

October 12, 2017

**VIA E-MAIL AND OVERNIGHT MAIL**

California Department of Finance  
915 L. Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814  
Attn: Chikako Takagi-Galamba, Manager

**Re: Department of Finance Authority to Review Action of the Oversight Board  
of the Successor Agency to the Industry Urban – Development Agency  
Directing the Successor Agency to Sell Property to City of Industry**

Dear Ms. Takagi Galamba:

I am the City Attorney for the City of Diamond Bar (“Diamond Bar”). In a letter dated August 28, 2017, I wrote to request that the Department of Finance (“DOF”) review the action by the Oversight Board of the Successor Agency to the Industry-Urban Development Agency (the “Oversight Board”) to approve the sale of the Tres Hermanos property by the Successor Agency to the Industry Urban-Development Agency (the “Successor Agency”) to the City of Industry (“Industry”). As discussed in that letter, the Oversight Board’s approval violated State law and was inconsistent with the Successor Agency’s Long Range Property Management Plan (“LRPMP”). The Oversight Board has since submitted for DOF’s review its resolution approving the sale. This letter addresses DOF’s authority to review and disapprove the Oversight Board’s action in that it violated the LRPMP and State law.

By way of background, at its meeting on August 24, 2017, the Oversight Board was to consider whether to approve the Successor Agency’s sale to Industry of 2,450 acres of undeveloped property located outside of Industry’s geographic boundaries and within the cities of Diamond Bar and Chino Hills, known as Tres Hermanos Ranch (the “Property”) for \$100 million, which reflected the appraised value of the Property. After all public comments had been taken, Industry’s City Manager, who sits on the Oversight Board, made a motion to direct that an open space or public use deed restriction be placed on the Property and that the Property be sold to Industry for \$41.6 million. This particular action was not on the agenda and had not been mentioned during the public hearing. No comments from the public were accepted on the open space/public use deed restriction or the \$60 million reduction in the purchase price, except from Industry’s City Attorney, who was allowed to advocate for the action without restriction. The motion passed on a 4-3 vote with Industry’s City Manager casting the deciding vote.

1. DOF Has the Authority to Review and Disapprove the Oversight Board's Action.

DOF has discretion to review actions by the Oversight Board under the applicable statutes and consequently, no one is challenging the DOF's authority to review and disapprove the Oversight Board's acts. Health and Safety Code section 34191.5 provides that "[a]ctions to implement the disposition of property pursuant to an approved long-range property management plan *shall not require* review by the department." (Emphasis added). That code section does not prohibit review by DOF – it operates only to relieve DOF of any mandatory duty to review an action which actually implements the LRPMP.

The Health and Safety Code expressly preserves DOF's discretion to review all actions by oversight boards. Health and Safety Code section 34179(h)(1) provides that DOF "may review oversight board action taken pursuant to [Part 1.85 of division 24 of the Health and Safety Code]" and requires that "[w]ritten notice and information about all actions taken by an oversight board shall be provided to the department as an approved resolution by electronic means and in a manner of the department's choosing."

While Section 34179(h)(1) grants a limited exception to the requirement that oversight boards submit resolutions to DOF, this exception is granted "[w]ithout abrogating the department's authority to review all matters." This statutory exception operates only to relieve the Oversight Board of its obligation to submit the resolution to DOF, but otherwise has no impact on the DOF's authority to review any Oversight Board action, especially as is the case here, when that action is unlawful. Consequently, although the statutes do not *require* that the DOF review the Oversight Board's action, DOF retains discretion to do so under the circumstances presented here.

In addition, none of the listed exceptions in Section 34179(h)(1) apply to the sale of the Property and thus, the Oversight Board is not relieved of its obligation to submit a resolution to the DOF in any event. The LRPMP lists the Property as a "for sale" property to be marketed by brokers. It is not currently put to a governmental use and is not listed in the LRPMP for future development by Industry. Oversight Board Resolution 2017-05, attached hereto as Exhibit "A", acknowledges the Oversight Board's position that DOF's review is required before its action becomes final: "Upon approval of this resolution ("Resolution") by the California Department of Finance, the Oversight Board authorizes and directs the Executive Director ... to execute and deliver the Purchase Agreement." Elsewhere, the Resolution provides: "The Oversight Board hereby authorizes and directs the Secretary of the Oversight Board to electronically deliver a copy of this Resolution to the California Department of Finance in accordance with California Health and Safety Code Section 34179(h)." Similarly, in a January 13, 2017 memo, attached as Exhibit "B," Industry's City Attorney and General Counsel to the Successor Agency, states on page 1, "The attached Resolution [for the sale of the Property] ... awaits Oversight Board and Department of Finance Approval." Thus, both the Oversight Board and Successor Agency acknowledge that transmission of a resolution and DOF review are required.

Irrespective of whether the Oversight Board submitted a resolution, DOF nevertheless retains the authority to review the sale of the Property. As noted above, even when an oversight board is not required to submit a resolution to DOF, the DOF retains the authority to review the action. Health and Safety Code section 34191.3 provides that once approved by the DOF, the LRPMP governs the disposition of real property assets by the Successor Agency and supersedes all other provisions relating to the disposition of real property assets by the Successor Agency. However, the statute does not permit the Successor Agency and Oversight Board to disregard the LRPMP and dispose of properties in any manner of their choosing. Nor does it preclude DOF review and approval. Indeed, the DOF itself took this position in its letter to the Successor Agency approving the LRPMP (attached as Exhibit "C"), stating on page 2 that "[a]ny subsequent [Oversight Board] actions addressing the Agency's implementation of the approved LRPMP should be submitted to the [DOF] for approval." Furthermore, section 34191.3 would not apply in the present case because, as discussed below and in my August 28, 2017 letter, the Oversight Board's unilateral imposition of a deed restriction and reduction of the purchase price were clearly in violation of the LRPMP and various other provisions of State law. Section 34179 reserved the DOF's authority to review *all matters* precisely for a case like this, where a Successor Agency and Oversight Board have completely ignored the LRPMP approved by the DOF and the Oversight Board has shirked its fiduciary duties.

2. The Successor Agency's Sale and the Oversight Board's Approval Violated the LRPMP.

Both the Successor Agency's sale of the Property and the Oversight Board's approval of that sale were in blatant violation of the express terms of the Successor Agency's LRPMP (see Exhibit "D"). The LRPMP estimates the value of the Property at \$85 - \$122 million. The Property is identified in the LRPMP as one of the "properties to be marketed through direct contact with interested parties through the use of brokers. Proposals would be evaluated based upon acceptable development plans." Additionally, under the LRPMP any proposal to sell the Property:

"would have to meet the basic criteria of agreement to pay a reasonable price based on a current appraisal and submission of a Development Plan and Schedule acceptable to the City. The properties would be distributed to brokers and interested parties. Competing proposals would be evaluated based upon the following criteria to determine which prospective buyer to work with on finalizing a project to forward to the Successor Agency and Oversight Board for approval.

- Agreement to pay a reasonable price based upon a current appraisal;

- A Development Plan and Schedule through construction acceptable to the City;
- An estimate of the assessed value of the project;
- Identification of the end user, and if the user is a local company, the job creation;
- Identification of the type of intended tenants if the project is speculative.”

Here the Successor Agency acted in clear violation of the requirement that the Property be distributed to local brokers and agents. Although the Successor Agency and Oversight Board had previously approved a broker for the Property and submitted that decision to DOF for review, without explanation the Successor Agency refused to execute the broker agreement and subsequently took the position that the Property *must* be offered to Industry, declining to even consider an offer from a private entity for \$108 million. This position is based exclusively on a “staff recommendation” included in the LRPMP. Of course, a “recommendation” by definition cannot override the LRPMP’s requirement that the Property be distributed to brokers and competing proposals be considered. And in any event, the Successor Agency failed to provide a development plan, construction schedule, identification of end user or any information about the intended use of the Property, all in violation of its own LRPMP.

Compounding its violation of the LRPMP, the Oversight Board then unilaterally imposed an open space/public use deed restriction on the Property and reduced the purchase price by nearly \$60 million.<sup>1</sup> The Oversight Board’s unilateral reduction of the purchase price by nearly \$60 million was not supported by any valid appraisal – in fact the Oversight Board itself had previously *rejected* a sale of the Property for \$41.65 million. It appears that the \$41.65 million sales price purportedly approved by the Oversight Board is based on an appraisal authorized by Industry’s City Manager in January of 2016, nearly 18 months before the public meeting at which the same City Manager moved to impose the deed restriction and reduce the sale price. Contrary to standard appraisal practice, the January 2016 appraisal did not determine the fair market value based on its highest and best use, but was instead based on a “hypothetical condition” that the appraisal itself acknowledged was contrary to known fact – specifically that the property would be preserved for open space or public use. In fact, the \$41.65 million estimate assumed that the Property would remain as open space; no other public use of the property was considered. It appears that, in making the motion to reduce the purchase price, the City Manager may have conflated his roles as Industry’s City Manager with that of a member of the Oversight Board with a fiduciary duty to the taxing entities (including Diamond Bar).

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<sup>1</sup> In his memo to the Successor Agency (Exhibit "B"), Industry’s City Attorney and Successor Agency General Counsel, states, “The City will purchase the Property from the Agency for the appraised value as open space of \$100,000,000.00. The appraisal was performed by Larry W. Heglar & Associates.”

With this review, the DOF stands in a position to not only disapprove the Oversight Board's approval of the Successor Agency's sale in violation of the LRPMP, but to remind the Oversight Board and its members of the requirement that any sale of the Property be consistent with the process contemplated in the LRPMP, which requires "a reasonable price" be paid consistent with the Health and Safety Code and the LRPMP requirement that all sales maximize value. DOF also has an opportunity to remind those who serve on the Oversight Board that in making their determinations they cannot abandon their fiduciary duties to the taxing entities.

3. The Oversight Board's Approval Violated Section 34177.3 and Constituted an Unconstitutional Gift of Public Funds.

Pursuant to Health and Safety Code section 34177.3, a successor agency lacks the authority to transfer any of its revenues, public or private, except pursuant to an enforceable obligation and any such transfer is declared to be void and the successor agency shall take action to reverse such transfers. Industry previously offered \$100 million for the Property. Industry's City Attorney and Successor Agency's General Counsel acknowledged in a letter dated August 22, 2017, to the Oversight Board (Exhibit "E") that Industry could only use the Property for a public use, stating at the bottom of page 4, top of page 5, that in purchasing property outside its jurisdiction, Industry is limited by Government Code section 37351 to purchases of property which are "necessary or proper for municipal purposes." Thus, Industry's City Attorney, City Manager and indeed, the entire Oversight Board, were or should have been aware that the placement of the deed restriction on the Property to ostensibly lower the price, had absolutely no impact on the value of the Property to Industry because State law limited Industry to buying the Property for a municipal purpose in any event. The City Manager and three other members of the Oversight Board went along with this ruse to the detriment of the taxing entities, ignoring the Oversight Board's own general counsel's admonition that they "must keep in mind that they have fiduciary responsibilities to ... the taxing entities ...." (Exhibit "F", pg. 3, last paragraph.)

As further evidence of the disingenuousness of the low ball sales price, attached as Exhibit "G" is a fully executed Master Ground Lease and four amendments between Industry and San Gabriel Valley and Water LLC, the former with an effective date of May 16, 2016.<sup>2</sup> Pursuant to sections 2.1 and 2.3 of the Master Lease, Industry agreed to lease the Property to San Gabriel for up to "65 years" to use as a "photovoltaic solar project totaling ... at least four

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<sup>2</sup> It remains unclear when the Master Lease was approved. Diamond Bar has heard only second hand that it was approved in an Industry City Council closed session without any information identifying that the Master Lease was under consideration. The Industry City Council has the Master Lease and four amendments thereto (also possibly approved in closed session) on its agenda for its October 12, 2017, meeting for "ratification." The staff report provides no indication why the City Council is ratifying the Master Lease or the four amendments, but it may be because Diamond Bar sent a letter stating that if Industry approved the Master Lease in closed session that this violated the Brown Act's Open Meeting Laws and demanded that the violation be rectified. Diamond Bar was unaware it had been amended four times until it saw this agenda item.

hundred fifty (450) megawatts of rated annual output ...." Pursuant to Section 2.3(f), Industry may terminate the Master Lease if San Gabriel "does not generate and pay ... [Industry] net earnings ... in amounts equal to or greater than (i) two million dollars (\$2,000,000) *per annum* within three (3) years of the Construction Commencement Date, or (ii) four million dollars (\$4,000,000) *per annum* within ten years of the Construction Commencement Date. This would generate a *minimum* of \$14 million to Industry during the first seven years of the Master Lease and \$40 million over the first 20, for a total of \$54 million or \$13 million over the sales price. In 40 years the Master Lease would generate a minimum of \$134 million. No appraisal of the Property has ever been conducted for this proposed use. No doubt Industry is going to argue that the Master Lease constitutes a public use.

The Oversight Board's direction to the Successor Agency to place a deed restriction on the Property and to sell the Property for nearly \$60 million less than Industry had offered and the Successor Agency's action in doing so, was a transfer of the Successor Agency's revenues from the Successor Agency to Industry. It not only violated Section 34177.3, it is also an unconstitutional gift of public property under Article 16, Section 6, of the California Constitution, which requires that in disposing of property that a public agency receive fair and adequate compensation and if not, that the transfer must further a purpose for which the public agency was formed. The sale of the Property, while furthering Industry's purposes, furthers no purpose for which the Successor Agency or Oversight Board were formed, which was, pursuant to the Health and Safety Code, to sell Successor Agency properties expeditiously and in a manner that maximizes value and, in the case of the Oversight Board, to act in a fiduciary capacity to the taxing entities. Neither State law nor the LRPMP can trump this Constitutional prohibition on gifting of the Successor Agency's property.

4. The Action Violates Section 34180.

Health and Safety Code section 34180 provides that if a city desires to retain any properties for future redevelopment activities, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax for the value of the property retained. In this case, the "taxing entities" as defined in Health and Safety Code section 34171(k) would include Diamond Bar, which receives property taxes with respect to the Property. To date, Industry has not reached a compensation agreement with Diamond Bar or to our knowledge, any other taxing entities to provide payments for Diamond Bar's share of the property taxes with respect to the Property. For this additional reason, Industry's purchase of the property violates state law.

Recognizing that cities and successor agencies would in most cases be controlled by the city council, the Redevelopment Dissolution Act recognized the potential for cities and successor agencies to engage in self-dealing in winding down the affairs of the former redevelopment agencies. Oversight boards were created to monitor these actions from the perspective of the taxing entities to whom they owed a fiduciary duty. However, the Redevelopment Dissolution Act recognized the potential for cities to also exercise undue influence on the oversight board

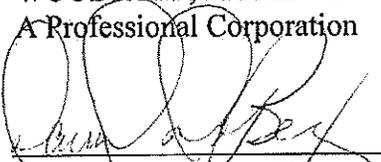
California Department of Finance  
Attention: Chikako Takagi-Galamba, Manager  
October 12, 2017  
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and that it may not act in the best interests of the taxing entities. This is precisely why the DOF's authority to review *all matters* was not abrogated after approval of the LRPMP. There is nothing within the Redevelopment Dissolution Act which suggests that once the LRPMP is approved, that the Oversight Board is relieved of its fiduciary duties to the taxing entities. In directing that a meaningless deed restriction be placed on the Property as cover for a low ball sales price all to benefit Industry, the Oversight Board not just abandoned its fiduciary duties, it ran from them.

For the foregoing reasons, Diamond Bar respectfully requests that the DOF disapprove of the sale of the Property and direct the Successor Agency and Oversight Board to follow the LRPMP process for the sale of the Property.

Sincerely,

WOODRUFF, SPRADLIN & SMART  
A Professional Corporation



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DAVID A. DEBERRY  
CITY ATTORNEY  
CITY OF DIAMOND BAR

Enclosures

cc: Justyn Howard, Department of Finance  
Daniel Fox, Diamond Bar City Manager  
Diamond Bar City Council  
Jack Rubens, Esquire  
Mark Hensley, City Attorney Chino Hills  
Jamie Casso, Successor Agency General Counsel  
Bruce Varner, Oversight Board General Counsel

# EXHIBIT "A"

**RESOLUTION NO. OB 2017-05**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE INDUSTRY URBAN-DEVELOPMENT AGENCY, THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF INDUSTRY, APPROVING THE SALE AND DISPOSITION OF CERTAIN REAL PROPERTY COMMONLY KNOWN AS TRES HERMANOS RANCH IDENTIFIED ON THE LONG-RANGE PROPERTY MANAGEMENT PLAN AS PROPERTY NO. 68**

**WHEREAS**, the Successor Agency to the Industry Urban-Development Agency was formed in accordance with California Health and Safety Code Section 34173 ("Successor Agency"); and

**WHEREAS**, the Oversight Board ("Oversight Board") of the Successor Agency was established pursuant to California Health and Safety Code Section 34179; and

**WHEREAS**, the Successor Agency must dispose of assets and properties of the former redevelopment agency as directed by the Oversight Board pursuant to California Health and Safety Code Section 34177(e); and

**WHEREAS**, the Oversight Board must direct the Successor Agency to dispose of all assets and properties of the former redevelopment agency pursuant to California Health and Safety Code Section 34181(a); and

**WHEREAS**, the Successor Agency is not permitted to dispose of any real property assets of the former redevelopment agency, except governmental use assets, until the Department of Finance ("DOF") approves the Successor Agency's long-range property management plan ("LRPMP") pursuant to California Health and Safety Code Section 34191.3; and

**WHEREAS**, on February 21, 2014, the DOF issued an approval notice approving the Successor Agency's LRPMP ("Determination Letter"); and

**WHEREAS**, upon receiving DOF approval of the LRPMP, the LRPMP governs and supersedes all other provisions relating to the disposition and use of real property assets of the former redevelopment agency pursuant to California Health and Safety Code Section 34191.3; and

**WHEREAS**, the Successor Agency owns certain real property consisting of approximately 2,450-acres and commonly known as Tres Hermanos Ranch, which property is partially located in the City of Chino Hills and in the City of Diamond Bar, and identified on the LRPMP as Property No. 68 as a "for sale" property (the "Property"); and

**WHEREAS**, the Successor Agency intends to sell the Property to the City of Industry ("Purchaser") for a purchase price of \$41,650,000.00, which represents an amount less than current value of the Property due to the Property being subject to a restrictive covenant that specifically limits the use of the Property to open space, public use, or preservation. The reduced purchase

price is equal to the value determined by an appraisal report dated February 2, 2016, prepared by R.P. Laurain & Associates; and

**WHEREAS**, pursuant to California Health and Safety Code Sections 34177(e) and 34181(a), the disposition of the Property must be completed expeditiously and in a manner aimed at maximizing value; and

**WHEREAS**, the sale of the Property by Successor Agency to the Purchaser in accordance with the terms of a Purchase and Sale Agreement and Joint Escrow Instructions (the "Purchase Agreement"), a copy of which has been made available to the Oversight Board for inspection and is attached hereto as Exhibit A; and

**WHEREAS**, the Oversight Board has determined that the approval of the sale and disposition of the Property pursuant to the Purchase Agreement, which shall be amended, together with the grant deed, to include a restrictive covenant that specifically restricts the use of the Property for open space, public use, or preservation use, is consistent with the terms of the approved LRPMP under Health and Safety Code Section 34181(a) and 34191.3, and is consistent with the obligation of the Successor Agency to wind down the affairs of the former redevelopment agency in accordance with California Health and Safety Code Section 34177(h); and

**WHEREAS**, California Health and Safety Code Section 34179(e) requires the Oversight Board to adopt resolutions for any action taken by the Oversight Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board as follows:

**Section 1. Approval of Purchase Agreement; Disposition of the Property.** The Oversight Board hereby approves the sale and disposition of the Property in accordance with the terms of the Purchase Agreement, which approval is expressly conditioned on and subject to an amendment to the Purchase Agreement and the underlying grant deed, to include a restrictive covenant that specifically restricts the use of the Property for open space, public use, or preservation use. The Oversight Board further directs the Successor Agency staff to take such action necessary to amend or revise the Purchase Agreement and grant deed to reflect the restrictive covenant affecting the Property as approved by the Oversight Board.

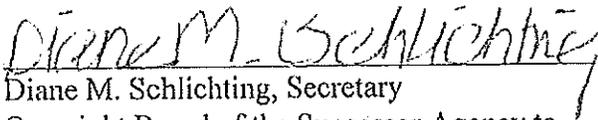
**Section 2. Authorization of Successor Agency.** Upon approval of this resolution ("Resolution") by the California Department of Finance, the Oversight Board authorizes and directs the Executive Director and/or Assistant Secretary of the Successor Agency, jointly and severally, to execute and deliver the Purchase Agreement, in substantially the form made available to the Oversight Board for inspection, and any and all other documents which they may deem necessary or advisable in order to effectuate the approval of the Resolution.

**Section 3. Delivery to the California Department of Finance.** The Oversight Board hereby authorizes and directs the Secretary of the Oversight Board to electronically deliver a copy of this Resolution to the California Department of Finance in accordance with California Health and Safety Code Section 34179(h).

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss  
CITY OF INDUSTRY ) SECRETARY'S CERTIFICATION RE: ADOPTION  
OF OVERSIGHT BOARD OF THE SUCCESSOR  
AGENCY TO THE INDUSTRY URBAN-  
DEVELOPMENT AGENCY RESOLUTION

I, Diane M. Schlichting, Secretary to the Oversight Board of the Successor Agency to the Industry Urban-Development Agency, do hereby certify that the foregoing Resolution No. OB 2017-05 was duly passed and adopted at a duly noticed special meeting of the Oversight Board of the Successor Agency to the Industry Urban-Development Agency on August 24, 2017, by the following vote, to wit:

AYES:	BOARD MEMBERS:	Chen, Torres, Duarte, Philips
NOES:	BOARD MEMBERS:	DeKnikker, VC/Gregoryk, C/Kreimann
ABSENT:	BOARD MEMBERS:	None
ABSTAIN:	BOARD MEMBERS:	None

  
Diane M. Schlichting, Secretary  
Oversight Board of the Successor Agency to  
the Industry Urban-Development Agency

**EXHIBIT “B”**



SUCCESSOR AGENCY TO THE  
INDUSTRY URBAN - DEVELOPMENT AGENCY

## MEMORANDUM

**TO:** Honorable Chairman Radecki and Members of the Board of the Successor Agency to the Industry Urban-Development Agency

**FROM:** James M. Casso, Agency Counsel

**DATE:** January 13, 2017

**SUBJECT:** Consideration of Resolution approving an agreement for the purchase and sale of the Tres Hermanos Ranch and making CEQA Findings

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**BACKGROUND:** Under the provisions of ABX1 26 (the "Dissolution Act"), redevelopment agencies, including the Industry Urban-Development Agency ("Agency"), were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies.

The Dissolution Act requires the Successor Agency to dispose of all Agency owned property expeditiously, and in a manner that maximizes value. In an effort to comply with the provisions of the Dissolution Act, the Successor Agency plans to enter into a purchase and sale agreement with the City of Industry (the "City") for the property commonly known as the Tres Hermanos Ranch (the "Property"). For the Property, the City will pay to the Agency the appraised value of \$100,000,000.00.

Originally, the Property was owned by the City but it was transferred to the former Industry Urban-Development Agency in the late 1970s. Under the ownership of both agencies, the Property has been preserved as open space and it has not been developed. The Property is currently utilized as an open pasture for cattle grazing, inclusive of two single family residences and the Arnold Reservoir.

According to the appraisal, the Property is zoned for agriculture use or low density single family residential use. As the Successor Agency is well aware, over a year ago a large scale housing developer made an offer for the Property. Based on a presentation made by the housing developer at a recent Oversight Board meeting, the developer would like to build between 7,500 and 10,000 homes on the Property, effectively and completely altering its open space character forever.

The attached Resolution sets forth the requisite findings pursuant to CEQA and it ensures that the proposed purchase/sale, which awaits Oversight Board and Department of Finance approval, is in compliance with California law.

**DISCUSSION:** The City will purchase the Property from the Agency for the appraised value as open space of \$100,000,000.00. The appraisal was performed by Larry W. Heglar & Associates. The agreement requires the City to provide a \$10,000,000.00 deposit at the opening of escrow.

Close of escrow will occur 30 days after the opening of escrow.

**BUDGET IMPACT:** Based on an appraisal, the Property was valued at \$100,000,000.00. The City has agreed to pay the appraised market value of \$100,000,000.00. The value of the Property is based on its total land area of 2,450 acres. Its topography ranges from rolling to moderately sloping. The 11 parcels that make-up the Property are contiguous and ownership is vested with the Successor Agency. The funds received from the sale will be disturbed, pursuant to the Dissolution Act, to the various taxing entities.

**RECOMMENDATION:** Staff recommends that the Board adopt the attached resolution, approving the Purchase and Sale Agreement between the Agency and City for the Property.

Attachments:

Resolution  
Purchase and Sale Agreement

# EXHIBIT “C”



EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95834-3706 ■ WWW.DOF.CA.GOV

February 21, 2014

Mr. Kevin Radecki, City Manager  
City of Industry  
16625 East Stafford Street  
City of Industry, CA 91744

Dear Mr. Radecki:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of Industry Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on October 24, 2013. The Agency subsequently submitted a revised LRPMP to Finance on February 11, 2014. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on May 9, 2013. Further, based on our review and application of the law, we are approving the Agency's use or disposition of all the properties listed on the LRPMP. Our approval of the LRPMP also took into account the following Oversight Board (OB) Resolutions:

- OB Resolution No. 2013-15 approving all proceeds received from the sale of properties on the LRPMP will be utilized to satisfy outstanding enforceable obligations or transferred to the Los Angeles County Auditor-Controller for distribution to the taxing entities.
- OB Resolution No. 2014-01 approving revisions to the LRPMP.

Further, the Agency proposes to lease Property Nos. 5, 29, 33, 35, 40, and 41 until an optimum time to sell is determined. Per HSC section 34187 (b), the Agency is required to dispose of all remaining assets and terminate its existence within one year of the final debt payment. To insure compliance, the lease agreements should not extend beyond the Agency's final debt payment.

The following errors were noted during our review, but do not require a revised plan to be submitted:

- Property No. 1 – Incorrect Assessor's Parcel Number (APN) for the property located at 333 Hacienda Boulevard. The correct APN is 8208-027-913.
- Property No. 15 – Incorrect APNs for the property located at Crossroads Parkway South. The correct APNs are 8125-021-940 and 8125-021-941.
- Property No. 16 – Incorrect APN for the property located at 151 Long Lane. The correct APN is 8202-033-908.

Mr. Kevin Radecki  
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- Property No. 17 – Incorrect APN for the property located at 125 N. Orange Avenue. The correct APN is 8202-033-906.
- Property No. 18 – Incorrect APN for the property located at 11 Hudson Avenue. The correct APN is 8208-024-905.
- Property No. 60 – Incorrect address. The correct address is 1123 Hatcher Avenue instead of 1129 Hatcher Avenue.
- Property Nos. 65 and 72 – Incorrect permissible use for the property located at 208 Waddingham Way and for the Puente Basin water rights. According to the asset descriptions, the correct permissible use is Sale of Property.
- Property No. 66 – Incorrect APN for the property located at Garcia Lane. The correct APN is 8709-027-039.

In accordance with HSC section 34191.4, upon receiving a Finding of Completion from Finance and approval of a LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation. Pursuant to HSC section 34191.3 the approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all the real property assets of the former redevelopment agency.

Agency actions taken pursuant to a Finance approved LRPMP are subject to oversight board (OB) approval per HSC section 34181 (f). Any subsequent OB actions addressing the Agency's implementation of the approved LRPMP should be submitted to Finance for approval.

Please direct inquiries to Kylie Oltmann, Supervisor, or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

cc: Mr. Déan Yamagata, Contracted Finance Manager, City of Industry  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
Ms. Elizabeth Gonzalez, Bureau Chief, Local Government Audit Bureau, California State  
Controller's Office  
California State Controller's Office

# EXHIBIT “D”

**RESOLUTION NO. OB 2013-15**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE INDUSTRY URBAN-DEVELOPMENT AGENCY, THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF INDUSTRY, APPROVING THE SUCCESSOR AGENCY'S LONG-RANGE PROPERTY MANAGEMENT PLAN**

**WHEREAS**, the Successor Agency to the Industry Urban-Development Agency was formed in accordance with California Health and Safety Code Section 34173 ("Successor Agency"); and

**WHEREAS**, the Oversight Board ("Oversight Board") of the Successor Agency was established pursuant to California Health and Safety Code Section 34179; and

**WHEREAS**, the Successor Agency must expeditiously wind down the affairs of the former redevelopment agency as directed by the Oversight Board in accordance with California Health and Safety Code Section 34177(h); and

**WHEREAS**, the Successor Agency must prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency in accordance with California Health and Safety Code Section 34191.5; and

**WHEREAS**, the long-range property management plan, once approved by the Oversight Board and the Department of Finance, will govern and supersede all other provisions of the Health and Safety Code relating to the disposition and use of the real property assets of the former redevelopment agency; and

**WHEREAS**, the long-range property management plan must provide an inventory of all properties of the former redevelopment agency held by the Successor Agency, including specific property data, valuation, current use, and current or future development, and also address the proposed use, retention or disposition of all the properties held, as required by Health and Safety Code Section 34191.5(c); and

**WHEREAS**, the property held by the Successor Agency may not be transferred to a city, county or city and county unless the long-range property management plan has been approved by the Oversight Board and the Department of Finance; and

**WHEREAS**, the Successor Agency requests the Oversight Board approve its long-range property management plan in the form attached hereto as Attachment A, in accordance with California Health and Safety Code Section 34191.5(b); and

**WHEREAS**, all actions taken pursuant to the approved long-range property management plan must first be brought before the Oversight Board for approval in accordance with California Health and Safety Code Section 34181(f); and

WHEREAS, the transfer of any governmental use property under the approved long-range property management plan will be subject to a deed restriction requiring the transferred property to be utilized only for a governmental purpose and upon the discontinuance of such governmental use, the property will transfer back to the Successor Agency, or its successor.

