ORDINANCE NO. 01(2012)

AN ORDINANCE OF THE CITY OF DIAMOND BAR APPROVING ZONE CHANGE NO. 2007-04 CHANGING THE EXISTING ZONING TO SPECIFIC PLAN (SP) FOR PROPERTY COMPRISED OF APPROXIMATELY 30.36 ACRES LOCATED AT THE SOUTHEAST CORNER OF BREA CANYON ROAD AND DIAMOND BAR BOULEV ARD, DIAMOND BAR, CALIFORNIA (ASSESSORS PARCEL NUMBER 8714-002-900, 8714-002-901, 8714-002-902, 8714-002-903 and 8714-015-001).

A. RECITALS

1. On July 1, 2007, the property owner/co-applicant, Walnut Valley School District, and property owner/lead agency/co-applicant, City of Diamond Bar, executed a Memorandum of Understanding whereby the parties agreed to collaborate in a specific plan process in order to consider the possible rezoning of the site consisting of approximately 30.36 acres, and comprised of multiple parcels located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard, City of Diamond Bar, County of Los Angeles, California, collectively identified as Site D, so that both parties may each advance their respective objectives for the disposition and/or use of their respective property interests.

2. In accordance with the provisions of the California Environmental Quality Act (CEQA) and its implementing guidelines (CEQA Guidelines), an Environmental Impact Report (EIR) was prepared for the resulting Site D specific plan project. The EIR included an analysis of both the proposed project, subsequently identified as the March 2010 Site D Specific Plan, and a number of alternatives thereto. The EIR concluded that, as mitigated, the implementation of the proposed project would continue to produce a number of significant environmental effects that could not be reduced to a less-than-significant level.

3. As specified in the EIR, Alternative 6, identified as the January 2012 Site D Specific Plan, was determined to be the environmentally-superior feasible alternative since its implementation would allow for the attainment of the project's stated objectives and would avoid or substantially lessen the significant environmental impacts attributable to the proposed project.

4. CEQA contains a "substantive mandate" requiring public agencies to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures" that can substantially lessen or avoid those effects. CEQA Guidelines define the term "feasible" as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic,

environmental, legal, social, and technological factors. In accordance therewith, the City Council determined that, since the January 2012 Site D Specific Plan would result in the avoidance or substantial reduction of those significant environmental impacts attributable to the March 2010 Site D Specific Plan, is environmentally superior thereto, and is feasible, the City Council identified Alternative 6 as the preferred project.

5. The City Council certified that the EIR was completed in compliance with CEQA, that the EIR was presented to and reviewed by the Council, that the Council considered the information contained therein, and that the EIR reflected the Council's independent judgment and analysis. In accordance with CEQA and the CEQA Guidelines, a resolution recommending certification of the EIR, adoption of a mitigation reporting and monitoring program, and adoption of findings of fact was approved by the City Council prior to considering this resolution.

6. The January 2012 Site D Specific Plan, identified as Specific Plan No. 2007-01 (Site D Specific Plan), that is being reviewed concurrently with this application, includes a land use plan that establishes planning areas (Residential and Public Park/Open Space) and includes standards and guidelines for future development of the specific plan site.

7. In recognition that no specific plan may be adopted or amended unless the proposed plan or amendment unless it is consistent with the agency's general plan, as specified herein, a consistency assessment has conducted by the City Council and the Council concluded that Specific Plan No. 2007-01 (Site D Specific Plan) is generally consistent with the City of Diamond Bar General Plan.

8. The following approval is requested to the City Council:

   (a) Approve Zone Change No. 2007-04 changing the zoning districts from Low Density Residential (RL), Low/Medium Density Residential (RLM), and Neighborhood Commercial (C-1) to Specific Plan (SP).

   (b) Adopt Specific Plan No. 2007-01, imposing site-specific design and development standards governing the approximately 30.36 acre addressed therein.

