, quality, and budget goals.

25 T. To provide PROJECT as-built records, and final payment accounting within 90 days upon
26 completion of construction and project acceptance of PROJECT by CITY.

1 U. To coordinate with BNSF and SCRRRA for all work to be performed in the railroad right-of-
2 way.

3 V. To act as an agent of the CITY under the CITY's engineering contract to coordinate design
4 services during construction.

5 W. If hazardous materials, cultural, archeological, paleontological, biological, or other protected
6 resources are encountered during construction of PROJECT, AUTHORITY to stop work in the affected
7 area until a qualified professional evaluates the nature and significance of the find, and a plan is
8 approved by AUTHORITY for the removal or protection that material or resource. The cost for any
9 removal or protection shall be considered a PROJECT cost.

10 X. Upon identification of illegally placed hazardous materials, AUTHORITY agrees to seek
11 restitution for removal of hazardous materials found within AUTHORITY-owned properties within
12 PROJECT.

13 Y. To require AUTHORITY's contractors to obtain no-fee permits from CITY for any work done
14 within the jurisdictional boundaries of CITY.

15 Z. To coordinate construction of PROJECT with CITY and affected property owners, and hold
16 regular technical, traffic management, public relations, and various other project meetings to brief CITY
17 and affected property owners on the status of PROJECT, to solicit input, and to provide a forum to
18 discuss and resolve project and local agency issues.

19 AA. To reimburse CITY, as a project cost, for actual costs for providing traffic engineering
20 services (including staff overhead and third party traffic signal maintenance service costs contracted out
21 by CITY) and any modifications to streets, intersection, signals, etc. required to address traffic impacts
22 during construction in an amount not to exceed One Hundred Twenty-Seven Thousand Five Hundred
23 Dollars (\$127,500). This amount will not be exceeded without the prior written amendment to this
24 Agreement, which shall not be unreasonably withheld or delayed, it being understood that this amount
25 is an estimate based on the as-needed and sporadic nature of the services and is subject to update.

26 /

1 AB. To reimburse CITY, as a project costs, for actual costs, including staff overhead, for
2 providing police services in an amount not to exceed Sixty Two Thousand Five Hundred Dollars
3 (\$62,500). Police service costs shall not exceed this amount without prior written amendment to this
4 Agreement, which approval shall not be unreasonably withheld or delayed, it being understood that this
5 amount is an estimate based on the as-needed and sporadic nature of the services and is subject to
6 update.

7 AC. To reimburse CITY, as a project cost, for actual costs, including staff overhead, for
8 providing project support services in an amount not to exceed Two Hundred Seventy-Two Thousand
9 Five Hundred Dollars (\$272,500). Project support service costs shall not exceed this amount without
10 the prior written amendment to this Agreement, which approval shall not be unreasonably withheld or
11 delayed, it being understood that this amount is an estimate based on the as-needed and sporadic
12 nature of the services and is subject to update.

13 AD. To work with CITY to develop and implement a business outreach program during
14 construction of PROJECT.

15 **ARTICLE 4. RESPONSIBILITIES OF CITY**

16 CITY agrees to the following responsibilities for PROJECT:

17 A. To confirm availability of local PROJECT funding described in Exhibit D prior to award of a
18 construction contract and concur with the AUTHORITY's award of the PROJECT construction contract.

19 B. To designate the AUTHORITY as the direct recipient of Propositions 116 and 1B funds.

20 C. To act as the lead agency for the environmental, final design, right-of-way acquisition, and
21 utility relocation of PROJECT.

22 D. To assume primary responsibility for community outreach during construction.

23 E. To exclusively reserve for purchase by the AUTHORITY the 21.3 acre MRMF parcel for a
24 period of fifteen (15) years from the date of execution of this Agreement.

25 F. To credit the current appraised value of the 1.34 acres of the MOW parcel required for
26 PROJECT against the value of the 21.3 acre MRMF parcel.

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1 G. To submit to the California Public Utilities Commission (CPUC) an application for PROJECT
2 and obtain approval of that application in a timely manner.

3 H. To provide to AUTHORITY all required permits necessary for the construction of PROJECT.

4 I. To make available to AUTHORITY personnel who prepared the PS&E and right-of-way maps
5 and other PROJECT related documents and materials, to discuss and resolve issues which may arise
6 during construction and/or to make design revisions for contract change orders until completion of
7 PROJECT.

8 J. To enter into a C&M agreement with SCRRA for the actual construction and maintenance
9 agreement of PROJECT.

10 K. To provide to AUTHORITY a certified environmental document for PROJECT.

11 L. To process the allocation request for Proposition 116 and 1B funds through the AUTHORITY
12 and the CTC in order to receive fund allocations prior to June 30, 2010. Performance of this agreement
13 is subject to CTC approval and sale of the State Proposition 116 and 1B bonds by the State of
14 California.

15 M. To notify the AUTHORITY in writing of any changes to PROJECT milestone schedule that
16 would impact funding availability or readiness for timely completion of the PROJECT.

17 N. To prepare a Traffic Management Plan (TMP) that addresses, to the extent applicable,
18 construction-related impacts to existing CITY street traffic. The TMP will include normal traffic handling
19 requirements during construction of PROJECT, including staging, lane closures, ramp closures,
20 detours, signage, Intelligent Transportation Systems (ITS), and signalization, and will specify
21 requirements for communicating with the public and local agencies during construction. All TMP
22 elements will be included in the construction contract and will become the responsibility of the
23 construction contractor.

24 O. To be responsible for all required environmental mitigation measures not contained in the
25 construction contract. The cost of any required remediation or removal will be considered a project cost.

26 /

1 P. To be responsible for the investigation of potential hazardous material sites within PROJECT
2 limits prior to construction. CITY shall provide all documentation regarding hazardous material testing
3 to the AUTHORITY. If AUTHORITY encounters hazardous material or contamination or protected
4 cultural resources within PROJECT limits during the said investigation or in the course of construction,
5 AUTHORITY shall notify CITY and responsible control agencies of such discovery.

6 Q. To be responsible for securing all right-of-way. CITY to certify that right-of-way acquisition is
7 complete and have possession of the required property prior to the advertisement for construction bids.

8 R. To provide to AUTHORITY all utility agreements and relocation schedule necessary for
9 timely implementation of PROJECT and coordinate utility relocation during the course of construction in
10 accordance with stage construction requirements as specified in the construction design documents.
11 CITY agrees to designate appropriate staff to coordinate utility relocations.

12 S. To provide approved plans, specifications, and estimates (PS&E) for PROJECT. PS&E will
13 be prepared in conformance with CITY regulations, procedures, manuals, standards and specifications,
14 and other applicable standards for PROJECT.

15 T. To designate AUTHORITY as an agent of the CITY in order for AUTHORITY to execute the
16 obligations of the AUTHORITY under the CITY's engineering contract for construction support services.
17 CITY to amend the existing engineering contract to provide for construction support services. CITY
18 shall add the AUTHORITY as an additional insured and indemnify the AUTHORITY while acting on
19 behalf of the CITY.

20 U. To collaborate and cooperate with AUTHORITY staff, its consultants, employees, agents,
21 and contractors during construction of PROJECT.

22 V. To implement a public awareness campaign (PAC) during construction of PROJECT, that
23 advises CITY, local CITY businesses, residents, elected officials, motorists, and media of construction
24 status, and street detours, as a project cost.

25 W. To issue no-fee permits for work done within CITY jurisdiction and not unreasonably cause
26 delay to PROJECT construction schedule.

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1 X. To be responsible for the proper implementation of portions of the approved TMP for work
2 within the jurisdictional boundaries of CITY that is not included in the construction contract as a
3 responsibility of the contractor, as a project cost.

4 Y. To provide traffic engineering (including third party traffic signal maintenance service costs
5 contracted out by CITY), staff support and police services as requested by AUTHORITY.

6 Z. To submit monthly statements to AUTHORITY for actual costs incurred by CITY for traffic
7 engineering, traffic signal maintenance, project support, and police services and any modifications to
8 city streets, intersections, signals, etc. to address traffic or other impacts during PROJECT construction.
9 Statements shall reference the agreement number; specify the work for which a credit and/or
10 reimbursement is being requested, the time period covered by the statement, the amount of credit or
11 reimbursement requested, staff names/positions and hourly rates if appropriate, and supporting
12 documentation for all expenses credited or reimbursed. CITY shall submit the final statement no later
13 than ninety (90) days after final acceptance of PROJECT by CITY.

14 AA. To invoice AUTHORITY for costs associated with the PROJECT on a monthly basis and to
15 submit invoices in duplicate to AUTHORITY's Accounts Payable department. Each CITY invoice shall
16 include the following information:

- 17 1. Agreement Number C-0-1511
- 18 2. The time period covered by the invoice;
- 19 3. Monthly Progress Report, which includes a detailed description of services performed
20 during the month.
- 21 4. Total monthly invoice amount;
- 22 5. Such other information as requested by AUTHORITY, including but not limited to
23 consultant's invoices, accounting records, budget excerpts for CITY funds, executed
24 contracts, etc.

25 AB. If CITY contracts for any services associated with the PROJECT, then CITY shall be
26 responsible for payment to consultants and/or contractors for services rendered and then seek a credit

COOPERATIVE AGREEMENT NO. C-0-1511

1 and/or reimbursement from AUTHORITY for actual costs as part of this Agreement. CITY shall be
2 responsible for reviewing consultant and/or contractor invoices for accuracy, reasonableness, terms,
3 and completeness.

4 AC. To cooperate with AUTHORITY for the relocation, protection, and construction of utilities
5 within CITY, including any CITY-owned utilities and any utilities that are the subject of franchise
6 agreements approved by CITY.

7 AD. CITY shall cause each public utility to rearrange or relocate its public utility facilities that
8 may be determined by AUTHORITY and CITY to conflict with PROJECT. The CITY hereby agrees to
9 exercise and invoke its rights under any applicable state franchise laws or under any applicable local
10 franchise issued or provided by CITY to carry out such rearrangement or relocation at the expense of
11 the affected public utility as necessary to conform to PROJECT. CITY shall cooperate with
12 AUTHORITY and provide all appropriate and necessary support to achieve this result. In the event the
13 public utility fails to make the rearrangement or relocation or fails to agree to make the rearrangement
14 or relocation in a timely manner, CITY shall, to the full extent allowed by law, assign its rights under the
15 Agreement to AUTHORITY to permit AUTHORITY to rearrange or relocate in a timely manner. CITY
16 shall cooperate with AUTHORITY, shall provide assistance to AUTHORITY as needed, and shall join
17 with AUTHORITY as a party in the prosecution or defense of CITY's and AUTHORITY's rights under
18 the laws of the State of California to cause such rearrangements or relocations. In the event a public
19 utility is not subject to a state or local franchise and the public utility is entitled under the laws of the
20 State of California to be reimbursed or paid for the cost of relocation of such public utility, CITY and
21 AUTHORITY shall be jointly responsible for such relocation costs, if any, including the design,
22 construction, and costs of any interest in land that may be required to accommodate such
23 rearrangement or relocation as a project cost. Wherever reasonably feasible, any relocation of a public
24 utility shall be made to an area covered by a state franchise or local franchise.

25 AE. Upon identification of illegally placed hazardous materials, CITY agrees to seek restitution
26 for removal of hazardous materials found within CITY-owned properties within PROJECT.

1 AF. Upon completion and acceptance of work done within CITY jurisdiction and expiration of the
2 warranty period, PROJECT will be turned over to CITY. CITY will not unreasonably withhold its
3 acceptance of PROJECT.

4 AG. To attend and participate in PROJECT regular technical, traffic management, public
5 relations, and various other project meetings regarding the status of PROJECT, to provide input, and to
6 provide a forum to discuss and resolve project and local agency issues.

7 AH. Upon completion and CITY final acceptance of PROJECT, CITY shall be responsible for
8 maintaining all facilities constructed and shall release AUTHORITY of any obligations thereof (included
9 those included in the C&M agreement).

10 AI. To act as the lead agency in developing STUDY

11 AJ. To be responsible for the overall budget for STUDY in a not-to-exceed amount of Two
12 Million Six Hundred Sixty Thousand Dollars (\$2,660,000), and that any cost overruns shall be the
13 responsibility of CITY.

14 AK. To be responsible for immediately notify AUTHORITY in writing of any changes to STUDY
15 schedule that would jeopardize funding of STUDY.

16 AL. To comply with all FTA third party contracting laws and regulations pursuant to FTA Circular
17 4220.1F, including but not limited to federal, state, and local regulations in any STUDY related contract
18 entered into by CITY.

19 AM. To release Request for Proposals (RFP) for STUDY after the federal funds are included in
20 an executed FTA grant.

21 AN. To submit quarterly summary reports to AUTHORITY of CITY's STUDY.

22 AO. To submit Final Report within 180 days after completion of environmental, final design,
23 right-of-way acquisition, and utility relocation in accordance with Combined Transportation Funding
24 Program Guidelines.

25 **ARTICLE 5. DELEGATION OF AUTHORITY**

26 The actions required to be taken by CITY in the implementation of this Agreement are

1 delegated to its City Manager, or designee, and the actions required to be taken by AUTHORITY in the
2 implementation of this Agreement are delegated to AUTHORITY's Chief Executive Officer.

3 **ARTICLE 6. AUDIT AND INSPECTION**

4 AUTHORITY and CITY shall maintain a complete set of records in accordance with generally accepted
5 accounting principles. Upon reasonable notice, AUTHORITY and CITY shall permit each party's
6 authorized representatives to inspect and audit all work, materials, payroll, books, accounts, and other
7 data and records of the other party for a period of five (5) years after final payment, or until any on-going
8 audit is completed. For purposes of audit, the date of completion of this Agreement shall be the date of
9 the AUTHORITY's final notice of project completion. Each party shall have the right to reproduce any
10 such books, records, and accounts of the other party relative to PROJECT. The above provision with
11 respect to audits shall extend to and/or be included in contracts with AUTHORITY'S contractors,
12 including BNSF, SCRRA, and its contractors and subcontractors.

13 **ARTICLE 7. INDEMNIFICATION**

14 A. AUTHORITY shall defend, indemnify and hold harmless CITY, officers, agents, elected
15 officials, and employees, from all liability, claims, losses and demands, including defense costs and
16 reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or
17 omissions of AUTHORITY, its officers, agents, or employees, in the performance of this Agreement,
18 excepting acts or omissions directed by CITY, its officers, agents, or employees, acting within the scope
19 of their employment, for which the CITY agrees to defend and indemnify AUTHORITY in a like manner.
20 This indemnity shall survive even after the termination of this Agreement.

21 B. CITY shall defend, indemnify and hold harmless AUTHORITY, officers, agents, elected
22 officials, and employees, from all liability, claims, losses and demands, including defense costs and
23 reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or
24 omissions of CITY, its officers, agents, or employees, in the performance of this Agreement, excepting
25 acts or omissions directed by AUTHORITY, its officers, agents, or employees, acting within the scope of
26

1 their employment, for which AUTHORITY agrees to defend and indemnify CITY in a like manner. This
2 indemnity shall survive even after the termination of this Agreement.

3 **ARTICLE 8. IT IS MUTUALLY UNDERSTOOD AND AGREED:**

4 AUTHORITY and CITY agree to the following mutual responsibilities for PROJECT:

5 A. AUTHORITY will form a Steering Committee (COMMITTEE) that consists of a senior staff
6 member from the PARTIES to this Agreement and other impacted agencies. COMMITTEE will provide
7 guidance and input on the following:

- 8 • Construction staging and phasing plans, construction detour plans and sequencing,
9 including sequencing of construction, and monitoring of contractor's compliance with the
10 schedule to minimize impacts to CITY, CITY projects (both public and private), so that
11 AUTHORITY may construct PROJECT efficiently and economically.
- 12 • Community involvement and outreach, including business outreach.
- 13 • Responsibilities for relocation or modification of CITY-owned facilities or utilities.

14 COMMITTEE will serve as a forum to resolve any issues regarding the impact of PROJECT
15 construction on CITY facilities, businesses, and residences, including CITY street closures during
16 construction. COMMITTEE members will negotiate in good faith to resolve the issues, allow affected
17 members to express their interests and concerns, and ensure consistency with CITY standards to reach
18 understanding and agreement on such issues. COMMITTEE will meet as requested by AUTHORITY
19 to review the status of PROJECT and discuss and resolve policy issues affecting PROJECT.
20 COMMITTEE members agree to participate in COMMITTEE meetings and maintain a good record of
21 attendance.

22 B. AUTHORITY will establish a mitigation-monitoring program to monitor and ensure
23 compliance by AUTHORITY's contractors with all the mitigation measures identified in the
24 environmental document and review the program on a regular basis with the CITY.

25 C. AUTHORITY and CITY agree that the AUTHORITY costs to administer the construction
26 contract are eligible PROJECT costs.

COOPERATIVE AGREEMENT NO. C-0-1511

1 D. AUTHORITY and CITY agree to contribute equally to the estimated \$9 million cost shortfall
2 for PROJECT. Separately, the responsible PARTY shall cover project cost increases for betterments
3 above and beyond the project cost.

4 E. AUTHORITY and CITY agree that the AUTHORITY has the option to acquire the 21.3 acre
5 MRMF parcel at its current "appraised value" for a period of four (4) years from the date of execution of
6 this Agreement or the "appraised value" at the time of purchase thereafter for duration of this
7 Agreement. AUTHORITY and CITY also agree that CITY will credit the current "appraised value" of the
8 1.34 acres of the MOW parcel against the value of the MRMF parcel. In order to calculate the
9 "appraised value" for purposes of this Agreement, the CITY and AUTHORITY shall within 60 days of
10 execution of this Agreement each retain the services of a licensed appraiser who each shall perform an
11 independent appraisal of the MRMF and existing MOW parcels. Said appraisals shall be based on a
12 MAI (Member of the Appraisal Institute) appraisal of the fair market value of such land determined on
13 the basis of the intended use and be completed within 120 days of execution of this Agreement. Each
14 PARTY shall provide the draft appraisal to the other PARTY for a 10 business day review and
15 comment. The "appraised value" shall be the average value of the two resulting final appraisals. If the
16 resulting two resulting final appraisals differ by more than 25%, a third appraisal shall be conducted by
17 a new appraiser mutually selected based upon agreed upon guidelines. That third PARTY appraisal
18 will be used to determine the appraised value of the properties.

19 F. AUTHORITY and CITY shall comply with all laws, statues, ordinances and regulations of any
20 governmental authority having jurisdiction over PROJECT.

