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Development Agreement-Phase III-FR/CAL Ellis, LLC

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DEVELOPMENT AGREEMENT
(PHASE III – FR/CAL ELLIS, LLC)

This Development Agreement ("Agreement") is entered into this 30th day of September, 2011("Effective Date"), by and between the CITY OF PERRIS, a municipal corporation ("City"), and FR/CAL ELLIS, LLC, a Delaware limited liability company ("Developer"). Collectively, City and Developer may be referred to as "Parties" and, individually, each as a "Party."

RECITALS

A. California Government Code Sections 65864 *et seq*. ("Development Agreement Law") authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and identifying the economic costs and benefits of such development.

B. Developer is the owner of a legal and/or equitable interest in certain real property consisting of the site depicted in Exhibit "A" and legally described in Exhibit "B" attached hereto and incorporated herein (the "Property"), and thus qualifies to enter into this Agreement in accordance with the Development Agreement Law.

C. Developer and City agree that a development agreement should be approved and adopted for this Property in order to memorialize the expectations of City and Developer with respect to the development of the Property as more particularly described herein.

D. The City Council has found that this Agreement is in the best public interest of the City and its residents; adopting this Agreement constitutes a present and beneficial exercise of the City's police power; and this Agreement is consistent with the City's General Plan. This Agreement and the proposed Project (as hereinafter defined) will achieve a number of City objectives, including the orderly development of the Property; and the provision of public benefits to the City and its residents through public improvements, including improvements to the Property and public infrastructure improvements in and around the Property.

E. City finds and determines that all actions required of City precedent to approval of this Agreement by Ordinance No.1271 of the City Council have been duly and regularly taken.

F. As part of the process of approving this Agreement and granting the Development Approvals, the City Council has required the preparation of an Environmental Impact Report and has otherwise carried out all requirements of the California Environmental Quality Act ("CEQA") of 1970, as amended.

G. On June 16, 2010, following a duly noticed and conducted public hearing, the City Planning Commission recommended that the City Council approve this Agreement and the Development Approvals.

H. On July 13, 2010, following a duly noticed and conducted public hearing and pursuant to CEQA, the City Council certified and adopted the Environmental Impact Report ("EIR") for this Agreement and the Development Approvals.

I. The EIR analyzes impacts relating to development of the Project on the Property (identified as "Phase 3" in the EIR) and also analyzes impacts relating to two other sites (identified as "Phase 2" and "Phase 1" in the EIR and in this Agreement). The entire project analyzed in the EIR encompasses 454.7 acres and the three phases are on non-contiguous sites. Phase 2 and Phase 1 are each subject to conditions of approval and are each conditioned to pay certain development impact fees (including TUMF) and construct certain public improvements. The other two phases (as identified in the EIR) are currently owned by entities that are either controlled by the owner of the Developer or otherwise affiliated with Developer and are, collectively, termed herein "Owner's 's Other Sites."

J. On July 13, 2010, following a duly noticed and conducted public hearing, the City Council determined that the provisions of this Agreement are, or upon the adoption of the Development Approvals will be, consistent with the General Plan of City, and introduced Ordinance No. 1271 approving and authorizing the execution of this Agreement.

K. On August 31, 2010, the City Council adopted Ordinance No. 1271 approving and authorizing the execution of this Agreement. A copy of the ordinance is on file at the office of the City Clerk, with adopted findings and conditions pertaining thereto, including those relating to the environmental documentation for the Project. This Agreement, in its entirety, has been incorporated by reference into Ordinance No. 1271 as if set forth in full.

L. On August 5, 2010, the Center for Community Action and Environmental Justice ("CCAEJ") and the Friends of Riverside's Hills ("Friends") filed an action in Riverside Superior Court (Riv. Case No. RIC 10015518) challenging the project approvals. This action was settled by way of a settlement agreement entered into on or about September 30, 2011 among the City, Developer, CCAEJ, and Friends.

M. Concurrent with approval of this Agreement, the City approved development agreements for Owner's Other Sites and, following such approval, these agreements were recorded in Riverside County Official Records as Instruments 2014-0092059 (for Phase 2) ("Phase 2

Development Agreement") and 2014-0093054 (for Phase 1) ("Phase 1 Development Agreement," and with the Phase 2 Development Agreement, collectively the "Other Development Agreements").

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I.
DEFINITIONS AND EXHIBITS.

1.1 **Definitions**. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, when used in the Agreement. The defined terms include the following:

1.1.1 *"Agreement"* means this Development Agreement and all attachments and exhibits hereto.

1.1.2 *"City"* means the City of Perris, a municipal corporation.

1.1.3 *"City Council"* means the City Council of the City.

1.1.4 *"Developer"* means FR/CAL ELLIS, LLC, and its successors and assigns to all or any part of the Property.

1.1.5 *"Development"* means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of specified arterial, interchnge, intersection, water and sewer infrastructure improvements related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping and other facilities and improvements necessary or appropriate for the Project, and the maintenance, repair, or reconstruction of any building, structure, improvement, landscaping or facility after the construction and completion thereof on the Property.

1.1.6 "*Development Approvals*" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature, including conditions of approval imposed thereon, that Developer has sought or may seek Development Approvals include, but are not limited to, general plan amendments, specific plan amendments, site and architectural plans, tentative and final subdivision maps, development agreements, design guidelines, variances, zoning designations, conditional use permits, grading, building, and other similar permits, the site-specific provisions of general plans, environmental assessments, including environmental impact reports and negative declarations, and any amendments or modifications to those plans, maps, permits, assessments and entitlements. The term Development Approvals does not include (i) rules, regulations, policies, and other enactments of

general application within the City authorized to be applicable to the Property pursuant to this Agreement, or (ii) any matter where City has reserved authority under Article 3.0.

1.1.7 *"Development Plan"* means the proposed plan for Development of a portion of the Property pursuant to the Development Approvals, including the Subsequent Development Approvals and the Infrastructure Concept Plans (as such term is hereafter defined). The Development Plan contemplates the development of the Property with a total of approximately 3,166,857 square feet of industrial/warehouse uses in four buildings on approximately 215.7 acres, plus necessary street, water, and sewer infrastructure to accommodate the Project. The Development Plan also includes the Public Improvements described in Section 1.1.15.

1.1.8 *"Effective Date"* means the date the settlement agreement was entered into as described in Recital M above, which for purposes of this section is September 30, 2011. and which date shall be inserted into the preamble of this Agreement after this Agreement has been signed by Developer and City.

1.1.9 *"Existing Land Use Regulations"* means the Land Use Regulations which have been adopted and are effective on or before the Effective Date of this Agreement.

1.1.10 "*Land Use Regulations*" means all ordinances, laws, resolutions, codes, rules, regulations, policies, requirements, guidelines or other actions of the City and/or any joint powers authority or council of governments of which the City is a member, including but not limited to the City's General Plan, any applicable Specific Plan, and Municipal Code and Zoning Code and including all development impact fees (except as otherwise provided in Section 3.5), which affect, govern or apply to the development and use of the Property as of the Effective Date, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the Development of the Property, subject to the terms of this Agreement. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions, and occupancies generally; taxes and assessments; regulations for the control and abatement of nuisances; uniform codes; utility easements; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; any exercise of the power of eminent domain; health and safety regulations; environmental regulations; or similar matters or any other matter reserved to the City pursuant to Article 3.

1.1.11 *"Mortgagee"* means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security device, or a lender having an interest in all or a portion of the Property or each of their respective successors and assigns.

1.1.12 "*Owner*" means the owner of Developer.

1.1.13 *"Project"* means the Development of the Property consistent with the approved Development Plan and this Agreement.

1.1.14 *"Property"* means the real property depicted in and shown in Exhibit "A" and described in Exhibit "B" which is attached hereto and incorporated by reference.

1.1.15 *"Public Improvements"* means the roadway, water, sewer, and other infrastructure improvements to be constructed on, adjacent to, or near the Property, as further described in the Infrastructure Concept Plan(s) attached hereto as Exhibit "C" and in the Planning and Engineering Conditions of Approval that are approved concurrently with the Project or that are approved in connection with any Subsequent Development Approval.

1.1.16 *"Reservation of Authority"* means the rights and authority excepted from the assurances and rights provided to Developer under this Agreement and reserved to City under Section 3.7 of this Agreement.

1.1.17 *"Subsequent Development Approvals"* means all Development Approvals issued subsequent to the Effective Date in connection with Development of the Property.

1.1.18 *"Subsequent Land Use Regulations"* means any Land Use Regulations that become effective after the Effective Date of this Agreement (whether adopted prior to or after the Effective Date of this Agreement) which govern development, and use of the Property.

1.1.19 *"Term"* shall mean the period of time from the Effective Date until the termination of this Agreement as provided in Section 2.5, unless earlier terminated as provided in this Agreement.

1.2 **Exhibits.** The following documents are attached to, and by this reference made a part of, this Agreement: Exhibit "A" (Depiction of the Property); Exhibit "B" (Legal Description of the Property); Exhibit "C" (Infrastructure Concept Plans); Exhibit "D" (Form of Assignment and Assumption Agreement); Exhibit "E" (Phasing of Public Improvements); Exhibit "F" (TUMF Facilities, Estimated Full Costs of Constructing TUMF Facilities and Estimated Maximum TUMF Offset Eligibility); Exhibit "G" (City DIF Facilities, Estimated Full Costs of City DIF Facilities and Estimated Maximum City DIF Offset Eligibility); Exhibit "H" (Non-Programmed Facilities and Estimated Full Costs of Constructing Non-Programmed Facilities); Exhibit "I" (TUMF Credit and Reimbursement Agreement); Exhibit "J" (City DIF Credit and Reimbursement Agreement); Exhibit "K" (Owner Agreement Between Owners of Phases).

ARTICLE II.
GENERAL PROVISIONS.

2.1 **Binding Effect of Agreement.** From and following the Effective Date, actions by the City and Developer with respect to the Development of the Property, including actions by the City on applications for Subsequent Development Approvals affecting the Property, shall be subject to the terms and provisions of this Agreement.

2.2 **Ownership of Property.** City and Developer acknowledge and agree that Developer has a legal or equitable interest in the Property and thus Developer is qualified to enter into and be a party to this Agreement under the Development Agreement Law.

2.3 **Restrictions on Transfer.** As used in this section, the term "transfer" shall include any assignment, conveyance, hypothecation, mortgage, pledge, or encumbrance of this Agreement or the Property (or portion thereof), or the improvements thereon by Developer. A transfer shall also include the transfer to any person or group of persons acting in concert of more than fifty (50%) of the present equity ownership and/or more than fifty percent (50%) of the voting control of Developer (jointly and severally referred to herein as the "Trigger Percentages") or any general partner of Developer in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between Developer's members, members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (in a cumulative basis) in the equity ownership and/or voting control of Developer in amounts less than Trigger Percentages shall not constitute a transfer subject to the provisions set forth herein. In the event Developer or any general partner comprising Developer or its successors is a corporation or trust, such transfer shall refer to the transfer of the issued and outstanding capital stock of Developer, or of beneficial interest of such trust in amounts in excess of the Trigger Percentages, in the event that Developer or any general partner comprising is a limited or general partnership, such transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership interest; in the event that Developer or any general partner is a joint venture, such transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis.

Developer shall have the right to transfer all or a portion of the rights and obligations under this Agreement or any of Developer's rights or obligations hereunder, any interest in the Property (or portion thereof) or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, provided that (i) Developer provides the City with prior written notice; and (ii) Developer and the proposed transferee provide a fully executed Assignment and Assumption Agreement in a form and content substantially similar to the document attached hereto as Exhibit D. If Developer complies with provisions (i) and (ii), City shall approve the transfer which shall not be delayed or withheld absent objective and verifiable good cause. Additional "Permitted Transfers" (defined below), shall not require any City notification. City shall reasonably cooperate in conforming the respective obligations of the Developer and transferee following assignment.

The City agrees that the developers, or their successor or assigns, identified in the Phase 1 Development Agreement and the Phase 2 Development Agreement each have the right, but not the obligation, to assume one or more of Developer's obligations to construct the Public Improvements or satisfy conditions of approval required by the Development Approvals for this Project as memorialized in that certain Agreement Between Owners of Phases (the form of which is attached hereto as Exhibit "K"); therefore, any assumption by either the developer of Phase 2 or the developer of Phase 1 of the Public Improvements is hereby deemed a "Permitted Transfer" that shall not require any further City approval or consent. In the event that either developer of Phase 2 or developer of Phase 1 elect to undertake Developer's obligations to construct one or more of the Public Improvements, then City agrees that on the terms and conditions provided in the Agreement Between Owners of Phases such developer shall be entitled to receive and be assigned any Public Improvement Fee Offset (defined in Section 3.13)

or reimbursement Developer would otherwise be owed under this Agreement, the TUMF Credit and Reimbursement Agreement and the City DIF Credit and Reimbursement Agreement. The Parties agree that for the purposes of enforcing this paragraph and any rights and obligations that relate to this paragraph 2.3, the developers of Phase 2 and Phase 1 (as well as any successors and assignees) are each specifically intended to be a third-party beneficiary.

Developer may notify City in writing whether a transferee shall be liable for the performance of certain obligations, and upon the express written assumption of any or all of the obligations of Developer under this Agreement by such assignee, transferee shall, without any further requirement for act of or concurrence by City, relieve Developer of its legal duty to perform said obligations under this Agreement with respect to the Property, or portion thereof, so transferred, except to the extent Developer is in default of the terms of this Agreement.

2.4 **Release Upon Transfer**. It is understood and agreed by the Parties that the Property may be subdivided following the Effective Date. One or more of such subdivided parcels may be sold, mortgaged, hypothecated, assigned or transferred to persons for development by them in accordance with the provisions of this Agreement. Upon the sale, transfer or assignment of Developer's rights and interest under this Agreement as permitted pursuant to Section 2.3 above, Developer shall be released from its obligations under this Agreement with respect to the Property, or portion thereof so transferred, provided that (a) Developer is not then in material uncured default of this Agreement, and (b) such transfer has taken place pursuant to Section 2.3 above, (c) the transferee expressly and unconditionally assumes all the obligations of Developer under this Agreement and the Development Approvals with respect to the Property, or portion thereof, so transferred, and (d) the transferee provides City with security equivalent to any security provided by Developer, if any, to secure performance of its obligations under this Agreement or the Development Approvals. Noncompliance by any such transferee with the terms and conditions of the Agreement shall not be deemed a default hereunder or grounds for termination hereof or constitute cause for City to initiate enforcement action against other persons then owning or holding interest in the Property, or any portion thereof, who are not themselves in default hereunder. Upon completion of any phase of development of the Project as determined by City, City shall release that completed phase from any further obligations under this Agreement. The provisions of this Section (but not Section 2.3) shall be self-executing and shall not require the execution or recordation of any further document or instrument. Any and all successors, assigns and transferees of Developer shall have all of the same rights, benefits and obligations of Developer as used in this Agreement and the term "Developer" as used in this Agreement shall refer to any such successors, assigns and transferees unless expressly provided herein to the contrary.

2.5 **Term of Agreement.** Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the date that is fifteen (15) years from and after the Effective Date. Upon the expiration or earlier termination of this Agreement, the Parties shall promptly execute and record an instrument evidencing the termination of this Agreement.

ARTICLE III.
DEVELOPMENT OF THE PROPERTY.

3.1 **Vested Rights to Develop.** Subject to and during the Term of this Agreement, Developer shall have a vested right to develop or cause to be developed, the Property in accordance with, and to the extent of, the Development Plan, the Development Approvals, the Existing Land Use Regulations, applicable Subsequent Development Approvals, applicable Subsequent Land Use Regulations, and this Agreement.

3.2 **Effect of Agreement on Land Use Regulations.** Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to Development of the Property, shall be as set forth in the Existing Land Use Regulations which were in full force and effect as of the Effective Date of this Agreement, subject to the terms of this Agreement. Pursuant to Government Code Section 66452.6(a)(1), the term of any tentative map for the Property or any portion thereof filed within the term of this Agreement shall automatically be extended for the term of this Agreement, as amended by the Development Approvals.

3.3 **Timing of Development; Scope of Development.** The Parties acknowledge that Developer cannot at this time predict when or the precise rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in ***Pardee Construction v. City of Camarillo*** (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later-enacted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that Developer shall have the right to develop the Property (but not the obligation to develop the Property) in such order and at such rate and at such time as Developer deems appropriate within the exercise of its sole and absolute subjective business judgment.

3.4 **Development Plan; Submittal of Subsequent Development Approvals**. The Development Plan for the Project may require the processing of Subsequent Development Approvals. The City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters in accordance with the Existing Land Use Regulations. The Parties acknowledge that subject to the Existing Land Use Regulations, under no circumstances shall City be obligated in any manner to approve any Subsequent Development Approval, or to approve any Subsequent Development Approval with or without any particular condition, except that the Subsequent Development Approvals shall be generally consistent with the Development Plan. However, unless otherwise requested by Developer, City shall not amend or rescind any Subsequent Development Approvals applicable to the Property after such approvals have been granted by the City. Processing of Subsequent Development Approvals or changes in the Development Approvals or Development Plan made pursuant to Developer's application shall not require an amendment to this Agreement; however, upon approval by the City, such

Subsequent Development Approvals, changes in the Development Approvals or Development Plan, shall be subject to and covered by this Agreement.

3.5 **Development Impact Fees**. The development impact fees applicable to the Project shall be those existing on the Effective Date of the Agreement and/or those adopted after the Effective Date of the Agreement. Development impact fees shall be paid less any applicable Public Improvement Offsets as defined in Section 3.13, at such time as payment for such fees is due and payable in accordance with the Land Use Regulations in effect at the Effective Date of Agreement, or as set forth in future City fee ordinances, for the portion of the Property to which such fees apply. This section shall not preclude the City from adopting any new development impact fees in the future applicable to the Property or to other Development in the City.

3.6 **Future Voter Actions Not Applicable to the Project**. Notwithstanding any other provision of this Agreement to the contrary, any general plan amendment, specific plan amendment, zoning ordinance or regulation, or any other law, policy, or procedure adopted by the voters of the City after the Effective Date of this Agreement ("Voter Measures"), shall not apply in whole or in part to the Property, the Development, the Development Approvals, and/or the Development Plan. Any and all Voter Measures shall not impede the vested right Developer has to develop the Project pursuant to the terms of this Agreement.

3.7 **Reservation of Authority**.

3.7.1 **Limitations, Reservations and Exceptions.** Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the Development of the Property:

(a) Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Subsequent Development Approvals or for monitoring compliance with any Subsequent Development Approvals granted or issued.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, or other codes that may be applicable to the Project, and also adopted by City as Subsequent Land Use Regulations, if applicable City-wide.

(d) Regulations that may be in conflict with the Development Plan or this Agreement but which the City determines are materially necessary to protect the public health, safety and welfare.

(e) Regulations that are not in conflict with the Development Plan or this Agreement.

(f) Regulations that are in conflict with the Development Plan or this Agreement, provided Developer has given written consent at Developer's sole and absolute discretion to the application of such regulations to Development of the Property.

(g) Federal, State, County, and multi-jurisdictional laws and regulations which City is required to enforce against the Property or the Development of the Property.

(h) Subsequent Land Use Regulations applicable to local or regional development impact fees.

3.7.2 **Future Discretion of City.** This Agreement shall not prevent City from denying or conditionally approving any application for a Subsequent Development Approval on the basis of the Existing Land Use Regulations.

3.7.3 **Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Law.** In the event that lawful Federal, State, County, or multi-jurisdictional laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to cause the same to materially comply with such Federal, State, County, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.8 **Regulation by Other Public Agencies**. It is acknowledged by the Parties that other public agencies not subject to control by City may possess authority to regulate aspects of the Development of the Property, and this Agreement does not limit the authority of such other public agencies.

3.9 **Public Improvements**. If Developer proceeds with the Project, which it may do or refrain from in its sole and absolute discretion, Developer shall construct the Public Improvements. Except as provided in Section 3.11, the timing of the construction of the Public Improvements shall be in substantial conformance with the timetable set forth in Exhibit "E," the Phasing of Public Improvements, and with the timetable set forth in the Planning and Engineering Conditions of Approval that are approved concurrently with the Project or that are approved in connection with a Subsequent Development Approval. In addition, and notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Subsequent Development Approvals to require Developer to dedicate necessary land and/or to construct necessary public infrastructure, ("Exactions"), at such time as City shall determine subject to the following conditions:

3.9.1 The dedication, payment or construction must be to alleviate an impact caused by the Subsequent Development Approvals or be of benefit to the Project and must comply with all nexus and proportionality requirements under State law and the California and Federal Constitutions;

3.9.2 The timing of the Exaction should be reasonably related to the phasing of the development of the Project and said public improvements shall be phased to be

commensurate with the logical progression of the Project development as well as the reasonable needs of public; and

3.9.3 When Developer is required by this Agreement and/or the Development Plan to construct any public works facilities which will be dedicated to the City or any other public agency upon completion, Developer shall perform such work in the same manner and subject to the same construction standards as would be applicable to the City or such other public agency should it have undertaken such construction work.