9. Notification of the public hearing for this project was published in the San Gabriel Valley Tribune and the Inland Valley Daily Bulletin newspapers on February 10, 2012. Public hearing notices were mailed to property owners within a 1,000-foot radius of the project site and public notices were posted at the City's designated community posting sites. In addition to the published and mailed notices, the project site was posted with a display board and the notice was posted at three other locations within the project vicinity.

10. On April 13, April 27, and May 11, 2010, the Planning Commission of the City of Diamond Bar conducted and concluded a duly noticed public hearing on the application and approved Resolution No. 2010-13 recommending the City Council approve Zone Change No. 2007-04. Prior to recommending that the City Council approve the March 2010 Site D Specific Plan—with the addition of a neighborhood park—and correlated zone change, the Planning Commission considered several alternative land use plans set forth in the EIR, including all-residential, and mixed-use alternatives.

11. On June 15, 2010, the City Council of the City of Diamond Bar conducted a duly noticed public hearing, solicited testimony from all interested individuals, and continued the matter to July 20, October 19, November 16, December 7 and on December 21, 2010 closed the public hearing.

12. On February 21, 2012, the City Council of the City of Diamond Bar opened the public hearing, conducted a duly noticed public hearing on the project and on the EIR, and fully considered the comments submitted during that hearing, including the Council's own deliberations. On March 6, 2012, the City Council completed the second reading of this Ordinance.

13. The City Council has determined that the proposed Zone Change represents a consistent, logical, appropriate and rational land use designation and implementing tool that furthers the goals and objectives of the City of Diamond Bar General Plan.

14. The documents and materials constituting the administrative record of the proceedings upon which the City's decision is based are located at the City of Diamond Bar, Community Development Department, Planning Division, 21810 Copley Drive, Second Floor, Diamond Bar, CA 91765.

B. **NOW, THEREFORE**, the City Council of the City of Diamond Bar does hereby ordain as follows:

1. The City Council hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Ordinance are true and correct.

2. The City Council finds that the initial study prepared for the project identified above in this Resolution concluded that an Environmental Impact Report (EIR) No. 2007-02 (SCH No. 2008021014) be prepared. An EIR has been prepared according to the requirements of the California Environmental Quality Act (CEQA) and CEQA Guidelines promulgated thereunder. On February 21, 2012, the City Council reviewed the EIR and adopted Resolution No. 2012-07 certifying the EIR as complete and adequate after conducting and concluding a duly noticed public hearing.

3. This City Council does hereby find, as required by Municipal Code Section 22.70.050 and in conformance with California Government Code Section 65853 and 65860, that the Zone Change No. 2007-04 is consistent with the General Plan, as follows:

   a. The amendment to the Zoning Map is internally consistent with the General Plan and the adopted goals and policies of the City.

   b. The Zoning Map does not presently reflect the General Plan designation for the property. Zone Change No. 2007-04 will place the City's Zoning Map in conformance with the General Plan by designating the Property as SP (Specific Plan), with sub-areas corresponding to those in the Site D Specific Plan. The existing approximate 30.36 acres located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard (Assessors Parcel Numbers 8714-002-900, 8714-002-901, 8714-002-902, 8714-002-903, and 8714-015-001) shall have a zoning designation of SP – Specific Plan.

4. The City Council does hereby approve Zone Change No. 2007-04 based on the above findings, as required by Municipal Code Section 22.70.050 and in conformance with California Government Code Sections 65853 and 65860.

5. The Community Development Director shall modify the Official Zoning Map in accordance with this ordinance to indicate thereon that the real property legally described in Exhibits A-1 through A-4 as attached herein is within the Site D Specific Plan.

The City Council shall:

(a) Certify to the adoption of this Ordinance; and

(b) Forthwith transmit a certified copy of this Ordinance, by certified mail, to: Walnut Valley Unified School District, 880 South Lemon Avenue, Walnut, CA 91789.

APPROVED AND ADOPTED THIS 6th DAY OF MARCH 2012, BY THE CITY COUNCIL OF THE CITY OF DIAMOND BAR.