21 G. This Agreement shall continue in full force and effect through final acceptance of PROJECT
22 by CITY or December 31, 2025, whichever is later. This Agreement may be extended upon mutual
23 written agreement by both PARTIES.

24 H. This Agreement may be amended in writing at any time by the mutual consent of both
25 PARTIES. No amendment shall have any force or effect unless executed in writing by both PARTIES.

26 /

COOPERATIVE AGREEMENT NO. C-0-1511

I. The persons executing this Agreement on behalf of the PARTIES hereto warrant that they are duly authorized to execute this Agreement on behalf of said PARTIES, and that by so executing this Agreement, the PARTIES hereto are formally bound to the provisions of this Agreement.

J. All notices hereunder and communications regarding this Agreement shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered, or certified mail and addressed as follows:

To CITY:	To AUTHORITY:
City of Irvine	Orange County Transportation Authority
P. O. Box 19575 Irvine, CA 92623-9575	P. O. Box 14184 Orange, CA 92863-1584
Attention: Shohreh Dupuis Manager of Transit and Transportation Public Works Department Telephone: 949-724-7526 E-mail: sdupuis@ci.irvine.ca.us	Attention: Reem Hashem Principal Contracts Administrator Contracts Administration & Materials Management Telephone: 714-560-5446 E-mail: rhashem@octa.net

K. The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not part of, and are not intended to govern, limit or aid in the construction or interpretation of any terms or provision thereof.

L. The provisions of this Agreement shall bind and inure to the benefit of each of the PARTIES hereto and all successors or assigns of the PARTIES hereto.

M. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

1 N. This Agreement may be executed and delivered in any number of counterparts, each of
2 which, when executed and delivered shall be deemed an original and all of which together shall
3 constitute the same Agreement. Facsimile signatures will not be permitted.

4 O. Each PARTY shall promptly notify the other PARTY in writing of any legal impediment,
5 change of circumstance, pending litigation, or any other event, occurrence, or condition that may
6 adversely affect such PARTY's ability to carry out and perform any of the duties, services, and/or
7 obligations under the Agreement.

8 P. The terms of this Agreement are intended to confer benefits only on the PARTIES to this
9 Agreement. No rights of action shall accrue to any other persons or entities under this Agreement.

10 Q. AUTHORITY or CITY shall not delegate or assign its rights or otherwise transfer its
11 obligations, in whole or in part, under this Agreement to any other person or entity without the prior
12 written consent of the other PARTY.

13 R. In addition to any other rights or remedies, either PARTY may take legal action, in law or in
14 equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific
15 performance of this Agreement, to obtain injunctive relief, a declaratory judgment or any other remedy
16 consistent with the purposes of this Agreement.

17 S. This Agreement shall be governed and construed in accordance with the laws of the State of
18 California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive
19 venue shall be a court of competent jurisdiction located in Orange County, California, and the PARTIES
20 hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil
21 Procedure section 394.

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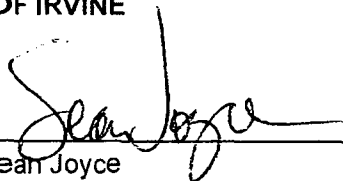
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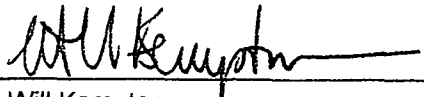
This Agreement shall be made effective upon execution by both PARTIES.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement No. C-0-1511 to be executed on the date first above written.

CITY OF IRVINE

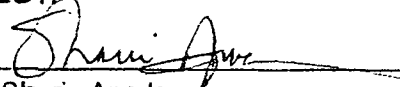
ORANGE COUNTY TRANSPORTATION AUTHORITY

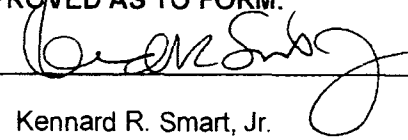
By: 
Sean Joyce
City Manager

By: 
Will Kempton
Chief Executive Officer

ATTEST:

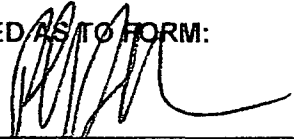
APPROVED AS TO FORM:

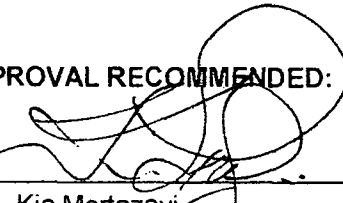
By: 
Sharie Apodaca
City Clerk

By: 
Kennard R. Smart, Jr.
General Counsel

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

By: 
Philip Kohn
City Attorney

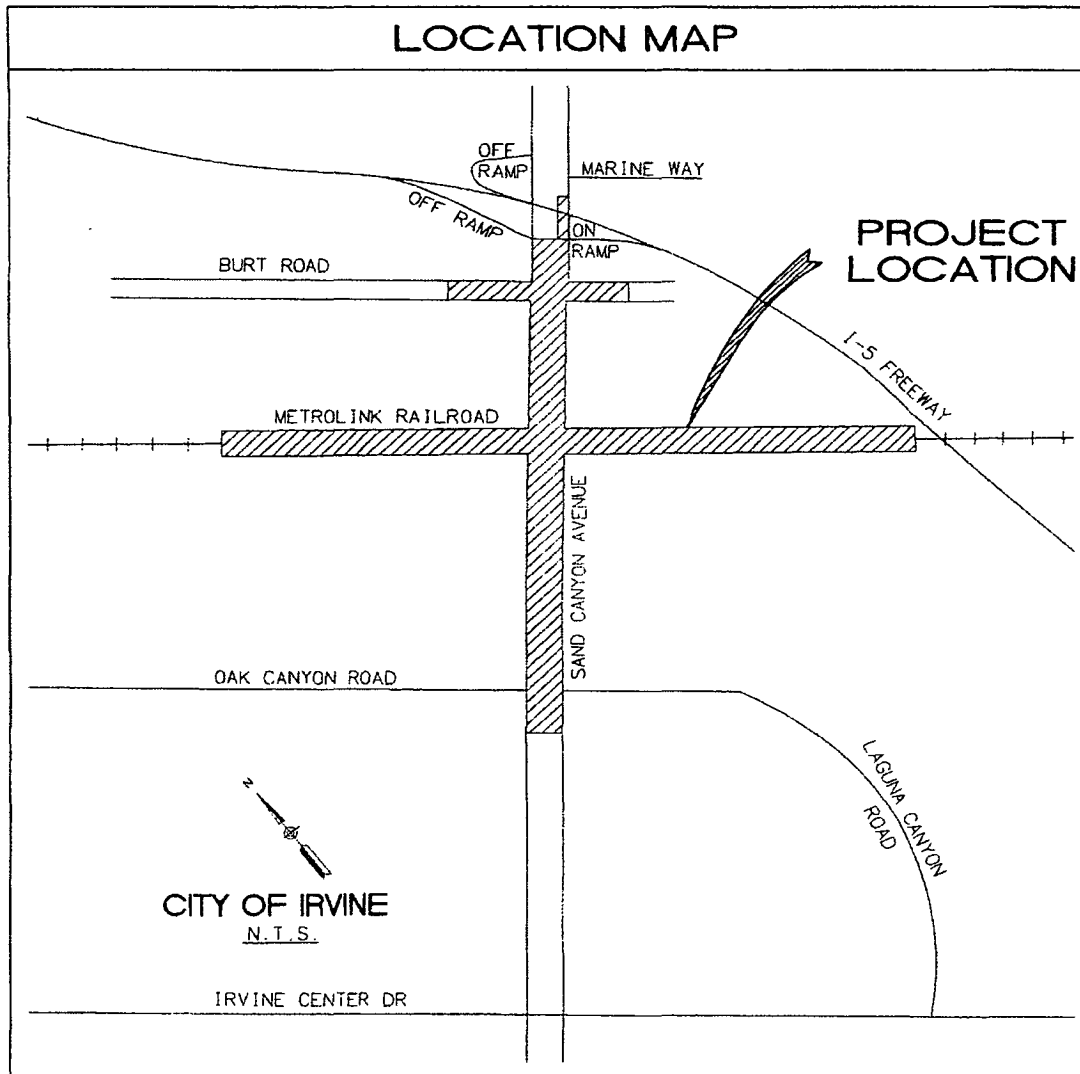
By: 
Kia Mortazavi
Executive Director, Development

Dated: 6/4/10

Dated: 6-11-10

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Location Map
Sand Canyon Avenue Grade Separation



Sand Canyon Area Map

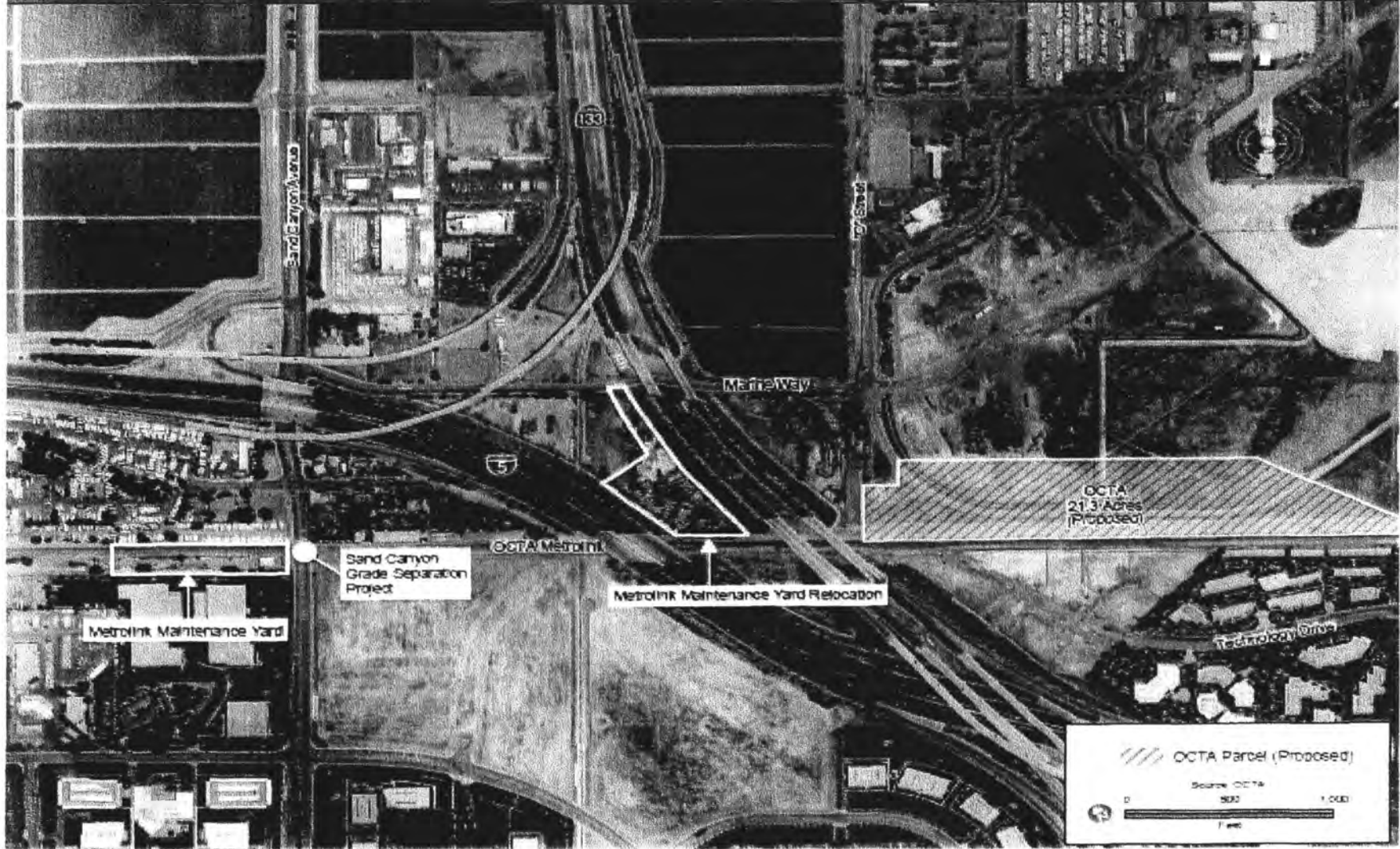
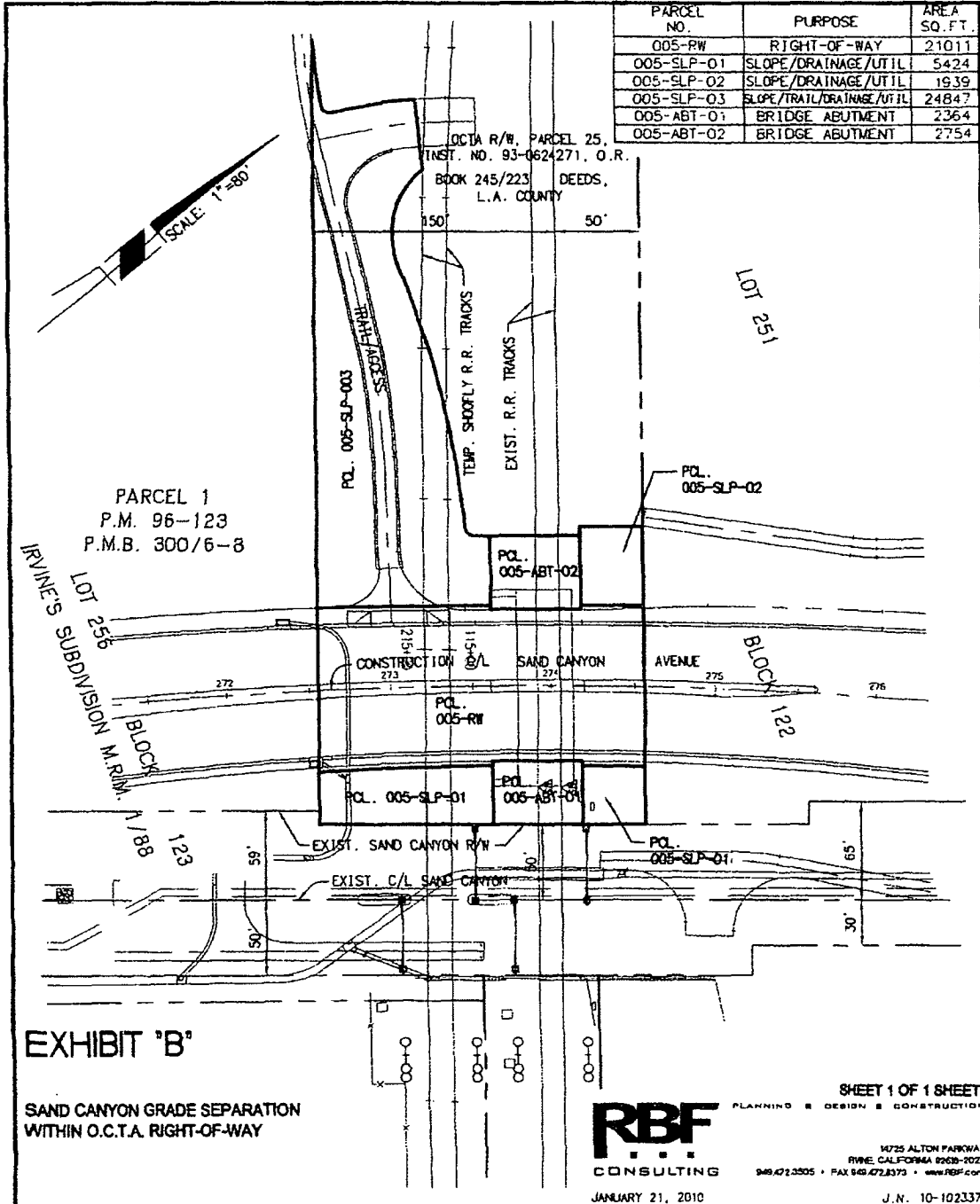


EXHIBIT B

Exhibit B-1

Sand Canyon Avenue Grade Separation Funding
 Within OCTA Right-of-Way



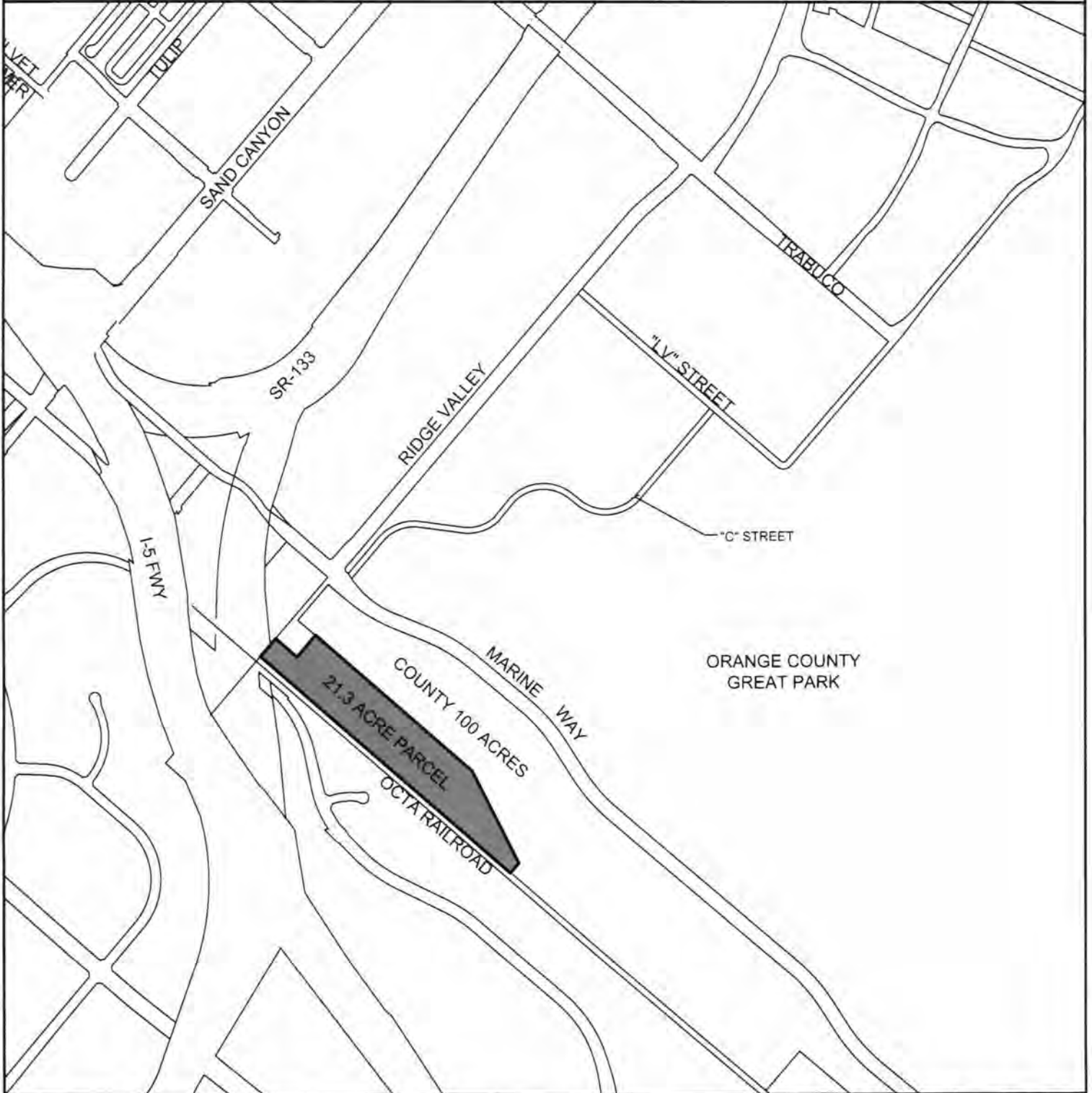
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Funding Schedule

Sand Canyon Avenue Grade Separation

Funding Source	Fiscal Year Funding Available	Funding Amount	Phase
Proposition 116	2009-10	\$22,004,000	Construction
Proposition 1B (HRCSA)	2009-10	\$8,000,000	Construction
RSTP (FHWA)	Prior Years	\$746,868	Design
Measure M (OCTA Transit)	2010-11	\$8,000,000	Design, Right-of-Way, Construction
Local (CITY)	2008-09 & 2009-10	\$7,848,000	Environmental, Design, Right-of-Way
Renewed Measure M-Shortfall (OCTA Transit)	2010-11 & 2011-12	\$4,500,000	Construction
Local –Shortfall (CITY)	2010-11 & 2011-12	\$4,500,000	Construction
Total		\$55,598,868	
	Not-To-Exceed	\$55,600,000	

21.3 ACRE PARCEL



SITE MAP



AGREEMENT FOR THE
PURCHASE AND SALE OF REAL PROPERTY
BY AND BETWEEN
THE CITY OF IRVINE
AND
THE ORANGE COUNTY TRANSPORTATION AUTHORITY
(COMMUTER RAIL MAINTENANCE FACILITY)

This AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY ("Agreement"), dated August __, 2014, is entered into by and between the CITY OF IRVINE, a California municipal corporation and charter city ("City") and the ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity ("OCTA"). City and OCTA may be referred to individually as a "Party," and collectively as the "Parties."

