ITEM NO. 28

STAFF REPORT

CITY OF OCEANSIDE

DATE: July 6, 2011

TO: Honorable Mayor and City Council Members

FROM: Property Management Division, Economic and Community Development Department

SUBJECT: **PROPERTY EXCHANGE AGREEMENT WITH IVEY RANCH DEVELOPMENT COMPANY, LLC, TO EXCHANGE A PORTION OF THE EL CORAZON PROPERTY FOR ADJACENT REAL PROPERTY AND OTHER CONSIDERATION**

SYNOPSIS

Staff recommends that the City Council approve a Property Exchange Agreement with Ivey Ranch Development Company, LLC, for the exchange of a 6.4-acre portion of the El Corazon property for adjacent real property and other considerations; authorize the Mayor to execute the agreement; authorize the City Clerk to accept the grant deed; and authorize staff to consummate the transaction.

BACKGROUND

In 1994, approximately 465 acres of vacant property was donated to the City of Oceanside by the U.S. Silica Company. This property became known as "El Corazon". Beginning in 1995, the City of Oceanside developed a long-range plan for the development of El Corazon, culminating in the approval of the El Corazon Land Use Master Plan Project Report in 2005 and approval of the El Corazon Specific Plan in September 2009 ("Specific Plan"). As part of the Specific Plan, land uses and roadway improvements were proposed for specific areas and locations for El Corazon.

In the late 1990s Ivey Ranch Development Company, LLC ("IRDC"), developed the industrial park subdivision known as "Ocean Ranch" in the City of Oceanside. As part of the subdivision, a finished parcel of land consisting of 3.10 acres, Lot 13 of Map No. 15185, Ocean Ranch Subdivision, was developed by IRDC ("IRDC Property"). The IRDC Property is located westerly of Rancho del Oro Drive where it intersects with Ocean Ranch Boulevard and is adjacent to the El Corazon project site.

The use of the IRDC Property is described in the Specific Plan and is considered an important element in the roadway improvement design for El Corazon. IRDC, desirous of maximizing the development potential for the IRDC Property yet working within the scope of the Specific Plan, approached the City about the possibility of exchanging portions of each party's respective properties together with other considerations.

In January 2008, the City and IRDC entered into a property exchange agreement. The parties agreed to an exchange of property and to additional consideration where IRDC would construct certain roadway and related improvements benefitting El Corazon. Unfortunately, due to the severe economic downturn in the real estate industry in 2008, a number of commitments related to the development of the IRDC Property by IRDC fell through. This turn of events created a financial hardship on IRDC to proceed with the property exchange agreement as proposed. IRDC informed the City that it was terminating the property exchange agreement.

Subsequent to IRDC's termination of the property exchange agreement the Specific Plan was approved in September of 2009. As a result of the approval of the Specific Plan IRDC reexamined the possibility of a new property exchange taking into account the change in the current real estate economic climate. IRDC again approached the City with a new property exchange agreement proposal with slightly different terms.

In December 2009, the City and IRDC entered into a second property exchange agreement. The parties again agreed to an exchange of property and additional consideration whereby IRDC would construct certain roadway and related improvements benefitting El Corazon. However, in order to reflect the then-current real estate economic climate, the City agreed to contribute additional land. The exchange of the additional land was deemed adequate consideration as it was not part of the developable area of El Corazon per the ECSP.

During IRDC's due diligence period, IRDC determined that the additional land was not developable for IRDC's proposed use without significant geotechnical remediation. Accordingly, IRDC again elected to terminate the second property exchange agreement. Subsequently, IRDC yet again approached the Cit with a new property exchange agreement proposal reflecting an exchange of a different portion of the El Corazon property and the IRDC property.

ANALYSIS

The third property exchange agreement ("New Agreement") again proposes an exchange of property, albeit slightly different, together with the construction of certain roadway and related improvements by IRDC. See attachment "A" for a depiction of the properties to be conveyed and Attachment "B" for the proposed roadway and related improvements ("Improvements"). Similar to the second property exchange agreement, the New Agreement would again require that the City enter into a reimbursement agreement for costs associated with the Improvements allocated to the portion of El Corazon to be exchanged ("El Corazon Property").

Per the New Agreement IRDC is again willing to construct the Improvements that would benefit both the El Corazon Property and the IRDC Property. Also, as before, the City would again be responsible to reimburse IRDC, at a later date, for the City's share of the Improvements. This type of arrangement is typical in the development of real

property where one party is ready to develop and the other is not but would eventually derive a benefit from improvements affecting both properties.

The El Corazon Property consists of 6.44 acres of vacant unimproved land whereas the portion of the IRDC Property to be conveyed to the City is 0.85 acres. The value for the El Corazon Property can partially be offset by the difference in value between vacant unimproved land and the IRDC Property, which is a finished lot. The difference in value can also be offset by avoiding costs associated with a condemnation proceeding to acquire the IRDC property and intangible benefits providing significant impetus such as the completion of one of the major entrances to El Corazon sooner than anticipated.

The essential terms of the New Agreement are generally described as follows:

- The City will end up with 0.85 acres of the improved IRDC Property, which will be used as a public right-of-way entrance to El Corazon.
- IRDC will end up with 6.44 acres of unimproved El Corazon Property consisting of 3.68 acres of developable land and 2.77 acres of land with development constraints.
- IRDC will agree to construct the Improvements benefitting both properties with an approximate value over $2,200,000.
- IRDC will include an element of public art as part of the Improvements to be constructed.
- The City and IRDC will enter into a reimbursement agreement.
- The parties shall effect a property line adjustment application to create legal parcels of land for the exchange.
- IRDC shall develop the remainder of the IRDC Property and the El Corazon Property in accordance with the El Corazon Specific Plan.
- IRDC will complete the Improvements no later than 5 years from the close of escrow.
- IRDC shall pay for the costs to complete property line adjustment.
- Escrow shall close within 60 days after the recordation of the property line adjustment, which shall be done within 120 days from the execution of the New Agreement.

FISCAL IMPACT

Taking into consideration the respective values of the properties to be exchanged, the value of the Improvements to be constructed by IRDC together with the intangible values and indirect benefits to the El Corazon project, the fiscal impact is as follows:

- Approx. value allocated to unimproved 6.44 acres to IRDC (based on $4.00 PSF for 3.27 acres and $2.00 PSF for 3.17 acres of unimproved land) — $845,935
- Approx. value allocated to improved 0.85 acres to City (based on $17.00 PSF for improved land) — $629,442
- Difference between the approx. allocated values can be offset by the following intangible values and indirect benefits to the City:
  - Completing the roadway and other related improvements at one of the major entrances to El Corazon to provide a significant impetus in the development of El Corazon
  - Construction of the City's share of the Improvements by IRDC
  - Financing of the City's share of the Improvements estimated at approximately $799,000 at 0% interest for 5 years by IRDC
  - The IRDC development will be built per the El Corazon Specific Plan and enhances the development activity at El Corazon
  - The public art element to be constructed by IRDC
  - Avoidance of a potentially expensive condemnation proceeding

Other than normal escrow and title closing costs associated with a property transaction there is no direct fiscal impact to the City. It should be noted that there will be a positive fiscal impact to the City as a result of the future development of the portion of El Corazon conveyed to IRDC. The proposed development will ultimately include a hotel and a retail center with an estimate of TOT and sales tax revenue of $350,000 - $400,000 annually.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The general parameters of the New Agreement were presented to the El Corazon Ad Hoc Committee of the Economic Development Commission. The Ad Hoc Committee made the following observations: 1) there is a concern over the value the City is receiving in exchange for its land, however, addressing the intangible benefits is understood; 2) IRDC should build-out the entire width of the entry roadway instead of one-half of the road and without reimbursement; 3) IRDC needs to complete construction of the Improvements within a specific period of time; and 4) the public art element needs to be approved through the City process.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve a Property Exchange Agreement with Ivey Ranch Development Company, LLC, for the exchange of a portion of the El Corazon property for adjacent real property and other considerations; authorize the Mayor to execute the agreement; authorize the City Clerk to accept the grant deed; and authorize staff to consummate the transaction.

PREPARED BY:

Douglas E. Eddow
Real Estate Manager

SUBMITTED BY:

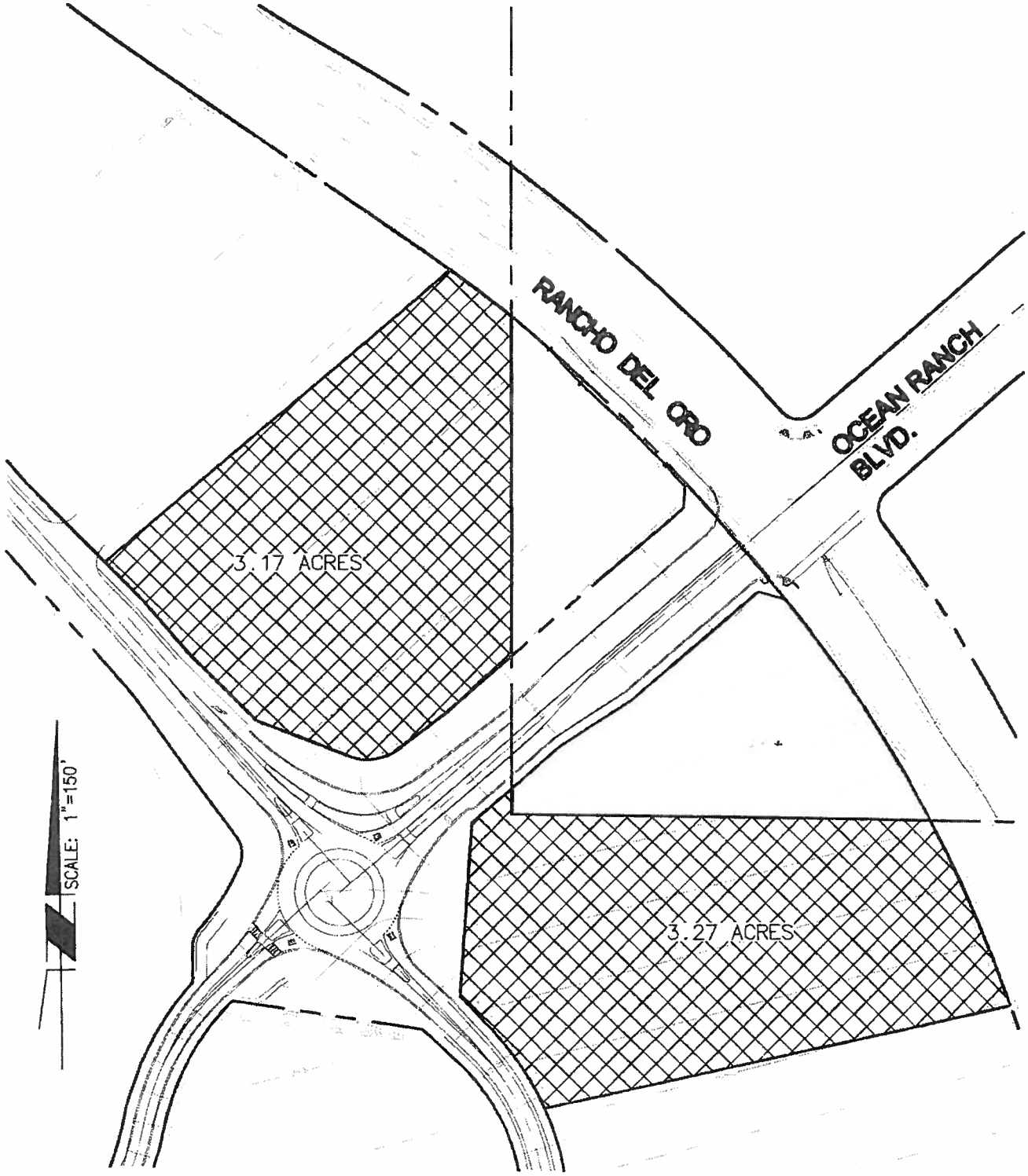
Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Jane McVey, Economic & Community Development Director

EXHIBIT "A"
CITY PROPERTY



RBF CONSULTING

March 29, 2011

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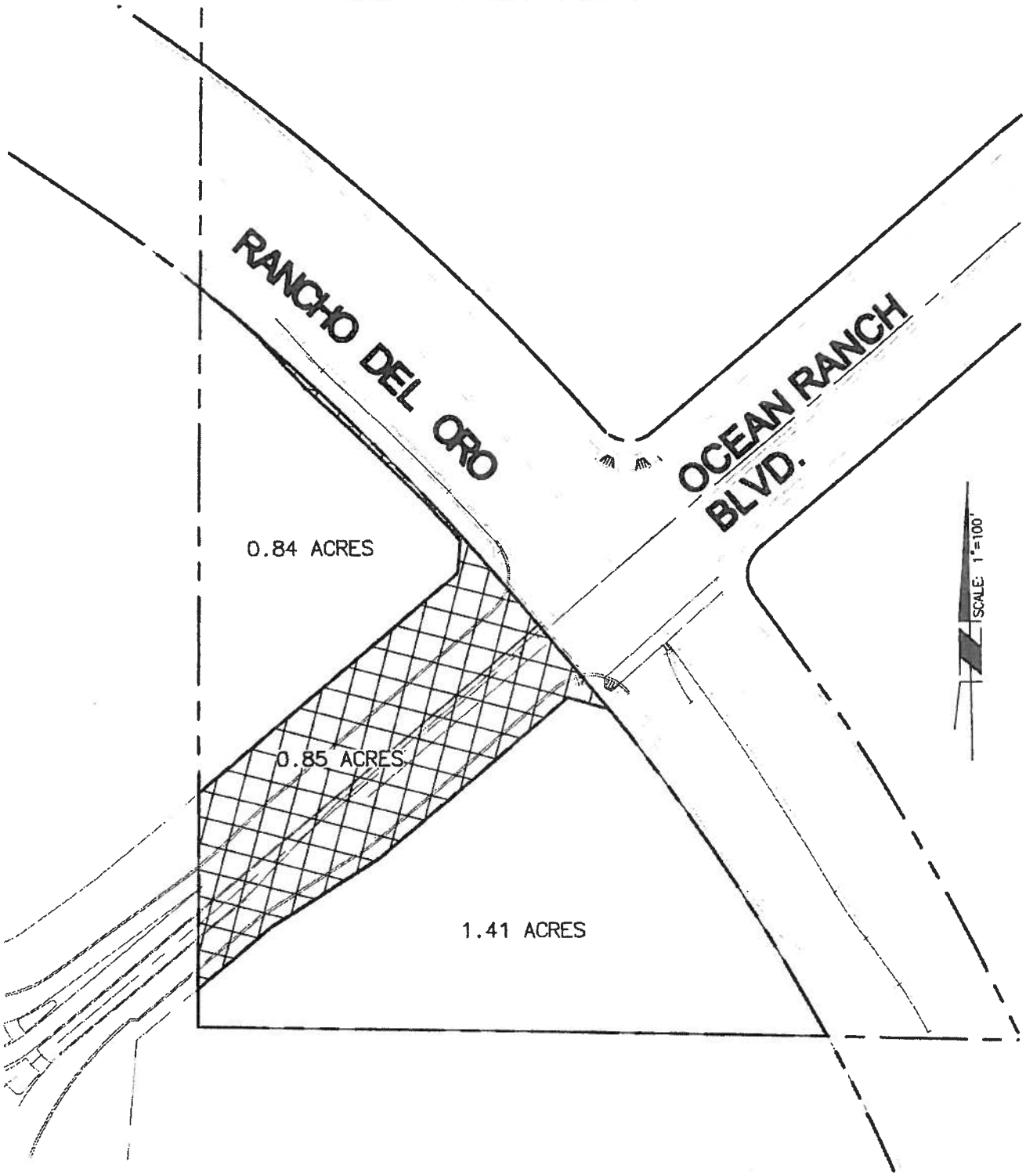
EXHIBIT "A"
IRDC PROPERTY