WHEREAS, the Oversight Board has determined that the long-range property management plan attached hereto as Attachment A is valid and prepared in accordance with California Health and Safety Code Section 34191.5(c) and that the preparation of the long-range property management plan is consistent with the requirements of the Successor Agency to wind down the affairs of the Former Agency in accordance with California Health and Safety Code Section 34177(h); and

WHEREAS, California Health and Safety Code Section 34179(e) requires the Oversight Board to adopt resolutions for any action taken by the Oversight Board.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

**Section 1. Approval of Long-Range Property Management Plan.** The Oversight Board hereby approves the Successor Agency's long-range property management plan in the form attached hereto as Attachment A, and all actions taken thereunder must be brought before the Oversight Board for approval. All proceeds received from the sale of such properties listed in the long-range property management plan will be utilized to satisfy outstanding enforceable obligations or transferred to the Los Angeles County Auditor-Controller for distribution to the taxing entities. Each governmental use property under the approved long-range property management plan will be subject to a deed restriction requiring the transferred property to be utilized only for a governmental purpose and upon the discontinuance of such governmental use, the property will transfer back to the Successor Agency, or its successor.

**Section 2. Authorization of Successor Agency.** Upon approval of this resolution ("Resolution") by the California Department of Finance, the Oversight Board authorizes and directs the Executive Director and/or Assistant Secretary of the Successor Agency, jointly and severally, to execute and deliver any and all documents which they may deem necessary or advisable in order to effectuate the approval of the long-range property management plan.

**Section 3. Delivery to the California Department of Finance.** The Oversight Board hereby authorizes and directs the Secretary of the Oversight Board to electronically deliver a copy of this Resolution to the California Department of Finance in accordance with California Health and Safety Code Section 34179(h).

**Section 4. Other Actions.** The Oversight Board hereby authorizes and directs the Chairman, Vice Chairman and/or Secretary of the Oversight Board, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to effectuate the purposes of this Resolution, and such actions previously taken by such officers are hereby ratified and confirmed.

**Section 5. Effect.** This Resolution shall take effect upon approval of the California Department of Finance in accordance with California Health and Safety Code Section 34179(h).

**PASSED, APPROVED AND ADOPTED** by the Oversight Board at a duly noticed meeting of the Oversight Board held on October 8, 2013, by the following vote:

Ayes: Board Member Duarte, Board Member Frutos, Board Member Gregoryk,  
Board Member Martinez, Board Member Radecki, VC/Cipriani & C/Kreimann

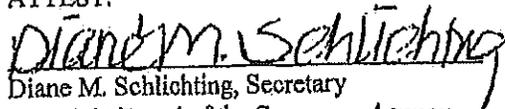
Noes: None

Absent: None

Abstain: None

By:   
Santos H. Kreimann, Chairman  
Oversight Board of the Successor Agency  
to the Industry Urban-Development Agency

ATTEST:

  
Diane M. Schlichting, Secretary  
Oversight Board of the Successor Agency  
to the Industry Urban-Development Agency

**RESOLUTION NO. OB 2013-15**  
**ATTACHMENT A**  
**LONG-RANGE PROPERTY MANAGEMENT PLAN**  
**[ATTACHED BEHIND THIS PAGE]**





## EXHIBIT 1

### Long Range Property Management Plan Successor Agency to the Industry Urban-Development Agency Approved October 3, 2013

The following outline incorporates all 68 properties/assets that have been identified as owned by the Successor Agency to the Industry Urban-Development Agency. The properties have been placed into different categories based upon the specifics of the property and approach to its disposition. A staff report has been prepared for each property including a description of the property, the background associated with its acquisition, proposals that have been made and the staff recommendation for its disposition.

- A. Properties that have no commercial value, including remnant pieces, landscape areas, ROW, slope area and properties that are governmental use. The staff recommends that these properties be conveyed at no cost to the City. The City will in some cases approach adjacent property owners to take properties at no cost and for those that remain in the City ownership the City will be responsible for their maintenance. There are 21 properties in this category listed below (Attachment A, staff report and maps).
- Property # 13 on Property List (Landscape Area)
  - Property #14 on Property list (ROW)
  - Property # 15 on property list (Landscape Area)
  - Property #25 on Property List (Landscape Area)
  - Property #26 on Property List (Remnant)
  - Property #27 on Property List (Remnant)
  - Property #37 on Property List Remnant)
  - Property # 38 on Property List (Remnant)
  - Property #39 on Property List (Remnant)
  - Property #52 on Property List (Landscape Area)
  - Property #56 on Property List (Landscape Area)
  - Property #61 on Property List (ROW)
  - Property #62 on Property List (ROW)
  - Property #63 on Property List (Part of San Jose Creek)
  - Property #71 on Property List (Remnant; ROW)
  - Property # 36 on Property List (Remnant, ROW)
  - Property #67 on Property List (Water Well)
  - Property # 57 on Property List (747 Anaheim Puente Road, Pump Station)
  - Property #70 on Property List (804 Azusa Ave., vacant Industrial)
  - Property #44 on Property List (205 Hudson, YAL office)
  - Property #55 on Property List,(15415 Don Julian, Homestead Museum)

B. Properties for Sale. Those properties to be marketed through direct contact with interested parties and through the use of brokers. Proposals would be evaluated based upon acceptable development plans.

- Property # 53 on Property List (555 El Encanto Road, El Encanto Hospital)
- Property # 41 on Property List (Grand Crossing)
- Property # 29 on Property List ( 911 Bixby, Mission Energy)
- Property # 33 on Property List (17545 Gale, Best Buy)
- Property # 35 on Property List (17723 Gale, Mazda)
- Property # 40 on Property List (Industry Business Center 600 acres)
- Property # 43 on Property List, 841 S. 7<sup>th</sup> street (YAL community youth center)
- Property # 45, 22 and part of 46 on Property List, Stafford Street (Sheriff Helipad)
- Property # 49 and 23 on Property List, 15660 Stafford (Post Office & LA County Fire Prevention plus adjacent vacant property)
- property # 48 and part of 46 on Property List, West side of Hacienda north of Stafford (Sheriff parking)
- Property # 51, on Property List, North side of Stafford west of Glendora (portion Park & Ride)
- Property # 54 on Property List, west side of Parriott Place (adjacent to El Encanto)
- Property #66 on Property List (Garcia Lane Fire Station site)
- Property # 68 on Property List (Tres Hermanos Ranch)
- Property # 65 on Property List (208 Waddingham Way, electrical substation)
- Property # 72 on Property List (Puente Basin Water Rights)
- Property # 10 on Property List (13530 Nelson)
- Property # 12 on Property List (15432 Nelson)
- 19. Property # 59 & 60 on Property List (1123, 1129 & 1135 Hatcher)
- 20. Property #2 on Property List, 333 Turnbull Canyon
- 21. Property # 4 on Property List, 17370 Gale Ave.
- Property #9 on Property List, 15000 Nelson
- Property # 24, 15710 and 15718 Rausch Road
- Property # 7 & 8, 14624 & 14700 Nelson Ave.
- Property # 1 on Property List (333 Hacienda Blvd.)
- Property # 11 on Property List, 15130 Nelson (Los Altos Cheese)
- Property # 16 on Property List, 151 Long Lane
- Property # 17 on Property List Nelson, 125 N. Orange
- Property # 18 on Property List, 111 Hudson
- Property # 32, 17475 Gale (Auto Mall vacant)
- Property # 34, 17647 Gale (Auto Mall vacant)
- Property #28, east side of Parriott Place (6.18 acres)
- Property # 30 on Property List, east side of Azusa north of Rail Road (10.1 acres)
- Property # 58 on Property List (17300 Chestnut)
- Property #19; 20, 21, 50 & 47 Property List (15625 Stafford Street)
- Property # 5 on Property List (19835 E. Walnut Dr.)
- Property # 31 on Property List (17201-17301 Gale Ave.)

## Attachment B

Attachment B contains those properties to be made available for sale. The properties include those to be offered to tenants and/or the City first and if no interest offered generally for sale.

The properties the staff recommends be offered for sale utilize the process outlined below. It is anticipated that any sale including those properties above would have to meet the basic criteria of agreement to pay a reasonable price based on a current appraisal and submission of a Development Plan and Schedule acceptable to the City. The properties would be distributed to brokers and interested parties. Competing proposals would be evaluated based upon the following criteria to determine which prospective buyer to work with on finalizing a project to forward to the Successor Agency and Oversight Board for approval.

- Agreement to pay a reasonable price based upon a current appraisal
- A development Plan and schedule through construction acceptable to the City
- An estimate of the assessed value of the project
- Identification of the end user, the job creation and if the user is a local company
- Identification of the type of intended tenants if the project is speculative

It is planned that the appraisals required for each property will be the responsibility of the prospective buyer and would be undertaken by an appraiser selected from a pre approved list determined by issuing a Request for Qualifications. Keyser Marston would assist with the RFQ and selection process for Brokers and appraisers as well as review and selection of proposals.

June 2013

**Property Description**

**Address:** Tres Hermanos Ranch, # 68 on Property List

**Size:** 2,450 acres, cattle ranch

**Date Purchased:** November 1978

**IUDA Purchase Price:** \$12,100,000

**Estimated Current Value:** \$85,750,000 to \$122,500,000 (preliminary by Keyser Marston)

**Reason Acquired:** Purchased as potential site for reservoir

**Plan and Zoning:** Property is located in both Los Angeles and San Bernardino Counties, not entitled for development

**Lease Revenue:** Leased to Russ Wood for pasture land, \$600 per month

**Environmental:** None

**Potential for Transit-Oriented Development:** None

**History of Development Proposals:** There have been a series of reports and studies on the use of the property for the development of reservoirs and other public uses.

**Staff Recommendation:** Staff recommends the property be offered for sale to the City and if the City has no interest in acquiring the property would be made generally available for sale.



EXHIBIT "E"

# CS Casso & Sparks, LLP

ATTORNEYS AT LAW  
13200 Crossroads Parkway North, Suite 345  
City of Industry, CA 91746  
Telephone: 626.269.2980

James M. Casso  
Principal  
[jcasso@cassosparks.com](mailto:jcasso@cassosparks.com)  
[www.cassosparks.com](http://www.cassosparks.com)

August 22, 2017

The Honorable Santos Kreimann  
Chairman  
Oversight Board of the Successor Agency  
to the Industry Urban-Development Agency  
15625 East Stafford Street  
City of Industry, CA 91744

Dear Chairman Kreimann:

As you are aware, we serve as City Attorney for the City of Industry (the "City") and as Agency General Counsel for the Successor Agency to the former Industry Urban-Development Agency ("Successor Agency") and we have been asked by the City and the Successor Agency to submit this letter in support of the City's offer to purchase the property commonly known as Tres Hermanos.

### **The Dissolution Act:**

In December 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos*, finding Assembly Bill X1 26, which dissolved California's redevelopment agencies, largely constitutional. The California Legislature then adopted a number of bills, including AB 1484, to facilitate the dissolution. For purposes of this letter, AB X1 26 and AB 1484 are collectively referred to as the "Dissolution Act," and reference the California Health & Safety Code. Unless otherwise indicated, all statutory references herein refer to the Health and Safety Code.

Pursuant to the provisions of Section 34191.5, each successor agency is required to prepare a long-range property management plan ("LRPMP") which addresses the disposition and use of real properties of the former redevelopment agency. The LRPMP is then submitted to the successor agency's oversight board and California Department of Finance ("DOF") for approval. Once the LRPMP is approved by DOF, the successor agency is required to comply with the LRPMP to dispose of all real properties of the former redevelopment agency.

### **The Successor Agency's LRPMP:**

On or about October 8, 2013, the Oversight Board to the Successor Agency approved the Successor Agency's LRPMP. DOF, however, requested certain revisions to the LRPMP, and on or about February 6, 2014, the Oversight Board approved the Successor Agency's revised LRPMP. A copy of the Oversight Board's resolution and the LRPMP, relative to Tres Hermanos, only, is attached hereto as Exhibit A. Consistent with the requirements of State law, the Oversight Board's resolution and the LRPMP were submitted to DOF on or about February 11, 2014, for review and approval.

The Honorable Santos Kreimann  
August 22, 2017  
Page 2

The Successor Agency's LRPMP was approved by DOF on or about February 21, 2014. A copy of the letter from DOF is attached hereto as Exhibit B. DOF's letter to the Successor Agency states, in pertinent part, as follows:

"...based on our review and application of the law, we are approving the Agency's use or disposition of all the properties listed on the LRPMP."

DOF's letter goes on to state:

"Pursuant to [Health & Safety Code] Section 34191.3 the approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all the real property assets of the former redevelopment agency."

**The Tres Hermanos Property and the LRPMP:**

Tres Hermanos is listed as Property No. 68 on the LRPMP's property list. Consistent with the provisions of Section 34191.5(c)(1)(H), the LRPMP provides a brief history of previous development proposals for the property. Specifically, the LRPMP sets forth the following:

"History of Development Proposals: There have been a series of reports and studies on the use of the property for the development of reservoirs and other public uses."

In accordance with the requirements of Section 34191.5(c)(2), the LRPMP also sets forth the disposition of the Tres Hermanos property:

"Staff recommends *the property be offered for sale to the City and if the City has no interest in acquiring the property would be made generally available for sale.*"  
(Emphasis added)

Given the mandate set forth in Section 34191.5(c)(2), Tres Hermanos must first be offered for sale to the City. Only in the event that the City has no interest in purchasing the property can it be offered to the public for sale. Moreover, based on various webinars offered by DOF concerning the interpretation of the maximization of value provision set forth in Section 34177(e) of the Dissolution Act, the DOF has opined that the term "maximizing value" does not necessarily equate to a monetary value, but instead, to the overall value a project may have on a community. Discretion is given to the various legislative bodies on what constitutes a maximization of value.

Before the Oversight Board is the City's second offer to purchase Tres Hermanos. In response to the City's initial offer of \$41,650,000.00 on September 29, 2016, in which the City was willing to accept a deed restriction limiting the future use of the property, the Oversight Board, after consideration and debate, requested a re-appraisal of the property. The Oversight Board wanted an appraisal that valued the property without any restrictions on the future use of Tres Hermanos.

The City's current offer to purchase the Tres Hermanos property is for the unrestricted, "re-appraised value" of \$100,000,000.00. As you are aware, on January 13, 2017, the Successor Agency approved the City's offer. Consistent with the requirements set forth in the Dissolution Act and the approved LRPMP, the Oversight Board must now consider the Purchase and Sale Agreement.

***Oversight Board Approval of the Sale is Ministerial:***

The provisions of Section 34191.3 control the disposition of real property. Pursuant to Section 34191.3, the LRPMP "shall govern, and supersede all provisions relating to, the disposition and use of the real property assets of the former redevelopment agency". Only in the event that DOF has not approved an LRPMP by January 1, 2016, do Sections 34177(e) and 34181(a) of the Dissolution Act apply.

Because the Agency's LRPMP was approved prior to January 1, 2016, in accordance with the provisions of Section 34191.3, the LRPMP controls the disposition of property. Since DOF's approval on February 21, 2014, the LRPMP has been in effect. In approving the LRPMP, DOF stated that the "disposition of all the properties" shall be governed by the LRPMP. In other words, the Oversight Board already has exercised its approval of the LRPMP and now its only option is to ensure disposition of any property is consistent with the LRPMP. As previously discussed, the sale of Tres Hermanos to the City is consistent and compliant with the LRPMP. At this point, the Oversight Board's action on this matter is purely ministerial.

***I. The Statement of Objections from the County of Los Angeles:***

As you are aware, in September 2016, the County of Los Angeles ("County") provided a letter to the Oversight Board stating its objections to the City's purchase of Tres Hermanos. A copy of the County's letter, without its attachments, is attached hereto as Exhibit C. In its letter, the County chiefly objected to the process by which the City was attempting to acquire the property and the purchase price the City offered for the property. Each of these issues is addressed in detail below.

**a. The City must comply with the process set forth in the LRPMP to purchase Tres Hermanos.**

In its letter, the County contends that the Agency should comply with process set forth in the LRPMP for the sale of Tres Hermanos, which the County asserts is the following:

"The properties the staff recommends be offered for sale utilize the process outlined below. It is anticipated that any sale including those properties above would have to meet the basic criteria of agreement to pay a reasonable price based on a current appraisal and submission of a Development Plan and Schedule acceptable to the City. The properties would be distributed to broker and interested parties. Competing proposals would be evaluated based upon the following criteria to determine which prospective buyer to work with on finalizing a project to forward to the Successor Agency and Oversight Board for approval.

- Agreement to pay a reasonable price based upon a current appraisal.
- A development plan scheduled through construction acceptable to the City.
- An estimate of the assessed value of the project.
- Identification of the end user, the job creation and if the user is a local company.

-Identification of the type of intended tenants if the project is speculative.

It is planned that the appraisals for each property will be the responsibility of the prospective buyer and would be undertaken by an appraiser selected from a pre-approved list determined by issuing a Requests for Qualifications.” (See *County Letter* at p. 3.)

Interestingly, the County has directly cited to the language set forth in Attachment B of the LRPMP, however, the County has notably omitted the first paragraph of the Attachment, which reads as follows:

“Attachment B contains those properties to be made available for sale. *The properties include those to be offered to tenants and/or the City first and if no interest offered generally for sale.*” (See LRPMP at Attachment B.) (Emphasis added)

Despite the County’s contentions, it is abundantly clear from the first paragraph of Attachment B of the LRPMP that certain properties (including Tres Hermanos) are to be offered to the City first. Only in instances where the City is not interested can the properties be offered generally for sale. The process set forth in the LRPMP is only applicable to those properties that are offered “generally for sale”. It is only logical that those properties to which the City has the first right to purchase do not require the process, because it is pointless—if the City exercises its right to purchase the property, then there are no developers or alternative proposals to select.

The County further contends that there are four allowable categories for property disposition including retention for governmental use, retention for future development, sale of the property, and use of the property to fulfill an enforceable obligation, but that “there is no category where the City has priority to purchase a property”. (See *County Letter* at p. 3.) This argument is meritless. There is no need for a separate “category” to allow the City to purchase the property because the Dissolution Act expressly allows the sale of property to the City (before any alternative is considered). The City’s first right to purchase (which is a sale of property) is explicitly set forth in the LRPMP, and the LRPMP was approved by both the Oversight Board and the DOF.

By making an offer to purchase Tres Hermanos prior to the property being put out for “general sale”, the City is exercising its first right to purchase in accordance with the provisions set forth in the LRPMP.

**b. The City’s \$100 million offer for Tres Hermanos does not maximize value.**

In its letter, the County consistently argues that the City’s offer does not maximize value, as required under the Dissolution Act. Since the time of the County’s letter, the City conducted a second appraisal and is now offering \$100 million dollars for the property, which is consistent with the “new” appraised value, without any additional restriction on the use of the land. While the County’s letter mentioned a deed restriction limiting the use of the land, when a buyer offers the appraised value, it is unreasonable to assume that a buyer also would accept a deed restriction governing the future use of a property without considering the adverse impact on value and correspondingly reducing the purchase price. Further, as has been stated by the City on numerous occasions, particularly at Oversight Board meetings, the future use of Tres Hermanos is governed by Government Code Section 37351. In pertinent part, Government Code Section 37351 provides: “[A

The Honorable Santos Kreimann  
August 22, 2017  
Page 5

city] may purchase, . . . , real estate situated inside or outside the city limits as in necessary or proper for municipal purposes." Under California law, the future use of Tres Hermanos, under the ownership of the City of Industry, must be for a "municipal purpose" regardless of whether that deed restriction is added.

**II. Compliance with Government Code Section 65402:**

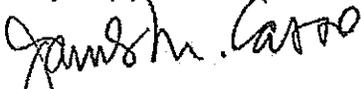
The City of Chino Hills submitted a letter to the Oversight Board requesting that the Board direct the City of Industry to comply with the provisions of Government Code Section 65402. A similar letter was sent by the City of Diamond Bar to the City of Industry. Please be advised that the City has repeatedly confirmed, and continues to confirm, that it will comply with all applicable requirements of federal, State and local laws and regulations.

**III. Conclusion:**

The Dissolution Act requires the Oversight Board to dispose of property in accordance with the provisions of the LRPMP. The City has a first right to acquire Tres Hermanos. The City has offered to pay the appraised value of Tres Hermanos. For these reasons, and based on the information set forth herein, the Oversight Board is required to approve the sale of the Tres Hermanos Property to the City.

I will be available at the Oversight Board's meeting to answer any questions regarding this matter.

Very truly yours,



James M. Casso  
City Attorney & Agency General Counsel

Enclosures

cc: Oversight Board of the Successor Agency to the Industry Urban-Development Agency  
Mayor Mark Radecki & Industry Councilmembers  
Paul J. Philips, City Manager  
Supervisor Hilda Solis, First District  
Jeffrey Prang, Assessor, County of Los Angeles  
Michael Cohen, Finance Director, California Department of Finance  
Bill Lockyer, Esq., Independent Reform Advisor, City of Industry  
Anthony Bouza, Esq.  
Sean Varner, Esq. Oversight Board Legal Counsel

# EXHIBIT "F"



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**CLIENT MEMORANDUM**

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**TO:** OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE INDUSTRY URBAN-DEVELOPMENT AGENCY  
**FROM:** VARNER & BRANDT LLP  
**SUBJECT:** TRANSMITTAL OF AUGUST 24, 2017 OVERSIGHT BOARD MEETING AGENDA ITEM #5.2  
**DATE:** AUGUST 15, 2017

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The following memorandum provides the members of the Oversight Board ("Oversight Board") to the Successor Agency to the Industry Urban-Development Agency ("Successor Agency") with pertinent information in order for each Board Member to make an informed decision on the matters before the Oversight Board.

**Agenda Item No.:** 5.2

**Subject: Disposition of Tres Hermanos Ranch Property.** Consideration of approval of the disposition of certain real property commonly known as Tres Hermanos Ranch (the "Property") identified as Asset No. 68 in the Successor Agency's approved long-range property management plan ("LRPMP") to the City of Industry (the "City") in accordance with the provisions of the LRPMP.

**Legislative Authority of the Oversight Board:**

1. *California Health and Safety Code Section 34177(e):* The Successor Agency must dispose of assets and properties of the former redevelopment agency as directed by the Oversight Board; provided, however that the Oversight Board may direct the Successor Agency to transfer ownership of certain assets pursuant to Section 34181(a). The disposal of the assets and properties is to be completed expeditiously and in a manner aimed at maximizing value.
2. *California Health and Safety Code Section 34177(h):* The Successor Agency must expeditiously wind down the affairs of the Former Agency in accordance with the direction of the Oversight Board.
3. *California Health and Safety Code Section 34181(a):* The Oversight Board must direct the Successor Agency to dispose of all assets and properties of the former redevelopment agency. The disposal of all Successor Agency assets and property must be conducted expeditiously and in a manner aimed at maximizing value.

4. *California Health and Safety Code Section 34191.3*: The disposition authority of the Successor Agency and the Oversight Board under Sections 34177(e) and 34181(a), respectively, is suspended, except as to transfers for governmental use, until the Department of Finance has approved a long-range property management plan, at which point the long-range property management plan will govern the disposition and use of real property assets of the former redevelopment agency.

**Background:** The LRPMP of the Successor Agency governs the disposition and use of the real property assets of the former redevelopment agency. (HSC Section 34191.3(a)). Once a successor agency receives its finding of completion, a successor agency must dispose of assets and properties of the former redevelopment agency in accordance with the provisions of the LRPMP and at the direction of the Oversight Board. (HSC Sections 34181(a) and 34191.3). Approval of the Successor Agency's LRPMP occurred on February 21, 2014. The Property is identified as Property No. 68 on the LRPMP and reflected as a "for sale" property. The staff recommendation for the disposition of the Property requires the Successor Agency to first offer the Property to the City and then to the public. The LRPMP specifically states that the Successor Agency will evaluate "for sale" properties "upon acceptable development plans," including information regarding construction schedules, assessed value of the proposed project, identification of the end user and potential job creation, and the identification of proposed tenants.

The Property consists of approximately 2,450 acres located partially in the City of Chino Hills (8 of the 11 parcels) and the City of Diamond Bar (3 of the 11 parcels). The Property is currently utilized as open pasture for cattle grazing and includes two single family residences and the Arnold Reservoir. The portions of the Property located in Chino Hills are zoned RA (Agriculture-Ranch). The City of Chino Hills General Plan designation is primarily agriculture/ranches; however, certain portions of the Property are designated for commercial, mixed use or very high density residential development. The portions of the Property located in Diamond Bar are primarily zoned AG (agriculture) and a portion is zoned RH-30 (high density residential).

Initially, the City engaged R.P. Laurain & Associates ("Laurain") to appraise the Property. The City received the appraisal on January 18, 2016; however, the appraisal conducted by Laurain was based on the assumption of a non-existent, hypothetical condition that would encumber the Property with a covenant restricting use to open space, public use or preservation use. Based on the hypothetical condition, the appraiser determined the fair market value of the Property to be \$41,650,000.00. The City offered to purchase the Property for \$41,650,000.00.

The Oversight Board requested a new appraisal of the Property without the hypothetical condition and aimed at achieving the highest and best use. The Successor Agency engaged Larry W. Heglar & Associates to appraise the Property ("Heglar"). Heglar provided an Appraisal Report dated December 7, 2016, wherein Heglar valued the Property at \$100,000,000 based on its current zoning designations. The City submitted a revised offer to purchase the Property for \$100,000,000.

**Application:**

Pursuant to the Department of Finance's letter, dated February 21, 2014, approving the LRPMP, any Successor Agency actions taken pursuant to an approved LRPMP are subject to the Oversight Boards approval per HSC section 34181(f). The proposed disposition of the Property to the City is consistent with the LRPMP and properly before the Oversight Board for consideration.

The proposed Purchase and Sale Agreement between the Successor Agency and the City provides that the sale of the Property is made on an "AS IS" basis and includes a full release of claims. Closing costs will be split between the parties. A non-refundable deposit equal to 10% of the purchase price (i.e., \$10,000,000.00) is required and completion of the transaction must occur within 30 days after approval of the purchase agreement. The Successor Agency approved the new purchase agreement on January 13, 2017.<sup>1</sup> On January 23, 2017, the Oversight Board considered the City's revised offer. At that meeting, the Oversight Board requested additional information regarding the City's planned development of the Property.

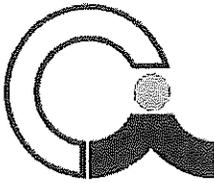
In addition to the City's offer, the Successor Agency also received an unsolicited bid from GH America Investments Group, Inc. ("GH America") to purchase the Property for \$101,000,000. GH America revised its original offer in 2016 and again in 2017, with its current offer at \$108,000,000. At the request of the Oversight Board, GH America provided a presentation concerning its intended use of the Property, which included approximately 1,881 residential units, mixed use, commercial and open space preservation. Under HSC Section 34191.3, the Oversight Board must first consider the City's offer (consistent with the provisions of the LRPMP) before the Property can be marketed or offered to third parties, like GH America.

Pursuant to the LRPMP, the City's offer, approved by the Successor Agency, now comes before the Oversight Board for consideration and approval. In evaluating the proposed disposition of the Property to the City, the Oversight Board must keep in mind that they have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from the distributions of property tax and other revenues (HSC Sections 34179(i)). With that in mind, the disposition of any property must be done expeditiously and in a manner aimed at maximizing value. (HSC Section 34181(a)).

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<sup>1</sup> If approved, the "Effective Date" on the Purchase and Sale Agreement, which currently shows January 13, 2017, will need to be revised.

# EXHIBIT "G"



# CITY OF INDUSTRY

Incorporated June 18, 1957

## MEMORANDUM

**TO:** Honorable Mayor Radecki and Members of the City Council

**FROM:** Paul J. Philips, City Manager *Paul J. Philips*

**STAFF:** Roberto Ramirez, Contract City Engineer, Cordoba Corporation

**DATE:** October 12, 2017

**SUBJECT:** Ratification of the Master Ground Lease with San Gabriel Valley Water and Power and Amendments Nos. 1-4

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Before the City Council is the Master Ground Lease ("Lease") with San Gabriel Valley Water and Power. City Staff is recommending that the City Council ratify the Lease and related amendments that were previously executed by the City Manager at the Council's direction.

Fiscal Impact:

Funding for the City's payments under the Lease are included in the FY 2017-18 budget.

Recommendation:

- 1) City Staff recommends that the City Council ratify the Lease and related amendments.

Exhibit:

- A. Master Ground Lease
- B. Amendment 1
- C. Amendment 2
- D. Amendment 3
- E. Amendment 4

MASTER GROUND LEASE

THIS MASTER GROUND LEASE ("Lease") is made and entered into as of 17th day of May, 2016 ("Effective Date"), by and between THE CITY OF INDUSTRY, a municipality organized under the laws of the State of California ("Landlord"), and SAN GABRIEL VALLEY WATER AND POWER, LLC, a California limited liability company ("Tenant").

RECITALS:

A. Landlord is the owner of that certain real property located in the Counties of Los Angeles, San Bernardino and Orange, State of California, which is more particularly described on Exhibit "A" attached hereto (as such real property may be reduced for portions thereof that are excluded and subjected to a Project Lease and increased with respect to the Scout Property and Agency Property, as defined below, the "Total Site").

B. Landlord may acquire all or portions of two (2) additional parcels of real property that are described on Exhibit "B" attached hereto and referred to herein as the "Scout Property" and the "Agency Property". If Landlord timely acquires either the Scout Property or the Agency Property, or any portion of either, then such property shall be added to, and become part of, the Total Site in accordance herewith.

C. Landlord and Tenant intend to permit Tenant to develop such portions of the Total Site as the Tenant shall determine desirable and which Landlord approves in accordance herewith for various public infrastructure projects including, without limitation, a solar farm and a reservoir.

D. To facilitate Tenant's development of such projects on the Total Site, Landlord shall allow Tenant or an Affiliate or Permitted Assignee, as each are defined below (as applicable, the "Project Tenant") to enter into ground leases of portions of the Total Site in the form to be agreed upon between Landlord and Tenant by the Due Diligence Date and attached to this Lease as an exhibit by supplement hereto, with such revisions as the parties shall approve for each Project, as defined below (each, a "Project Lease"), whereupon the premises thereunder shall be excluded from the Total Site.

