

Lawyers Title

DOC # 2010-0162811

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Page 1 of 17

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

WHEN RECORDED MAIL TO:

City Clerk
City of Riverside
City Hall, 3900 Main Street
Riverside, California 92522



APNs: 254-070-004, 005, 009, 022
Central Ave. & Chicago Ave.
Riverside, California

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FIRST AMENDMENT TO THE COVENANT AND AGREEMENT AND
DECLARATION OF MAINTENANCE AND USE OBLIGATIONS

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051

THIS FIRST AMENDMENT TO THE COVENANT AND AGREEMENT AND
DECLARATION OF MAINTENANCE AND USE OBLIGATIONS ("First Amendment") is
made and entered into this 25th day of March, 2010, by and between MISSION
GROVE LTD., a California Limited Partnership, successors in interest to REGIONAL
PROPERTIES, INC., a California corporation, ("Declarant"), and the CITY OF RIVERSIDE, a
California charter city and municipal corporation ("City"), with reference to the following facts:

A. Declarant is fee owner of that certain real property ("Subject Property")
consisting of approximately 7.7 vacant acres, situated on the southeasterly corner of Chicago and
Central Avenues, in the City of Riverside, County of Riverside, State of California, which legal
description is set forth specifically in Exhibit "A" attached hereto and incorporated herein by this
reference.

B. On September 10, 2002, City and Declarant executed that certain Non-
Exclusive License Agreement, Gage Canal - Chicago Avenue at Central Avenue ("License
Agreement") for the use of property owned by City which is adjacent to the Subject Property.
The Licensed Property is more fully described in Exhibit "B" and incorporated herein by this
reference ("Licensed Property").

C. Declarant executed that certain Covenant and Agreement and Declaration
of Maintenance and Use Obligation, dated September 10, 2002, and recorded on September 27,
2002, as Instrument Number 2002-537227, in connection with the use of the Licensed Property
("Covenant").

D. Attached to the Covenant as Exhibit "B" was a copy of the License
Agreement for the Licensed Property.

E. The parties have amended the terms and conditions of the License
Agreement, by that First Amendment to Nonexclusive License agreement Gage Canal - Chicago
Avenue at Central Avenue, attached hereto as Exhibit "C" and incorporated herein by reference.

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F. The parties are amending the Covenant to put successors in interest on notice of the change in the terms of the License Agreement.

NOW, THEREFORE, Declarant covenants and agrees with City that the Subject Property is, and shall hereafter be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following covenants, conditions and obligations:

1. The Subject Property is subject to all of the obligations set forth in the Non-Exclusive License Agreement, Gage Canal - Chicago Avenue at Central Avenue, a copy of which is attached as Exhibit "B" to the Covenant, and as amended by that certain First Amendment to the License, attached hereto as Exhibit "C."

2. Any person, whether an individual, corporation, association, partnership or otherwise, who now or hereafter owns or acquires any right, title or interest in or to any portion of the Subject Property shall be deemed to have consented and agreed to maintenance and use obligations of the Subject Property and the Licensed Property as set forth in the License Agreement, as amended.

3. The terms of the Covenant and this First Amendment may be enforced by City, and its successors and assigns. Should City bring an action to enforce any of the terms of the Covenant and this First Amendment, the prevailing party shall be entitled to court costs, including reasonable attorneys' fees.

4. The Covenant and First Amendment shall run with the land and each and all of its terms shall be binding upon Declarant, its heirs, successors and assigns, and shall continue in effect until such time as released by the City Council of the City of Riverside, California, by a writing duly recorded.

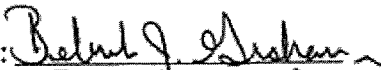
IN WITNESS WHEREOF, Declarant has caused this First Amendment to the Covenant and Agreement and Declaration of Maintenance Use Obligations to be executed the day and year first above written.