By: _____
Ling-Ling Chang, Mayor

I, Tommye Cribbins, City Clerk of the City of Diamond Bar, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Diamond Bar held on the 21st day of February and was finally passed at a regular meeting of the City Council of the City of Diamond Bar held on the 6th day of March, 2012, by the following vote:

AYES:	Councilmembers:	Everett, Herrera, Tye, MPT/Tanaka
NOES:	Councilmembers:	M/Chang
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None

_____
Tommye Cribbins, City Clerk

EXHIBIT A-1

LEGAL DESCRIPTION OF SCHOOL PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 (BREA CANYON CHANNEL) OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702,PAGES 22 TO 25 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 30°41' 18" EAST 245.38 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN ON SAID MAP AS HAVING A BEARING AND DISTANCE OF NORTH 30°41'18" EAST 745.38 FEET; THENCE SOUTH 59°18'42" EAST 235.80 FEET; THENCE SOUTH 71°00'13" EAST 580.00 FEET; THENCE SOUTH 34°00'00" EAST, 120.00 FEET; THENCE NORTH 56°00'00" EAST 340.00 FEET; THENCE NORTH 48°00'00" EAST 980.00 FEET; THENCE NORTH 28°07'43"WEST 570.00 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF TRACT 25991, AS PER MAP RECORDED IN BOOK 702 PAGES 16 TO 21 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY; SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 2050.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 28°07'43" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD; THROUGH A CENTRAL ANGLE OF 4°11'33" AN ARC DISTANCE OF 150.00 FEET; THENCE TANGENT TO SAID LAST MENTIONED CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD SOUTH 66°03'50" WEST 875.89 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD, THROUGH A CENTRAL ANGLE OF 20°50'10" AN ARC DISTANCE OF 381.83 FEET TO THE NORTHEAST CORNER OF SAID LOT 76; THENCE SOUTH 30°41'18" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID LOT 76, 500.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID SECTION 29 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702 PAGES 22 TO 25 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 30°41'18" EAST 259.67 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE HAVING A BEARING OF NORTH 30°41'18" EAST AND A DISTANCE OF 745.38 FEET; THENCE CONTINUING ALONG

THE SOUTHEASTERLY LINE OF SAID LOT 76, NORTH 30°41'18" EAST 485.71 FEET TO THE SOUTHERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF SAID TRACT 27577; SAID SOUTHERLY LINE BEING A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 4°21'50" AN ARC DISTANCE OF 79.97 FEET; THENCE SOUTH 30°41'18" WEST 527.99 FEET TO A LINE THAT BEARS SOUTH 63°26'06" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 63°26'06" WEST 64.82 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM SAID LAND ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATED THEREIN OR THEREUNDER OR PRODUCIBLE THEREFROM, TOGETHER WITH THE FREE AND UNLIMITED RIGHT TO MINE, STORE, DRILL AND BORE BENEATH THE SURFACE OF SAID LAND AT ANY LEVEL OR LEVELS 500 FEET OR MORE BELOW THE SURFACE OF SAID LAND FOR THE PURPOSE OF DEVELOPING OR REMOVAL OF SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF SUCH WELL AND ALL OTHER SURFACE FACILITIES SHALL BE LOCATED ON LAND OTHER THAN DESCRIBED HEREIN, AND SHALL NOT PENETRATE ANY PART OF PORTION OF THE ABOVE DESCRIBED REAL PROPERTY WITHIN 500 FEET OF THE SURFACE THEREOF, AND ALL OF THE RIGHTS SO TO REMOVE SUCH SUBSTANCES ARE HEREBY SPECIFICALLY RESERVED, INCLUDING THE RIGHT TO DRILL FOR, PRODUCE AND USE WATER FROM SAID REAL PROPERTY IN CONNECTION WITH SUCH OPERATIONS, AS EXCEPTED AND RESERVED BY TRANSAMERICA DEVELOPMENT COMPANY, A CORPORATION WHICH ACQUIRED TITLE AS CAPITAL COMPANY, A CORPORATION, IN DEED RECORDED AUGUST 12, 1964 AS INSTRUMENT NO. 1401.