E. In furtherance of the foregoing, Landlord and Tenant wish to enter into this Lease with respect to the Total Site.

AGREEMENT

NOW, THEREFORE, incorporating the foregoing recitals and in consideration of the foregoing recitals and of the mutual covenants, conditions and agreements herein contained to be done, kept and performed, Landlord and Tenant hereby agree as follows:

## ARTICLE I

### PROPERTY

1.1 Demise. Landlord, for and in consideration of the rents, covenants and agreements to be paid, kept, performed and observed by Tenant under this Lease, hereby demises and leases unto Tenant, and Tenant hereby leases from Landlord, the Total Site upon and subject to the terms, covenants and conditions herein set forth. Landlord and Tenant mutually covenant as a material part of the consideration for this Lease to keep and perform each and all of said terms, covenants, and conditions.

1.1.1 Scout Property and Agency Property. If Landlord acquires fee title to all or any portion of the Scout Property and/or the Agency Property on or before December 31, 2018 (which Landlord may elect not to do in its sole discretion), then Landlord shall provide prompt notice thereof to Tenant and the parties shall supplement this Lease to demise such property whereupon such property shall become part of the Total Site and subject to the terms of this Lease; provided, however, that (a) the failure of Landlord to acquire all or any portion of the Scout Property and/or the Agency Property on or before December 31, 2018, for any reason whatsoever shall not constitute a breach or default by Landlord under this Lease, nor shall it constitute the failure of a condition precedent to any of Tenant's obligations under this Lease, (b) Tenant's rights under Section 1.4 below shall not be renewed or extended as the result of all or any portion of the Scout Property and/or the Agency Property becoming part of the Total Site, and (c) the provisions of Sections 1.5 and 1.6 shall apply to the Scout Property and/or the Agency Property if either becomes part of the Total Site.

1.1.2 Project Leases. Upon the execution and delivery by the parties thereto of a Project Lease and the satisfaction or waiver of the conditions precedent to the effectiveness thereof, if any, the portion of the Total Site that is the subject of such Project Lease shall be excluded from the Total Site and this Lease.

1.2 Recorded Documents. This Lease, the interests of Tenant thereunder and the Total Site are in all respects subject to and bound by all the terms and provisions of the recorded covenants, conditions and restrictions and any other recorded documents now affecting the Total Site or hereafter affecting the Total Site (collectively, the "**Restrictions**"); provided, however, that, except (a) in connection with obtaining financing secured by the fee interest in the Total Site in accordance with this Lease, (b) for matters affecting the Scout Property and/or the Agency Property that are executed in connection with the acquisition thereof, or (c) as required by law, Landlord shall not voluntarily record any further documents with respect to the Total Site that would materially increase Tenant's obligations hereunder or materially decrease Tenant's rights hereunder or with respect to a Project, without Tenant's prior written consent, which Tenant may withhold in its sole discretion. Tenant shall comply with all requirements of the Restrictions that apply to the Total Site at Tenant's sole expense.

1.3 Due Diligence. Provided that no event of default has occurred and is continuing hereunder and Tenant has obtained and provided the liability insurance coverages required by this Lease, from and after the Effective Date and until the date that is ninety (90) days

thereafter (the "**Due Diligence Date**") date hereof through the earlier of the termination of this Lease or the Commencement Date, Tenant and its agents, consultants, contractors and subcontractors shall have the right to conduct or make any and all inspections, tests, studies, investigations, analyses, reports, surveys, searches and the like of, on or about the Total Site as may be necessary or desirable to determine the suitability of the Total Site for Tenant's proposed use (the "**Site Diligence**"); provided, however, that the scope of any test or analysis which requires physical sampling, testing or drilling into the subsurface of all or any part of the Total Site shall be subject to the requirement that Tenant dispose of all such test samples in accordance with applicable law and at no cost or liability to Landlord and restore the affected portion of the Total Site to its original condition prior to the Due Diligence Date. At the reasonable request and expense of Tenant, Landlord shall cooperate with the Site Diligence and promptly provide to Tenant information, materials, data and reports available to Landlord which Tenant may request and which is not subject to confidentiality or other similar restrictions ("**Due Diligence Material**"), all of which shall be provided as a courtesy and without any liability to Landlord. Tenant shall obtain or cause its consultants to obtain, at Tenant's sole cost and expense, prior to commencement of any investigative activities on the Total Site, a policy of commercial general liability insurance covering any and all liability of Tenant and Landlord with respect to or arising out of any investigative activities with liability limits of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage liability. Such policy of insurance shall be kept and maintained in force during the occurrence of such activities. Tenant's liability shall not be limited by the amount of any insurance coverage.

Tenant shall deliver to Landlord, without any representation or warranty whatsoever, a copy of all results from the Site Diligence obtained and/or prepared pursuant to the provisions of this Section 1.3, and which shall also be addressed to Landlord. Tenant shall keep the results of all such Site Diligence confidential except as required by law. Tenant hereby indemnifies and holds the Total Site, Landlord and Landlord's officers, directors, shareholders, participants, affiliates, employers, representatives, invitees, agents and contractors free and harmless from and against any and all claims, liabilities, losses, damages, causes of action, judgments, liens, costs and/or expenses including reasonable attorneys' fees (collectively, "**Claims**") arising out of or resulting from the exercise of its rights under this Section 1.3 by Tenant, its agents, consultants, contractors and subcontractors. Tenant shall keep the Total Site and the Total Site free and clear of any mechanics' liens or materialmen's liens related to the exercise of such rights. The Tenant's indemnification obligations set forth in this Section 1.3 shall survive any termination of this the Lease pursuant to Section 1.4 provided, however, in no event shall Tenant be liable to Landlord or be required to indemnify Landlord in respect of the mere discovery of any condition relating to the Property.

1.4 Termination Right. If Tenant, in its sole discretion, is dissatisfied with the results of Tenant's due diligence with respect to the Total Site or with respect to any amendments and/or modifications made to this Lease pursuant to Section 26.26, then Tenant shall have the right to terminate this Lease by delivering written notice thereof prior to the Due Diligence Date; otherwise, Tenant shall be deemed to have irrevocably waived such right. Notwithstanding the fact that Landlord might acquire the Scout Property and/or the Agency Property after the Due

Diligence Date, Tenant shall not have the right to terminate this Lease as the result of causing the Scout Property and/or the Agency Property to become part of the Total Site, and Tenant acknowledges that it hereby waives its right to conduct due diligence with respect to the Scout Property and/or the Agency Property.

1.5 No Representations. Except as expressly provided in this Lease, Landlord makes no representations or warranties of any kind or nature as to the Total Site nor as to the nature, size, location, or time of construction of any structures thereon. Landlord makes no representations or warranties that Tenant will be able to obtain any licenses, permits or other authorizations necessary or required to conduct the uses permitted herein on the Total Site or that the Total Site is suitable for the uses permitted herein. Prior to the Due Diligence Date, Tenant shall satisfy itself that the Total Site is suitable for its intended uses.

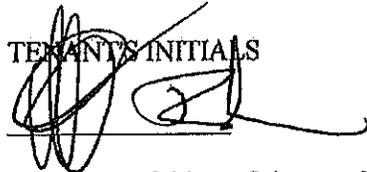
1.6 As-Is. As a material inducement to the execution and delivery of this Lease by Landlord and the performance by Landlord of its duties and obligations hereunder, Tenant does hereby acknowledge, represent, warrant and agree, to and with the Landlord, that, except as expressly set forth in this Lease: (i) Tenant is leasing the Total Site in an "AS-IS" condition as of the Due Diligence Date with respect to any facts, circumstances, conditions and defects; (ii) Landlord has no obligation to repair or correct any such facts, circumstances, conditions or defects or compensate Tenant for same; (iii) by the Due Diligence Date, Tenant shall have undertaken all such inspections and examinations of the Total Site as Tenant deems necessary or appropriate under the circumstances, and that based upon same, Tenant is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its agents and officers, and Tenant is and will be fully satisfied that the "Rent" (*i.e.*, the base rent described in Section 3.1 below together with all sums payable, or expenses incurable, by Tenant under this Lease) is fair and adequate consideration for the lease of the Total Site; (iv) except as expressly set forth below in this Lease and for the limited duration thereof, Landlord is not making and has not made any warranty or representation with respect to all or any part of the Total Site (including, but not limited to, any matters contained in documents made available or delivered to Tenant in connection with this Lease) as an inducement to Tenant to enter into this Lease or for any other purpose; and (v) by reason of all of the foregoing, except as expressly set forth in this Lease, Tenant shall assume the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the condition of the Total Site, including without limitation the presence of any asbestos containing material, hazardous toxic or radioactive waste, substance or materials in, on, under or about the Total Site, and, except as expressly set forth below in this Lease, Tenant hereby expressly and unconditionally waives and releases Landlord and all of its parents, subsidiaries, affiliates and partnerships, and its and their respective officers, directors, shareholders, partners, agents and employees, and their respective successors, heirs and assigns and each of them (individually and collectively, the "**Released Parties**") from any and all Claims against Landlord and/or the Released Parties with respect to the condition of the Total Site, including without limitation any rights of Tenant under the State or Federal Comprehensive Environmental Response, Compensation and Liability Act, as amended from time to time, or similar laws. Tenant acknowledges and agrees that, except as expressly set forth in this Lease, the foregoing waiver and release includes all Claims of Tenant against Landlord pertaining to the condition of the Total Site, whether heretofore or now existing or hereafter arising, or which could, might, or may be claimed to exist, of whatever kind or

nature, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, each as though fully set forth herein at length, which in any way arise out of, or are connected with, or relate to, the condition of the Total Site; except that such release shall not relieve Landlord of its liability for (a) fraud, or (b) any breach by Landlord of its express representations and warranties or covenants set forth in this Lease prior to the expiration thereof.

Tenant hereby waives, releases, acquits and forever discharges Landlord, its shareholders, directors, agents, employees, consultant, trustee, successor and assigns from any and all Claims which have arisen or may arise in the future with respect to the Total Site, regardless of whether Tenant is presently aware of any Claims; except that such release shall not relieve Landlord of its liability for fraud, intentional misrepresentation, gross negligence, willful misconduct or any breach by Landlord of its express representations and warranties or covenants set forth in this Lease prior to the expiration thereof. In connection with the foregoing release, Tenant specifically and expressly waives all of its rights under Section 1542 of the California Civil Code, which provides as follows:

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

\_\_\_\_\_  
TENANT'S INITIALS



1.7 Acquisition of Agency Property. Subject to completing satisfactory due diligence and entering into an agreement in form and substance satisfactory to Landlord in its sole discretion on or before November 1, 2018, that includes a closing date not later than December 31 2018, Landlord shall acquire all or any portion of the Agency Property from the current owner thereof at a purchase price less than an appraised value that is approved by Landlord in its sole discretion ("FMV"), whereupon it shall become part of the Total Site and subject to this Lease. At the reasonable expense of Landlord (which shall be approved in advance in writing), Tenant shall cooperate with Landlord's efforts to acquire the Agency Property. If the proposed purchase price for the Agency Property exceeds the FMV, then Landlord shall notify Tenant, which shall have thirty (30) days to elect to provide all the costs of acquiring the Agency Property in excess of the FMV. If Tenant elects to provide such excess, and provides security therefor in form and substance acceptable to Landlord, then Landlord shall acquire the Agency Property, whereupon it shall become part of the Total Site and subject to this Lease in accordance with Section 1.1.1 hereof, and Tenant shall bear (and not receive any reimbursement or other repayment) of the amount by which the price exceeds the FMV. If Tenant elects not to provide such excess costs but Landlord acquires the Agency Property, then the Agency Property shall be considered part of the Total Site and shall be subject to this Lease. If the acquisition price for the Agency Property is less than the FMV, then, concurrently with the

acquisition of the Agency Property, Landlord shall pay to Tenant a sum equal to one-half (1/2) of the positive difference between the FMV and actual, total acquisition cost of Agency Property.

1.8 Title Insurance. Tenant shall have the right to obtain title insurance policies with respect to the Total Site from time to time at its expense to confirm its interest in the Total Site. Landlord shall cooperate with any reasonable requests of the title insurance company with respect to its issuance of such policies.

## ARTICLE II

### LEASE TERM

2.1 Term. The term of this Lease ("**Term**") shall commence upon the Effective Date (the "**Commencement Date**") and shall continue for a period of twenty-five (25) years unless earlier terminated pursuant to the terms of this Lease.

2.2 Project Lease Term. During the Term, each Project Lease shall have a term specified by Tenant of not more than sixty-five (65) years in the aggregate from the commencement date thereunder; provided, however, that Tenant shall have the right to divide each such Project Lease into not more than three (3) leases in favor of Tenant or an Affiliate thereof or one or more Project Tenants, the terms of which shall be specified in each Project Lease, each of which (a) shall be not less than ten (10) years, and (b) shall be consecutive.

2.3 Project Lease Requirements/Landlord's Termination Rights. To ensure that Landlord receives the benefits anticipated from the various public infrastructure projects described above to be completed pursuant to a Project Lease (together with any other project requested by Tenant for approval by Landlord pursuant to Section 24.1 hereof, each a "**Project**"), Landlord shall have the right to terminate this Lease (but not any of the Project Leases) by providing sixty (60) days' written notice thereof to Tenant at any time if Tenant (or its Affiliates or any Project Tenant) has not:

(a) prepared and submitted a request for an initial study and a notice of preparation under the California Environmental Quality Act ("**CEQA**") for photovoltaic solar project totaling, in the aggregate, at least four hundred fifty (450) megawatts of rated annual output ("**Minimum Project**") with the applicable governmental agency with jurisdiction over the relevant portion of the Total Site as defined under CEQA within six (6) months after the Effective Date;

(b) completed and submitted to the Lead Agency any other studies required under CEQA (*i.e.*, not an EIR) within six (6) months after receipt of a request from the lead agency "**Lead Agency**" (if an EIR is not required);

(c) completed and submitted to the Lead Agency a draft Environmental Impact Report ("**EIR**") for the Minimum Project (if an EIR is required) (i) within two (2) years after the Effective Date if the Lead Agency allows Tenant to prepare the draft EIR, or (ii) within three (3) years after the Effective Date if the Lead Agency does not allow Tenant to prepare the draft EIR;

(d) received certification of the EIR or other CEQA clearance document (e.g., negative declaration or mitigated negative declaration) for the Minimum Project within one (1) year after the applicable document (e.g., EIR, negative declaration or mitigated negative declaration) is completed (which deadline shall be delayed for one (1) year as the result of a third party challenge under CEQA, and for up to an additional two (2) years (for an aggregate of three (3) years) thereafter if the results of such CEQA challenge are appealed to the appellate court by a third party);

(e) commenced physical construction of a Project of within one (1) year after the Lead Agency certifies the EIR or other CEQA clearance document therefor and the appeal or challenge period has expired without any third party challenge or appeal (subject to the delays provided for in subsection (e)) (the "**Construction Commencement Date**"); provided, however, that if Tenant (or such Affiliate or Project Tenant) commences physical construction of one or more Projects prior to the termination date specified in such notice, then this Lease shall not terminate as the result of such notice if such Project(s) are prosecuted diligently to completion; or

(f) Tenant does not generate and pay or cause to be generated and paid to Landlord net earnings (through Project Lease rent or otherwise) in amounts equal to or greater than (i) two million dollars (\$2,000,000) *per annum* within three (3) years of the Construction Commencement Date, or (ii) four million dollars (\$4,000,000) *per annum* within ten years of the Construction Commencement Date. Notwithstanding the foregoing, upon the completion of one or more operating Projects for solar photovoltaic electricity production of at least fifty (50) megawatts per year (in the aggregate), Landlord's right to terminate this Lease under this Section 2.3 shall expire. Landlord's failure to approve a Project shall not restrict or otherwise affect Landlord's rights under this Section 2.3 so long as Landlord shall timely perform its obligations with respect to Project approvals and the entering into of Project Leases pursuant to Section 24. "**Affiliate**" as used herein shall mean with respect to any Person, as defined below, any other Person which directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person or any of its subsidiaries. The term "control" shall mean the possession, directly or indirectly, of any power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

### ARTICLE III

#### RENT

3.1 Base Annual Rent During Term. From the Effective Date until expiration or earlier termination of this Lease, Tenant shall pay Landlord on the Effective Date and on or before each anniversary thereof base rent of One Dollar (\$1.00) per year, in advance, without demand, deduction or setoff. Landlord hereby acknowledges receipt of the payment of all base rent for the entire Term.

3.2 Place and Method of Payment. All payments of rental and other amounts due under this Lease shall be made without notice (except as expressly set forth herein), demand, deduction or offset by Tenant to Landlord at the address set forth in Article XXV for the giving

of notices to Landlord, or at such other place as Landlord may designate from time to time in writing, and shall be payable in current legal tender of the United States of America, as the same is then by law constituted. If the deadline for payment of any amount due hereunder between the parties occurs on a date that is not a business day, then such amount shall be due and payable on the immediately succeeding business day without interest or penalty.

3.3 All Obligations of Tenant Considered Additional Rent. All costs and expenses which Tenant is required to pay hereunder, together with all interest and penalties that may accrue thereon in the event of Tenant's failure to pay such amounts (including interest and late charges as described below), and all damages, costs and expenses which Landlord may incur by reason of any default of Tenant or failure on Tenant's part to comply with the terms of this Lease, shall be deemed to be additional rent and, in the event of nonpayment by Tenant, Landlord shall have all rights and remedies with respect thereto as Landlord has for the nonpayment of the base annual rent.

3.4 Interest on Tenant's Obligations. Tenant agrees that any payment due from Tenant to Landlord after notice thereof from Landlord (other than with respect to the annual base rent set forth in Section 3.1 above) which is not paid when due shall bear interest from the due date to the date of payment at a rate of interest equal to the lesser of four percent (4%) above the "prime" lending rate of Wells Fargo Bank, N.A. or any comparable bank or lending institution selected by Landlord, or the maximum non-usurious rate permitted by law. Landlord's acceptance of any such interest shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord under this Lease or any law now or hereafter in effect.

3.5 Late Charge. In the event that Tenant fails to pay any installment of base rent or other payment for which Tenant is obligated to Landlord under this Lease after notice thereof from Landlord (other than with respect to the annual base rent set forth in Section 3.1 above) within five (5) days after such rent or other payment becomes due, Tenant shall pay to Landlord as additional rent a late charge equal to five percent (5%) of the amount due to compensate Landlord for the extra costs incurred as a result of such late payment.

## ARTICLE IV

### USE OF THE PREMISES

4.1 Use of Total Site. Tenant shall use the Total Site only for the purposes of determining the suitability of portions thereof for Projects and Tenant shall not use or permit the Total Site to be used for any other purpose or purposes whatsoever.

4.2 Restrictions on Use. Tenant shall not do or permit anything to be done in or about the Total Site, nor bring or keep anything therein, which is not within the authorized use of the Total Site set forth in Section 4.1 above. Tenant shall not use or allow the Total Site to be used for any improper, immoral, unlawful or objectionable purpose nor shall Tenant cause, maintain or permit any public nuisance in, on or about the Total Site. Tenant shall not cause or commit, nor allow to be caused or committed, any waste in, upon or about the Total Site.

4.3 Compliance with Laws. Tenant covenants that during the Term of this Lease, Tenant will comply, at no cost or expense to Landlord, with all covenants, conditions and restrictions of record as of the Effective Date hereof and hereafter (pursuant to and subject to Section 1.2 above) affecting the Total Site, and with all laws, ordinances, orders, rules regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and offices thereof having the effect of law, which may apply to the Total Site or the use or manner of use of the Total Site now or at any time during the Term and regardless of the cost thereof of the fact that such matter could not have been foreseen or anticipated.

4.4 Intentionally Omitted.

4.5 Environmental and Industrial Hygiene Compliance.

4.5.1 Landlord's Covenants. To satisfy its obligations under California Health and Safety Code §25359.7, Landlord has provided Tenant with a copy of the reports in the possession of the Landlord with respect to the Total Site (collectively, the "**Reports**") relating to "**Hazardous Materials**" (as defined below) in, on or about the Total Site. Tenant acknowledges that Landlord delivered the Reports to Tenant without any representation or warranty whatsoever about the Reports, except that Landlord represents and warrants to Tenant that the Reports constitute all such reports prepared for Landlord with respect to the Total Site. Landlord represents to Tenant that, as of the date of this Lease and except as disclosed in the Reports, Landlord has no actual knowledge that any Hazardous Materials exist on the Total Site in violation of any governmental law, rule or regulation relating to Hazardous Materials ("**Hazardous Materials Laws**"). For the purposes of this Lease, all references to "**Landlord's knowledge**" and similar phrases shall mean the actual, present knowledge of the City Manager of the City of Industry without any duty of inquiry; provided, however, that such individual shall not have any personal liability as the result of being so identified. The parties hereby acknowledge and agree that (a) the limited uses to which Landlord can put the Total Site, and (b) Tenant's exclusive control of the location and nature of proposed Projects (except to the extent set forth in Section 25.8 hereof) make it unlikely that Tenant would be affected by any violation of Hazardous Materials Laws existing as of the Effective Date (or, with respect to the Scout Property and/or the Agency Property, the date upon which such properties become part of the Total Site), so Landlord shall not be required to indemnify Tenant with respect thereto except to the limited extent set forth below in Section 4.5.2.

4.5.2 Landlord's Indemnity and Right of Entry. If (a) any portion of the Total Site is in violation of Hazardous Materials Laws as of the Effective Date (or, with respect to the Scout Property and/or the Agency Property, the date upon which such properties become part of the Total Site), (b) such violations were not disclosed in the Reports or during Tenant's due diligence (and were not otherwise actually known to Tenant), and (c) remediation thereof is required by Hazardous Materials Laws even in the absence of any development or use of the affected portion of the Total Site, then Landlord shall, at Landlord's sole cost and expense, diligently remediate such condition. The foregoing shall only obligate Landlord to bear the cost of any remediation required and shall not subject Landlord to any liability for any other damages or remedies whatsoever. If Tenant becomes aware of any potential Claim under this Section

4.5.2, Tenant shall provide prompt, written notice thereof to Landlord provided, however, the failure of Tenant to so provide such notice shall not relieve Landlord of its obligations hereunder. If Landlord is required or elects to take any action on or about the Total Site in connection with this Section 4.5.2, then Tenant hereby grants Landlord, subject to the terms and conditions set forth in Section 25.8 hereof, a license to enter and use the Total Site in the locations and for purposes and durations specified by Landlord to Tenant in writing from time to time to test, monitor and/or remediate such conditions at Landlord's expenses, all of which shall occur without any compensation to Tenant. "Pre-Existing Environmental Conditions" means, collectively, any Hazardous Materials existing on the Total Site as of the Effective Date (or, with respect to the Scout Property and/or the Agency, the date upon which such properties become part of the Total Site), other than conditions disclosed in the Reports or during Tenant's due diligence (or were otherwise actually known to Tenant).

4.5.3 Tenant's Covenants. Subject to the foregoing, Tenant, at its sole cost and expense, shall comply with all laws, ordinances and regulations relating to industrial hygiene and to the environmental conditions in, on, under or about the Total Site, including, but not limited to, soil and groundwater conditions and Hazardous Materials. Tenant shall not cause or permit any Hazardous Materials to be brought, kept or used in, on, under or about the Total Site by Tenant, its agents, employees, contractors, licensees, sublessees, assignees, concessionaires or invitees (other than Landlord pursuant to Section 25.8 hereof), unless (a) the use of such Hazardous Materials is necessary and incident to Tenant's business on the Total Site, and (b) such Hazardous Materials are used, kept, monitored, stored and disposed of in a manner that (i) complies with all laws relating to such Hazardous Materials, (ii) will not endanger any other Persons or property, and (iii) will not invalidate, limit the coverage or increase the premiums of, any insurance policy affecting or covering the Total Site, (iv) such action satisfies Landlord's reasonable requirements specified in writing after receipt of a specific written request therefor from Tenant, which must precede any such action. If Tenant breaches the obligations stated in the foregoing provisions of this Section 4.5, or if the presence of any Hazardous Materials in, on, under or about the Total Site caused or permitted by Tenant or Tenant's agents, employees, contractors, licensees, sublessees, assignees, concessionaires or invitees (other than Landlord pursuant to Section 25.8 hereof) results in contamination in breach of Hazardous Materials Laws of all or any portion of the Total Site exclusive of any Pre-Existing Conditions, then Tenant shall be solely responsible for and shall indemnify, protect, defend and hold Landlord harmless from and against any and all Claims which arise during or after the Term of this Lease as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision having jurisdiction with respect to the applicable portion of the Total Site because of the presence of any Hazardous Materials on or about the Total Site caused or permitted by Tenant or Tenant's agents, employees, contractors, licensees, sublessees, assignees, concessionaires or invitees. Upon Landlord's request, with respect to contamination for which Tenant is responsible as described above in this Section 4.5.2, Tenant shall promptly take all actions, at its sole cost and expense, as are reasonably necessary to comply with Hazardous Materials Laws, provided Landlord's approval, not to be unreasonably withheld, delayed or conditioned, of such actions shall first be obtained. Furthermore, each party

shall promptly notify the other party of any inquiry, test, investigation or enforcement proceeding by or against such party or the Total Site concerning the presence of any Hazardous Material of which it has actual knowledge provided, however, the failure of either such party to so provide such notice to the other party shall not relieve such party of their respective obligations hereunder and under Section 4.5.1 hereof.

4.5.4 Hazardous Materials Defined. As used herein, the term "**Hazardous Materials**" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority having jurisdiction with respect to the applicable portion of the Total Site, the State of California or the United States Government including, without limitation, (a) petroleum or any petroleum product including refined gasoline, motor oil, waste oil and diesel fuel, (b) asbestos, (c) formaldehyde, and (d) polychlorinated biphenyls.

4.5.5 Survival. The parties hereby agree that the provisions of this Section 4.5 shall survive the expiration or earlier termination of this Lease.

## ARTICLE V

### ALTERATIONS

5.1 Alterations. Because of Tenant's limited rights to use the Total Site, Tenant shall not have the right to make any improvements, alterations, or modifications to the Total Site (except in connection with Project Leases) without obtaining Landlord's prior written consent, which Landlord may condition or withhold in its sole discretion.

## ARTICLE VI

### MECHANICS' LIENS

6.1 Liens. Tenant shall not suffer or permit any liens against the Total Site, against Tenant's leasehold interest therein or against any other portion of the Total Site, by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Total Site, or any part thereof, through or under Tenant, and Tenant agrees to indemnify, protect and defend Landlord against any such liens and from any and all other Claims arising out of or in any way connected with the performance of such work or the supply of such services. If any such lien shall at any time be filed against the Total Site or against any portion thereof, Tenant shall promptly cause the lien to be discharged of record; provided, however, that Tenant shall have the right to contest the amount or validity, in whole or in part, of any such lien by appropriate proceedings, but in such event, Tenant shall first notify Landlord and shall promptly bond such lien in the manner authorized by law with a responsible surety company qualified to do business in the State of California.

6.2 Nonresponsibility. Landlord shall have the right at any time and from time to time to post and maintain on the Total Site such notices as may be necessary to protect the Total Site and Landlord from mechanics' liens, materialmen's liens or liens of a similar nature.

Not less than fifteen (15) days prior to the commencement of any work of improvement by Tenant upon the Total Site, Tenant shall give written notice thereof to Landlord. If (a) Tenant fails to give such notice on a timely basis, or (b) the cost of such work exceeds One Hundred Thousand Dollars (\$100,000), then Landlord, at its option, may require Tenant to immediately post or cause to be posted in favor of Landlord, Completion and Labor and Material bonds in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction and issued by a financially sound bonding company licensed to do business in the State of California; the condition to post such bonds may be satisfied, at Tenant's sole discretion, by bonds provided by Tenant's contractor(s). Landlord's request for the posting of the aforementioned bonds shall be in writing delivered to Tenant as provided for in the "Notice" Section of this Lease. As between Landlord and Tenant, Tenant shall bear the full cost and expense of posting any such bonds. At Landlord's reasonable request and to the extent permitted by applicable law, Tenant shall require any party providing materials or performing work in connection with the Total Site to modify its agreement to irrevocably waive any right to impose any lien on all or any part of the Total Site.

6.3 No Consent of Landlord. Nothing in this Lease shall be deemed to be, or construed in any way to constitute, the consent or request of Landlord, express or implied, by inference or otherwise, to any person, entity, trust, company, partnership, firm or corporation (collectively, a "Person") for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the Total Site or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials, which might in any way give rise to the right to file any lien against Landlord's interest in the Total Site. Landlord shall have the right to post and keep posted at all reasonable times on the Total Site any notices which Landlord shall be required to post for the protection of Landlord and its interest in the Total Site from any such lien.

## ARTICLE VII

### TAXES AND ASSESSMENTS

7.1 Real Property Taxes. As used herein, the term "Real Property Taxes" shall mean all real estate taxes, assessments for land and improvements to the Total Site, municipal or county water and sewer rates and charges and other governmental levies and charges, general and special, ordinary and extraordinary, of any kind, which shall be levied against the Total Site which become a lien thereon and any tax or assessment in any way levied or assessed with respect to the possessory interest of Tenant or any Person holding under Tenant pursuant to the terms of this Lease, and any increases thereof regardless of the reason therefor, but excluding any such taxes, assessments, rates, charges based upon or measured by any Person's gross or net income, gross or net receipts or that are in the nature of, or are imposed with respect to, capital, net worth, excess profits, accumulated earnings capital gains, franchise or conduct of business of such Person. If, during the Term of this Lease, taxes are imposed, assessed or levied on the gross rents derived from the Total Site, Tenant shall pay such taxes in the manner provided below for real property taxes and assessments.

7.2 Payment of Real Property Taxes. Throughout the Term of this Lease, Landlord shall pay or cause to be paid, before any fine, penalty, interest or cost that may be added thereto for the nonpayment thereof, all Real Property Taxes levied against the Total Site. To the extent that Landlord receives invoices, bills, assessments or charges for Real Estate Taxes from any taxing authority with jurisdiction over the Total Site, it shall promptly but, in any event, within thirty (30) days, deliver the same to Tenant. Landlord shall send Landlord copies of the tax bills, with receipt for payment, or other evidence of payment of such portion Real Property Taxes.