3.10 **Fees, Taxes and Assessments**. During the term of this Agreement, the City shall not, without the prior written consent of Developer, which consent Developer may grant or withhold in its sole and absolute discretion, impose any additional fees, taxes or assessments on all or any portion of the Project, except such fees, taxes and assessments as are described in or required by this Development Agreement and/or the Development Plan. This Development Agreement shall not prohibit the application of fees, taxes or assessments as follows:

3.10.1 Fees, taxes or City assessments which exist as the Effective Date or are included in the Development Plan and any increases in same, to the extent such increases are permitted under this Agreement;

3.10.2 Any non-development impact fees or taxes, and increases thereof, imposed on a City-wide basis such as business license fees or taxes, sales or use taxes, utility taxes, and public safety taxes, provided that Developer reserves the right to protest the establishment or amount of any such fees or taxes through the method prescribed or authorized by law;

3.10.3 Any future non-development impact fees, taxes or assessments imposed on an area-wide basis (including without limitation landscape and lighting assessments, community facilities districts, road and bridge benefit districts, and community services assessments);

3.10.4 Any fees imposed pursuant to any assessment district established within the Project otherwise proposed or consented to by Developer;

3.10.5 Subject to the terms of this Agreement, including Section 3.13, Developer shall be obligated to pay any fees lawfully required to be imposed in connection with the implementation of the Transportation Uniform Mitigation Fee ("TUMF") program, the Multi-Species Habitat Conservation Plan ("MSHCP"), and the San Jacinto River Plan; and

3.10.6 Any non-development impact fees imposed pursuant to any Uniform Code.

3.10.7 Notwithstanding any other provision in this Agreement, Developer retains any rights it has in law or equity to prevent or challenge new, additional or increased taxes, fees or assessments.

3.11 **Infrastructure Phasing Flexibility; Interim Improvements for Partial Development.** Notwithstanding the provisions of any phasing requirements in the Development

Approvals, Developer and City recognize that economic and market conditions may necessitate changing the order in which the infrastructure is constructed. Additionally, City recognizes that Developer or a transferee may process subsequent Development Approvals consisting of subdivision maps for the Property that may lead to certain portions of the Property being developed and transferred (subject to the requirements of Section 2.3) prior to full completion of the Project. Therefore, City and Developer hereby agree that should it become necessary or desirable to develop any portion of the Project's infrastructure in an order that differs from the order set forth in the Development Approvals, Developer and City shall collaborate and City may, in its reasonable discretion, permit any modification requested by Developer if City determines the modification continues to ensure that adequate infrastructure is available to serve that portion of the Project being developed. The City shall also allow for the construction of interim improvements as part of any subdivision map proposing partial Project development, which interim improvements shall be those deemed necessary in the EIR to serve the partial Project development then proposed. Notwithstanding the preceding sentence, construction of interim improvements shall not relieve Developer of its obligations to construct Public Improvements unless assumed by a transferee.

3.12 **Development Agreement/Development Approvals.** In the event of any inconsistency between any Existing Land Use Regulation and a Development Approval, the provisions of the Development Approval shall control. In the event of any inconsistency between any Existing Land Use Regulation, Development Approval and this Agreement, the provisions of this Agreement shall control.

3.13 **Public Improvement Fee Offsets.** If Developer proceeds with the Project at its sole and absolute discretion, Developer or transferee shall construct the Public Improvements as described in Section 3.9. The Public Improvements consist of, among other things, arterial and intersection transportation improvements ("Transportation Improvements"), domestic and reclaimed water improvements ("Water Improvements") and sewer improvements ("Sewer Improvements"). The Parties acknowledge and agree that the Public Improvements mitigate the impacts of the Project, but some of the Public Improvements will additionally mitigate the infrastructure impacts of more than just the Project such that other developers or third-party property owners ("Benefiting Parties") will benefit from Developer's construction of Public Improvements. Accordingly, City agrees that Developer, in its sole and absolute discretion shall be (i) entitled to offset the amount of development impact fees that otherwise would be due and payable to City in the absence of Developer constructing the Public Improvements and this Agreement, in the amounts as estimated below (subject to adjustment if necessary) ("Public Improvement Fee Offset") and (ii) shall be entitled to apply an up-front credit or seek reimbursement in the manner specified in this Agreement. City further agrees and acknowledges the following:

3.13.1 **Transportation Improvements, General**: The Transportation Improvements include: (i) regional transportation facilities that are covered by the Western Riverside Council of Governments ("WRCOG") TUMF, which are set forth in Exhibit "F" ("TUMF Facilities"); (ii) local transportation facilities that are covered by the City Development Impact Fee Program ("City DIF") which are set forth in Exhibit "G" ("City DIF Facilities"); (iii) other transportation facilities that are not covered by either the WRCOG TUMF or the City DIF which are set forth in Exhibit "H" ("Non-programmed Facilities"); and (iv) additional

improvements set forth in the Planning or Engineering Conditions of Approval which may also include additional TUMF Facilities and City DIF Facilities) Exhibit "F" also includes the estimated full costs of constructing the TUMF Facilities ("Estimated Full Cost of TUMF Facilities") and the maximum TUMF offset eligibility as of the Effective Date, determined by applying the criteria contained in WRCOG's Administrative Plan (August 4, 2008) ("Estimated Maximum TUMF Offset Eligibility"). Exhibit "G" also includes the estimated full costs of constructing the City DIF Facilities ("Estimated Full Cost of City DIF Facilities") and the maximum City DIF offset eligibility as of the Effective Date, as determined by applying the City DIF formulae to the Project, and also including engineering and other soft costs and acquisition costs ("Estimated Maximum City DIF Offset Eligibility"). Exhibit "H" also includes the estimated full costs of constructing the Non-Programmed Facilities ("Estimated Full Cost of Non-programmed Facilities")

3.13.2 **TUMF Facilities**. City and Developer agree that in accordance with City Ordinance 1186, Section 4.G, and the WRCOG Administrative Plan (August 4, 2008), Developer is entitled to a credit to offset Developer's TUMF obligation because Developer is conditioned in the Development Approvals to construct eligible TUMF Facilities. Developer may additionally be entitled to reimbursement in accordance with WRCOG policies. The amount of such credit shall be the Estimated Maximum TUMF Offset Eligibility (as adjusted upwards if the circumstances warrant, such as the case if the City were to impose an additional condition, such as those in the Planning and Engineering Conditions of Approval, that required Developer to construct a TUMF Facility that is not currently listed on Exhibit "E"). Developer shall be entitled to reduce the TUMF obligation owed to the City by the full amount of the Estimated Maximum TUMF Offset no later than at that time at which the TUMF obligation is required to be paid to the City. For example, if Developer's TUMF Obligation is $3,000,000, Developer shall be entitled to reduce that amount by $2,389,620 at the time the TUMF obligation is due to be collected by the City such that the actual TUMF obligation owed by Developer is $610,380 after applying the Estimated Maximum TUMF Offset. The amount of reimbursement, if any, shall be the lesser of (i) Developer's actual cost of constructing the eligible TUMF Facilities, or (ii) an amount equal to the TUMF Unit Cost Assumptions (as defined in the WRCOG Administrative Plan), after subtracting any credit. The parties' respective rights and obligations to provide a Public Improvement Offset and/or reimbursement for Developer's construction of TUMF Facilities shall be memorialized in that certain Improvement Credit Agreement/Reimbursement Agreement Transportation Uniform Mitigation Fee Program between the Parties attached hereto as Exhibit "I." In the event of any partial or entire assignment of this Agreement, City and Developer shall cooperate with respect to allocating the various responsibilities of the Parties.

3.13.3 **City DIF Facilities**. City and Developer agree that in accordance with the policies adopted from time to time by the City, Developer may be entitled to a credit to offset Developer's DIF obligation because Developer is conditioned in the Development Approvals to construct eligible DIF Facilities. The amount of such credit shall be the lesser of (i) Developer's actual cost of constructing the eligible DIF Facilities, or (ii) an amount equal to the Estimated Maximum City DIF Offset Eligibility (as adjusted upwards if the circumstances warrant, such as the case if the City were to impose an additional condition, such as those in the Planning and Engineering Conditions of Approval, that required Developer to construct a TUMF Facility that is not currently listed on Exhibit "E"). Developer may additionally be entitled to reimbursement.

The Parties' respective rights and obligations to provide Public Improvement Offset or reimbursement for Developer's construction of City DIF Facilities shall be memorialized in that certain DIF Improvement Credit and Reimbursement Agreement between the Parties attached hereto as Exhibit J. In the event of any partial or entire assignment of this Agreement, City and Developer shall cooperate with respect to allocating the various responsibilities of the Parties.

3.13.4 **Non-programmed Facilities; Reimbursement Agreements with Benefitting Third Parties**. To the extent Developer constructs Non-programmed Facilities that benefit other Benefitting Parties, Developer shall be entitled to reimbursement in accordance with Section 3.13.6.

3.13.5 **Sewer Improvements, General**. The Developer's costs for constructing the Sewer Improvements may be subject to full or partial reimbursement by the Eastern Municipal Water District ("EMWD"). At Developer's request, City agrees to fully cooperate with Developer in obtaining reimbursement from EMWD by attending meetings, executing requisite documents, and responding to other reasonable requests.

3.13.6 **Reimbursement for Non-Programmed Facilities**. It is the intent of the Parties hereto that the pro rata share of the actual documented upfront planning, design, permitting, and construction costs for Non-Programmed Facilities, shall be paid to Developer by Benefitting Parties. Consistent with this stated intent, and as allowed by law, City shall require that for any such Non-Programmed Facilities constructed and/or funded in whole or in part by Developer, City shall consider imposing a condition of approval on the development proposals of Benefitting Parties requiring reimbursement to Developer for such pro rata fair share. City will work with Developer to establish mechanisms for proportional reimbursement from the Benefitting Parties that are recorded against their properties.

ARTICLE IV.
REVIEW FOR COMPLIANCE.

4.1 **Annual Review.** The City Council shall, at its discretion commencing in the year 2014, review this Agreement annually, in order to ascertain the good faith compliance by Developer, in all material respects, with the terms of the Agreement ("Annual Review"). No failure on part of City to conduct or complete an Annual Review as provided herein shall have any impact on the validity of this Agreement.

4.2 **Special Review.** The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost ("Special Review"). Developer shall reasonably cooperate with the City in the conduct of such Special Reviews.

4.3 **Procedure.** At all times throughout the term of this Agreement, each party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other party a justification of its position on such matters. If on the basis of the parties' review of any terms of the Agreement, either party concludes that the other party has not complied in good faith with the terms of the Agreement, then such party may issue a written "Notice of

Non-Compliance" specifying the grounds therefor and all facts demonstrating such non-compliance. The party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being cured or remedied within such thirty (30) days period to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion. If the party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice within thirty (30) days after receipt of the Notice. If a Notice of Non-Compliance is contested, the parties shall, for a period of not less than thirty (30) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice. In the event that a cure or remedy is not timely effected or, if the Notice is contested and the parties are not able to arrive at a mutually acceptable resolution of the matter(s) by the end of the thirty (30) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Section 5. Neither party hereto shall be deemed in breach if the reason for non-compliance is due to a "*force majeure*" as defined in, and subject to the provisions of, Section 9.9.

4.4 **Certificate of Agreement Compliance**. If, at the conclusion of an Annual Review or a Special Review, or at such other times as may be requested in writing by Developer, Developer is found to be in compliance with this Agreement, City shall, upon request by Developer, issue a Certificate of Agreement Compliance ("Certificate") to Developer stating that after the most recent Annual Review or Special Review and based upon the information known or made known to the City Manager, Planning Commission, and City Council that (1) this Agreement remains in effect and (2) Developer is in compliance. The Certificate, whether issued after an Annual Review or Special Review, shall be in recordable form and shall contain information necessary to communicate constructive record notice of the finding of compliance. Developer shall record the Certificate with the County Recorder. Additionally, Developer may at any time request from the City a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Property, or any lot or parcel within the Property.

ARTICLE V.
DEFAULT AND REMEDIES.

5.1 **Specific Performance Available.** Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its pre-existing condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to this Agreement and will be investing even more significant time and implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. For the above reasons, City and Developer agree that damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement. Therefore, specific performance of this Agreement is the only remedy that would compensate Developer if City fails to carry out its obligations under this Agreement, and City hereby agrees that Developer shall be entitled to specific performance in the event of a default by City

hereunder. City and Developer acknowledge that if Developer fails to carry out its obligations under this Agreement, City shall have the right to refuse to issue any permits or other approvals which Developer would otherwise have been entitled to pursuant to this Agreement. If City issues a permit or other approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such conditions, City shall be entitled to specific performance for the sole purpose of causing Developer to satisfy such condition. The City's right to specific performance shall be limited to those circumstances set forth above, and City shall have no right to seek specific performance to cause Developer to otherwise proceed with development of the Project, or any phase or aspect of the Project, in any manner.

The parties acknowledge and agree that other than the termination of this Agreement pursuant to Section 5.2, specific performance is the only remedy available for the enforcement of this Agreement and knowingly, intelligently, and willingly waive any and all other remedies otherwise available in law or equity. Accordingly, and not by way of limitation, and except as otherwise provided in this Agreement, neither City nor Developer shall be entitled to any money damages from the other party by reason of any default under this Agreement. Further, Developer shall not bring an action against City nor obtain any judgment for damages for a regulatory taking, inverse condemnation, unreasonable exactions, reduction in value of property, delay in undertaking any action, or asserting any other liability for any matter or for any cause which existed and which the Developer knew of or should have known of prior to the time of entering this Agreement, Developer's sole remedies being as specifically provided above. Developer acknowledges that such remedies are adequate to protect Developer's interest hereunder and the wavier made herein is made in consideration of the obligations assumed by the City hereunder. The Developer's waiver of the right to recover monetary damages shall not apply to any damages or injuries to a third party caused by the City's negligence. Nothing in this Section 5 applies to, limits, or supersedes the Parties' remedies as provided in both Section 10 of the TUMF Credit and Reimbursement Agreement and Section 8.7 in the City DIF Credit and Reimbursement Agreement.

5.2 **Termination of Agreement.**

5.2.1 **Termination of Agreement for Material Default of Developer**. City in its discretion may terminate this Agreement for any material failure of Developer to perform any material duty or obligation of Developer hereunder or to substantially comply in good faith with the material terms of this Agreement (hereinafter referred to as "default" or "breach"); provided, however, City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3. Any material default by Developer of any of the conditions of approval of any of the Development Approvals that is not timely cured by Developer shall be deemed a material default by Developer of this Agreement.

5.2.2 **Termination of Agreement for Material Default of City**. Developer, in its discretion, may terminate this Agreement for any material default by City; provided, however, Developer may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3.

5.2.3 **Rights and Duties Following Termination**. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to

(i) any obligations to have been performed prior to said termination, or (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination. Termination of this Agreement shall not affect either party's rights or obligations with respect to any Development Approval granted prior to such termination.

ARTICLE VI.
THIRD PARTY LITIGATION.

City shall promptly notify Developer in writing of any claim, action or proceeding filed and served against City to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement, including but not limited to challenges of the environmental review of the Project and this Agreement conducted pursuant to the California Environmental Quality Act. Developer and City agree to use good faith, commercially reasonable efforts to confer and cooperate with one another with respect to such third party litigation. Developer shall defend, indemnify and hold harmless City, its agents, officers and employees from any such claim, action or proceeding, and shall indemnify City for all costs of defense and/or judgment obtained in any such action or proceeding; provided, however, if Developer elects, in its sole discretion, not to defend the action (preferring to either allow judgment to be entered or to enter into a settlement with plaintiff(s) which declares this Agreement to be void, annulled, or which limits or restricts this Agreement), Developer shall so notify City in writing and City shall then have the option, in its sole discretion, of defending the action at its cost. In the event this Agreement, as a result of a third party challenge, is voided or annulled, or is limited or restricted such a manner that the intent and purposes of this Agreement cannot be implemented as mutually desired by the parties hereto, this Agreement shall terminate and be of no further force or effect as of the date such judgment or settlement so voids, annuls, limits, or restricts the intent and purpose of this Agreement.

ARTICLE VII.
MORTGAGEE PROTECTION.

The Parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and City agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, City will not unreasonably withhold its consent to any such requested interpretation or modification provided City's City Manager determines such interpretation or modification is consistent with the intent and purposes of this Agreement. City's City Manager shall be authorized to approve and to execute any documents reasonably necessary to carry out such interpretations or modifications without a formal amendment to this Agreement unless the City Manager and/or City Attorney determine that such interpretations or modifications are substantial enough that an amendment to this Agreement is required. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

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

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, if such Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Developer. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed such party under this Agreement, or (ii) sixty (60) days from the delivery of City's notice to such Mortgagee or longer period if lender is diligently pursuing.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall be subject or entitled, as the case may be, to all of the same obligations, liabilities, covenants and rights as imposed upon or granted to, as the case may be, Developer under this Agreement and the Development Plan as are applicable to the Property or such part thereof so acquired by the Mortgagee.

ARTICLE VIII.
INSURANCE; INDEMNIFICATION.

8.1 **Insurance**.

8.1.1 **Types of Insurance.**

(a) **Public Liability Insurance**. Prior to commencement and until completion of construction by Developer on the Property, Developer shall at its sole cost and expense keep or cause to be kept in force for the mutual benefit of City and Developer broad form commercial general public liability insurance against claims and liability for personal injury or death arising from the use, occupancy, disuse or condition of the Property, improvements or adjoining areas or ways, affected by such use of the Property or for property damage, providing protection of a least Five Million Dollars ($5,000,000) per occurrence for bodily injury, death or

property damage combined for any one accident or occurrence, which limits shall be subject to reasonable increases in amount as City may reasonably require from time to time.

(b) **Builder's Risk Insurance**. Prior to commencement and until completion of construction by Developer on the Property, Developer shall procure and shall maintain in force, or caused to be maintained in force, "all risks" builder's risk insurance including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's, and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees, with the replacement cost value of the Project, or on a project by project basis.

(c) **Worker's Compensation**. Developer shall also furnish or cause to be furnished to City evidence reasonably satisfactory to it that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries workers' compensation insurance as required by law.

(d) **Other Insurance**. Developer may procure and maintain any insurance not required by this Agreement, but all such insurance shall be subject to all of the provisions hereof pertaining to insurance and shall be for the benefit of City (to the extent applicable) and Developer.

(e) **Insurance Policy Form, Sufficiency, Content and Insurer**. All insurance required by express provisions hereof shall be carried only by responsible insurance companies licensed and admitted to do business by California, rated "A-" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless waived by City. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act of negligence (excepting willful and intentional violations of law) of City or Developer that might otherwise result in the forfeiture of the insurance, (ii) the insurer waives the right of subrogation against City and against City's agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by City; and (iv) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the Developer to City or City's designated representative. Developer shall furnish City with certificates evidencing the insurance. City shall be named as an additional insured on all policies of insurance required to be procured per section 8.1.1(a) of this Agreement. The City's Risk Manager acknowledges and agrees that the insurance requirements above have been established based on anticipated use, activities, and conditions of the Property. In the event the City's Risk Manager reasonably determines that a new or unreasonable use, activity, or condition of the Property, improvements or adjoining areas or ways, affected by such use of the Property under this Agreement creates an increased or decreased risk of loss to the City than what the Parties hereby acknowledge to be duly satisfied by the insurance requirements above, Developer agrees that the minimum limits of the insurance policies required by this Section 8.1.1 may be changed accordingly upon receipt of written notice from the City's Risk Manager; provided that Developer shall have the right to appeal a determination of increased coverage to the City Manager of City within twenty (20) days of receipt of notice from the City's Risk Manager.

8.1.2 **Failure to Maintain Insurance and Proof of Compliance.** Developer shall deliver to City, in the manner required for notices, copies of certificates of all insurance policies required hereunder together with evidence satisfactory to City of payment required for procurement and maintenance of each policy within the following time limits:

(a) For insurance required above, within thirty (30 days) after the Effective Date.

(b) For any renewal or replacement of a policy already in existence, at least ten (10) days after the expiration or replacement of the existing policy.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish City with required proof that that insurance has been procured and is in force and paid for, such failure or refusal shall be a default hereunder.

8.2 **Indemnification.**

8.2.1 **General**. Developer shall indemnify the City, its officers, employees, and agents against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the work, operations, or activities any or all of Developer, its agents, employees, or contractors (including subcontractors), upon the Property and relating to this Agreement, whether or not there is passive or active negligence on the part of the City, its officers, agents, or employees and in connection therewith.

(a) Developer will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including reasonable legal costs and attorneys' fees incurred in connection therewith;

(b) Developer will promptly pay any judgment rendered against the City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with its foregoing indemnity and Developer agrees to save and hold the City, its officers, agents, and employees harmless from any failure to so pay any such judgment.

(c) In the event the City, its officers, agents, or employees is made a party to the action or proceeding filed or prosecuted against for such damages or other claims arising out of or in connection with the work, operations, or activities of Developer under this Agreement, Developer agrees to pay the City, its officers, agents, or employees any and all reasonable out-of-pocket costs and expenses actually incurred by the City, its officers, agents, or employees in such action or proceeding, including by not limited to reasonable legal costs and attorneys' fees.

8.2.2 **Exceptions**. The foregoing indemnity shall not include claims or liabilities arising from the sole or gross negligence or willful misconduct of any or all of the City and its officers, agents and employees.

8.2.3 **Loss and Damage**. Except as otherwise set forth in this Agreement, City shall not be liable for any damage to property of Developer or of others located on the Property, nor for the loss of or damage to any property of Developer or of others by theft or otherwise. Except as otherwise set forth in this Agreement, City shall not be liable for any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain, dampness or leaks from any part of the Property or from the pipes or plumbing, or from the street, or from any environmental or soil contamination or hazard, or from any other latent or patent defect in the soil, subsurface or physical condition of the Property, or by any other cause of whatsoever nature.