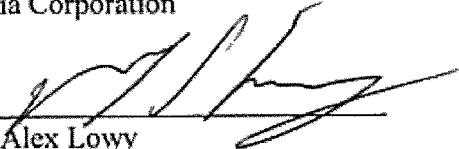
[SIGNATURES ON FOLLOWING PAGE]

CITY OF RIVERSIDE


MISSION GROVE LTD.,
a California Limited Partnership

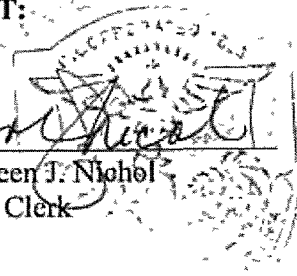
By: JAMCO HOLDING CORP.,
a California Corporation


By: 
Belinda J. Graham
Assistant City Manager

By: 
Alex Lowy
President


ATTEST:

By: 
Colleen J. Nichol
City Clerk



By: 
Mark Rubin
Secretary

APPROVED AS TO FORM:

By: 
Kristi J. Smith
Supervising Deputy City Attorney

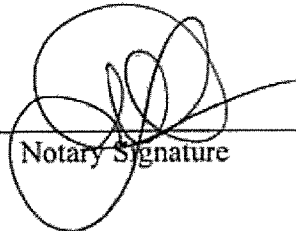
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Rev: 03/25/10

STATE OF CALIFORNIA)
)ss
COUNTY OF RIVERSIDE)

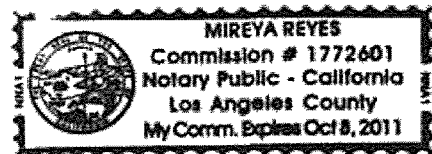
On March 25, 2010, before me, Mireya Reyes, Notary public, personally appeared Mark Rubin who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(is/are)~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/hor/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.



Notary Signature

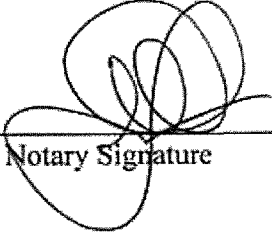


STATE OF CALIFORNIA)
)ss
COUNTY OF RIVERSIDE)

On March 25, 2010, before me, ^(VIR) Mireya Reyes, Notary public,
personally appeared Alexo Lowy 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/het/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.



Notary Signature



C/A 1107

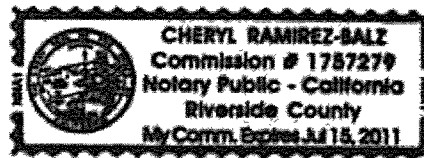
STATE OF CALIFORNIA)
)SS
COUNTY OF RIVERSIDE)

CRD

On April 7, 2010, before me, Cheryl Ramirez-Balz, Notary Public, personally appeared Belinda J. Graham and Colleen J. Nichol, 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.





Notary Signature

EXHIBIT A
Regional Properties Parcel

That portion of Lot 4 and Lot 6 of the Martin and Ormand Tract, in the City of Riverside, County of Riverside, State of California as shown by Tract Map recorded in Book 6, Page 84 of Maps, Records of the County of Riverside, State of California and being a portion of the Northwest Quarter of Section 31, Township 2 South, Range 4 West, San Bernardino Meridian, according to the Official Plat thereof, Records of the County of Riverside, State of California, described as follows:

BEGINNING at the center of said Section 31;

THENCE North 89° 59' 31" West, along the Southerly line of the Northwest Quarter of said Section 31, said line also being the Southerly Line of said Martin and Ormand Tract, a distance of 1373.84 feet to the Southwest corner of that certain parcel of land conveyed to the Riverside County Flood Control and Water Conservation District designated as Parcel "2" of Deed recorded February 3, 1959 as instrument No. 9186, Official Records of said county, said corners being the **TRUE POINT OF BEGINNING** of the parcel of land to be described;