RECITALS

A. City is the owner of that certain real property consisting of approximately 21.3 acres in the City of Irvine, Orange County, more particularly described in Exhibit "A" and depicted in Exhibit "B," both attached hereto and incorporated herein by this reference (the "Property").

B. The Parties entered into Cooperative Agreement No. C-0-1511, effective June 11, 2010, incorporated by this reference as if fully set forth herein, wherein the Parties identified the Property as suitable for use as a commuter rail maintenance facility, and City agreed to reserve the Property for OCTA for a period of fifteen years.

C. The Parties also agreed in Cooperative Agreement No. C-0-1511 that OCTA would have the option to acquire the Property at its current appraised value for a period of four years from the effective date, with a credit against that value of the current appraised value of approximately 1.34 acres of real property owned by OCTA.

D. The Parties entered into a Letter Agreement subsequent to Cooperative Agreement No. C-0-1511, in 2011, to memorialize the respective then-current appraised values of the Property and of OCTA's property, the value of which was to be credited against the value of the Property. This Letter Agreement is attached hereto as Exhibit "C" and incorporated herein by this reference.

E. The Parties now desire to enter into this Agreement for the sale by City and purchase by OCTA of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth below, City and OCTA agree as follows:

1. Recitals Incorporated. The above Recitals are true and correct and are incorporated into this Agreement by this reference.

2. Purchase and Sale of the Property. Subject to all terms and conditions of this Agreement, and for the consideration of the Purchase Price set forth herein, City agrees to sell to OCTA, and OCTA agrees to purchase from City, the Property. The close of the sale of the Property shall occur on or before _____.

3. Purchase Price. The total purchase price for the Property shall be Fourteen Million, One Hundred Fifty Thousand, and Five Hundred Dollars (\$14,150,500) ("Purchase Price"). This Purchase Price reflects the value of the Property as a commuter rail maintenance facility (\$14,845,000) less the value of OCTA's property (\$694,500), as set forth in the Letter Agreement and as agreed to by the Parties in Cooperative Agreement C-0-1511.

4. Purchase and Sale of Property; Independent Consideration. City agrees to sell the Property, and OCTA agrees to purchase the Property from City, upon the terms and subject to the conditions set forth in this Agreement. Upon the opening of Escrow (defined below), OCTA shall deposit with the Escrow Holder (defined below) the amount of One Hundred Dollars (\$100) (the "Independent Consideration"), which shall be non-refundable to OCTA except if this Agreement is terminated prior to the closing of the Escrow for conveyance of the Property due to a default by City. The Independent Consideration shall be released by Escrow Holder to City at the earlier of the closing of the Escrow for conveyance of the Property or at the time this Agreement is terminated prior to such Close of Escrow (defined below) if the Escrow fails to Close for any reason other than the City's Default. If this Agreement is terminated prior to such Close of Escrow due to the City's default, the Escrow holder shall return the Independent Consideration to OCTA. The Independent Consideration shall not be applicable towards the Purchase Price.

5. Use of the Property. The Parties acknowledge and agree that the basis for the sale by City and purchase by OCTA of the Property is OCTA's use of the Property for a commuter rail maintenance facility. In furtherance of the foregoing, OCTA and its successors in interest specifically (1) waive any claim that they are exempt, for any reason, from the requirements of the Irvine Zoning Code and the Irvine Municipal Code, as they may be amended from time to time, and agree and covenant to abide by the City's land use regulatory authority, and (2) agree and covenant that, unless otherwise agreed to by the City in writing, the permanent use of the Property shall be for a commuter rail maintenance facility or other transportation-related uses only, and (3) agree and covenant that any interim use of the Property shall be subject to the approval of the City, which approval City shall not be unreasonably withheld, and (4) agree and covenant that they will not convey, mortgage, lease, hypothecate, or otherwise transfer all or any portion of its ownership interest in the Property without the approval of the City, which approval City shall not be unreasonably withheld. The waiver, use restrictions and covenants described in the preceding sentences shall be included within the grant deed conveying the Property from the City to OCTA, or such other recorded instrument as the City may direct, and in any instrument or grant deed conveying the Property from OCTA to a subsequent purchaser, and shall run with the land in perpetuity.

6. Access License. OCTA and its successors in interest shall provide vehicular, pedestrian, and bicycle access over those portions of existing Perimeter Road that traverse across the Property, until the construction of Marine Way, in an alignment substantially consistent with

that depicted on the current Master Plan of Arterial Highways, is completed and opened for public use.

7. Escrow.

7.1 Opening of Escrow. Within five (5) business days following the execution of this Agreement by OCTA and City, the Parties shall open an escrow (the "Escrow") with _____ ("Escrow Holder"), by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed opened on the date that a fully executed copy of this Agreement is delivered to Escrow Holder (the "Opening of Escrow"). Escrow Holder shall provide the Parties with written confirmation of the date of the Opening of Escrow.

7.2 Close of Escrow. Escrow shall close on or before the date that is sixty (60) days after the Opening of Escrow. The terms "Close of Escrow," and/or "Closing Date" are used herein to mean the date the conveyance documents for the Property (attached hereto as Exhibit "E") are recorded in the Office of the County Recorder of Orange County, California. If Escrow is not in a condition to close on the Closing Date, either Party not then in default hereunder may elect to terminate this Agreement and the Escrow by giving written notice of such termination to the other party and to the Escrow Holder. No such termination shall release either party then in default from liability from such default. If neither party so elects to terminate this Agreement and the Escrow, Escrow Holder shall close the Escrow as soon as possible.

7.3 Escrow Instructions. This Agreement, together with any standard instructions of Escrow Holder, shall constitute the joint escrow instructions of City and OCTA to Escrow Holder. In the event of any conflict between the provisions of this Agreement and Escrow Holder's standard instructions, this Agreement shall prevail.

7.4 Deliveries by City. No later than 1:00 p.m. on the business date preceding the Closing Date, Irvine shall deliver to Escrow Holder a properly executed Grant Deed substantially in the form as Exhibit "E". All of the above-described documents shall be duly executed and acknowledged by City such that the Property can be conveyed to OCTA upon recordation of the same.

7.5 Deliveries by OCTA. Within ten (10) calendar days of Opening of Escrow, OCTA shall deposit, in addition to the Independent Consideration, ten percent (10%) of the Purchase Price with the Escrow Holder. No later than 1:00 p.m. on the business date preceding the Closing Date, OCTA shall deliver to Escrow Holder the following: (a) the balance of the Purchase Price; (b) a properly executed Grant Deed substantially in the form as Exhibit "E"; and (c) all other sums and documents required from City to close the Escrow pursuant to this Agreement, including the Escrow fees.

7.6 Closing, Recording and Disbursements. On and before the Closing Date, when all of the conditions precedent to the Close of Escrow set forth in this Agreement have been satisfied or waived in writing, Escrow Holder shall take the action set forth in this Section 7.6.

7.6.1 Recording. Escrow Holder shall cause the Grant Deed in the form attached hereto as Exhibits "E" to be recorded in the Office of the County Recorder of Orange County, California.

7.6.2 Disbursement of Funds. Escrow Holder shall disperse to City the Purchase Price.

7.6.3 Title Policy. Escrow Holder shall deliver to OCTA the Title Policy referred to in Section 8 of this Agreement.

7.6.4 Delivery of Documents to OCTA and City. Escrow Holder shall deliver to OCTA conformed copies of the Grant Deed and Easement Deed, and any other documents deposited by OCTA to Escrow Holder pursuant to this Agreement. The originals shall be returned to OCTA after recordation. Escrow Holder shall deliver to City a conformed copy of such documents, and any other documents deposited by City with Escrow Holder pursuant to this Agreement.

7.7 Closing Costs. OCTA shall pay all customary costs in connection with the conveyance of the property by City to OCTA. Such costs may include, but are not limited to, escrow fees, as necessary, documentary transfer tax, if applicable, recording fees, and preliminary change of ownership fees.

8. Conditions Precedent to Close of Escrow.

8.1 Conditions to OCTA's Obligations. OCTA's obligation to purchase the Property, and the Close of Escrow, shall be subject to the satisfaction or written waiver by OCTA of each of the conditions precedent set forth in this Section 8.1.

8.1.1 City's Deliveries and Performance. City has deposited with Escrow Holder documents required of City by this Agreement and is not in material default of any term or condition of this Agreement.

8.1.2 Title Policy. Escrow Holder shall issue to OCTA an ALTA standard, or at OCTA's choice, an extended coverage owner's policy of title insurance ("Title Policy") with liability in the amount of the Purchase Price, showing the Grant Deed and Easement Deed vested in OCTA, subject only to: (a) the standard printed exceptions and exclusions contained in the form of the Title Policy commonly used by Title Company; (b) all title exceptions shown in the preliminary Title Report and not disapproved by OCTA pursuant to Section 9 of this Agreement.

8.1.3 Representations and Warranties. All representations and warranties made by City in this Agreement are true and correct as of the Closing as though made at that time.

8.2 Conditions to City's Obligations. City's obligations to convey the Property, and the Close of Escrow, shall be subject to the satisfaction or written waiver by City of the conditions precedent set forth in Section 8.2.1.

8.2.1 OCTA's Deliveries and Performance. OCTA has deposited with Escrow Holder all sums and documents required of OCTA by this Agreement and is not in material default of any term or condition of this Agreement.

9. Title and Due Diligence. The Parties acknowledge that OCTA has obtained, and delivered a copy to City, a standard preliminary title report from Lawyers Title Company, together with the underlying documents relating to any exceptions or exclusions. This preliminary title report is attached hereto as Exhibit "D" and incorporated herein by this reference. Within seven (7) calendar days of Opening of Escrow, OCTA shall notify City in writing of any objections to the matters set forth in the preliminary title report or to the state of the title to the Property. Upon receipt of such notice, City will schedule a meeting with OCTA to determine whether the cure of such objections is mutually acceptable by the Parties. City shall have thirty (30) calendar days from the receipt of OCTA's notice to cure any noticed objections as agreed upon by the Parties and as permitted by law. Title to the Property shall be conveyed to OCTA subject to all recorded and unrecorded liens, restrictions, easements, agreements, and encumbrances, known or unknown.

City and OCTA acknowledge that City is required to disclose if the Property lies within the following natural hazard areas or zones: (a) a special flood hazard area designated by the Federal Emergency Management Agency; (b) an area of potential flooding; (c) a very high fire hazard severity zone; (d) a wild land area that may contain substantial forest fire risks and hazards; (e) an earthquake fault or special studies zone; or (f) a seismic hazard zone. City and OCTA hereby instruct Escrow Holder, or an affiliate thereof (who, in such capacity, is herein called the "Natural Hazard Expert") to examine the maps and other information specifically made available to the public by government agencies for the purposes of enabling City to fulfill its disclosure obligations with respect to the natural hazards referred to above and to report the results of its examination to City and OCTA in writing. Escrow Holder shall provide a written report prepared by the Natural Hazard Expert regarding the results of its examination no later than twenty (20) days prior to the expiration of the Close of Escrow. The written report prepared by the Natural Hazard Expert regarding the results of its examination fully and completely discharges City from its disclosure obligations referred to herein, and, for the purposes of this Agreement, the provisions of Civil Code Section 1103.4 regarding the non-liability of City for errors and/or omissions not within its personal knowledge shall be deemed to apply, and the Natural Hazard Expert shall be deemed to be an expert dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above.

10. Right of Inspection. From the date of this Agreement through Closing, as defined below, City agrees that OCTA and its authorized agents or representatives shall be entitled to enter upon the Property on reasonable prior notice and make such reasonable, nondestructive investigations, studies, and tests, including, without limitation, engineering reviews, environmental reviews, and verifying governmental approvals, at the sole cost of OCTA, as OCTA deems necessary or advisable and without City's prior written consent. OCTA agrees that in conducting any inspections, investigations, or tests of the Property, it and its agents and representatives shall not damage any part of the Property or any personal property owned or held by City or any third party and shall be solely liable in the event of such damage. OCTA shall defend, reimburse, indemnify and hold City, the Orange County Great Park Corporation, and

each of their respective officers, officials, employees, agents, representatives, contractors, successors and assigns (collectively, the "City-Related Parties") harmless (with counsel satisfactory to the City-Related Parties) from all liability, damage, cost and expense (including reasonable attorneys' fees) arising from the negligence or misconduct of OCTA, OCTA's agents, contractors and/or subcontractors on the Property, and/or from any and all investigation, assessment, testing, monitoring or inspection, or other activities conducted upon the Property as contemplated herein. OCTA shall take all steps, including filing appropriate bonds if necessary, to keep the Property free of mechanic's liens as a result of OCTA's activities contemplated herein.

11. Termination Prior to Close of Escrow. If all conditions of the Agreement are met by City prior to the Closing Date, but OCTA does not complete the purchase, OCTA shall be responsible for payment of all cancellation fees, if any. If all conditions of the Agreement are met by OCTA prior to the Closing Date, but City does not complete the purchase, City shall be responsible for payment of all cancellation fees, if any. This Section shall not apply if the Agreement is mutually terminated by the Parties, in which case OCTA shall be responsible for the payment of all cancellation fees, if any. If there is material damage to the Property or if the Property is destroyed or materially damaged by earthquake, flood, landslide, or other casualty prior to the Closing Date, then OCTA shall have the right, by written notice delivered to City and Escrow Holder within ten (10) business days after OCTA receives written notice of such damage or destruction, to terminate this Agreement and cancel Escrow; provided, however, that if OCTA makes such election, then it shall be responsible for the payment of all cancellation fees, if any.

12. Disclaimer, Release, Indemnification.

12.1 Disclaimer. It is understood and agreed that City has not at any time made and is not now making, and City specifically disclaims, any warranties or representations of any kind or character, express or implied, with respect to the Property, or any improvements thereon, including, but not limited to, warranties or representations as to (a) matters of title, (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the existence or lack thereof of Hazardous Materials (as defined below) in, on, under or in the vicinity of the Property, or migrating to or from the Property, either in soil, vapors or surface water or groundwater, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and geologic faults and the resulting damage of past and/or future faulting, (d) whether, and the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (i) uses of adjoining property, (j) access to the Property or any portion thereof, (k) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (l) the condition or use of

the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (m) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (n) the merchantability of the Property or fitness of the Property for any particular purpose, (o) tax consequences, or (p) any other matter or thing with respect to the Property.

12.2 Environmental Conditions.

12.2.1 The Property is a part of the former United States Marine Corps Air Station El Toro ("El Toro"), an installation identified as a National Priorities List (NPL) Site under CERCLA (as defined in Section 13.4 of the Lease in Furtherance of Conveyance between the United States of America and Heritage Fields LLC, a Delaware Limited Liability Company for MCAS El Toro Parcel 3," dated July 12, 2005 (the "LIFOC")). An "Environmental Baseline Survey" (as defined in Section 4.1 of the LIFOC) was conducted for El Toro that sets forth certain existing environmental conditions of, *inter alia*, the former base and provides that the United States Department of the Navy ("DON") has entered into a "Federal Facility Agreement" concerning the former base. DON has the responsibility to conduct environmental remediation work and activities throughout El Toro, pursuant to the BRAC Cleanup Plan and the IRP (as such terms are defined and/or described in Section 13.5 of the LIFOC), and as reflected in the "Record of Decision," the Federal Facilities Agreement, the "Finding of Suitability to Lease" ("FOSL") for the portions of El Toro leased by DON to Heritage Fields LLC, a Delaware limited liability company ("HF") (as "Record of Decision" and "FOSL" are defined in the LIFOC), and in any future documentation prepared by DON to reflect environmental remediation activity to be undertaken by DON on one or more portions of El Toro (collectively, "DON Remediation Work"). OCTA understands, acknowledges and agrees that should any conflict arise between the work or activities to be included under the Federal Facility Agreement as it presently exists or may be amended, or with any DON Remediation Work, on the one hand, and any use, operations, or activities to be conducted on the Property, as contemplated by this Agreement, on the other, the work or activities to be conducted under the Federal Facility Agreement or the DON Remediation Work shall take precedence. OCTA further agrees that the City-Related Parties have no liability to OCTA or its contractors, subcontractors, sub-lessees, licensees and/or invitees, including any member of the public (hereafter collectively "Property Users") should implementation of the Federal Facility Agreement or the conduct of the DON Remediation Work interfere with OCTA's or any Property User's use of, or operations or activities within, the Property. OCTA shall have no claim on account of any such interference against the City-Related Parties.