8.2.4 **Period of Indemnification**. The obligations for indemnity under this Section 8.2 shall begin upon the Effective Date and shall terminate upon termination of this Agreement, provided that indemnification shall apply to all claims or liabilities arising during that period even if asserted at any time thereafter. In all events, however, these indemnity obligations shall expire on the fifth (5th) anniversary of the termination date of this Agreement, except that the indemnities shall survive beyond that date with respect to any claims pending at the expiration date for which timely and proper submission has occurred pursuant to the applicable indemnity provisions.

8.3 **Waiver of Subrogation.** Developer agrees that it shall not make any claim against, or seek to recover from City or its agents, servants, or employees, for any loss or damage to Developer or to any person or property, except as specifically provided hereunder and Developer shall give notice to any insurance carrier of the foregoing waiver of subrogation, and obtain from such carrier, a waiver of right to recovery against City, its agents and employees.

ARTICLE IX.
MISCELLANEOUS PROVISIONS.

9.1 **Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

9.2 **Entire Agreement.** This Agreement and Exhibits set forth and contains the entire understanding and agreement of the parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 **Severability.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

9.4 **Interpretation and Governing Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of

California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party or in favor of City shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.5 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 **Singular and Plural.** As used herein, the singular of any word includes the plural.

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

9.8 **No Third Party Beneficiaries**. Except as specified in Section 2.3, this Agreement is made and entered into for the sole protection and benefit for the parties and their successors and assigns and no other person shall have any right of action based upon any provision of this Agreement.

9.9 **Force Majeure.** Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by any or all of: (i) strikes, lockouts or labor disputes, (ii) inability to obtain labor or materials or reasonable substitutes therefor, (iii) inclement weather which delays or precludes construction, (iv) acts of God or the public enemy or civil commotion, (v) condemnation, (vi) fire or other casualty, (vii) shortage of fuel, (viii) action or nonaction of public utilities or of local, state or federal governments, affecting the work, including, but not limited to, any delays in the permitting process as a result of the action or inaction or such governmental authorities, (ix) acts of terrorism, or (x) other conditions similar to those enumerated above which are beyond the reasonable anticipation or control of such party, or other causes beyond the party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than two (2) years.

9.10 **Mutual Covenants.** The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.11 **Counterparts.** This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 **Litigation.** Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, or such other appropriate court in said county. Service of process

on City shall be made in accordance with California law. Service of process on Developer shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between City and Developer seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorney's fees. Notwithstanding the foregoing, the City and Developer each acknowledges that it is aware of its right to trial by jury under applicable laws. Nonetheless, each party does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on any matters or disputes whatsoever arising out of or in any way connected with this Agreement or the Project.

9.13 **Covenant Not To Sue.** The parties to this Agreement, and each of them, agree that this Agreement and each term hereof are legal, valid, binding, and enforceable. The parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other party to this Agreement, in law or in equity, or based on any allegation or assertion in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

9.14 **Project as a Private Undertaking.** It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private Development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the Development of private property, on the one hand, and the holder of a legal or equitable interest in such property, on the other hand. City agrees that by its approval of, and entering into, this Agreement that it is not taking any action which would transform this private Development into a "public work" project, and that nothing herein shall be interpreted to convey upon Developer any benefit which would transform Developer's private project into a public work project, it being understood that this Agreement is entered into by City and Developer upon the exchange of consideration described in this Agreement, including the Recitals to this Agreement which are incorporated into this Agreement and made a part hereof, and that City is receiving by and through this Agreement the full measure of benefit in exchange for the burdens placed on Developer by this Agreement, including but not limited to Developer's obligation to provide the public improvements set forth herein.

9.15 **Further Actions and Instruments.** Each of the parties shall use good faith, commercially reasonable efforts to cooperate with and provide reasonable assistance to the other to the extent contemplated here under in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to

fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.16 **Eminent Domain and the Public Improvements.** As set forth in this Agreement, if Developer proceeds with the Project, Developer is required, subject to the terms of this Agreement, to construct the Public Improvements as described in Section 3.9. City and Developer acknowledge that completion of the Public Improvements may require the acquisition of right of way from the various properties on which the identified Public Improvements are conceptually located (collectively, the "Right of Way Properties" and individually, the "Right of Way Property"). Developer shall use good faith, commercially reasonable efforts to acquire the Right of Way Properties needed to construct the Public Improvements. City shall cooperate with Developer in Developer's negotiations to acquire each Right of Way Property. Developer shall give written notice to City when Developer begins its efforts to acquire each Right of Way Property and shall provide City with monthly reports of Developer's efforts. Should it become necessary due to Developer's failure or inability to acquire a Right of Way Property within six (6) months after Developer begins its efforts to acquire the Right of Way Property ("Developer Negotiation Period"), provided that City is reasonably satisfied with Developer's efforts, City shall take over the negotiations and shall, subject to the approval of Developer, negotiate to purchase the Right of Way Property. City and Developer shall cooperate in good faith to agree to a purchase price of the Right of Way Property. Developer shall pay for the purchase price and all costs borne by the City in purchasing the Right of Way Property. If City fails to acquire the Right of Way Property through voluntary negotiations, City may, in its sole discretion, use its power of eminent domain to condemn and acquire the Right of Way Property in accordance with the procedures established by State law, and the limitations hereinafter set forth in this section.

Both City and Developer acknowledge that under *Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, City cannot pre-commit to the acquisition of private property for public purposes without first complying with all of the rules and procedures set forth in California's Eminent Domain Law (Code of Civ. Proc. sections 1230.010 et seq.). Developer acknowledges the Eminent Domain Law requires, as a prerequisite to the exercise of eminent domain, that the City adopt a resolution of necessity following a public hearing that concludes based on the City's independent judgment, that the taking of private property is necessary for a public project; that the project is necessary for a public purpose; and that the taking of the particular property is compatible with the greatest public good and the least private injury. Without binding itself to carry out any particular action, City will use reasonable and good faith efforts to (i) conduct an appraisal or appraisals of the Right of Way Property within ninety (90) days following the termination of the Developer Negotiation Period ("City's Appraisal"); (ii) commence good faith negotiations with, and make an offer to purchase to the land owner who owns the Right of Way Property within ninety (90) days following receipt of the City's Appraisal; (iii) consider adopting a Resolution of Necessity authorizing the take of the Right of Way Property within one hundred twenty (120) days following the negotiations set forth in (ii), if such negotiations are unsuccessful; (iv) if a Resolution of Necessity is adopted, file a Complaint for Condemnation within thirty (30) days following the adoption of the Resolution of Necessity; and (v) if a Complaint for Condemnation is filed, seek an Order for Prejudgment Possession within ninety (90) days following the filing of the Complaint for Condemnation. City shall not be required to undertake any or all of the actions set forth in this Section 9.17, and shall only take any of the aforementioned actions, if at all, after City has complied with all of the requirements

contained in the California Eminent Domain Law based in City's sole and absolute discretion made in compliance with the California Eminent Domain Law. However, to the extent the City exercises its independent judgment to proceed with the aforementioned activities, City agrees to use reasonable good faith efforts to complete the actions described within lesser time period, to the extent that it is reasonable to do so, consistent with the legal constraints imposed on the City. If the City cannot make the proper findings or if for some other reason under the Eminent Domain Law City is prevented from acquiring the Right of Way Property necessary to enable Developer to construct the Public Improvements, or otherwise necessary to comply with the conditions of this Agreement, then the Parties agree to meet in good faith and work collaboratively on an alternative course of conduct. Unless expressly authorized by the City in a subsequent signed writing, Developer shall continue to be obligated to complete the Public Improvements should Developer proceed with the Project. Developer shall pay all costs borne by City in acquiring the Right of Way Property through Eminent Domain, including but not limited to appraisals, expert and legal fees and costs, and staff time.

9.17 **Amendments in Writing/Cooperation**. This Agreement may be amended only by written consent of both parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. Notwithstanding the foregoing, implementation of the Project may require minor modifications of the details of the Development Plan and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, modifications of the Development Plan, which are found by the City Attorney, and confirmed in writing by Developer, to be non-substantive and procedural shall not require an amendment to this Agreement. A modification will be deemed non-substantive and/or procedural if it does not result in a material change in fees, cost, density, intensity of use, permitted uses, the maximum height and size of buildings, the reservation or dedication of land for public purposes, or the improvement and construction standards and specifications for the Project.

9.18 **Corporate Authority.** The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

9.19 **Notices.** Any notice or other communication may be served by (a) facsimile, with follow-up by personal delivery (including delivery by Federal Express, UPS Overnight or other commercial overnight courier service) or (b) United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office, and (c) commercial overnight delivery courier. If delivered by mail, then such notice or other communication shall be deemed to have been received by the addressee on the second day following the date of such mailing. If delivered by facsimile, such notice or other communication shall be deemed to have been received by the addressee on the date sent if sent before 5:00 p.m. C.S.T., but if sent after 5:00 p.m. C.S.T., such notice or other communication shall be deemed received the following business day. If delivered by overnight courier services, the notice or other communication shall be deemed to have been received on the

first business day following the date on which such notice was given to the courier service. All notices and demands provided for in this Agreement shall be in writing and shall be given to the City and Developer at the addresses set forth below, or at such other addresses given to the City and Developer may hereafter specify in writing.

To City:	City of Perris 101 North "D" Street Perris, CA 92570 Attn: City Manager
With copy to:	Aleshire & Wynder, LLP 18881 Von Karman Avenue, Suite 1700 Irvine, CA 92612 Attn: Eric L. Dunn, City Attorney
To Developer:	FR/CAL ELLIS, LLC, a Delaware limited liability company c/o Principal Real Estate Investors, LLC 711 High Street Des Moines, IA 50392 Attn: CalSTRS Industrial Team
With a copy to:	c/o IDS Real Estate Group 515 South Figueroa Street, Suite 1600 Los Angeles, CA 90071-3337 Attn: Dan Sibson and Patrick D. Spillane
With copy to:	Cox Castle Nicholson 2049 Century Park East, 28th Floor Los Angeles, CA 90067-3284 Attn: Amy Wells
With copy to:	Rutan & Tucker, LLP 611 Anton Boulevard, Fourteenth Floor Costa Mesa, California 92626-1931 Attn: John A. Ramirez

9.20 **Non-liability of City Officials.** No officer, official, member, employee, agent, or representatives of City shall be personally liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

9.21 **No Brokers.** City and Developer represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorney's fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in

connection with this Agreement arising out of agreements by the indemnifying party to pay any commission or finder's fee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

City: CITY OF PERRIS, a municipal corporation

By _____
Daryl R. Busch
Mayor, City of Perris

ATTEST:

By _____
Nancy Salazar, City Clerk

RECEIVED
MAR 11 2014
CITY CLERK'S OFFICE
CITY OF PERRIS

CITY OF PERRIS
INCORPORATED
MAY 26, 1911
RIVERSIDE COUNTY, CA

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By _____
Eric L. Dunn, City Attorney

Developer: FR/CAL ELLIS, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: Steven Tong
Title: Director, Innovation & Risk

[End of Signatures]

State of California)
County of _____)

On _____, before me, _____, 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)

State of California)
County of YOLO)

On February 28, 2014, before me, SUSAN A. BUTLER, Notary Public, personally appeared STEVEN TONG, 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)

SUSAN A. BUTLER
Commission # 1882051
Notary Public - California
Yolo County
My Comm. Expires Mar 8, 2014

EXHIBIT "A"

DEPICTION OF THE PROPERTY

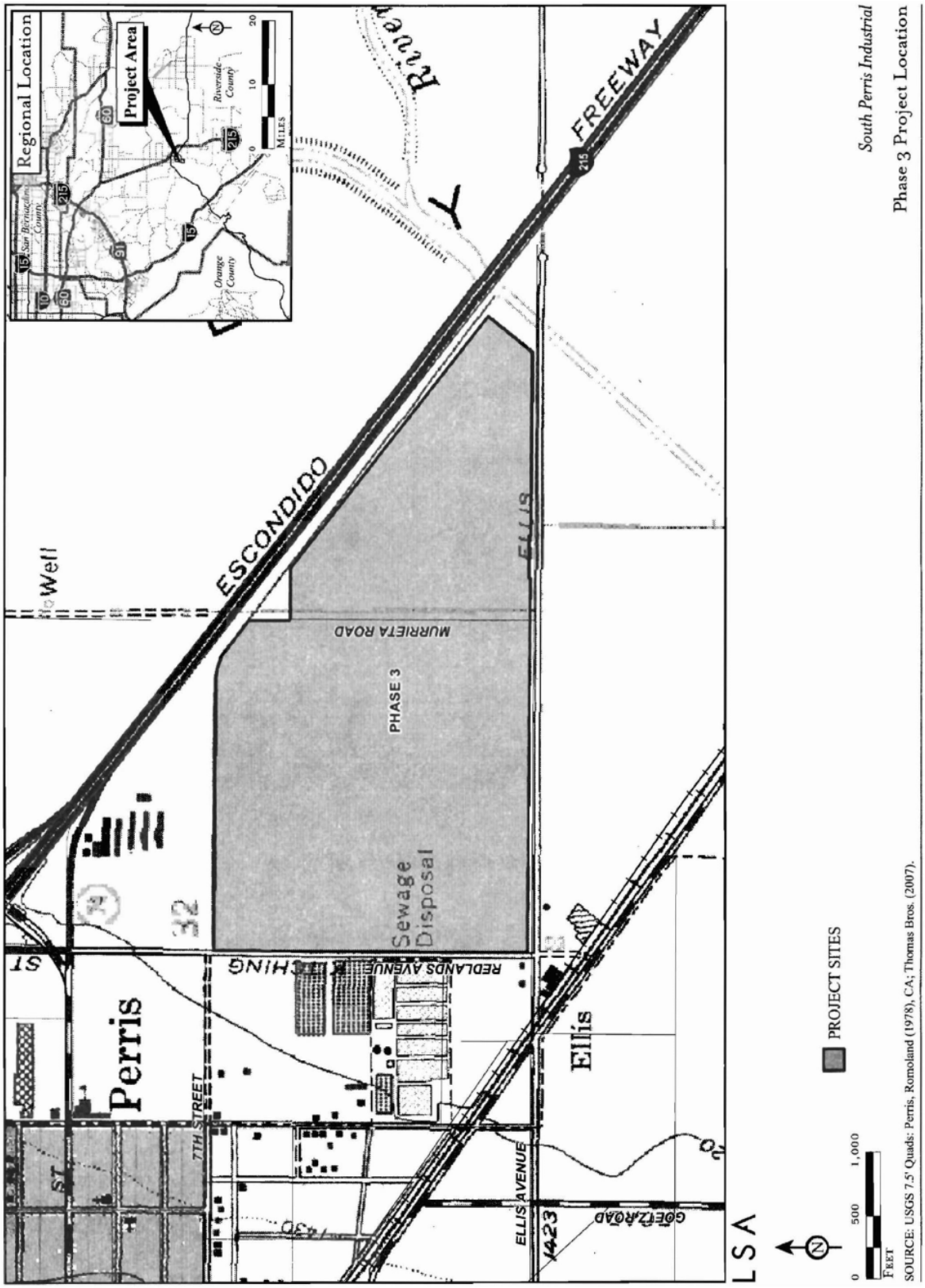

EXHIBIT "B"

LEGAL DESCRIPTION OF THE PROPERTY

LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

PARCEL 1: (APN: 310-170-006-8)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THENCE NORTH 00° 10' 39" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 753.38 FEET TO THE SOUTHWEST CORNER OF PARCEL 4270-2 OF SAID RECORD OF SURVEY;

THENCE NORTH 89° 49' 59' EAST ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 973.37 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2: (APN: 310-170-007-9)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411; OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

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THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 740.84 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 4270-2;

THENCE NORTH 51° 49' 22" WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 4270-2, A DISTANCE OF 340.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 365.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38° 20' 39", AN ARC DISTANCE OF 244.27 FEET;

THENCE SOUTH 89° 49' 59" WEST TANGENT TO SAID CURVE AND ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 1137.54 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: (APN: 310-170-008-0 AND 310-220-050-1)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOGETHER WITH THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, SAID PORTIONS BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET FOR THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 440.71 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 89° 58' 42" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 373.52 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 4270-1 OF SAID RECORD OF SURVEY;

THENCE SOUTH 51° 49' 22" EAST ALONG SAID PARCEL 4270-1, A DISTANCE OF 2566.04 FEET;

THENCE SOUTH 38° 08' 42" WEST, A DISTANCE OF 339.49 FEET;

THENCE SOUTH 41° 33' 24" WEST, A DISTANCE OF 130.70 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 30.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.51 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE SOUTH 00° 10' 46" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 58' 12" WEST ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 660.90 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 00° 14' 09" WEST ALONG THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 44.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID CENTERLINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 330.47 FEET TO A POINT ON THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE SOUTH 00° 15' 51" EAST ALONG SAID WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON SAID CENTER LINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID CENTERLINE, A DISTANCE OF 330.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33;

THENCE SOUTH 89° 49' 34" WEST ALONG THE SOUTH LINE OF SAID SECTION 32 AND ALONG SAID CENTERLINE OF ELLIS AVENUE, A DISTANCE OF 1938.92 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL ONE, PARCEL TWO AND PARCEL THREE OF LOT LINE ADJUSTMENT NO. 99-0103 RECORDED FEBRUARY 16, 2000 AS INSTRUMENT NO. 2000-058251 OF OFFICIAL RECORDS OF SAID COUNTY.

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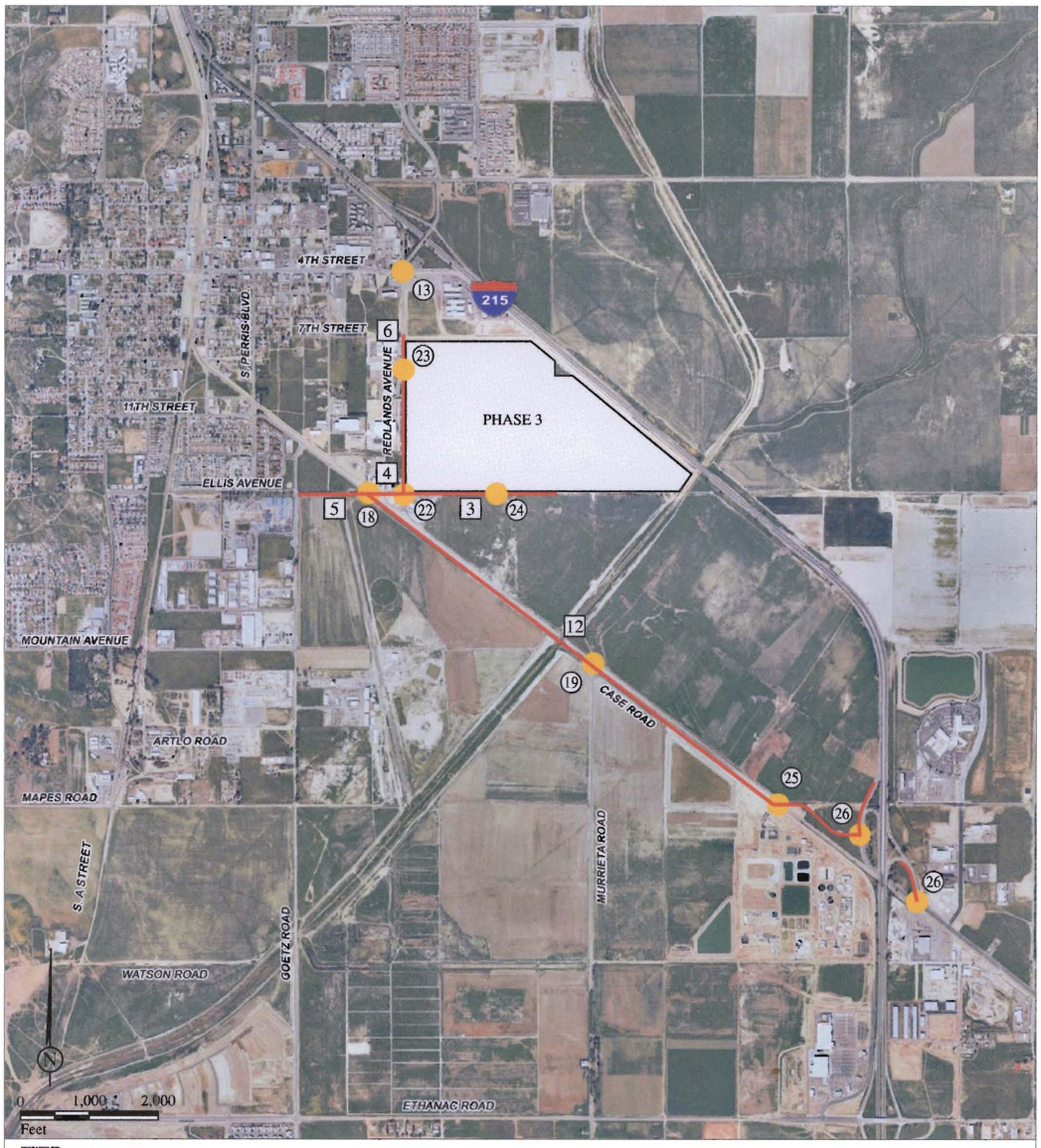
EXHIBIT "C"

INFRASTRUCTURE CONCEPT PLANS



THE MOOTE GROUP
Land Management Specialists

South Perris Industrial
Phase 3 Proposed Wet Improvements

- Project Area
- Proposed Sewer Lift Station
- Proposed Sewer Lines
- Proposed 12" Water Lines
- Proposed 18" Water Lines
- Proposed Recycled Water Lines

Date: 08/06/09

EXHIBIT "D"

FORM OF ASSIGNMENT

RECORDING REQUESTED BY
AND WHEN RECORDED
MAIL TO

City of Perris
101 North "D" Street
Perris, CA 92570

Attn: City Clerk

Space Above This Line for Recorder's Use
(Exempt from Recording Fee per Gov't Code § 6103)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is made and entered into as of _____, _____ ("Effective Date"), by and between FR/CAL ELLIS, LLC, a Delaware limited liability company (the "Developer" or "Assignor") and _____ **[ASSIGNEE]** ("Assignee"), with reference to the following Recitals.