RBF CONSULTING

March 29, 2011

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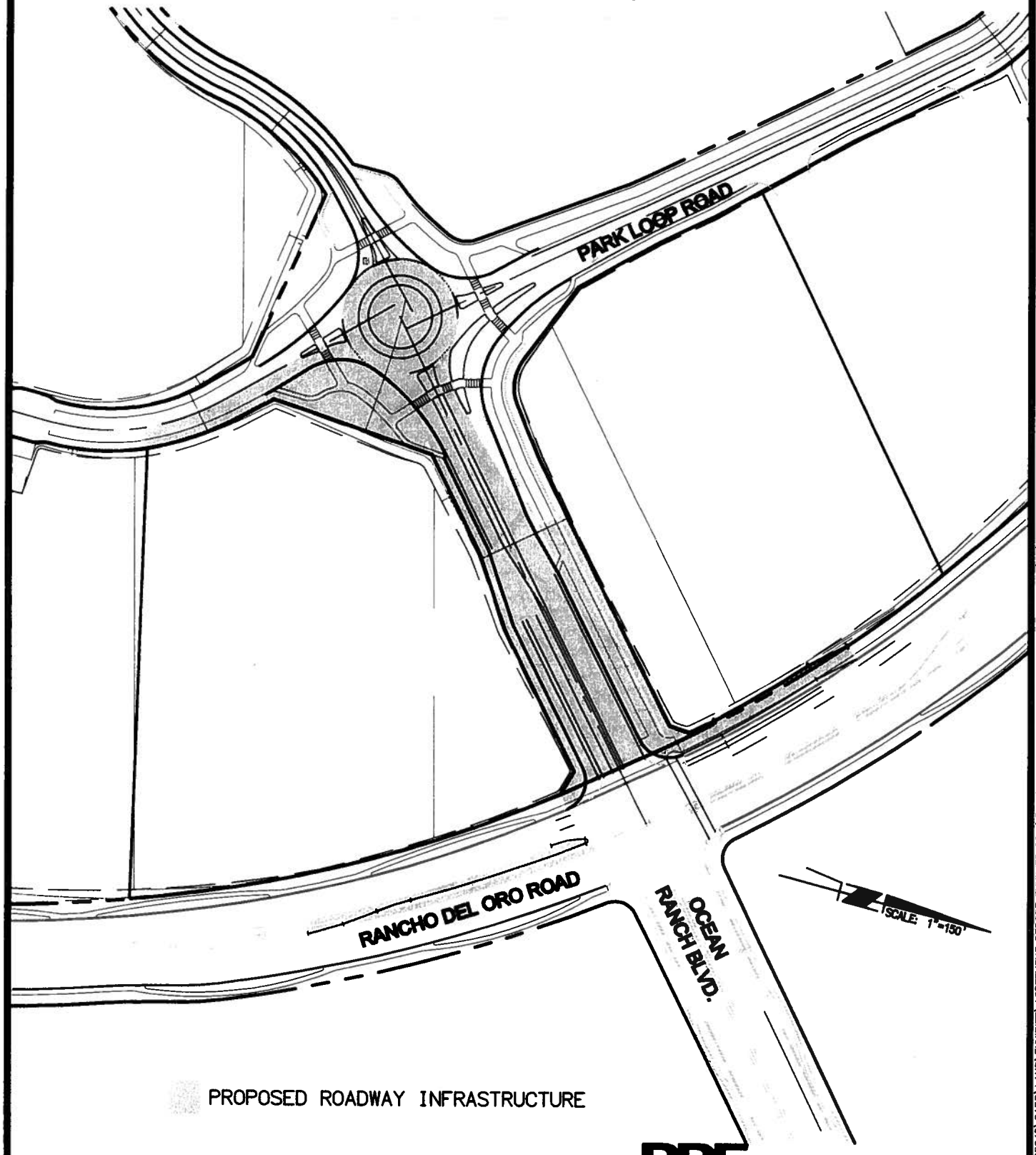
EXHIBIT "B"
INFRASTRUCTURE



PROPOSED ROADWAY INFRASTRUCTURE

RBF CONSULTING

March 29, 2011

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PROPERTY EXCHANGE AGREEMENT

This PROPERTY EXCHANGE AGREEMENT ("Agreement") is made and entered into as of July 6, 2011 ("Effective Date") by and between the City of Oceanside, a California municipal corporation, ("City") and Ivey Ranch Development Company, LLC ("IRDC"). The Effective Date shall be the date this Agreement is approved by the Oceanside City Council.

RECITALS

WHEREAS, the City is the owner of a fee interest in that certain real property commonly referred to as El Corazon situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit "A" attached hereto and incorporated herein by reference (the "El Corazon Property");

WHEREAS, IRDC is the owner of a fee interest in that certain real property adjacent to the El Corazon Property situated in the City of Oceanside, County of San Diego, State of California, as more particularly shown on Exhibit "B" attached hereto and incorporated herein by reference (the "IRDC Lot 13 Property");

WHEREAS, the IRDC's Lot 13 Property, consisting of 3.10 acres, has been developed as Lot 13 of Map No. 15185, Ocean Ranch Subdivision and IRDC is desirous of further developing said property;

WHEREAS, the City is desirous of utilizing a portion of the IRDC's Lot 13 Property consisting of 0.85 gross acres as part of the development of El Corazon as more particularly shown on Exhibit "C" attached hereto and incorporated herein by reference (the "IRDC Property");

WHEREAS IRDC, in furtherance of its development of IRDC's Lot 13 Property, is desirous of utilizing a portion of the City Property that is adjacent to IRDC's Lot 13 Property consisting of 6.44 gross acres as more particularly shown on Exhibit "D" attached hereto and incorporated herein by reference (the "City Property"); and providing other valuable consideration to the City so as to provide equal value;

WHEREAS, the City and IRDC are desirous of effectuating a trade of the IRDC Property for the City Property and for other valuable consideration so that each respective party can further develop the respective El Corazon project and the IRDC Lot 13 Property;

WHEREAS, the City has determined that an exchange of the respective properties and other valuable consideration is in the best interest of the public;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto agree as follows:

AGREEMENT

ARTICLE 1.

PURPOSE

1.1. Purpose of Agreement. The City and IRDC respectively desire to exchange the City Property for the IRDC Property and other valuable consideration on the terms and conditions in this Agreement.

1.2. Status and Powers of the City. The City is a California municipal corporation organized and existing pursuant to the Constitution and statutes of the State of California and is authorized to acquire the IRDC Property from IRDC and perform the conditions and covenants as more particularly described in this Agreement.

1.3. Status and Powers of IRDC. IRDC is a limited liability company organized under and existing pursuant of the laws of the State of California, authorized to conduct business in California and to acquire the City Property from the City and perform the conditions and covenants as more particularly described in this Agreement.

1.4. Public Benefit. This Agreement is for the benefit of the public and is in the furtherance of the public purposes of the City.

ARTICLE 2.
DEFINITIONS AND GENERAL PROVISIONS

2.1. Agreement. For good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as set forth herein.

2.2. Definitions in General. The terms defined in Exhibit "E" attached hereto and by this reference incorporated herein, as used and capitalized herein, shall, for all purposes of this Agreement, have the meanings ascribed to them in said Exhibit "E", unless the context clearly requires some other meaning. In addition, the term "Agreement" as used herein means this Property Exchange Agreement.

2.3. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement.

ARTICLE 3.
EXCHANGE OF PROPERTY

3.1. Exchange of Property. The City agrees to convey the City Property to IRDC and in exchange, IRDC agrees to convey the IRDC Property to City on the terms and conditions set forth in this Agreement.

3.2. Additional Consideration. The parties agree that the consideration for each respective property is the exchange of the other respective property and other valuable services and improvements in connection therewith. Other valuable services and improvements are more particularly described on Exhibit "F", attached hereto and incorporated herein by this reference ("Improvements"). IRDC shall complete the Improvements as defined in Exhibit "F" to the customary City standards. Completion of the Improvements shall satisfy all improvement obligations required for the development of the City Property and the IRDC Lot 13 Property by IRDC relating to public rights-of-way and other offsite improvements benefiting the public. No additional conditions will be made part of this Agreement. Other valuable services and improvements to be performed by the City are more particularly set forth in Sections 9.5 and 9.6 herein. The Improvements defined and shown on Exhibit "F" will be all of the improvements required by this Agreement for the New Lot 13 Development (as defined in Section 3.3 below).

3.3 IRDC's Share of the Costs of Improvements. The costs and expenses of the Improvements described in Section 3.2 shall be shared pursuant to Exhibit F-1 by the IRDC Lot 13 Property being retained by IRDC and the City Property (collectively, the "New Lot 13 Development") and the adjacent El Corazon Property. IRDC shall finance the costs and expenses for all of the Improvements detailed in Exhibit "F", but ultimately IRDC shall only be responsible for IRDC's Share of costs and expense as detailed in Exhibit F-1. IRDC shall also manage and administer the contracts for the Improvements. Prior to the construction of the Improvements and upon the completion of the Improvements, IRDC shall submit proof of its expenditures to the City Engineer, for approval by the City Engineer, which approval shall not be unreasonably withheld. The expenditures shall include all associated hard and soft costs incurred (for example the design, bonding, permitting, insurance, construction, construction management and administration, and inspection) for the Improvements. The actual Improvements and costs allocated thereto could change after this Agreement has been approved and before or after the actual construction begins. The parties shall enter into an amendment after completion of the Improvements setting forth the final approved expenditures in connection with the Improvements. If there is dispute regarding eligible reimbursement, the City and IRDC shall agree upon a third party reviewer. The third party reviewer shall determine the eligibility of costs in question for reimbursement. The cost of the third party reviewer will be shared equally and the decision of the third party reviewer will be final and binding. The City shall place a reimbursement requirement on the adjacent properties in El Corazon, as shown on Exhibit "J"

attached hereto and incorporated herein by this reference ("Reimbursement Property"). The reimbursement requirement shall be evidenced by a Reimbursement Agreement, to be entered into between IRDC and the City in the form as shown on Exhibit "H" (the "Reimbursement Agreement"), and the obligations of the City pursuant to the Reimbursement Agreement shall be secured by a Deed of Trust to be recorded against the adjacent El Corazon properties (Village Commercial (VC) and Park (PR)), in a form as shown on Exhibit "I". The Reimbursement Agreement shall provide that IRDC is to be reimbursed on or before the earlier of a.) a developer or the City obtaining the initial grading permit for any portion of the northerly one-half (1/2), north of the Senior Center, of the VC area or any of the approximately 37 acres of the westerly PR area (designated as "Park 1"), as referenced in the El Corazon Specific Plan, of the El Corazon Property and as further depicted on Exhibit "J", provided the development of said VC and PR areas will reasonably necessitate the use of the Improvements as either a primary or secondary point of ingress and egress, or b.) five (5) years from the substantial completion of the infrastructure as depicted on Exhibit "F".

ARTICLE 4.
CONDITIONS PRECEDENT

4.1. Conditions Precedent to Closing. Each party's obligation to convey its respective property to the other party is subject to the following conditions precedent set forth in Sections 4.2 through 4.10 inclusive ("Conditions Precedent"). Subject to the other party's rights under Article 7 "ESCROW", if any of the Conditions Precedent have not been fulfilled within the applicable time periods or if the other party disapproves, pursuant to this Article 4, a matter for which the other party's approval is required, each respective party may:

(a) Waive the condition or disapproval and close escrow with respect to the applicable property in accordance with this Agreement, without adjustment or rebate in the consideration; or

(b) Cure the failure of the condition or representation and adjust the consideration by the amount equal to the cost to cure; or

(c) Terminate this Agreement by written notice to the other party.

4.2. Title. Unless otherwise specified in this Agreement, the City shall convey title of its property to IRDC by grant deed and IRDC shall convey title to the City of its property by Right of Way dedication, in fee, on the Final Parcel Map, subject to the following: each party will provide to the other party access to documents in its possession regarding each party's property, specifically regarding the physical condition of the property and any breach of covenants or laws related to the property, but makes no representations or warranties as to the accuracy or reliability thereof. This provision should also include any restrictions, obligations, encumbrances, covenants or commitments established on either property which could impact the use and/or cost of delivering the subject land.

Either party makes no representations or warranties, expressed or otherwise, regarding the condition of title to their respective property or the condition of the property. Each party is obligated to investigate, inspect and analyze the condition of the other property and the condition of title to the other property to its own satisfaction and expressly agrees that in entering into this Agreement, it is relying on its own investigation as to the condition of the property to be conveyed and condition of title to the property to be conveyed, except as expressly provided herein.

4.3. Preliminary Title Report. Upon ordering the escrow, each party shall request a preliminary title report for their respective property ("Preliminary Report") issued by Stewart Title Insurance Company or another title insurance company mutually approved by the parties ("Title Company") containing such exceptions as the Title Company would specify in a California Land Title Association ("CLTA") standard policy of title insurance (or, provided the other party so requests in writing, as the Title Company would specify in an American Land Title Association ("ALTA") extended owner's policy of title insurance), together with copies of all exceptions and plotted easements and the documents supporting the exceptions (hereinafter collectively called "Supporting Documents").

Within fifteen (15) days after receipt of legible copies of the Preliminary Report and Supporting Documents, each party shall give written notice to the other party of its approval or disapproval of the Preliminary Report, any part thereof, or of any exceptions, or of the condition of title reflected in the Preliminary Report or the Supporting Documents. If either party gives written notice of disapproval as provided in this paragraph, this Agreement shall be terminated and shall be of no force or effect. Provided, however, either party may elect, at its sole cost and expense, to remove or cure any disapproved item or items by delivering written notice thereof to the other party within ten (10) days following the date of written notification of the disapproval.

Although it is recognized that the City is a tax-exempt governmental agency, the City shall be obligated to pay any property taxes and assessments to the date of close of escrow levied against the City Property. The parties recognize that certain encumbrances such as existing deeds of trust, tax liens, certain assessment liens, and the like will be discharged through escrow as provided in this Agreement. Notwithstanding the giving of any notice or any failure to give any notice with respect to these items, they shall be discharged through escrow as provided in this Agreement.

From and after the effective date of the Preliminary Report, each party shall not alter the condition of title of their respective property without the express written consent of the other party.