12.2.2 The DON, the United States Environmental Protection Agency ("EPA"), and the State of California, and their respective officers, agents, employees, contractors and subcontractors (collectively, the "Governmental Authorities"), have the right to enter upon the Property for such purposes consistent with the carrying out of any DON Remediation Work, as appropriate in accordance with any applicable environmental law (including but not limited to the work and activities to be conducted pursuant to the BRAC Cleanup Plan and the Installation Restoration Program ("IRP"), as defined and/or described in the LIFOC). In addition, OCTA acknowledges that access onto the Property by the Governmental Authorities may be required; OCTA shall have no claim against any City-Related Party on account of any such entry by any

of the Governmental Authorities, nor shall any such entry render City-Related Party liable to OCTA.

12.2.3 The LIFOC may contain restrictions on the use of the Property. Notwithstanding anything to the contrary herein, OCTA shall comply with, and require its contractors, subcontractors, consultants, employees, agents, and representatives to comply with, all of the provisions of the LIFOC.

12.2.4 OCTA has reviewed and is aware of the notifications, obligations, and restrictions contained in the Finding for Suitability of Lease ("FOSL") prepared in July 2004 (and as defined in Section 4.1 of the LIFOC) for the contaminated portion of El Toro, and shall conduct its development, use, operations and all activities on the Property, and shall require its contractors, subcontractors, consultants, agents, and representatives to conduct their activities on and about the Property, in strict accordance therewith.

12.3 Sale "AS IS, WHERE IS, WITH ALL FAULTS". OCTA acknowledges and agrees that City is selling and conveying to OCTA, the Property, "AS IS, WHERE IS, WITH ALL FAULTS," and that with the exception of the limited representations expressly set forth, OCTA has not relied on and will not rely on, and City has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Property or relating thereto, made or furnished by City or any real estate broker, agent or third party representing or purporting to represent City, to whomever made or given, directly or indirectly, orally or in writing. OCTA represents that it is a knowledgeable, experienced and sophisticated purchaser of real estate, and that OCTA is relying solely on its own expertise and that of OCTA's consultants and representatives in purchasing the Property, and shall make an independent verification of the accuracy of any documents and information provided by City. OCTA will conduct such inspections and investigations of the Property as OCTA deems necessary, including, but not limited to, the physical and environmental conditions thereof, and shall rely solely upon the same. By failing to terminate this Agreement prior to the Close of Escrow, OCTA acknowledges that City has afforded OCTA a full opportunity to conduct all such investigations of the Property as OCTA deemed necessary to satisfy itself as to the condition of the Property and the existence or non-existence or removal or remediation action to be taken with respect to any Hazardous Materials in, on, within or migrating to or from the Property, and that OCTA will rely solely upon the same and not upon any information provided by or on behalf of City or its agents or employees with respect thereto. Upon Closing, OCTA shall assume the risk that adverse matters, including, but not limited to, adverse physical or construction defects, Hazardous Materials, or adverse environmental or health and safety conditions, may not have been revealed by OCTA's inspections, assessments, investigations, and/or testing.

OCTA's INITIALS: _____

12.4 Release. OCTA hereby acknowledges that it will have had full opportunity to investigate, assess, test, and inspect the Property prior to Close of Escrow, and during such period, to observe the physical and environmental characteristics and existing conditions, including but not limited to, the opportunity to conduct such investigation, assessment, testing, monitoring and study on and of the Property and of adjacent areas, as OCTA

deems necessary, in accordance with law. OCTA, therefore, individually and collectively, for itself and its members, partners, officers, directors, employees, agents, successors, assigns, and all entities related to any of the foregoing, and on behalf of all persons claiming any interest in the Property or this Agreement, including but not limited to any and all future owners, lessees, and/or operators, of the Property and their successors, hereby expressly waives, releases, discharges and forever relinquishes any and all claims, rights of action, causes of action, rights and/or remedies OCTA has or hereafter may have, whether known or unknown, fixed or contingent, against City-Related Parties (a) regarding any matters affecting the Property and any condition of the Property whatsoever; and (b) regarding: (i) the existence or potential existence of any Hazardous Materials in, on, under, within or migrating to or from the Property, either in soil, vapor, surface water or groundwater, (ii) any violations or alleged violations of any Environmental Laws regarding the Property, and (iii) any cleanup or remediation costs associated with Hazardous Materials.

OCTA HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 ("SECTION 1542"), WHICH IS SET FORTH BELOW:

"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."

OCTA ACKNOWLEDGES AND AGREES THAT IT MAY HEREAFTER DISCOVER FACTS OR LAW DIFFERENT FROM OR IN ADDITION TO THOSE WHICH IT NOW BELIEVES TO BE TRUE WITH RESPECT TO THE RELEASE OF CLAIMS. OCTA ACKNOWLEDGES AND AGREES THAT THE RELEASE IT IS PROVIDING SHALL REMAIN EFFECTIVE IN ALL RESPECTS NOTWITHSTANDING SUCH DIFFERENT OR ADDITIONAL FACTS OR LAW OR ANY PARTIES' DISCOVERY THEREOF. OCTA SHALL NOT BE ENTITLED TO ANY RELIEF IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO ANY DAMAGES OR ANY RIGHT OR CLAIM TO SET ASIDE OR RESCIND THIS AGREEMENT.

BY INITIALING BELOW, OCTA HEREBY WAIVES AND RELEASES ANY AND ALL RIGHTS PROVIDED UNDER THE PROVISIONS OF SECTION 1542 AND ALL SIMILAR OR RELATED STATUTES THERETO, IN CONNECTION WITH THESE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

OCTA'S INITIALS: _____

12.5 Integral Part of Agreement. OCTA acknowledges and agrees that the disclaimers, environmental conditions, waivers and releases along with the other agreements set forth above, are all an integral part of this Agreement, and City would not have agreed to enter

into this Agreement without such terms, and that all such terms shall survive the Close of Escrow.

12.6 Definitions.

12.6.1 For the purposes of this Agreement, "Hazardous Material" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (B) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 255010) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (L) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601); (M) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or (N) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

12.6.2 For the purposes of this Agreement, the term "**Environmental Laws**" means any and all federal, state and local laws, statutes, ordinances, orders, rules, regulations, guidance documents, judgments, governmental authorizations, or any other requirements of governmental authorities, as may presently exist, or as may be amended or supplemented, or hereafter enacted, relating to the presence, release, generation, use, handling, assessment, investigation, study, monitoring, removal, remediation, cleanup, treatment, storage, transportation or disposal of Hazardous Materials, or the protection of the environment or human, plant or animal health, including, without limitation, the following statutes and their underlying regulations, as they have been amended from time to time, and the following referenced common laws: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of

1986 (42 U.S.C. § 9601), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13000 et seq.), the Toxic Mold Protection Act (Cal. Health & Safety Code § 26100, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65 – Cal. Health & Safety Code § 25249.5 et seq.), the California Hazardous Waste Control Law (Cal. Health & Safety Code § 25100 et seq.), the Hazardous Materials Release Response Plans & Inventory Act (Cal. Health & Safety Code § 25500 et seq.), the Carpenter-Presley-Tanner Hazardous Substances Account Act (California Health and Safety Code, Section 25300 et seq.), the California Underground Storage of Hazardous Substances Laws (Chapter 6.7 of Division 20 of the Cal. Health and Safety Code, §25280 et seq.) and the California common laws of nuisance, trespass, waste and ultra-hazardous activity.

12.7 Indemnification

12.7.1 OCTA shall indemnify, defend and hold harmless the City-Related Parties from and against any and all actions, suits, claims, demands, judgments, attorneys' fees, costs, damages to person or property, losses, penalties, obligations, expenses, or liabilities of any kind that may be asserted or claimed by any person or entity arising in any related to the Property, the condition of the Property, and any injuries of any nature arising from the condition of the Property, including without limitation injuries arising from OCTA's activities under this Agreement, its use of the Property, the presence, discharge, release, disposal, or spilling of any Hazardous Materials, OCTA's violation of any permit issued by state and federal agencies and applicable to the Property, including without limitation a Section 404 Permit from the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification from the California Regional Water Quality Control Board, a Fish and Game Section 1602 Permit from the California Department of Fish and Game, an Irvine Ranch Water District Subarea Master Plan and a National Pollution Discharge Elimination System Permit, or that in any way relates to the existing physical or environmental condition of the Property (herein, "Claims" or "Liabilities"), whether or not there is concurrent passive negligence on the part of any City-Related Party, but excluding such Claims or Liabilities to the extent they arise from the active negligence or willful misconduct of any City-Related Party. In connection therewith:

12.7.2 OCTA shall defend any action or actions filed in connection with any such Claim or Liability, and shall pay all costs and expenses, including attorneys' fees incurred in connection therewith except to the extent such Claims or Liabilities arise from the active negligence or willful misconduct of any City-Related Party.

12.7.3 OCTA shall promptly pay any final judgment rendered against any City-Related Party for any such Claim or Liability except to the extent such Claims or Liabilities arise from the active negligence or willful misconduct of the City-Related Party. In the event judgment is entered against OCTA and any City-Related Party, in part because of the concurrent active negligence or willful misconduct of any City-Related Party, an apportionment of liability

to pay such judgment, including attorneys' fees and expert witness fees, shall be made by a court of competent jurisdiction.

12.7.4 In the event any City-Related Party is made a party to any action or proceeding filed or prosecuted for any such damage or other Claim or Liability arising out of OCTA's use of the Property, OCTA shall pay to the City-Related Party(ies), any and all reasonable costs and expenses incurred by the City-Related Party(ies) in such action or proceeding, together with reasonable attorneys' fees and expert witness fees, except to the extent any Claims or Liabilities arise from the active negligence or willful misconduct of the City-Related Party.

12.7.5 OCTA agrees that City-Related Parties have no liability to OCTA or its contractors, subcontractors, sublessees, licensees and/or invitees, including any member of the public (hereafter collectively "Premises Users") should environmental remediation activity to be undertaken by DON ("DON Remediation Work") on one or more portions of El Toro interfere with the OCTA's or any Premises User's use of, or operations or activities within, the Premises or the lands covered by the Access License.

12.7.6 OCTA shall have no claim against City-Related Party on account of any entry onto the Property by the Governmental Authorities, for the purposes of carrying out any of the DON Remediation Work, nor shall any such entry render any City-Related Party liable to OCTA.

13. Development of the Property after Transfer. OCTA and its successors in interest shall, at its own cost and expense, promptly and at all times observe, comply with and carry out all present and future orders, regulations, directions, rules, laws, ordinances, permits and requirements of all applicable governmental authorities, including, but not limited to, environmental regulatory authorities, with jurisdiction in, on, over and about the Property, which arise from OCTA's use of or performance of any activities permitted to be conducted in, on, over, or across the Property, and all zoning, building, development, public health and safety, and other laws, regulations, and requirements of City. Any approvals or consents given hereunder by City, as a Party to this Agreement, are limited to the purpose of effectuating the sale of the Property, and shall not be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules or regulations. OCTA and its successors in interest under this agreement specifically acknowledge that they are subject to and must comply with the requirements of the Irvine Zoning Code and the Irvine Municipal Code, as it each may be amended from time to time. Consistent therewith, OCTA and its successors in interest specifically waive any claim that they are exempt, for any reason, from the requirements of the Irvine Zoning Code and the Irvine Municipal Code. The waiver set forth in the preceding sentence shall be included in the grant deed conveying the Property from the City to OCTA, and shall run with the land in perpetuity.

14. Right of First Refusal. If at any time within thirty (30) years after Closing, OCTA receives a bona fide offer for the purchase of any portion of the Property from a third party, the City shall have the right of first refusal to meet said offer on the same terms and conditions. After receiving written notice from OCTA with all relevant terms and conditions of the offer, the City shall have sixty (60) days to provide, in writing, its acceptance to the terms. If the City

meets the bona fide offer, OCTA agrees to convey the portion of the Property based upon the terms of the bona fide offer. If the City fails to meet the bona fide offer within sixty (60) days after written notice from OCTA, OCTA may transfer the interest in the Property to such third party, but only upon terms and conditions no less favorable than those previously described to the City. If the City fails to meet the bona fide offer and OCTA elects not to transact with the bona fide party, OCTA's obligation in this section shall survive to any future bona fide offers. The right of first refusal granted herein shall be included into the grant deed for the conveyance of the Property from the City to OCTA.

15. Future Transaction. Within five (5) years of the Closing, the Parties will also engage in discussions for the potential future transfer of a nearby site from the City to OCTA, in order to provide access to the Property. It is the Parties' intent to provide said access near or around planned O Street and Marine Way solely for a use authorized under Section 5 of this Agreement. OCTA shall pay to the City the fair market value for any property or easement needed to provide for the access way described in the preceding two paragraphs, and shall be (1) solely responsible for construction of the access improvements and (2) responsible for its fair share of any other roadway capacity improvements, as determined by project specific traffic studies and environmental approvals.

16. Default, Remedies.

16.1 The term "City Default" shall mean: (a) the failure of City to perform in any material respect, any material act to be performed by City or to refrain from performing in any material respect any material act prohibited hereby, if such failure has not been remedied by City within five (5) business days following receipt of written notice from OCTA to City Escrow Holder identifying such failure. The term "OCTA Default" shall mean the failure of OCTA to perform in any material respect any material act to be performed by OCTA if such failure has not been remedied by OCTA within five (5) business days following receipt of written notice from City identifying such failure.

16.2 Liquidated Damages.

CITY'S DEFAULT. IN THE EVENT THE CLOSE OF ESCROW AND THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT DO NOT OCCUR BY REASON OF A MATERIAL DEFAULT OF CITY, OCTA, AS ITS SOLE AND EXCLUSIVE REMEDIES WILL BE ENTITLED TO (I) A RETURN OF THE UNDISBURSED PORTION OF THE DEPOSIT TOGETHER WITH ANY INTEREST EARNED THEREON WHILE HELD BY ESCROW HOLDER AND ANY EXTENSION DEPOSITS, PLUS THE SUM OF TEN THOUSAND DOLLARS (\$10,000) AS LIQUIDATED DAMAGES, OR (II) BRING AN ACTION FOR SPECIFIC PERFORMANCE OF THIS AGREEMENT. THE PARTIES AGREE THAT (A) RETURN OF THE UNDISBURSED PORTION OF THE DEPOSIT AND ANY EXTENSION DEPOSITS AND PAYMENT OF TEN THOUSAND DOLLARS (\$10,000) TO OCTA IS INTENDED TO COMPENSATE OCTA FOR DAMAGES IT WILL SUFFER AS A RESULT OF CITY'S BREACH HEREOF AND NOT AS A PENALTY OR FORFEITURE; (B) OCTA'S DAMAGES IN THE EVENT OF

CITY'S DEFAULT ARE IMPOSSIBLE OR EXTREMELY DIFFICULT TO ACCURATELY ASCERTAIN AND THAT PROOF OF SUCH AMOUNT WOULD BE COSTLY, TIME-CONSUMING AND INCONVENIENT; (C) THE SUM OF THE UNDISBURSED PORTION OF THE DEPOSIT AND ANY EXTENSION DEPOSITS AND TEN THOUSAND DOLLARS (\$10,000) IS FAIR AND REASONABLE IN LIGHT OF ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT AND AT THE TIME OF PAYMENT, INCLUDING THE RELATIONSHIP OF SUCH AMOUNT TO THE RANGE OF HARM TO OCTA THAT REASONABLY COULD BE ANTICIPATED; (D) THIS CLAUSE HAS BEEN THE SUBJECT OF SPECIFIC NEGOTIATION; (E) EACH PARTY HAS HAD THE OPPORTUNITY TO HAVE COUNSEL FULLY EXPLAIN THE CONSEQUENCES OF THE CLAUSE; (F) EACH PARTY FULLY UNDERSTANDS THE CONSEQUENCES OF THIS CLAUSE; AND (G) SUCH LIQUIDATED DAMAGES SHALL BE OCTA'S SOLE AND EXCLUSIVE REMEDY FOR MONETARY DAMAGES FOR CITY'S DEFAULT AND CITY SHALL HAVE NO OTHER OR FURTHER OBLIGATION OR LIABILITY UNDER THIS AGREEMENT TO OCTA ON ACCOUNT OF SUCH DEFAULT OR BREACH; PROVIDED, HOWEVER, THAT NOTHING CONTAINED HEREIN SHALL BE DEEMED A WAIVER OF OCTA'S RIGHT TO SPECIFIC PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, NONE OF THE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT AND/OR ANY POST-CLOSING OBLIGATIONS OF CITY PURSUANT TO THIS AGREEMENT SHALL BE LIMITED BY THE SUMS RECOVERABLE UNDER THIS SECTION.