Recitals

A. Assignor owns the ___ acre parcel of real property ("Site") located _____ (commonly known as APN _____), which is within _____ City of Perris, County of Riverside, State of California. The Site is legally described in Exhibit "A" attached hereto. **[Please provide legal description.]**.

B. Assignor, as "Developer," and the City of Perris, a California municipal corporation ("City"), have entered into that certain Development Agreement dated _____, 200_ (the "Development Agreement"). The Development Agreement is recorded as instrument _____ in Riverside County Official Records.

C. Capitalized terms not defined herein shall have the same meaning as set forth in the Development Agreement.

D. Concurrently with the Effective Date of the Assignment, Assignor shall have conveyed to Assignee the Site.

E. In accordance with Section 2.3. of the Development Agreement, Assignor now desires to assign all of its obligations and its right, title, and interest in and to the Development Agreement as it relates to a specific piece of property to Assignee, and Assignee desires to accept such assignment on, and subject to, the terms and conditions set forth in this Assignment.

F. The City of Perris desires to consent to same assignment and assumption and to release Developer as provided by its signature below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

A G R E E M E N T :

1. Assignment. From and after the Effective Date of the Assignment, Assignor hereby assigns, conveys, transfers and delivers to Assignee all of Assignor's right, title, interest, and obligation in, to and under the Development Agreement as such rights, title, interest and obligation apply to the Site and/or portion of the Site, and Assignee hereby accepts such assignment and agrees to assume performance of all terms, covenants, obligations and conditions occurring or arising under the Development Agreement (with respect to the site) from and after the date of this Assignment.

2. Assumption of Obligations. By acceptance of this Assignment, Assignee hereby agrees to assume all of Assignor's right, title, interest and obligation in, to and under the Development Agreement to the extent rights, title, interest and obligation apply to the Site, and Assignee agrees to timely discharge, perform or cause to be performed and to be bound by all of the liabilities, duties and obligations imposed in connection with the Development Agreement as such rights, title, interest and obligation apply to the Site, from and after the date of this Assignment to the same extent as if Assignee had been the original party thereto. Assignor is hereby released from all future liabilities, duties and obligations created by the Development Agreement with respect to the Site, except as provided in Section 3. [Developer to summarize allocation of rights, fees and obligations being assigned on an Exhibit when assignment occurs, if possible.]

3. City Release of Developer. [To be completed at time of Assignment based on specific circumstances.]

4. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

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

6. Further Assurances. The parties covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Assignment.

7. Authority of Signatories to Bind Principals. The persons executing this Assignment on behalf of their respective principals represent that (i) they have been authorized to do so and that they thereby bind the principals to the terms and conditions of this Assignment and (ii) their respective principals are properly and duly organized and existing under the laws of, and permitted to do business in, the State of California.

8. Interpretation. The paragraph headings of this Assignment are for reference and convenience only and are not part of this Assignment. They have no effect upon the construction or interpretation of any part hereof. The provisions of this Assignment shall be construed in a reasonable manner to effect the purposes of the parties and of this Assignment.

9. Counterparts. This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Assignment has been executed by the parties as of the date set forth above.

"Assignor"

FR/CAL ELLIS, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: _____
Title: _____

"Assignee"

[INSERT ASSIGNEE SIGNATURE BLOCK]

CONSENT

The City of Perris, a California municipal corporation, hereby consents to this Assignment for purposes of Section 2.3 of the Development Agreement and hereby releases Developer pursuant to Section 2.4 of the Development Agreement of its obligations and responsibilities under the Development Agreement to the extent such obligations and responsibilities relate to the Site, except as may be provided in Section 3 of this Assignment.

CITY OF PERRIS, a municipal corporation

By: _____
Daryl R. Busch
Mayor, City of Perris

ATTEST:

By: _____
Nancy Salazar, City Clerk

State of California)
County of _____)

On _____, before me, _____, 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)

State of California)
County of _____)

On _____, before me, _____, 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 "E"

PHASING OF PUBLIC IMPROVEMENTS

Phase 3 – First Park South I-215 Distribution Center 3,166,456 square feet

Streets (Concurrent with Building Construction)

Ellis Avenue (Case Road to Ellis Interchange)

Case Road (Ellis Avenue to I-215 Ramps including bridge reconstruction)

Redlands Avenue (4th Street to Ellis Avenue)

Intersections/Signals (Concurrent with Building Construction)

Ellis and Case (signal)

Redlands and Ellis (signal)

Case and Murietta (signal)

Case and Mapes (signal)

Case and I-215 Ramps (signal)

Redlands and 7th Street (signal if required)

Infrastructure

Sewer

Water

Reclaimed Water

EXHIBIT "F"

TUMF FACILITIES, ESTIMATED FULL COSTS OF CONSTRUCTING TUMF FACILITIES AND ESTIMATED MAXIMUM TUMF OFFSET ELIGIBILITY

Phase 3 TUMF Facilities	Estimated Full Cost of Construction	Maximum TUMF Offset Eligibility
Streets-TIA		
Ellis Avenue (Case Road to Ellis Interchange)	$4,458,041.00	$2,389,620.00

These fee credits are based upon mutual agreement between the developer and the City of Perris in the interpretation of the WRCOG TUMF Nexus Study dated 2005 (TUMF Nexus) and the City of Perris DIF Justification Study dated February 25, 2006 (DIF Nexus). The calculations assume that any excess credit beyond that allocated for the Goetz Road river bridge can be allocated to other portions of Goetz Road from the $4.2 million DIF credit called out in the DIF Nexus. The calculations also assume that the entire $1.26 million DIF credit attributable to Redlands (between 4th Street and Ellis) in the DIF Nexus can be utilized for work on Redlands which is associated with this project. Reconstruction of bridges on Case Road and Goetz Road will qualify for the fee credits in the DIF Nexus and TUMF Nexus respectively and are not required to be constructed to a 100 year flood standard.

EXHIBIT "G"

CITY DIF FACILITIES, ESTIMATED FULL COSTS OF CITY DIF FACILITIES AND ESTIMATED MAXIMUM CITY DIF OFFSET ELIGIBILITY

Phase 3 DIF Facilities	Estimated Full Cost of Construction	Maximum DIF Offset Eligibility
Streets		
Ellis Avenue (Case Road to Ellis Interchange)	$ 4,458,041.00	$2,389,620.00
Case Road	$23,416,692.00	$5,303,381.00
Redlands Avenue (4th Street to Ellis Ave)	$ 2,086,443.00	$1,259,000.00
Intersections/Signals – City Conditions		
Ellis and Case	$ 893,575.00	$ 200,000.00
Ellis and Redlands	$ 535,790.00	$ 200,000.00
Case and Murietta	$ 180,000.00	$ 174,600.00

These fee credits are based upon mutual agreement between the developer and the City of Perris in the interpretation of the WRCOG TUMF Nexus Study dated 2005 (TUMF Nexus) and the City of Perris DIF Justification Study dated February 25, 2006 (DIF Nexus). The calculations assume that any excess credit beyond that allocated for the Goetz Road river bridge can be allocated to other portions of Goetz Road from the $4.2 million DIF credit called out in the DIF Nexus. The calculations also assume that the entire $1.26 million DIF credit attributable to Redlands (between 4th Street and Ellis) in the DIF Nexus can be utilized for work on Redlands which is associated with this project. Reconstruction of bridges on Case Road and Goetz Road will qualify for the fee credits in the DIF Nexus and TUMF Nexus respectively and are not required to be constructed to a 100 year flood standard.

EXHIBIT "H"

NON-PROGRAMMED FACILITIES AND ESTIMATED FULL COSTS OF CONSTRUCTING NON-PROGRAMMED FACILITIES

Phase 3 Non-Programmed Facilities	Estimated Full Cost of Construction
Intersections/Signals	
Case and Mapes	$456,548.00
Case and I-215 Ramp	$456,548.00
Redlands Avenue and 7th Street (if required)	$280,000.00
Infrastructure	
Water	$438,865.00
Sewer	$909,700.00
Reclaimed Water	$263,638.00

EXHIBIT "I"

TUMF CREDIT AND REIMBURSEMENT AGREEMENT

CITY OF PERRIS

IMPROVEMENT CREDIT / REIMBURSEMENT AGREEMENT

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

This IMPROVEMENT CREDIT/REIMBURSEMENT AGREEMENT TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM ("Agreement") is made and entered into as of the date the City signs this Agreement, by and between the CITY OF PERRIS, a municipal corporation ("City"), and FR/CAL ELLIS, LLC, a Delaware limited liability company ("Developer"). City and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS, Developer is the owner of a legal and/or equitable interest in certain real property consisting of the site depicted in Exhibit "A" and legally described in Exhibit "A-1" attached hereto and incorporated herein (the "Property");

WHEREAS, the Developer obtained approvals from the City consisting of General Plan Amendment No. 08-05-0023 (Resolution No. 20__-__), Specific Plan Amendment No. 08-05-002 (Resolution No. 20__-__), Tentative Parcel Map No. 35886, a Development Agreement (Ordinance No. _____), Street Vacation Case No. 08-05-0025, Development Plan No. 08-01-007 and certification of Environmental Impact Report SCH # 2008071060 (Resolution No. _____) ("Project Approvals"). The Project Approvals permit, subject to conditions of approval, the development of the Property with a total of approximately 3,166,857 square feet of industrial/warehouse uses in four buildings on approximately 215.7 acres (the "Project"), plus necessary street, water, and sewer infrastructure to accommodate the Project;

WHEREAS, Developer and City have entered that certain Development Agreement, dated September 30, 2011, and recorded in Riverside County Official Records on _____, 20__ as Instrument No. _____, ("Development Agreement");

WHEREAS, unless otherwise defined in this Agreement, capitalized terms shall have the meaning established in the Development Agreement;

WHEREAS, the City of Perris requires Developer to pay the Transportation Uniform Mitigation Fee ("TUMF") which covers the Developer's fair share of the costs to construct transportation improvements that help mitigate the traffic impacts and burdens on the Regional System of Highways and Arterials ("RSHA") generated by the Project and that are necessary to

protect the safety, health, and welfare of persons that travel to and from the Project using the RSHA;

WHEREAS, as a condition to City's approval of the Project, City has required Developer to construct certain roadway ("TUMF Facilities") as identified and described on Exhibit "B," in addition to other public improvements consisting of water, sewer and other related infrastructure that are not the subject of this Agreement;

WHEREAS, the TUMF Facilities are also identified in the TUMF program as transportation improvements that are to be funded with the funds collected under the TUMF; and

WHEREAS, City and Developer now desire to enter into this Agreement for the following purposes: (1) to provide for the timely construction and completion of the TUMF Facilities in the manner set forth in the Development Agreement and herein , (2) to ensure that construction of the TUMF Facilities is undertaken as if the TUMF Facilities were constructed under the direction and authority of the City, (3) to ensure that the Developer's costs for construction of the TUMF Facilities is credited in an amount equal to the Maximum TUMF Offset Eligibility (defined below), subject to adjustment and reconciliation as provided in this Agreement, against Developer's obligation to pay the applicable TUMF Obligation (defined below) for the Project, and (4) to allow for Developer's reimbursement to the extent the lesser of (i) the actual costs to construct the TUMF Facilities or (ii) an amount equal to the Unit Cost Assumptions (defined below) that exceed Developer's TUMF Obligation (defined below) after subtracting any credit.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and City hereby agree as follows:

TERMS

1.0 General

1.1 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

1.2 City's Obligations; Effect of Agreement. This Agreement and the Development Agreement shall exclusively govern the Developer's obligations to pay any applicable TUMF and the City's obligations to credit and reimburse the Developer for costs in constructing the TUMF Facilities. To the extent that there is a discrepancy between the WRCOG Administrative Plan and the WRCOG Agreements with respect to any of Developer's rights or the City's obligations in this Agreement, the City shall exclusively bear any costs that arise as a result of such discrepancy and the Developer shall have no liability for such discrepancies. The City shall indemnify, defend and hold harmless the Developer pursuant to Section 12.2 from any actions taken by WRCOG, its member jurisdictions or third parties to the extent such actions challenge or seek to invalidate any of Developer's rights or the City's obligations in this Agreement.

2.0 Construction of Improvements. Subject to the terms of this Agreement and subject to Developer's sole and absolute discretion to proceed with the Project, if Developer proceeds with the Project, Developer agrees to construct or have constructed at its own cost, expense, and liability the TUMF Facilities. Construction of the TUMF Facilities shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement ("Replacement Activity") in conflict with the construction or installation of the TUMF Facilities to the reasonable satisfaction of City and the owner of such improvement; provided, however, that the cost of such Replacement Activity shall, at the Developer's option, either be (i) applied dollar-for-dollar based on the actual costs of the Replacement Activity as a credit against the TUMF Obligation or (ii) borne solely and exclusively by the City, which shall deposit funds sufficient to cover such Replacement Activity costs with Developer prior to Developer undertaking such work. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Facilities.

2.1 Pre-approval of Plans and Specifications. The Developer shall seek the City's approval of the TUMF Facilities' plans, specifications, and estimated costs prior to commencing construction, which approval shall not be unreasonably withheld or delayed. Developer shall ensure that all TUMF Facilities conform to all other requirements, City's Standard Plans, and standards set forth in this Agreement. The City shall within twenty (20) days of submittal provide the Developer with written notice of its review, comment and suggest modifications to any submittals. Once the submittals meet applicable requirements the City shall approve commencing construction by providing written notice to the Developer

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

2.3 Public Works Requirements. In order to ensure that the TUMF Facilities will be constructed as if they had been constructed under the direction and supervision, or under the authority of City, Developer shall comply with all of the following requirements with respect to the construction of the TUMF Facilities:

(a) Developer shall obtain bids for the construction of the TUMF Facilities, in conformance with the standard procedures and requirements of City with respect to its public works projects, or in a manner which is approved by the Public Works Department.

(b) The contract or contracts for the construction of the TUMF Facilities shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the TUMF Facilities.

(c) With respect to the TUMF Facilities, Developer shall require, and the specifications, engineer's cost estimate, bid, and contract documents shall require, all such contractors to pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects of cities/counties and as required by the procedures and standards of City with respect to the construction of its public works projects or as otherwise directed by the Public Works Department.

(d) All such contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the TUMF Facilities which they will construct in conformance with City's standard procedures and requirements.

(e) Developer and all such contractors shall comply with such other valid requirements relating to the construction of the TUMF Facilities which City may legally impose upon written notification delivered to Developer and each such contractor at any time, either prior to the receipt of bids by Developer for the construction of the Improvements, or to the extent required as a result of changes in applicable laws, during the progress of construction thereof.

(f) Owner shall provide proof to City, at such intervals and in such form as City may require, that the foregoing requirements have been satisfied as to all of the TUMF Facilities.

(g) Developer shall complete and submit the Agreement for Public Improvements, Faithful Performance and Material and Labor bonds (which include TUMF) for the project.

(h) Any encroachment permit shall be addressed under required construction permits.

2.4 Quality of Work; Compliance with Laws and Codes. The construction plans and specifications for the TUMF Facilities shall be prepared in material conformity to all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements, subject to the provisions of the Development Agreement. The TUMF Facilities shall be completed in material conformity with all approved maps, plans, standard drawings, and special addendums thereto on file with City, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced, subject to the provisions of the Development Agreement.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the TUMF Facilities in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses,

permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to Improvements. The TUMF Facilities shall be completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation it is determined that the public interest requires alterations in the TUMF Facilities, Developer shall undertake such design and construction changes as may be reasonably required by City; provided, however, that the cost of such alterations shall, at the Developer's option, either be (i) applied dollar-for-dollar based on the actual costs of the alternation as a credit against the TUMF Obligation or (ii) borne solely and exclusively by the City (including any increase in Security), which shall deposit funds sufficient to cover such alternations' costs with Developer prior to Developer undertaking such work. Any and all alterations in the plans and the TUMF Facilities to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of TUMF Facilities. City shall not be responsible or liable for the maintenance or care of the TUMF Facilities until City approves and accepts them. City shall exercise no control over the TUMF Facilities until accepted. City shall not unreasonably delay acceptance of completed TUF Facilities. Any use by any person of the TUMF Facilities, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to City's acceptance and, prior to acceptance, Developer shall have the sole power and authority to restrict access to and use of the TUMF Facilities by third parties. Developer shall maintain all of the TUMF Facilities in a state of good repair until they are completed by Developer and approved and accepted by City, and until the warranty bond for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this section, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement.

4.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay without reimbursement all fees, charges, and taxes arising out of the construction of the TUMF Facilities, including, but not limited to, all plan check, design review, engineering, inspection, sewer treatment connection fees, and other service or impact fees established by City, subject to the provisions of the Development Agreement.

5.0 City Inspection of Improvements. Developer shall, at its sole cost, expense, and at all times during construction of the TUMF Facilities, maintain reasonable and safe facilities and provide safe access for inspection by City, upon reasonable advanced written notice, of the TUMF Facilities and areas where construction of the TUMF Facilities is occurring or will occur.

6.0 Liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 3115 and 3116 of the Civil Code with respect to the TUMF Facilities, Developer shall provide to City such evidence or proof as City shall require that all persons, firms, and corporations supplying work, labor, materials, supplies, and equipment to the

construction of the TUMF Facilities, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation.

7.0 Acceptance of Improvements; As-Built, or Record Drawings. Once the TUMF Facilities are materially completed by Developer pursuant to the approved plans and specifications approved by City, and if the TUMF Facilities materially comply with all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements, the City shall accept the TUMF Facilities. If requested by Developer (or if the City desires to do so on its own election), the City shall accept fully completed portions of the TUMF Facilities prior to such time as all of the TUMF Facilities are complete; however, a partial acceptance shall not release or modify Developer's obligation to complete the remainder of the TUMF Facilities. Upon the total or partial acceptance of the TUMF Facilities by City, Developer shall file with the Recorder's Office of the County of Riverside a notice of completion for the accepted TUMF Facilities in accordance with California Civil Code section 3093 ("Notice of Completion"), at which time the accepted TUMF Facilities shall become the sole and exclusive property of City without any payment therefore (except for such obligations as which may arise out of this Agreement to credit TUMF Obligations or reimburse the Developer). Further, upon filing of a Notice of Completion, the City shall assume responsibility and liability for the TUMF Facilities as of that date (except as may otherwise be subject to Developer's warranties in Section 8.0 and the surety requirements in Section 11.0), and shall indemnify Developer, as provided in Section 12 of this Agreement for any Developer Claims. Notwithstanding the foregoing, City shall accept all or a portion of the TUMF Facilities once Developer provides one (1) set of "as-built" or record drawings or plans to the City for all or a portion of such TUMF Facilities. The drawings shall be certified and shall reflect the condition of the TUMF Facilities as constructed, with all changes incorporated therein.

8.0 Warranty and Guarantee. Developer hereby warrants and guarantees all the TUMF Facilities against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the TUMF Facilities, for a period of one (1) year following completion of the work and acceptance by City ("Warranty"). During the Warranty, Developer shall cause the repair, replacement, or reconstruction within a reasonable time of the City demonstrating to Developer that there are defects in the TUMF Facilities. Such works shall be performed in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of City, to the quality of the previously approved plans and specifications. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any TUMF Facilities which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agrees to extend the Warranty for an additional one (1) year period following City's acceptance of the repaired, replaced, or reconstructed TUMF Facilities. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any Required Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9.0 Administrative Costs. If Developer fails to construct and install all or any part of the TUMF Facilities, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to City for all administrative

expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

10.0 Default; Notice; Remedies

10.1 Notice. Upon the receipt of the notice of default alleging that a Party has failed to perform an obligation under this Agreement ("Notice"), the alleged defaulting Party shall promptly commence to cure, correct, or remedy the identified default at the earliest reasonable time after receipt of the Notice. The allegedly defaulting Party shall complete the cure, correction or remedy of such default not later than five (5) days for credit, reimbursement or monetary defaults or thirty (30) days for non-monetary defaults after receipt of the Notice; however, if a non-monetary defaults cannot reasonably be cured, corrected or remedied within thirty (30) days, such Party shall commence to cure, correct, or remedy such non-monetary default within such thirty (30) day period and shall continuously and diligently prosecute such cure, correction or remedy to completion.