7.3 Installment Payments. If any Real Property Taxes, general or special, are at any time during the Term of this Lease levied or assessed against the Total Site, which upon exercise of any option permitted by the assessing authority may be paid in installments or converted to an installment payment basis (irrespective of whether interest shall accrue on unpaid installments), Tenant may elect to pay such Real Property Taxes in installments with accrued interest thereon. In the event of such election, and subject to Section 7.4, Tenant shall be liable only for those installments which become payable during the Term of this Lease, and Tenant shall not be required to pay any such installment which becomes due and payable after the expiration of the Term of this Lease. Landlord shall execute whatever documents may be reasonably necessary to convert any Real Property Taxes to such an installment payment basis upon written request by Tenant.

7.4 Proration. Any Real Property Taxes which are payable by Tenant hereunder or which may be reimbursed to Landlord by Tenant hereunder shall be appropriately prorated between Landlord and Tenant as of the Commencement Date and then again as of the expiration or earlier termination of the Term of this Lease.

7.5 Right to Contest. Tenant shall have the right to contest the amount or validity of any Real Property Taxes, in whole or in part, by appropriate administrative and legal proceedings, either in its own name, Landlord's name or jointly with Landlord, without any liability, cost or expense to Landlord, and Tenant may postpone payment of any such contested Real Property Taxes pending the prosecution of such proceedings and any appeals so long as such proceedings shall operate to prevent the collection of such Real Property Taxes and the sale of the Total Site to satisfy any lien arising out of the nonpayment of the same; provided, however, that if at any time payment of the whole or any part thereof shall become necessary to prevent the termination of the right of redemption of any property affected thereby, or if there is to be an eviction of either Landlord or Tenant because of nonpayment thereof, Tenant shall pay the same to prevent such termination of the right of redemption or such eviction. Any such contest shall be at no cost or expense to Landlord. Each refund of any Real Estate Tax so contested shall be paid to Tenant unless attributable to the portion thereof for which Landlord is responsible pursuant to Section 7.2 hereof.

7.6 Improvement or Special Assessment District. If any governmental subdivision with taxing authority shall undertake to create an improvement or special assessment district the proposed boundaries of which shall include any portion of the Total Site, Landlord and Tenant shall each be entitled to appear in any proceeding relating thereto and to present their respective positions as to whether the Total Site should be included or excluded from the

proposed improvement or assessment district and as to the degree of benefit to the Total Site resulting therefrom. Landlord or Tenant shall each promptly advise the other in writing of the receipt of any notice or other information relating to the proposed creation of any such improvement or special assessment district, the boundaries of which include any portion of the Total Site.

7.7 Personal Property Taxes. Tenant agrees to pay before delinquency all personal property taxes and assessments of whatsoever kind or nature, and penalties and interest thereon, if any, levied against the all equipment, furniture, fixtures, alterations, improvements and any other personal property of whatsoever kind and to whomsoever belonging, situated or installed in and upon the Total Site, whether or not affixed to the realty, exclusive of any portion thereof attributable to improvements installed by Landlord on the Total Site (except to the extent otherwise indicated in a Project Lease). Tenant shall have the right to contest the amount or validity of any such personal property taxes and/or assessments, in whole or in part, by appropriate administrative or legal proceedings, either in its own name, Landlord's name or jointly with Landlord, without any liability, cost or expense to Landlord, and Tenant may postpone payment of any such contested personal property taxes or assessments pending the prosecution of such proceedings and any appeal so long as such proceedings shall operate to prevent the collection of such personal property taxes or assessments and the sale of the Total Site to satisfy any lien arising out of the non-payment of the same; provided, however, that if at any time payment of the whole or any part thereof shall become necessary to prevent the termination of the right of redemption of any property affected thereby or if there is to be an eviction of either Landlord or Tenant because of non-payment thereof, Tenant shall pay the same to prevent such termination of the right of redemption or such eviction. Any such contest shall be at no cost or expense to Landlord. Each refund of any such personal property tax or assessments so contested shall be paid to Tenant unless attributable to the portion thereof for which Landlord is responsible pursuant to Section 7.2 hereof. Landlord shall not, without the prior approval of Tenant, discontinue or agree to any disposition of any contest or accept any credit or other adjustment of any such tax or assessment as a result of such contest.

## ARTICLE VIII

### UTILITIES

Landlord shall have no obligation to Tenant under this Lease to furnish any utilities or services to the Total Site. Throughout the Term of this Lease, to the extent applicable (and approved by Landlord) Tenant shall contract for, furnish and pay, at its sole cost and expense, all water, gas, heat, light, power and sewer charges, telephone service and all other services and utilities supplied to or consumed in or on the Total Site, together with any taxes thereon. Landlord shall not be liable in damages or otherwise, and Tenant shall not be entitled to any abatement or reduction of rent, for any failure or interruption of any utility or service being furnished to the Total Site, and no such failure or interruption shall entitle Tenant to terminate this Lease.

## ARTICLE IX

### REPAIRS AND MAINTENANCE

The parties agree that, except as provided in Section 4.5 above, Landlord shall have no obligation to make any repairs, alterations or improvements to or upon the Total Site or any part thereof at any time. Except as provided in Section 4.5 above, Tenant shall, at Tenant's sole cost and expense at all times during the Term hereof, keep and maintain the Total Site, and every part thereof in clean, good order, condition and repair and in compliance with all laws and regulations applicable thereto. Should Tenant fail to make any repairs which are the obligation of Tenant hereunder, after Tenant is provided notice of default and opportunity to cure in accordance with the terms provided for herein, and if Tenant is in default by virtue of having failed to make said repair within the time provided for in this Lease, Landlord may, but shall not be required to, enter the Total Site and make the repairs necessary to restore the Total Site to good order, condition and repair, and the cost of such repairs shall become due and payable by Tenant to Landlord upon demand. Tenant shall, upon the expiration or sooner termination of the Term of this Lease, surrender the Total Site and all alterations, additions, changes and improvements therein, thereto and thereof to Landlord in good condition order and repair, ordinary wear and tear excepted.

## ARTICLE X

### INDEMNIFICATION AND NONLIABILITY

10.1 Indemnification by Tenant. Except with respect to Hazardous Materials, which the parties hereby agree are governed by the provisions of Section 4.5 hereof, Tenant hereby agrees to and shall indemnify, protect, defend and hold harmless Landlord, its agents, contractors, employees, licensees and invitees, as their respective interests may appear, from and against any and all Claims arising out of or in connection with Tenant's use of the Total Site, or the conduct of its business thereon, or from any activity, work or thing done, permitted or suffered by Tenant, its agents, contractors, employees, licensees, subtenants, assignees, concessionaires or invitees (other than Landlord pursuant to Section 25.8 hereof), on or about the Total Site or any part thereof. Tenant shall further indemnify, protect, defend and hold harmless Landlord, its agents, contractors, employees, licensees, and invitees from and against any and all Claims arising out of or in connection with any breach or default in the performance of any obligation on Tenant's part to be performed under this Lease, or any act, neglect, fault or omission of Tenant or of its agents, contractors, employees, licensees, subtenants, assignees, concessionaires or invitees (other than Landlord pursuant to Section 25.8 hereof). If any action or proceeding is brought against Landlord by reason of any such Claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to Tenant's and other property or injury to Tenant and other Persons in, upon or about the Total Site from any cause whatsoever, except to the extent such damage or injury is caused by Landlord's fraud, intentional misrepresentation, gross negligence, willful misconduct or any breach by Landlord of its express representations and warranties or covenants set forth in this Lease prior to the expiration thereof. Notwithstanding anything to the contrary herein, in no

event shall Tenant be liable to Landlord or be required to indemnify Landlord in respect of any matters related to Pre-Existing Environmental Conditions, which the parties agree are governed solely by the provisions of Section 4.5 hereof.

10.2 Exemption of Landlord from Liability. Except to the extent (a) caused by Landlord's fraud, intentional misrepresentation, gross negligence, willful misconduct, and (b) not covered by insurance required hereunder to be carried by the parties hereto, Landlord shall not be liable to Tenant for any Claim which may be sustained by the person, goods, wares, merchandise or property of Tenant, its agents, contractors, employees, licensees, concessionaires, invitees or customers, or any other Person in or about the Total Site. In any event, under no circumstances shall Landlord shall be liable for any damage to Tenant's business, improvements, or personal property, regardless of the cause thereof, and Tenant hereby releases Landlord from all liability for such Claims. Notwithstanding any provision of this Lease or any applicable law to the contrary, in no event shall Landlord be liable under any circumstances for any speculative, punitive, or consequential damages incurred by Tenant, including, without limitation, any injury to, or interference with, Tenant's business (including any loss of profits) arising in connection with this Lease.

10.3 Survival. The parties hereby expressly agree that the provisions of this Article 10 shall survive the expiration or earlier termination of this Lease.

## ARTICLE XI

### INSURANCE

11.1 Tenant's General Insurance Requirements. All insurance required to be carried by Tenant hereunder shall be issued by responsible insurance companies reasonably acceptable to Landlord and the holder of any deed of trust secured by the fee interest of Landlord with respect to any portion of the Total Site (herein referred to as a "Mortgagee"). Unless otherwise required by Mortgagee, all policies of insurance required to be obtained by Tenant herein shall be issued by insurance companies with general policy holder's rating of not less than A- and a financial rating of not less than Class VIII as rated in the most current available "Best Insurance Reports" or other similar insurance rating guide. Each such policy shall name Landlord and at Landlord's request any Mortgagee of the Total Site as additional insureds, as their respective interests may appear, and a duplicate original of all policies or certificates evidencing the existence and amounts of such insurance shall be delivered to Landlord by Tenant at least ten (10) days prior to Tenant's occupancy of the Total Site. Each such policy must contain a provision that the company writing said policy will give to Landlord, and at Landlord's request any Mortgagee of the Total Site, not less than thirty (30) days' notice in writing in advance of any modification, cancellation or lapse of such insurance or any reduction in the amounts thereof. All of Tenant's insurance policies shall be written as primary policies, not contributing with, and not in excess of, coverage which Landlord may carry, and shall provide for severability of interests. Tenant shall furnish Landlord with renewals or "binders" of each such policy at least thirty (30) days prior to the expiration thereof. Tenant agrees that if Tenant does not procure and maintain such insurance, Landlord may (but shall not be required to) obtain such insurance on Tenant's behalf and charge Tenant premiums therefor together with a ten percent

(10%) handling charge, payable upon demand. Tenant may carry such insurance under a blanket policy, provided such blanket policy expressly affords the full amount and type of coverage required by this Lease by a Landlord's protective liability endorsement or otherwise. Tenant shall not do, or permit to be done, anything which shall invalidate the insurance policies required hereunder.

11.2 Property Insurance. At all times during the Term hereof in which Tenant maintains any improvements on the Total Site, Landlord shall, at Tenant's sole cost and expense, maintain in effect policies of property insurance covering (a) all improvements in, on or to the Total Site, and (b) all trade fixtures, furniture, merchandise and other personal property which may be situated from time to time in, on or upon the Total Site, in an amount not less than one hundred percent (100%) of their actual replacement cost from time to time during the Term of this Lease, providing protection against any peril included within the classification "Fire and Extended Coverage", together with insurance against sprinkler damage, vandalism, and malicious mischief, including cost of debris removal and demolition. During Tenant's construction of any permitted alterations within the Total Site, Landlord shall, at Tenant's sole costs and expense, maintain a course of construction endorsement to such property insurance policies and liability insurance policies. If Landlord informs Tenant that Landlord cannot obtain such insurance, then Tenant shall obtain such insurance at its sole expense. Subject to Article XII hereof, the proceeds of such insurance shall be used for repair and replacement of the property so insured.

11.3 Liability Insurance. At all times during the Term hereof, Landlord shall, at Tenant's sole cost and expense, obtain and continue in force commercial liability insurance or comprehensive general liability insurance with respect to the Total Site and the activities and use thereof and thereon by Tenant and Tenant's employees, agents, contractors, licensees, subtenants, assignees, concessionaires and invitees. Such insurance shall include coverage for personal injury (including employees and false arrest coverage), bodily injury, broad form property damage, Total Site/operations, owner's protective coverage, blanket contractual liability, products and completed operations liability, and owned/non-owned auto liability in an amount not less than Three Million Dollars (\$3,000,000.00) combined single limit. The limits of such insurance shall not, however, limit the liability of Tenant hereunder. All liability and property damage policies shall contain a provision that Landlord, although named as an additional insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence of Tenant and/or Tenant's employees, agents, contractors, licensees, subtenants, assignees, concessionaires and invitees. Notwithstanding the foregoing or anything set forth in this Article XI to the contrary, the parties agree that Tenant may satisfy its insurance requirements hereunder through policies maintained and to be maintained by Landlord with respect to the liability risks set forth herein unless Landlord informs Tenant that Landlord is unable to obtain such policies. To the extent feasible, Landlord agrees to carry such liability insurance set forth above in this Section 11.3 for the Term, which shall include Tenant and, to the extent feasible, Tenant's employees, agents, contractors, licensees, subtenants, assignees, concessionaires and invitees, as additional insureds thereto. Tenant shall be responsible for the cost of any such insurance policies as they relate to the Total Site.

11.4 Worker's Compensation. Tenant shall at all times during the Term hereof, at its own cost and expense, obtain and maintain in effect worker's compensation insurance and

employer's liability insurance as required by law, with full waiver of the insurer's rights of subrogation against Landlord and Landlord's officers, partners, agents, contractors, employees and representatives.

11.5 Other Insurance. Tenant shall at all times during the Term hereof at its own cost and expense obtain and maintain in effect any other form or forms or amounts of insurance as Landlord or its Mortgagee may reasonably require from time to time.

11.6 Adjustment. Not more frequently than once every five (5) years during the Term of this Lease, Tenant shall, at Landlord's request, increase the insurance policy limits for the insurance to be carried by Tenant as set forth in this Article 11 in an amount reasonably determined by Landlord in light of the nature of risks covered thereby provided, however, that no such increase in coverage shall exceed twenty percent (20%) of the previous limit therefor unless the nature of the use of the Total Site has materially changed or improvements have been constructed thereon.

11.7 Waiver of Subrogation. Landlord and Tenant agree to have their respective insurance companies issuing property damage and loss of insurance and extra expense insurance waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance carried by Landlord and Tenant, respectively, is not invalidated thereby. Landlord and Tenant hereby waive any right that either may have against the other on account of any loss or damage to the extent such loss or damage is insurable under such policies of insurance.

## ARTICLE XII

### DAMAGE OR DESTRUCTION

12.1 Damage and Duty to Restore. In case of damage to or destruction of any improvements, in whole or in part, by fire or any other casualty whatsoever, whether or not insured against by any policy or policies (including required endorsements) required to be carried under the provisions of Article XI of this Lease, all of Tenant's obligations hereunder, including, without limitation, the obligation to pay rent, shall continue as provided for in this Lease. Tenant shall have no obligation to restore, replace, rebuild, demolish or remove any improvements, except that, promptly following any such damage or destruction, Tenant shall clear the Total Site of all debris and hazardous conditions caused by such damage or destruction using the proceeds of any insurance and the balance thereof shall be delivered to Landlord.

12.2 No Obligation of Landlord to Restore. Landlord shall in no event be under any duty or obligation to restore, replace or rebuild any improvements, or any portion thereof, at any time.

12.3 Waiver by Tenant. Tenant shall have no right to terminate this Lease as a result of any statutory provisions now or hereafter in effect pertaining to the damage and destruction of all or any part of the Total Site, including, without limitation, the provisions of Section 1932(2) and 1933(4) of the California Civil Code. Tenant shall not be entitled to any

compensation or damages from Landlord for the loss of the use of the whole or any part of the Total Site, or of Tenant's personal property or any inconvenience or annoyance occasioned by such damage, destruction repair, reconstruction or restoration.

### ARTICLE XIII

#### TRADE FIXTURES

Throughout the Term of this Lease, all trade fixtures, equipment, signs and furnishings installed by Tenant in or on the Total Site shall be and remain the property of Tenant and, provided Tenant is not in default under this Lease, such items shall be removable at any time during the Term of this Lease at Tenant's sole cost, provided Tenant hereby agrees to repair or cause to be repaired any damage or injury to the Total Site occasioned by any such removal. Upon the expiration or earlier termination of this Lease, at Landlord's request, Tenant shall remove any such items at its sole expense.

### ARTICLE XIV

#### ASSIGNMENT AND SUBLETTING

14.1 Restrictions on Transfers. Tenant shall not voluntarily or involuntarily assign its interest in this Lease or its leasehold interest in the Total Site, sublease all or any part of the Total Site, sell or lease all or any part of any improvements, transfer any direct or indirect interest in Tenant, or allow any other Person to occupy or use all or any part of the Total Site (collectively referred to as a "Transfer"), without first obtaining Landlord's prior written consent, which Landlord may withhold in its sole discretion or upon the instruction of Landlord's Mortgagee. A Transfer shall also include an Ownership Change (as defined in the next sentence) but shall exclude (a) a sale or transfer of any direct or indirect interest in Tenant by devise or descent or by operation of law upon the death of an owner of any direct or indirect interest in Tenant, and (b) a sale or transfer of any direct or indirect ownership interest in Tenant by a current owner to a trust for the benefit of such owner or an immediate family member (*i.e.*, parents, spouses, siblings, children or grandchildren) of such owner for estate planning purposes. An "Ownership Change" means the direct or indirect transfer (any level) by sale, assignment, mortgage, deed of trust, trust, operation of law, or otherwise of any shares, voting rights or ownership interest which will result in a change in the identity of the Person or Persons exercising, or who may exercise, voting rights or control of (or receive the economic benefits of) Tenant. Any Transfer without Landlord's prior written consent shall be voidable, at Landlord's election, and shall constitute a material default. No consent to an assignment or sublease shall constitute a further waiver of the provisions of this Article. Notwithstanding the foregoing, without the need for obtaining Landlord's prior written consent, but upon thirty (30) days' prior written notice to Landlord, Tenant shall have the right to hypothecate its interest in the leasehold estate created by this Lease as provided in Article XV.

14.2 Required Provisions. Any and all agreements in respect of a direct Transfer of Tenant's rights and obligations under this Lease shall (a) impose the same obligations and conditions on the Transferee as are imposed on Tenant by this Lease (except as to Rent and

term or as otherwise agreed by Landlord in its sole discretion), with an express assumption of such obligations by said Transferee, (b) be expressly subject and subordinate to each and every provision of this Lease, (c) have a term that expires on or before the expiration of the Term of this Lease, and (d) expressly provide that Tenant shall not be released from any or all of its obligations under this Lease notwithstanding such Transfer and/or Landlord's consent thereto and that Tenant remains jointly and severally liable for the tenant's obligations under the Lease.

14.3 Fees for Review. In connection with any proposed Transfer, Tenant shall pay to Landlord a non-refundable fee as reimbursement for expenses incurred by Landlord in connection with reviewing each such transaction (including any administrative expenses for Landlord's property manager), in the amount of Five Hundred Dollars (\$500.00). In addition to such reimbursement, if Landlord retains the services of an attorney to review the transaction, Tenant shall pay to Landlord all reasonable attorneys' fees incurred by Landlord in connection therewith. Tenant shall pay such fees to Landlord within thirty (30) days after its receipt of written request therefor from Landlord and regardless of whether such Transfer is approved.

14.4 No Release of Tenant. Except as otherwise expressly set forth therein, no consent by Landlord to any Transfer by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, transfer or subletting. The consent by Landlord to any Transfer shall not relieve Tenant from the obligation to obtain Landlord's express prior written consent to any other Transfer. The acceptance by Landlord of payment from any other Person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any subsequent Transfer, or to be a release of Tenant from any obligation under this Lease.

14.5 Assumption of Obligations. Each direct transferee of all of Tenant's rights and obligations hereunder shall assume all obligations of Tenant under this Lease and shall be and remain liable jointly and severally with Tenant for the payment of the rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the Term of this Lease. Landlord shall have no obligation whatsoever to perform any duty or respond to any request from any sublessee, it being the obligation of Tenant to administer the terms of its subleases.

14.6 Waiver. If Tenant requests Landlord's consent to a Transfer, and Landlord's consent is impermissibly withheld, Tenant waives any right to seek damages under California *Civil Code* Section 1995.310, or any similar law now or hereafter in effect, it being the intention of the parties that Tenant's rights in such event shall be limited to seeking an injunction or specific performance.

## ARTICLE XV

### HYPOTHECATION

15.1 Hypothecation.

15.1.1 Landlord agrees and consents that Tenant may, at any time and from time to time, without obtaining any further consent of Landlord, but upon not less than thirty (30) days' prior written notice to Landlord, mortgage, encumber, assign and hypothecate by mortgage, deed of trust or otherwise (any of which is herein called, together with its successors and assigns, a "Tenant Mortgage") all right, title and interest of Tenant in the leasehold estate created by this Lease or portion thereof (the "Tenant Mortgage Collateral") to a commercial bank, finance company, insurance company, or other institutional lender or other Person reasonably acceptable to Landlord (herein called "Tenant Mortgagee") on non-participating and non-convertible terms, with no "equity-kicker" or equity level interest rates, in the principal amount of not more than Twenty-Five Million Dollars (\$25,000,000), which will mature and be repaid in full prior to the fifth (5<sup>th</sup>) anniversary of the Effective Date. Tenant shall bear the entire cost of any such loan and the proceeds thereof shall be used to reimburse Tenant and its principals for fees, costs and expenses previously incurred by Tenant and its principals in connection with this Lease, and the planning and development, and proposed planning and development, of the Total Site and Projects. In addition, any such loan shall provide for the termination of any security interest in the portion of the Total Site that is approved for a Project upon the execution and delivery of a Project Lease. Under no circumstances may Tenant hypothecate the fee interest in the Total Site nor will Landlord subordinate this Lease to any such Tenant Mortgage obtained by Tenant.

15.1.2 Except as hereinafter otherwise provided, and except as otherwise approved by Landlord in writing in its sole discretion, the Tenant Mortgage and all rights thereunder shall be subject to each and every of the covenants, conditions and restrictions of this Lease, and the Tenant Mortgage shall also be subject to all the rights and interest of Landlord hereunder, none of which shall be deemed waived by the foregoing consent. Tenant agrees to furnish to Landlord copies of all instruments, deeds of trust, indentures or agreements executed by Tenant to perfect the hypothecation of the leasehold estate to Tenant Mortgagee.

15.2 Notice to and Rights of Tenant Mortgagee.

15.2.1 Any Tenant Mortgagee shall have the right at any time during the Term:

(a) to do any act required of Tenant hereunder, including to cure any defaults by Tenant hereunder, and all such acts done or performed shall be effective to prevent a forfeiture of Tenant's rights hereunder as if the same had been done or performed by Tenant; and

(b) to rely on the security afforded by the leasehold estate and to acquire and to succeed to the interest of Tenant hereunder by foreclosure, whether by judicial sale, by power of sale contained in any security instrument, or by deed given in lieu of foreclosure, and to thereafter convey or assign title to the leasehold estate so acquired to any other Person that agrees to accept such assignment of rights and delegation of duties by written instrument, a copy of which shall be delivered to Landlord.

15.2.2 Landlord shall provide any Tenant Mortgagee with notice of any default by Tenant hereunder at such address as may be provided by Tenant Mortgagee to Lender in writing. Landlord shall not terminate this Lease by reason of any default of Tenant hereunder if, after delivery of such notice, the Tenant Mortgagee shall:

(a) cure such default within sixty (60) days after service on Tenant Mortgagee of written notice from Landlord of Landlord's intention to terminate this Lease (if the same cannot be cured within sixty (60) days, Tenant Mortgagee shall have a reasonable time after sixty (60) days within which to cure such default so long as Tenant Mortgagee is proceeding and continuing to cure such default with reasonable diligence; provided, however, that in no event shall such cure period exceed one hundred and twenty (120) days subject to Section 15.2.3 below); and

(b) undertake on or before the expiration of said thirty (30) days, in writing, to perform thereafter on a timely basis all covenants contained in this Lease capable of performance by Tenant Mortgagee in the course of exercise of its remedies against Tenant.

15.2.3 If, following Tenant Mortgagee's written undertaking provided for in Section 15.2.2(b) above, it is determined there are performances called for and due under this Lease that are not susceptible of being performed by Tenant Mortgagee, or if any default contemplated in Section 15.2.2(a) above is not susceptible of being cured by Tenant Mortgagee, then such performance shall be deemed rendered or such default shall be deemed cured if Tenant Mortgagee shall proceed in a timely and diligent manner to accomplish the foreclosure or other acquisition of Tenant's interest under this Lease; provided, however, that if said foreclosure proceedings shall be restrained by any court (as in the case of a bankruptcy proceeding) and relief from any such restraint shall have been diligently and timely sought but not successfully obtained by Tenant Mortgagee, any such performance shall be deemed rendered and any such default shall be deemed cured nevertheless. The obligation of Tenant Mortgagee for the performance of the terms of this Lease shall terminate upon the sale, transfer or assignment of the right, title and interest and delegation and acceptance of the duties of Tenant Mortgagee in the leasehold estate to any other Person.

15.2.4 Any provisions contained in this Lease to the contrary notwithstanding, any Tenant Mortgagee or its assigns may enforce such Tenant Mortgage and acquire title to the leasehold estate in any lawful manner and, pending foreclosure of any such Tenant Mortgage, may take possession of and rent the Total Site, and upon foreclosure of such Tenant Mortgage may sell, transfer or assign the leasehold estate or sublet the Total Site without the consent of the Landlord; provided, however, any such sale, transfer or assignment shall be subject to all other terms and conditions of this Lease including, without limitation, the restrictions on change of use of the Total Site contained in Article IV of the Lease. Any Person acquiring the right, title and interest of the Tenant's leasehold estate under this Lease from Tenant Mortgagee or any Person claiming or deriving its interest through or under Tenant Mortgagee shall assume the liability for the performance of the obligations imposed upon Tenant by the terms of this Lease.

15.2.5 Notwithstanding the acquisition by Tenant Mortgagee of Tenant's interest in this Lease by judicial or non-judicial foreclosure, assignment in lieu of foreclosure or any other manner, Tenant shall remain primarily liable to Landlord for all obligations of Tenant under this Lease unless and until Tenant Mortgagee or its assigns (i) voluntarily accepts all such obligations, and (ii) performs all such obligations which have accrued under this Lease.

15.3 New Lease on Termination of this Lease. If Landlord elects to terminate this Lease and Tenant's rights hereunder pursuant to the provisions of Article XVII or if this Lease is terminated for any reason or is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, Landlord shall first serve written notice of such event on Tenant Mortgagee, and Tenant Mortgagee shall have thirty (30) days after receipt of such notice within which Tenant Mortgagee may elect in writing delivered to Landlord to demand that Landlord execute a new lease of the Total Site with Tenant Mortgagee (or such other Person as may be designated by Tenant Mortgagee) as tenant or Tenant Mortgagee may elect to exercise its rights set forth in Section 15.2. If Tenant Mortgagee elects to lease the Total Site Landlord and Tenant Mortgagee shall execute a new lease which shall be for the unexpired Term of this Lease and shall otherwise be identical with the terms of this Lease and shall have the same priority as this Lease. Landlord's election to so terminate shall not be effective against Tenant Mortgagee until after the expiration of such thirty (30) day notice period. Such new lease shall be executed and delivered by Landlord to Tenant Mortgagee within thirty (30) days after receipt by Landlord of written notice from Tenant Mortgagee of such timely election to obtain a new lease and upon payment by Tenant Mortgagee of Landlord's reasonable attorneys' fees and all sums owing by Tenant under the provisions of this Lease (less the rent and other income actually collected by Landlord in the meantime from any subtenants or other occupants of the Total Site) and upon performance by Tenant Mortgagee of all other obligations of Tenant under the provisions of this Lease with respect to which performance is then due and which are susceptible of being cured by the Tenant Mortgagee.

15.4 Consent of Tenant Mortgagee. Notwithstanding the foregoing provisions, until such time as the indebtedness of Tenant to Tenant Mortgagee shall have been fully paid, Landlord shall not, without the prior written consent of Tenant Mortgagee first had and obtained at Tenant's expense, accept any surrender, cancellation or termination of this Lease, consent to any modification hereof or consent to the assignment hereof by Tenant of any interest of Tenant herein.

15.5 No Encumbrance of Fee Title. At all times herein stated, Landlord's fee title to the Total Site shall not be encumbered or affected in any manner directly or indirectly by any Tenant Mortgagee regardless of whether such Tenant Mortgagee is subordinate to this Lease, and the rights of any Tenant Mortgagee in and to the Total Site and shall at no time be greater than the right of Tenant hereunder except as otherwise provided in this Article XV.

15.6 Direct Agreement with Tenant Mortgagee. Landlord will, upon request of the Tenant, enter into an agreement with any Tenant Mortgagee confirming the rights of the Tenant Mortgagee hereunder in form and substance reasonably acceptable to Landlord and such Tenant Mortgagee

15.7 Encumbrance by Landlord. Subject to the provisions of Section 20.2 below, Landlord shall have the right to encumber the fee interest in the Total Site with any Mortgage.

## ARTICLE XVI

### CONDEMNATION

16.1 Taking. If less than the entire Total Site is taken or appropriated for public or quasi-public use by the right of eminent domain or otherwise by a taking in the nature of a condemnation or inverse condemnation, with or without litigation, or is transferred by agreement under the threat thereof (any of the foregoing being referred to herein as a "**Taking**"), then this Lease shall terminate as to the part taken and this Lease shall remain in effect. If the entire Total Site is the subject of a Taking or such portion thereof as to render the use of the remainder of the Total Site uneconomic for its intended purpose as determined by Tenant, then this Lease shall terminate. No temporary Taking of all or any part of the Total Site shall terminate this Lease or give Tenant any right to any abatement of any sums due hereunder, and Landlord shall be entitled to the entire award for such temporary Taking. Each party hereto waives the provisions of California Code of Civil Procedure Section 1265.130 allowing either party to petition the court to terminate this Lease for a partial Taking.