INITIALS: CITY: _____ OCTA: _____

OCTA'S DEFAULT. IN THE EVENT OF AN "OCTA DEFAULT" AS DEFINED ABOVE, THE SUM OF (I) THE UNDISBURSED PORTION OF THE DEPOSIT AND ANY ACCRUED INTEREST THEREON, (II) ANY EXTENSION DEPOSITS, AND (III) TEN THOUSAND DOLLARS (\$10,000) (COLLECTIVELY, THE "OCTA'S LIQUIDATED DAMAGES PAYMENT") SHALL BE PAID TO CITY (OR, TO THE EXTENT ALREADY PAID TO CITY, RETAINED BY CITY) AS LIQUIDATED DAMAGES. THE PARTIES AGREE THAT (A) PAYMENT OF THE OCTA'S LIQUIDATED DAMAGES AMOUNT TO CITY IS INTENDED TO COMPENSATE CITY FOR DAMAGES IT WILL SUFFER AS A RESULT OF OCTA'S BREACH HEREOF AND NOT AS A PENALTY OR FORFEITURE; (B) CITY'S DAMAGES IN THE EVENT OF OCTA'S DEFAULT ARE IMPOSSIBLE OR EXTREMELY DIFFICULT TO ACCURATELY ASCERTAIN AND THAT PROOF OF SUCH AMOUNT WOULD BE COSTLY, TIME-CONSUMING AND INCONVENIENT; (C) THE AMOUNT OF THE OCTA'S LIQUIDATED DAMAGES PAYMENT IS FAIR AND REASONABLE IN LIGHT OF ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT AND AT THE TIME OF PAYMENT, INCLUDING THE RELATIONSHIP OF SUCH AMOUNT TO THE RANGE OF HARM TO CITY THAT

REASONABLY COULD BE ANTICIPATED; (D) THIS CLAUSE HAS BEEN THE SUBJECT OF SPECIFIC NEGOTIATION; (E) EACH PARTY HAS HAD THE OPPORTUNITY TO HAVE COUNSEL FULLY EXPLAIN THE CONSEQUENCES OF THE CLAUSE; (F) EACH PARTY FULLY UNDERSTANDS THE CONSEQUENCES OF THIS CLAUSE; (G) SUCH LIQUIDATED DAMAGES SHALL BE CITY'S SOLE AND EXCLUSIVE REMEDY FOR OCTA'S DEFAULT AND OCTA SHALL HAVE NO OTHER OR FURTHER OBLIGATION OR LIABILITY UNDER THIS AGREEMENT TO CITY ON ACCOUNT OF SUCH DEFAULT OR BREACH; AND (H) CITY HEREBY WAIVES THE RIGHT TO SPECIFIC PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, NONE OF THE INDEMNITY OBLIGATIONS UNDER OF THIS AGREEMENT AND/OR ANY POST-CLOSING OBLIGATIONS OF OCTA PURSUANT TO THIS AGREEMENT SHALL BE LIMITED BY THE SUMS RECOVERABLE UNDER THIS SECTION.

INITIALS: CITY: _____ OCTA: _____

17. Notices. Any notice which a Party is required or may desire to give to the other Party shall be in writing and shall be sent by personal delivery or by mail (either (a) by United States registered or certified mail, return receipt requested, postage prepaid, or (b) by Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery), addressed as set forth below (subject to the right of a party to designate a different address for itself by notice similarly given at least five (5) days in advance). Any notice so given by mail shall be deemed to have been given as of the date of delivery (whether accepted or refused) established by U.S. Post Office return receipt or the overnight carrier's proof of delivery, as the case may be. Any such notice not so given shall be deemed given upon actual receipt of the same by the party to whom the same is to be given.

If to City : City of Irvine
 1 Civic Center Plaza
 Irvine, CA 92606-5207
 Attention: City Manager

If to OCTA: Orange County Transportation Authority
 550 South Main Street
 Orange, CA 92863
 Attention: Chief Executive Officer

18. Other Acts. City and OCTA each hereby agree to perform such other acts, and to execute, acknowledge, and/or deliver such other instruments, documents and materials as may be reasonably necessary to effect consummation of the transaction contemplated herein (provided the same do not increase in any material respect the costs to, or liability or obligations of, such party in a manner not otherwise provided for herein).

19. Satisfaction or Waiver of Contingencies. The consummation of the Closing shall be conclusive evidence that the contingencies and conditions to Closing have been fully satisfied or waived.

20. Brokerage Commissions. City and OCTA each represents and warrants to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transactions contemplated by this Agreement, unless as otherwise disclosed by OCTA prior to the Effective Date. Furthermore, should OCTA disclose any broker's commission and/or finder's fee applicable to the transactions contemplated by this Agreement, such commission and/or finder's fee shall in no way apply to the City, the Purchase Price, or any payments by the Parties hereunder. Each party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages, and expenses, including without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee.

21. Miscellaneous.

21.1 Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties, and that by so executing this Agreement, the Parties hereto are formally bound to the provisions of this Agreement.

21.2 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

21.3 Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

21.4 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto. Neither Party may assign any of its rights pursuant to this Agreement without the written consent of the other Party.

21.5 Agreement Expenses. The Parties agree to bear their respective expenses, incurred or to be incurred in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement, except as otherwise specifically provided in this Agreement.

21.6 Entire Agreement. This Agreement is the final expression of, and contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed,

supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by each Party.

21.7 Time of Essence. OCTA and City hereby acknowledge and agree that time is strictly of the essence with respect to each and every term and provision of this Agreement and that failure to timely perform any of the terms and provisions of this Agreement by either Party shall constitute a material breach of and a noncurable but waivable default under this Agreement.

21.8 Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and vice versa, and the masculine shall include the feminine and vice versa.

21.9 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California in effect at the time of the signing of this Agreement. The Parties consent to the jurisdiction of the California courts with venue in Orange County.

21.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same single instrument.

21.11 Negotiated Transaction. The provisions of this Agreement shall be considered to have been negotiated, drafted and prepared by each Party hereto and no Party shall be deemed to have been the author of any particular term or condition contained herein.

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

CITY OF IRVINE


ORANGE COUNTY TRANSPORTATION
AUTHORITY

By: _____
Name: Steven S. Choi, Ph.D.
Title: Mayor

By: _____
Name:
Title:

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:  _____
Name: Todd Litfin
Title: City Attorney

By: _____
Name:
Title:

ATTEST:

By: _____

Name: Molly McLaughlin

Title: City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION

1 **Parcel A:**

2

3 THAT CERTAIN PORTION OF LAND IN THE CITY OF IRVINE, COUNTY OF
4 ORANGE, STATE OF CALIFORNIA, BEING PORTIONS OF LOT 285 AND LOT
5 286 OF BLOCK 140, AND LOT 284 OF BLOCK 155 OF IRVINE'S SUBDIVISION,
6 RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS RECORD MAPS, IN
7 THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WITHIN
8 PARCEL "3A-2" OF "QUITCLAIM DEED AND ENVIRONMENTAL
9 RESTRICTION" RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005000536292
10 OF OFFICIAL RECORDS OF SAID COUNTY AND AS SHOWN ON RECORD OF
11 SURVEY 2007-1206, FILED IN BOOK 225, PAGES 29 THROUGH 42, INCLUSIVE
12 OF RECORDS OF SURVEYS IN THE OFFICE OF SAID COUNTY RECORDER,
13 SAID RECORD OF SURVEY BEING THE BASIS OF BEARINGS FOR THIS
14 DESCRIPTION, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

15

16 COMMENCING AT THE MOST EASTERLY CORNER OF THAT CERTAIN
17 PARCEL 'HOME 1 (TRANSFER, BLDG. 319)' PER DOCUMENT RECORDED
18 JULY 12, 2005, AS INSTRUMENT NO. 2005000536293, OFFICIAL RECORDS OF
19 SAID COUNTY, SAID POINT OF COMMENCEMENT BEING ON THE
20 NORTHEASTERLY RIGHT OF WAY LINE OF THE A.T. & S.F. RAILROAD
21 (100 FEET WIDE AS SHOWN ON SAID RECORD OF SURVEY);

22

23 THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE OF THE A.T. &
24 S.F. RAILROAD, NORTH 49 DEGREES 20 MINUTES 21 SECONDS WEST,
25 2669.08 FEET TO THE **TRUE POINT OF BEGINNING;**

26

27 THENCE NORTH 40 DEGREES 36 MINUTES 59 SECONDS EAST, 92.01 FEET;

28

29 THENCE NORTH 26 DEGREES 59 MINUTES 05 SECONDS WEST, 849.25 FEET
30 TO A LINE PARALLEL WITH AND DISTANT 415.01 FEET NORTHEASTERLY.

Page 1 of 4

EXHIBIT "A"
LEGAL DESCRIPTION

31 (AS MEASURED AT RIGHT ANGLES), FROM SAID NORTHEASTERLY RIGHT
32 OF WAY LINE:

33

34 THENCE ALONG SAID PARALLEL LINE NORTH 49 DEGREES 20 MINUTES 22
35 SECONDS WEST, 1881.50 FEET, HEREINAFTER REFERRED TO AS COURSE
36 "A", TO THE NORTHWESTERLY LINE OF SAID LOT 286;

37

38 THENCE SOUTH 40 DEGREES 39 MINUTES 34 SECONDS WEST, 415.01 FEET TO
39 SAID NORTHEASTERLY RIGHT OF WAY LINE;

40

41 THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE SOUTH 49
42 DEGREES 20 MINUTES 21 SECONDS EAST, 2669.99 FEET TO THE **TRUE POINT**
43 **OF BEGINNING;**

44

45 EXCEPTING THEREFROM ALL THAT LAND LYING NORTHERLY OF THE
46 FOLLOWING DESCRIBED LINE:

47

48 BEGINNING AT THE INTERSECTION OF SAID NORTHWESTERLY LINE OF
49 SAID LOT 286, SAID BEING SHOWN AS "N40°39' 34"E 5230.30'" ON SAID
50 RECORD OF SURVEY, WITH A LINE PARALLEL WITH AND DISTANT 14.50
51 FEET FROM, AS MEASURED AT RIGHT ANGLES, THE SOUTHWESTERLY LINE
52 OF PARCEL 2 "QUITCLAIM DEED AND ENVIRONMENTAL RESTRICTION
53 PURSUANT TO CIVIL CODE RESTRICTION 1471", RECORDED JUNE 16, 2011,
54 AS INSTRUMENT 2011000293986;

55

56 THENCE ALONG SAID PARALLEL LINE SOUTH 48 DEGREES 56 MINUTES 53
57 SECONDS EAST, 220.69 FEET TO THE INTERSECTION OF SAID PARALLEL
58 LINE WITH A LINE PARALLEL WITH AND DISTANT 24.30 FEET FROM, AS
59 MEASURED AT RIGHT ANGLES, THE SOUTHEASTERLY LINE OF SAID
60 PARCEL 2;

Page 2 of 4

EXHIBIT "A"
LEGAL DESCRIPTION

61

62 THENCE ALONG LAST SAID PARALLEL LINE NORTH 40 DEGREES 59
63 MINUTES 35 SECONDS EAST, 226.43 FEET TO THE POINT OF TERMINUS,
64 BEING THE INTERSECTION OF LAST SAID PARALLEL LINE WITH HEREIN
65 ABOVE DESCRIBED COURSE "A".

66

67 ALSO EXCEPTING THEREFROM ALL THAT LAND LYING WITHIN A 25 FOOT
68 STRIP OF LAND, THE SOUTHERLY LINE DESCRIBED AS FOLLOWS:

69

70 COMMENCING AT THE WESTERLY CORNER OF THE REAL PROPERTY
71 DESCRIBED IN THE FINAL JUDGEMENT AND DECREE OF CONDEMNATION
72 RECORDED JULY 12, 1944 IN BOOK 1264, PAGE 154 OF OFFICIAL RECORDS
73 OF SAID COUNTY AS SHOWN ON SAID RECORD OF SURVEY NO. 2007-1206;
74 THENCE ALONG THE SOUTHWESTERLY LINE OF SAID REAL PROPERTY AS
75 SHOWN ON SAID RECORD OF SURVEY, SOUTH 49 DEGREES 20 MINUTES 21
76 SECONDS EAST 2644.25 FEET TO THE **TRUE POINT OF BEGINNING**;

77

78 THENCE NORTH 40 DEGREES 45 MINUTES 11 SECONDS EAST 858.55 FEET.

79

80 SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE
81 SOUTHWESTERLY IN SAID SOUTHWESTERLY LINE OF BOOK 1264, PAGE 154
82 OF SAID OFFICAL RECORDS.

83

84 CONTAINING 21.30 ACRES, MORE OR LESS.

85

86 ALL AS SHOWN ON EXHIBIT B, ATTACHED HERETO AND BY THIS
87 REFERENCE MADE A PART HEREOF.

88

89 SUBJECT TO CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS,
90 RIGHTS OF WAY AND EASEMENTS, IF ANY.

Page 3 of 4

EXHIBIT "A"
LEGAL DESCRIPTION

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PREPARED BY:
JOHNSON-FRANK & ASSOCIATES INC.,
UNDER THE DIRECTION OF:
ALAN D. FRANK



Alan D. Frank, PLS 7172

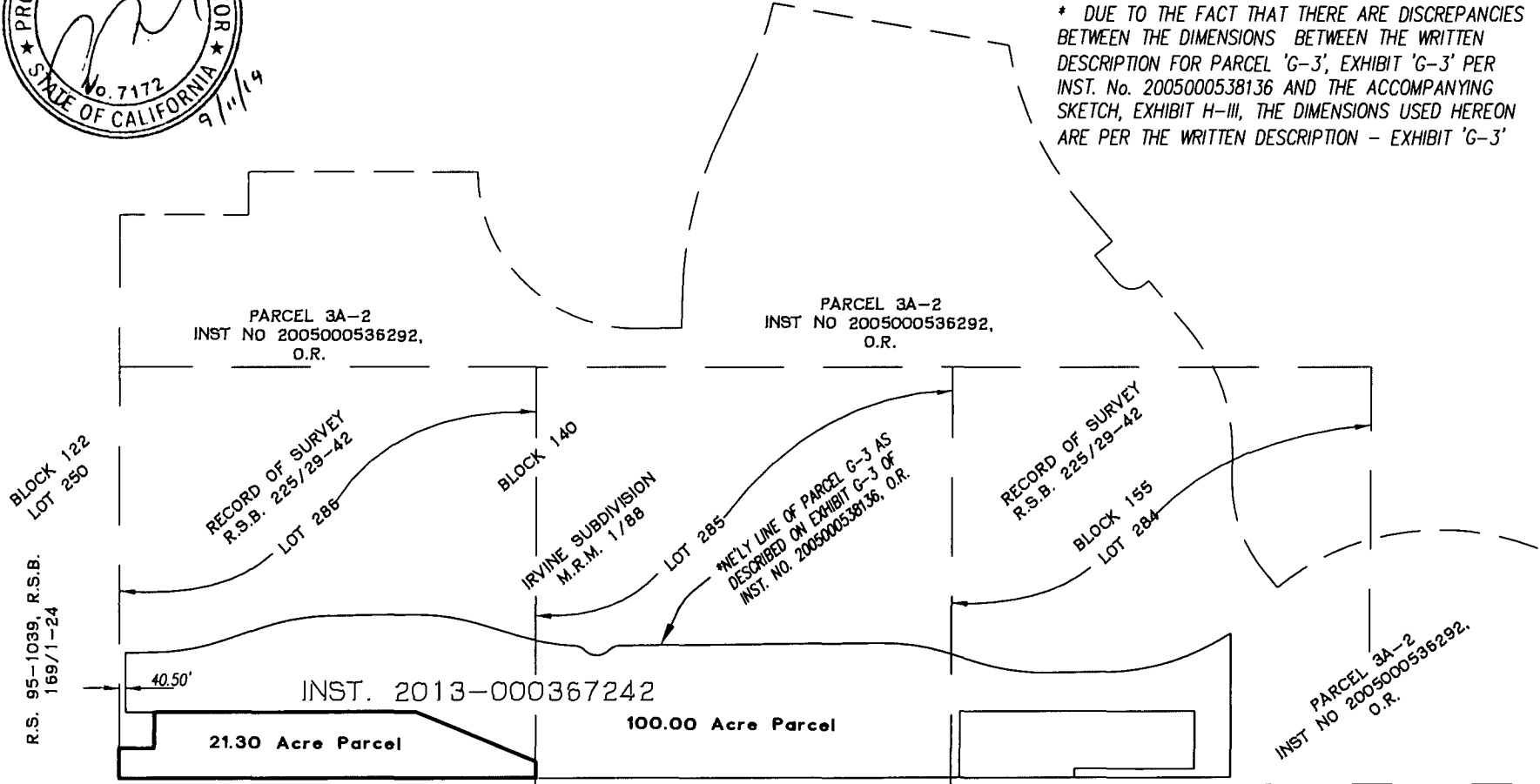




EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION

* DUE TO THE FACT THAT THERE ARE DISCREPANCIES BETWEEN THE DIMENSIONS BETWEEN THE WRITTEN DESCRIPTION FOR PARCEL 'G-3', EXHIBIT 'G-3' PER INST. No. 2005000538136 AND THE ACCOMPANYING SKETCH, EXHIBIT H-III, THE DIMENSIONS USED HEREON ARE PER THE WRITTEN DESCRIPTION - EXHIBIT 'G-3'



55

R.S. 95-1039, R.S.B. 169/1-24

BLOCK 122
LOT 250

RECORD OF SURVEY
R.S.B. 225/29-42
LOT 286

BLOCK 140

IRVINE SUBDIVISION
M.R.M. 1/88

LOT 285
*WELY LINE OF PARCEL G-3 AS
DESCRIBED ON EXHIBIT G-3 OF
INST. NO. 2005000538136, O.R.

RECORD OF SURVEY
R.S.B. 225/29-42
BLOCK 155
LOT 284

40.50'

INST. 2013-000367242

21.30 Acre Parcel

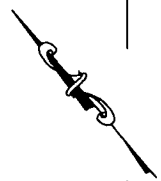
100.00 Acre Parcel

PARCEL 3A-2
INST NO 2005000538292,
O.R.

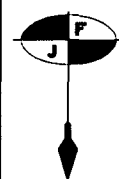
CL. A.T. & S.F. RAILROAD AND IRVINE'S
SUBDIVISION BLOCK LINE

BLOCK 139

PARCEL MAP 83-615
P.M.B. 195/15-34



NO SCALE



JOHNSON-FRANK & ASSOC., INC.

LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

P.NO.-2010058
2010058 2014_JCT REVISION OF 21.3 ACRE PARCEL.DWG

DATE JUNE 2, 2014 SHEET 1 OF 5

- (A) NE'LY LINE, PCL. 'G-3', (R1)
- (B) SE'LY LINE, HOME 1, [R2]
- (C) SW'LY LINE & N'W'LY PROD., HOME 5, [R2]
- (D) SE'LY LINE, HOME 5, [R2]
- (E) NE'LY LINE & S'E'LY PROD., OF N'E'LY LINE, HOME 1, [R2]
- (F) NW'LY LINE, HOME 1, [R2]

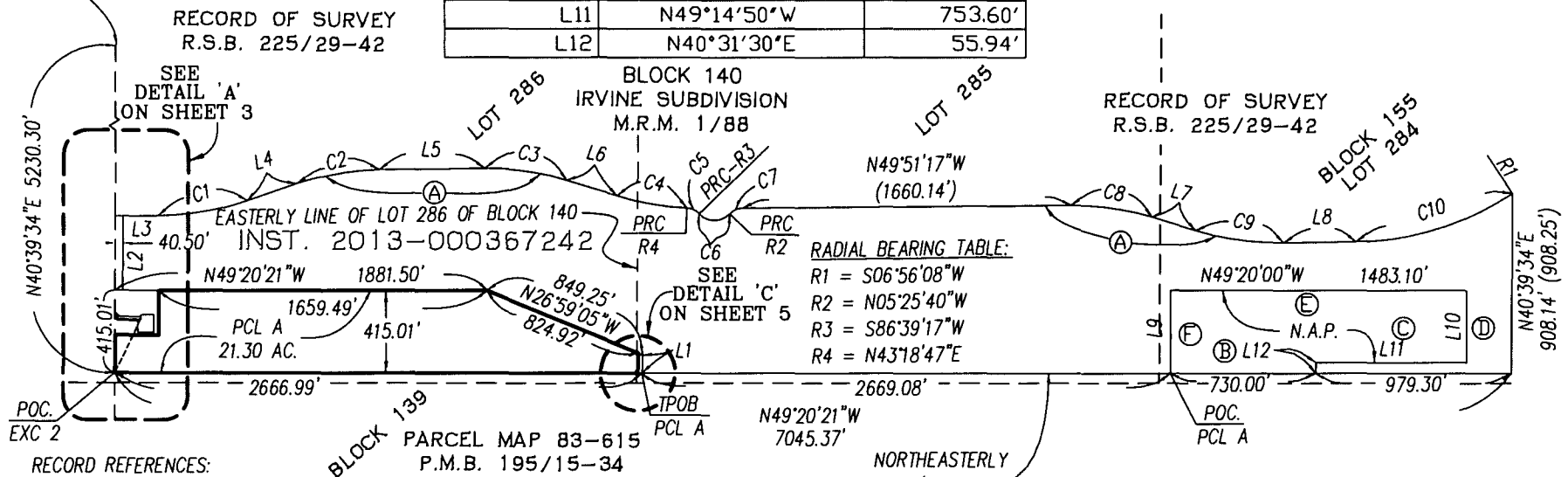
EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION

LINE TABLE		
LINE	BEARING	LENGTH
L1	N40°36'59"E	92.01'
L2	N40°39'34"E	373.66'
L3	N49°47'34"W	177.72'
L4	N67°57'06"W	(265.53')
L5	N50°11'37"W	(533.21')
L6	N32°26'08"W	(268.86')
L7	N32°26'08"W	(229.96')
L8	N50°11'37"W	(362.63')
L9	N40°31'30"E	[418.01']
L10	N40°26'50"E	363.13'
L11	N49°14'50"W	753.60'
L12	N40°31'30"E	55.94'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	(18°09'32"	1448.00'	458.92')
C2	(17°45'29"	1352.00'	419.03')
C3	(17°45'29"	1352.00'	419.03')
C4	(14°15'05"	1448.00'	360.17')
C5	(43°20'30"	92.00'	69.59')
C6	(92°04'57"	108.00'	173.57')
C7	(45°34'23"	92.00'	73.18')
C8	(17°25'09"	1352.00'	411.04')
C9	(17°45'29"	1448.00'	448.79')
C10	(32°52'15"	1448.00'	830.72')

COMMON COR. - LOT 279/BLK 140
AND LOT 278/BLOCK 141, M.R.M.
1/88



RECORD REFERENCES:

- (R1) DENOTES RECORD DATA PER INST. No. 2005000538136, O.R.
- [R2] DENOTES RECORD DATA PER INST. No. 2005000536293, O.R.
- <R3> DENOTES RECORD DATA PER INST. No. 2005000293986, O.R.

SCALE
1"=800'

ABBREVIATIONS
EXC = EXCEPTION

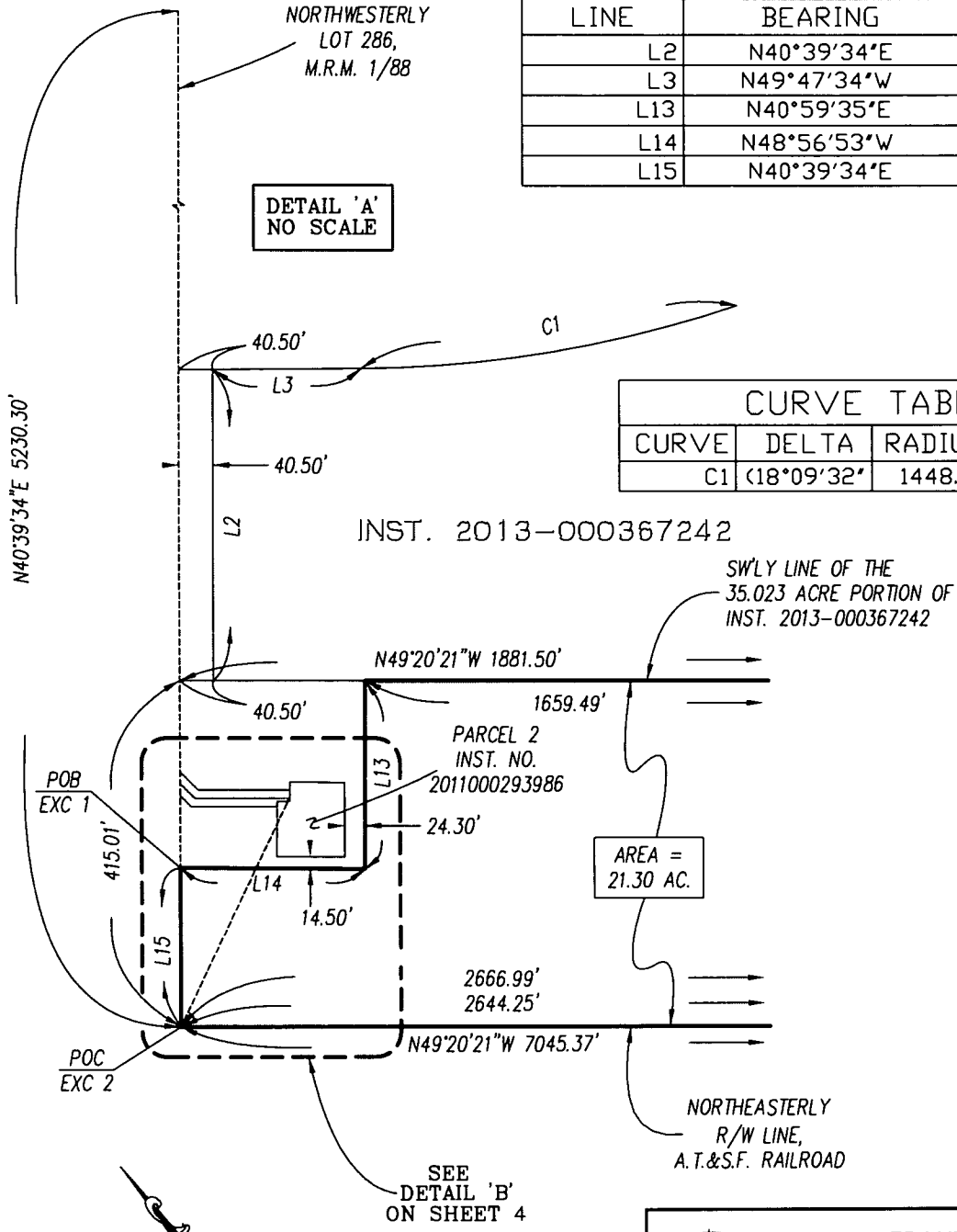
JOHNSON-FRANK & ASSOC., INC.
 LAND SURVEYING - MAPPING
 5150 E. HUNTER AVENUE
 ANAHEIM, CALIFORNIA 92807-2049
 (714) 777-8877 FAX (714) 777-1641
P. NO. -2010058
 2010058 2014_JCT REVISION OF 21.3 ACRE PARCELOWG

EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION

LINE TABLE		
LINE	BEARING	LENGTH
L2	N40°39'34"E	373.66'
L3	N49°47'34"W	177.72'
L13	N40°59'35"E	226.43'
L14	N48°56'53"W	220.69'
L15	N40°39'34"E	190.10'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	(18°09'32")	1448.00'	458.92'



ABBREVIATIONS
EXC = EXCEPTION

JOHNSON-FRANK & ASSOC., INC.

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ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

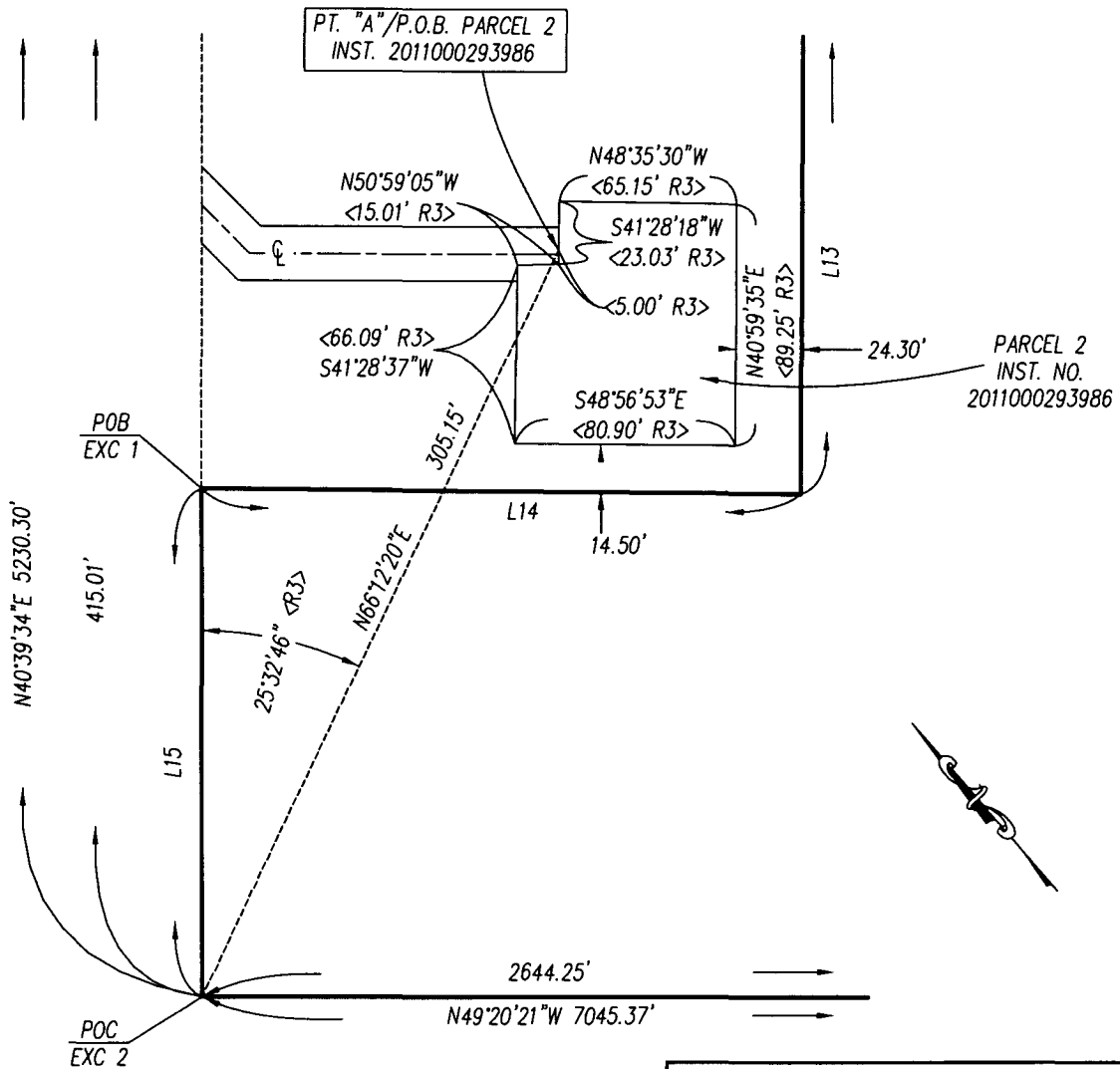
P.NO.-2010058
2010058 2014_JCT REVISION OF 21.3 ACRE PARCELDWG

DATE JUNE 2, 2014 SHEET 3 OF 5

EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION

DETAIL 'B'
NO SCALE

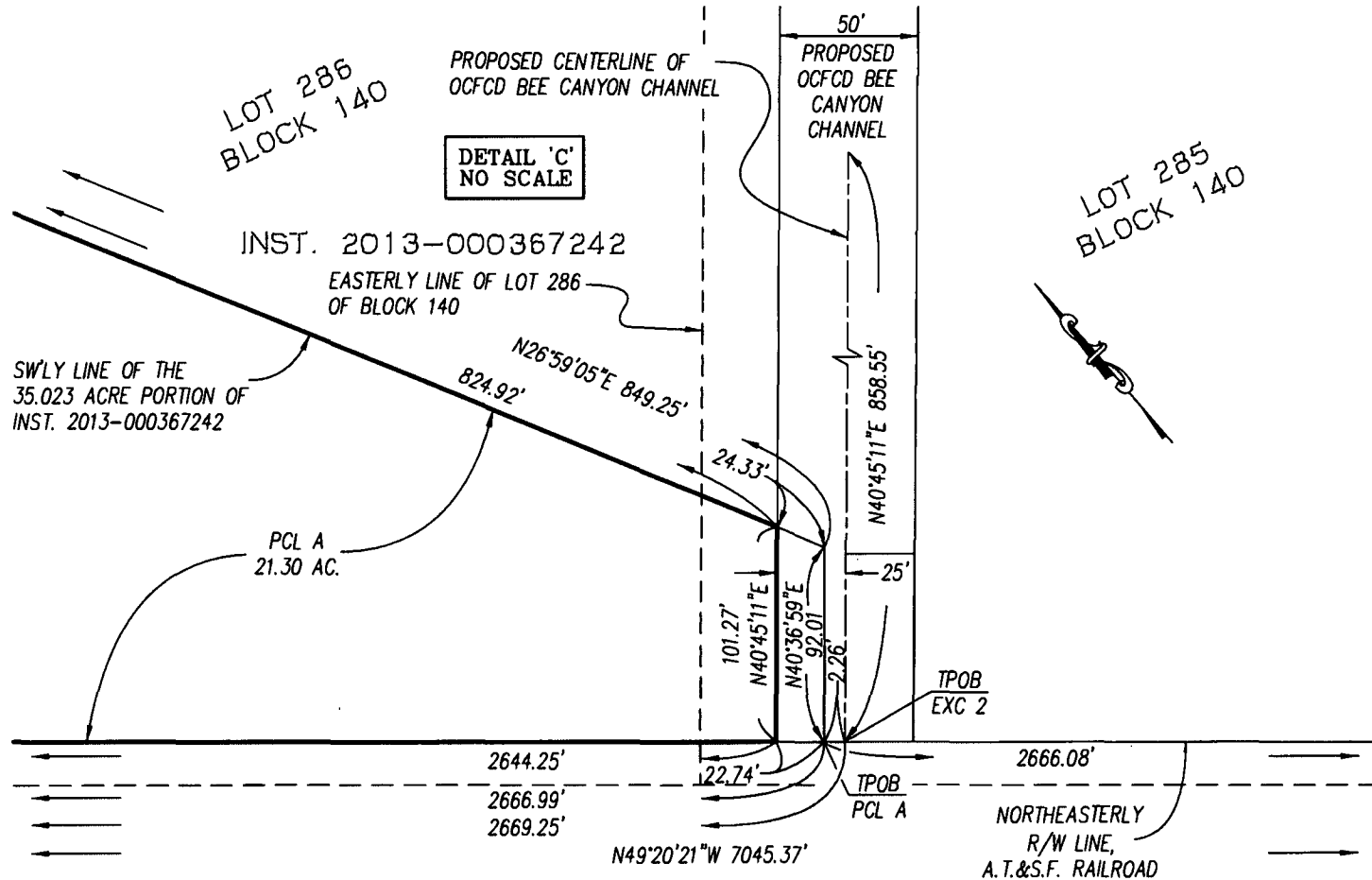


	<p>JOHNSON-FRANK & ASSOC., INC.</p> <p>LAND SURVEYING - MAPPING 5150 E. HUNTER AVENUE ANAHEIM, CALIFORNIA 92807-2049 (714) 777-8877 FAX (714) 777-1641</p> <p><small>P.NO.-2010058 2010058 2014_UPDATE REVISION OF 21.3 ACRE PARCEL.DWG</small></p>
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DATE JUNE 2, 2014 SHEET 4 OF 5

EXHIBIT "B"

SKETCH TO ACCOMPANY DESCRIPTION



BLOCK 139

ABBREVIATIONS
EXC = EXCEPTION

JOHNSON-FRANK & ASSOC., INC.

LAND SURVEYING - MAPPING
5150 E. HUNTER AVENUE
ANAHEIM, CALIFORNIA 92807-2049
(714) 777-8877 FAX (714) 777-1641

P.NO.-2010058
2010058 2014_JCT REVISION OF 21.3 ACRE PARCELDWG

DATE JUNE 2, 2014 SHEET 5 OF 5

Letter Agreement


The Orange County Transportation Authority (OCTA) and the City of Irvine (City) entered into Cooperative Agreement No. C-0-1511 for Sand Canyon Grade Separation and Metrolink Rail Maintenance Facility Property (Agreement), effective June 11, 2010.

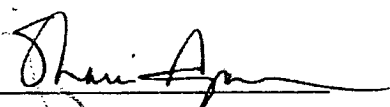
In accordance Article 8, Section E of the Agreement, OCTA and the City exercised their rights to perform independent appraisals of the Metrolink Rail Maintenance Facility (MRMF) and the Metrolink maintenance-of-way (MOW) parcels described in the Agreement.

The purpose of this Letter Agreement is to memorialize the value of the MRMF and the MOW parcels. The current appraised value of the 21.3 acre MRMF parcel is \$14,845,000 and the current appraised value of the 1.34 acre MOW parcel is \$694,500.

AGREED AND ACCEPTED:

CITY OF IRVINE

By:  Date: 7/13/11
Sean Joyce, City Manager


Attest: 
Sharie Apodaca, City Clerk

ORANGE COUNTY TRANSPORTATION AUTHORITY

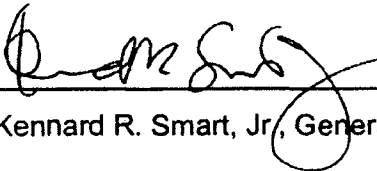
By: 
Will Kempton, Chief Executive Officer

Date: 6.27.11

APPROVED AS TO FORM:

By: 
Philip D. Kohn, City Attorney

Date: 7-7-11

By: 
Kennard R. Smart, Jr., General Counsel

Date: 6/15/11



Lawyers Title Company
4100 Newport Place Drive
Suite 120
Newport Beach, CA 92660
Phone: (949) 724-3170

Orange County Transportation Authority
550 South Main Street
Orange, CA 92863-1584

Our File No: 09307602
Title Officer: Chris Maziar
e-mail: unit10@ltic.com
Phone: (949) 724-3170
Fax: (949) 258-5740

Attn: **Bill Mock**

Your Reference No: 580-081-53

Property Address: NONE, City Of Irvine, California

PRELIMINARY REPORT

Dated as of March 18, 2013 at 7:30 a.m.