THENCE North 00° 11' 29" East along the Westerly line of said Parcel 2 a distance of 568.76 feet to the Northwesterly corner of said Parcel 2;

THENCE South 69° 00' 31" East along the Northerly line of said Parcel 2 and its prolongation thereof, a distance of 249.82 feet to the Easterly line of said Lot 6 of the Martin and Ormand Tract;

THENCE North 00° 15' 29" East along said Easterly line of Lot 6 a distance of 179.80 feet to the Southerly Right-Of-Way line of Central Avenue, 98.00 feet wide, as shown on Record of Survey Map, recorded in Book 52, pages 4 through 8 of Records of Survey, Records of said county;

THENCE Westerly along said Southerly Right-Of-Way line of a non-tangent curve concaved to the North and having a radial bearing of South 01° 33' 24 West, and a radius of 1449.00 feet, through a central angle of 07° 07' 45" and an arc distance of 180.30 feet to the Southeasterly line of that certain parcel of land conveyed to the City of Riverside and designated as Parcel 7 of Judgment In Eminent Domain Recorded June 9, 1965, as Instrument No. 66796 Official Records, of said county;

THENCE South 74° 27' 27" West along said Southeasterly line a distance of 14.47 feet to the Northeast corner of that certain parcel of land conveyed to William O. Doles and Maxine M. Doles, Trustees under Declaration of Trust dated February 6, 1987, by Quitclaim Deed recorded December 31, 1992 as Instrument No. 499577 Official Records, of said county, said Northeast corner being the beginning of a non-tangent curve concaved to the Northeast and having a radius of 1455.00 feet and a radial bearing of South 09° 12' 20" West;

THENCE Westerly along said curve through a central angle of 05° 47' 59" and an arc distance of 147.28 to the beginning of a reverse curve, concaved to the Southwest and having a radius of 1045.00 feet and a radial bearing of North 15° 00' 19" East;

THENCE Westerly along said curve through a central angle of 02° 56' 10" and an arc distance of 53.55 to the Northwesterly corner of said parcel of land conveyed to William O. Doles and Maxine M. Doles, by Quitclaim Deed recorded December 31, 1992 as Instrument No. 499577 Official Records, of said county, said Northwest corner also being on the Southwest line of that certain parcel of land conveyed to the City of Riverside and designated as Parcel 7 of Judgment in Eminent Domain recorded June 9, 1965 as Instrument No. 66796 Official Records, of said county;

THENCE North 48° 14' 04" West along the Southwest line of said Parcel 7 a distance of 8.80 feet to a point on the Southeasterly line of the Gage Canal as shown on Record of Survey Map, recorded in Book 52, pages 4 through 8 of Records of Survey, Records of said county, said point also being North 48° 14' 04" West a distance of 120.90 feet from the most Southerly corner of said Parcel 7;

THENCE South 61° 01' 00" West along the Southeasterly line of the Gage Canal as shown on said Record of Survey, a distance of 219.95 feet to an angle point on the Southerly line of said Gage Canal, said angle point being North 78° 08' 10" East and a distance of 933.40 feet from the Northwest corner of said Lot 6 of the Martin and Ormand Tract recorded in Map Book 6, page 84 of Maps and shown on said Record of Survey;

THENCE South 78° 08' 10" West along said Southerly line of the Gage Canal a distance of 145.53 feet to the Northeast corner of Parcel 10 as shown on said Record of Survey, said Parcel 10 conveyed to the City of Riverside, by Deed recorded November 29, 1968 as Instrument No. 116205 Official Records, of said county;

THENCE South 13° 36' 42" East along the Easterly line of said Parcel 10 a distance of 50.85 feet to the beginning of a tangent curve, said curve concentric to and radial distance easterly of 55.00 feet to the centerline of Chicago Avenue, said curve being concaved to the West and having a radius of 1555.00 feet, said curve also being the Easterly line of Parcel 8 as shown on Record of Survey Map, recorded in Book 36, pages 39 and 40 of Records of Survey, Records of said county, said Parcel 8 also being that certain parcel of land conveyed to the City of Riverside, and designated as Parcel 1 by Deed recorded June 4, 1965 as Instrument No. 65090 Official Records, of said county;