10.2 Failure to Remedy Developer Default; City Action. If the work required to remedy the noticed default is not diligently prosecuted to a completion by Developer within the time frame above, City may, upon approval and authorization of the City Council at a public hearing, complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. In the event City elects to complete or arrange for completion of the remaining work and the TUMF Facilities, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City.

10.3 Other Remedies. No action by either Party pursuant to this Section 10.0 *et seq.* of this Agreement shall prohibit such Party from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. Each Party may exercise its rights and remedies independently or cumulatively, and a Party may pursue inconsistent remedies.

1.04 Remedies Under This Agreement. The specific provisions in this Section 10 establish and limit the Parties' remedies exclusively with respect to right granted or obligations undertaken or imposed by this Agreement, notwithstanding anything to the contrary in the Development Agreement. In all other matters subject to the Development Agreement, the provisions in Section 5 of the Development Agreement shall apply.

11.0 Security; Surety Bonds. Prior to the commencement of any work on the TUMF Facilities, Developer or its contractor shall provide City with surety bonds, a letter of credit, or cash in lieu, in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the estimated costs to construct the TUMF Facilities including a 20% contingency, as approved by City after Developer has awarded a contract for construction of the TUMF Facilities to the lowest responsive and responsible bidder in accordance with this Agreement ("Estimated Costs"). Developer's compliance with this Section 11.0 et seq. of this

Agreement shall in no way limit or modify Developer's indemnification obligation provided in Section 12.1 of this Agreement.

11.1 Faithful Performance Bond. To guarantee the faithful performance of the TUMF Facilities and all the provisions of this Agreement, to protect City if Developer is in default (or is not otherwise pursuing the correction or cure of such default) as set forth in Section 10.0 et seq. of this Agreement, and to secure the Warranty of the TUMF Facilities, Developer or its contractor shall provide City a faithful performance bond, a letter of credit, or cash in lieu, in an amount which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The City may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the TUMF Facilities are accepted by the City, provided that Developer is not in material uncured default on any provisions of this Agreement and at least sixty percent (60%) of the construction of the work under the Estimated Costs have been completed. Ninety percent (90%) of this security shall be released after TUMF Facilities are accepted by the City and the remaining ten percent (10%) shall be released at the end of the Warranty period, or any extension thereof as provided in Section 8.0 of this Agreement, provided that Developer is not in material uncured default on any provision of this Agreement.

11.2 Material & Labor Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the TUMF Facilities and this Agreement, Developer or its contractor shall provide City a material and labor bond in an amount which sum shall not be less than fifty percent (50%) of the Estimated Costs. The security provided under this section may be released by written authorization of City after ninety (90) days from the date City accepts the TUMF Facilities. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which City is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of City's anticipated administrative and legal expenses arising out of such claims.

11.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A minus" and FSC-VII, shall be licensed to do business in California, and shall be satisfactory to City. Developer, its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the TUMF Facilities, or the plans and specifications for such improvements shall in any way affect its obligation on the Security.

12.0 Indemnification

12.1 Indemnification of City. Developer shall defend, indemnify, and hold harmless the City of Perris, its elected officials, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its employees, contractors, or agents in connection with the Developer's obligations in this Agreement ("City Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of City, its

elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any City Claim which is caused solely and exclusively by the negligence or willful misconduct of City as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement.

12.2 Indemnification of Developer. City shall defend, indemnify, and hold harmless the Developer, its officers, directors, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of the City, the Perris Community Services District, and the Redevelopment Agency of the City of Perris, its elected officials, employees, and agents in connection with the City's obligations this Agreement ("Developer Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of Developer, its officers, directors, employees, and agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Developer Claim which is caused solely and exclusively by the negligence or willful misconduct of the Developer as determined by a court or administrative body of competent jurisdiction. The City's obligation to indemnify shall survive the expiration or termination of this Agreement.

13.0 Insurance

13.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractor(s) to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

13.1.1 General Liability. Occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than Two Million Dollars ($2,000,000) per occurrence for bodily injury, personal injury, and property damage.

13.1.2 Business Automobile Liability. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars ($1,000,000) per occurrence, at all times during which insured retains employees.

13.1.4 Professional Liability. For any consultant or other professional who will engineer or design the TUMF Facilities, liability insurance for errors and omissions

with limits not less than Two Million Dollars ($2,000,000) per occurrence, shall be procured and maintained for a period of five (5) years following completion of the TUMF Facilities. Such insurance shall be endorsed to include contractual liability.

13.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

13.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name the City of Perris, the Perris Community Services District, and the Redevelopment Agency of the City of Perris, its elected officials, officers, employees, and agents as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to City, its elected officials, officers, employees, or agents.

13.4 Primary Insurance; Waiver of Subrogation. The Required Insurance shall be primary with respect to any insurance or self-insurance programs covering City, its elected officials, officers, employees, or agents. The policy required for workers' compensation insurance shall provide that the insurance company waives all right of recovery by way of subrogation against City in connection with any damage or harm covered by such policy

13.5 Certificates; Verification. Developer and its contractors shall furnish City with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by City before work pursuant to this Agreement can begin. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

13.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire within a reasonable time after that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to City.

13.7 Insurer Rating. Unless approved in writing by City, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A minus" and FSC-VII.

14.0 TUMF Credit.

14.1 Developer's TUMF Obligation. The Parties agree that Developer is obligated to pay a fee to City pursuant to the City's TUMF Ordinance 1186 for the

Transportation Uniform Mitigation Fee (TUMF) for the Project ("TUMF Obligation") unless otherwise subject to Credit by the terms of this Agreement. The Parties further agree that, as of the date of this Agreement, the maximum estimated TUMF offset eligibility as determined by applying the criteria in the WRCOG Administrative Plan is $2,389,620 ("Estimated Maximum TUMF Offset Eligibility") for the TUMF Facility identified in Exhibit B. The Estimated Maximum TUMF Offset Eligibility may be adjusted upwards if warranted. The TUMF Obligation, Estimated Maximum TUMF Offset Eligibility and the TUMF Facilities attributable to the Project are identified on Exhibit "B" attached hereto. Because Developer agrees to construct the TUMF Facilities if the Developer decides, in its sole and absolute discretion to proceed with the Project, the Parties agree that some or all of this TUMF Obligation may be subject to Credit as discussed below. Further, Developer may be entitled to Reimbursement for the difference between the TUMF Obligation and the lesser of either the Verified Costs (defined below) to construct the TUMF Facilities or the Unit Cost Assumptions (defined below). The Developer's TUMF Obligation for the Project shall be calculated at the time of first grading permit issuance for the Project; however, TUMF will be collected (if at all following application of the Credit) at the time of issuance of the certificate of occupancy for each building constructed within the Project or upon final inspection of each building constructed within the Project, whichever occurs first.

14.2 Credit Offset against TUMF Obligation. Pursuant to Ordinance No. 1186 and in consideration for Developer's obligation under this Agreement to construct the Improvements, the Developer is entitled to and the City shall apply a credit to offset the TUMF Obligation for the Project ("Credit") subject to adjustment and reconciliation under Section 14.4 of this Agreement or the Development Agreement. Developer shall be entitled to reduce the TUMF Obligation owed to the City by the full amount of the Estimated Maximum TUMF Offset no later than at that time at which the TUMF Obligation is required to be paid to the City. For example, if Developer's TUMF Obligation is $1,000,000.00, Developer shall be entitled to reduce that amount by what is determined to be the Estimated Maximum TUMF Offset no later than the time the TUMF obligation is due to be collected by the City such that the actual TUMF Obligation owed by Developer is the TUMF Obligation less the Estimated Maximum TUMF Offset. The dollar amount of the Credit, subject to adjustment and reconciliation, shall be equal to the lesser of: (A) the Estimated Costs, or (B) the unit cost assumptions for the improvements in effect at the time of the contract award, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG ("Unit Cost Assumptions"). At the time of this Agreement's execution, the Parties agree that the current Unit Cost Assumptions are the Estimated Maximum TUMF Offset Eligibility. The Estimated Maximum TUMF Offset may be adjusted upward if warranted. At no time will the Credit given to Developer exceed the Developer's total TUMF Obligation for the Project. If the dollar amount of the Estimated Cost exceeds the dollar amount of the total TUMF Obligation for the Project, Developer will be deemed to have completely satisfied its TUMF Obligation for the Project and the City shall enter a Reimbursement Agreement as provided in Section 14.5 of this Agreement.

14.3 Verified Cost of the TUMF Facilities. The Developer shall submit a complete packet to the City Engineer of the information set forth in the attached Exhibit "D" (the "Verification Packet") within 120 days of recordation of the last Notice of Completion for the TUMF Facilities, unless otherwise approved in writing by the City Engineer. Failure to timely

submit a Verification Packet shall not be deemed a forfeiture by the Developer of any Credit or Reimbursement claim under the Agreement unless the Developer fails to submit a Verification Packet within thirty (30) days of its receipt of the City's written notice indicating failure to provide such a packet. The City Public Works Director/City Engineer, or his or her designee, shall use the Verification Packet and any other information provided by Developer to calculate the total actual costs incurred by Developer in constructing the TUMF Facilities ("Verified Costs"); however, the final construction costs identified in the Verification Packet shall be presumed to be accurate unless rebutted by substantial evidence to the contrary. If the City Public Works Director's/City Engineer's calculation does not conform to the Verification Packet, the City shall meet and confer with Developer in good faith to establish an actual cost for the TUMF Facilities. The City Engineer shall provide said calculation or request to meet and confer to the Developer in writing within thirty (30) calendar days after receiving the Validation Packet. If consensus is not reached during a meet and confer conference or if Developer otherwise disagrees with City Engineer's/Public Works Director's determination, then Developer may appeal such decision to the City Council, subject to any additional legal rights Developer may have to challenge any final City action.

14.4 Reconciliation; Final Credit Offset against TUMF Obligation. The final actual amount of Credit for Developer's construction of the TUMF Facilities that shall be applied by City to offset the total Project TUMF Obligation shall be equal to the lesser of: (A) the Verified Costs or (B) Unit Cost Assumptions for the Improvements as determined in accordance with Section 14.2 of this Agreement (collectively "Actual Credit").

(a) TUMF Balance. If the dollar amount of the Actual Credit is less than the dollar amount of the TUMF Obligation ("TUMF Balance"), the City Public Works Director shall provide written notice to Developer of the amount of the TUMF Balance and Developer shall pay the TUMF Balance within ninety (90) days of receipt of such notice or at issuance of the final certificate of occupancy for the Project, whichever is latest.

(b) TUMF Reimbursement. If the dollar amount of the Actual Credit exceeds the TUMF Obligation, Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and shall be entitled to reimbursement as provided in Section 14.5 of this Agreement. City shall provide Developer written notice of the determinations that City makes pursuant to this section.

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Cost (but is less than the TUMF Obligation) and if the monies collected by the City from Developer for the TUMF plus the Actual Credit exceed the TUMF Obligation ("TUMF Overpayment"), the Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and is entitled to a prompt refund from the City within ten (10) days of such determination.

14.5 Reimbursement Agreement. If authorized under either Section 14.2 or Section 14.4, the Developer and the City shall enter a reimbursement agreement for the amount by which the Verified Cost or Unit Cost Assumptions (whichever is less) exceeds the TUMF Obligation, as determined pursuant to Section 14.4 of this Agreement, Ordinance No. 1186, and

the WRCOG Administrative Plan ("Reimbursement Agreement"). The Reimbursement Agreement shall be executed on the form set forth in Exhibit "E," and shall contain the terms and conditions set forth therein. The Parties agree that the Reimbursement Agreement shall be subject to all terms and conditions of this Agreement except to the extent that the Reimbursement Agreement provides more specific or conflicting provisions, in which case the Reimbursement Agreement shall control, and that upon execution, an executed copy of the Reimbursement Agreement shall be attached hereto and shall be incorporated herein as a material part of this Agreement as though fully set forth herein.

15.0 Miscellaneous.

15.1 Assignment. This Agreement shall be binding on all assignees and successors in interest to the Parties, and such assignees and successors shall assume and become obligated to perform all obligations and be entitled to all benefits of the original party; provided, however, that Developer shall comply with the provisions in Section 2.3 of the Development Agreement with respect to any assignment of this Agreement.

15.2 Relationship between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between City and Developer. Developer's contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of City.

15.3 Warranty as to Property Ownership; Authority to Enter Agreement. Developer hereby warrants that it owns fee title to the Property and that it has the legal capacity to enter into this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer or an attorney of Developer, to solicit or secure this Agreement. Developer also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Developer, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon the making of this Agreement. For breach of this warranty, City shall have the right to rescind this Agreement without liability.

15.5 Notices. All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt showing date and time of delivery, addressed to the following parties, or to such other address as any party may from time to time, designate in writing in the manner as provided herein:

To City: City of Perris
101 North "D" Street
Perris, CA 92570
Attn: City Manager

With copy to:	Aleshire & Wynder, LLP 18881 Von Karman Avenue, Suite 1700 Irvine, CA 92612 Attn: Eric L. Dunn, City Attorney
To Developer:	c/o Principal Real Estate Investors, LLC 711 High Street Des Moines, IA 50392 Attn: CalSTRS Industrial Team
With copy to:	c/o IDS Real Estate Group 515 South Figueroa Street, Suite 1600 Los Angeles, CA 90071-3337 Attn: Dan Sibson and Patrick D. Spillane
With copy to:	Cox Castle Nicholson 2049 Century Park East, 28th Floor Los Angeles, CA 90067-3284 Attn: Amy Wells
With copy to:	Rutan & Tucker, LLP 611 Anton Boulevard, Fourteenth Floor Costa Mesa, California 92626-1931 Attn: John A. Ramirez

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

15.6 Cooperation; Further Acts; Operating Memoranda. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement. The provisions of this Agreement require a close degree of cooperation and flexibility between the City and Developer. Implementation of this Agreement may demonstrate that clarifications or modifications to this Agreement are appropriate with respect to the details of performance of the City and Developer. When and if the Developer finds it necessary or appropriate to make changes, adjustments or clarifications to matters, items or provisions, the parties shall effectuate such changes, adjustments or clarifications through operating memoranda ("Operating Memoranda") approved by the parties in writing which reference this Section 15.6. Operating Memoranda are not intended to constitute an amendment to this Agreement. Rather, these memoranda are intended to serve as ministerial clarifications; as a result, public notices and hearing shall not be required. The City Attorney shall be authorized, upon consultation with, and approval of, the Developer, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to this Agreement which requires compliance with the provisions of Section 15.8.

15.7 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

15.8 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

15.9 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

15.10 Estoppel Certificate. Any Party hereunder may, at any time, deliver written notice to any other Party requesting such Party to certify in writing that, to the best knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following receipt of such written request. The City Manager, Assistant City Manager, and Community Development Director are each authorized to sign and deliver an estoppel certificate on behalf of the City. The City acknowledges that a certificate hereunder may be relied upon by Developer and third parties.

15.11 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

15.12 No Third Party Beneficiaries. With the exception of the circumstance set forth in section 2.3 of the Development Agreement, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

15.13 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15.14 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

15.15 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

15.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

15.17 Entire Agreement. This Agreement contains the entire TUMF improvement credit/reimbursement agreement between City and Developer and supersedes any prior oral or written statements or TUMF improvement credit/reimbursement agreements pertaining to and/or between City and Developer.

15.18 Force Majeure. Performance by either party hereunder shall not be deemed to be in default where delays or failures to perform are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, terrorism, epidemics, quarantine restrictions, freight embargoes, governmental restrictions imposed or mandated by other governmental entities, governmental restrictions or priority, unusually severe weather, inability to secure labor, materials, or tools necessary for the Project, delays of any contractor, subcontractor or supplier; acts of another party, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse performance by the City) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. The City and the Developer may also extend times of performance under this Agreement in writing.

15.19 Attorney's Fees. If either party commences an action against the other arising out of or in connection with this Agreement, including the filing of a lien or other legal action to compel a Credit or Reimbursement, the prevailing party shall be entitled to recover reasonable attorney's fees and legal costs from the losing party.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused their authorized representatives to execute this Agreement.

City:

CITY OF PERRIS,
a municipal corporation

By_____
Daryl R. Busch
Mayor, City of Perris

ATTEST:

By _____
Nancy Salazar, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By _____
Eric L. Dunn, City Attorney

Developer:

FR/CAL ELLIS, LLC,
a Delaware limited liability company

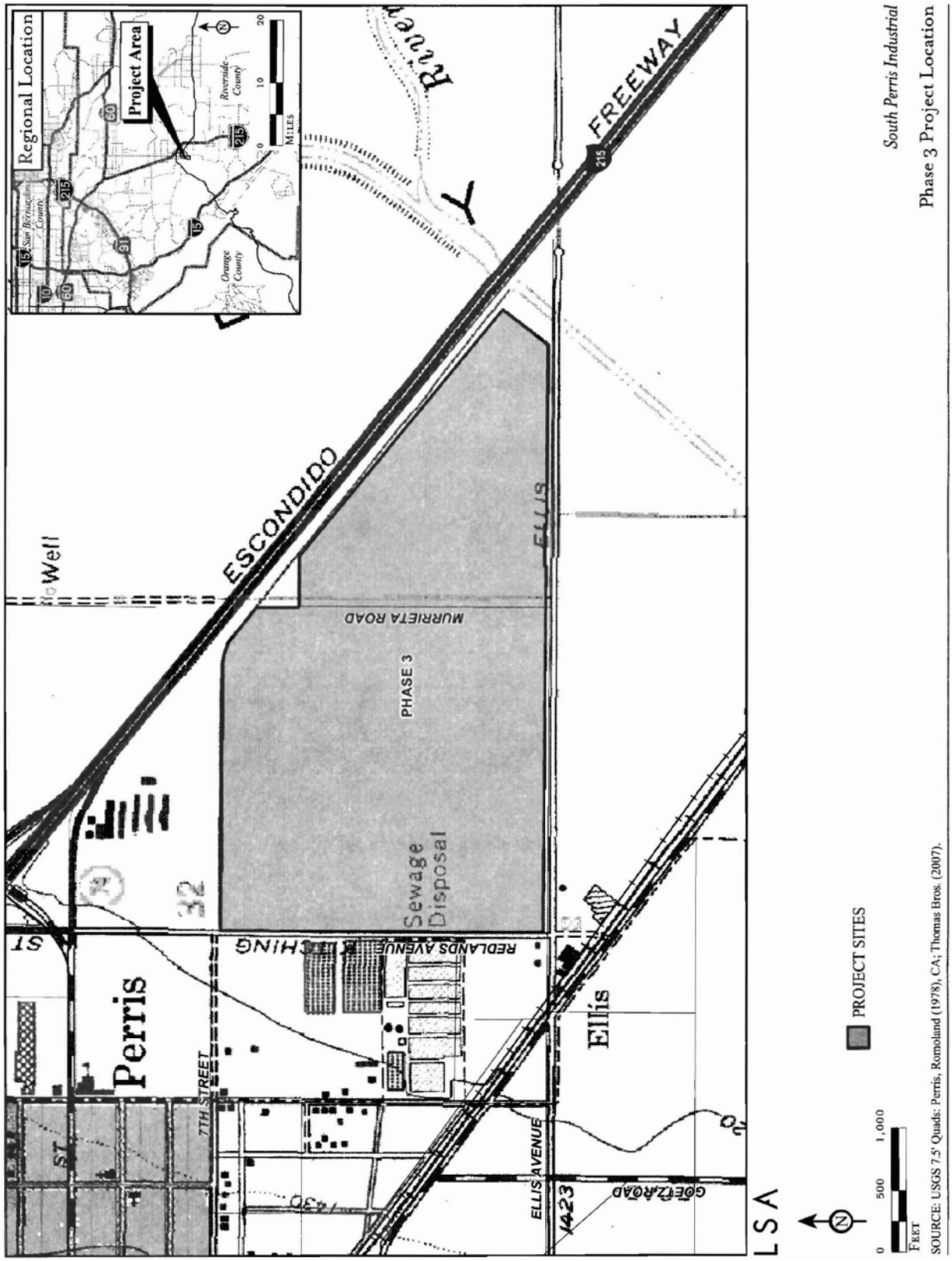
By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name:_____
Title:_____

EXHIBITS "A" & "A-1"

DEPICTION AND LEGAL DESCRIPTION OF PROPERTY



LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

PARCEL 1: (APN: 310-170-006-8)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THENCE NORTH 00° 10' 39" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 753.38 FEET TO THE SOUTHWEST CORNER OF PARCEL 4270-2 OF SAID RECORD OF SURVEY;

THENCE NORTH 89° 49' 59' EAST ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 973.37 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2: (APN: 310-170-007-9)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411; OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 740.84 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 4270-2;

THENCE NORTH 51° 49' 22" WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 4270-2, A DISTANCE OF 340.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 365.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38° 20' 39", AN ARC DISTANCE OF 244.27 FEET;

THENCE SOUTH 89° 49' 59" WEST TANGENT TO SAID CURVE AND ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 1137.54 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: (APN: 310-170-008-0 AND 310-220-050-1)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOGETHER WITH THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, SAID PORTIONS BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET FOR THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 440.71 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 89° 58' 42" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 373.52 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 4270-1 OF SAID RECORD OF SURVEY;

THENCE SOUTH 51° 49' 22" EAST ALONG SAID PARCEL 4270-1, A DISTANCE OF 2566.04 FEET;

THENCE SOUTH 38° 08' 42" WEST, A DISTANCE OF 339.49 FEET;

THENCE SOUTH 41° 33' 24" WEST, A DISTANCE OF 130.70 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 30.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.51 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE SOUTH 00° 10' 46" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 58' 12" WEST ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 660.90 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 00° 14' 09" WEST ALONG THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 44.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID CENTERLINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 330.47 FEET TO A POINT ON THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE SOUTH 00° 15' 51" EAST ALONG SAID WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON SAID CENTER LINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID CENTERLINE, A DISTANCE OF 330.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33;

THENCE SOUTH 89° 49' 34" WEST ALONG THE SOUTH LINE OF SAID SECTION 32 AND ALONG SAID CENTERLINE OF ELLIS AVENUE, A DISTANCE OF 1938.92 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL ONE, PARCEL TWO AND PARCEL THREE OF LOT LINE ADJUSTMENT NO. 99-0103 RECORDED FEBRUARY 16, 2000 AS INSTRUMENT NO. 2000-058251 OF OFFICIAL RECORDS OF SAID COUNTY.