In response to the application for a policy of title insurance referenced herein, **Lawyers Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitation on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

The policy(s) of title insurance to be issued hereunder will be policy(s) of **Commonwealth Land Title Insurance Company**.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered. It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

File No: 09307602

SCHEDULE A

The form of policy of title insurance contemplated by this report is:

ALTA Standard Owners Policy (6-17-06)

The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

Title to said estate or interest at the date hereof is vested in:

City of Irvine, a California charter city

The land referred to herein is situated in the County of ORANGE, State of California, and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

EXHIBIT "A"

All that certain real property situated in the County of Orange, State of California, described as follows:

Those portions Lots 285 and 286 of Block 140, of Irvine's Subdivision, in the City of Irvine, County of Orange, State of California, as shown on a map recorded in Book 644, Pages 1 through 20, inclusive, of Miscellaneous Maps, in the office of the County Recorder of said county, lying within Parcel III-B-1-G of that certain "Grant Deed" to the City of Irvine, a charter city, recorded June 6, 2011 as Instrument No. 2011000277219 of Official Records, as corrected by that certain "Corrective Grant Deed" recorded November 28, 2001 as Instrument No. 20110000600091 of Official Records and as shown on Record of Survey No. 2007-1206, filed in Book 225, Pages 29 through 42, inclusive of Records of Surveys in the Office of said County Recorder, said Record of Survey being the basis of bearings for this description, more particularly described as follows:

Commencing at the most Easterly corner of that certain parcel of land described as "Home 1 (Transfer, Bldg 319)" per that certain document recorded July 12, 2005 as Instrument No. 2005000536293 of Official Records, said point of commencement being on the Northeasterly right-of-way line of the A.T. & S.F. Railroad (100 foot wide as shown on said Record of Survey):

Thence along said Northeasterly right-of-way line of said A.T. & S.F. Railroad, North 49°20'21" West, 2669.08 feet to the true point of beginning;

Thence North 40°36'59" East, 92.01 feet;

Thence North 26°59'05" West, 849.25 feet to a line parallel with and distant 415.01 feet Northeasterly, (as measured at right angles), from said Northeasterly right-of-way line;

Thence along said parallel line North 49°20'22" West, 1881.50 feet, hereinafter referred to as Course "A", to the Northwestern line of said Lot 286;

Thence South 40°39'34" West, 415.01 feet to said Northeasterly right-of-way line of the A.T. & S.F. Railroad;

Thence along said Northeasterly right-of-way line of the A.T. & S.F. Railroad, South 49°20'21" East, 2669.99 feet to the true point of beginning;

Excepting therefrom all that land lying Northerly of the following described line:

Beginning at the intersection of said Northwesterly line of said Lot 286, said being shown as "North 40°39'24" East 5230.30'" on said Record of Survey No. 2007-1206, with a line parallel with and distant 24.30 feet from, (as measured at right angles), the Southwesterly line of Parcel CO III-B-1, of Parcel 2, of that certain "Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Restriction 1471", recorded June 3, 2011 as Instrument No. 2011000276334 and re-recorded June 16, 2011, as Instrument 2011000293986 of Official Records;

Thence along said parallel line South 48°56'53" East, 220.64 feet to the intersection of said parallel line with a line parallel with and distant 24.30 feet from, (as measured at right angles), the Southeasterly line of said Parcel CO III-B-1, of Parcel 2;

Thence along last said parallel line North 40°59'35" East, 236.23 feet to the point of terminus, being the intersection of last said parallel line with herein above described course "A".

Note: This Company has provided said description as an accommodation for the purpose of facilitating this report. Said description is not an insurable parcel pursuant to the Subdivision Map act of the State of California and should not be relied upon to convey or encumber said land, until approved by the Appropriate Governing Agency.

Assessor's Parcel Number: **580-081-53**

SCHEDULE B – Section A

The following exceptions will appear in policies when providing standard coverage as outlined below:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor of material not shown by the Public Records.

SCHEDULE B – Section B

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions in said policy form would be as follows:

- A. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2013-2014.
- B. There were no taxes levied for the fiscal year 2012-2013 as the property was vested in a public entity.
- C. Any liens or other assessments, bonds, or special district liens including without limitation, Community Facility Districts, that arise by reason of any local, City, Municipal or County Project or Special District.
- D. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation Code of the State of California.
 - 1. Water rights, claims or title to water, whether or not disclosed by the public records.
 - 2. Rights of the public to any portion of the Land lying within the area commonly known as Marine Way.
 - 3. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: July 12, 1944
Recording No: In Book 1264, Page 154 of Official Records

and Recording Date: November 3, 1949
and Recording No: In Book 1923, Page 151 of Official Records

and Recording Date: June 19, 2007
and Recording No: as Instrument No. 2007000389564 of Official Records

The terms and provisions of said instrument have been modified by a document
Executed by: The Irvine Company LLC, a Delaware limited liability company

Recorded: June 21, 2006 as Instrument No. 2006000416410 of Official Records.

- 4. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: In Book 2110, Page 226 of Official Records

File No: 09307602

5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other matters shown on

Map: Record of Survey 97-1038
Recording No: In Book 171, Page(s) 1 to 49 Record of Survey

6. The matters contained in a document entitled "Retrocession of Legislative Jurisdiction, California Government Code Section 113" recorded June 29, 2000 as Instrument No. 20000341327 of Official Records.

Reference is made to said document for full particulars.

7. The Land described herein is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the Redevelopment Plan) as disclosed by a document.

Redevelopment Agency: Great Park Redevelopment Project Area
Recording Date: March 31, 2005
Recording No: as Instrument No. 2005000242692 of Official Records

and Recording Date: June 27, 2007
and Recording No: as Instrument No. 2007000407641 of Official Records

8. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Memorandum of Lease in Furtherance of Conveyance Between the United States of America and Heritage Fields LLC for MCAS El Toro Parcel 3
Lessor: United States of America, acting by and through the Department of the Navy
Lessee: Heritage Fields LLC, a Delaware limited liability company
Recording Date: July 12, 2005
Recording No: as Instrument No. 2005000536293 of Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

Affects: The herein described Land and other land.

9. The matters contained in a document entitled "Great Park Development Agreement" by and between City of Irvine and Heritage Fields LLC recorded July 12, 2005 as Instrument No. 2005000538136 of Official Records.

Reference is made to said document for full particulars.

The terms and provisions of said instrument have been modified by a document
Executed by: Heritage Fields LLC, a Delaware limited liability company and Heritage Fields El Toro, LLC, a Delaware limited liability company

Recorded: December 22 2005 as Instrument No. 2005001023682 of Official Records.

The terms and provisions of said instrument have been modified by a document
Executed by: The City of Irvine and the Irvine Redevelopment Agency and Heritage Fields El Toro, LLC

Recorded: December 27, 2010 as Instrument No. 2010000700065 of Official Records.

File No: 09307602

10. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Irvine Ranch Water District, a California Water District
Purpose: underground groundwater line
Recording Date: February 27, 2007
Recording No: as Instrument No. 2007000127585 of Official Records
Affects: said land more particularly described therein.

11. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other matters shown on

Map: Record of Survey No. 2007-1206
Recording No: In Book 225, Page(s) 29 to 42 Record of Survey

12. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Heritage Fields El Toro, LLC, a Delaware limited liability company
Purpose: the installation, operation, maintenance, repair, access, and replacement of utilities including, but not limited to, electrical power lines, telecommunication lines, telephone lines, cable lines, water lines, sewer lines and storm drains
Recording Date: November 24, 2010
Recording No: as Instrument No. 2010000631757 of Official Records
Affects: said land more particularly described therein.

13. The matters contained in a document entitled "Covenant to Restrict Use of Property Environmental Restriction" recorded May 27, 2011 as Instrument No. 2011000265425 of Official Records.

Reference is made to said document for full particulars.

14. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: June 3, 2011
Recording No: as Instrument No. 2011000276334 of Official Records

and Re-Recording Date: June 16, 2011
and Re-Recording No: as Instrument No. 2011000293986 of Official Records
Reason: to correct the attached Exhibit "B"

15. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: June 6, 2011
Recording No: as Instrument No. 2011000277219 of Official Records

and Recording Date: November 28, 2011
and Recording No: as Instrument No. 2011000600091 of Official Records

16. Notwithstanding the covered risks as set forth in the policy, the company does not insure against loss or damage by reason of a lack of a right of access to and from the Land.
17. Please be advised that our search did not disclose any open Deeds of Trust of record. If you should have knowledge of any outstanding obligation, please contact the Title Department immediately for further review prior to closing.
18. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the public records.
19. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other matters which a correct survey would disclose and which are not shown by the public records.
20. Any easements not disclosed by the public records as to matters affecting title to real property, whether or not said easements are visible and apparent.
21. Matters which may be disclosed by an inspection and/or by a correct ALTA/ACSM Land Title Survey of said Land that is satisfactory to the Company, and/or by inquiry of the parties in possession thereof.

END OF SCHEDULE B EXCEPTIONS

**PLEASE REFER TO THE "NOTES AND REQUIREMENTS SECTION" WHICH
FOLLOWS FOR INFORMATION NECESSARY TO COMPLETE THIS TRANSACTION**

REQUIREMENTS SECTION:

REQ NO.1: The Company will require the following documents for review prior to the issuance of any title assurance predicated upon a conveyance or encumbrance by the corporation named below:

Name of Corporation: City of Irvine, a California charter city

- a) A Copy of the corporation By-laws and Articles of Incorporation
- b) An original or certified copy of a resolution authorizing the transaction contemplated herein
- c) If the Articles and/or By-laws require approval by a 'parent' organization, a copy of the Articles and By-laws of the parent

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

INFORMATIONAL NOTES SECTION

NOTE NO. 1: The information on the attached plat is provided for your convenience as a guide to the general location of the subject property. The accuracy of this plat is not guaranteed, nor is it a part of any policy, report or guarantee to which it may be attached.

NOTE NO. 2: California insurance code section 12413.1 regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow account and available for withdrawal prior to disbursement. Funds deposited with the company by wire transfer may be disbursed upon receipt. Funds deposited with the company via cashier's check or teller's check drawn on a California based bank may be disbursed on the next business day after the day of deposit. If funds are deposited with the company by other methods, recording and/or disbursement may be delayed. All escrow and sub-escrow funds received by the company will be deposited with other escrow funds in one or more non-interest bearing escrow accounts of the company in a financial institution selected by the company. The company may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with such financial institution, and the company shall have no obligation to account to the depositing party in any manner for the value of, or to pay to such party, any benefit received by the company. Those benefits may include, without limitation, credits allowed by such financial institution on loans to the company or its parent company and earnings on investments made with the proceeds of such loans, accounting, reporting and other services and products of such financial institution. Such benefits shall be deemed additional compensation of the company for its services in connection with the escrow or sub-escrow.

WIRING INSTRUCTIONS FOR THIS OFFICE ARE:

Wells Fargo Bank, NA
420 Montgomery St
San Francisco, CA 94104
ABA# 121000248
Credit to: Lawyers Title Company
Account #4122109614

RE: 09307602-CMC-903

PLEASE INDICATE COMMONWEALTH LAND TITLE COMPANY ESCROW OR TITLE ORDER NUMBER

NOTE NO. 3: Lawyers Title is a division of Commonwealth Land Title Insurance Company. The insurer in policies of title insurance, when issued in this transaction, will be Commonwealth Land Title Insurance Company.

Typist: tga
Date Typed: April 4, 2013

ATTACHMENT ONE
CALIFORNIA LAND TITLE ASSOCIATION
STANDARD COVERAGE POLICY – 1990
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE**

EXCLUSIONS

- In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:
1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building;
 - b. zoning;
 - c. land use;
 - d. improvements on the Land;
 - e. land division; and
 - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
 2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
 3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
 4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.c., 25, 26, 27 or 28.
 5. Failure to pay value for Your Title.
 6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
 7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or <u>\$2,500.00</u> (whichever is less)	\$ <u>10,000.00</u>
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or <u>\$5,000.00</u> (whichever is less)	\$ <u>25,000.00</u>
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or <u>\$5,000.00</u> (whichever is less)	\$ <u>25,000.00</u>
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or <u>\$2,500.00</u> (whichever is less)	\$ <u>5,000.00</u>

**AMERICAN LAND TITLE ASSOCIATION
RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)**

EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use
 - improvements on the land
 - land division
 - environmental protection
- This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records
 - on the Policy Date
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
 3. Title Risks:
 - that are created, allowed, or agreed to by you
 - that are known to you, but not to us, on the Policy Date – unless they appeared in the public records
 - that result in no loss to you
 - that first affect your title after the Policy Date – this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
 4. Failure to pay value for your title.
 5. Lack of a right:
 - to any land outside the area specifically described and referred to in Item 3 of Schedule A

OR

- in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

**2006 ALTA LOAN POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**2006 ALTA OWNER'S POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07-26-10)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.

- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- 3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
- 4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
- 5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
- 6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
- 7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
- 8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
- 9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.

Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

FNF Underwritten Title Company

LTC - Lawyers Title Company

FNF Underwriter

CLTIC - Commonwealth Land Title Insurance Co.

Available Discounts

DISASTER LOANS (CLTIC)

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

EMPLOYEE RATE (LTC and CLTIC)

No charge shall be made to employees (including employees on approved retirement) of the Company or its underwritten, subsidiary or affiliated title companies for policies or escrow services in connection with financing, refinancing, sale or purchase of the employees' bona fide home property. Waiver of such charges is authorized only in connection with those costs which the employee would be obligated to pay, by established custom, as a party to the transaction.

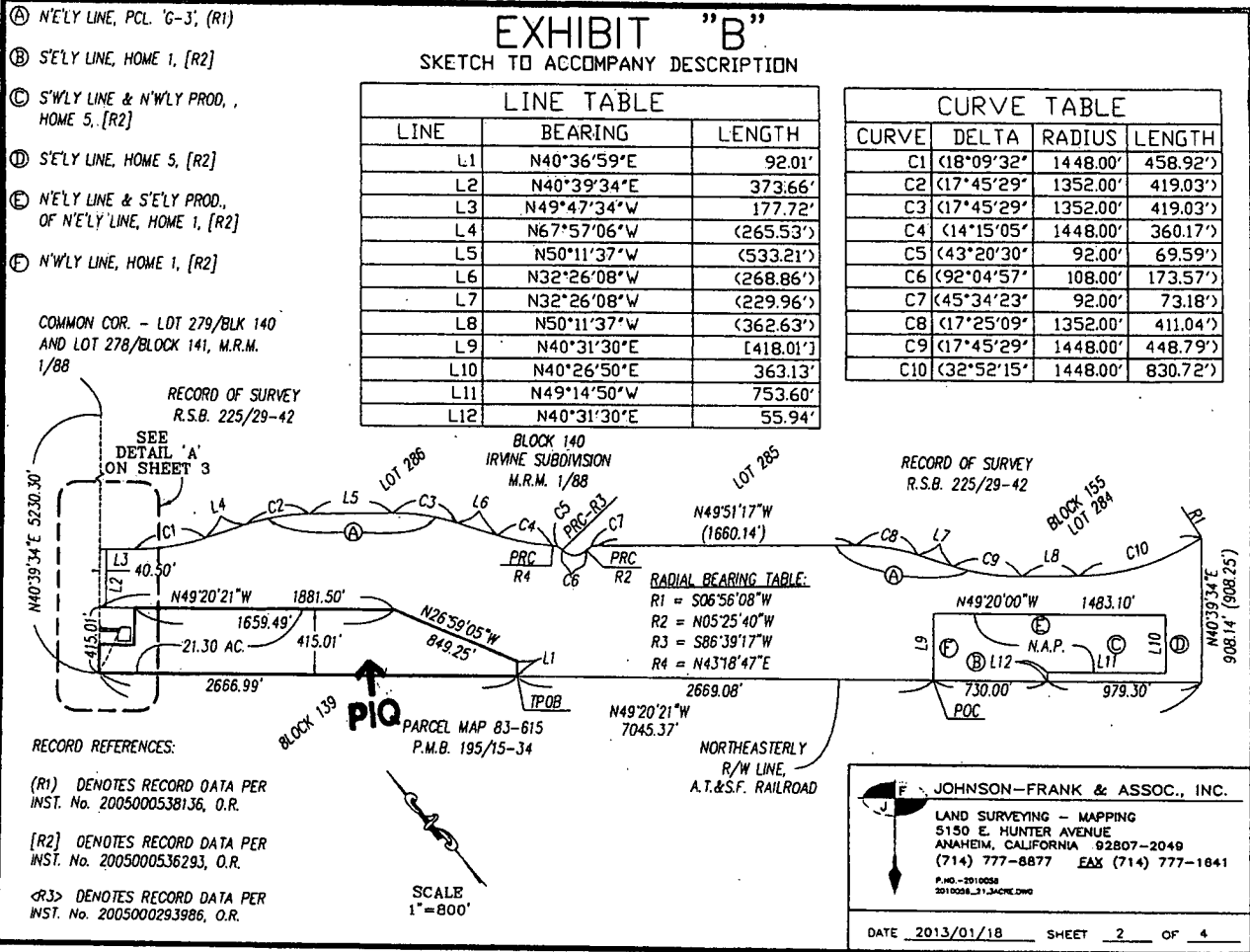


EXHIBIT E

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

ORANGE COUNTY TRANSPORTATION AUTHORITY
550 South Main Street
Orange, CA 92863
Attn: Chief Executive Officer

(Space Above Line for Recorder's Use)

Free recording Requested per Government
Code Section 6103

In accordance with Section 11922 of the
California Revenue and Taxation Code, transfer
of the property to the Orange County
Transportation Authority is exempt from the
payment of a documentary transfer tax.

GRANT DEED (COMMUTER RAIL MAINTENANCE FACILITY)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, CITY OF IRVINE, a California municipal corporation and charter city ("Grantor"), hereby grants to the ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity ("Grantee"), that certain real property (the "Property") located in the City of Irvine, County of Orange, State of California, described in the legal description attached hereto as Exhibit "A" and the depiction attached hereto as Exhibit "B", each incorporated herein by this reference.