4.4. Title Policies. On or before the close of escrow, each party shall have received evidence that Title Company is ready, willing, and able to issue, upon payment of the Title Company's regularly scheduled premium a California Land Title

Association (CLTA) standard policy of title insurance, or, if requested by the other party, an American Land Title Association (ALTA) extended owner's policy of title insurance in the face amount directed by each party (with respect to the property such party is acquiring hereunder) showing title to each respective property vested in the applicable party subject only to:

(a) Non-delinquent general, special, and supplemental property taxes or assessments constituting a lien at close of escrow, if applicable; and

(b) The matters described in the printed form portion of the Policy of Title Insurance to the extent that such matters do not conflict with the provisions of this Agreement; and

(c) Covenants, conditions, reservations, restrictions, easements or other matters appearing as exceptions in the Preliminary Report as approved by each respective party pursuant to this Agreement; and

(d) Any lien voluntarily imposed by each party with respect to the property to be conveyed by the other party as of the close of escrow.

4.5. Physical Condition of the City Property. IRDC accepts the physical condition of the City Property. IRDC agrees that the City Property is being exchanged in an "As-Is" and "Where-Is" condition, except as expressly provided for elsewhere herein. City shall not cause the physical condition of the City Property to deteriorate or change after the date of the inspection, normal wear and tear excepted, without the prior written consent of IRDC.

4.6. Physical Condition of the IRDC Property. The City accepts the physical condition of the IRDC Property. The City agrees that the IRDC Property is being exchanged in an "As-Is" and "Where-Is" condition, except as expressly provided for elsewhere herein. IRDC shall not cause the physical condition of the IRDC Property to deteriorate or change after the date of the inspection, normal wear and tear excepted, without the prior written consent of the City.

4.7. Property Documents. Within ten (10) working days after the date of this Agreement, each party shall make available for inspection by the other party current copies of all permits, soils tests, hazardous or toxic waste reports, geological studies, environmental impact studies, topographical maps, licenses, maintenance contracts, utility contracts, operating contracts, leases, maintenance contacts, service contracts, or other documents specifically pertaining to the physical condition of the property or any breach of covenants or laws related to the applicable property ("Property Documents"). This provision should also include any restrictions, obligations, encumbrances, covenants or commitments established on either property which could impact the use and/or cost of delivering the subject land. Prior to the close of the Feasibility Period pursuant to Section 8.1 herein, each respective party shall review and approve or disapprove each respective set of Property Documents. On or before the close of escrow,

where applicable, each respective party shall assign to the other party all of their rights and remedies under the Property Documents, to the extent assignable, pursuant to an assignment of contracts, warranties, guarantees, and other intangible property in form and substance satisfactory to the other party. At the request of each respective party, the assignment of contracts shall exclude the other party's rights under any Property Documents as designated by said respective party. At the request of the other party, each respective party shall use its best good faith efforts to obtain the consent to assignment of any other parties to the Property Documents as specified by the other party. At the request of the respective party, the other party shall terminate any Property Documents designated by said respective party (as authorized by the Property Documents), by delivering notices to the other party under the Property Documents in sufficient time to terminate the respective Property Documents prior to the close of escrow.

4.8. Non-foreign Affidavit. If applicable, on or before the close of escrow, IRDC shall deliver to the City a non-foreign affidavit as required by the Foreign Investment In Real Property Tax Act (FIRPTA) [42 USC § 1445] executed by IRDC.

4.9. IRDC's Obligations. The performance by IRDC of each and every material covenant, agreement, and promise to be performed by IRDC pursuant to this Agreement and the related documents executed or to be executed by IRDC shall be a condition for the City's benefit.

4.10. City's Obligations. The performance by the City of each and every material covenant, agreement, and promise to be performed by the City pursuant to this Agreement and the related documents executed or to be executed by the City shall be a condition for IRDC's benefit.

4.11. IRDC's Representations. The truth and accuracy of all IRDC's representations and warranties as set forth in this Agreement or in documents provided by IRDC under this Agreement, subject to the provisions of Section 4.2, shall be a condition for the City's benefit.

4.12. City's Representations. The truth and accuracy of all City's representations and warranties as set forth in this Agreement or in documents provided by the City under this Agreement, subject to the provisions of Section 4.2, shall be a condition for IRDC's benefit.

4.13. Reimbursement Agreement and Deed of Trust. The Reimbursement Agreement and the Deed of Trust pursuant to Section 3.3 shall be in the forms as shown in Exhibits I and J and shall be a condition for IRDC's benefit.

ARTICLE 5.
REPRESENTATIONS AND WARRANTIES

5.1. Time. The representations and warranties by each respective party in this Article are made as of the date of this Agreement and as of the close of escrow and will survive the close of escrow and the recording of the Grant Deed and Quit Claim

Deeds as applicable. Notwithstanding the foregoing, in the event that, despite the truth of the representations and warranties set forth in this Article on the date hereof, new facts arise subsequent to the date hereof that result in any representation or warranty made in this Article 5 being untrue as of Closing, the party making such representation or warranty shall not be deemed in breach or default of this Agreement provided that such party promptly gives written notice of such new facts to the other party, and the sole and exclusive remedy of the other party for any such new facts and for the failure of such representation or warranty being correct as of Closing is to agree to accept such representation or warranty as modified by such new facts so disclosed or to terminate this Agreement for a failure of the condition in Section 4.11 or 4.12 above, as applicable.

5.2. Title. Each party has obtained (or will obtain as of close of escrow) all required consents, permissions or releases to convey good and marketable title to the other party.

5.3. Hazardous Substances. To each party's knowledge, their respective property is free from Hazardous Substances and is not in violation of any Environmental Laws. Each party has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on their respective property is or has been in violation of any Environmental Law, or informing each party that their respective property is subject to investigation or inquiry regarding Hazardous Substances on the respective property or the potential violation of any Environmental Law.

5.4. Violation of Law. To each party's knowledge, no condition on their respective property violates any health, safety, fire, environments, building, zoning or other federal, state, or local law, code, ordinance, or regulation.

5.5. Litigation. There is no knowledge of pending or threatened litigation, administrative proceeding, or other legal or governmental action or condemnation with respect to each party's respective property or which may adversely affect the other party's ability to fulfill the obligations of this Agreement.

5.6. Bankruptcy. No filing by IRDC or petition under the United States Bankruptcy Law or any insolvency laws, or any laws for composition of indebtedness or for the reorganization of debtors has been filed with regard to IRDC.

5.7. No Defaults. Each party is not in default of its obligations or liabilities pertaining to each party's respective property. There are no facts, circumstances, conditions or events, which after notice or lapse of time would constitute default. Each party has not received any notice of any default and has no reason to believe that there is likely to be any breach or default of any of such party's obligations or liabilities pertaining to their respective property.

5.8. Special Studies Zone. Each property is not within a special studies zone under the Alquist-Priolo Geologic Hazard Act [Pub. Res. Code §§ 2621.9 et seq.] (which generally requires sellers to inform purchasers if property is within a special studies zone, which zones are generally near potentially or recently active earthquake faults).

5.9. Foreign Investment Real Property Tax Act. IRDC is not a "foreign person" within the meaning of 42 USC § 1445(f)(3). IRDC understands and agrees that the City may disclose the certification made in this section to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. This certification is made under penalty of perjury under the laws of the State of California.

5.10. Power to Enter into Agreements.

(a) IRDC is duly authorized to enter into this Agreement. The provisions of this Agreement are and will be the valid and legally enforceable obligations of IRDC in accordance with their terms and the terms of this Agreement. IRDC has duly authorized and executed this Agreement.

(b) The City is duly authorized to enter into this Agreement. The provisions of this Agreement are and will be the valid and legally enforceable obligations of the City in accordance with their terms and the terms of this Agreement. The City has duly authorized and executed this Agreement.

5.11. No Violation of Other Agreements. Each party hereby represents that neither the execution and delivery of this Agreement, nor the fulfillment of and compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of terms or violation of any other agreement to which each party is involved or by which each party is bound, or constitutes a default under any of the foregoing.

5.12. Payment of Obligations. To the extent each party is authorized by the Property Documents, each party shall discharge all obligations and liabilities under the Property Documents before the close of escrow with respect to each party's respective property.

5.13. Brokers. Each party agrees that there are no brokers or real estate agents involved in this transaction that would be entitled to a fee or commission. Each party shall hold the other party harmless from any claims for such fees or commissions claimed by another broker, real estate agent or other third party claiming through each party.

ARTICLE 6.
COVENANTS

6.1. Litigation. Each party shall immediately notify the other party of any lawsuits, condemnation proceedings, rezoning, or other governmental order or action, or

any threat thereof, of which each party has actual knowledge, which might affect their respective property or any interest of each regarding their property.

6.2. Indemnification. The City shall indemnify, defend and hold IRDC harmless from all liability, loss, or claim for damages, and any costs and reasonable attorney's fees associated therewith, arising from breach of the City's covenants under this Agreement and any other related documents, or from the City's false representations under this Agreement or in any other related documents, except for any liability, loss, or claims for damages resulting from the sole negligence or willful misconduct of IRDC or its officers or employees.

IRDC shall indemnify, defend and hold the City harmless from all liability, loss, or claim for damages, and any costs and reasonable attorney's fees associated therewith, arising from breach of IRDC's covenants under this Agreement and any other related documents, or from IRDC's false representations under this Agreement or in any other related documents, except for any liability, loss, or claims for damages resulting from the sole negligence or willful misconduct of the City or its officers or employees.

The provisions of this Section 6.2 shall survive the close of escrow regarding each respective property.

6.3. Community Facilities Districts. The IRDC Property is currently subject to Community Facilities District No. 2000-1 (Ocean Ranch Corporate Centre) ("CFD 2000-1"), and a special tax may be included in the City's annual property tax bill for the repayment of indebtedness incurred by CFD 2000-1. Concurrently with the execution of this Agreement, the City shall execute and deliver to IRDC the Notice of Special Tax in the form attached hereto and incorporated herein as Exhibit "G". Additionally, if, after the Close of Escrow and prior to the conveyance of any portion of the IRDC Property by the City to a third party, the City is required, as the owner of the IRDC Property, to pay assessments levied by CFD 2000-1, and provided further that at such time the IRDC Property is being used by the City for public purposes which would normally be deemed to tax-exempt, then IRDC shall pay such assessment levied upon the IRDC Property. In no event shall IRDC be obligated to pay any such assessments to the extent they are applicable to a period after the City has conveyed any portion of the IRDC Property to a third party, nor shall IRDC be obligated to pay any such assessments during any period when any portion of the IRDC Property is being utilized for other than a public purpose that is normally deemed to be tax-exempt.

ARTICLE 7.

ESCROW

7.1. Establishment of Escrow. Within seven (7) days after the date this Agreement is approved by the Oceanside City Council, the parties shall establish an Escrow for the close of the exchange of the properties with the escrow department of the Title

Company ("Escrow Agent"). If the Escrow Agent is unwilling or unable to perform, the City shall designate another escrow agent. Escrow Agent shall notify both parties in writing of the specific date on which the Escrow has opened. This Agreement shall constitute Escrow Instructions, provided however, that Escrow Agent shall prepare general instructions as may be deemed necessary by the Escrow Agent for the fulfillment of this Agreement and deliver those general instructions to the parties. The parties shall each execute the general instructions, or propose changes thereto, within five (5) days after receipt of the instructions. If there is any conflict between the terms of the general instructions and this Agreement, the provisions of this Agreement shall prevail unless the conflicting provision is specifically identified as an amendment to this Agreement.

7.2. Closing. Subject to the provisions of Section 4.1 herein and no later than sixty (60) days ("Closing Deadline") after the recordation of the Lot Line Adjustment for the conveyance of the City Property to IRDC (as hereinafter defined), which Lot Line Adjustment shall include but not be limited to, all environmental sign-offs, if necessary, including expiration of all applicable appeal periods and conclusion of all appeals in a manner upholding such approval, if any, pursuant to Section 9.1 herein, the Grant Deed, Quit Claim Deeds and the Deed of Trust shall be recorded. Executed originals of the Reimbursement Agreement shall be delivered to each party ("Close of Escrow") after each party has either approved or waived each respective Condition Precedent. The IRDC Property to be conveyed to the City as a condition of this Agreement will be designated in the Lot Line Adjustment as future Public Right of Way and dedicated as Public Right of Way on the Final Parcel Map.

7.3. Closing Deposits. On or before the Close of Escrow, each party shall deposit with Escrow Agent the following documents and shall close Escrow as follows:

(a) IRDC shall deposit with Escrow Agent the following:

(i) The original executed and acknowledged Quit Claim Deed perfecting the Lot Line Adjustment;

(ii) The original Non-Foreign Affidavit executed by IRDC;

(iii) A certificate acknowledging that all conditions to the Close of Escrow that City was to satisfy or perform have been satisfied and performed, and that IRDC's representations, covenants, and warranties made in or pursuant to this Agreement are correct as of the Close of Escrow;

(iv) Additional cash in the amount necessary to pay IRDC's share of the closing costs as set forth in this Agreement or the escrow instructions and the cost of the Title Policy for Title Insurance with respect to the City Property;

(v) The original executed Reimbursement Agreement pursuant to Section 3.3 above; and

(vi) Any other documents or funds required of IRDC to close Escrow in accordance with this Agreement.

(b) City shall deposit with Escrow Agent the following:

(i) The original executed and acknowledged Grant Deed conveying the City Property from City to IRDC;

(ii) The original executed and acknowledged Quit Claim Deed perfecting the Lot Line Adjustment;

(iii) The original Non-Foreign Affidavit executed by the City;

(iv) A certificate executed by the City providing that all conditions to Close of Escrow that IRDC was to satisfy or perform have been satisfied and performed and the City's representations, covenants, and warranties made in and pursuant to this Agreement are correct as of the Close of Escrow;

(v) Additional cash in the amount necessary to pay the City's share of the closing costs as set forth in this Agreement or the escrow instructions and the cost of the Title Policy for Title Insurance with respect to the IRDC Property;

(vi) The original executed and acknowledged Deed of Trust and the original executed Reimbursement Agreement; and

(vii) Any other document or funds required of the City to close Escrow in accordance with this Agreement.

7.4. Closing Costs. The parties shall pay their respective premiums for the CLTA Standard Policies of Title Insurance for the properties they are acquiring, real property transfer taxes and documentary transfer taxes (if any) payable upon recordation of the Grant Deed and Quit Claim Deeds for the properties, and any sales, use or ad valorem taxes connected with the Close of Escrow for each of the properties. If either party requests an ALTA extended owner's policy the requesting party shall pay the excess premium for said title policy. The parties shall equally pay the Escrow Agent's fee.

7.5. Property Taxes and Prorations. IRDC shall be solely responsible for bringing the IRDC Property's real property taxes current as of the Close of Escrow and City shall have no liability for payment of IRDC taxes. It is recognized that City is a tax-exempt governmental agency. Each party shall continue to be obligated to pay for gas, electricity, water or other utility charges applicable to each party's

respective property and will be responsible for the cost of all such utilities used before Close of Escrow.

7.6. Possession. Right to possession of each property, or the applicable parcel, shall transfer at Close of Escrow free of all tenancies.