16.2 Division of Award. In the event that an award is made for an entire or partial Taking of the Total Site or any interest therein or due to any action in direct or inverse condemnation or in the event of a Taking as herein defined, the parties hereto agree that their respective rights to the award or compensation paid shall be as follows:

16.2.1 If the portion of the Total Site that is the subject of the Taking is encumbered by any Tenant's Mortgage approved by Landlord or permitted by this Lease, then Tenant shall be entitled to a prorated portion of the award equal to the amount of collateral taken.

16.2.2 Landlord shall be entitled to the balance of any award.

Neither party will do any act or make any agreement which will impair the legal obligation of the condemnor to bear the cost of such proceeding. Both parties agree, however, that in the event such a proceeding is used, the rights of the respective parties hereto shall be governed by the formula set forth herein.

16.3 Costs. Each party shall bear its own costs, attorneys' fees, appraisers' fees and all other costs in connection with any matter contained in this Article, except as may be otherwise provided.

16.4 Covenant by Landlord. Landlord covenants and agrees with Tenant that, to the extent Landlord has, or at any time in the future obtains, any rights of eminent domain with respect to all or any portion of the Total Site, Landlord will not pursue any taking or commence any eminent domain proceeding of any portion of the Total Site.

## ARTICLE XVII

### DEFAULT PROVISIONS

17.1 Events of Default. Tenant shall be deemed to be in default under the terms of this Lease as follows (such circumstances herein called an "event of default"):

17.1.1 If Tenant shall fail to pay any installment of rent or other sum when due and such failure shall continue for a period of five (5) business days after Landlord delivers written notice thereof to Tenant specifying the default, the applicable cure period, and Landlord's opinion of any actions needed to cure such default, which notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 (or any successor or similar statute); or

17.1.2 If Tenant shall fail to promptly perform or observe any covenant, condition or agreement to be performed by Tenant under this Lease, and such failure shall continue for a period of thirty (30) days (or such longer period of time as may be necessary to cure such default provided Tenant diligently commences and thereafter diligently pursues the cure thereof, provided, however, that in no event shall such period exceed ninety (90) days) after Landlord delivers written notice thereof to Tenant specifying the default, the applicable cure period, and Landlord's opinion of any actions needed to cure such default; or

17.1.3 If any petition shall be filed against Tenant in any court, whether or not pursuant to any statute of the United States of America or of any state, in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings, and Tenant shall thereafter be adjudicated bankrupt, or if said proceedings shall not be dismissed within sixty (60) days after the institution of the same, or if any such petition shall be filed by Tenant; or

17.1.4 If, in any third party creditor proceedings wherein the Tenant is a defendant, a receiver, receiver and manager, trustee or liquidator shall be appointed for all or a substantial portion of the Total Site, and such receiver, receiver and manager, trustee or liquidator shall not be discharged within sixty (60) days after the appointment of such receiver, receiver and manager, trustee or liquidator; or

17.1.5 If Tenant makes an assignment for the benefit of creditors.

17.2 Remedies. Upon the occurrence of and during the continuance of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

17.2.1 Landlord shall have the right to terminate this Lease, in which event Tenant shall immediately surrender the Total Site to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Total Site and expel or remove Tenant

and any other Person who may be occupying the Total Site or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Total Site or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "rent" as used in this Section 17.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 17.2.1(i) and (ii), above, the "worth at the time of award" shall be computed by allowing interest at the maximum amount of such interest permitted by law. As used in Section 17.2.1(iii) above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). Notwithstanding anything to the contrary in this Section 17.2, if Tenant fails to timely vacate and surrender the Premises, then the term "rent" as used in this Section 17.2 shall be deemed not to be or mean any interest in the Lease related to a bonus value (*i.e.*, that the fair rental value of the Total Site for all or any portion of the remainder of the Term thereof exceeded the rental reserved under this Lease for such period).

17.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

17.3 Remedies Cumulative. The remedies of Landlord, as hereinabove provided, are cumulative and in addition to and not exclusive of any other remedy of Landlord herein given or which may be permitted by law. The remedies of Landlord, as hereinabove provided, are subject to the other provisions herein and are particularly subject to the provisions of Article XV hereinabove. Nothing contained in this Article XVII shall constitute a waiver of Landlord's right to recover damages by reason of Landlord's efforts to mitigate the damage to it caused by Tenant's default; nor shall anything herein adversely affect Landlord's right, as in this Lease elsewhere provided, to indemnification against liability for injury or damage to Persons or property occurring prior to the termination of this Lease.

17.4 Performance by Tenant. All covenants and agreements to be performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any offset to or abatement of rent. If Tenant fails to pay any sum of money, including rent, required to be paid by it hereunder or fails to perform any other act on its part to be performed hereunder, and such failure continues after written notice thereof to Tenant (if required) and the expiration of any period expressly provided for in this Lease during which Tenant may cure such failure, Landlord may, without waiving or releasing Tenant from any obligation of Tenant, make any such payment or perform any such act and all sums so paid by Landlord and all costs incurred by Landlord in performing such act (including attorneys' fees), shall be payable by Tenant on demand and Tenant hereby covenants to pay any and all such sums. Landlord shall have in addition to any other right or remedy of Landlord the same rights and remedies in the event of nonpayment of sums due under this Article XVII as in the case of default by Tenant in the payment of rent.

17.5 Landlord's Default. Landlord shall not be in default in the performance of any obligation under this Lease unless and until (a) it has failed to perform its obligations under Section 24.4.1 hereof to enter into a Project Lease within ten (10) days after receipt of written notice by Tenant to Landlord specifying such failure, (b) it has failed to perform its other obligations under Section 24 within twenty (20) days after receipt of written notice by Tenant to Landlord specifying such failure, or (c) it has failed to perform any other obligation hereunder within thirty (30) days after receipt of written notice by Tenant to Landlord specifying such failure; provided, however, that if the nature of Landlord's default is such that more than thirty (30) days are required for its cure, then Landlord shall not be deemed to be in default if it commences such cure within the thirty (30) day period and thereafter diligently prosecutes such cure to completion provided Landlord diligently commences and thereafter diligently pursues the cure thereof. Tenant agrees to give any Mortgagee of Landlord's estate a copy, by registered mail, of any notice of default served upon Landlord, provided that prior to such notice Tenant has been notified in writing of the address of such Mortgagee. Tenant further agrees that if Landlord shall have failed to cure such default within the time period provided in this Lease, then any such Mortgagee shall have an additional sixty (60) days within which to cure such default on the part of the Landlord or if such default cannot be cured within that time, then such additional time as may be necessary if within that sixty (60) days the Mortgagee has commenced and is pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so pursued. Notwithstanding anything to the contrary in this Lease, Tenant agrees that in the event of default by Landlord hereunder, there shall be

absolutely no personal liability of any partners, officers, employees, managers, councilmen or agents who or which constitutes or comprises Landlord, and Tenant shall, subject to the rights of Landlord's Mortgagees, look solely to the interest of Landlord in the Total Site and any proceeds of Landlord's liability insurance policies applicable and payable with respect to Landlord's ownership of the Total Site for the satisfaction of each and every remedy of Tenant therefor. In this regard, none of Landlord's partners, officers, employees, managers, councilmen or agents shall be personally liable for any such default or for any deficiency nor shall other assets of Landlord be available with respect to such default or deficiency.

## ARTICLE XVIII

### SALE OF TOTAL SITE BY LANDLORD

18.1 Right of First Refusal for Sale to Private Party. If Landlord elects to sell the fee interest in the Total Site to a "Private Party" (e.g., a party that is not a governmental, quasi-governmental, or other similar Person, or an entity that is majority owned and controlled by such an entity or that is established solely for the purpose of obtaining tax-exempt financing), then Tenant shall have, and Landlord hereby grants, a right of first refusal with respect to the sale of the fee interest of the Total Site. In connection with such right of first refusal, if, at any time during the Term, Landlord receives a bona-fide offer to purchase all or any portion of the Total Site from a Private Party which Landlord intends to accept, Landlord shall deliver a copy of such offer to Tenant (the "ROFR Notice"), which offer must contain all material terms and conditions related to such purchase and sale (including, without limitation, a description of that portion of the Total Site to which the offer pertains, the purchase price and the anticipated closing date). Upon receipt of the ROFR Notice, Tenant shall have thirty (30) days in which to elect to purchase such portion of the Total Site as described in the ROFR Notice, on the same terms and conditions as noted in the ROFR Notice (the "Tenant ROFR") without, however, any due diligence period, and which notice shall be accompanied by a non-refundable deposit, in immediately available funds, in the amount of the aggregate deposits under the ROFR Notice. If Tenant elects to exercise the Tenant ROFR, Landlord and Tenant shall be deemed to have entered into an agreement of purchase and sale containing those conditions set forth in the ROFR Notice, with such modifications as Landlord and Tenant may agree to, and, on the closing date specified in such ROFR Notice, Landlord and Tenant shall complete the transfer of such portion of the Total Site to Tenant (or an affiliate of Tenant, as designated by Tenant). If Tenant does not respond within such thirty (30) days, or Tenant elects not to exercise the Tenant ROFR, Landlord shall be permitted to sell that portion of the Total Site described in the ROFR Notice, subject to the material terms and conditions of Section 18.2 hereof, on and subject to the terms and conditions set forth in the ROFR Notice, without amendment; provided that, if Landlord is unable to complete such sale by the date specified in the ROFR Notice plus ninety (90) days, such portion of the Total Site shall once again be subject to the terms and conditions of this Section 18.1 and Tenant's right of first refusal. Tenant's rights under this Section 18.1 shall not apply in connection with a foreclosure, deed-in-lieu of foreclosure, or a subsequent conveyance by Landlord's Mortgagee.

18.2 Release of Landlord. Landlord shall have the right to sell all or any portion of the Total Site to a non-Private Party without triggering the Tenant's right of first refusal set

forth above. In the event of any sale by Landlord of its fee interest in all or any portion of the Total Site to any Person, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and unaccrued obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; provided that the purchaser, at such sale of all or any portion of the Total Site, shall in writing covenant in favor of Tenant to carry out and assume any and all of the covenants and obligations of Landlord under this Lease.

#### **ARTICLE XIX**

#### **NON-MERGER**

There shall be no merger of this Lease, nor of the leasehold estate created by this Lease, with Landlord's fee estate in the Total Site by reason of the fact that this Lease or the leasehold estate created by this Lease or any interest in this Lease or any such leasehold estate may be held, directly or indirectly, by or for the account of any Person who shall own the fee estate in the Total Site or any interest in such fee estate, and no such merger shall occur unless and until all Persons at the time having an interest in the fee estate in the Total Site and all Persons (including any leasehold Mortgagee) having an interest in this Lease or in the leasehold estate created by the Lease shall join in a written instrument effecting such merger and shall duly record the same.

#### **ARTICLE XX**

#### **ESTOPPEL CERTIFICATES AND SUBORDINATION**

20.1 Tenant's Certificate. Tenant agrees at any time and from time to time, upon not less than ten (10) days written notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications); (b) whether or not, to the best knowledge of Tenant, there are then existing any offsets or defenses against the enforcement of any of the terms, covenants or conditions hereof upon the part of Tenant to be performed and if so specifying the same); (c) the dates to which the rent and other charges have been paid; (d) whether or not, to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have knowledge; and (e) such other matters as may be reasonably required by Landlord or any Mortgagee, it being intended that any such statement delivered pursuant to this section may be relied upon by any prospective purchasers or Mortgagee of the fee of the Total Site.

20.2 Subordination. This Lease shall be subject and subordinate to the lien of any mortgage or trust deed, now or hereafter in force against Landlord's interest in the Total Site, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages or trust deeds require in writing that this Lease be superior thereto. With respect to any such instruments entered into by Landlord after the execution of this

Lease, Tenant's subordination of this Lease shall be subject to receiving assurance (a "non-disturbance agreement") from Landlord's Mortgagee in commercially reasonable form and substance that Tenant's use and possession and this Lease will not be disturbed so long as no event of default occurs and is continuing and Tenant agrees to attorn to Landlord's mortgagee to the extent it becomes the record owner of the Total Site. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any mortgage or deed in lieu thereof by any Landlord Mortgagee, to attorn, without any deductions or set-offs whatsoever, to the purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof if so requested to do so by such purchaser, and to recognize such purchaser as the Landlord under this Lease. Tenant shall, within five (5) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the attornment and subordination of this Lease to any such mortgages or trust deeds. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale.

## ARTICLE XXI

### MEMORANDUM OF LEASE

Concurrently with the execution of this Lease, both parties shall execute and acknowledge a Memorandum of this Lease in recordable form which shall be substantially in the form attached hereto as Exhibit "C" ("Memorandum") which shall be recorded at Tenant's election (and expense, including, without limitation, all recording charges and documentary transfer taxes, and the like) in the official records in which the Total Site is located ("Official Records") after the Due Diligence Date (or earlier provided that Tenant concurrently executes and delivers to Landlord an executed, acknowledged, original of a quitclaim deed or other instrument prepared by Landlord to terminate the effect of the Memorandum, which (a) Landlord may record in the Official Records if Tenant terminates this Lease pursuant to Section 1.3 above, or (b) Landlord shall return to Tenant if Tenant does not terminate this Lease pursuant to Section 1.3 above) provided that this Lease has not previously terminated. Concurrently with the execution of any supplement to this Lease pursuant to Section 1.1.1, the parties shall execute and record in the Official Records a supplement to the Memorandum with respect to the Scout Property or the Agency Property or any portion thereof that is subjected to this Lease thereunder. Concurrently with the execution of each Project Lease, the parties shall execute and record in the Official Records a partial termination of the Memorandum with respect to the portion of the Total Site that is the subject of the Project Lease.

## ARTICLE XXII

### QUIET POSSESSION

Landlord covenants that Tenant, upon payment of the rental herein reserved, and so long as no event of default shall have occurred and be continuing, shall and may at all times, for itself and its subtenants, peaceably and quietly have, hold and enjoy the Total Site during the Term of this Lease.

## ARTICLE XXIII

### SIGNS

Tenant may not erect or affix permanent or temporary signage on or about the Total Site without the prior written reasonable approval of Landlord as to content, number, color, size, type, quality, location, materials and graphics provided, however, that such signage must also comply with any applicable Restrictions, covenants, conditions and restrictions and all applicable laws, rules, regulations and ordinances and shall not be used for advertising of any type. Tenant shall be responsible, at its sole cost and expense, for maintaining and repairing any such signage. Upon the expiration or earlier termination of this Lease, Tenant shall remove, at Tenant's sole cost and expense, all such signage from the Total Site. If Tenant fails to so remove such signage, Landlord may do so and charge the cost of such removal to Tenant. The foregoing obligations shall survive the expiration or earlier termination of this Lease.

## ARTICLE XXIV

### PROJECTS

24.1 Landlord's Approval of Proposed Non-Solar Projects. During the Term so long as no event of default has occurred and is continuing, from time to time Tenant shall have the right to propose a Project that is not a photovoltaic solar for a portion of the Total Site by delivering a written request therefor to Landlord that (a) identifies the portion of the Total Site upon which the Project would be developed (and excluded from this Lease and become the subject of a Project Lease), (b) provides any proposed changes to the form of Project Lease attached hereto (which shall be redlined to show such changes) that would be included in the Project Lease, and (c) includes the materials and information about the proposed Project set forth below in Sections 24.2.1 through 24.2.10 (to the extent applicable). Landlord shall have the right to approve or disapprove any such request in its sole discretion.

24.2 Proposed Solar Projects. During the Term and so long as no event of default shall have occurred and be continuing, from time to time Tenant shall have the right to propose photovoltaic solar Projects (a "Solar Project") for a portion of the Total Site by delivering to Landlord a written request for Landlord to participate therein and contribute financially thereto ("**Request**") which also (a) identifies the portion of the Total Site upon which the Solar Project would be developed (and excluded from this Lease and become the subject of a Project Lease) and the term thereof, (b) provides any proposed changes to the form of Project Lease attached hereto (which shall be redlined to show such changes) that would be included in the Project Lease, and (c) includes the following materials and information about the proposed Solar Project:

24.2.1 A thorough, detailed, narrative description of the Solar Project;

24.2.2 A detailed map showing the applicable portion of the Total Site that would be subject to the applicable Project Lease and a legal description of the applicable parcel;

24.2.3 An entitlement analysis and schedule showing the entitlements, approvals, authorizations and/or permits (including, without limitation, clearances under CEQA or NEPA) required from any Federal, State, County, municipal, or other governmental or quasi-governmental authority required for such Solar Project (including evidence that the applicable portion of the Total Site that would be subject to the applicable Project Lease complies with the California Subdivision Map Act) and evidence that all such entitlements, approvals, authorizations and/or permits have been issued or are ready to issue upon the payment of the applicable fees;

24.2.4 A detailed schedule (from execution of the Project Lease through the commencement of the economic productivity of such Solar Project) showing, *inter alia*, the entitlement, development, construction and other phases of such Solar Project, and who (*i.e.* Landlord or Tenant) will be responsible for the costs of entitling and constructing the infrastructure required for such Solar Project (and if Landlord shall be responsible therefor, the proposed cost thereof) and the timing of such events;

24.2.5 A detailed development and construction budget for the entire Solar Project (*e.g.*, interconnection, inverters, panels and mounting), including, without limitation, a budget for any infrastructure required for such Solar Project, and the costs of providing any required completion bonds, and the estimated timing, sources, and amounts of revenue to be generated by such Solar Project (*e.g.*, pursuant to a power purchase agreement), in any form and whether such power is expected to be prepaid;

24.2.6 The environmental impact and, to the extent required by law, mitigation plans for such Solar Project;

24.2.7 The proposes sources and uses of funds, including, without limitation, proposed debt levels and whether secured or unsecured, equity contributions (in the form of a tenant improvement allowance or otherwise), and/or equity for such Solar Project;

24.2.8 a description of number, type and design of solar modules to be constructed thereon and the reasonably anticipated aggregate annual output thereof with certain probabilities;

24.2.9 the Power Purchase Agreement with the PUC and, to the extent available, a copy of a power purchase agreement between the related Project Tenant and the PUC for such Solar Project; and

24.2.10 a financial model including long-term estimate of operation and maintenance costs, degradation assumptions, spare parts inventory costs, estimated rate of return with proposed debt levels (and expected terms, which shall not include any indemnities or guaranties of any sort by Landlord).

24.3 Landlord Review and Approval. Landlord shall have forty-five (45) days from receipt of a Request and all the relevant materials and accompanying data (the "Review Period") to approve or disapprove such Request in its sole discretion. If Landlord timely

approves the Request, then Landlord shall have agreed to participate in the Solar Project and (a) contribute fifty percent (50%) of the capital expenditure required to develop and construct such Solar Project net of any third party indebtedness identified under Section 24.2.7, as such level of indebtedness may be increased prior to consummation of the Solar Project financing, (b) develop, construct and pay for the specified infrastructure improvements, as set forth in Section 24.2.4, and (c) agree to share in fifty percent (50%) of any "construction cost" overruns for such Solar Project (*i.e.*, Landlord would be responsible for hard cost overruns of not more than five (5%)). The sum of the amounts described in the preceding sentence are herein called (the "**Landlord Contribution**"). Unless otherwise agreed to by Landlord and Tenant, such contribution by Landlord shall be made as a tenant improvement allowance under the related Project Lease concurrently with the corresponding contributions by Tenant. In return for such participation and the Landlord Contribution, Landlord shall be entitled to receive the greatest of (i) the fair market rental value of the portion of the Total Site to be subjected to such Project Lease plus twelve percent (12%) of the net operating income generated by the related Project Tenant with respect to such Solar Project (revenues net of operating expenses, required reserves, debt service and tax equity payments), payable as a percentage rent under the related Project Lease, (ii) six percent (6%) return per annum on the Landlord Contribution, and (iii) fifty percent (50%) of (x) the net operating income generated by the related Project Tenant with respect to such Solar Project (revenues net of operating expenses, required reserves, debt service and tax equity payments), payable as a percentage rent under the related Project Lease plus (y) any net extraordinary gains (*e.g.*, sale of Project Tenant or the sale or refinancing of such Solar Project), as adjusted for any continued rent payable thereafter to Landlord (provided, however, that the sale of the Solar Project that is not a permitted transfer of not more than 49% of Tenant's interest shall require Landlord's consent, which Landlord may withhold in its sole discretion). Landlord shall execute and deliver to Tenant within fifteen (15) days of request therefor following the Review Period, the Project Lease related to such Solar Project which reflects the foregoing election by Landlord.

24.4 Landlord Review and Disapproval. If Landlord disapproves such Request in its sole discretion during the Review Period or fails to approve or respond to Tenant's Request within the Review Period, then (a) for one (1) year thereafter, Tenant shall have the right to consummate an agreement with a reputable, third party investor on the terms and conditions set forth in the Request, which, if materially altered, shall require Tenant to resubmit the Request as set forth above in Section 24.2 provided, however, that the Review Period shall be limited to thirty (30) days, (b) Tenant shall commence construction of such Solar Project within one (1) year thereafter, (c) Landlord shall not be required to make any financial contribution to such Solar Project whatsoever under this Lease, and (d) the rent to which Landlord shall be entitled under the related Project Lease shall equal (i) the fair market rental value of the portion of the Total Site to be subjected to such Project Lease, plus (ii) ten percent (10%) of the net operating income generated by the corresponding Project Tenant with respect to such Solar Project (revenues net of operating expenses, required reserves, debt service and tax equity payments), payable as percentage rent under the related Project Lease, as such amount shall be increased by an amount agreed to by Landlord and such Project Tenant as a return on the cost to Landlord to develop, construct and pay for any substation and/or interconnection lines that shall be used by and allocated to such Solar Project. Notwithstanding such disapproval or deemed disapproval, Landlord shall execute and deliver to Tenant within fifteen (15) days of request therefor

following the Review Period, the Project Lease related to such Solar Project which shall reflect the rent to be paid to Landlord pursuant to the prior sentence.

## ARTICLE XXV

### LANDLORD FUNDING OF CERTAIN COSTS

25.1 Landlord Funding of Certain Costs. Provided that no event of default has occurred and is continuing, from the Due Diligence Date until the fifth (5<sup>th</sup>) anniversary thereof, Landlord shall reimburse Tenant for the actual, documented, and reasonable third-party fees and costs incurred by Tenant in connection with exploring the feasibility of, and seeking approvals for, the planning and development of Solar Projects in advance of the execution of one or more Project Leases, in an aggregate amount of not more than Five Million Dollars (\$5,000,000), which sums shall be reimbursed not more often than quarterly, and, in each case, subject to complying with the following conditions:

25.1.1 Tenant has completed and delivered a written request for payment setting forth the dates, amounts, and payees with respect to all payments made by Tenant, and a description of the work performed by each payee, plus, at Landlord's request, a copy of any such work performed (to the extent applicable).

25.1.2 Tenant has furnished, in satisfactory form and substance, (a) conditional mechanics' lien releases and waivers for the amounts being requested and valid full and final mechanics' lien releases and waivers for all other work performed (which shall only be provided with respect to aspects of such work that could result in a lien under applicable law), (b) copies of bills and invoices covering work for which a reimbursement is made, and (c) an affidavit from Tenant confirming the foregoing and that the work for which payment is requested is authorized for reimbursement under this Lease.

25.2 Advance Funding. Provided that no event of default has occurred and is continuing, from and after the Effective Date, Landlord shall reimburse (or provide advances to) Tenant for, in the aggregate, not more than ten percent (10%) of the funds specified above in Section 25.1 for the uses permitted thereby, which Tenant shall immediately refund to Landlord if Tenant terminates this Lease pursuant to Section 1.3 above. Any such fundings shall be part of, not additions to, Landlord's aggregate funding obligations set forth above in Section 25.1.

## ARTICLE XXVI

### GENERAL PROVISIONS

26.1 Notices. Any notice to be given or other document to be delivered by either party to the other hereunder may be delivered in person to either party, may be delivered by commercial express delivery service, facsimile or United States mail duly certified, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

To Landlord: Paul J. Phillips, City Manager  
15626 E. Stafford Street  
Suite 100  
City of Industry, CA 91744-0366

With a Copy to: James M. Casso  
Casso & Sparks  
13200 Crossroads Parkway North, Suite 345  
City of industry, CA 91746

To Tenant: San Gabriel Valley Water and Power, LLC  
2917 Canon Street  
San Diego, CA 92106  
Attn.: Mr. Robert Anselmo

With a Copy to: Dechert, LLP  
One International Place, 40<sup>th</sup> Floor  
100 Oliver Street  
Boston, MA 02110  
Attn.: Bruce Hickey, Esq.

Either party hereto may from time to time by written notice to the other party designate a different address which shall be substituted for the one above specified. If any notice or other document is sent by certified mail, as aforesaid, the same shall be effective upon receipt at the appropriate address. The address to which notices are sent may be changed by providing notice thereof in the manner specified in this Section 26.1. From time to time, parties may designate attorneys that are authorized to provide notices on their behalf, which shall be valid until terminated by written notice from such party or such designated attorney.

26.2 **Legal Descriptions.** The parties believe that the legal descriptions of the Total Site attached hereto as **Exhibit A** and the legal descriptions of the Scout Property and the Agency Property attached hereto as **Exhibit B** accurately describe the real property currently owned (*i.e.*, the Total Site as of the Effective Date), or that may be subsequently acquired (*i.e.*, the Agency Property and/or the Scout Property), by Landlord that will be subject to this Lease; those parcels are generally depicted on **Exhibit D** attached hereto. Nevertheless, if, prior to the Due Diligence Date, the parties conclude that the legal description of the Total Site is incorrect, then the parties shall promptly correct any such inaccuracies on **Exhibit A** and replace it with a corrected version. If (a) Landlord acquires the Agency Property or the Scout Property prior to December 31, 2018, and (b) prior to such acquisition(s) or the Due Diligence Date, whichever is later, the parties conclude that the legal description of the Agency Property or the Scout Property, as applicable, is incorrect, then the parties shall promptly correct any such inaccuracies on **Exhibit B** and replace it with a corrected version.

26.3 **Litigation.** In the event of the bringing of any action or suit by either party against the other arising out of this Lease, the party in whose favor final judgment shall be entered shall be entitled to recover from the other party all costs and expenses of suit, including reasonable attorneys' fees.

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

26.5 Holding Over. If Tenant shall remain in possession of the Total Site after the expiration or earlier termination of the Term of this Lease without the express written consent of Landlord, Tenant will be deemed to be occupying the Total Site as a tenant-at-sufferance only subject to all covenants and obligations of this Lease and at a daily rental equal to \$5.00 per acre that the Tenant has not surrendered per day, plus all other amounts of rent and all items of additional rent which are payable hereunder, during the period of any such holding over. Acceptance by Landlord of rent after such expiration or earlier termination shall not constitute a holdover or result in a renewal, and shall not affect Landlord's right of re-entry or any rights of Landlord hereunder or as otherwise provided by law. If any property not belonging to Landlord remains at the Total Site after the expiration of the term of this Lease, Tenant hereby authorizes Landlord, without liability for compensation or damages to Tenant, to retain all or any portion thereof (and title thereto shall thereupon be vested in Landlord), or remove such property and make such disposition thereof as Landlord may desire. Tenant shall, upon demand by Landlord, pay Landlord for the expense of any such removal and disposition plus the cost of repair of any and all damages to the Total Site resulting from or caused by such removal. In the event that such property belongs to someone other than Tenant, Tenant agrees to indemnify and hold Landlord harmless from all Claims in connection with or incident to any removal, exercise of dominion over and/or disposition of such property by Landlord. Tenant shall indemnify and hold Landlord harmless from any and all Claims resulting from Tenant's failure to surrender the Total Site upon the expiration or earlier termination of the Lease.

26.6 Surrender. Subject to the provisions of Section 5.1, upon the end of the Term of this Lease, as provided herein, or any extension thereof, or sooner termination of this Lease, Tenant shall surrender and quitclaim to Landlord the Total Site, together with the Improvements.

26.7 Lease Binding Upon Successors and Assigns. Subject to the limitations herein set forth, each of the terms, covenants and conditions of this Lease shall extend to and be binding on and inure to the benefit of not only Landlord and Tenant, but also each of their successors and assigns. Whenever in this Lease reference is made to either Landlord or Tenant, the reference shall be deemed to include, wherever applicable, the successors and assigns and the parties hereto the same as if in every case expressed.

26.8 Entry. Landlord reserves for itself and its agents the right to peaceably enter the Total Site to inspect the same, to submit the Total Site to prospective purchasers, lenders or tenants, to post notices of non-responsibility and to take such other actions and perform such duties as Landlord may be required or permitted under this Lease provided that Landlord shall use all reasonable efforts to not interfere unreasonably with the business of Tenant. Tenant hereby waives any claim for damages or for any injury or inconvenience to or

interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Total Site, and any other loss occasioned by Landlord's entry except to repair any damage to property resulting therefrom. Any entry to the Total Site obtained by Landlord by any means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Total Site, or an eviction of Tenant from the Total Site or any portion thereof. Except in the event of an emergency, (i) Landlord shall not enter the Total Site during non-business hours, and (ii) Landlord shall provide Tenant not less than twenty-four (24) hours prior notice before entering the Total Site.

26.9 Relationship of Parties. The relationship of the parties hereto is that of Landlord and Tenant, and it is expressly understood and agreed that Landlord does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business or otherwise, and that the provisions of any agreement between Landlord and Tenant relating to rent are solely for the purpose of providing a method whereby rental payments are to be measured and ascertained.

26.10 Time of the Essence. Time is expressly declared to be of the essence of this Lease with regard to all obligations hereunder.

26.11 Quitclaim. At the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge and deliver to Landlord within ten (10) days after written demand from Landlord to Tenant, any quitclaim deed or other document required by any reputable title company to remove the cloud of this Lease from the Total Site.

26.12 Number and Gender. Whenever the singular number is used in this Lease and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and the word "Person" shall include corporation, firm or association. If there be more than one tenant, the obligations imposed under this Lease upon Tenant shall be joint and several.

26.13 Headings and Titles. The section headings of this Lease are inserted as a matter of convenience and references only and in no way define, limit or describe the scope or intent of this Lease or in any way effect the terms and provisions hereof.