TOGETHER WITH Grantor's title to the following to the extent transferred to Grantor pursuant to the "HF Grant Deed" referred to below: all buildings, facilities, roadways, rail lines, and other infrastructure, including those MCAS El Toro storm drainage systems, sewer systems, and the electrical, natural gas, telephone, and water utility distribution systems located thereon, and any other improvements on the Property; all hereditaments and tenements therein and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto; and all rights to minerals, gas, oil, and water.

RESERVING UNTO GRANTOR, its successors and assigns, together with the right (without the consent of Grantee or any other owner of an interest in the Property) to grant, transfer or license all or a portion of the same to one or more grantees, transferees or licensees, non-exclusive easements in gross on, over, under and across the Property within ten (10) feet from all Property lines bordering on and parallel to any public street for the construction, installation, emplacement, operation, maintenance, repair and replacement of electric, water, gas, sewer, communications, utility facilities and lines, but without unreasonably interfering with Grantee's reasonable use and enjoyment of the Property; provided, however, that Grantor shall not make use of these easements in any manner that interferes with the structural integrity of the

Property and/or the operation of a fire station on the Property, and provided further that any excavation in connection with the exercise of these reserved easements shall be made in such a manner as will cause the least injury to the surface of the ground and any improvements and/or landscaping around such excavation, and that the earth so removed shall be replaced and the surface of the ground and any improvements and/or landscaping around such excavation damaged shall be promptly restored as nearly as possible to the same condition as existed prior to excavation. All facilities installed by Grantor pursuant to this reservation shall be maintained by Grantor in good condition and repair and in the event that such facilities unreasonably interfere with Grantee's use of the Property, the facilities shall be relocated at the expense of Grantor or its successor in interest.

GRANTEE HEREBY COVENANTS AND AGREES, for itself and on behalf of its successors and assigns as to all or any portion of the Property, that, with respect to the Property:

(i) Grantee shall be bound by the terms, reservations, easements, covenants, conditions, restrictions and agreements set forth in that certain Quitclaim Deed and Environmental Restriction Pursuant to Civil Code Section 1471 For Parcels CO I-D, CO II-B, CO II-K, CO II-N, CO II-O, CO III-B-1 and CO III-B-2, dated April 7, 2011, from the United States of America, acting by and through the Department of the Navy ("**United States**"), to Heritage Fields El Toro, LLC, a Delaware limited liability company ("**HF**"), recorded on June 3, 2011 as Instrument No. 2011000276334 in the Official Records of Orange County, California, and re-recorded on June 16, 2011 as Instrument No. 2011000293986 in the Official Records of Orange County, California (the "**Government Quitclaim**");

(ii) any obligations imposed on HF pursuant to the Government Quitclaim and subsequently imposed on Grantor pursuant to that certain Grant Deed dated June 3, 2011, from HF to Grantor, recorded on June 6, 2011 as Instrument No. 2011000277219 in the Official Records of Orange County, California, as corrected by the Corrective Grant Deed from HF to Grantor executed by HF on August 29, 2011, and recorded on November 28, 2011 as Instrument No. 2011000600091 in the Official Records of Orange County, California (the "**HF Grant Deed**"), shall be the sole obligation of Grantee; and

(iii) Grantee shall be bound by the terms, conditions, obligations, and agreements set forth in that certain Covenant to Restrict Use of Property - Environmental Restriction between the United States and the California Environmental Protection Agency, Department of Toxic Substances Control, recorded on May 27, 2011 as Instrument No. 2011000265425 in the Official Records of Orange County, California (the "**CRUP**"), including compliance with the following as they relate to the Property: (a) the Final ROD, Operable Unit 1, Site 18-Regional Volatile Organic Compound Groundwater Plume, Operable Unit 2A, Site 24-VOC Source Area issued by the United States in June 2002, as amended in February 2006 by the Final Explanation of Significant Differences (ESD), Site 18 - Regional Volatile Organic Compound Plume (Operable Unit 1), Site 24 - VOC Source Area (Operable Unit 2A); (b) the Final 100 Percent Design Submittal, Shallow Groundwater Unit Remedial Action, IRP Site 24, Volatile Organic Compounds Source Area, dated March 2005; and (c) the Final Performance Monitoring and Sampling and Analysis Plan, OU1 and OU2A Groundwater Remedy, dated August 2007 issued as part of a comprehensive Operation and Maintenance Plan for the Site 18 (OU-1) and Site 24 (OU-2A) remedy.

GRANTOR HEREBY ASSIGNS TO GRANTEE, all rights, title and interests in and to all covenants, representations and warranties made by the United States in favor of HF in the Government Quitclaim and assigned to Grantor pursuant to the HF Grant Deed to the fullest extent such covenants, representations and warranties (i) are assignable, (ii) were assigned to Grantor pursuant to the HF Grant Deed, and (iii) apply to the Property.

GRANTEE ACKNOWLEDGES AND AGREES THAT, neither Grantor or the Orange County Great Park Corporation, or any of their respective officers, officials, employees, agents, representatives, contractors, successors or assigns, has made any representation or warranty to Grantee as to the usability generally of the Property, or as to its fitness for any particular use or activity by, of, or for Grantee. By this Grant Deed, the Property is or will be delivered to Grantee "AS IS, WHERE IS AND WITH ALL FAULTS."

GRANTOR'S CONVEYANCE HEREUNDER IS SUBJECT TO

- (i) all exceptions and reservations of HF in the HF Grant Deed with respect to the Property;
- (ii) all matters of record;
- (iii) all matters that would be disclosed by an inspection and survey of the Property;
- (iv) any installment of general and special real property taxes and assessments allocable to a period after the date of recordation of this Grant Deed in the Official Records of Orange County, California ("**Recordation Date**");
- (v) all exceptions to title (other than for exceptions __, __, __ and __, which exceptions are not approved by Grantee) as set forth on the preliminary report dated as of _____, 2015, and issued by Lawyers Title Company under its Order No.09307602, a copy of which is attached hereto as **Exhibit "C"**, and all other covenants, conditions, restrictions, reservations, rights, rights-of-way, easements and other matters of record, apparent or known to Grantee;
- (vi) the reserved utility easements set forth above;
- (vii) usual and customary exceptions to the title insurance consistent with ALTA policies and Regional Exceptions (Standard Coverage) issued by Lawyers Title Company in Orange County, California;
- (viii) the following covenants, conditions, rights and restrictions (collectively, the "**Covenants**"), which shall remain in full force and effect in perpetuity from the date of recordation of this Grant Deed, unless terminated or modified as hereinafter provided. This conveyance of the Property is made by Grantor and accepted by Grantee upon and expressly subject to these covenants. Upon the occurrence of any breach or violation of any of the Covenants without being cured within the times provided below, Grantor shall be entitled to avail itself of the remedies specified below.

1. **List of Covenants.**

a. **Covenant 1: Use of Property.** Grantee shall use the Property solely for a commuter rail maintenance facility or other transportation-related uses. Grantee may not use the Property for any other use without the prior written consent of Grantor. Grantee covenants that any interim use of the Property shall be subject to the approval of the City, which approval shall not be unreasonably withheld. Nothing in this use restriction shall prohibit use of the Property for underground utilities. This Covenant shall not apply to any of the reservations and easements in favor of Grantor, nor to Grantor's use of any or all of such reservations and easements.

b. **Covenant 2: Maintenance.** Grantee shall keep and maintain the Property and all improvements on the Property in a neat, clean, safe, attractive and operating condition at all times in accordance with all ordinances, regulations and laws applicable to the Property. Grantee shall also insure that all repairs and replacements of improvements on the Property are made in accordance with all applicable governmental regulations.

c. **Covenant 3: No Transfer or Assignment.** Grantee agrees and covenants that Grantee will not convey, mortgage, lease, hypothecate, or otherwise transfer all or any portion of its ownership interest in the Property without the approval of the City, which approval shall not be unreasonably withheld.

d. **Covenant 4: Waiver.** Grantee waives any claim that Grantee is exempt, for any reason, from the requirements of the Irvine Zoning Code and the Irvine Municipal Code, as they may be amended from time to time, and agrees and covenants to abide by the City's land use regulatory authority.

e. **Covenant 5: Right of First Refusal.** If at any time within thirty (30) years after the recordation of this Grant Deed in the Official Records of Orange County, California, Grantee receives a bona fide offer for the purchase of any portion of the Property from a third party, Grantor shall have a right of first refusal to meet said offer on the same terms and conditions. After receiving written notice from Grantee with all relevant terms and conditions of the offer, Grantor shall have sixty (60) days to provide, in writing, its acceptance to the terms. If Grantor meets the bona fide offer, Grantee shall convey the portion of the Property based upon the terms of the bona fide offer. If Grantor fails to meet the bona fide offer within sixty (60) days after written notice from Grantee, Grantee may transfer the interest in the Property to such third party, but only upon terms and conditions no less favorable than those previously described to Grantee. If Grantor fails to meet the bona fide offer and Grantee elects not to transact with the bona fide party, Grantee's obligation in this section shall survive to any future bona fide offers.

2. **Matters Related to Covenants.**

a. **General Purpose.** The Covenants are hereby declared and agreed to be part of a general plan enhancing and protecting the value, desirability and attractiveness of the land owned by Grantor as further described on **Exhibit D** attached hereto (the "**Benefitted Property**"). The Covenants shall run and pass with each and every portion of the Property and be binding upon and burden all persons having or acquiring any right, title or interest in the Property (during their ownership of such interest), or any part thereof, and their successors and assigns.

b. **Run With the Property.** Subject to the following provisions of this paragraph, the Covenants shall inure to the benefit of the Benefitted Property and the owners of the Benefitted Property and their successors and assigns, and the Benefitted Property shall be deemed the dominant tenement for purposes of the Covenants. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property or any improvements thereon is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this instrument is contained in the instrument by which such person acquired an interest in the Property or any such improvements.

c. **Amendment.** The Covenants may be amended by mutual agreement of Grantor and Grantee. Any amendment must be recorded in the Official Records of Orange County, California.

d. **Term.** Unless (i) terminated pursuant to mutual agreement of Grantor and Grantee or (ii) Grantor records a declaration terminating the Covenants, the Covenants shall be binding absolutely and perpetually on Grantee.

e. **Default and Remedies.** Because of the unique nature and scope of development of the Benefitted Property as the Orange County Great Park by Grantor, as well as the amount of planning, effort and time expended by such parties in reliance upon the anticipated uses of the Property and the Benefitted Property, monetary damages will not provide an adequate remedy for the damage to Grantor's planning efforts or development resulting from a breach of the Covenants. Therefore, in the event of any breach, violation or failure to comply with any of the Covenants that has not been cured within thirty (30) days after written notice from Grantor to do so (or if any such breach, violation or failure cannot be fully cured within such thirty (30) day period, then upon failure of Grantee to commence such cure within such period and thereafter to diligently complete such cure to Grantor's satisfaction), Grantor shall be entitled to specifically enforce the performance of the Covenants and to any other form of equitable or legal relief (other than monetary damages or exercise of any power of termination).

f. **Waiver.** No waiver by Grantor of a breach of any of the Covenants nor a delay or failure to enforce any of the Covenants shall (i) be construed or held to be a waiver of any succeeding or preceding breach of the Covenants, nor (ii) be implied from any inaction or omission by Grantor to take any action on account of such breach or failure. No express waiver shall affect a breach or failure other than as specified in said waiver. The consent or approval by Grantor to or of any act by Grantee requiring Grantor's consent or approval shall not be deemed to waive or render unnecessary the consent or approval of Grantor to or of any subsequent similar acts by Grantee. Grantor shall not be liable for any damage, loss or prejudice suffered or claimed by Grantee or any other occupant of the Property or of the Benefitted Property on account of the enforcement of, or failure to enforce, any of the Covenants.

[signature follows on next page]

“Grantor”

CITY OF IRVINE

By: _____
Name: Steven S. Choi, Ph.D. Name:
Title: Mayor Title:

APPROVED AS TO FORM:

By: _____
Name: Todd Litfin Name:
Title: City Attorney Title:

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

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

GRANT DEED

This is to certify that the interest in real property conveyed by the within deed or grant to the ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity, is hereby accepted by _____, and the ORANGE COUNTY TRANSPORTATION AUTHORITY consents to recordation thereof by its duly authorized officer.

ORANGE COUNTY TRANSPORTATION AUTHORITY, a public entity

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

Approved as to Form

By: _____

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

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

DRAFT

EXHIBIT "B"

DEPICTION OF PROPERTY

DRAFT

EXHIBIT "C"

PRELIMINARY TITLE REPORT

DRAFT

EXHIBIT "D"

BENEFITTED PROPERTY

[To be inserted]

DRAFT

**Purchase and Sale Agreement
for
21.3 Acres
with
Orange County Transportation Authority**

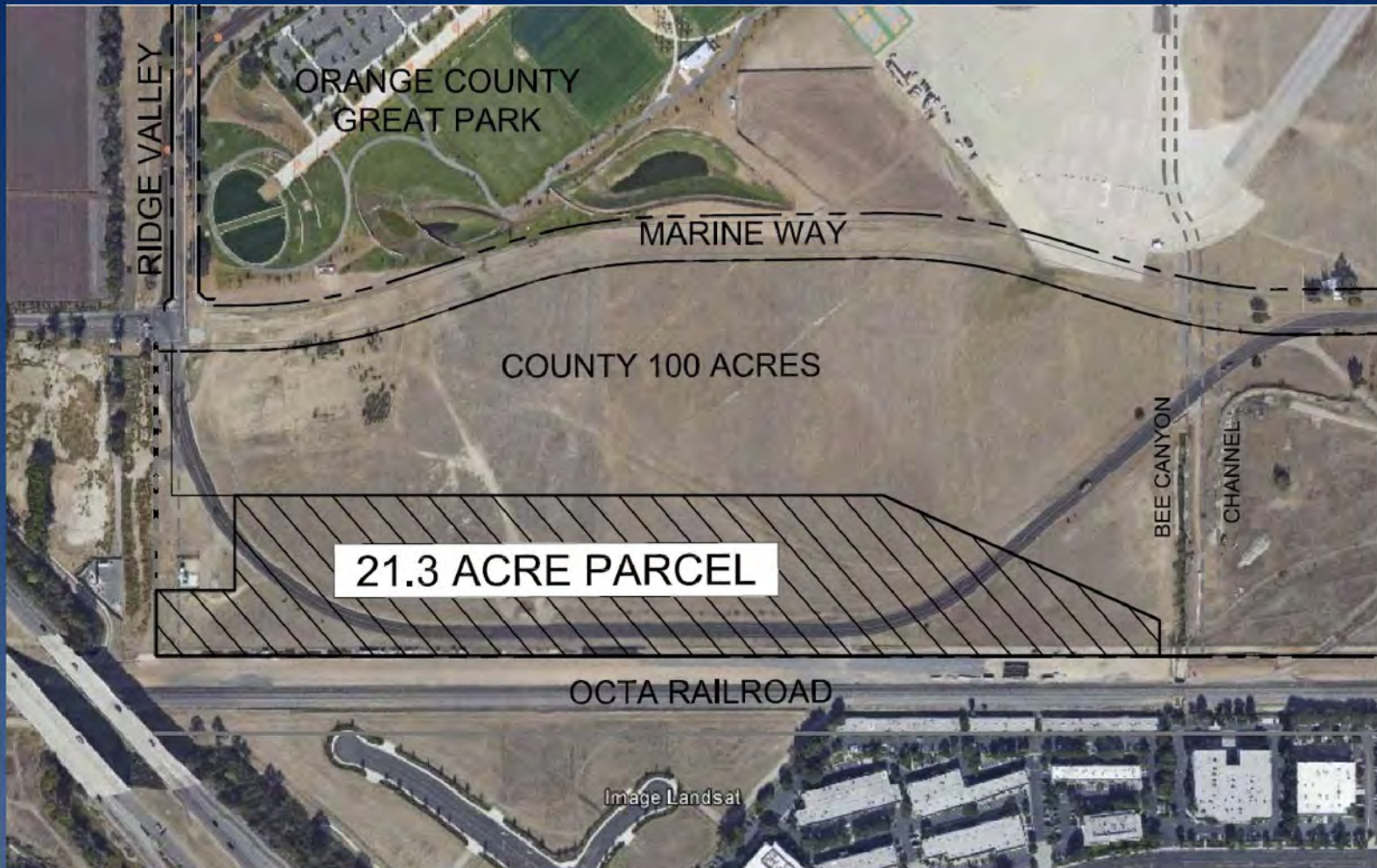
City Council Meeting
January 13, 2015



Background

- 2003 Orange County Great Park EIR includes rezoning of portion of a 135-acre parcel at the former El Toro base as future institutional use by the County and OCTA
- Property was further refined to provide 100 acres to the County and to designate 21.3 acres for OCTA for a Metrolink Rail Maintenance Facility (MRMF)
- On March 23, 2010, City Council authorized City Manager execution of Cooperative Agreement with OCTA for the Sand Canyon Grade Separation Project and MRMF Property:
 - ❖ Reserved this property for OCTA for a period of 15 years
 - ❖ Provided OCTA the option to acquire the property at its then-current appraised value for four years from the agreement date of June 11, 2010
 - ❖ City and OCTA memorialized the purchase price as \$14,150,500 based on independent property appraisals by each agency
- On June 2, 2014, OCTA notified the City of its interest in exercising its option to purchase the property at the previously agreed-upon price

21.3-Acre Property



Purchase & Sale Agreement

- OCTA's future use of the property is for a Commuter Rail Maintenance Facility or other transportation-related uses
- OCTA (any successors in interest) waive any claim that they are exempt from the requirements of the City's Zoning Code and Municipal Code, and agree to abide by the City's land use regulatory authority
- Interim uses of the property are subject to the approval of the City
- OCTA will not lease or transfer any portion of its ownership interest in the property without approval from the City
- City will have the right of first refusal for the purchase of any portion of the property OCTA considers selling to a third party
- City and OCTA will discuss the potential future sale by City to OCTA of a nearby site for access to the property, solely for use by OCTA
- OCTA will be responsible for its fair share of roadway capacity improvements



Recommended Action

Approve the Purchase and Sale Agreement with Orange County Transportation Authority for the sale of 21.3 acres of City property for the amount of \$14,150,500 and authorize the Mayor to execute the agreement.

**Purchase and Sale Agreement
for
21.3 Acres
with
Orange County Transportation Authority**

City Council Meeting
January 13, 2015