PARCEL 2:

THAT PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702, PAGES 22 TO 25, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 30°41'18" EAST 259.67 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE HAVING A BEARING OF NORTH 30°41'18" EAST AND A DISTANCE OF 745.38 FEET; THENCE CONTINUING ALONG THE SOUTHEASTERLY LINE OF SAID LOT 76, NORTH 30°41'18" EAST, 485.71 FEET TO THE SOUTHERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF SAID TRACT 27577, SAID SOUTHERLY LINE) BEING A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH CENTRAL ANGLE OF 4°41'50" AN ARC DISTANCE OF 79.97 FEET; THENCE SOUTH 30°41'18" WEST 527.99 FEET TO A LINE THAT BEARS SOUTH 63°26'06" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 63°26'06" WEST 64.82 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATED THEREIN OR THEREUNDER, TOGETHER WITH THE EXCLUSIVE RIGHT TO DRILL FOR, PRODUCE, EXTRACT, TAKE AND MINE THEREFROM SUCH OIL, GAS AND OTHER HYDROCARBONS AND MINERALS AND TO STORE THE SAME UPON THE SURFACE OF SAID LAND; TOGETHER WITH THE RIGHT TO STORE UPON THE SURFACE OF SAID LAND, OIL, GAS AND OTHER HYDROCARBONS AND MINERALS WHICH MAY BE PRODUCED FROM OTHER LANDS, WITH THE RIGHT OF ENTRY THEREON FOR SAID PURPOSES, AND WITH THE RIGHT TO CONSTRUCT, USE, MAINTAIN, ERECT, REPAIR, REPLACE AND REMOVE THEREON AND THEREFROM, ALL PIPE LINES, TELEPHONE AND TELEGRAPH LINES, TANKS, MACHINERY, BUILDINGS AND OTHER STRUCTURES WHICH MAY BE NECESSARY AND REQUISITE TO CARRY ON OPERATIONS ON SAID LAND, WITH THE FURTHER RIGHT TO ERECT, MAINTAIN, OPERATE AND REMOVE A PLANT, WITH ALL NECESSARY APPURTENANCES FOR THE EXTRACTION OF GASOLINE FROM GAS, INCLUDING ALL RIGHTS NECESSARY OR CONVENIENT THERETO, AS EXCEPTED AND RESERVED IN THE DEED FROM TRANSAMERICA DEVELOPMENT COMPANY, A CORPORATION, RECORDED MARCH 29, 1968 AS INSTRUMENT NO. 2456, IN BOOK D3955 PAGE 185, OFFICIAL RECORDS AND RE-RECORDED JUNE 19, 1969 AS INSTRUMENT NO. 1776 IN BOOK D4407 PAGE 591, OFFICIAL RECORDS.

SAID INTEREST WAS CONVEYED TO TRANSAMERICA MINERALS COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED JUNE 20, 1985 AS INSTRUMENT NO. 85-74005.

AN INSTRUMENT PURPORTEDLY QUITCLAIMING, RELEASING AND SURRENDERING ONLY THE SURFACE RIGHTS TO A DEPTH OF 500 FEET AND PROVIDING FOR REMOVAL OF ALL GAS, MINERALS AND HYDROCARBONS BELOW SAID DEPTH AS CONVEYED TO TRANSAMERICA DEVELOPMENT COMPANY, A CALIFORNIA CORPORATION BY DEED RECORDED JANUARY 5, 1987 AS INSTRUMENT NO. 87-10522.