ARTICLE 8.
MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

8.1. Inspection and Feasibility Period. Each party hereby consents to entry upon their respective property by the other party or its officers, employees, contractors and agents for the purpose of conducting physical inspections and tests from the Effective Date of this Agreement to the Close of Escrow. Each party shall have forty-five (45) calendar days from the Effective Date of this Agreement ("Feasibility Period") in which to complete its inspections, testing and feasibility studies of the other party's property, including but not limited to, inspection and examination of soils, environmental factors, Hazardous Substances, if any, and archeological information relating to the other party's property; and a review and investigation of the effect of any zoning, map, permits, reports, engineering data, regulations, ordinances, and laws affecting the other party's property. Within ten (10) working days following the full execution of this Agreement, each party shall make available for inspection by the other party copies of all architectural plans, surveys, specifications, and other documents pertaining to their respective property that are owned by or in the possession of each respective party. Delays, beyond ten (10) working days, in receiving the requested documents will extend the "Feasibility Period" by an equal amount of days as the delay. If either party disapproves of the results of the inspection and review, either party may elect, prior to the last day of the Feasibility Period, to terminate this Agreement by giving the other party written notification prior to the last day of the Feasibility Period. If either party fails to properly notify the other party of their intent to terminate this Agreement, said party shall be deemed to be satisfied with the results of the inspection and shall be deemed to have waived the right to terminate this Agreement pursuant to this provision.

8.2. Further Assurances. Whenever requested by the other party, each party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, releases, instruments of further assurance, approvals, consents and any other instrument or document as may be necessary, expedient or proper to complete the transaction contemplated by this Agreement, and to do any other acts and to execute, acknowledge, and deliver any requested document to carry out the intent and purpose of this Agreement.

8.3. Assignment. Neither party shall have the right, power, or authority to assign or mortgage this Agreement or any portion of this Agreement, or to delegate any duties or obligations arising under this Agreement, voluntarily, involuntarily, or by operation of law, without the prior written consent of the other party. Neither party shall unreasonably withhold approval to any assignment.

8.4. Preservation and Inspection of Documents. Documents received by either party under the provisions of this Agreement shall be retained in their respective possessions and shall be subject at all reasonable times to the inspection of the other party hereto and its assigns, agents and representatives, any of whom may make copies thereof.

8.5. Parties of Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than each respective party any rights, remedies or claims under or by reason of this Agreement or any covenants, condition or stipulation hereof; and all covenants, stipulations, promises and agreements in this Agreement made by or on behalf of each party shall be for the sole and exclusive benefit of the other party.

8.6. No Recourse under Agreement. All covenants, stipulations, promises, agreements and obligations of the parties hereto contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any member, officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for any claim based on or under this Agreement against any member, officer, employee or agent of the parties hereto.

8.7. Notices. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or delivered by Express Mail of the U.S. Postal Service or Federal Express or any other courier guaranteeing overnight delivery, charges prepaid. Notices, requests, demands, consents, approvals and other communications may also be transmitted by telecopy. If any notice, request, demand, consent, approval or other communication is sent by mail as aforesaid, the same shall be deemed fully delivered and received two (2) business days after mailing as provided above. Any notice, request, demand, consent, approval or other communication sent by overnight service shall be deemed delivered one (1) business day after delivery of the same, charges prepaid, to the U.S. postal service or private courier. If any notice, request, demand, consent, approval or other communication is sent by telecopy, the same shall be deemed served or delivered upon confirmation of the transmission thereof. Any notice, request, demand, consent, approval or other communication sent by any other manner shall be effective only upon actual receipt thereof. All notices, requests, demands, consents, approvals and other communications shall be addressed to the party for whom intended, as follows:

If to City:

CITY OF OCEANSIDE
Property Management Division
ATTN: Real Property Manager
300 North Coast Highway
Oceanside, CA 92054

Copy to:

City Attorney's Office
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054

If to IRDC:

Ivey Ranch Development Company, LLC
Attn: Dougall Agan
27422 Portola Parkway, Suite 300
Foothill Ranch, CA 92610

Copy to:

The Wolfson Law Firm
Attn: Kenneth A. Wolfson, Esq.
27422 Portola Parkway, Suite 300
Foothill Ranch, CA 92610

The parties hereto, by notice given hereunder, may, respectively designate different addresses to which subsequent notices, certificates or other communications will be sent.

8.8. Binding Effect. Without waiver of Section 8.3, this Agreement shall inure to the benefit of and shall be binding upon each party, and their respective successors and assigns.

8.9. Severability. If any one or more of the covenants, stipulations, promises, agreements or obligations provided in this Agreement on the part of each party to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this Agreement.

8.10. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof,

shall be solely for convenience or reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

8.11. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

8.12. Each Party's Representatives. Whenever under the provisions of this Agreement the approval of each respective party is required, or each respective party is required to take some action at the request of the other, such approval of such request may be given for each party by an Authorized Officer of said party, and any party hereto shall be authorized to rely upon any such approval or request.

8.13. Amendment. This Agreement may be amended, modified, or changed only in writing as mutually agreed to and duly executed by the parties hereto.

8.14. Counterparts. This Agreement may be executed in counterpart.

8.15. Time of the Essence. Time is of the essence in this Agreement and every provision contained in this Agreement.

8.16. Integration. This Agreement, and all attachments and exhibits hereto constitute the entire agreement of the parties. There are no oral or parol agreements, which are not expressly set forth in this Agreement or the related documents being executed in connection with this Agreement.

8.17. Waivers. No waiver or breach of any provision shall be deemed a waiver of any other provision, and no waiver shall be valid unless it is in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act.

8.18. Attorneys' Fees, Litigation Costs and Related Matters. If any legal action or other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs in addition to any other relief. Venue for enforcement of this Agreement shall be in the Superior Court of San Diego County, North County Branch. The parties agree that before either party commences any legal or equitable action, action for declaratory relief, suit, proceeding, or arbitration that the parties shall first submit the dispute to mediation through a mutually acceptable professional mediator in San Diego County, or if a mediator cannot be agreed upon by a mediator appointed by the Judicial Arbitration and Mediation Service in San Diego County. The parties shall share the cost of mediation equally.

8.19. Exhibits. All exhibits referred to in this agreement and attached hereto are made a part hereof and are incorporated herein by this reference.

8.20. Survival. Each party's representations and warranties, all covenants and obligations to be performed at a time or times after Close of Escrow, and indemnities shall survive the Close of Escrow and delivery and recordation of the Grant Deed and Quit Claim Deeds.

8.21. Merger. All of the terms, provisions, representations, warranties, and covenants of the parties under this Agreement shall survive the Close of Escrow and shall not be merged in the Grant Deed and Quit Claim Deeds or other documents.

8.22 Related Discretionary Actions. By entering into this Agreement with IRDC, the City is not obligating itself as a regulatory body or to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the development as proposed under this Agreement. Discretionary action includes, but is not limited to rezoning, variances, conditional use permits, environmental clearances or any other governmental agency approvals which may be required for the development as proposed under this Agreement.

ARTICLE 9.
SPECIAL PROVISIONS

9.1. Lot Line Adjustment.

(a) Lot Line Adjustment Application. Each party hereby consents to the filing of a Lot Line Adjustment for both properties ("Lot Line Adjustment"). Each party agrees to cooperate with the other party in processing the application for the Lot Line Adjustment in an expeditious manner. IRDC shall take the lead in processing the Lot Line Adjustment. The documents to be prepared for the Lot Line Adjustment shall more particularly describe the City Property and the IRDC Property (as shown on Exhibits "C" and "D") for the purpose of providing legal descriptions for the Grant Deed and Quit Claim Deeds. The City, by giving said consent, is not obligating itself or any of its boards, commissions, officers, employees or agents with regard to any other discretionary action related to each property.

(b) Lot Line Adjustment Completion. In the event the Lot Line Adjustment has not been recorded within one hundred and twenty (120) days from the date of this Agreement ("Lot Line Adjustment Date"), for any reason whatsoever, either party shall have the right to terminate this Agreement. IRDC shall diligently pursue and prosecute the filling of the necessary applications for the Lot Line Adjustment so as to be approved and obtained by the Lot Line Adjustment Date and that Escrow will be in a position to close by the Closing Deadline pursuant to Article 7 herein.

(c) Cost of Lot Line Adjustment. The costs for the application fees and for the preparation of the Lot Line Adjustment and/or other required documents, including but not limited to, reports, drawings, plans and maps shall borne by IRDC.

(d) Failure to Obtain Lot Line Adjustment. The parties acknowledge that in the event the Lot Line Adjustment is not approved and obtained by the Lot Line Adjustment Date and/or Escrow does not timely close and either party elects to terminate the Agreement, this Agreement shall be terminated immediately and shall be of no further force or effect, provided, however, IRDC shall be and remain responsible for all costs associated with the Lot Line Adjustment.

9.2. Development of the City Property. IRDC acknowledges and agrees that the City Property is part of the approved El Corazon Master Plan notwithstanding the fact that the City Property will be developed in conjunction with the remainder of the IRDC Lot 13 Property. IRDC also acknowledges that the City of Oceanside has processed and obtained City Council approval for the El Corazon Specific Plan to govern the development of the real property within the El Corazon Master Plan. Accordingly, IRDC further acknowledges and agrees that as a material consideration for the exchange of properties, the City Property shall be developed in accordance with the development standards and guidelines of any approved El Corazon Specific Plan. IRDC also agrees that it will include an element of public art as part of the development of the City Property, in a manner mutually acceptable to IRDC and City.

9.3. Development of the IRDC Property. Notwithstanding that the IRDC Lot 13 Property was approved in accordance with the Ocean Ranch Tentative Tract T-1-99 and pursuant to the Ocean Ranch Master Plan D-7-99, the New Lot 13 Development , which is a portion of the IRDC Lot 13 Property, shall also be developed as part of the El Corazon Master Plan and pursuant to the El Corazon Specific Plan. It is the intent of IRDC to create (for approval by the City of Oceanside) a tentative parcel map and final parcel map covering the City Property and the New Lot 13 Development in order to create 2 –6 parcels for sale and/or development and to separate the public rights-of-way associated with the development thereof. In the event of a conflict between the language of the El Corazon Specific Plan and the Ocean Ranch CC&R's and Design Guidelines, the language set forth in the El Corazon Specific Plan shall take precedence.

9.4. Completion of Improvements. As further consideration for the exchange of the respective properties, IRDC, providing its share of the costs of the Improvement, as detailed in Exhibit F, shall complete the Improvements as described in Section 3.2 above no later than five (5) years after the Close of Escrow, subject to extension due to delays resulting from war, riot, civil insurrection, acts of governmental agencies, inclement weather, earthquake, fire, shortages of materials or other acts beyond the reasonable control of IRDC. Additionally, to assure completion of the Improvements as described in Section 3.2 above, IRDC,

as a condition to the Final Parcel Map, at its cost and expense (but subject to partial reimbursement pursuant to the Reimbursement Agreement), shall also provide a performance and materials bond in an amount consistent with Exhibit F, to insure timely completion thereof in accordance with the terms and conditions contained herein. Said performance and materials bond shall be in a form and in an amount similar to those required and provided for with respect to similar public improvements associated with development projects in the City of Oceanside.

9.5. Use of Fill Material from El Corazon.

(a) Option for Fill Material. IRDC shall have the option to export fill material from the El Corazon Property pursuant to the terms and conditions of this Agreement. The delivery to and deposit of said fill material on the New Lot 13 Development and or the Improvements will be in accordance with IRDC's Development Plan.

(b) Fill Material Feasibility. The City shall provide to IRDC or IRDC's agents access to the El Corazon Property, in the area designated by the City as the borrow site ("Fill Site"), at such times as IRDC may reasonably request. Such access shall be for the purpose of enabling IRDC or IRDC's agents to undertake such tests of the fill material, as may be reasonably necessary, to determine if such fill material is suitable for the purpose for which it is intended to be used, that is, as fill material on the New Lot 13 Development for the development thereof in accordance with IRDC's Development Plan. It is expressly understood by IRDC that said fill material is without any representations or warranties by City as to the suitability of said fill material for IRDC's intended use thereof. IRDC shall provide telephonic notice to the City's Real Property Manager at (760) 435-5012 of the need for IRDC or IRDC's agent to have access to the Fill Site and the El Corazon Property for the purpose of conducting such tests. Such notice shall be given at least forty-eight (48) hours prior to the time that IRDC or IRDC's agent shall need to have access to such property. The City will designate the location of the Fill Site within ten (10) working days of request from IRDC.

(c) Exercise of Option. IRDC shall notify the City in writing of IRDC's election to exercise its option to utilize fill material pursuant to this Section not later than that date which is five (5) years after the Close of Escrow. It is expressly understood by IRDC that should IRDC elect to export fill material from the Fill Site, IRDC may export up to 150,000 cubic yards of fill material for the Improvements and the New Lot 13 Development. Such notice shall include the quantity of the fill material that IRDC shall export; provided, however, the amount of such fill material to be utilized from the Fill Site shall not exceed 150,000 cubic yards.

(d) Consideration for Fill Material. Should IRDC elect to use fill material as set forth above, the City agrees to provide said fill material to IRDC as other valuable services in connection with the exchange of properties. In the event IRDC does not elect to exercise said option or fails to use said fill material, no additional consideration or services are required of the City in connection with the exchange of the respective properties. Should IRDC elect to use fill material from the Fill Site, IRDC shall be solely responsible for all costs and expenses associated therewith and shall remove the fill material from the El Corazon Property in accordance with a grading plan for the Fill Site prepared by IRDC's geotechnical and civil engineers, subject to the Reimbursement Agreement.

(e) Grading Permit. IRDC, at IRDC's expense, shall take any and all actions necessary to obtain a grading permit to remove the fill material from the Fill Site. The grading permit will authorize the grading necessary to export the fill material from the Fill Site to the Improvements and New Lot 13 Development.

(f) Import of Fill to the Improvements and New Lot 13 Development. IRDC shall, at its cost and expense (but subject to partial reimbursement pursuant to the Reimbursement Agreement), import the fill material from the Fill Site to the Improvements and the New Lot 13 Development, in accordance with the procedures and provisions established by the City of Oceanside with respect to a grading permit and/or development permit for the New Lot 13 Development.

(g) Time. Fill material shall be extracted from the Fill Site no later than twenty-four (24) months after the Exercise of Option.

9.6. Disposal of Cut Material to El Corazon.

(a) Option for Material Disposal. IRDC shall have the option to dispose cut material on the El Corazon Property pursuant to the terms and conditions of this Agreement. The removal and disposal of said cut material from the New Lot 13 Development and or the Improvements will be in accordance with IRDC's Development Plan.

(b) Cut Material Acceptability. IRDC shall have the right to dispose cut material in an area designated by the City as the "Disposal Site" located within the El Corazon Property. It is expressly understood by the City that said cut material is without any representations or warranties by IRDC as to the suitability of said material for the City's intended use thereof. The City will designate the location of the Disposal Site within ten (10) working days of request from IRDC.

(c) Exercise of Option. IRDC shall notify the City in writing of IRDC's election to exercise its option to dispose cut material pursuant to this

Section not later than that date which is five (5) years after the Close of Escrow. It is expressly understood by IRDC that should IRDC elect to export cut material to the Disposal Site, IRDC may dispose up to 150,000 cubic yards of cut material from the Improvements and the New Lot 13 Development. Such notice shall include the quantity of the cut material that IRDC shall dispose; provided, however, the amount of such cut material to be exported to the Disposal Site shall not exceed 150,000 cubic yards.