P3 (4 of 4)

EXHIBIT "B"

LIST OF TUMF FACILITIES

Phase 3 TUMF Facilities	Estimated Full Cost of Construction	Maximum TUMF Offset Eligibility
Streets-TIA		
Ellis Avenue (Case Road to Ellis Interchange)	$4,458,041.00	$2,389,620.00

These fee credits are based upon mutual agreement between the developer and the City of Perris in the interpretation of the WRCOG TUMF Nexus Study dated 2005 (TUMF Nexus) and the City of Perris DIF Justification Study dated February 25, 2006 (DIF Nexus). The calculations assume that any excess credit beyond that allocated for the Goetz Road river bridge can be allocated to other portions of Goetz Road from the $4.2 million DIF credit called out in the DIF Nexus. The calculations also assume that the entire $1.26 million DIF credit attributable to Redlands (between 4th Street and Ellis) in the DIF Nexus can be utilized for work on Redlands which is associated with this project. Reconstruction of bridges on Case Road and Goetz Road will qualify for the fee credits in the DIF Nexus and TUMF Nexus respectively and are not required to be constructed to a 100 year flood standard.

EXHIBIT “C”

INTENTIONALLY OMITTED

EXHIBIT "D"

DOCUMENTATION TO BE PROVIDED TO CITY BY DEVELOPER FOR DETERMINATION OF VERIFIED COSTS

To assist City in validating the Verified Costs for a completed TUMF Facility, Developer shall provide the following documents to City:

1 Plans and Developer's civil engineer's cost estimate;

2 List of bidders from whom bids were requested;

3 Construction schedules and progress reports;

4 Contracts, insurance certificates, and change orders with each contractor or vendor;

5 Invoices received from all vendors;

6 Canceled checks for payments made to contractors and vendors (copy both front and back of canceled checks);

7 Spreadsheet showing total costs incurred in and related to the construction of each Required Improvement and the check number for each item of cost and invoice;

8 Final lien releases from each contractor and vendor; and

9 Such further documentation as may be reasonably required by City to evidence the completion of construction and the payment of each item of cost and invoice.

EXHIBIT "E"

REIMBURSEMENT AGREEMENT

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

THIS REIMBURSEMENT AGREEMENT, herein after called "Agreement" is made and entered into this _____ day of _____, 2010, ("Effective Date") by and between the CITY OF PERRIS, a municipal corporation ("City"), and FR/CAL ELLIS, LLC, a Delaware limited liability company ("Developer"). Collectively, City and Developer shall be referred to as "Parties."

RECITALS

WHEREAS, City and Developer are parties to an agreement dated _____, 20___, entitled "City of Perris Improvement Credit/Reimbursement Agreement - Transportation Uniform Mitigation Fee Program" (hereinafter "Credit Agreement");

WHEREAS, Sections 14.1 through 14.4 of the Credit Agreement provide that Developer is obligated to pay City the TUMF Obligation, as defined therein, unless otherwise entitled to receive Credit (as defined therein) to offset the TUMF Obligation if Developer constructs and City accepts certain TUMF Facilities in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the Estimated Cost or Actual Credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, the City shall enter a reimbursement agreement with Developer for such difference subject to certain limitations;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, City is required to execute a reimbursement agreement with Developer pursuant to the Credit Agreement.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement or in the Development Agreement dated _____, 20__, and recorded in Riverside County Official Records on _____, 20__ as Instrument No. _____, ("Development Agreement").

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Verified Cost or Unit Cost Assumptions (whichever is less) exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement ("Reimbursement"). The Reimbursement shall be subject to verification by WRCOG. City and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. WRCOG shall pay the Reimbursement amount to City, and the City shall be responsible for transmitting the Reimbursement amount to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Sections 14.2, 14.3, and 14.4 of the Credit Agreement and one hundred percent (100%) of the approved unit cost assumptions for the improvements in effect at the time of the contract for the improvements was awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG. Based on the calculation made in Section 14.4, the Reimbursement amount is $_____.

5.0 Payment of Reimbursement; Funding Contingency. Reimbursement to Developer shall be made City as follows:

5.1 Developer shall not receive payment of the Reimbursement unless and until (i) the improvements are completed and accepted by City in accordance with the Credit Agreement, (ii) the improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, and (iii) WRCOG has funds available and appropriated for payment of the Reimbursement Amount. If subsequent development projects are approved by the City and if these projects are obligated pursuant to conditions of approval to pay TUMF for TUMF Facilities constructed by Developer, the City shall use best effort (including negotiating with WRCOG to permit Reimbursement) to ensure that any such TUMF payable by such subsequent development projects is directed in a manner that effectuates Developer's right to Reimbursement.

5.2 Once all conditions identified in Section 5.1 above have been satisfied Reimbursement shall be made within twenty (20) days.

5.3 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement is made to Developer from the City.

6.0 Affirmation of Credit Agreement. City and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit

Agreement, except by this Agreement. City and Developer ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. City and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall replace the original unsigned version of this Agreement in Exhibit "E" to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.

8.0 Consistent Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and, unless inconsistent with the terms of this Agreement, shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.4, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.5, and Sections 15.0 through 15.19.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused their authorized representatives to execute this Agreement.

City:

CITY OF PERRIS,
a municipal corporation

By _____
Daryl R. Busch
Mayor, City of Perris

ATTEST:

By _____
Nancy Salazar, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By _____
Eric L. Dunn, City Attorney

Developer:

FR/CAL ELLIS, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: _____
Title: _____

EXHIBIT "J"

CITY DIF CREDIT AND REIMBURSEMENT AGREEMENT

DEVELOPMENT IMPACT FEES (DIF)

CREDIT AND REIMBURSEMENT AGREEMENT

This DEVELOPMENT IMPACT FEES (DIF) CREDIT AND REIMBURSEMENT ("Agreement") is entered into this _____ day of _____, 2010 ("Effective Date"), by and between the CITY OF PERRIS, a municipal corporation ("City"), and FR/CAL ELLIS, LLC, a Delaware limited liability company ("Developer"). Collectively, City and Developer shall be referred to as "Parties" and, individually, as a "Party."

RECITALS

WHEREAS, the Developer obtained approvals from the City consisting of General Plan Amendment No. 08-05-0023 (Resolution No. 20__-__), Specific Plan Amendment No. 08-05-002 (Resolution No. 20__-__, Tentative Parcel Map No. 35886, a Development Agreement (Ordinance No. _____), Street Vacation Case No. 08-05-0025, Development Plan No. 08-01-007 and certification of Environmental Impact Report SCH # 2008071060 (Resolution No. _____) ("Project Approvals"). The Project Approvals permit, subject to conditions of approval, the development of the Property with a total of approximately 3,166,857 square feet of industrial/warehouse uses in four buildings on approximately 215.7 acres (the "Project"), plus necessary street, water, and sewer infrastructure to accommodate the Project;

WHEREAS, Developer and City have entered that certain Development Agreement, dated September 30, 2011, and recorded in Riverside County Official Records on _____, 20__ as Instrument No. _____, ("Development Agreement");

WHEREAS, unless otherwise defined in this Agreement, capitalized terms shall have the meaning established in the Development Agreement;

WHEREAS, the Public Improvements required by the Project's conditions of approval generally consist of roadway, water, sewer and other infrastructure improvements, described and depicted on Exhibit "A" attached hereto ("Public Improvements"). Some of the roadway improvements listed in Exhibit "A" are part of the Western Riverside County Transportation Uniform Mitigation Fee Program ("TUMF") and are not the subject of this Agreement, nor are they within the defined term "City DIF Facilities" (defined below). However, these TUMF Facilities are subject to that certain Improvement Credit/Reimbursement Agreement Transportation Uniform Mitigation Fee Program between the City and Developer ("TUMF Agreement"). Some of the roadway, intersection signals, sewer and reclaimed water facilities, described and depicted on Exhibit "A," (termed "Non-Programmed Facilities" in the Development Agreement) are currently not part of the City's Development Impact Fee program;

Non-Programmed Facilities are not the subject of this Agreement, nor are they within the defined term "City DIF Facilities" (defined below);

WHEREAS, Developer and City have entered into a Development Agreement, dated _____, which sets forth all Developer's obligations for construction of certain specific Public Improvements that are a condition of approval for the Project, all of which are eligible for Development Impact Fees ("DIF") Credit or Reimbursement (as those terms are defined below) as permitted by to the City's Municipal Code and this Agreement ("City DIF Facilities");

WHEREAS, the City of Perris has adopted a DIF study which covers the Project's fair share of the costs to construct improvements or implement programs that help mitigate the impacts and burdens on the City's local systems generated by the Project and that are necessary to provide City services and protect the safety, health, and welfare of residential and non-residential users. The DIF and City DIF Facilities attributable to the Project are identified on Exhibit "B" attached hereto;

WHEREAS, the City and Developer now desire to enter into this Agreement to provide a means by which the Developer may receive a Credit and Reimbursement (as those terms are defined below) for the City DIF Facilities actually constructed by the Developer for the subject Project, subject to the terms and limitations set forth in this Agreement.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and City hereby agree as follows:

1.0 General Provisions

1.1 Incorporation of Recitals. The Parties hereby affirm the facts and provisions set forth in the above Recitals and agree to their incorporation herein as though set forth in full.

2.0 DIF Obligations.

2.1 Developer's DIF Obligation. The Parties agree that as of the Effective Date, and provided that Developer constructs the Project (which Developer may do in its sole and absolute discretion), Developer is obligated to pay DIF for the Project ("DIF Obligation"). unless the DIF is otherwise subject to Credit or Reimbursement by the terms of this Agreement. The DIF Obligation shall be calculated at the rate in effect at the time the Project is approved but shall not be due and payable until the time of issuance of the certificate of occupancy for the Project or upon final inspection of the Project, whichever occurs first.

3.0 DIF Credit Limitations

3.1 Calculation of DIF Credit; Maximum City DIF Offset Eligibility. The maximum amount of DIF Credit that shall be applied by the City to offset the DIF Obligation for City DIF Facilities shall be as defined in Section 4.1 of this Agreement.

4.0 DIF Credit

4.1 Maximum DIF Credit. The Developer shall be entitled to and the City shall provide a credit or offset against Developer's DIF Obligation for those costs incurred by Developer in planning and constructing the City DIF Facilities ("Credit") shall be the lesser of (i) Developer's actual cost of constructing the eligible DIF Facilities, or (ii) an amount equal to the Estimated Maximum City DIF Offset Eligibility as defined in the Development Agreement. The Estimated Maximum City DIF Offset Eligibility may be adjusted upward if warranted.

4.2 DIF Credit Offset to DIF Obligation. The DIF Credit shall be applied at the time a DIF Obligation is due and payable as provided in Section 2.1.

4.3 Submittal Timeframe. At any time prior to sixty (60) days before the obligation to pay DIF arises, the Developer may submit to the City Engineer any and all documentation the Developer deems relevant to substantiate its right to a DIF Credit for the City DIF Facilities to be constructed by the Developer. Such documentation may include contracts, bids, estimates, or any other relevant documents pertaining to the actual cost of constructing the City DIF Facilities. The City Engineer will use his or her best efforts to validate the information provided by Developer; however the construction costs identified in the Developer's documentation shall be presumed to be accurate unless rebutted by substantial evidence to the contrary. If the City Engineer's validation process does not conform to the Developer's submittal, the City Engineer shall meet and confer with Developer in good faith to establish an actual cost for the City DIF Facilities. The City Engineer shall provide said validation or request to meet and confer to the Developer in writing within thirty (30) calendar days after receiving Developer's submittal.

4.4 Reconciliation - Final DIF Credit. No less than thirty (30) days prior to issuance of the certificate of occupancy for the Project, the City shall notify the Developer in writing of the dollar amount of the actual Credit after reviewing the submittals in Section 4.3. If, for some reason, the DIF Obligation is more than the actual cost to construct the City DIF Facilities, then Developer shall be obligated to pay the difference between the DIF Obligation and the actual cost (the "DIF Balance") to fully satisfy the DIF Obligation at the time DIF payments are due. If the dollar amount of the actual cost to construct the City DIF Facilities exceeds the amount of the actual DIF Obligation, Developer will be deemed to have fully satisfied the DIF Obligation and the City shall be obligated to provide Reimbursement as provided below.

5.0 Reimbursement for Costs in Excess of DIF Obligation by Third Parties

5.1 Reimbursement. The Developer shall be entitled to, and the City shall undertake best efforts to provide, reimbursement to Developer in the amount equal to the difference between the actual full costs of constructing City DIF Facilities as determined by the process in Section 5.3 and the Maximum City DIF Offset Eligibility ("Reimbursement"). Except as set forth in section 5.4, in no event shall the aggregate amount of Credit and/or

Reimbursement and any TUMF Credit exceed the Developer's actual cost of the City DIF Facilities.

5.2 Submittal Requirements. The Developer shall submit a written request for Reimbursement to the City Engineer at any time after one hundred twenty (120) calendar days of the City's acceptance of the constructed City DIF Facilities, or as otherwise agreed to in writing by the City Engineer. The Developer shall submit to the City Engineer complete documentation organized in a three-ring binder of actual construction costs for the City DIF Facilities constructed by the Developer. Such documentation shall include the documents supporting the information set forth in the Actual Cost Verification Submittal List, attached hereto and incorporated herein as Exhibit "C." In the event that the City Engineer believes that additional information is necessary, then s/he shall provide written notice to the Developer for such additional information. The City Engineer shall reasonably consider the documentation and information provided by the Developer in verifying the Reimbursement Balance. The City Engineer will use his or her best efforts in reviewing the submittal; however the actual construction costs identified in the Developer's documentation shall be presumed to be accurate unless rebutted by substantial evidence to the contrary. If the City Engineer's validation process does not conform to the Developer's submittal, the City Engineer shall meet and confer with Developer in good faith to establish the Reimbursement Balance. The City Engineer shall provide said validation or request to meet and confer to the Developer in writing within thirty (30) calendar days after receiving Developer's submittal. No cost items shall be rejected by the City Engineer unless s/he has met and conferred with the Developer. The City Engineer shall provide Developer with written notice of his or her findings within thirty (30) days of receipt of all of the documents and information required by the City Engineer from Developer. If consensus is not reached during a meet and confer conference or if Developer otherwise disagrees with the City Engineer's determination, then Developer may appeal any decision to the City Council, subject to any additional legal rights Developer may have to challenge any final City action.

5.3 Reimbursement from Third Parties. Reimbursement shall be owed to Developer upon completion of the process in Section 5.3. Upon completion, the City DIF Facilities will mitigate the infrastructure impacts of more than just the Project such that other developers or third-party property owners ("Benefitting Parties") will benefit from Developer's construction of City DIF Facilities. City shall require that for any such facilities constructed and/or funded in whole or in part by Developer that benefit such other "Benefitting Parties", City shall undertake best efforts to impose a reimbursement obligation upon the Benefitting Parties at the earliest opportunity in an amount equal to the pro rate fair share of the Reimbursement Balance attributable to the benefit provided to such Benefitting Parties. City will work with Developer to establish mechanisms for pro rata reimbursement from the Benefiting Parties, which shall be recorded against their properties.

6.0 No Interest

Developer shall not be entitled to any interest, or any other cost or time value adjustment, for DIF paid to the City whether or not subsequently credited under Section 4.5 or reimbursed.

7.0 Term of Agreement

This Agreement shall remain in effect until all of the City's Credit and Reimbursement obligations are satisfied.

8.0 General

8.1 Assignment. This Agreement shall be binding on all assignees and successors in interest to the parties, and such assignees and successors shall assume and become obligated to perform all obligations and be entitled to all benefits of the original party; provided, however, that Developer shall comply with the provisions in Section 2.3 of the Development Agreement with respect to any assignment of this Agreement.

8.2 Amendment. This Agreement may only be amended in writing signed by the Parties.

8.3 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation and flexibility between the City and Developer. Implementation of this Agreement may demonstrate that clarifications or modifications to this Agreement are appropriate with respect to the details of a party's performance. When and if the Developer finds it necessary or appropriate to make changes, adjustments or clarifications to matters, items or provisions, the parties shall effectuate such changes, adjustments or clarifications through operating memoranda ("Operating Memoranda") approved by the parties in writing that references this Section 8.3. Operating Memoranda are not intended to constitute an amendment to this Agreement. Rather, these memoranda are intended to serve as ministerial clarifications; as a result, public notices and hearing shall not be required. The City Attorney shall be authorized, upon consultation with, and approval of, the Developer, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to this Agreement that requires compliance with the provisions of Section 8.2.

8.4 Law, Venue and Jurisdiction. This Agreement shall be governed by the laws of the State of California.

8.5 Notices. All notices permitted or required hereunder must be in writing and shall be effected by (i) personal delivery, (ii) first class mail, registered or certified, postage fully prepaid, or (iii) reputable same-day or overnight delivery service that provides a receipt showing date and time of delivery, addressed to the following parties, or to such other address as any party may from time to time, designate in writing in the manner as provided herein:

To City: City of Perris
101 North "D" Street
Perris, CA 92570
Attn: City Manager

With copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attn: Eric L. Dunn, City Attorney

To Developer:	FR/CAL ELLIS, LLC, a Delaware limited liability company c/o Principal Real Estate Investors, LLC 711 High Street Des Moines, IA 50392 Attn: CalSTRS Industrial Team
With copy to:	c/o IDS Real Estate Group 515 South Figueroa Street, Suite 1600 Los Angeles, CA 90071-3337 Attn: Dan Sibson and Patrick D. Spillane
With copy to:	Cox Castle Nicholson 2049 Century Park East, 28th Floor Los Angeles, CA 90067-3284 Attn: Amy Wells
With copy to:	Rutan & Tucker, LLP 611 Anton Boulevard, Fourteenth Floor Costa Mesa, California 92626-1931 Attn: John A. Ramirez

Any written notice, demand or communication shall be deemed received immediately if personally delivered or delivered by delivery service, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

8.6 Entire Agreement. This Agreement is the final, complete and exclusive statement of the Agreement of the parties with respect to the subject matter hereof and supersedes and replaces any prior oral or written agreements between the Parties addressing the same subject matter.

8.7 Disputes; Default; Opportunity to Cure.

(a) Notice. Upon the receipt of the notice of default alleging that a Party has failed to perform an obligation under this Agreement ("Notice"), the alleged defaulting Party shall promptly commence to cure, correct, or remedy the identified default at the earliest reasonable time after receipt of the Notice. The allegedly defaulting Party shall complete the cure, correction or remedy of such default not later than five (5) days for credit, reimbursement or monetary defaults or thirty (30) days for non-monetary defaults after receipt of the Notice; however, if a non-monetary defaults cannot reasonably be cured, corrected or remedied within thirty (30) days, such Party shall commence to cure, correct, or remedy such non-monetary default within such thirty (30) day period and shall continuously and diligently prosecute such cure, correction or remedy to completion.

(b) Failure to Remedy Developer Default; City Action. If the work required to remedy the noticed default is not diligently prosecuted to a completion by Developer within the time frame above, City may, upon approval and authorization of the City Council at a public hearing, complete all remaining work, arrange for the completion of

all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. In the event City elects to complete or arrange for completion of the remaining work and the TUMF Facilities, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City.

(c) Other Remedies. No action by either Party pursuant to this Section 8.7 *et seq.* of this Agreement shall prohibit such Party from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. Each Party may exercise its rights and remedies independently or cumulatively, and a Party may pursue inconsistent remedies.

(d) Remedies Under This Agreement. The specific provisions in this Section 8.7 establish and limit the Parties' remedies exclusively with respect to any right granted or obligations undertaken or imposed by this Agreement notwithstanding anything to the contrary in the Development Agreement. In all other matters subject to the Development Agreement, the provisions in Section 5 of the Development Agreement shall apply.

8.8 Force Majeure. Performance by either party hereunder shall not be deemed to be in default where delays or failures to perform are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, terrorism, epidemics, quarantine restrictions, freight embargoes, governmental restrictions imposed or mandated by other governmental entities, governmental restrictions or priority, unusually severe weather, inability to secure labor, materials, or tools necessary for the Project, delays of any contractor, subcontractor or supplier; acts of another party, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse performance by the City) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. The City and the Developer may also extend times of performance under this Agreement in writing.

8.9 Attorney's Fees. If either party commences an action against the other arising out of or in connection with this Agreement, including the filing of a lien or other legal action to compel a Credit or Reimbursement, the prevailing party shall be entitled to recover reasonable attorney's fees and legal costs from the losing party.