EXHIBIT A-2

MAP OF SCHOOL PROPERTY

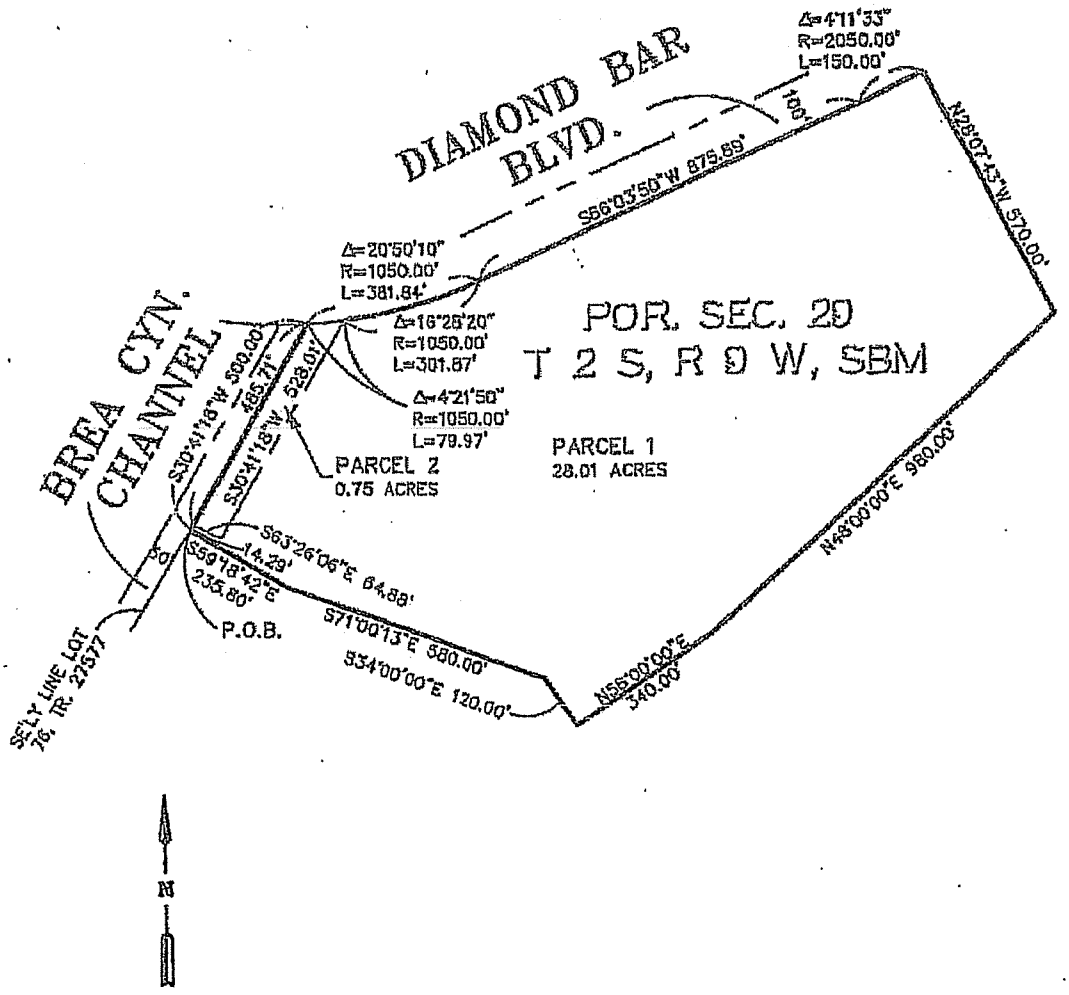


EXHIBIT A-3

LEGAL DESCRIPTION OF CITY PROPERTY

THE LEGAL DESCRIPTION OF THE PROPERTY IS:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