(d) Consideration for Cut Material Disposal. Should IRDC elect to dispose cut material as set forth above, the City agrees to accept said cut material from IRDC as other valuable services in connection with the exchange of properties. In the event IRDC does not elect to exercise said option or fails to dispose said cut material, no additional consideration or services are required of City in connection with the exchange of the respective properties. Should IRDC elect to export cut material to the Disposal Site, IRDC shall be solely responsible for all costs and expenses associated therewith and shall export the cut material to the El Corazon Property in accordance with a grading plan for the Disposal Site prepared by IRDC's geotechnical and civil engineers, subject to the Reimbursement Agreement.

(e) Grading Permit. IRDC, at IRDC's expense, shall take any and all actions necessary to obtain a grading permit allowing export of cut material to the Disposal Site. The grading permit will authorize the grading necessary, within El Corazon, to export the cut material to the Disposal Site from the Improvements and New Lot 13 Development.

(f) Export of Cut from the Improvements and New Lot 13 Development. IRDC shall, at its cost and expense (but subject to partial reimbursement pursuant to the Reimbursement Agreement), export the cut material to the Disposal Site from the Improvements and the New Lot 13 Development, in accordance with the procedures and provisions established by the City of Oceanside with respect to a grading permit and/or development permit for the New Lot 13 Development.

(g) Time. Cut material shall be exported to the Disposal Site no later than twenty-four (24) months after the Exercise of Option.

IN WITNESS WHEREOF, this Agreement constitutes offers to exchange the respective properties on the terms and conditions contained in this Agreement and the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized officers as of the date first above written.

CITY:

City of Oceanside,
a California municipal corporation

By:_____
Mayor

Date:_____

APPROVED AS TO FORM
CITY ATTORNEYS' OFFICE

By:_____
City Attorney

IRDC:

Ivey Ranch Development Company, LLC,
a California limited liability company

By: Stirling Enterprises, LLC
a California limited liability company

By:_____
Chris Downey, Director

By:_____
Dougall Agan, Director

By: IVEY RANCH, INC.,
a California corporation, Member

By:_____
Thomas P. Gilliss, President

State of California)

) ss.
County of _____)

On _____ before me, _____, 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)

) ss.
County of _____)

On _____ before me, _____, 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.

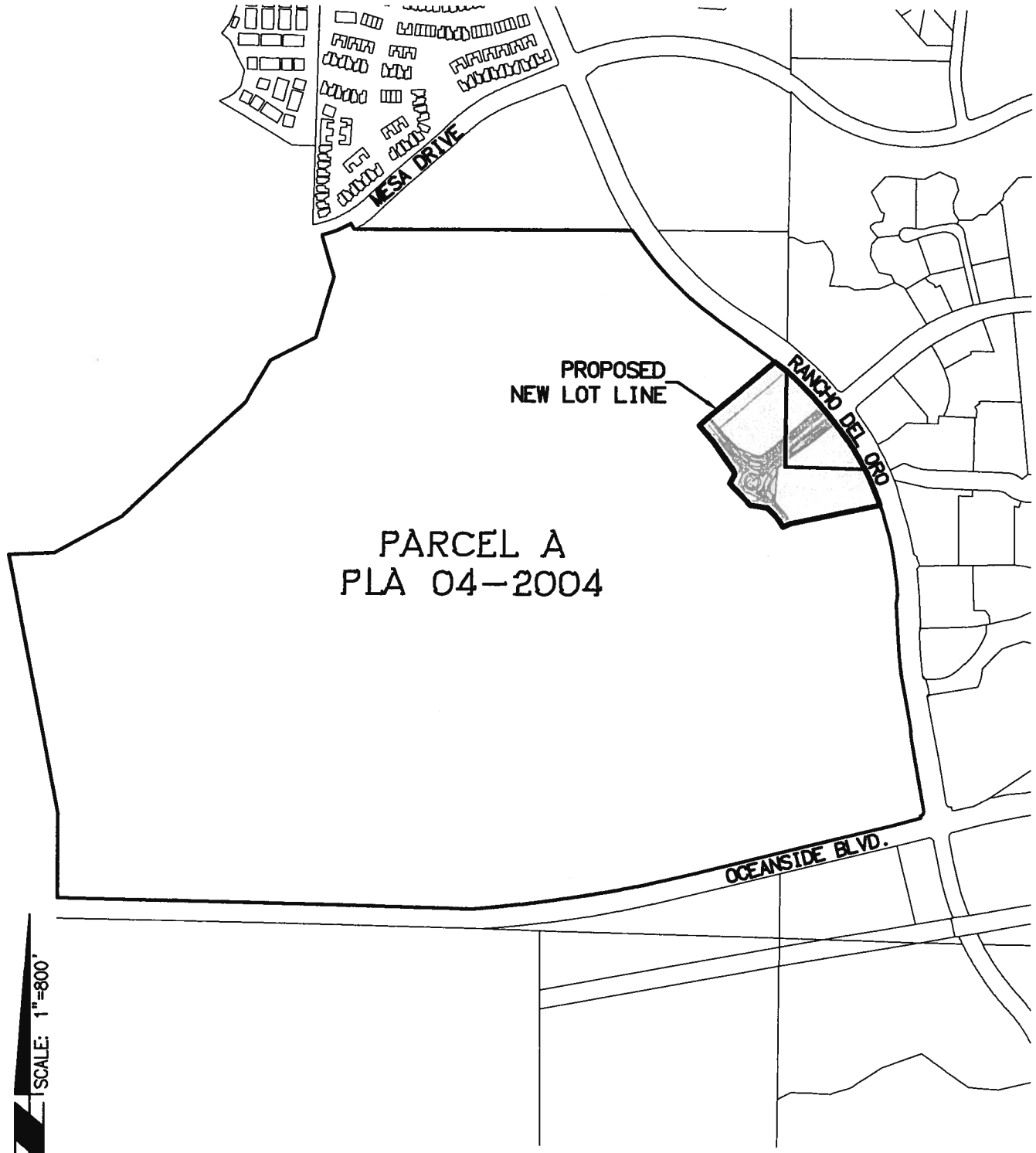
Signature _____ (Seal)

EXHIBITS

Exhibit A	El Corazon Property
Exhibit B	IRDC Lot 13 Property
Exhibit C	IRDC Property
Exhibit D	City Property
Exhibit E	Definitions
Exhibit F	Improvements
Exhibit F-1	Shared Costs Breakdown
Exhibit G	Notice of Special Tax
Exhibit H	Form of Reimbursement Agreement
Exhibit I	Form of Deed of Trust
Exhibit J	Reimbursement Property

EXHIBIT "A"

EL CORAZON PROPERTY



RBF CONSULTING

March 29, 2011

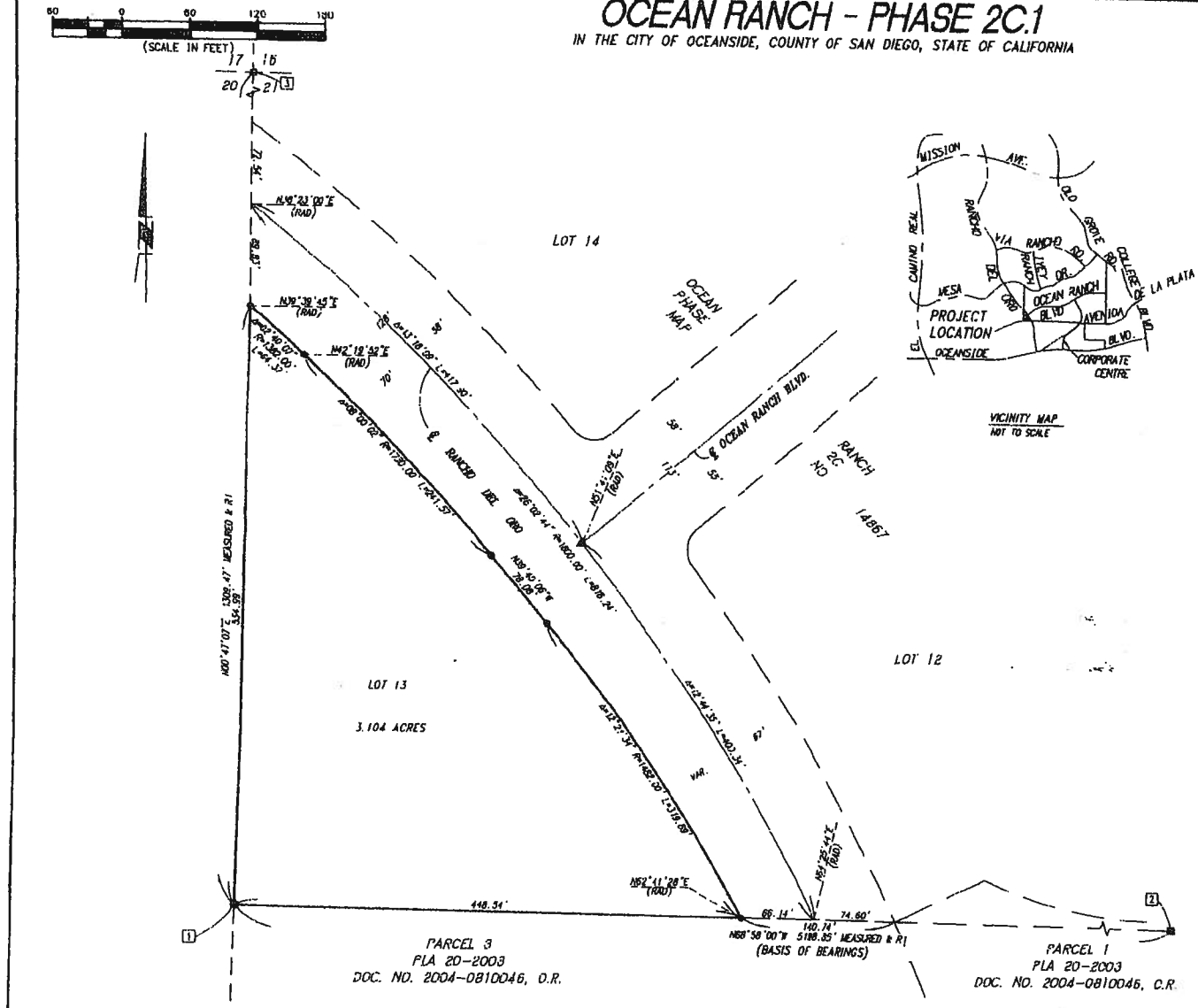
H:\PDATA\10105046\CADD\LAND\EXHIBITS\AGREEMENT REPORT EXHIBITS 2011\EXHIBIT A - PROPERTY.DWG GILBERT 3/29/11 8:44 pm

MAP NO. 15185

OCEAN RANCH - PHASE 2C.1

IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 2 OF 2 SHEETS
T.M NO. T-1-99(2C.1)



BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED UPON THE BEARING OF THE SOUTHERLY LINE OF PARCEL 1, OF PARCEL MAP NO. 18899, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1992 AS FILE NO. 1992-0433187 OF OFFICIAL RECORDS SHOWN AS NORTH 88°57'44" WEST ON SAID MAP AND SHOWN AS NORTH 88°58'00" WEST ON THE PROCEDURE OF SURVEY FOR OCEAN RANCH-PHASE 1, FILED AS MAP NO. 14168, RECORDED MARCH 15, 2001 AND SHOWN AS NORTH 88°58'00" WEST ON THIS MAP.

PROCEDURE OF SURVEY NOTE:

FOR PROCEDURE OF SURVEY, SEE SHEET 2 OF OCEAN RANCH-PHASE 1, FILED AS MAP NO. 14168, RECORDED MARCH 15, 2001.

RECORD DATA NOTE:

R1 DENOTES RECORD DATA PER OCEAN RANCH - PHASE 1, FILED AS MAP NO. 14168 AND MEASURED DATA.

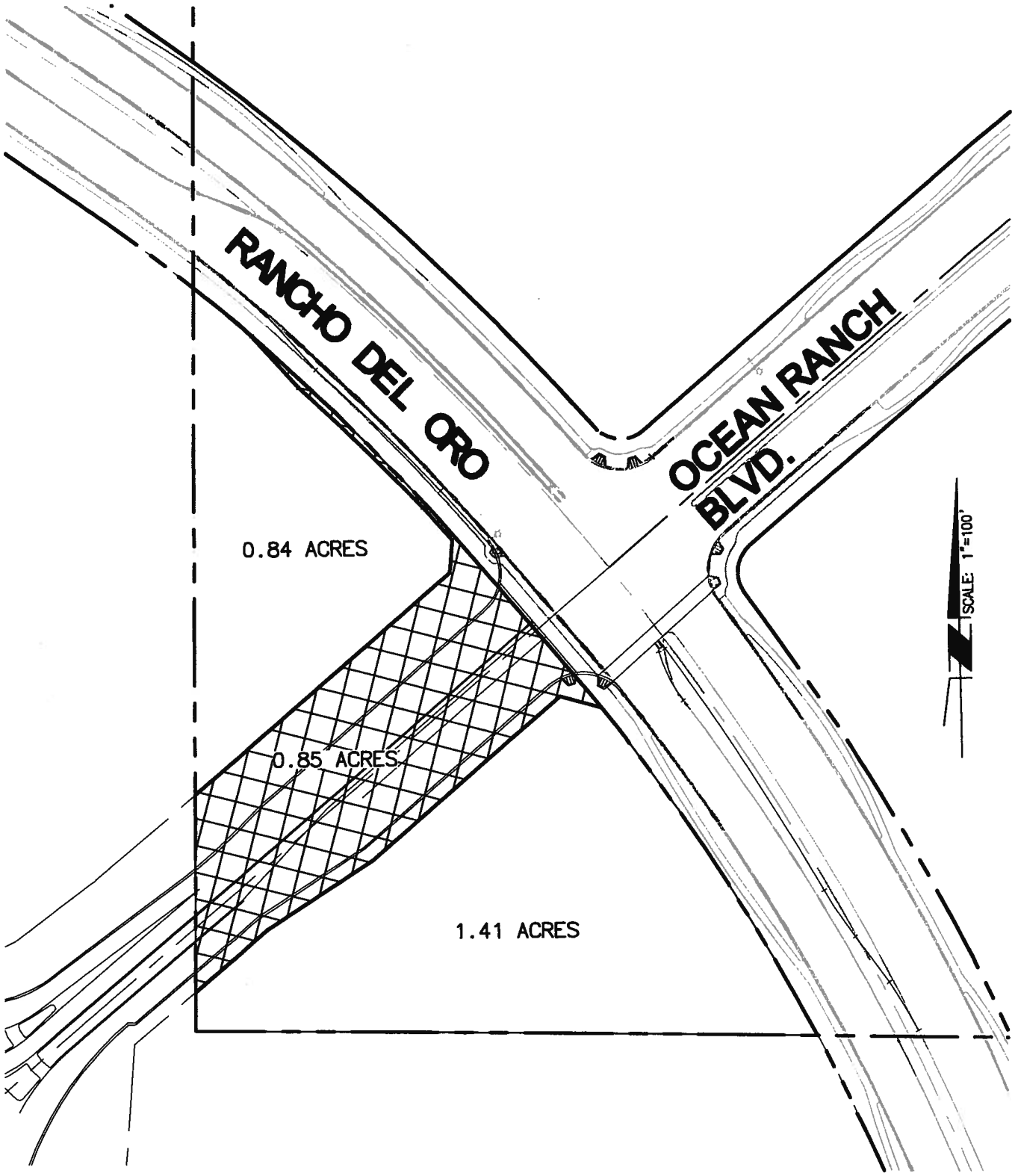
MONUMENT NOTES:

- ● 2" IRON PIPE WITH TAG STAMPED "L.S.4965" TO BE SET PER OCEAN RANCH - PHASE 2C, MAP NO. 14867, UNLESS OTHERWISE NOTED
- ▲ STREET SURVEY MONUMENT STAMPED "L.S. 4965" TO BE SET PER OCEAN RANCH - PHASE 2C, MAP NO. 14867, UNLESS OTHERWISE NOTED.
- ■ INDICATES FOUND MONUMENT AS NOTED AND REFERENCED HEREON.
- [1] FOUND 2" IRON PIPE WITH TAG STAMPED "L.S 4965" PER OCEAN RANCH - PHASE 2C, MAP NO. 14867.
- [2] FOUND SPIKE W/BRASS WASHER STAMPED "L.S. 5894" FLUSH WITH SURFACE, IN LIEU OF 2" IRON PIPE W/ DISK MARKED LS 5894, ACCEPTED PER PARCEL MAP NO. 18899
- [3] FOUND 2" IRON PIPE WITH BRASS CAP STAMPED "R.C.E. 8195" WITH SECTION CORNERS 16, 17, 20, AND 21 SHOWN, PER OCEAN RANCH -PHASE 1, MAP NO. 14168.