26.14 Covenants and Conditions. Each of the covenants in this Lease shall be deemed and construed as conditions and each and every covenant shall be deemed covenants running with the land.

26.15 Entire Agreement. This Lease contains the final expression of and the entire agreement between the parties hereto with respect to the matters covered hereby, and no other previous agreement, statement or promise made by any party hereto which is not contained herein shall be binding or valid.

26.16 Partial Invalidity. If any term, provision, condition or covenant of this Lease, or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term, provision,

condition or covenant to Persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

26.17 Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of California, without regard to choice of law provisions.

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

26.19 Brokers. Landlord represents and warrants to Tenant, and Tenant represents and warrants to Landlord, that no broker or finder has been engaged by it, respectively, in connection with any of the transactions contemplated by this Lease, or to its knowledge is in any way connected with any of such transactions. In the event of any such claims for brokers' or finders' fees or commissions in connection with the negotiation, execution or consummation of this Lease, Tenant shall indemnify, save harmless and defend Landlord from and against such claims if they shall be based upon any statement or representation or agreement by Tenant, and Landlord shall indemnify, save harmless and defend Tenant if such claims shall be based upon any statement, representation or agreement made by Landlord.

26.20 Execution of Lease. The submission of this Lease to Tenant for examination or execution does not constitute a reservation of or option on the Total Site, or an agreement of Landlord to lease the Total Site. This Lease shall become effective as a Lease, and Landlord shall become obligated hereunder, only upon the execution and delivery of this Lease by both parties, which neither party shall have any obligation to do. Submission of this Lease to Tenant in no way constitutes an offer to lease by Landlord.

26.21 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the rent payments herein stipulated shall be deemed to be other than on account of the rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided in this Lease.

26.22 Construction. It is understood that there are no oral or written agreements or representations between the parties hereto affecting this Lease (other than this Lease and the exhibits attached hereto), and that this Lease supersedes and cancels any and all previous negotiations, arrangements, representations, brochures, displays, projections, estimates, agreements and understandings, if any, made by or between Landlord and Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret, construe, supplement or contradict this Lease, including, without limitation, any term sheet or letter of intent. The parties hereto hereby acknowledge and agree that (a) each party hereto is of equal bargaining strength, (b) each such party has actively participated in the drafting, preparation and negotiation of this Lease, (c) each such party has been (or has had the opportunity to be) represented by, and consulted, with such party's own, independent counsel, and such other professional advisors as

such party has deemed appropriate, relating to any and all matters contemplated under this Lease, (d) each such party and such party's counsel and advisors have reviewed (or have had the opportunity to review) this Lease, (e) each such party has agreed to enter into this Lease following such review and the rendering of such advice (or the opportunity to receive such advice), and (f) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Lease, or any portions hereof, or any amendments hereto. The parties agree that any deletion of language from this Lease prior to its mutual execution by Landlord and Tenant shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse of the deleted language.

26.23 Authority. Tenant does hereby represent and warrant to Landlord that Tenant has all requisite power and authority to own, lease, hold and operate properties and conduct business in the State of California.

26.24 Exhibits. All Exhibits attached to this Lease are hereby incorporated herein by this reference.

26.25 ADA Disclosure. Landlord hereby represents to Tenant that the Total Site has not undergone inspection by a Certified Access Specialist (as such term is defined in California Civil Code Section 1938) and, no Certified Access Specialist has determined whether the Total Site currently meets all applicable construction related accessibility standards pursuant to California Civil Code Section 55.53. Tenant assumes all risks that the Total Site does not comply with all applicable construction related accessibility standards pursuant to California, Federal or local law, and shall be solely responsible for the cost of any modifications required to comply therewith.

26.26 Municipal Laws. Within thirty (30) days after the Effective Date, the parties shall make such additions, deletions, or modifications to this Agreement as shall be specified by Landlord's City Attorney to make this Lease comply with any applicable laws, rules, regulations or ordinances that apply to Landlord, as determined by Landlord's City Attorney. The parties shall enter into such amendment within such thirty (30) day period. If Tenant refuses to timely execute such an amendment in form and content acceptable to Landlord, then this Lease shall automatically terminate (and Tenant shall immediately refund any sums advanced by Landlord pursuant to Section 25 of this Lease).

[Balance of page intentionally left blank. Signatures appear on next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first set forth above.

**"LANDLORD"**

THE CITY OF INDUSTRY,  
a municipality organized under the laws of the  
State of California

By: *Paul J. Phillips*  
Name: Paul J. Phillips  
Its: City Manager

**"TENANT"**

SAN GABRIEL WATER AND POWER, LLC,  
a California limited liability company

By: Ambient SHE LP LLC, a California  
limited liability company  
Its: Non-member manager

By: Ambient Communities LLC,  
a Delaware limited liability  
company  
Its: Sole Member

By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Its:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Its:

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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

State of California )  
County of Los Angeles )

On May 17, 2016 before me, Diane M. Schlichting, a Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Paul J. Phillips - - - - -  
Name(s) of Signer(s)

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 Diane M. Schlichting  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first set forth above.

**"LANDLORD"**

THE CITY OF INDUSTRY,  
a municipality organized under the laws of the  
State of California

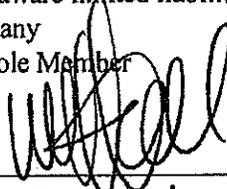
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**"TENANT"**

SAN GABRIEL VALLEY WATER AND  
POWER, LLC, a California limited liability  
company

By: Ambient SEH LP LLC, a California  
limited liability company  
Its: Non-member manager

By: Ambient Communities LLC,  
a Delaware limited liability  
company  
Its: Sole Member

By:   
\_\_\_\_\_

Name: Principal

Its: Walter Hall

  
\_\_\_\_\_

Name: Robert Anzelmo

Its: Principal

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

**ACKNOWLEDGMENT**

State of California  
County of San Diego

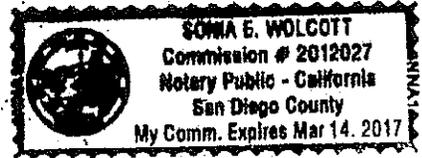
On May 9, 2016 before me, Sonia E. Wolcott Notary  
(insert name and title of the officer)

personally appeared WADE HALL and ROBERT ANSELMO  
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 Sonia E Wolcott (Seal)



**EXHIBIT "A"**

**TOTAL SITE**

THE 5,500 ACRES REFERRED TO HEREIN BELOW IS SITUATED IN LOS ANGELES COUNTY, ORANGE COUNTY, AND SAN BERNARDINO COUNTY, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED BELOW:

PARCEL 4: (APN: 308-031-24):

THAT PORTION OF FRACTIONAL SECTION 5, TOWNSHIP 3 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT FILED IN THE DISTRICT LAND OFFICE ON FEBRUARY 17, 1868, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 2 OF SAID SECTION AS SAID LOT IS SHOWN ON SHEET 2 OF THE MAP FILED IN BOOK 99, PAGES 29 THROUGH 35, INCLUSIVE OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 88°44'14" WEST 1311.27 FEET ALONG THE SOUTH LINE OF SAID LOT TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 1°48'38" WEST, 1316.46 FEET ALONG THE EAST LINE OF LOT 4 OF SAID SECTION AS SHOWN ON SAID RECORD OF SURVEY MAP TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 42°11'13" EAST, 883.86 FEET; THENCE NORTH 50°12'57" EAST, 987.69 FEET TO THE POINT OF BEGINNING.

PARCEL 5 (APN: 308-031-32):

LOTS 1 THROUGH 5 INCLUSIVE OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE.

EXCEPT THEREFROM ANY PORTION LYING WITHIN THE LAND DESCRIBED AS "PARCEL 13.01" IN THE DEED TO THE COUNTY OF ORANGE, RECORDED JANUARY 11, 1985 AS INSTRUMENT NO. 85-009660 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE LAND INCLUDED WITHIN "PARCELS 19 AND 20" IN DEED TO THE COUNTY OF ORANGE RECORDED AUGUST 31, 1999 AS INSTRUMENT NO. 19990630774 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID PROPERTY 500 FEET IN WIDTH; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID PROPERTY SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS AS RESERVED IN THE DEEDS FROM STANDARD OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 23, 1970 AS INSTRUMENT NO. 18288, IN BOOK

9498, PAGE 328, AND DECEMBER 23, 1970 AS INSTRUMENT NO. 18289, IN BOOK 9498, PAGE 331, BOTH OF OFFICIAL RECORDS.

THE RIGHTS OF STANDARD OIL COMPANY OF CALIFORNIA HAVE BEEN GRANTED TO CALIFORNIA MINERALS, L.P., A TEXAS LIMITED PARTNERSHIP, BY A MINERAL DEED RECORDED DECEMBER 30, 1998 AS INSTRUMENT NO. 19980903509 OF OFFICIAL RECORDS.

NOTE: PORTIONS OF SAID OIL RIGHTS HAVE BEEN QUITCLAIMED TO BOY SCOUTS OF AMERICA, LOS ANGELES REGIONAL COUNCIL, A CORPORATION, BY QUITCLAIM DEED RECORDED MAY 05, 1999 AS INSTRUMENT NO. 19990327032 OF OFFICIAL RECORDS.

PARCEL 6 (APN: A PORTION OF 306-021-16):

THAT PORTION OF THE RANCHO RINCON DE LA BREA, AS PER MAP RECORDED IN BOOK 1, PAGES 195 AND 196 OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER "G.P. #16", BEING THE NORTHEAST CORNER OF THE LAND DESCRIBED IN THE DEED TO GENERAL PETROLEUM COMPANY, RECORDED MARCH 18, 1913 IN BOOK 231, PAGE 106 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY; THENCE SOUTH 0°37'37" EAST 1175.00 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN THE DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE SOUTH 89°22'23" WEST 741.00 FEET ALONG THE NORTHERLY LINE OF SAID LAND, AND PROLONGATION THEREOF; THENCE NORTH 0°37'37" 1194.95 FEET PARALLEL WITH THE EASTERLY LINE OF THE LAND DESCRIBED IN SAID DEED TO GENERAL PETROLEUM TO THE NORTHERLY LINE OF SAID LAND; THENCE SOUTH 89°05'06" EAST 741.39 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL MINERALS, PETROLEUM, OIL, ASPHALTUM, GAS AND OTHER HYDROCARBON SUBSTANCES, INCLUDING HELIUM, TOGETHER WITH THE EXCLUSIVE RIGHT TO PROSPECT AND DRILL FOR AND PRODUCE THE SAME FROM THE SURFACE OF SAID LANDS OR FROM THE SURFACE OF ADJOINING OR ADJACENT LAND, AS RESERVED BY SOCONY MOBIL OIL COMPANY, INC., A CORPORATION, IN DEED RECORDED DECEMBER 22, 1961 AS INSTRUMENT NO. 15712, IN BOOK 5953, PAGE 554 OF OFFICIAL RECORDS.

PARCEL 7 (APN: A PORTION OF 308-031-18):

LOT 4 IN SECTION 4, TOWNSHIP 3 SOUTH, RANGE 9 WEST, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE FEBRUARY 17, 1868.

PARCEL 8 (APN: A PORTION OF 308-031-18):

LOT 3 IN SECTION 4, TOWNSHIP 3 SOUTH, RANGE 9 WEST, OF THE SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE ON FEBRUARY 17, 1868.

EXCEPT THEREFROM ANY PORTION LYING EASTERLY OF THE WESTERLY LINE OF THE LAND DESCRIBED AS "PARCEL 7.04" IN THE DEED TO THE COUNTY OF ORANGE RECORDED JANUARY 11, 1985 AS INSTRUMENT NO. 85-009660 OF OFFICIAL RECORDS.

ALSO EXCEPT ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, GAS, GAS RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LANDS, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFORE AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL OR MINE FROM THE SURFACE OF SAID LANDS INTO OTHER LANDS AND THE RIGHT TO REDRILL RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINES OR WELLS, AS RESERVED IN THE DEED FROM SHELL OIL COMPANY, A CORPORATION, RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 2240, IN BOOK 6347, PAGE 273 OF OFFICIAL RECORDS, REFERENCE TO SAID DEED BEING HEREBY MADE FOR FURTHER PARTICULARS THEREIN RELATIVE TO THE USE OF THE SURFACE OF THE LAND WITH RESPECT TO SAID RIGHTS AND INTEREST.

PARCEL 9A (APN: 306-021-19):

LOT 21 OF "SUBDIVISION OF THE PUENTE CRUDE OIL CO.'S LAND", AS PER MAP RECORDED IN BOOK 3, PAGES 11 AND 12 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LANDS AND ALL WATER OR WATERS LYING BELOW SAID LANDS, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFORE AND REMOVING THE SAME FROM SAID LANDS OR ANY OTHER LANDS BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN SAID LANDS WITH OIL WELLS, GAS WELLS, TUNNELS OR SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL OR MINE FROM THE SURFACE OF SAID LANDS INTO OTHER LANDS AND THE RIGHT TO REDRILL RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINES OR WELLS, AS RESERVED IN THE DEED FROM SHELL OIL COMPANY, A CORPORATION, RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 2240, IN BOOK 6347, PAGE 273 OF OFFICIAL RECORDS, REFERENCE TO SAID DEED BEING HEREBY MADE FOR FURTHER PARTICULARS THEREIN RELATIVE TO THE USE OF THE SURFACE OF THE LAND WITH RESPECT TO SAID RIGHTS AND INTEREST.

PARCEL 9B (APN: 306-021-17):

LOT 20 AND THAT PORTION OF LOT 25, BOTH OF "SUBDIVISION OF THE PUENTE CRUDE OIL CO.'S LAND", AS PER MAP RECORDED IN BOOK 3, PAGES 11 AND 12 OF MISCELLANEOUS MAPS, IN THE

OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING BETWEEN THE SOUTHERLY EXTENSIONS OF THE EASTERLY AND WESTERLY LINES OF SAID LOT 20.

EXCEPT ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID PROPERTY 500 FEET IN DEPTH; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID PROPERTY SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS AS RESERVED IN THE DEED FROM STANDARD OIL COMPANY OF CALIFORNIA, A DELAWARE CORPORATION, RECORDED DECEMBER 23, 1970 AS INSTRUMENT NO. 18288. IN BOOK 9498, PAGE 328 OF OFFICIAL RECORDS.

THE RIGHTS OF STANDARD OIL COMPANY OF CALIFORNIA HAVE BEEN GRANTED TO CALIFORNIA MINERALS, L.P., A TEXAS LIMITED PARTNERSHIP, BY A MINERAL DEED RECORDED DECEMBER 30, 1998 AS INSTRUMENT NO. 19980903509 OF OFFICIAL RECORDS.

PARCEL 10 (APN: A PORTION OF 306-021-16):

THAT PORTION OF THE RANCHO RINCON DE LA BREA, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 9 WEST, IN SAID RANCHO, AS SHOWN ON A MAP OF THE BOUNDARY LINE BETWEEN THE COUNTIES OF LOS ANGELES AND ORANGE, KNOWN AS LOS ANGELES COUNTY SURVEYOR'S MAP NO. 8175 AND RECORDED IN BOOK 39, PAGES 52 THROUGH 59, INCLUSIVE OF MISCELLANEOUS RECORDS IN THE SAID OFFICE OF THE LOS ANGELES COUNTY RECORDER; THENCE SOUTH 00°54'54" WEST 1152.93 FEET; THENCE SOUTH 89°05'06" EAST 1025.64 FEET TO THE NORTHEASTERLY CORNER OF THE GENERAL PETROLEUM CORPORATION LAND AS DESCRIBED IN PARCEL 3 IN DEED RECORDED MARCH 18, 1913 IN BOOK 231, PAGE 106 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, SAID CORNER BEING MARKED BY A MONUMENT NUMBERED "16"; THENCE SOUTH 00°37'37" EAST 1175.00 FEET ALONG THE EAST LINE OF SAID GENERAL PETROLEUM CORPORATION LAND TO THE NORTHEASTERLY CORNER OF THE LAND DESCRIBED IN DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°22'23" WEST 133.53 FEET ALONG THE NORTH LINE OF SAID SOUTHERN CALIFORNIA EDISON COMPANY LAND TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 351.43 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 80°00'45" WEST; THENCE SOUTHERLY 73.69 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°00'50"; THENCE SOUTH 02°01'35" EAST 176.57 FEET; THENCE SOUTH 62°10'48" WEST 73.97 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 100.46 FEET; THENCE WESTERLY 31.21 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°48'09" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 425.30 FEET; THENCE WESTERLY 79.16 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°39'52"; THENCE NORTH 89°21'11" WEST 140.74 FEET TO A POINT ON THE WEST LINE OF THE LAND DESCRIBED IN SAID DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, NORTH 00°37'37" WEST 104.14 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 99°37'37" EAST 104.14 FEET TO SAID SOUTHWEST CORNER; THENCE SOUTH 89°22'23" EAST 450.00 FEET ALONG THE SOUTH LINE THEREOF TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 00°37'37" WEST 400.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS, PETROLEUM AND OTHER MINERAL OR HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, TOGETHER WITH THE RIGHT TO USE THAT PORTION ONLY OF SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND 100 FEET BELOW THE PRESENT SURFACE OF SAID LAND, FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND/OR EXTRACTING SAID OIL, GAS, PETROLEUM AND OTHER MINERAL OR HYDROCARBON SUBSTANCES FROM SAID LAND BY MEANS OF WELLS DRILLED INTO SAID SUBSURFACE OF SAID LAND FROM DRILL SITES LOCATED ON OTHER LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT SAID GRANTOR, ITS SUCCESSORS AND ASSIGNS, SHALL HAVE NO RIGHT TO ENTER UPON THE SURFACE OF SAID LAND, OR TO USE SAID LAND OR ANY PORTION THEREOF, TO SAID DEPTH OF 100 FEET, FOR ANY PURPOSE WHATSOEVER, AND THAT THEY, OR ANY OF THEM, WILL NOT CONSTRUCT, PLACE OR MAINTAIN, OR CAUSE OR PERMIT TO BE CONSTRUCTED, PLACED OR MAINTAINED ON ANY OTHER LAND NOW OWNED BY THEM OR ANY OF THEM, ANY OIL OR MUD SUMP, DERRICK, DRILLING RIG, OIL STORAGE OR TANK, OR OTHER STRUCTURE FOR USE IN CONNECTION WITH THE PROSPECTING FOR, DEVELOPING, EXTRACTING AND/OR REFINING OF OIL, GAS, PETROLEUM, AND/OR OTHER MINERAL OR HYDROCARBON SUBSTANCES, WITHIN A DISTANCE OF 100 FEET FROM THE BOUNDARY LINES OF THE LAND HEREBY CONVEYED, AS RESERVED IN THE DEED FROM GENERAL PETROLEUM CORPORATION, RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

PARCEL 11 (APN: A PORTION OF 306-021-16):

THAT PORTION OF THE RANCHO RINCON DE LA BREA, AS PER MAP RECORDED IN BOOK 1, PAGES 195 AND 196 OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 9 WEST, IN SAID RANCHO, AS SHOWN ON A MAP OF THE BOUNDARY LINE BETWEEN THE COUNTIES OF LOS ANGELES AND ORANGE, KNOWN AS LOS ANGELES COUNTY SURVEYOR'S MAP NO. 8175 AND RECORDED IN BOOK 39, PAGES 52 THROUGH 59, INCLUSIVE OF MISCELLANEOUS RECORDS IN THE SAID OFFICE OF THE LOS ANGELES COUNTY RECORDER; THENCE SOUTH 00°54'54" WEST 1152.93 FEET; THENCE SOUTH 89°05'06" EAST 1025.64 FEET TO THE NORTHEASTERLY CORNER OF THE GENERAL PETROLEUM CORPORATION LAND AS DESCRIBED IN PARCEL 3 IN DEED RECORDED MARCH 18, 1913 IN BOOK 231, PAGE 106 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, SAID CORNER BEING MARKED BY A MONUMENT NUMBERED "16"; THENCE SOUTH 00°37'37" EAST 1175.00 FEET ALONG THE EAST LINE OF SAID GENERAL PETROLEUM CORPORATION LAND TO THE NORTHEASTERLY CORNER OF THE LAND DESCRIBED IN DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY; THENCE SOUTH 89°22'23" WEST 133.53 FEET ALONG THE NORTH LINE OF SAID SOUTHERN CALIFORNIA EDISON COMPANY LAND TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 351.43 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 80°00'45" WEST, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTHERLY 73.69 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°00'50"; THENCE SOUTH 02°01'35" EAST 176.57 FEET; THENCE SOUTH 62°10'48" WEST 73.97 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 100.46 FEET; THENCE WESTERLY 31.21 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°48'09" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 425.30 FEET; THENCE WESTERLY 79.16 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°39'52"; THENCE NORTH 89°21'11" WEST 140.74 FEET TO A POINT ON THE WEST LINE OF THE LAND DESCRIBED IN SAID DEED TO SOUTHERN CALIFORNIA EDISON

COMPANY, NORTH 00°37'37" WEST 104.14 FEET FROM THE SOUTHWEST CORNER THEREOF, NORTH 00°37'37" WEST 25.61 FEET; THENCE NORTH 89°34'23" EAST 214.10 FEET; THENCE NORTH 46°02'29" EAST 83.18 FEET; THENCE NORTH 00°26'08" WEST 214.32 FEET TO A POINT ON THE NORTH LINE OF THE LAND IN SAID DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, SOUTH 89°22'23" WEST 35.15 FEET FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 89°22'23" EAST 35.15 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS, PETROLEUM AND OTHER MINERAL OR HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, TOGETHER WITH THE RIGHT TO USE THAT PORTION ONLY OF SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND 100 FEET BELOW THE PRESENT SURFACE OF SAID LAND, FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND/OR EXTRACTING SAID OIL, GAS, PETROLEUM AND OTHER MINERAL OR HYDROCARBON SUBSTANCES FROM SAID LAND BY MEANS OF WELLS DRILLED INTO SAID SUBSURFACE OF SAID LAND FROM DRILL SITES LOCATED ON OTHER LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT SAID GRANTOR, ITS SUCCESSORS AND ASSIGNS, SHALL HAVE NO RIGHT TO ENTER UPON THE SURFACE OF SAID LAND, OR TO USE SAID LAND OR ANY PORTION THEREOF, TO SAID DEPTH OF 100 FEET, FOR ANY PURPOSE WHATSOEVER, AND THAT THEY, OR ANY OF THEM, WILL NOT CONSTRUCT, PLACE OR MAINTAIN, OR CAUSE OR PERMIT TO BE CONSTRUCTED, PLACED OR MAINTAINED ON ANY OTHER LAND NOW OWNED BY THEM OR ANY OF THEM, ANY OIL OR MUD SUMP, DERRICK, DRILLING RIG, OIL STORAGE OR TANK, OR OTHER STRUCTURE FOR USE IN CONNECTION WITH THE PROSPECTING FOR, DEVELOPING, EXTRACTING AND/OR REFINING OF OIL, GAS, PETROLEUM, AND/OR OTHER MINERAL OR HYDROCARBON SUBSTANCES, WITHIN A DISTANCE OF 100 FEET FROM THE BOUNDARY LINES OF THE LAND HEREBY CONVEYED, AS RESERVED IN THE DEED FROM GENERAL PETROLEUM CORPORATION, RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

PARCEL 12 (APN: 306-021-18):

LOT 19 OF PUENTE CRUDE OIL CO.'S LAND, AS SHOWN ON A MAP FILED IN BOOK 2, PAGES 29 AND 30 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA.

EXCEPT ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, GAS, GAS RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFORE AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN SAID LANDS WITH OIL WELLS, GAS WELLS, TUNNELS OR SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL OR MINE FROM THE SURFACE OF SAID LANDS INTO OTHER LANDS AND THE RIGHT TO REDRILL RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINES OR WELLS, AS RESERVED BY SHELL OIL COMPANY, A CORPORATION, BY DEED RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 1648, IN BOOK M-1844, PAGE 673 OF OFFICIAL RECORDS OF LOS ANGELES COUNTY.

PARCEL 13 (APN: A PORTION OF 8714-026-271; 8714-028-270; 8714-027-270):

THOSE PORTIONS OF LAND IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 3 AND 4 IN SECTION 32, THE SOUTHEAST QUARTER OF SECTION 32, THE EAST HALF OF THE NORTHEAST QUARTER, ALL OF THE SOUTHEAST QUARTER, THE EAST HALF OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, THE SOUTH HALF OF SECTION 34, THE NORTH HALF OF THE NORTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF SECTION 34, ALL IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE SEPTEMBER 28, 1968.

EXCEPT THAT PORTION OF SAID SECTION 28, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28, DISTANT THEREON NORTH  $00^{\circ}05'57''$  WEST 1174.12 FEET FROM THE SOUTHERLY QUARTER CORNER OF SAID SECTION 28; THENCE ALONG SAID WEST LINE NORTH  $00^{\circ}05'57''$  WEST 1465.20 FEET TO THE CENTER OF SAID SECTION 28; THENCE ALONG THE NORTH LINE OF THE AFOREMENTIONED SOUTHEAST QUARTER OF SECTION 28, SOUTH  $89^{\circ}08'09''$  EAST 1484.54 FEET; THENCE SOUTH  $45^{\circ}45'52''$  WEST 2068.22 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THOSE PORTIONS LYING SOUTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2 INCH IRON PIPE WITH BRASS CAP IN CONCRETE AT THE CENTER OF SAID SECTION 26 AS SHOWN ON THE LOS ANGELES COUNTY SURVEYOR'S MAP C. S. 8580 FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF SAID COUNTY; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF LAST SAID SECTION SOUTH  $00^{\circ}18'50''$  EAST 1170.79 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EAST LINE SOUTH  $25^{\circ}36'25''$  WEST 79.99 FEET; THENCE SOUTH  $88^{\circ}04'14''$  WEST 81.81 FEET; THENCE SOUTH  $65^{\circ}51'07''$  WEST 117.69 FEET; THENCE SOUTH  $64^{\circ}01'22''$  WEST 100.66 FEET; THENCE SOUTH  $72^{\circ}12'58''$  WEST 65.15 FEET; THENCE NORTH  $82^{\circ}22'19''$  WEST 318.40 FEET; THENCE SOUTH  $66^{\circ}08'44''$  WEST 291.45 FEET; THENCE NORTH  $60^{\circ}57'06''$  WEST 138.16 FEET; THENCE SOUTH  $74^{\circ}02'49''$  WEST 283.15 FEET; THENCE SOUTH  $67^{\circ}05'03''$  WEST 694.43 FEET; THENCE SOUTH  $67^{\circ}23'18''$  WEST 141.24 FEET; THENCE SOUTH  $28^{\circ}43'35''$  WEST 228.33 FEET; THENCE SOUTH  $58^{\circ}10'01''$  WEST 41.27 FEET; THENCE NORTH  $87^{\circ}24'40''$  WEST 190.48 FEET; THENCE SOUTH  $72^{\circ}57'39''$  WEST 411.84 FEET; THENCE SOUTH  $54^{\circ}58'27''$  WEST 292.37 FEET; THENCE SOUTH  $83^{\circ}53'26''$  WEST 129.97 FEET; THENCE NORTH  $79^{\circ}19'13''$  WEST 167.52 FEET; THENCE SOUTH  $76^{\circ}56'58''$  WEST 191.09 FEET; THENCE SOUTH  $56^{\circ}41'58''$  WEST 213.70 FEET; THENCE SOUTH  $69^{\circ}48'31''$  WEST 205.88 FEET; THENCE SOUTH  $38^{\circ}11'23''$  WEST 204.69 FEET; THENCE SOUTH  $43^{\circ}36'59''$  WEST 217.43 FEET; THENCE SOUTH  $52^{\circ}12'56''$  WEST 624.84 FEET; THENCE SOUTH  $29^{\circ}56'10''$  WEST 340.97 FEET; THENCE SOUTH  $54^{\circ}46'50''$  WEST 1113.97 FEET; THENCE SOUTH  $60^{\circ}41'00''$  WEST 240.86 FEET; THENCE NORTH  $85^{\circ}50'49''$  WEST 434.07 FEET; THENCE SOUTH  $68^{\circ}34'49''$  WEST 228.98 FEET; THENCE SOUTH  $45^{\circ}13'16''$  WEST 111.28 FEET; THENCE SOUTH  $79^{\circ}06'17''$  WEST 190.89 FEET; THENCE SOUTH  $43^{\circ}16'15''$  WEST 155.35 FEET; THENCE SOUTH  $89^{\circ}36'28''$  WEST 107.30 FEET; THENCE SOUTH  $52^{\circ}36'47''$  WEST 295.83 FEET; THENCE SOUTH  $39^{\circ}51'34''$  WEST 253.31 FEET; THENCE SOUTH  $08^{\circ}49'28''$  WEST 288.86 FEET; THENCE SOUTH  $43^{\circ}22'04''$  WEST 211.30 FEET; THENCE SOUTH  $28^{\circ}22'04''$  WEST 72.87 FEET; THENCE SOUTH  $08^{\circ}29'53''$  WEST 718.80 FEET; THENCE SOUTH  $13^{\circ}54'37''$  WEST 265.68 FEET; THENCE SOUTH  $37^{\circ}23'04''$  WEST 124.48 FEET; THENCE SOUTH  $21^{\circ}52'15''$  WEST 164.75 FEET;

THENCE SOUTH 41°18'08" WEST 233.05 FEET; THENCE SOUTH 15°45'12" WEST 11.80 FEET; THENCE SOUTH 31°33'19" WEST 371.37 FEET; THENCE SOUTH 22°47'05" WEST 198.75 FEET; THENCE SOUTH 45°55'46" WEST 271.16 FEET; THENCE NORTH 88°32'46" WEST 264.11 FEET; THENCE SOUTH 00°07'50" WEST 178.08 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, SAID PARCEL SHOWN AS PARCEL 2 ON CERTIFICATE OF COMPLIANCE RECORDED JUNE 09, 2000 AS INSTRUMENT NO. 00-0893206 OF OFFICIAL RECORDS, AS AMENDED BY THE CORRECTION OF CERTIFICATE OF COMPLIANCE RECORDED JANUARY 05, 2001 AS INSTRUMENT NO. 01-0031377 OF OFFICIAL RECORDS.