THENCE Southerly along said curve through a central angle of 19° 50' 10" and an arc distance of 538.35 feet to the Southerly line of the Northwest Quarter of said Section 31, said line also being the Southerly line of said Marlin and Ormand Tract;

THENCE South 89° 59' 31" East along said Southerly line a distance of 448.36 feet to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM the following described parcel of land conveyed to the City of Riverside, State of California described as follows:

That portion of Lot 6 of the Martin and Ormand Tract, in the City of Riverside, County of Riverside, State of California as shown by Tract Map recorded in Book 6, Page 84 of Maps, Records of the County of Riverside, State of California, described as follows:

BEGINNING at the Northeasterly corner of that certain parcel of land conveyed to the City of Riverside, and designated as Parcel 7 of Judgment in Eminent Domain recorded June 9, 1965 as Instrument No. 66796 Official Records, of said county;

THENCE South $74^{\circ} 27' 27''$ West along the Southeasterly line of said Parcel 7, a distance of 14.47 feet to the Northeast corner of that certain parcel of land conveyed to William O. Doles and Maxine M. Doles, Trustees under Declaration of Trust dated February 6, 1987, by Quitclaim Deed recorded December 31, 1992 as Instrument No. 499577 Official Records, of said county, said Northeast corner being the beginning of a non-tangent curve concaved to the North and having a radius of 1455.00 feet and a radial bearing of South $09^{\circ} 12' 20''$ West, said curve being concentric and a radial distance Southerly of 55.00 feet to the centerline of Central Avenue as shown on Record of Survey Map, recorded in Book 52, pages 4 through 8 of Records of Survey, Records of said county;

THENCE Easterly and concentric to said centerline along said curve through a central angle of $7^{\circ} 39' 16''$ and an arc distance of 194.38 feet to the Easterly line of Lot 6 of said Martin and Ormand Tract;

THENCE North $00^{\circ} 15' 29''$ East along said Easterly line of Lot 6 of said Martin and Ormand Tract a distance of 6.00 feet to the Southerly Right-Of-Way line of Central Avenue, 98.00 feet wide, as shown on said Record of Survey Map;

THENCE Westerly along said Southerly Right-Of-Way line of a non-tangent curve concaved to the North and having a radial bearing of South $01^{\circ} 33' 24''$ West, and a radius of 1449.00 feet, through a central angle of $07^{\circ} 07' 45''$ and an arc distance of 180.30 feet to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM the following described parcel of land conveyed to the City of Riverside, State of California described as follows:

That portion of Lot 6 of the Martin and Ormand Tract, in the City of Riverside, County of Riverside, State of California as shown by Tract Map recorded in Book 6, Page 84 of Maps, Records of the County of Riverside, State of California, described as follows:

BEGINNING at the Northeasterly corner of that certain parcel of land conveyed to the City of Riverside, and designated as Parcel 7 of Judgment in Eminent Domain recorded June 9, 1965 as Instrument No. 66796 Official Records, of said county;

THENCE South $74^{\circ} 27' 27''$ West along the Southeasterly line of said Parcel 7, a distance of 14.47 feet to the Northeast corner of that certain parcel of land conveyed to William O. Doles and Maxine M. Doles, Trustees under Declaration of Trust dated February 6, 1987, by Quitclaim Deed recorded December 31, 1992 as Instrument No. 499577 Official Records, of said county, said Northeast corner being the beginning of a non-tangent curve concaved to the North and having a radius of 1455.00 feet and a radial bearing of South

09° 12' 20" West, said curve being concentric and a radial distance Southerly of 55.00 feet to the centerline of Central Avenue as shown on Record of Survey Map, recorded in Book 52, pages 4 through 8 of Records of Survey, Records of said county;