JN 10-103709 H:\PDATA\10103709\CADD\MAPPING\LOT13\PH2C_1TR002.DWG

Exhibit "B"
IRDC Lot 13 Property

EXHIBIT "C"
IRDC PROPERTY



RBF CONSULTING

March 29, 2011

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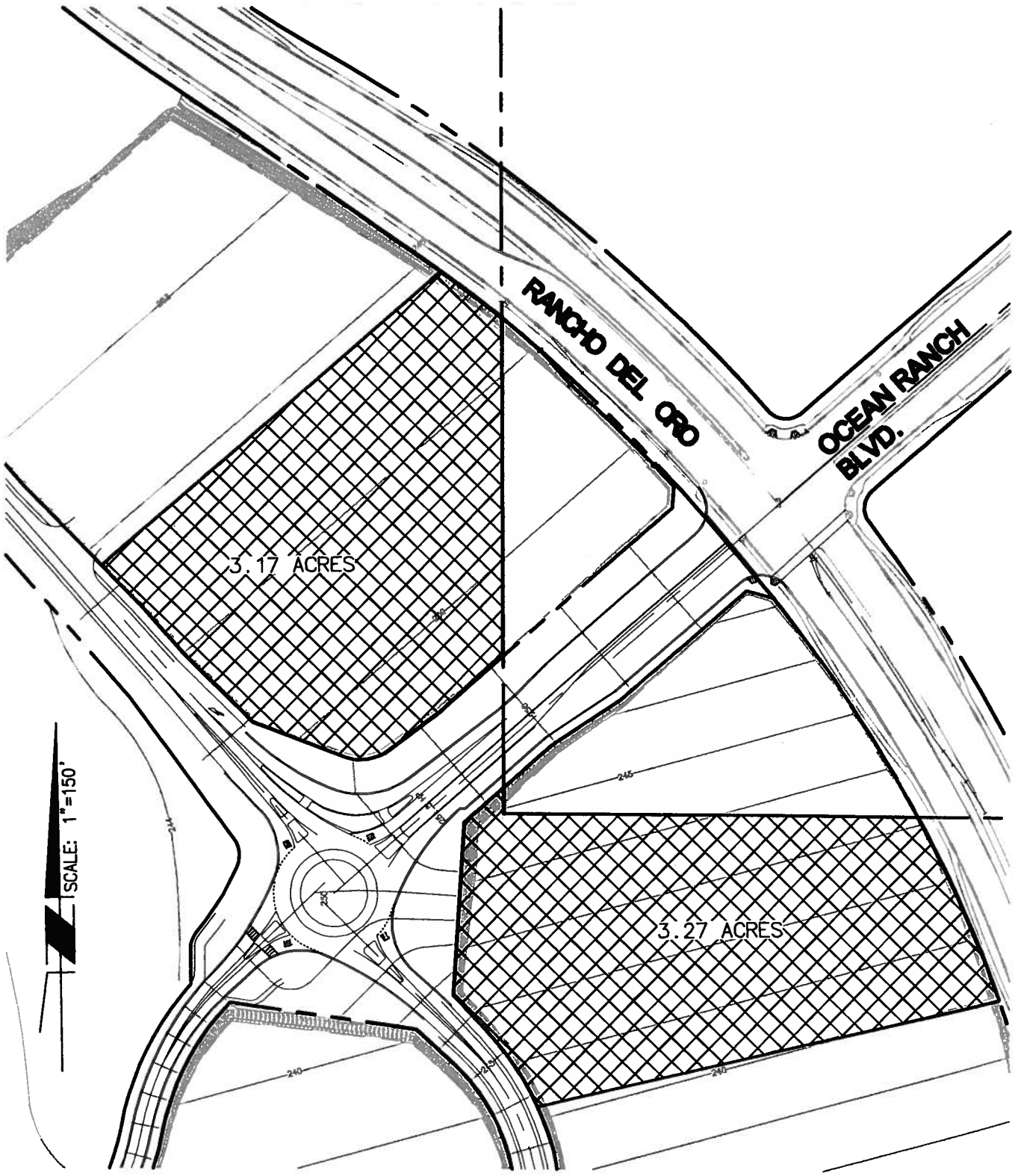
EXHIBIT "D"

CITY PROPERTY



RBF CONSULTING

March 29, 2011

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EXHIBIT "E"
DEFINITIONS

Authorized Officer. The term "Authorized Officer", when used with respect to City, means the Mayor, City Manager or any employee designated by the City Manager of the City as an Authorized Officer. The term "Authorized Officer", when used with respect to IRDC, means the Directors of IRDC or any other officer of IRDC, which is designated by its Directors as an Authorized Officer.

Environmental Laws. The term Environmental Laws means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, or pertaining to occupational health or industrial hygiene, to the extent that such relate to matters on, under, or about the City Property and IRDC Property, occupational or environmental conditions on, under, or about the City Property and IRDC Property, as is in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USC § 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USC § 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution control Act (FWPCA) [33 USC § 1251 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USC § 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USC § 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 USC § 6901 et seq.]; the Clean Air Act [42 USC § 7401 et seq.]; the Safe Drinking Water Act [42 USC § 300f et seq.]; the Surface Mining Control and Reclamation Act [30 USC § 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USC § 11001 et seq.]; the Occupational Safety and Health Act [29 USC § 655 and 657]; the California Underground Storage of Hazardous Substances Act [Health and Safety Code § 25280 et seq.]; the California Hazardous Substances Account Act [Health and Safety Code § 25300 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [Health and Safety Code § 24249.5 et seq.]; the Porter-Cologne Water Qualify Act [Water Code § 13000 et seq.] together with any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to the protection of the environment as such apply to matters on, under, or about the City Property and IRDC Property.

Hazardous Substances. The term "Hazardous Substances" includes without limitation:

(a) Those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste" or "pollutant or contaminant" in any Environmental Law;

(b) Those substances listed in the United States Department of Transportation Table [49 CFR 172.101], or by the Environmental Protection Agency, or any successor agency, as hazardous substances [40 CFR Part 302];

(c) Other substances, materials, and wastes that are regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

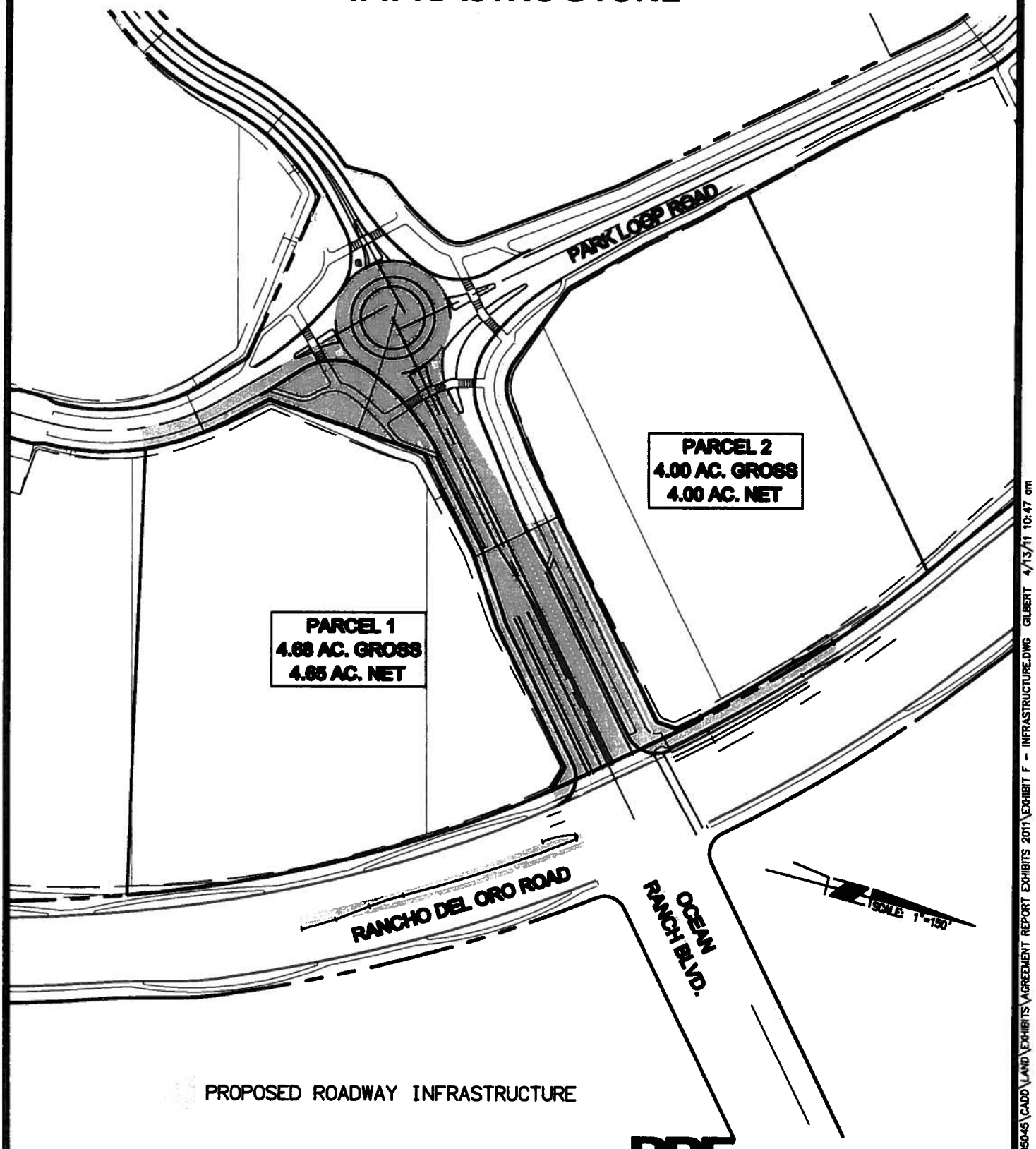
(d) Any material, waste, or substance that is a petroleum or refined petroleum product, asbestos, polychlorinated biphenyl, designated as a hazardous substance pursuant to 33 USC § 1321 or listed pursuant to 33 USC § 1317, a hazardous substance or toxic material designated pursuant to any State statute, a flammable explosive or a radioactive material.

City Property. The term "City Property" means that certain real property within the City of Oceanside, California, together with the improvements located thereon, all as more fully described in Exhibit "D" attached hereto.

IRDC Property. The term "IRDC Property" means that certain real property within the City of Oceanside, California, together with the improvements located thereon, all as more fully described in Exhibit "C" attached hereto.

State. The term "State" means the State of California.

EXHIBIT "F"
INFRASTRUCTURE



PROPOSED ROADWAY INFRASTRUCTURE

RBF CONSULTING

March 29, 2011

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ESTIMATE
IMPROVEMENTS FOR
TENTATIVE TRACT NO. T-1-99
LOT 13 STREET IMPROVEMENTS

5/23/2011

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL
I.	**RDO ROAD/"B" STREET and PARK LOOP ROAD IMPROVEMENTS**				
A.	**Mobilization (not to exceed 2% of Contract)**	1	LS	$25,500.00	$25,500.00
	SUBTOTAL				**$25,500.00**
B.	**Develop Construction Water**	1	LS	$2,500.00	$2,500.00
	SUBTOTAL				**$2,500.00**
C.	**Construction Preparation**				
1	Traffic Control	1	LS	$15,000.00	$15,000.00
2	Erosion Control	1	LS	$10,000.00	$10,000.00
	SUBTOTAL				**$25,000.00**
D.	**EXISTING IMPROVEMENTS**				
3	Sawcut/Remove and Dispose Existing AC Pavement	1,010	SF	$2.00	$2,020.00
4	Coldmill	5,050	SF	$0.40	$2,020.00
5	Sawcut/Remove and Dispose Existing Concrete Curb	1,010	LF	$5.00	$5,050.00
6	Sawcut/Remove and Dispose Existing Concrete Sidewalk/Median F	4,530	SF	$3.00	$13,590.00
7	R&R Median Trench Drain	330	LF	$25.00	$8,250.00
	SUBTOTAL				**$30,930.00**
E.	**EARTHWORK**				
8	Mass Excavation (cut) Rough Grade RW to RW	13,300	CY	$2.00	$26,600.00
9	Subgrade Preparation	76,700	SF	$0.30	$23,010.00
	SUBTOTAL				**$49,610.00**
F.	**PAVING**				
10	6" AC over 12" AB Paving	42,000	SF	$3.50	$147,000.00
11	5.5" AC over 24" AB Paving (RDO)	7,280	SF	$5.00	$36,400.00
12	2" AC Overlay	5,050	SF	$0.80	$4,040.00
	SUBTOTAL				**$187,440.00**
G.	**MISCELLANEOUS CONCRETE**				
13	6" Type "G" Curb & Gutter	1,432	LF	$13.50	$19,332.00
14	6" Median Curb/Rolled Curb	1,340	LF	$12.50	$16,750.00
15	RDO Median Curb - 6" Type B-1	387	LF	$10.50	$4,063.50
16	4" P.C.C. Sidewalk	10,565	SF	$4.50	$47,542.50
17	DG Trail	1,080	SF	$1.50	$1,620.00
18	Curb Ramp	10	EA	$1,000.00	$10,000.00
19	RDO Median Concrete Paving (Exposed Aggregate)	580	SF	$10.00	$5,800.00
20	Median Concrete Paving	4,405	SF	$8.00	$35,240.00
21	Local Depression	2	EA	$1,500.00	$3,000.00
	SUBTOTAL				**$143,348.00**