ALSO EXCEPT ALL KINDS OF PETROLEUM, OIL, ASPHALTUM, MALTHA, TAR, GAS AND OTHER BITUMINOUS AND OTHER HYDROCARBON SUBSTANCES, WATER, STONE, ROCK, GYPSUM, CLAY, SAND, AND ALL MINERALS AND MINERAL SUBSTANCES, IN, UNDER, OR UPON SAID LAND, AND ANY AND ALL THEREOF; ALSO THE RIGHT AT ANY AND ALL TIMES, AND BY ANY AND ALL MEANS, TO ENTER UPON ANY AND ALL PORTIONS OF SAID LANDS, AND USE AND ENJOY THE SAME IN ANY AND ALL WAYS IT MAY DEEM NECESSARY, CONVENIENT OR EXPEDIENT IN, OR IN CONNECTION WITH THE TRANSACTION OF ITS BUSINESS, AS EXCEPTED AND RESERVED IN THE DEED FROM PUENTE OIL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 05, 1903 IN BOOK 1917, PAGE 137 OF DEEDS.

THE INTEREST OF THE PUENTE OIL COMPANY, A CORPORATION, HAS PASSED TO AND IS NOW VESTED IN SHELL OIL COMPANY, A DELAWARE CORPORATION, BY DEED RECORDED JULY 12, 1922 IN BOOK 1196, PAGE 278 OF OFFICIAL RECORDS AND MESNE CONVEYANCES OF RECORD.

ALSO EXCEPT ALL RIGHTS TO SUBSURFACE HYDROCARBON (OIL), AND OTHER MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO ENTER UPON SAID PROPERTY TO DRILL FOR AND PRODUCE SAID HYDROCARBON OR MINERAL SUBSTANCES, AS RESERVED BY SUSAN HUNTER FERRY HAAS, WILLIAM EDWARD FERRY, GEORGE S. ST. CLAIR, CLARITA ODETTE, HELEN M. SMITH, FRANCES SWAN REGETS, AND LOUIS BOTTI, ACTING AS GUARDIAN OF THE PERSON AND ESTATE OF VIVIAN MORRIS BOTTI; AND VIVIAN MORRIS BOTTI, AN INCOMPETENT PERSON WHO ACQUIRED TITLE AS VIVIAN MORRIS, IN DEED RECORDED MARCH 08, 1960 AS INSTRUMENT NO. 1048, IN BOOK D-774, PAGE 312 OF OFFICIAL RECORDS.

THE RIGHTS TO ENTER UPON THE SURFACE OF SAID LAND WERE RELINQUISHED BY A DEED RECORDED NOVEMBER 09, 1961 AS INSTRUMENT NO. 1506, IN BOOK D-1415, PAGE 139 OF OFFICIAL RECORDS.

ALSO EXCEPT THE RIGHT TO SUBSURFACE HYDROCARBON (OIL) AND OTHER MINERAL SUBSTANCES CONTAINED IN SAID REAL PROPERTY, TOGETHER WITH THE RIGHT TO ENTER UPON SAID PROPERTY TO DRILL FOR AND PRODUCE SAID HYDROCARBON OR MINERAL SUBSTANCES AND TO ASSIGN SAID RIGHT TO OTHER PERSONS, PARTNERSHIPS OR CORPORATIONS AS RESERVED IN DEED RECORDED SEPTEMBER 12, 1961 AS INSTRUMENT NO. 4247 OF OFFICIAL RECORDS.

PARCEL 14 (APN: A PORTION OF 8714-028-270):

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE SEPTEMBER 28, 1868.

EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATED THEREIN OR THEREUNDER OR PRODUCIBLE THEREFROM, TOGETHER WITH THE RIGHT TO MINE, STORE, DRILL AND BORE BENEATH THE SURFACE OF SAID REAL PROPERTY FOR THE PURPOSE OF DISCOVERING, DEVELOPING OR REMOVING SUCH SUBSTANCES, AS RESERVED BY CALIFORNIA HARDWARE COMPANY, IN DEED RECORDED SEPTEMBER 05, 1969 AS INSTRUMENT NO. 2641, IN BOOK D-4489, PAGE 162 OF OFFICIAL RECORDS, WHICH CONVEYED AN UNDIVIDED ONE-HALF INTEREST OF THE FEE TITLE.

PARCEL 15 (APN: A PORTION OF 8714-028-270):

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT AN UNDIVIDED ONE-TWELFTH INTEREST IN AND TO ALL MINERALS AND ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED BY CAROLYN HICKS LAUTEN, AS HER SEPARATE PROPERTY, IN THE DEED RECORDED DECEMBER 28, 1973 AS INSTRUMENT NO. 491 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED ONE-FOURTH INTEREST IN AND TO ALL MINERALS AND ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED BY LAURITA GEORGINA HICKS, AS HER SEPARATE PROPERTY, IN THE DEED RECORDED DECEMBER 28, 1973 AS INSTRUMENT NO. 492 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED ONE-TWELFTH INTEREST IN AND TO ALL MINERALS AND ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED BY JAMES EDWARD HICKS, AS HIS SEPARATE PROPERTY, IN THE DEED RECORDED DECEMBER 28, 1973 AS INSTRUMENT NO. 493 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED ONE-TWELFTH INTEREST IN AND TO ALL MINERALS AND ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED BY JOHN KIMBALL HICKS, AS HIS SEPARATE PROPERTY, IN THE DEED RECORDED DECEMBER 28, 1973 AS INSTRUMENT NO. 494 OF OFFICIAL RECORDS.

ALSO EXCEPT AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL MINERALS AND ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED BY RODD KELSEY, AS TRUSTEE, UNDER THAT CERTAIN DECLARATION OF TRUST DATED APRIL 09, 1968, AN UNDIVIDED ONE-EIGHTH INTEREST; RODD KELSEY, AS TRUSTEE UNDER THAT CERTAIN DECLARATION OF TRUST DATED MAY 14, 1968, AN UNDIVIDED ONE-EIGHTH INTEREST; RODD KELSEY, AS TRUSTEE, UNDER THAT CERTAIN DECLARATION OF TRUST DATED MAY 14, 1968, AN UNDIVIDED ONE-EIGHTH INTEREST; AND ANITA BRODRICK AND LUCY BRODRICK DUNLAP, AS CO-TRUSTEES UNDER THE WILL OF EUGENE C. BRODRICK, ALSO KNOWN AS EUGENE CARLISLE BRODRICK, DECEASED, AND

THE DECREE OF DISTRIBUTION OF HIS ESTATE, A CERTIFIED COPY THEREOF BEING RECORDED MARCH 04, 1970 AS INSTRUMENT NO. 2779, IN BOOK D-4648, PAGE 856 OF OFFICIAL RECORDS, AN UNDIVIDED ONE-EIGHTH INTEREST, IN THE DEED RECORDED DECEMBER 28, 1973 AS INSTRUMENT NO. 495 OF OFFICIAL RECORDS.

PARCEL 16 (APN: A PORTION OF 8714-028-270):

THE SURFACE AND 500 FEET OF THE SUBSURFACE VERTICALLY IN DEPTH BELOW THE SURFACE OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

EXCEPT ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID PROPERTY 500 FEET IN DEPTH; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID PROPERTY SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS AND OTHER MINERALS, AS RESERVED BY STANDARD OIL COMPANY OF CALIFORNIA, IN DEED RECORDED DECEMBER 23, 1970 AS INSTRUMENT NO. 287 OF OFFICIAL RECORDS.

PARCEL 17 (APN: A PORTION OF 8714-028-270):

THE SURFACE AND 500 FEET OF THE SUBSURFACE VERTICALLY IN DEPTH BELOW THE SURFACE OF THE FOLLOWING DESCRIBED PROPERTY:

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

EXCEPT ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID PROPERTY 500 FEET IN DEPTH; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID PROPERTY SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS AND OTHER MINERALS, AS RESERVED BY STANDARD OIL COMPANY OF CALIFORNIA, IN DEED RECORDED DECEMBER 23, 1970 AS INSTRUMENT NO. 288 OF OFFICIAL RECORDS.

PARCEL 18 (APN: A PORTION OF 8714-028-270; 8714-029-270):

ALL OF LOTS 1, 6, 12 AND 19 OF PUENTE CRUDE OIL CO.'S LAND, AS PER MAP RECORDED IN BOOK 2, PAGE 29 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THOSE PORTIONS OF LOTS 2, 3, 4, 7, 8, 9, 10 AND 13, AS SHOWN ON SAID MAP, LYING SOUTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID LOT 2 DISTANT THEREON SOUTH 88°19'10.25" WEST 1824.54 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 1; THENCE SOUTH 21°22'05" WEST 344.32 FEET; THENCE SOUTH 45°25'45" WEST 556.89 FEET; THENCE SOUTH 65°23'23" WEST 2038.07 FEET; THENCE SOUTH 38°37'40" WEST 961.90 FEET; THENCE SOUTH 30°55'41" WEST 1463.64 FEET; THENCE SOUTH 85°48'12" WEST 508.32 FEET TO THE WESTERLY LINE OF SAID LOT 13; THENCE ALONG THE SAID WESTERLY LINE, SOUTH 00°11'00" EAST TO THE SOUTHWEST CORNER OF SAID LOT 13.

EXCEPT ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, GAS, GAS RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFORE AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN SAID LANDS WITH OIL WELLS, GAS WELLS, TUNNELS OR SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL OR MINE FROM THE SURFACE OF SAID LANDS INTO OTHER LANDS AND THE RIGHT TO REDRILL RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINES OR WELLS, AS RESERVED BY SHELL OIL COMPANY, A CORPORATION, IN DEED RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 1648, IN BOOK M-1844, PAGE 673 OF OFFICIAL RECORDS.

PARCEL 19 (APN: 8714-026-270; 8714-026-273; A PORTION OF 8714-026-271):

THOSE PORTIONS OF LAND IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SECTION 26, THE NORTH HALF OF SECTION 27, THE NORTH HALF OF THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 35, ALL IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE SEPTEMBER 28, 1868.

EXCEPT FROM SAID NORTH HALF OF SECTION 27 THOSE PORTIONS LYING WITHIN TRACT NO. 30578, AS PER MAP RECORDED IN BOOK 785, PAGES 1 THROUGH 25, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT FROM SAID NORTH HALF OF SECTION 27 THOSE PORTIONS LYING WITHIN PARCEL MAP NO. 1528, AS PER MAP FILED IN BOOK 26, PAGES 19 THROUGH 30, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THAT PORTION OF SAID SOUTHWEST QUARTER OF SECTION 26 DESCRIBED IN THE DEED RECORDED MARCH 19, 1973 AS INSTRUMENT NO. 226 OF OFFICIAL RECORDS, AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST-WEST CENTER LINE OF SAID SECTION 26, SAID POINT BEING DISTANT HEREON NORTH 88°46'40" WEST 1371.20 FEET FROM THE CENTER OF SAID SECTION 26; THENCE SOUTH 88°46'40" EAST ALONG SAID EAST-WEST CENTER LINE 126.08 FEET;

THENCE SOUTH 38°44'09" WEST 229.66 FEET; THENCE SOUTH 05°16'38" WEST 39.68 FEET; THENCE NORTH 84°43'22" WEST 160.00 FEET; THENCE NORTH 05°16'38" EAST 196.60 FEET; THENCE NORTH 38°44'09" EAST 18.06 FEET TO SAID EAST-WEST CENTER LINE; THENCE SOUTH 88°46'40" EAST ALONG SAID EAST-WEST CENTER LINE 151.28 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERLY QUARTER CORNER OF SAID SECTION 28; THENCE NORTH 00°28'30" WEST 1161.63 FEET ALONG THE EAST LINE OF SAID SECTION 28; THENCE SOUTH 45°49'18" WEST 1641.12 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28 BEING DISTANT EASTERLY 1484.54 FEET FROM THE CENTER OF SAID SECTION 28; THENCE SOUTH 89°08'09" EAST 1186.74 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS LYING SOUTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2 INCH IRON PIPE WITH BRASS CAP IN CONCRETE AT THE CENTER OF SAID SECTION 26 AS SHOWN ON THE LOS ANGELES COUNTY SURVEYOR'S MAP C. S. 8580 FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF SAID COUNTY; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF LAST SAID SECTION SOUTH 00°18'50" EAST 1170.79 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EAST LINE SOUTH 25°36'25" WEST 79.99 FEET; THENCE SOUTH 88°04'14" WEST 81.81 FEET; THENCE SOUTH 65°51'07" WEST 117.69 FEET; THENCE SOUTH 64°01'22" WEST 100.66 FEET; THENCE SOUTH 72°12'58" WEST 65.15 FEET; THENCE NORTH 82°22'19" WEST 318.40 FEET; THENCE SOUTH 66°08'44" WEST 291.45 FEET; THENCE NORTH 60°57'06" WEST 138.16 FEET; THENCE SOUTH 74°02'49" WEST 283.15 FEET; THENCE SOUTH 67°05'03" WEST 694.43 FEET; THENCE SOUTH 67°23'18" WEST 141.24 FEET; THENCE SOUTH 28°43'35" WEST 228.33 FEET; THENCE SOUTH 58°10'01" WEST 41.27 FEET; THENCE NORTH 87°24'40" WEST 190.48 FEET; THENCE SOUTH 72°57'39" WEST 411.84 FEET; THENCE SOUTH 54°58'27" WEST 292.37 FEET; THENCE SOUTH 83°53'26" WEST 129.97 FEET; THENCE NORTH 79°19'13" WEST 167.52 FEET; THENCE SOUTH 76°56'58" WEST 191.09 FEET; THENCE SOUTH 56°41'58" WEST 213.70 FEET; THENCE SOUTH 69°48'31" WEST 205.88 FEET; THENCE SOUTH 38°11'23" WEST 204.69 FEET; THENCE SOUTH 43°36'59" WEST 217.43 FEET; THENCE SOUTH 52°12'56" WEST 624.84 FEET; THENCE SOUTH 29°56'10" WEST 340.97 FEET; THENCE SOUTH 54°46'50" WEST 1113.97 FEET; THENCE SOUTH 60°41'00" WEST 240.86 FEET; THENCE NORTH 85°50'49" WEST 434.07 FEET; THENCE SOUTH 68°34'49" WEST 228.98 FEET; THENCE SOUTH 45°13'16" WEST 111.28 FEET; THENCE SOUTH 79°06'17" WEST 190.89 FEET; THENCE SOUTH 43°16'15" WEST 155.35 FEET; THENCE SOUTH 89°36'28" WEST 107.30 FEET; THENCE SOUTH 52°36'47" WEST 295.83 FEET; THENCE SOUTH 39°51'34" WEST 253.31 FEET; THENCE SOUTH 08°49'28" WEST 288.86 FEET; THENCE SOUTH 43°22'04" WEST 211.30 FEET; THENCE SOUTH 28°22'04" WEST 72.87 FEET; THENCE SOUTH 08°29'53" WEST 718.80 FEET; THENCE SOUTH 13°54'37" WEST 265.68 FEET; THENCE SOUTH 37°23'04" WEST 124.48 FEET; THENCE NORTH 21°52'15" WEST 164.75 FEET; THENCE SOUTH 41°18'08" WEST 233.05 FEET; THENCE SOUTH 15°45'12" WEST 111.80 FEET; THENCE SOUTH 31°33'19" WEST 371.37 FEET; THENCE SOUTH 22°47'05" WEST 198.75 FEET; THENCE SOUTH 45°55'46" WEST 271.16 FEET; THENCE NORTH 88°32'46" WEST 264.11 FEET; THENCE SOUTH 00°07'50" WEST 178.08 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, SAID PARCEL SHOWN AS PARCEL 2 ON CERTIFICATE OF COMPLIANCE RECORDED JUNE 09, 2000 AS INSTRUMENT NO. 00-893206 OF OFFICIAL RECORDS.

AS AMENDED BY THE CORRECTION OF CERTIFICATE OF COMPLIANCE RECORDED JANUARY 05, 2001 AS INSTRUMENT NO. 01-0031377 OF OFFICIAL RECORDS.

ALSO EXCEPT ANY AND ALL KINDS OF PETROLEUM, OIL, ASPHALTUM, MALTHA, TAR, GAS AND OTHER BITUMINOUS AND OTHER HYDROCARBON SUBSTANCES, WATER, STONE, ROCK, GYPSUM, CLAY, SAND AND ALL MINERALS AND MINERAL SUBSTANCES, IN, UNDER OR UPON SAID LAND, AND ANY AND ALL THEREOF; ALSO THE RIGHT AT ANY AND ALL TIMES, AND BY ANY AND ALL MEANS, TO ENTER UPON ANY AND ALL PORTIONS OF SAID LANDS, AND USE AND ENJOY THE SAME IN ANY AND ALL WAYS IT MAY SEEM NECESSARY, CONVENIENT OR EXPEDIENT IN, OR IN CONNECTION WITH THE TRANSACTION OF ITS BUSINESS, AS EXCEPTED AND RESERVED IN THE DEED FROM PUENTE OIL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 05, 1903 IN BOOK 1917, PAGE 137 OF DEEDS.

ALSO EXCEPT ALL SUBSURFACE MINERALS, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES WITHOUT RIGHT TO USE THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXTRACTING AND REMOVING THE RESERVED MINERALS, OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, AS EXCEPTED AND RESERVED BY CAPITAL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 09, 1961 AS INSTRUMENT NO. 1522 OF OFFICIAL RECORDS.

PARCEL 20 (APN: A PORTION OF 8714-026-271):

THE SURFACE AND 500 FEET OF THE SUBSURFACE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

EXCEPT ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID PROPERTY 500 FEET IN DEPTH; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID PROPERTY SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AS RESERVED BY STANDARD OIL COMPANY OF CALIFORNIA, RECORDED OCTOBER 31, 1967 AS INSTRUMENT NO. 596 OF OFFICIAL RECORDS.

PARCEL 21 (APN: 8714-026-272):

THAT PORTION OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 76, PAGES 51 THROUGH 56, INCLUSIVE OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 28; THENCE NORTH 89°50'03.39" EAST 2617.18 FEET TO THE SOUTHERLY QUARTER CORNER OF SAID SECTION 28; THENCE NORTH 0°29'07.35" WEST 1174.12 FEET ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH 45°28'03.88" WEST 735.29 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF SAID SECTION 28 SOUTH 89°50'03.39" WEST 2093.26 FEET; THENCE SOUTH 0°52'58.46" EAST 660.00 FEET TO THE POINT OF BEGINNING.

EXCEPT ALL SUBSURFACE MINERALS, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES WITHOUT RIGHT TO USE THE SURFACE OF SAID LAND FOR THE PURPOSE OF EXTRACTING AND REMOVING THE RESERVED MINERALS, OIL, GAS OR OTHER HYDROCARBON SUBSTANCES, AS EXCEPTED AND RESERVED BY CAPITAL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 09, 1961 AS INSTRUMENT NO. 1522 OF OFFICIAL RECORDS.

PARCEL 23 (APN: 306-021-01; 306-021-02):

THAT PORTION OF THE RANCHO RINCON DE LA BREA, AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGES 195 AND 196 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND THAT PORTION OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 10 WEST, AND OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH, RANGE 9 WEST, IN THE RANCHO SAN JUAN CAJON DE SANTA ANA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE RANCHO RINCON DE LA BREA AND BEING STATION 3 OF THE EXTERIOR BOUNDARY OF SAID RANCHO, THE SAME BEING MARKED BY A 4" X 4" POST 3 FEET HIGH MARKED "S.J.C. DE S.A." ON THE SOUTH FACE, WITH A 2" GAS PIPE DRIVEN ON THE NORTH SIDE OF SAID POST; RUNNING THENCE NORTH 85°48' WEST 107.16 CHAINS TO A 6 INCH IRON CASING MARKED "U.O.C." "G.L.O.C." "COMP. COR. NO. 1" "DEC. 1904"; THENCE NORTH 57°58' WEST 32.117 CHAINS TO A 6 INCH IRON CASING MARKED "U.O.C." "G.L.O.C." "COMP. COR. NO. 2" "DEC. 1904", AS PER COMPROMISE DEED BETWEEN UNION OIL COMPANY OF CALIFORNIA AND GRAHAM-LOFTUS OIL COMPANY, DATED MARCH 20, 1905 AND RECORDED JUNE 10, 1905 IN BOOK 120, PAGE 223 OF DEEDS; THENCE NORTH 28°36' EAST 27.385 CHAINS TO A POINT IN A ROAD; THENCE NORTH 69°00" EAST 14.88 CHAINS TO A POINT IN THE CENTER OF THE ARROYA DEL RODEO, SAID POINT BEING 0.50 CHAINS WEST OF A 4" X 4" REDWOOD WITNESS POST MARKED "M.B." ON THE SOUTHEAST FACE, "Z" ON THE NORTHEAST FACE, AND "W" ON THE WEST FACE; THENCE SOUTH 88°49' EAST 106.811 CHAINS TO A 2" X 4" POST IN ROCK MOUND MARKED "Z" ON THE NORTHEAST FACE AND "M.B." ON THE SOUTHWEST FACE; THENCE SOUTH 00°21' EAST 52.034 CHAINS TO THE POINT OF COMMENCEMENT, CONTAINING 606.93 ACRES OF LAND, MORE OR LESS, AND BEING THAT CERTAIN SO-CALLED 593.669 ACRE TRACT OF LAND AS THE SAME IS DESCRIBED IN A DEED FROM HERBERT NOBLE AND OTHERS TO DELAWARE UNION OIL COMPANY, DATED APRIL 14, 1911 AND RECORDED APRIL 27, 1911 IN BOOK 196, PAGE 339 OF DEEDS.

EXCEPT THE FOLLOWING: A PORTION OF PROJECTED SECTION 5, TOWNSHIP 3 SOUTH, RANGE 9 WEST, SAN BERNARDINO BASE AND MERIDIAN, AS ESTABLISHED BY THE COUNTY OF ORANGE, SURVEYOR, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 5; RUNNING THENCE SOUTH 00°54'54" WEST 1152.93 FEET; THENCE SOUTH 89°05'06" EAST 1025.64 FEET TO THE NORTHEASTERLY CORNER OF THE GENERAL PETROLEUM CORPORATION PROPERTY WHICH IS MARKED BY MONUMENT NUMBERED "16"; THENCE SOUTH 00°37'37" EAST, ALONG THE EASTERLY LINE OF SAID GENERAL PETROLEUM CORPORATION PROPERTY, 1175.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 89°22'23" WEST 450 FEET; THENCE SOUTH 00°37'37" EAST 400.00 FEET; THENCE NORTH 89°22'23" EAST 450.00 FEET TO THE EASTERLY LINE

OF SAID GENERAL PETROLEUM CORPORATION PROPERTY; THENCE NORTH 00°37'37" WEST 400.00 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 5; RUNNING THENCE SOUTH 00°54'54" WEST, 1152.93 FEET; THENCE SOUTH 89°05'06" EAST, 1025.64 FEET TO THE NORTHEASTERLY CORNER OF THE PROPERTY DESCRIBED IN DEED DATED SEPTEMBER 18, 1912 TO GENERAL PETROLEUM COMPANY, RECORDED MARCH 18, 1913 IN BOOK 231, PAGE 106 OF DEEDS, SAID NORTHEASTERLY CORNER BEING MARKED BY MONUMENT NUMBERED "16" AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00°37'37" EAST ALONG THE EASTERLY LINE OF SAID PROPERTY, 1175.00 FEET TO THE NORTHEAST CORNER OF THE PROPERTY, AS DESCRIBED IN GRANT DEED DATED APRIL 02, 1952 FROM SAID GENERAL PETROLEUM CORPORATION TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION. RECORDED MAY 28, 1952 AS INSTRUMENT NO. 27061, IN BOOK 2336, PAGE 91 OF OFFICIAL RECORDS; THENCE SOUTH 89°22'23" WEST ALONG THE NORTHERLY LINE OF THE ABOVE DESCRIBED PROPERTY CONVEYED TO SOUTHERN CALIFORNIA EDISON COMPANY AND THE WESTERLY PROLONGATION THEREOF, 741.00 FEET; THENCE NORTH 00°37'37" WEST, PARALLEL WITH THE EASTERLY LINE OF SAID GENERAL PETROLEUM CORPORATION PROPERTY, 1194.95 FEET TO A POINT IN THE NORTHERLY LINE OF SAID GENERAL PETROLEUM CORPORATION PROPERTY; THENCE SOUTH 89°05'06" EAST, 741.39 FEET ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS PARCEL 1A IN THAT CERTAIN FINAL ORDER OF CONDEMNATION, SUPERIOR COURT CASE NO. 172819, A CERTIFIED COPY OF WHICH WAS RECORDED SEPTEMBER 24, 1971 AS INSTRUMENT NO. 21102, IN BOOK 9818, PAGE 251 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPTING THEREFROM ALL OIL, NATURAL GAS AND OTHER HYDROCARBONS AS RESERVED IN DEED RECORDED JULY 22, 2004 AS INSTRUMENT NO. 2004000664230 OF OFFICIAL RECORDS.

PARCEL 26:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS AND EGRESS, AND INCIDENTAL PURPOSES, AS SET OUT IN DOCUMENTS RECORDED JULY 03, 2001 AS INSTRUMENT NO. 01-1146673, AND JULY 03, 2001 AS INSTRUMENT NO. 01-1146674, BOTH OF OFFICIAL RECORDS OF LOS ANGELES COUNTY, JULY 03, 2001 AS INSTRUMENT NO. 20010260857, AND JULY 03, 2001 AS INSTRUMENT NO. 20010260858, BOTH OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, AND JULY 03, 2001 AS INSTRUMENT NO. 20010446524, AND JULY 03, 2001 AS INSTRUMENT NO. 20010446525, BOTH OF OFFICIAL RECORDS OF ORANGE COUNTY.

PARCEL 27:

EASEMENTS AND LICENSES AS SET OUT IN DOCUMENT RECORDED JULY 03, 2001 AS INSTRUMENT NO. 01-1146675 OF OFFICIAL RECORDS OF LOS ANGELES COUNTY, AND JULY 03, 2001 AS INSTRUMENT NO. 20010446526 OF OFFICIAL RECORDS OF ORANGE COUNTY, AS DESCRIBED THEREIN, FOR THE FOLLOWING PURPOSES: TONNER CANYON ROAD EASEMENT, ROADWAY

EASEMENT, UTILITY EASEMENTS, SIGN EASEMENT, WATER EASEMENT, COMMUNICATIONS  
TOWER EASEMENT, PARKING LICENSE, HIKING LICENSE, AND LARGE EVENT LICENSE.

**EXHIBIT "B"**

THE 2,500 ACRES REFERRED TO HEREIN BELOW IS SITUATED IN LOS ANGELES COUNTY, ORANGE COUNTY, AND SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

**SCOUT PROPERTY:**

PARCEL 3 (APN: 308-031-21; 308-031-26; 308-031-28; 308-031-29):

PORTIONS OF LAND IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, PURSUANT TO CERTIFICATE OF COMPLIANCE NO. CC 2000-03 RECORDED FEBRUARY 09, 2001 AS INSTRUMENT NO. 20010076391 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

LOTS 1 AND 2 IN SECTION 4, TOWNSHIP 3 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT FILED IN THE DISTRICT LAND OFFICE, FEBRUARY 17, 1868, TOGETHER WITH THE NORTH 200.00 FEET OF THAT PORTION OF THE NORTHEAST QUARTER OF SAID SECTION 4 BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF SAID LOT 1 AND BOUNDED EASTERLY AND WESTERLY BY THE SOUTHERLY PROLONGATION OF THE EASTERLY AND WESTERLY LINES RESPECTIVELY, OF SAID LOT 1 AND TOGETHER WITH THE NORTH 200 FEET OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4.

EXCEPTING THEREFROM THAT PORTION LYING WESTERLY OF THE EASTERLY LINE OF PARCEL NO. 7.04 OF THE DEED TO THE COUNTY OF ORANGE RECORDED JANUARY 11, 1985 AS INSTRUMENT NO. 85-009660 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN THAT CERTAIN PARCEL OF LAND DESCRIBED IN A QUITCLAIM DEED TO SHELL OIL COMPANY, A DELAWARE CORPORATION, RECORDED JANUARY 31, 1964 AS INSTRUMENT NO. 26476, IN BOOK 6906, PAGE 58 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING FROM A PORTION THEREOF ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, GAS, GAS RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LANDS, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFORE AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN SAID LANDS, WITH OIL WELLS, GAS WELLS, TUNNELS OR SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF

SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL OR MINE FROM THE SURFACE OF SAID LANDS INTO OTHER LANDS AND THE RIGHT TO REDRILL, RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINES OR WELLS, AS RESERVED IN THE DEED FROM SHELL OIL COMPANY, A CORPORATION, RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 2240, IN BOOK 6347, PAGE 273 OF OFFICIAL RECORDS, REFERENCE TO SAID DEED BEING HEREBY MADE FOR FURTHER PARTICULARS THEREIN RELATIVE TO THE USE OF THE SUBSURFACE OF THE LAND WITH RESPECT TO SAID RIGHTS AND INTEREST.

ALSO EXCEPTING FROM A PORTION THEREOF ALL MINERALS, MINERAL RIGHTS, OIL, OIL RIGHTS, GAS, GAS RIGHTS, AND ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN IN, UPON OR UNDERLYING SAID LANDS AND ALL WATER OR WATERS LYING BELOW SAID LANDS TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING AND OPERATING THEREFROM AND REMOVING THE SAME FROM SAID LANDS OR ANY OTHER LAND BY METHODS PRESENTLY EXISTING OR HEREAFTER DEVELOPED, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN SAID LANDS WITH OIL WELLS, GAS WELLS, TUNNELS OR SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF SAID LANDS AND THE RIGHT TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS OR SHAFTS UNDER AND BENEATH SAID LANDS OR BEYOND THE EXTERIOR LIMITS THEREOF AND THE RIGHT TO REDRILL, RECOMPLETE, DEEPEN, RETUNNEL, EQUIP, MAINTAIN, REPAIR AND OPERATE ANY SUCH MINE OR WELLS PROVIDED, HOWEVER, THAT IN EXERCISING THE FOREGOING RIGHTS OR ANY OF THEM SO RESERVED BY SHELL, ITS SUCCESSORS OR ASSIGNS, SHALL CONFINE THEIR RESPECTIVE USE OF THE SURFACE TO THE FIVE-ACRE PARCELS REFERRED TO IN THAT CERTAIN DEED DATED MAY 04, 1962 AND RECORDED DECEMBER 05, 1962 AS INSTRUMENT NO. 2240, IN BOOK 6347, PAGE 273 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA, AS RESERVED BY SHELL OIL COMPANY, A CORPORATION, IN THE DEED RECORDED JANUARY 31, 1964 AS INSTRUMENT NO. 26477, IN BOOK 6906, PAGE 59 OF OFFICIAL RECORDS.