8.10 Counterpart Signatures. For convenience the parties may execute and acknowledge this agreement in counterparts and when the separate signature pages are attached hereto, shall constitute one and the same complete Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused their authorized representatives to execute this Agreement.

City:

CITY OF PERRIS,
a municipal corporation

By_____
Daryl R. Busch
Mayor, City of Perris

ATTEST:

By _____
Nancy Salazar, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By _____
Eric L. Dunn, City Attorney

Developer:

FR/CAL ELLIS, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name:_____
Title:_____

EXHIBIT "A"

Public Improvements Being Constructed by Developer & Depiction

Phase 3 – First Park South I-215 Distribution Center 3,166,456 square feet

Streets (Concurrent with Building Construction)

Ellis Avenue (Case Road to Ellis Interchange)

Case Road (Ellis Avenue to I-215 Ramps including bridge reconstruction)

Redlands Avenue (4th Street to Ellis Avenue)

Intersections/Signals (Concurrent with Building Construction)

Ellis and Case (signal)

Redlands and Ellis (signal)

Case and Murietta (signal)

Case and Mapes (signal)

Case and I-215 Ramps (signal)

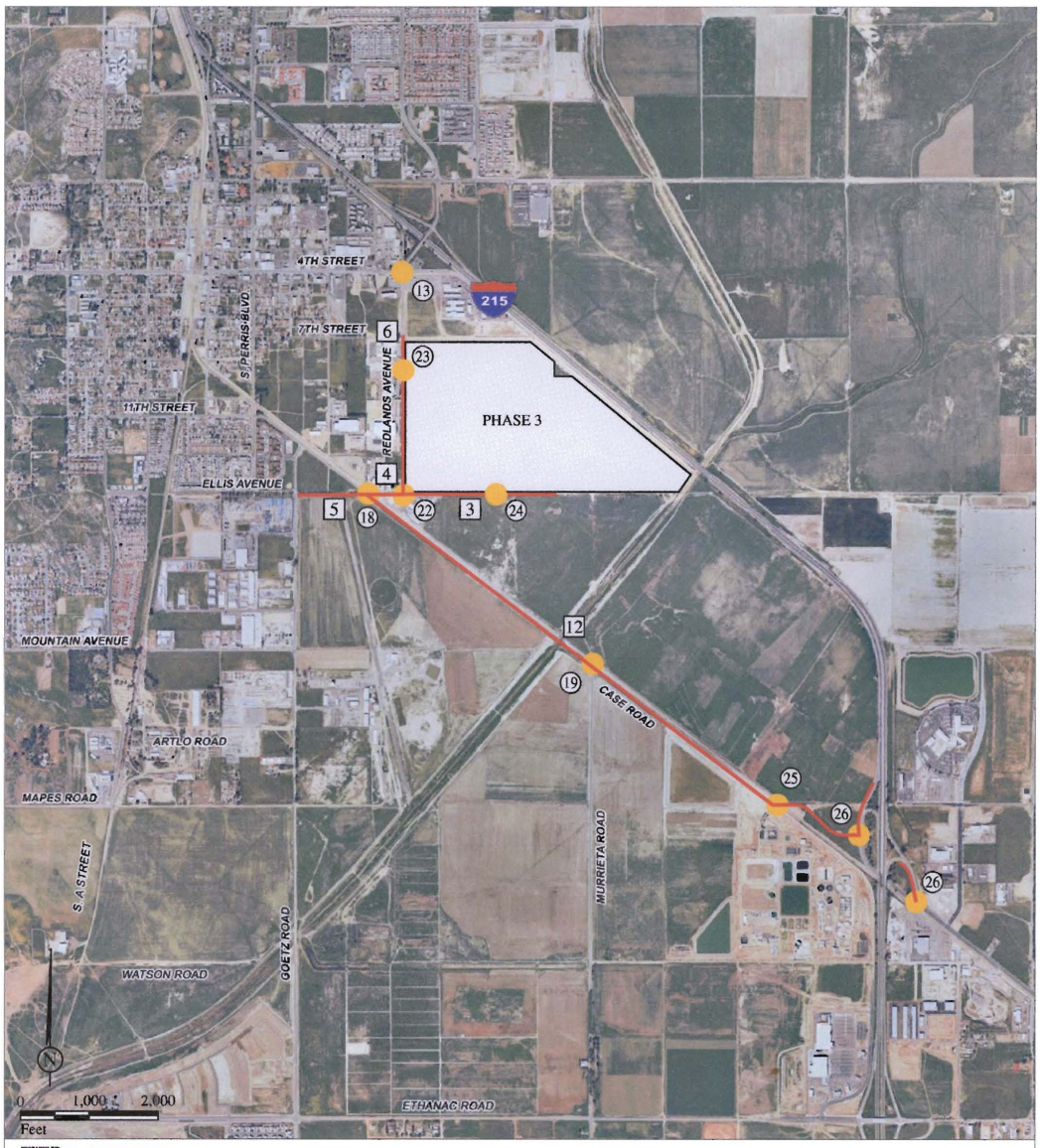
Redlands and 7th Street (signal if required)

Infrastructure

Sewer

Water

Reclaimed Water



THE MOOTE GROUP
Land Management Specialists

South Perris Industrial
Phase 3 Proposed Street Improvements

- Project Area
- Intersections/Signals-TIA
- Street-TIA

Date: 08/06/09

THE MOOTE GROUP
Land Management Specialists

South Perris Industrial
Phase 3 Proposed Wet Improvements

- Project Area
- Proposed Sewer Lift Station
- Proposed Sewer Lines
- Proposed 12" Water Lines
- Proposed 18" Water Lines
- Proposed Recycled Water Lines

Date: 08/06/09

EXHIBIT "B"

City DIF Facilities and Applicable DIF

Phase 3 DIF Facilities	Estimated Full Cost of Construction	Maximum DIF Offset Eligibility
Streets		
Ellis Avenue (Case Road to Ellis Interchange)	$ 4,458,041.00	$2,389,620.00
Case Road	$23,416,692.00	$5,303,381.00
Redlands Avenue (4th Street to Ellis Ave)	$ 2,086,443.00	$1,259,000.00
Intersections/Signals – City Conditions		
Ellis and Case	$ 893,575.00	$ 200,000.00
Ellis and Redlands	$ 535,790.00	$ 200,000.00
Case and Murietta	$ 180,000.00	$ 174,600.00

These fee credits are based upon mutual agreement between the developer and the City of Perris in the interpretation of the WRCOG TUMF Nexus Study dated 2005 (TUMF Nexus) and the City of Perris DIF Justification Study dated February 25, 2006 (DIF Nexus). The calculations assume that any excess credit beyond that allocated for the Goetz Road river bridge can be allocated to other portions of Goetz Road from the $4.2 million DIF credit called out in the DIF Nexus. The calculations also assume that the entire $1.26 million DIF credit attributable to Redlands (between 4th Street and Ellis) in the DIF Nexus can be utilized for work on Redlands which is associated with this project. Reconstruction of bridges on Case Road and Goetz Road will qualify for the fee credits in the DIF Nexus and TUMF Nexus respectively and are not required to be constructed to a 100 year flood standard.

EXHIBIT ”C”

Actual Cost Verification Submittal List

The following checklist is intended to outline what information is required to substantiate any Reimbursement claim.

1. Spreadsheet showing total costs incurred in and related to the construction of each DIF Improvement and the check number for each item of cost;

2. Copies of contracts and/or purchase orders including change orders with each contractor or vendor;

3. Copies of invoices received including canceled checks for payments made to contractors and vendors (copy both front and back of canceled checks);

4. Copies of such further documentation as may be reasonably required by the City Engineer to substantiate the completion of construction and the payment of each item of cost and invoice;

5. A letter from an authorized agent of the Developer indicating that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the Improvements, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. The City may also require final lien releases from each contractor and vendor.

EXHIBIT “K”

OWNER AGREEMENT BETWEEN OWNERS OF PHASES

Recording Requested by And
When Recorded Return to:

_____
_____
_____

(Space Above This Line for Recorder's Office Use Only)

AGREEMENT BETWEEN OWNERS OF PHASES

THIS AGREEMENT BETWEEN OWNERS OF PHASES (this "Agreement") is dated as of the _____ day of _____, 20__ by and among FR/CAL GOETZ, LLC, a Delaware limited liability company ("Phase 1 Owner"), FR/CAL GOETZ ROAD, LLC, a Delaware limited liability company ("Phase 2 Owner"), and FR/CAL ELLIS, LLC, a Delaware limited liability company ("Phase 3 Owner"). The Phase 1 Owner, Phase 2 Owner and Phase 3 Owner are each a "Party" and may collectively be referred to as "Parties."

R E C I T A L S:

A. Phase 1 Owner is the fee owner of that certain real property located in the City of Perris, County of Riverside, State of California, more particularly described in Exhibit "A", attached hereto and incorporated herein (the "Phase 1 Property").

B. Phase 2 Owner is the fee owner of that certain real property located in the City of Perris, County of Riverside, State of California, more particularly described in Exhibit "B", attached hereto and incorporated herein by this reference (the "Phase 2 Property").

C. Phase 3 Owner is the fee owner of that certain real property located in the City of Perris, County of Riverside, State of California, more particularly described in Exhibit "C", attached hereto and incorporated herein by this reference (the "Phase 3 Property").

D. The Parties, have each entered statutory development agreements with the City of Perris ("City") in relation to the development of their respective properties, which agreements are recorded in Official Records of Riverside County as Instrument Nos. _____ (the "Phase 1 Development Agreement"), _____ (the "Phase 2 Development Agreement") and _____ (the "Phase 3 Development Agreement"). The Phase 1 Development Agreement, the Phase 2 Development Agreement and the Phase 3 Development Agreement are sometimes referred to collectively as "Development Agreements" and each may be referred to as a "Development Agreement." Unless this Agreement otherwise provides a definition, or unless it is apparent from the context that a different definition applies, capitalized terms shall have the meaning attributed in the Development Agreement entered with a particular Party.

E. The Development Agreements entitle the Parties to develop a Project (as defined in each Development Agreement) on each Property (as defined in each Development Agreement)

subject to the Development Approvals (as defined in each Development Agreement). The Development Approvals include conditions of approval and the requirement to construct certain Public Improvements (as defined in each Development Agreement); in some instances, each Party is independently conditioned as part of each Party's Development Approvals to construct certain improvements that are common conditions to all Projects (e.g., roadways) ("Common Improvements").

F. Each Project is independent of the others and each Project may therefore proceed at a different development pace. The Parties also recognize that a Project may be unable to proceed with development if certain Public Improvements and/or conditions of approval for another Project remain incomplete. Additionally, Common Improvements are a condition of approval for all Projects such that the first Party to proceed with its Project will be required to construct Common Improvements that are a condition of each separate Project and, therefore, benefit the Other Projects and Parties. For these reasons, the Parties desire to give each Party the right, but not the obligation, to construct Public Improvements and undertake conditions of approval for another Project if a such Party determines that Public Improvements or conditions of approval in the Development Approvals of another Project are necessary for a Party's Project. In such circumstances, the Parties also desire to memorialize their agreement to reimburse the Party constructing the Public Improvements. The Parties also desire to establish a procedure to reimburse a Party that constructs Common Improvements that are an independent condition of all Projects.

G. Each Development Agreement provides the City's consent to a Party assuming the obligations to construct the Public Improvements and complete other conditions of approval in the Development Approvals for another Project and entitles that Party to receive, on the terms contained in this Agreement, any Public Improvement Fee Offset or reimbursement. For example, the Phase 1 Development Agreement provides City consent to the Phase 2 Owner's or Phase 3 Owner's right, without an obligation, to construct the Public Improvements and complete other conditions of approval for the Phase 1 Property in return for assignment of any Public Improvement Offset or reimbursement that the Phase 1 Owner may otherwise be entitled.

H. The Parties hereto desire to enter into an agreement to effect the intentions stated in these Recitals.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I.
Definitions

1.1 "City" shall mean the mean the City of Perris, California.

1.2 "Constructing Party" shall mean a Party that elects to construct the Public Improvements or undertake conditions of approval in another Project's Development Approvals pursuant to Section 2.1.

1.3 "Construction Costs" shall mean the following items: (i) all costs paid or payable to the general contractor or subcontractors performing any of the Public Improvements or undertaking conditions of approval in another Project's Development Approvals, or any material supplier to such work; (ii) design and course of construction engineering costs; (iii) costs for bond premiums, building permits, plan checks, inspection fees and any other costs or expenses imposed by the City for the construction or performance of the Public Improvements or undertaking conditions of approval in another Project's Development Approvals; and (iv) costs of construction insurance premiums.

1.4 "Public Improvements" means the Public Improvements required by a particular Project's Development Approvals. The Public Improvements are identified and described in the Development Agreement for a particular Project.

1.5 "Maintenance Costs" shall mean all costs paid or payable in order to maintain any of the Public Improvements for any period prior to the City's or other relevant public agency's acceptance of dedication.

1.6 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security device, a lender or each of their respective successors and assigns.

1.7 "Non-building Owner" shall mean the Phase 1 Owner, Phase 2 Owner or Phase 3 Owner, as the case may be, that is notified by a Constructing Party that the Constructing Party elects to construct the Public Improvements or undertake conditions of approval in another Project's Development Approvals pursuant to Section 2.1.

1.8 "Plans" means any and all plans and specifications for the Public Improvements or for conditions of approval in another Project's Development Approvals, which are required to be submitted to the City for approval and which are thereafter approved.

ARTICLE II.
Construction of Improvements

2.1 Constructing Party; Notice of Intention to Commence. Any Party to this Agreement shall have the right, but not the obligation, to process Plans and construct the Public Improvements or undertake conditions of approval in another Project's Development Approvals by delivering written notice to a Non-building Owner ("Constructing Party Notice of Commencement"). In order to elect to take such action, a Constructing Party Notice of Commencement must be delivered before a Non-building Owner delivers notice that it has submitted Plans for the Public Improvements or conditions of approval for its Project ("Non-building Owner Notice of Commencement").

2.2 Non-building Owner's Right to Undertake Work. Prior to delivery of a Constructing Party Notice of Commencement, any Party may construct the Public Improvements or undertake the conditions of approval for its own Project's Development Approvals and shall notify its intent to do so by delivering a Non-Building Owner Notice of Commencement to the other Parties. Additionally, if, upon receipt of a timely Constructing Party Notice of Commencement, the Non-building Owner desires to construct the Public Improvements or

undertake conditions of approval itself, then the Non-building Owner must deliver written notice of such intent (the "Non-building Owner Election") to the Constructing Party within ten (10) days of the delivery of the Constructing Party Notice of Commencement. If a Non-building Owner Notice of Commencement or Non-building Owner Election is delivered, then the Party delivering such notice must, within ten (10) days of delivery, diligently prosecute the processing of Plans, construction of the Public Improvements or undertake conditions of approval in its Development Approvals to their completion.

2.3 Assignment and Assumption. After sending the required notices within the timeframes described above, if a Constructing Party elects to process Plans and construct the Public Improvements or undertake conditions of approval in another Project's Development Approvals, then a Non-building Owner shall promptly perform the actions necessary under Section 2.3 of the Development Agreement to notify the City of a Permitted Transfer. A Non-building Owner and Constructing Party shall also promptly enter an Assignment and Assumption Agreement, in a form and content similar to the form of assignment attached as Exhibit "D" to the Development Agreement, with respect to any obligations being undertaken by a Constructing Party that would otherwise be required of a Non-building Owner in the Development Agreement, the Improvement Credit / Reimbursement Agreement Transportation Uniform Mitigation Fee ("TUMF Agreement") for the Project and the Development Impact Fee (DIF) Credit Reimbursement Agreement ("DIF Agreement") for the Project.

2.4 Construction of Improvements. A Constructing Party shall process Plans, construct the Public Improvement and/or undertake conditions of approval in another Project's Development Approvals in strict compliance with the Project's Development Agreement, the TUMF Agreement, the DIF Agreement and any other agreements required by the City. The form of the TUMF Agreement and the DIF Agreement for a particular Project are attached as exhibits to the respective Non-building Owner's Development Agreement and reference is hereby made to these agreements. Without limiting the generality of the Parties obligations, the Party's understand and agree that a Constructing Party may have to construct certain "off-site" improvements requiring the acquisition of right of way from the various third-party properties on which the identified Public Improvements are conceptually located ("Right of Way Properties"). The obligations of a Party and the City relating to Right of Way Properties is addressed in the Development Agreements (Section 9.17) and a Constructing Party electing to undertake Public Improvements would be required to comply with these provisions.

2.5 Non-building Owner's Right to Approve Plans. Prior to a Constructing Party's submittal of Plans to the City or other relevant public agency, the Constructing Party shall first provide such Plans to the Non-building Owner for its review and approval, which shall not be unreasonably withheld or delayed provided that such Plans are in conformity with the Non-building Owner's Development Approvals.

2.6 Consultation and Coordination. During the preparation of the Plans and during any construction of Public Improvements or undertaking conditions of approval by a Constructing Party, the Constructing Party shall communicate, consult and keep the Non-building Party informed as frequently as is necessary.

2.7 Mechanics Liens and Stop Notices. As a condition precedent to a Non-building Owner's obligation to provide reimbursement pursuant to Section 5.3, a Constructing Party shall remove or have removed any mechanics lien or stop notice made on any of a respective Non-Building Owner's property (or any part thereof), or assure the satisfaction thereof as provided in this section. If a claim of a lien or stop notice is given or recorded, a Constructing Party shall within thirty (30) days of such recording or service or within thirty (30) days of a Non-building Owner's demand, whichever last occurs:

2.7.1 pay and discharge the same; or

2.7.2 affect the release thereof by recording and delivering to a Non-building Owner a surety bond in sufficient form and amount, or otherwise; or

2.7.3 provide a Non-building Owner with other assurance which the Non-building Owner deems, in its reasonable discretion (including, without limit, Conditional Waiver and Release Upon Progress Payment (Cal. Civ. Code sec. 3252(d)(1) or Unconditional Waiver and Release Upon Progress Payment (Cal. Civ. Code sec. 3262(d)(1)) or Unconditional Waiver and Release Upon Final Payment (Cal. Civ. Code sec. 3262(d)(4)), to be satisfactory for the payment of such lien or stop notice.

2.8 Failure of Constructing Party to Perform Obligations. If a Constructing Party commences to construct the Public Improvement or commences to undertake conditions of approval in another Project's Development Approvals and fails to perform the obligations and diligently prosecute them to completion, and a Constructing Party continues to fail to perform said obligations after being provided notice as prescribed in Section 10.1, then, in addition to any other rights and remedies that the Non-building Owner may be entitled to, the Non-building Owner shall have the right to perform and complete said obligations, in which case the Constructing Party shall have no right to obtain the reimbursement set forth in Section 5.3.

ARTICLE III.
Easements & Dedication

3.1 Access and Utility Easements. Within ten (10) days of receiving a Constructing Party Notice of Commencement, the Parties shall enter an agreement granting to a Constructing Party (together with the right to grant and transfer the same), a non-exclusive appurtenant easement for ingress, egress and access, utilities, cable television lines, electric lines, gas pipelines, water pipelines, sewer lines, storm drain facilities, telephone lines for purposes of any of the Public Improvements over an area to be defined in the easement document (the "Access and Utility Easements"); provided, however, that (i) the Constructing Party shall indemnify and release the Non-building Owner as provided in this Agreement and (ii) the Access and Utility Easements shall terminate upon the City's or other applicable public agency's acceptance of the Public Improvement's dedication.

3.2 Construction Easements. Within ten (10) days of receiving a Constructing Party Notice of Commencement, the Parties shall enter an agreement granting to a Constructing Party a non-exclusive appurtenant easement for temporary construction purposes ("Temporary Construction Easement") over an area to be defined in the easement document. The Temporary

Construction Easement may be used in connection with the construction of any of the Public Improvements or undertaking conditions of approval in the Non-building Owner's Development Approvals; provided, however, that (i) a Constructing Party shall indemnify and release a Non-building Owner as provided in this Agreement and (ii) the Temporary Construction Easement shall terminate upon the completion of the construction of all of the Public Improvements and satisfaction of conditions of approval undertaken by a Constructing Party.

3.3 Dedication. Upon completion of any Public Improvements that are to be dedicated to the City or any other applicable public agency, a Non-building Owner shall timely offer such Public Improvements to the City or other applicable public agency for dedication.

3.4 Maintenance. In the event that a Constructing Party constructs the Public Improvement, until the Public Improvements have been dedicated to the City or other applicable public agency, a Constructing Party shall maintain all the Public Improvements as provided in this section. A Non-building Owner shall not be responsible or liable for the maintenance or care of the Public Improvements. A Constructing Party shall maintain all of the Public Improvements in a state of good repair until they are completed and approved and accepted by City or other applicable public agency, and until any bonds or security for the Public Improvements are released. It shall be a Constructing Party's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by either a Non-building Owner or the City. If a Constructing Party fails to properly prosecute its maintenance obligation under this section, a Non-building Owner may do all work necessary for such maintenance and the cost thereof shall be the responsibility of a Constructing Party and its surety.

ARTICLE IV.
Allocation and Payment of Costs

4.1 Allocation of Costs.

4.1.1 Constructing Party Undertakes Work. If, as provided in Section 2.1, a Constructing Party elects to construct Public Improvements or undertake conditions of approval in another Project's Development Approvals, then such Constructing Party shall be solely responsible for all Construction Costs and Maintenance Costs. Notwithstanding the previous sentence, a Constructing Party shall be entitled to receive from a Non-building Owner reimbursement as provided in Article V below.