H.	**MISCELLANEOUS**				
22	6" PVC Sleeve	380	LF	$30.00	$11,400.00
23	Landscape and Irrigation	23,450	SF	$3.00	$70,350.00
24	Barricade	30	LF	$50.00	$1,500.00
25	AC Berm	615	LF	$6.00	$3,690.00
28	AC Sidewalk	800	SF	$2.00	$1,600.00
	SUBTOTAL				**$88,540.00**
I.	**TRAFFIC**				
27	Signal Modification	1	LS	$85,000.00	$85,000.00
28	Signing/Striping	1	LS	$8,000.00	$8,000.00
29	Street Light System	1	LS	$20,000.00	$20,000.00
	SUBTOTAL				**$113,000.00**
J.	**UTILITIES**				
	Storm Drain				
30	24" RCP	70	LF	$98.00	$6,860.00
31	30" RCP	74	LF	$130.00	$9,620.00
32	36" RCP	135	LF	$160.00	$21,600.00
33	Type A-4 Cleanout	1	EA	$6,500.00	$6,500.00
34	Type B-5 Cleanout	2	EA	$7,900.00	$15,800.00
35	Concrete Lug	0	EA	$1,500.00	$0.00
36	Type B-1 Inlet (L=15')	2	EA	$9,300.00	$18,600.00
37	48" CSP Riser	2	EA	$2,500.00	$5,000.00
	Water				
38	8" PVC	1,040	LF	$40.00	$41,600.00
39	8" Valve	13	EA	$1,200.00	$15,600.00
40	12" Valve	8	EA	$2,500.00	$15,000.00
41	1 1/2" Water Meter (Irrigation) w/Fee (Common Area)	1	EA	$25,000.00	$25,000.00
42	Fire Hydrant	2	EA	$3,500.00	$7,000.00
43	4" Blow Off	7	EA	$2,750.00	$19,250.00
44	2" Air Vac.	1	EA	$2,000.00	$2,000.00
	Reclaimed Water				
45	Reclaimed Water (in lieu fee)	1	LS	$18,488.00	$18,488.00
	Sewer				
46	8"PVC	400	LF	$42.00	$16,800.00
47	48" Manhole	3	EA	$6,000.00	$18,000.00
48	Inspection Manhole	3	EA	$5,750.00	$17,250.00
49	Squash box SD w/ Transitions (to allow sewer over 54" SD)	30	LF	$500.00	$15,000.00
	Dry Utilities				
50	Joint Trench	810	LF	$185.00	$149,850.00
51	Utility Fees (SDG&E)	1	LS	$50,000.00	$50,000.00
	SUBTOTAL				**$494,818.00**
K.	**PROFESSIONAL SERVICES AND FEES**				
52	Mapping/Civil/Landscape Design	1	LS	$100,000.00	$100,000.00
53	Plancheck and Inspection Fees	1	LS	$20,000.00	$20,000.00
54	Bonds	1	LS	$10,000.00	$10,000.00
55	Field Survey	1	LS	$25,000.00	$25,000.00
56	Field Soils	1	LS	$20,000.00	$20,000.00
57	Construction Management	1	LS	$85,000.00	$85,000.00
58	Utility Design	1	LS	$5,000.00	$5,000.00
	SUBTOTAL				**$265,000.00**

TOTAL (Items A through K58)	**$1,425,686.00**
15% Contingency	$213,852.90
TOTAL	**$1,639,538.90**

ESTIMATE
LOT 13 DEVELOPMENT
COST TO FINISH CITY LAND

1/18/11

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL
A.	**Site Grading**				
1	3.68ac City Developable Land (60,000 CUT)	60,000	CY	$2	$120,000
2	2.77ac City Undevelopable Land (Overexcavate???)	?			
B.	**Professional Services and Fees**				
3	Civil Design	1	LS	$20,000	$20,000
4	Plancheck and Inspection Fees	1	LS	$5,000	$5,000
5	Bonds	1	LS	$3,000	$3,000
6	Field Survey	1	LS	$10,000	$10,000
7	Field Soils	1	LS	$15,000	$15,000
8	Field Paleo	1	LS	$15,000	$15,000
9	Construction Management	1	LS	$17,000	$17,000
	Site Grading SUBTOTAL				**$205,000**

TOTAL (Items A1 through B9)	**$205,000**
15% Contingency	$30,750
TOTAL	**$235,750**

EXHIBIT F-1

ESTIMATE
LOT 13 DEVELOPMENT
SHARE OF COSTS

ITEM NO.		DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL
A.	1	**Street "B" Roadway Infrastructure**	1.000	LS	$1,425,686	$1,425,686
	2	**Finish City Land**	1.000	LS	$205,000	$205,000

TOTAL	$1,630,686
15% Contingency	$244,603
TOTAL for Improvements (to be funded by IRDC)	**$1,875,289**
Value of City Land (See exhibit H of Property Exchange Agreement)	$1,414,724
Value of IRDC Land (See exhibit H of Property Exchange Agreement)	$338,788
TOTAL to be Reimbursed by City	**$799,353**
TOTAL IRDC's Share of the Costs of Improvements (Equal to value of City Land less value of IRDC's Land)	$1,075,936

EXHIBIT G

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 2000-1 OF THE CITY OF OCEANSIDE (OCEAN RANCH CORPORATE CENTRE)

TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

Lot 13 of Map. 15185, Oceanside, California

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR ENTERING INTO A CONTRACT TO PURCHASE THIS PROPERTY. THE SELLER IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

(1) This property is (or is expected to become) subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. It is (or is expected to be) imposed on this property because it is a new development, and may not be imposed generally upon property outside of this new development. If you fail to pay this tax when due each year, the property may be foreclosed upon and sold. The tax is (or is expected to be) used to provide public facilities or services that are likely to particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE BENEFITS FROM THE FACILITIES AND SERVICES FOR WHICH IT PAYS (OR IS EXPECTED TO PAY) INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

(2) Since this parcel is currently Undeveloped Property, the maximum special tax which may be levied against this parcel to pay for public facilities and services is $7,512.08 per acre during the 2004-2005 tax year. This amount will increase by two percent (2%) per year on each July 1, commencing July 1, 2005. If this parcel was Developed Property (i.e., if a building permit had been issued by January 1, 2004), then the maximum special tax which could have been levied against this parcel to pay for public facilities and services during the 2004-2005 tax year would have been the greater of (a) $7,166.79 per acre ($97,540.02 assuming 13.61 acres of land) or (b) $0.379 per square foot of the total building square footage of the buildings on this property measured from exterior walls as referenced on the applicable building permits ($42,069 assuming 111,000 square feet of total building square footage). This amount will increase by two percent (2%) per year on each July 1, commencing July 1, 2005. The special tax will be levied each year until all of the authorized facilities are built and all special tax bonds are repaid and may be levied thereafter to pay for ongoing service costs, but shall not be levied after the 2050-2051 tax year.

(3) The authorized facilities which are being paid for by the special taxes, and by the money received from the sale of bonds which are being repaid by the special taxes, are:

Sewers, storm drains, water improvements, street improvements, signal improvements, sidewalk extensions, street frontages, intersection improvements, driveways, relocation of overhead transmission lines, facilities to be constructed pursuant to the City's public facility, thoroughfare, traffic signal, major drainage, minor drainage, wastewater and water fee programs, together with appurtenant work and incidental costs incurred in connection therewith.

The facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION WHICH AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND WHICH SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE CITY OF OCEANSIDE BY CALLING (760) 435-3352. THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE READ THIS NOTICE AND RECEIVED A COPY OF THIS NOTICE PRIOR TO ENTERING INTO A CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITH RESPECT TO THE ABOVE-REFERENCED PROPERTY. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER, SUBDIVIDER, OR AGENT SELLING THE PROPERTY.

DATE:_____

City of Oceanside, a California municipal corporation

By:_____

Its:_____

Exhibit H

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (this "Agreement) is made and entered into by the City of Oceanside, a California municipal corporation ("City"), and Ivey Ranch Development Company, LLC, a California limited liability company ("IRDC").

RECITALS

WHEREAS, City and IRDC have entered into that certain Property Exchange Agreement dated as of July 6, 2011 (the "PEA");

WHEREAS, pursuant to the PEA, in addition to the exchange of certain properties and certain other matters set forth therein, IRDC has agreed to cause the construction of certain Improvements (as defined in the PEA), and City has agreed to cause IRDC to be reimbursed for a portion of the costs of the construction of such Improvements;

WHEREAS, the PEA requires that IRDC and City enter into a reimbursement agreement setting forth the obligation of City to cause IRDC to be reimbursed for certain costs in connection with the construction of the Improvements.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto agree as follows:

AGREEMENT

1. Defined Terms. All initially capitalized terms used, and not defined, in this Agreement shall have the meanings given to such terms in the PEA.

2. Advancement of Costs. As more specifically set forth in the PEA, IRDC shall complete the Improvements to the customary City standards. IRDC shall finance, subject to reimbursement, the costs and expenses for all of the Improvements for the New Lot 13 Development as provided in the PEA.

3. Reimbursement. The costs and expenses of the Improvements shall be shared pursuant to Exhibit A attached hereto and incorporated herein by this reference by the New Lot 13 Development and the Village Commercial and Park District, as referenced in the El Corazon Specific Plan, of the El Corazon Property (""VC" and "PR" respectively)". Although IRDC shall finance the costs and expenses for all of the Improvements, ultimately IRDC shall only be responsible for IRDC's Share of such costs and expense as detailed in Exhibit A. On or before the earlier of and by the following: (1) a Developer or the City obtaining of the initial grading permit for any portion of the VC or PR areas depicted in Exhibit "J" to the PEA, provided the development of said VC or PR areas will reasonably necessitate the use of the improvements as either a primary or secondary point of ingress and egress to the VC or PR areas or (ii)five (5) years from the substantial completion of the infrastructure as depicted on Exhibit F to the PEA, IRDC shall be reimbursed for all costs and expenses for all of the Improvements in excess of IRDC's Share of such costs and expenses. Concurrently with the execution of this Agreement, City shall deliver to IRDC an originally executed and acknowledged deed of trust encumbering

the VC and PR areas depicted on Exhibit J to the PEA, and securing the reimbursement obligation set forth in this Section 3, in the form attached hereto as Exhibit B and incorporated herein by this reference. IRDC shall have the right to cause such deed of trust to be recorded at any time.

4. Evidence of Costs. Prior to the construction of the Improvements and upon the completion of the Improvements, IRDC shall submit proof of its expenditures to the City Engineer, for approval by the City Engineer, which approval shall not be unreasonably withheld. The expenditures shall include all associated hard and soft costs incurred (for example the design, bonding, permitting, construction, construction management and administration, insurance, and inspection) for the Improvements. The actual Improvements and costs allocated thereto could change after the Property Exchange Agreement has been approved and before or after the actual construction begins. If there is dispute regarding eligible reimbursement, the City and IRDC shall agree upon a third party reviewer. The third party review shall determine the eligibility of costs in question for reimbursement. The cost of the third party reviewer will be shared equally and the decision of the third party reviewer will be final and binding. The parties shall enter into a written document after completion of the Improvements setting forth the final approved expenditures in connection with the Improvements.

5. Payments. Any payments shall be mailed to IRDC at the address set forth below unless IRDC substitutes a different address:

Ivey Ranch Development Company, LLC
27422 Portola Parkway, Suite 300
Foothill Ranch, CA 92610

6. No Partnership. It is understood and agreed by the parties hereto that the contractors hired by IRDC are not agents of City, and that the contractors' relationship with City, if any, is that of independent contractor.

7. Further Assurances. Whenever requested by the other party, each party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, releases, instruments of further assurance, approvals, consents and any other instrument or document as may be necessary, expedient or proper to complete the transaction contemplated by this Agreement, and to do any other acts and to execute, acknowledge, and deliver any requested document to carry out the intent and purpose of this Agreement.

8. Notices. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or delivered by Express Mail of the U.S. Postal Service or Federal Express or any other courier guaranteeing overnight delivery, charges prepaid. Notices, requests, demands, consents, approvals and other communications may also be transmitted by telecopy. If any notice, request, demand, consent, approval or other communication is sent by mail as aforesaid, the same shall be deemed fully delivered and received two (2) business days after mailing as provided above. Any notice, request, demand, consent, approval or other communication sent by overnight service shall be deemed delivered one (1) business day after delivery of the same, charges prepaid, to the U.S. postal service or private courier. If any notice, request, demand, consent, approval or other communication is sent by telecopy, the same shall be deemed served or delivered upon

confirmation of the transmission thereof. Any notice, request, demand, consent, approval or other communication sent by any other manner shall be effective only upon actual receipt thereof. All notices, requests, demands, consents, approvals and other communications shall be addressed to the party for whom intended, as follows:

If to City:

CITY OF OCEANSIDE
Property Management Division
ATTN: Real Property Manager
300 North Coast Highway
Oceanside, CA 92054

Copy to:

City Attorney's Office
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054

If to IRDC:

Ivey Ranch Development Company, LLC
Attn: Dougall Agan
27422 Portola Parkway, Suite 300
Foothill Ranch, CA 92610

Copy to:

The Wolfson Law Firm
Attn: Kenneth A. Wolfson, Esq.
27422 Portola Parkway, Suite 300
Foothill Ranch, CA 92610

The parties hereto, by notice given hereunder, may, respectively designate different addresses to which subsequent notices, certificates or other communications will be sent.

9. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon each party, and their respective successors and assigns.

10. Severability. If any one or more of the covenants, stipulations, promises, agreements or obligations provided in this Agreement on the part of each party to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this Agreement.

11. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

12. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

13. Each Party's Representatives. Whenever, under the provisions of this Agreement the approval of each respective party is required, or each respective party is required to take some action at the request of the other, such approval of such request may be given for each party by an Authorized Officer of said party, and any party hereto shall be authorized to rely upon any such approval or request.

14. Amendment. This Agreement may be amended, modified, or changed only in writing as mutually agreed to and duly executed by the parties hereto.

15. Counterparts. This Agreement may be executed in counterpart.

16. Time of the Essence. Time is of the essence in this Agreement and every provision contained in this Agreement.

17. Integration. This Agreement, and all attachments and exhibits hereto, together with the PEA, constitute the entire agreement of the parties. There are no oral or parol agreements, which are not expressly set forth in this Agreement or the related documents being executed in connection with this Agreement.

18. Waivers. No waiver or breach of any provision shall be deemed a waiver of any other provision, and no waiver shall be valid unless it is in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act.

19. Attorneys' Fees, Litigation Costs and Related Matters. If any legal action or other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs in addition to any other relief. Venue for enforcement of this Agreement shall be in the Superior Court of San Diego County, North County Branch. The parties agree that before either party commences any legal or equitable action, action for declaratory relief, suit, proceeding, or arbitration that the parties shall first submit the dispute to mediation through a mutually acceptable professional mediator in San Diego County, or if a mediator cannot be agreed upon by a mediator appointed by the Judicial Arbitration and Mediation Service in San Diego County. The parties shall share the cost of mediation equally.

20. Exhibits. All exhibits referred to in this agreement and attached hereto are made a part hereof and are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names by their duly authorized officers as of the date first above written.