PARCEL 24 (APN: 8714-028-04; A PORTION OF 8714-027-06):

THOSE PORTIONS OF LAND DESCRIBED AS FOLLOWS:

THE SOUTHEAST QUARTER OF SECTION 33, THE SOUTH HALF OF SECTION 34, THE SOUTHWEST QUARTER OF SECTION 35, ALL IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE SEPTEMBER 28, 1868.

EXCEPT THAT PORTION THEREOF CONVEYED BY DEED FROM CHINO LAND AND WATER COMPANY TO JOHN C. MILES AND LOUIS B. JORALMON RECORDED IN BOOK 3859, PAGE 275 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 35 ON THE COUNTY BOUNDARY LINE OF LOS ANGELES AND ORANGE COUNTIES, MARKED BY A 2 INCH IRON PIPE WITH A BRASS CAP; THENCE NORTH 10°49'20" WEST 2673.34 FEET TO THE COUNTY LINE MONUMENT AT THE CENTER OF SAID SECTION 35; THENCE WESTERLY ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 35, A DISTANCE OF 520 FEET TO THE WEST SIDE OF FIRE BREAK; THENCE SOUTH 10°07'00" EAST 726 FEET, MORE OR LESS, TO A POINT FROM WHICH A MARKED OAK TREE BEARS SOUTH 52°48'00" EAST 60.00 FEET; THENCE SOUTH 18°49'00" EAST 1566 FEET TO A POINT FROM WHICH A SMALL MARKED OAK TREE BEARS NORTH 85°56'00" EAST 21.6 FEET; THENCE SOUTH 42°11'30" EAST 578.7 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THOSE PORTIONS LYING NORTHERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2 INCH IRON PIPE WITH BRASS CAP IN CONCRETE AT THE CENTER OF SAID SECTION 26, AS SHOWN ON THE LOS ANGELES COUNTY SURVEYOR'S MAP C. S. 8580 FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF SAID COUNTY; THENCE ALONG THE EAST LINE OF SOUTHWEST QUARTER OF LAST SAID SECTION SOUTH 00°18'50" EAST 1170.79 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EAST LINE SOUTH 25°36'25" WEST 79.99 FEET; THENCE SOUTH 88°04'14" WEST 81.81 FEET; THENCE SOUTH 65°51'07" WEST 117.69 FEET; THENCE SOUTH 64°01'22" WEST 100.66 FEET; THENCE SOUTH 72°12'58" WEST 65.15 FEET; THENCE NORTH 82°22'19" WEST 318.40 FEET; THENCE SOUTH 66°08'44" WEST 291.45 FEET; THENCE NORTH 60°57'06" WEST 138.16 FEET; THENCE SOUTH 74°02'49" WEST 283.15 FEET; THENCE SOUTH 67°05'03" WEST 694.43 FEET; THENCE SOUTH 67°23'18" WEST 141.24 FEET; THENCE SOUTH 28°43'35" WEST 228.33 FEET; THENCE SOUTH 58°10'01" WEST 41.27 FEET; THENCE NORTH 87°24'40" WEST 190.48 FEET; THENCE SOUTH 72°57'39" WEST 411.84 FEET; THENCE SOUTH 54°58'27" WEST 292.37 FEET; THENCE SOUTH 83°53'26" WEST 129.97 FEET; THENCE NORTH 79°19'13" WEST 167.52 FEET; THENCE SOUTH 76°56'58" WEST 191.09 FEET; THENCE SOUTH 56°41'58" WEST 213.70 FEET; THENCE SOUTH 69°48'31" WEST 205.88 FEET; THENCE SOUTH 38°11'23" WEST 204.69 FEET; THENCE SOUTH 43°36'59" WEST 217.43 FEET; THENCE SOUTH 52°12'56" WEST 624.84 FEET; THENCE SOUTH 29°56'10" WEST 340.97 FEET; THENCE SOUTH 54°46'50" WEST 1113.97 FEET; THENCE SOUTH 60°41'00" WEST 240.86 FEET; THENCE NORTH 85°50'49" WEST 434.07 FEET; THENCE SOUTH 68°34'49" WEST 228.98 FEET; THENCE SOUTH 45°13'16" WEST 111.28 FEET; THENCE SOUTH 79°06'17" WEST 190.89 FEET; THENCE SOUTH 43°16'15" WEST 155.35 FEET; THENCE SOUTH 89°36'28" WEST 107.30 FEET; THENCE SOUTH 52°36'47" WEST 295.83 FEET; THENCE SOUTH 39°51'34" WEST 253.31 FEET; THENCE SOUTH 08°49'28" WEST 288.86 FEET; THENCE SOUTH 43°22'04" WEST 211.30 FEET; THENCE SOUTH 28°22'04" WEST 72.87 FEET; THENCE SOUTH 08°29'53" WEST 718.80 FEET; THENCE SOUTH 13°54'37" WEST 265.68 FEET; THENCE SOUTH 37°23'04" WEST 124.46 FEET; THENCE NORTH 21°52'15" WEST 164.75 FEET; THENCE SOUTH 41°18'08" WEST 233.05 FEET; THENCE SOUTH 15°45'12" WEST 111.80 FEET; THENCE SOUTH 31°33'19" WEST 371.37 FEET; THENCE SOUTH 22°47'05" WEST 198.75 FEET; THENCE SOUTH 45°55'46" WEST 271.16 FEET; THENCE NORTH 88°32'46" WEST 264.11 FEET; THENCE SOUTH 00°07'50" WEST 178.08 FEET; TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN.

ALSO EXCEPT ALL KINDS OF PETROLEUM, OIL, ASPHALTUM, MALTHA, TAR, GAS AND OTHER BITUMINOUS AND OTHER HYDROCARBON SUBSTANCES, WATER, STONE, ROCK, GYPSUM, CLAY, SAND, AND ALL MINERALS AND MINERAL SUBSTANCES, IN, UNDER, OR UPON SAID LAND, AND ANY AND ALL THEREOF; ALSO THE RIGHT AT ANY AND ALL TIMES, AND BY ANY AND ALL MEANS TO ENTER UPON ANY AND ALL PORTIONS OF SAID LANDS, AND USE AND ENJOY THE SAME IN ANY AND ALL WAYS IT MAY DEEM NECESSARY, CONVENIENT OR EXPEDIENT IN, OR IN CONNECTION

WIT THE TRANSACTION OF ITS BUSINESS, AS EXCEPTED AND RESERVED IN THE DEED FROM PUENTE OIL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 05, 1903 IN BOOK 1917, PAGE 137 OF DEEDS.

THE INTEREST OF THE PUENTE OIL COMPANY, A CORPORATION, HAS PASSED TO AND IS NOW VESTED IN SHELL OIL COMPANY, A DELAWARE CORPORATION, BY DEED RECORDED JULY 12, 1922 IN BOOK 1196, PAGE 278 OF OFFICIAL RECORDS AND MESNE CONVEYANCES OF RECORD.

ALSO EXCEPTING ALL THE MINERALS, GAS, OILS, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES IN, ON OR UNDER SAID PARCELS, TOGETHER WITH BUT NOT CONFINED TO THE FOLLOWING RIGHTS, NAMELY, ALL NECESSARY AND CONVENIENT RIGHTS FOR THE PURPOSE OF DRILLING FOR, PRODUCING, EXTRACTING AND TAKING ANY OF SAID MINERALS, GAS, OIL, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES FROM SAID LAND, TOGETHER WITH THE RIGHT TO USE OR DEVELOP AND USE ALL WATER NECESSARY AND CONVENIENT FOR SAID DRILLING, EXTRACTING OR TAKING OF SAID MINERALS, GAS, OILS, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES FROM SAID LAND, AND TO STORE THE SAME UPON SAID LAND, TOGETHER WITH THE RIGHT TO ENTER UPON SAID LAND AT ANY AND ALL TIMES FOR SAID PURPOSES, EITHER PERSONALLY OR THROUGH ANY AGENTS, SERVANTS, EMPLOYEES, OR LESSEES OF THE GRANTOR, AND FROM TIME TO TIME TO CONSTRUCT, LAY, USE, MAINTAIN, ERECT, REPAIR, REPLACE AND REMOVE THEREON AND THEREFROM ALL DERRICKS, ROADS, TANKS, RESERVOIRS, MACHINERY, TELEPHONE, TELEGRAPH AND POWER LINES, PIPE LINES AND OTHER STRUCTURES, WITH THE RIGHT OF WAY FOR PASSAGE OVER, UPON AND ACROSS AND INGRESS AND EGRESS TO AND FROM SAID PREMISES AND EVERY PART THEREOF AS RESERVED IN DEED RECORDED APRIL 22, 1958 AS INSTRUMENT NO. 941, IN BOOK D-78, PAGE 299 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL MINERALS, GAS, OILS, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES IN, ON OR UNDER SAID LAND TOGETHER WITH, BUT NOT CONFINED TO THE FOLLOWING RIGHTS, NAMELY ALL NECESSARY AND CONVENIENT RIGHTS FOR THE PURPOSE OF DRILLING FOR, PRODUCING, EXTRACTING AND TAKING ANY OF SAID MINERALS, GAS, OIL, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES FROM SAID LAND, TOGETHER WITH RIGHT TO USE OR DEVELOP AND USE ALL WATER NECESSARY AND CONVENIENT FOR SAID DRILLING, EXTRACTING OR TAKING OF SAID MINERALS, GAS, OILS, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES FROM SAID LAND AND TO STORE THE SAME UPON SAID LAND, TOGETHER WITH THE RIGHT TO ENTER UPON SAID LAND AT ANY AND ALL TIMES FOR SAID PURPOSES, EITHER PERSONALLY OR THROUGH ANY AGENTS, SERVANTS, EMPLOYEES OR LESSEES OF THE GRANTOR AND FROM TIME TO TIME TO CONSTRUCT, LAY, USE, MAINTAIN, ERECT, REPAIR, REPLACE AND REMOVE THEREON AND THEREFROM ALL DERRICKS, ROADS, TANKS, RESERVOIRS, MACHINERY, TELEPHONE, TELEGRAPH AND POWER LINES, PIPE LINES AND OTHER STRUCTURES, WITH THE RIGHT OF WAY FOR PASSAGE OVER, UPON AND ACROSS AND INGRESS AND EGRESS TO AND FROM SAID PREMISES AND EVERY PART THEREOF, AS RESERVED BY ERNEST A. BRYANT, JR., SOLE SURVIVING TRUSTEE UNDER THE WILL OF SUSANNA BIXBY BRYANT, ALSO KNOWN AS SUSANNA P. BRYANT, DECEASED, IN DEED RECORDED APRIL 22, 1958 AS INSTRUMENT NO. 941, IN BOOK D-78, PAGE 299 OF OFFICIAL RECORDS.

SAID PARCEL SHOWN AS PARCEL 3 ON CERTIFICATE OF COMPLIANCE RECORDED JUNE 09, 2000 AS INSTRUMENT NO. 00-0893206, AND AMENDED JANUARY 05, 2001 AS INSTRUMENT NO. 01-0031377, BOTH OF OFFICIAL RECORDS.

PARCEL 25 (APN: 8714-026-07; 8714-026-08; A PORTION OF 8714-027-06):

THOSE PORTIONS OF LAND, DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SECTION 26, THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 34, THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 35, ALL IN TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN.

EXCEPT THEREFROM THOSE PORTIONS LYING NORTHERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2 INCH IRON PIPE WITH BRASS CAP IN CONCRETE AT THE CENTER OF SAID SECTION 26 AS SHOWN ON THE LOS ANGELES COUNTY SURVEYOR'S MAP C. S. 8580 FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF SAID COUNTY; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF LAST SAID SECTION SOUTH 00°18'50" EAST 1170.79 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EAST LINE SOUTH 25°36'25" WEST 79.99 FEET; THENCE SOUTH 88°04'14" WEST 81.81 FEET; THENCE SOUTH 65°51'07" WEST 117.69 FEET; THENCE SOUTH 64°01'22" WEST 100.66 FEET; THENCE SOUTH 72°12'58" WEST 65.15 FEET; THENCE NORTH 82°22'19" WEST 318.40 FEET; THENCE SOUTH 66°08'44" WEST 291.45 FEET; THENCE NORTH 60°57'06" WEST 138.16 FEET; THENCE SOUTH 74°02'49" WEST 283.15 FEET; THENCE SOUTH 67°05'03" WEST 694.43 FEET; THENCE SOUTH 67°23'18" WEST 141.24 FEET; THENCE SOUTH 28°43'35" WEST 228.33 FEET; THENCE SOUTH 58°10'01" WEST 41.27 FEET; THENCE NORTH 87°24'40" WEST 190.48 FEET; THENCE SOUTH 72°57'39" WEST 411.84 FEET; THENCE SOUTH 54°58'27" WEST 292.37 FEET; THENCE SOUTH 83°53'26" WEST 129.97 FEET; THENCE NORTH 79°19'13" WEST 167.52 FEET; THENCE SOUTH 76°56'58" WEST 191.09 FEET; THENCE SOUTH 56°41'58" WEST 213.70 FEET; THENCE SOUTH 69°48'31" WEST 205.88 FEET; THENCE SOUTH 38°11'23" WEST 204.69 FEET; THENCE SOUTH 43°36'59" WEST 217.43 FEET; THENCE SOUTH 52°12'56" WEST 624.84 FEET; THENCE SOUTH 29°56'10" WEST 340.97 FEET; THENCE SOUTH 54°46'50" WEST 1113.97 FEET; THENCE SOUTH 60°41'00" WEST 240.86 FEET; THENCE NORTH 85°50'49" WEST 434.07 FEET; THENCE SOUTH 68°34'49" WEST 228.98 FEET; THENCE SOUTH 45°13'16" WEST 111.28 FEET; THENCE SOUTH 79°06'17" WEST 190.89 FEET; THENCE SOUTH 43°16'15" WEST 155.35 FEET; THENCE SOUTH 89°36'28" WEST 107.30 FEET; THENCE SOUTH 52°36'47" WEST 295.83 FEET; THENCE SOUTH 39°51'34" WEST 253.31 FEET; THENCE SOUTH 08°49'28" WEST 288.86 FEET; THENCE SOUTH 43°22'04" WEST 211.30 FEET; THENCE SOUTH 28°22'04" WEST 72.87 FEET; THENCE SOUTH 08°29'53" WEST 718.80 FEET; THENCE SOUTH 13°54'37" WEST 265.68 FEET; THENCE SOUTH 37°23'04" WEST 124.48 FEET; THENCE NORTH 21°52'15" WEST 164.75 FEET; THENCE SOUTH 41°18'08" WEST 233.05 FEET; THENCE SOUTH 15°45'12" WEST 111.80 FEET; THENCE SOUTH 31°33'19" WEST 371.37 FEET; THENCE SOUTH 22°47'05" WEST 198.75 FEET; THENCE SOUTH 45°55'46" WEST 271.16 FEET; THENCE SOUTH 88°32'46" WEST 264.11 FEET; THENCE SOUTH 00°07'50" WEST 178.08 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN.

EXCEPT ALL RIGHTS TO SUB-SURFACE HYDROCARBON (OIL), AND OTHER MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO ENTER UPON SAID PROPERTY TO DRILL FOR AND PRODUCE SAID HYDROCARBON OR MINERAL SUBSTANCES, AS RESERVED BY SUSAN HUNTER FERRY HAAS, WILLIAM EDWARD FERRY, GEORGE S. ST. CLAIR, CLARITA ODETTE, HELEN M. SMITH, FRANCES SWAN REGETS, AND LOUIS BOTTI, ACTING AS GUARDIAN OF THE PERSON AND ESTATE OF VIVIAN MORRIS BOTTI; AND VIVIAN MORRIS BOTTI, AN INCOMPETENT PERSON WHO ACQUIRED TITLE AS VIVIAN MORRIS, IN DEED RECORDED MARCH 08, 1960 AS INSTRUMENT NO. 1048, IN BOOK D-774, PAGE 312 OF OFFICIAL RECORDS.

THE RIGHTS TO ENTER UPON THE SURFACE OF SAID LAND WERE RELINQUISHED BY A DEED RECORDED NOVEMBER 09, 1961 AS INSTRUMENT NO. 1506, IN BOOK D-1415, PAGE 139 OF OFFICIAL RECORDS.

EXCEPT THE RIGHT TO SUBSURFACE HYDROCARBON (OIL) AND OTHER MINERAL SUBSTANCES CONTAINED IN SAID REAL PROPERTY, TOGETHER WITH THE RIGHT TO ENTER UPON SAID PROPERTY TO DRILL FOR AND PRODUCE SAID HYDROCARBON OR MINERAL SUBSTANCES, AND TO ASSIGN SAID RIGHT TO OTHER PERSONS, PARTNERSHIPS OR CORPORATIONS AS RESERVED IN DEED RECORDED SEPTEMBER 12, 1961 AS INSTRUMENT NO. 4247 OF OFFICIAL RECORDS.

ALSO EXCEPT ANY AND ALL KINDS OF PETROLEUM, OIL, ASPHALTUM, MALTHA, TAR, GAS AND OTHER BITUMINOUS AND OTHER HYDROCARBON SUBSTANCES, WATER, STONE, ROCK, GYPSUM, CLAY, SAND AND ALL MINERALS AND MINERAL SUBSTANCES, IN, UNDER OR UPON SAID LAND, AND ANY AND ALL THEREOF; ALSO THE RIGHT AT ANY AND ALL TIMES, AND BY ANY AND ALL MEANS TO ENTER UPON ANY AND ALL PORTIONS OF SAID LANDS, AND USE AND ENJOY THE SAME IN ANY AND ALL WAYS IT MAY SEEM NECESSARY, CONVENIENT OR EXPEDIENT IN, OR IN CONNECTION WITH THE TRANSACTION OF ITS BUSINESS, AS EXCEPTED AND RESERVED IN THE DEED FROM PUENTE OIL COMPANY, A CORPORATION, IN DEED RECORDED NOVEMBER 05, 1903 IN BOOK 1917, PAGE 137 OF DEEDS.

SAID PARCEL SHOWN AS PARCEL 4 ON CERTIFICATE OF COMPLIANCE RECORDED JUNE 09, 2000 AS INSTRUMENT NO. 00-0893206, AND AMENDED JANUARY 05, 2001 AS INSTRUMENT NO. 01-0031377, BOTH OF OFFICIAL RECORDS.

#### **AGENCY PROPERTY:**

PARCEL 1 (APN: 1000-011-21-0-000; 1000-011-22-0-000; 1000-021-14-0-000):

THOSE PORTIONS OF SECTIONS 14 AND 23, IN GOVERNMENT LOT 38, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE RANCHO SANTA ANA DEL CHINO, IN THE CITY OF CHINO HILLS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN RECORD OF SURVEY RECORDED IN BOOK 3, PAGE 72 OF RECORDS OF SURVEY, IN THE OFFICE

OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHEASTERLY OF THE SAID RANCHO LINE BETWEEN STATIONS 13 AND 14, AS SHOWN ON SAID MAP.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 07, 1975 AS INSTRUMENT NO. 58, IN BOOK 8630, PAGE 104 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF SAN BERNARDINO, BY FINAL ORDER OF CONDEMNATION, RECORDED JUNE 07, 1988 AS INSTRUMENT NO. 88-180373 OF OFFICIAL RECORDS.

PARCEL 2 (APN: 1000-011-19-0-000; 1000-011-20-0-000; 1000-021-13-0-000; 1000-031-14-0-000; 1000-031-15-0-000):

THE WEST ½ OF SECTION 13, THE WEST ½ OF SECTION 24, THE NORTHWEST ¼ OF SECTION 25, AND THE NORTH ½ OF SECTION 26, ALL IN GOVERNMENT LOT 38, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE RANCHO SANTA ANA DEL CHINO, IN THE CITY OF CHINO HILLS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN RECORD OF SURVEY RECORDED IN BOOK 3, PAGE 72 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 07, 1975 AS INSTRUMENT NO. 56, IN BOOK 8630, PAGE 83 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 07, 1975 AS INSTRUMENT NO. 57, IN BOOK 8630, PAGE 92 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 07, 1975 AS INSTRUMENT NO. 58, IN BOOK 8630, PAGE 104 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF SAN BERNARDINO, BY FINAL ORDER OF CONDEMNATION, RECORDED JUNE 07, 1988 AS INSTRUMENT NO. 88-180373 OF OFFICIAL RECORDS.

PARCEL 22 (APN: 8701-021-271; 8701-022-270; 8701-022-273):

A PORTION OF SECTION 1 AND ALL OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 12; THENCE EAST 80 CHAINS TO THE SOUTHEAST CORNER OF SECTION 12; THENCE NORTH 80 CHAINS TO THE NORTHEAST CORNER OF SAID SECTION 12; THENCE ON A COURSE OF ABOVE NORTH 91°28' WEST 90.83 CHAINS, MORE OR LESS, TO A POINT IN THE WEST LINE OF SAID SECTION 1, DISTANT 43.02 CHAINS NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE SOUTH ALONG THE WEST LINES OF SAID SECTIONS 1 AND 12 TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION THEREOF INCLUDED WITHIN THE LAND, DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED ON JULY 05, 1968 AS INSTRUMENT NO. 399, IN BOOK D-4405, PAGE 993 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF INCLUDED WITHIN THE LAND, DESCRIBED IN THE DEEDS TO THE STATE OF CALIFORNIA, RECORDED ON NOVEMBER 17, 1971 AS INSTRUMENT NO. 253, IN BOOK D-5259, PAGE 626, AND NOVEMBER 17, 1971 AS INSTRUMENT NO. 254, IN BOOK D-5259, PAGE 630, BOTH OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF INCLUDED WITHIN THE LAND, DESCRIBED IN THE DEEDS TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED ON MARCH 07, 1975 AS INSTRUMENT NO. 281, IN BOOK D-6579, PAGE 1, AND MARCH 07, 1975 AS INSTRUMENT NO. 282, IN BOOK D-6579, PAGE 11, BOTH OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF INCLUDED WITHIN THE LAND DESCRIBED AS PARCEL A, IN THE GRANT DEED TO POMONA UNIFIED SCHOOL DISTRICT, RECORDED APRIL 07, 1993 AS INSTRUMENT NO. 93-653577 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF, INCLUDED WITHIN THE LAND DESCRIBED IN THE FINAL ORDER AND JUDGMENT IN CONDEMNATION CASE NO. EAC 72461 RECORDED AUGUST 25, 1995 AS INSTRUMENT NO. 95-1398248 OF OFFICIAL RECORDS OF SAID COUNTY.

**EXHIBIT "C"**

**FORM OF MEMORANDUM OF LEASE**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
REAL ESTATE LENDER  
Attn: Annie Pyke  
Dechert LLP  
One Bush Street, Suite 1600  
San Francisco, CA 94104

**MEMORANDUM OF LEASE**

This Memorandum Of Lease (this "**Memorandum**") is made and entered into as of May \_\_, 2016 by and between THE CITY OF INDUSTRY, a municipality organized under the laws of the State of California ("**Landlord**"), and SAN GABRIEL VALLEY WATER AND POWER, LLC, a California limited liability company ("**Tenant**"), with reference to the following facts:

A. Landlord and Tenant are the landlord and tenant, respectively, under that certain Lease dated as of May \_\_, 2016 (the "**Lease**"), relating to certain real property located in the Counties of Los Angeles, San Bernardino and Orange, State of California, more particularly described in **Exhibit "A"** attached hereto (the "**Property**").

B. Pursuant to Article 18 of the Lease, Landlord has granted to Tenant a limited right of first refusal to purchase (the "**Right of First Refusal**"), with respect to all or any portion of the Property and the improvements and certain other property located thereon.

C. Landlord and Tenant desire to have this Memorandum recorded in the Official Records of **[Orange/Los Angeles/San Bernardino]** County, California, in order to put interested parties on notice of the estate of the Tenant in the Property and the Right of First Refusal.

NOW, THEREFORE, in consideration of the rents and covenants provided for in the Lease to be performed by the Tenant, the Landlord hereby demises and leases the Premises to Tenant, subject to the terms and conditions of the Lease.

1. **Term.** The term of the Lease is Twenty-Five (25) years commencing on May \_\_, 2016, and terminating Twenty-Five (25) years thereafter, all subject to and on terms and conditions more fully set forth in the Lease.

2. **Right of First Refusal.** Landlord has granted, and hereby grants, to Tenant the Right of First Refusal described in Recital B above during the time, for the price, and on the terms and conditions contained in the Lease, the terms and conditions of which are incorporated herein by this reference in their entirety. The Right of First Refusal must be exercised on or before the dates specified in the Lease.
  
3. **Incorporation of Lease.** All of the terms, conditions, provisions and covenants of the Lease are incorporated in this Memorandum by reference, as though written out in length herein. In the event of any conflict between the terms and provisions of this Memorandum and the Lease, the terms of the Lease shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum on the day and year first above written.

**“LANDLORD”**

THE CITY OF INDUSTRY,  
a municipality organized under  
the laws of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**“TENANT”**

SAN GABRIEL VALLEY WATER AND  
POWER, LLC, a California limited liability  
company

By: Ambient SEH LP LLC, a California  
limited liability company  
Its: Non-member manager

By: Ambient Communities LLC,  
a Delaware limited liability  
company  
Its: Sole Member

By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Its:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Its:

[ALL SIGNATURES MUST BE NOTARIZED]

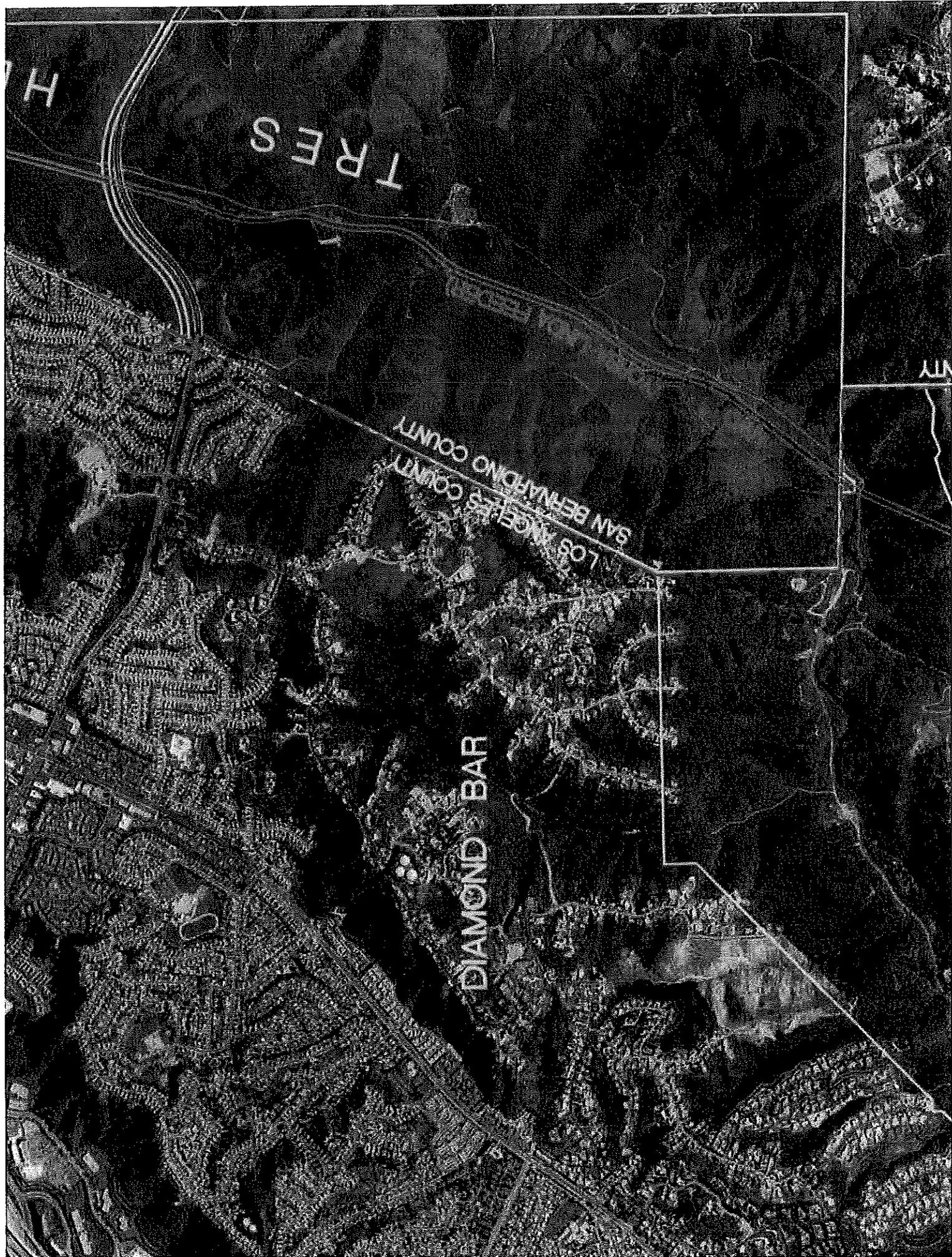
**EXHIBIT "A"**

**TOTAL SITE**

**[LEGAL DESCRIPTION TO BE INSERTED BY LANDLORD]**

**EXHIBIT "D"**

*(See attached.)*



DIAMOND BAR

LOS ANGELES COUNTY  
SAN BERNARDINO COUNTY

TRES

H

CITY