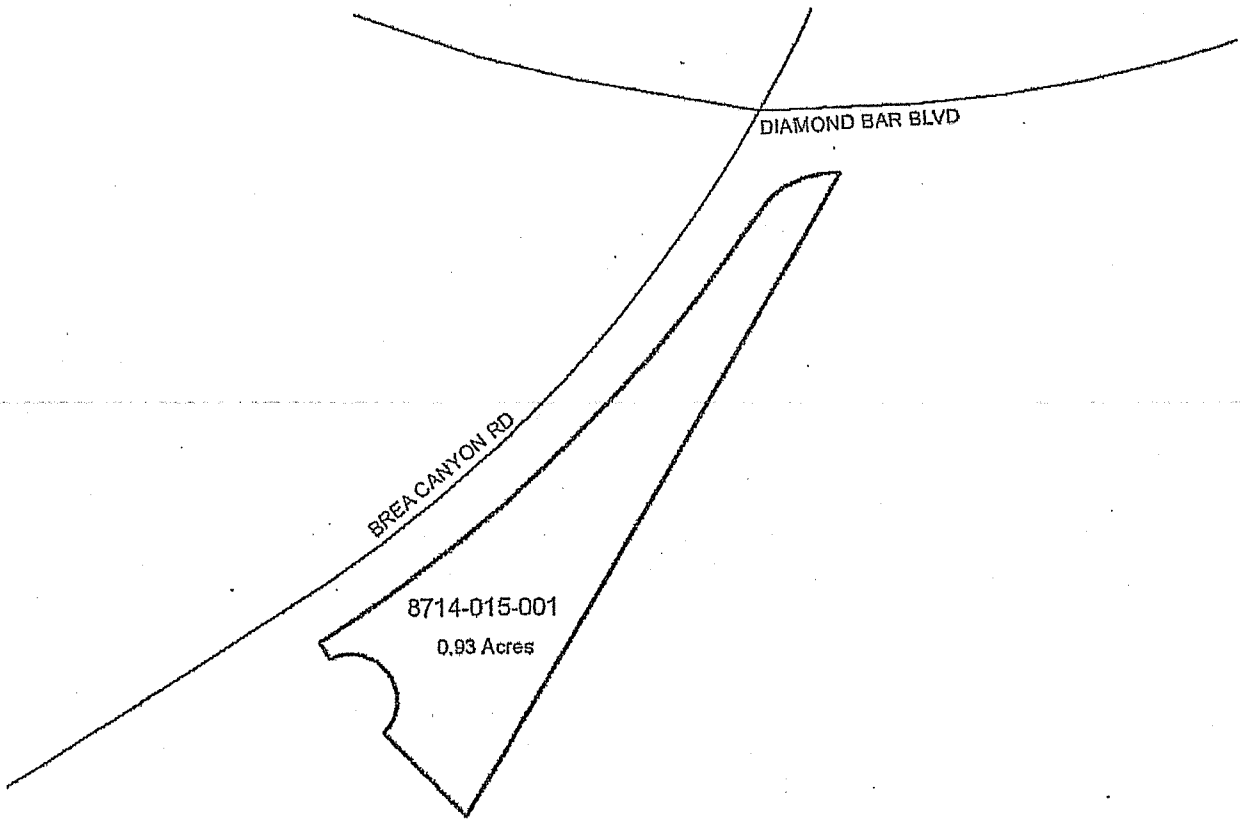
THAT PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER RECORD OF SURVEY, FILED IN BOOK 76 PAGES 51 THROUGH 56 INCLUSIVE OF RECORD OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BEING DESCRIBED AS FOLLOWS:

THAT AREA SHOWN AS "NOT A PART OF THIS SUBDIVISION ON THE MAP OF TRACT NO. 27577, AS PER MAP RECORDED IN BOOK 702 PAGES 22 THROUGH 25 INCLUSIVE OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SAID AREA BEING BOUNDED ON THE NORTHWEST BY SOUTHEASTERLY LINE OF BREA CANYON ROAD, AS SHOWN ON MAP OF SAID TRACT 27577; BOUNDED ON THE NORTH BY THE SOUTHERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF SAID TRACT NO. 27577; BOUNDED ON THE SOUTHEAST BY THE NORTHWESTERLY LINE OF LOT 76, AS SHOWN ON MAP OF SAID TRACT NO. 27577; BOUNDED ON THE SOUTHWEST BY THE NORTHEASTERLY LINE OF LOT 39, THE NORTHERLY TERMINUS OF CASTLE ROCK ROAD, AND THE NORTHERLY LINE OF TEN (10) FOOT WALK, ALL BEING SHOWN ON MAP OF SAID TRACT NO. 27577.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS, AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND, BUT WITH NO RIGHT OF SURFACE ENTRY, AS PROVIDED IN DEEDS OF RECORD.

EXHIBIT A-4

MAP OF CITY PROPERTY