CITY:

City of Oceanside,
a California municipal corporation

By:_____
Mayor

Date:_____

APPROVED AS TO FORM
CITY ATTORNEYS' OFFICE

By:_____
City Attorney

IRDC:

Ivey Ranch Development Company, LLC,
a California limited liability company

By: Stirling Enterprises, LLC
a California limited liability company

By:_____
Chris Downey, Director

By:_____
Dougall Agan, Director

By: IVEY RANCH, INC.,
a California corporation, Member

By:_____
Thomas P. Gilliss, President

EXHIBIT A

ESTIMATE
LOT 13 DEVELOPMENT
SHARE OF COSTS

ITEM NO.		DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL
A.	1	**Street "B" Roadway Infrastructure**	1.000	LS	$1,425,686	$1,425,686
	2	**Finish City Land**	1.000	LS	$205,000	$205,000

TOTAL	$1,630,686
15% Contingency	$244,603
TOTAL for Improvements (to be funded by IRDC)	**$1,875,289**
Value of City Land (See exhibit H of Property Exchange Agreement)	$1,414,724
Value of IRDC Land (See exhibit H of Property Exchange Agreement)	$338,788
TOTAL to be Reimbursed by City	**$799,353**
TOTAL IRDC's Share of the Costs of Improvements (Equal to value of City Land less value of IRDC's Land)	$1,075,936

Exhibit I

RECORDING REQUESTED BY AND WHEN RECORDED
MAIL TO:

Ivey Ranch Development Company, LLC
27422 Portola Parkway, Suite 300
Foothill Ranch, California 92610
Attention: Dougall Agan

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS

APN:_____

This Short Form Deed of Trust and Assignment of Rents, is made this _____ day of _____, 20__, by the City of Oceanside, a California municipal corporation, herein called **TRUSTOR**, whose address is 300 North Coast Highway, Oceanside, CA 92054, to Fidelity National Title Company, a California corporation, herein called **TRUSTEE**, for the benefit of Ivey Ranch Development Company, LLC, a California limited liability company, herein called **BENEFICIARY**, whose address is 27422 Portola Parkway, Foothill Ranch, California 92610.

Witnesseth: That Trustor **IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION**, that property in San Diego County, California (the "Property"), described as:

For complete legal description, see Exhibit "A" attached hereto.

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits.

For the Purpose of Securing: 1. Performance of each agreement of Trustor contained herein; 2. Payment and performance by Trustor of all of Trustor's obligations under that certain Reimbursement Agreement being entered into concurrently herewith between Trustor and Beneficiary (the "Reimbursement Agreement"); and 3. Performance of any obligation of Trustor to Beneficiary which may hereafter be evidenced by an agreement or other writing stating that such obligation is secured by this Deed of Trust.

To Protect the Security of This Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust, that provisions (1) to (19), inclusive, set forth on Exhibit "B" attached hereto, hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that it will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the Property, obligations, and parties set forth in this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at its address hereinbefore set forth.

DATE: _____, 20__

City of Oceanside, a California municipal corporation

By:_____
Name:_____
Title:_____

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 OF NOTARY PUBLIC

(Seal)

_____

Description of Attached Document

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 OF NOTARY PUBLIC

(Seal)

_____

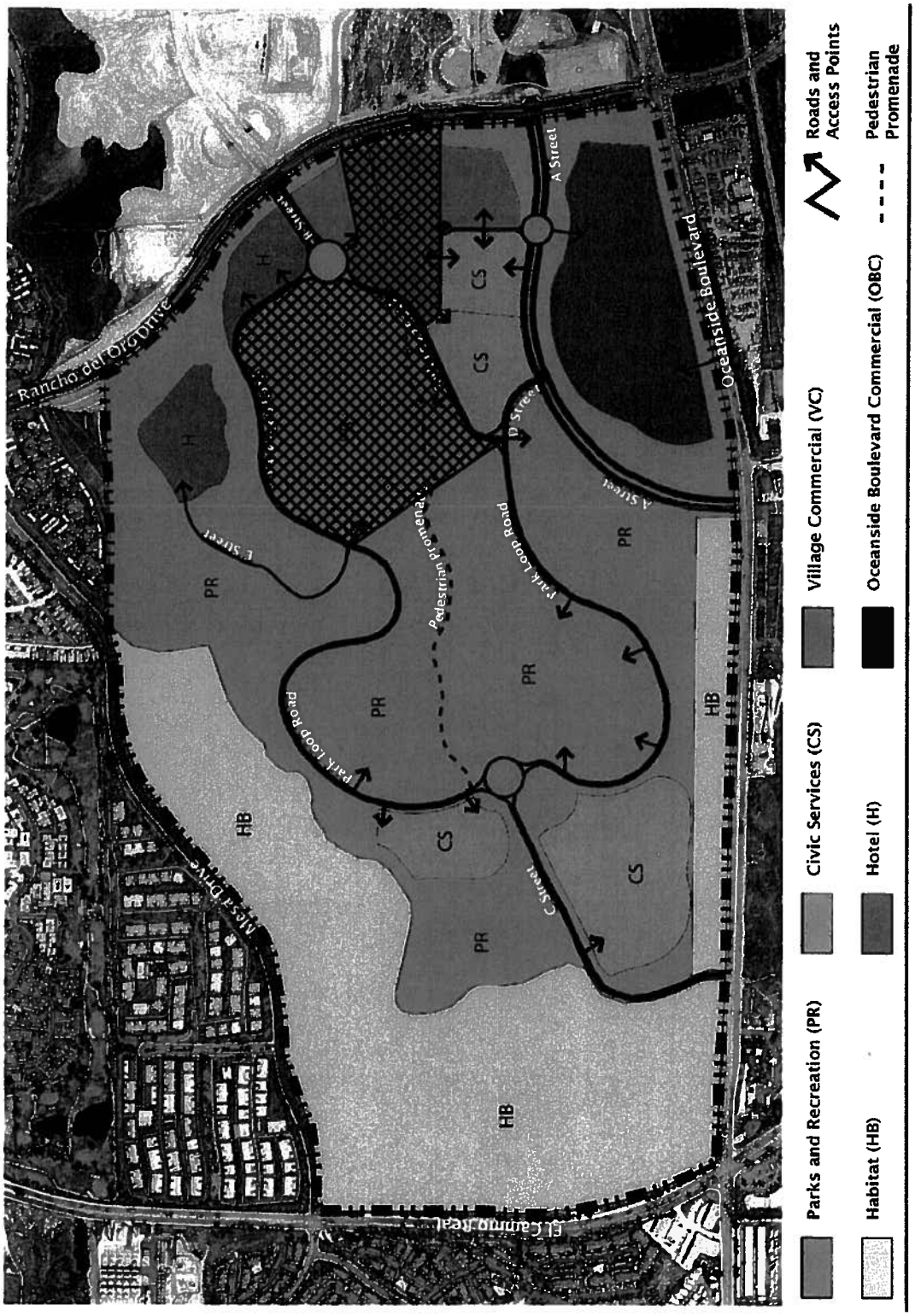
Description of Attached Document

EXHIBIT "A"

That portion of Parcel A of PLA 04-2004, Instrument No. 2004-0858200 recorded in the Office of the County Recorder, County of San Diego, State of California, as depicted on Exhibit A-2 attached herein.

EXHIBIT "A-2"

REIMBURSEMENT PROPERTY



NOT TO SCALE

REIMBURSEMENT PROPERTY

RBF CONSULTING

March 29, 2011

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EXHIBIT "B"

To Protect the Security of This Deed of Trust, Trustor Agrees:

(1) To keep said property in good condition and repair, not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws and matters of record affecting said property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof, not to commit, suffer or permit any act upon said property in violations of law to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) Intentionally Omitted.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock, when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior of superior hereto, all costs, fees and expenses of this Deed of Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and with at least thirty (30) Business Days notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto, and in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay within ten (10) Business Days after written demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That the applicable portion of any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its rights either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may reconvey any part of said property, consent to the making of any map or plot thereof, join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary state that all sums secured hereby have been paid, and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "The person or persons

legally entitled thereto". Five years after issuance of such full reconveyance, Trustee may destroy this Deed of Trust (unless directed in such request to retain it).

(10) That as additional security, Trustor hereby give to and confers upon Beneficiary the right, power and authority, during the continuance of this Deed of Trust, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect the rents, issues and profits of said property, as they become due and payable. Upon any such default, Beneficiary may at any time upon thirty (30) Business Days written notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees to any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. It is understood and agreed that neither the foregoing assignment of income, rents and profits to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies under this paragraph shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the property or the use, occupancy, enjoyment or operation of all or any portion thereof, nor shall appointment of a receiver for the property by any court at the request of Beneficiary or by agreement with Trustor or the entering into possession of the property or any part thereof by such receiver be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the property or the use, occupancy, enjoyment or operation of all or any portion thereof.

(11) That Beneficiary or Trustee may elect to employ an attorney, and Trustor shall pay all reasonable attorneys' fees, costs and expenses, including reasonable expenses of retaking, holding, preparing for sale, or selling (including cost of evidence or search of title), in connection with any action of actions which may be brought for (i) the foreclosure of this Deed of Trust, (ii) for possession of the property, (iii) for the protection of or the defense of the priority of the lien provided for by this Deed of Trust, (iv) the appointment of a receiver, and (v) the enforcement of any and all covenants or rights contained in or secured by this Deed of Trust and/or any case or proceeding under the United States Federal Bankruptcy Code or any successor thereto.

(12) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder after written notice and thirty (30) Business Days opportunity to cure. Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof, all other sums then secured hereby, and the remainder, if any, to the person or persons legally entitled thereto.

(13) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument

must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

(14) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. Whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(15) That Trustee accepts this Trust when this Deed, duly executed and acknowledged and is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary of Trustee shall be a party unless brought by Trustee.

(16) That the acceptance by Beneficiary of any sum secured hereby after its due date, or in an amount less than the sum then due, shall not constitute a waiver by Beneficiary or such holder of its rights either to require prompt payment when due of all other sums so secured or to declare a default or exercise such other rights as herein provided for failure so to pay. No failure by Beneficiary or such holder to insist upon strict performance of any term, covenant or condition hereof, nor failure to exercise any right or remedy hereunder shall constitute a waiver of any breach of such term, covenant or condition or of the later exercise of such right or remedy.

(17) That no remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this instrument to Trustee or Beneficiary or to which either of them may be otherwise entitled may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies.

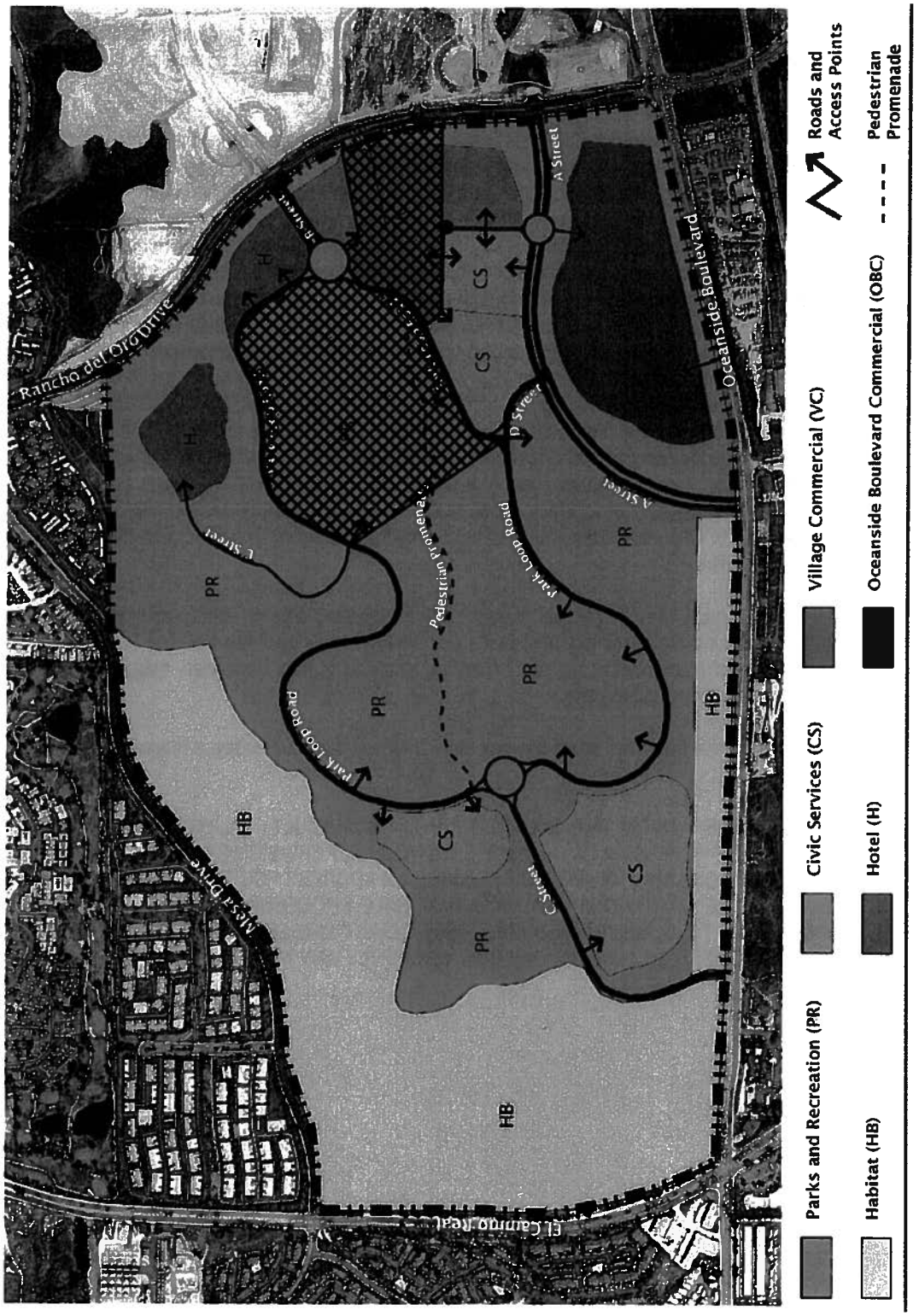
(18) That if any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Deed of Trust except that if the provision held unenforceable or void relates to the payment of any monetary sum, then Beneficiary may, at its option, declare all sums secured hereby immediately due and payable.

(19) "Business Day" shall mean any day other than a Saturday, Sunday, a federal holiday, or a California or New York state holiday.

TRUSTOR PLEASE NOTE: UPON THE OCCURRENCE OF A DEFAULT, CALIFORNIA PROCEDURE PERMITS THE TRUSTEE TO SELL THE PROPERTY AT A SALE HELD WITHOUT SUPERVISION BY ANY COURT AFTER EXPIRATION OF A PERIOD PRESCRIBED BY LAW. UNLESS YOU PROVIDE AN ADDRESS FOR THE GIVING OF NOTICE, YOU MAY NOT BE ENTITLED TO NOTICE OF THE COMMENCEMENT OF SALE PROCEEDINGS. BY EXECUTION OF THIS DEED OF TRUST, YOU CONSENT TO SUCH PROCEDURE. BENEFICIARY URGES YOU TO GIVE PROMPT NOTICE OF ANY CHANGE IN YOUR ADDRESS SO YOU MAY RECEIVE PROMPTLY ANY NOTICE GIVEN PURSUANT TO THIS DEED OF TRUST.

EXHIBIT "J"

REIMBURSEMENT PROPERTY



NOT TO SCALE

REIMBURSEMENT PROPERTY

RBF CONSULTING

March 29, 2011

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