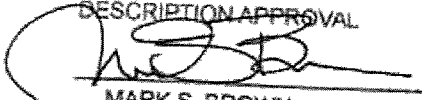
THENCE Westerly and concentric to said centerline along said curve through a central angle of 05° 47' 59" and an arc distance of 147.28 feet to the beginning of a reverse curve, concaved to the South and having a radius of 1045.00 feet and a radial bearing of North 15° 00' 19" East, said reverse curve being concentric and a radial distance of 55.00 feet Southerly to the centerline of said Central Avenue;

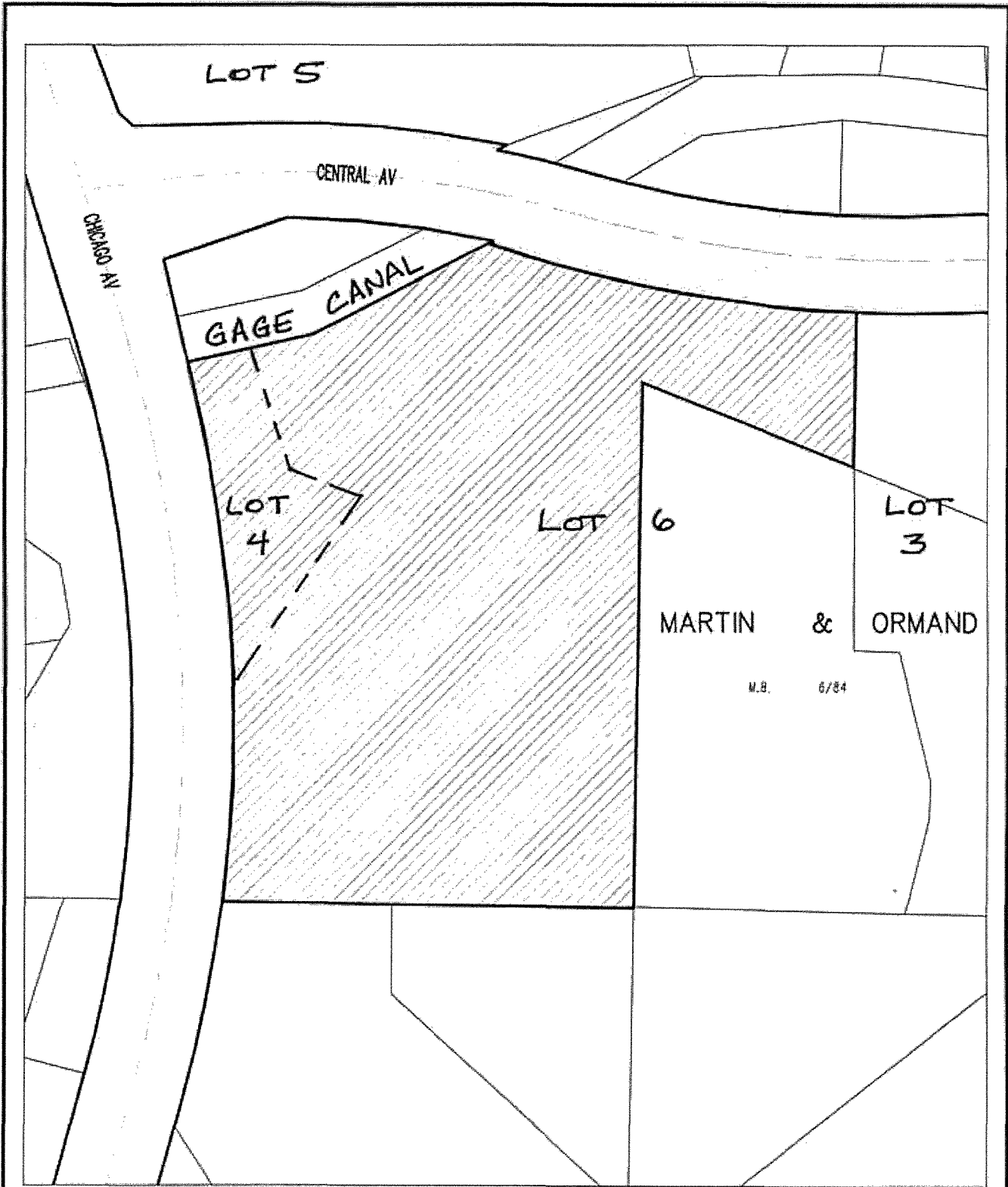
THENCE Westerly and concentric to said centerline along said curve through a central angle of 02° 56' 10" and an arc distance of 53.55 feet to the Northwesterly corner of said parcel of land conveyed to William O. Doles and Maxine M. Doles, by Quitclaim Deed recorded December 31, 1992 as Instrument No. 499577 Official Records, of said county, said Northwest corner also being on the Southwest line of that certain parcel of land conveyed to the City of Riverside designated as Parcel 7 of Judgment in Eminent Domain recorded June 9, 1965 as Instrument No. 66796 Official Records, of said county, said corner being the TRUE POINT OF BEGINNING of this Legal Description;