4.1.2 Non-building Owner Undertakes Work. If, as stated in Section 2.2, a Non-building owner elects to construct the Public Improvements or undertake conditions of approval following receipt of a Constructing Party Notice of Commencement, then such Non-building Owner shall be responsible for all costs relating to its election to construct the Public Improvements or undertake conditions of approval and a Constructing Party shall have no obligation to pay any costs or seek any reimbursement.

4.2 Insurance; Risk of Loss. In addition to any insurance required by the City in the Development Agreement, the TUMF Agreement and the DIF Agreement, the Constructing Party shall maintain or cause to be maintained a policy or policies of comprehensive general liability

insurance written by one or more responsible insurance carriers licensed to do business in the State of California, which policies shall insure against liability for bodily injury and/or death and/or damage to property of any person or persons, with combined single limit coverage of not less than One Million Dollars ($1,000,000.00) per occurrence. A Constructing Party shall furnish to a Non-building Owner, prior to the commencement of the work to be performed hereunder, a certificate stating that such insurance is in full force and effect, that the premiums therefor have been paid and that a Non-building Owner has been named as an additional insured. Such insurance shall be primary and non-contributory and shall provide that an act or omission of the insured party which would void or otherwise reduce coverage shall not reduce or void the coverage as to the other insured. In the event any act of God or other uninsured risk occurs, the costs of any loss shall be allocated to and paid immediately by the parties in accordance with the provisions of Section 4.1 above.

ARTICLE V.
Constructing Party's Right to Reimbursement for Construction Costs

5.1 General. Under the Development Agreements, a Non-building Owner (as the "Developer") (i) is entitled to offset the amount of development impact fees that otherwise would be due and payable to City in the absence of a Non-building Owner constructing the Public Improvements (including its construction of Common Improvements) ("Public Improvement Fee Offset") and (ii) is also entitled to seek reimbursement in the manner specified in a particular Development Agreement. The method, amount, timing and other particulars of the Parties' rights in relation to the City are memorialized in a respective Development Agreement and in a respective TUMF Agreement and DIF Agreement for each Project. There are several categories of Public Improvements that each have specific credit and reimbursement provisions between a Party and the City. Without limiting the specificity in the agreements referenced above, the City's obligations are summarized as follows:

5.1.1 TUMF Facilities: The amount of any credit shall be the Estimated Maximum TUMF Offset Eligibility, subject to adjustment. The amount of reimbursement, if any, shall be the lesser of (i) a Non-building Owner's actual cost of constructing the eligible TUMF Facilities, or (ii) an amount equal to the TUMF Unit Cost Assumptions (as defined in the WRCOG Administrative Plan), after subtracting any credit.

5.1.2 City DIF Facilities: The amount of any credit shall be an amount equal to the Estimated Maximum City DIF Offset Eligibility. Developer may additionally be entitled to reimbursement.

5.1.3 Non-Programmed Facilities: If a Non-building Owner constructs certain public improvements that are not presently part of a City capital improvement program, a Non-building Owner is entitled to have the City (i) impose a reimbursement obligation upon third-party owners and developers that benefit from the improvement and (ii) work with a Non-building Owner to establish mechanisms for proportional reimbursement from these third parties

5.1.4 Sewer Facilities: If requested by the Non-building Owner, the City must fully cooperate with the Non-building Owner to obtain reimbursement from the Eastern Municipal Water District.

5.2 Assignment of Non-building Owner's Rights to Credit or Reimbursement. Until a Constructing Party is reimbursed in full for the Construction Costs as provided in Section 5.3, the Parties agree that a Non-building Owner shall assign all its right, title and interest in any Public Improvement Offsets or reimbursement rights that it may have under a respective Development Agreement with respect to the Public Improvement and any Common Improvements being constructed by a Constructing Party, TUMF Agreement or DIF Agreement. Such assignment shall be memorialized as part of the Assignment and Assumption Agreement; upon reimbursement as permitted by Section 5.3, the Constructing Party shall execute a release of its assigned rights.

5.3 Constructing Party's Right to Reimbursement from Non-Building Owner. If a Constructing Party elects, in its sole and absolute discretion, to construct the Public Improvements, undertake conditions of approval in another Project's Development Approvals or construct Common Improvements and thereafter completes the Public Improvements, satisfies the conditions of approval and/or constructs the Common Improvements in the manner required by the City or other applicable public agency to satisfy a Non-building Owner's obligations then:

5.3.1 With respect to completed TUMF Facilities, a Non-building Owner shall, within ten (10) days of the date said owner is entitled to receive the Estimated Maximum TUMF Offset Eligibility (as may be adjusted by a TUMF Agreement), reimburse a Constructing Party the full actual Construction Costs for such facilities. A Non-building Owner's rights to receive a Public Improvement Offset or reimbursement from the City shall not otherwise limit or delay a Non-building Owner's obligation to reimburse a Constructing Party.

5.3.2 With respect to completed City DIF Facilities, a Non-building Owner shall, within ten (10) days of the date said owner is entitled to receive the Estimated Maximum City DIF Offset Eligibility, reimburse a Constructing Party the full actual Construction Costs for such facilities. A Non-building Owner's rights to receive a Public Improvement Offset or reimbursement from the City shall not otherwise limit or delay a Non-building Owner's obligation to reimburse a Constructing Party.

5.3.3 With respect to completed Non-programmed Facilities, a Non-building Owner shall, within ten (10) days of the date the of completion described in the preambular paragraph of this section 5.3, reimburse a Constructing Party the full actual Construction Costs for such facilities. A Non-building Owner's rights to receive a Public Improvement Offset or reimbursement from the City shall not otherwise limit or delay a Constructing Party's rights hereunder.

5.3.4 With respect to other satisfied conditions of approval, a Non-building Owner shall, within ten (10) days of the date the of completion described in the preambular paragraph of this section 5.3, reimburse a Constructing Party the full actual Construction Costs for such facilities. A Non-building Owner's rights to receive a Public Improvement Offset or reimbursement from the City shall not otherwise limit or delay a Constructing Party's rights hereunder.

5.3.5 With respect to completed Sewer Facilities, a Non-building Owner shall, within ten (10) days of the date the of completion described in the preambular paragraph of this

section 5.3, reimburse a Constructing Party the full actual Construction Costs for such facilities. A Non-building Owner's rights to receive reimbursement from the City shall not otherwise limit or delay a Constructing Party's rights hereunder.

5.3.6 If any improvements constructed by a Constructing Party are Common Improvements, then the Owners of the other Projects shall reimburse the Constructing Party their pro-rata share of the full actual Construction Costs for such facilities within ten (10) days of the date of the completion described in the preambular paragraph of this section 5.3. An Owner's pro rata share shall be based on the projected traffic or other impact generated by a respective Owner's Project that necessitates the construction of the Common Improvement, as evidenced in the EIR and Development Approvals for the respective Project.

5.3.7 A Constructing Party shall cooperate as reasonably necessary to aid the Non-building Owner to receive any credit or reimbursement the Non-building Owner may be entitled to under a Development Agreement.

ARTICLE VI.
Books, Records and Accounting

6.1 Books and Records. A Constructing Party shall keep books of account for the Construction Costs and Maintenance Costs for the Public Improvements prepared in accordance with sound accounting principles consistently applied at a Constructing Party's expense at its principal office for a period of three (3) years. These books shall be open to inspection by a Non-building Owner or its representative at any reasonable time during a Constructing Party's normal business hours.

ARTICLE VII.
Covenants Running with the Land

7.1 Covenants Running with the Land. The covenants, conditions and restrictions contained herein shall constitute covenants running with and binding the Phase 1 Property, the Phase 2 Property and the Phase 3 Property in accordance with the provisions of California Civil Code section 1468. The covenants, conditions and restrictions contained herein: (i) shall burden the Phase 1 Property and the Phase 1 Owner for the benefit of the Phase 2 Property, the Phase 2 Owner, the Phase 3 Property and the Phase 3 Owner; (ii) shall burden the Phase 2 Property and the Phase 2 Owner for the benefit of the Phase 1 Property, the Phase 1 Owner, the Phase 3 Property and the Phase 3 Owner; and (iii) shall burden the Phase 3 Property and the Phase 3 Owner for the benefit of the Phase 1 Property, the Phase 1 Owner, the Phase 2 Property and the Phase 2 Owner. The covenants, conditions and restriction in this Agreement relate to the use, repair, maintenance and improvement of the land herein described. Accordingly, the Phase 1 Property, Phase 2 Property and Phase 3 Property shall be held, sold, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to this Agreement, which shall run with the Agreement, and shall be binding on all parties having any right, title or interest in the Phase 1 Property, Phase 2 Property and Phase 3 Property, and their heirs, successors and assigns.

ARTICLE VIII.
Termination

8.1 This Agreement shall automatically terminate and be of no further force or effect upon the occurrence of the following: (i) the completion of all Public Improvements for the Phase 1 Property, the Phase 2 Property and the Phase 3 Property; (ii) any and all reimbursement by a Non-building Owner to a Constructing party have been made for Construction Costs; and (iii) the Public Improvements have been dedicated to the City or other relevant public agency and accepted by the City or other relevant public agency, including all obligations for the maintenance thereof.

ARTICLE IX.
Successors and Assigns

9.1 This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, personal representatives and assigns upon the successor party executing and delivering an Assignment and Assumption of Development Agreement, in a form and content similar to the form of assignment attached as Exhibit "D" to the Development Agreement.

ARTICLE X.
Miscellaneous

10.1 Default. Subject to the extensions in Section 10.4, if any Party fails to perform any action or adhere to any covenant or obligation required by this Agreement within the time periods provided herein (or, if a Party enters an Assignment and Assumption Agreement for the Development Agreement, the TUMF Agreement or the DIF Agreement and fails to perform any action or adhere to any covenant or obligation required by such assigned and assumed agreement within the time periods provided in such agreement), then following notice and failure to cure as described hereafter, such Party shall be in "Default" under this Agreement. A Party claiming a Default shall give written notice of Default to the other Party specifying the Default complained of. Except as otherwise provided in this Agreement, the claimant Party shall not institute any proceeding against any other Party, and the other Party shall not be in Default as to non-monetary Defaults if such Party within thirty (30) days from receipt of such notice promptly, with due diligence, commences to cure, correct or remedy such failure or delay and thereafter completes such cure, correction or remedy with due diligence. As to monetary Defaults, a cure period of ten (10) days upon written notice shall apply.

10.2 Institution of Legal Actions; Remedies. In addition to any other rights or remedies available in law or equity, a Party may institute an action to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, or to obtain any other remedy consistent with the purpose of this Agreement.

10.3 Indemnity. A Constructing Party shall indemnify, defend, and hold harmless the Non-building Owner from and against any and all claims, liabilities, damages, and losses, including without limitation reasonable attorneys' fees and litigation expenses, including court courts and expert witness fees (collectively, "Claims"), due to the death or personal injury of any

person, or physical damage to any person's real or personal property, caused by a Constructing Party's activity relating to construction of the Public Improvements, the Constructing Party's undertaking conditions of approval, or for any construction defects in any improvements constructed by the Constructing Party; provided, however, that the foregoing indemnification shall not apply to the extent such Claims are proximately caused by the negligence or willful misconduct of a Non-building Owner. The foregoing indemnification provision shall survive the termination of this Agreement.

10.4 Force Majeure. No Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by any or all of: (i) strikes, lockouts or labor disputes, (ii) inability to obtain labor or materials or reasonable substitutes therefor, (iii) inclement weather which delays or precludes construction, (iv) acts of God or the public enemy or civil commotion, (v) condemnation, (vi) fire or other casualty, (vii) shortage of fuel, (viii) action or nonaction of public utilities or of local, state or federal governments, affecting the work, including, but not limited to, any delays in the permitting process as a result of the action or inaction or such governmental authorities, (ix) acts of terrorism, or (x) other conditions similar to those enumerated above which are beyond the reasonable anticipation or control of such party, or other causes beyond the party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than two (2) years.

10.5 Attorneys' Fees. In any action or proceeding between the Parties seeking the enforcement or interpretation of any of the terms and provisions of this Agreement, the prevailing Party in such action or proceeding shall be awarded, in addition to any damages, injunctive or other relief, its reasonable costs and expenses, including reasonable attorneys' fees. Such costs, expenses and attorneys' fees shall be included in any award of any arbitrator in any arbitration proceeding.

10.6 Notices. Any notice or other communication may be served by (a) facsimile, with follow-up by personal delivery (including delivery by commercial overnight courier service) or (b) United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office, and (c) commercial overnight delivery courier. If delivered by mail, then such notice or other communication shall be deemed to have been received by the addressee on the second day following the date of such mailing. If delivered by facsimile, such notice or other communication shall be deemed to have been received by the addressee on the date sent if sent before 5:00 p.m. C.S.T., but if sent after 5:00 p.m. C.S.T., such notice or other communication shall be deemed received the following business day. If delivered by overnight courier services, the notice or other communication shall be deemed to have been received on the first business day following the date on which such notice was given to the courier service. All notices and demands provided for in this Agreement shall be in writing and shall be given to the City and Developer at the addresses set forth below, or at such other addresses given to the City and Developer may hereafter specify in writing.

To Phase 1 Owner: FR/CAL GOETZ, LLC,
a Delaware limited liability company
c/o Principal Real Estate Investors, LLC
711 High Street
Des Moines, IA 50392
Attn: CalSTRS Industrial Team

With copy to: c/o IDS Real Estate Group
515 South Figueroa Street, Suite 1600
Los Angeles, CA 90071-3337
Attn: Dan Sibson and Patrick D. Spillane

With copy to: Cox Castle Nicholson
2049 Century Park East, 28th Floor
Los Angeles, CA 90067-3284
Attn: Amy Wells

With copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Attn: John A. Ramirez

To Phase 2 Owner: FR/CAL GOETZ ROAD, LLC,
a Delaware limited liability company
c/o Principal Real Estate Investors, LLC
711 High Street
Des Moines, IA 50392
Attn: CalSTRS Industrial Team

With copy to: c/o IDS Real Estate Group
515 South Figueroa Street, Suite 1600
Los Angeles, CA 90071-3337
Attn: Dan Sibson and Patrick D. Spillane

With copy to: Cox Castle Nicholson
2049 Century Park East, 28th Floor
Los Angeles, CA 90067-3284
Attn: Amy Wells

With copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Attn: John A. Ramirez

To Phase 3 Owner: FR/CAL ELLIS, LLC,
a Delaware limited liability company
c/o Principal Real Estate Investors, LLC
711 High Street
Des Moines, IA 50392
Attn: CalSTRS Industrial Team

With copy to: c/o IDS Real Estate Group
515 South Figueroa Street, Suite 1600
Los Angeles, CA 90071-3337
Attn: Dan Sibson and Patrick D. Spillane

With copy to: Cox Castle Nicholson
2049 Century Park East, 28th Floor
Los Angeles, CA 90067-3284
Attn: Amy Wells

With copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Attn: John A. Ramirez

Any Party may change its address for notice from time to time by giving written notice of such change to the other Parties in the manner prescribed in this Section 10.6.

10.7 Mortgagee Protection. This Agreement shall not prevent or limit a Party, in any manner, at such Party's sole discretion, from encumbering its property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. Any Mortgagee of a Party's property shall be entitled to the following rights and privileges:

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

10.7.2 The Mortgagee of any mortgage or deed of trust encumbering a Party's property, or any part thereof, which Mortgagee has submitted a request in writing to the Parties in the manner specified herein for giving notices, shall be entitled to receive written notification from the Parties of any default by a Party in the performance its obligations under this Agreement.

10.7.3 If Party timely receives a request from a Mortgagee requesting a copy of any notice of default given to another Party under the terms of this Agreement, such Party shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the defaulting Party. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that is the longer of (1) the remaining cure period allowed such Party under this Agreement, or (2) sixty (60) days.

10.7.4 Any Mortgagee who comes into possession of a Party's property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of a Party's obligations or other affirmative covenants of a Party hereunder, or to guarantee such performance; except that (1) to the extent that any covenant to be performed by a Party is a condition precedent to the performance of a covenant by another Party, the performance thereof shall continue to be a condition precedent to another Party's performance hereunder, and (2) in the event any Mortgagee seeks to develop or use any portion of a Party's property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Approval applicable to the property or such part thereof so acquired by the Mortgagee.

10.8 Interpretation. This Agreement is to be construed in accordance with the laws of the State of California. In the event any provision of this Agreement shall be found to be unenforceable or inoperative as a matter of law, the remaining provisions shall remain in full force and effect. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, partners or partnerships may require. This Agreement shall be interpreted as though prepared jointly by all Parties.

10.9 Time is of the Essence. Time is hereby expressly made of the essence of this Agreement and each and every term and condition contained herein.

10.10 Integration. This Agreement and other documents expressly incorporated herein by reference contain the entire and exclusive understanding and agreement between the parties relating to the matters contemplated hereby and all prior or contemporaneous negotiations, agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

10.11 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

10.12 No Waiver. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by any Party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the another Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

10.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

PHASE 1 OWNER

FR/CAL GOETZ, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: _____
Title: _____

PHASE 2 OWNER

FR/CAL GOETZ ROAD, LLC a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: _____
Title: _____

PHASE 3 OWNER

FR/CAL ELLIS, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC,
a Delaware limited liability company, its sole member

By: California State Teachers' Retirement System,
a public entity, its sole member

By: _____
Name: _____
Title: _____

State of California)
County of _____)

On _____, before me, _____, 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)

State of California)
County of _____)

On _____, before me, _____, 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
Phase 1 Property Legal Description

LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 6 TOWNSHIP 5 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM ANY PORTIONS IN GOETZ ROAD AND MOUNTAIN AVENUE.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE CITY OF PERRIS BY GRANT DEED RECORDED MARCH 3, 1988 AS INSTRUMENT NO. 88-56389 OF OFFICIAL RECORDS.

SAID PROPERTY IS ALSO SHOWN ON RECORD OF SURVEY ON FILE IN BOOK 17, PAGE 93 OF RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY.

APN: 330-070-008-7

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EXHIBIT B
Phase 2 Property Legal Description

LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

LOTS 1, 2, 3, 8, 9, AND 10 OF JOHNSON'S SUBDIVISION, AS SHOWN BY MAP ON FILE IN BOOK 15, PAGE 705 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA, TOGETHER WITH THAT CERTAIN UNNAMED ROAD LYING SOUTH OF LOTS 1, 2 AND 3, AND NORTH OF LOTS 8, 9, AND 10, AS ABANDONED BY THE COUNTY OF RIVERSIDE BY RESOLUTION ABANDONING COUNTY HIGHWAY, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1960, AS INSTRUMENT NO. 64051 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA

EXCEPTING THEREFROM THE EAST 30 FEET OF LOTS 1 AND 10 FOR ROAD PURPOSES.

APN: 330-120-002-5 and 330-120-003-6 and 330-120-008-1 and 330-120-009-2 and 330-120-010-2 and 330-120-011-3

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EXHIBIT C
Phase 3 Property Legal Description

LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

PARCEL 1: (APN: 310-170-006-8)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THENCE NORTH 00° 10' 39" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 753.38 FEET TO THE SOUTHWEST CORNER OF PARCEL 4270-2 OF SAID RECORD OF SURVEY;

THENCE NORTH 89° 49' 59' EAST ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 973.37 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2: (APN: 310-170-007-9)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411; OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

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THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 740.84 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 4270-2;

THENCE NORTH 51° 49' 22" WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 4270-2, A DISTANCE OF 340.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 365.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38° 20' 39", AN ARC DISTANCE OF 244.27 FEET;

THENCE SOUTH 89° 49' 59" WEST TANGENT TO SAID CURVE AND ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 1137.54 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3: (APN: 310-170-008-0 AND 310-220-050-1)

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOGETHER WITH THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, SAID PORTIONS BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET FOR THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 440.71 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 89° 58' 42" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 373.52 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 4270-1 OF SAID RECORD OF SURVEY;

THENCE SOUTH 51° 49' 22" EAST ALONG SAID PARCEL 4270-1, A DISTANCE OF 2566.04 FEET;

THENCE SOUTH 38° 08' 42" WEST, A DISTANCE OF 339.49 FEET;

THENCE SOUTH 41° 33' 24" WEST, A DISTANCE OF 130.70 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 30.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.51 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE SOUTH 00° 10' 46" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 58' 12" WEST ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 660.90 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 00° 14' 09" WEST ALONG THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 44.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID CENTERLINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 330.47 FEET TO A POINT ON THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE SOUTH 00° 15' 51" EAST ALONG SAID WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON SAID CENTER LINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID CENTERLINE, A DISTANCE OF 330.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33;

THENCE SOUTH 89° 49' 34" WEST ALONG THE SOUTH LINE OF SAID SECTION 32 AND ALONG SAID CENTERLINE OF ELLIS AVENUE, A DISTANCE OF 1938.92 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS PARCEL ONE, PARCEL TWO AND PARCEL THREE OF LOT LINE ADJUSTMENT NO. 99-0103 RECORDED FEBRUARY 16, 2000 AS INSTRUMENT NO. 2000-058251 OF OFFICIAL RECORDS OF SAID COUNTY.

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