THENCE continuing the aforementioned curve through a central angle of 00°41'53" and an arc distance of 12.73 feet to the Southeasterly line of the Gage Canal as shown on Record of Survey Map, recorded in Book 52, pages 4 through 8 of Records of Survey, records of said county;

THENCE North 61° 01' 00" East along the Southeasterly line of said Gage Canal a distance of 6.75 feet to the Northwest corner of that certain parcel of land conveyed to the City of Riverside and designated as Parcel 7 of Judgment in Eminent Domain recorded June 9, 1965 as Instrument No. 66796 Official Records, of said county;

THENCE South 48° 14' 04" East along the Southwesterly line of said Parcel 7, a distance of 8.80 feet to the TRUE POINT OF BEGINNING.

DESCRIPTION APPROVAL

MARK S. BROWN
CITY SURVEYOR
3/29/10
DATE



◆ CITY OF RIVERSIDE, CALIFORNIA ◆

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

Sheet 1 of 1



Scale: 1" = 100'

Drawn by: bmark

Date: 03/29/10


Subject: EXHIBIT A

C/A 1107

EXHIBIT B
Gage Canal

That portion of Lot 5 of the Martin and Ormand Tract and that portion of the Gage Canal Co. Right of Way, both as shown by map on file in Map Book 6, Page 84, thereof, records of Riverside County, California bounded southerly and southeasterly by the southerly right of way line of the Gage Canal Right of Way as shown by said map, bounded westerly by the easterly right of way of Chicago Avenue, and bounded northerly by the southerly right of way line of Central Avenue.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 3/29/2010 Prep. _____
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/11



TRACT 18834

M.B. 147/98-100

LOT 5

CENTRAL AV

CHICAGO AV

LOT 5

GAGE

CANAL

LOT 6

LOT 4

MARTIN & ORMAND
MB 6/84 Riv. Co.

◆ CITY OF RIVERSIDE, CALIFORNIA ◆

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

Sheet 1 of 1



Scale: 1" = 100'

Drawn by: bmark

Date: 03/29/10

Subject: EXHIBIT B

C/A 1107

**FIRST AMENDMENT TO NONEXCLUSIVE LICENSE AGREEMENT
GAGE CANAL – CHICAGO AVENUE AT CENTRAL AVENUE**

This AMENDMENT TO NONEXCLUSIVE LICENSE AGREEMENT GAGE CANAL – CHICAGO AVENUE AT CENTRAL AVENUE (“Amendment”) is entered into this 25th day of ~~April~~^{March}, 2010, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation (“City”) and MISSION GROVE, LTD. a California limited partnership as successor in interest to REGIONAL PROPERTIES, INC., a California corporation, (“Licensee”).

RECITALS:

A. City and Licensee entered into that certain the Nonexclusive License Agreement Gage Canal – Chicago Avenue at Central Avenue (“License Agreement”) on or about September 10, 2002; and

B. Licensee has requested that certain portions of the License Agreement be modified so as to assure, to the extent practicable, that access to the “Development”, as defined in the License Agreement, remain continued and uninterrupted; and

C. City has agreed to such modifications.

NOW, THEREFORE, CITY AND LICENSEE AGREE AS FOLLOWS:

1. Section 2 - TERM, is hereby amended in its entirety as follows:

“The term of this License shall be for a period of twenty-five (25) years and shall commence upon City Council’s approval of this License (“Effective Date”), and shall terminate on May 31, 2027 (“Termination Date”). This License shall be automatically extended for three (3) additional periods of ten (10) years each, unless either party gives written notice of cancellation to the other at least six (6) months prior to the

EXHIBIT C

C/A 1107

expiration of the License term then in effect. Should City elect to terminate the License City shall work with Licensee to provide alternate access to the Development.”

2. Section 18 - ASSIGNMENT, is hereby amended in its entirety as follows:

“This License is personal to Licensee, and Licensee shall not assign or transfer this License or any privilege hereunder, in whole or in part, and any attempt to do so shall be void and shall confer no right on any third party. Notwithstanding the above, Licensee may assign this License to its parent company, its subsidiaries, its affiliates or a valid purchaser of the Development upon prior notice to City. Furthermore, should any lender for value acquire the Development by either a foreclosure action, judgment, or deed in lieu of foreclosure, this License shall continue and run in favor of said lender, and said lender’s successors, assigns and purchasers provided, however, that said parties give prior notice to the City and agree to take subject to all terms, covenants and conditions contained in this License.”

3. Section 21 - TERMINATION, the first paragraph, is hereby amended in its entirety as follows:

“The City may not terminate this License unless in connection with the expiration of a License term as set forth in Section 2 above. If, in the City’s determination the Premises are required for City’s use, the City may give written notice of cancellation at least six (6) months prior to the expiration of the License term then in effect and upon such termination the City shall work with Licensee to provide alternative access to the Development. Upon termination of this License the Premises shall remain in its improved condition, including but not limited to all improvements, landscaping and personal property existing on the Premises at the time of termination, unless the City submits a written request to Licensee that some or all of the improvements be

removed, in which case Licensee is given thirty (30) days to complete said removal of the improvements as identified by the City. Should the City accept the Premises with all improvements thereon, then such improvements shall become the property of the City.”

4. Section 22 - DEFAULT, is hereby amended in its entirety as follows:

“Upon the failure of Licensee to perform any condition or term required herein, the City shall give written notice of such failure to perform as constituting a default of this License. If within ten (10) calendar days Licensee does not correct the failure to the satisfaction of the City, or does not provide a written explanation of Licensee’s failure to perform, which explanation is acceptable to the City, City can take any and all steps required to cure the default and demand reimbursement from Licensee. Should Licensee fail to reimburse the City within fifteen (15) days from the request, City may file a lien for the same against the Development. Said lien shall be subordinate to any existing deed of trust or mortgage then recorded against the Development, unless provided for otherwise under California statutes relating to special assessment liens and property taxes.

In addition to the notice of default given to Licensee, City shall also give notice to Licensee’s lender as follows:

AmeriSphere Multifamily Finance, L.L.C.
One Pacific Place, Suite 130
1125 South 103rd Street
Omaha, Nebraska 68124-1071”

5. Except as modified herein above, the License Agreement shall remain in full force and effect, and otherwise unmodified.

[Signatures on following page.]

**CITY OF RIVERSIDE,
a California charter city and
municipal corporation**

By: Belinda J. Graham
Belinda J. Graham
City Manager

Attested to:

By: Colleen Nicol
Colleen Nicol
City Clerk

**MISSION GROVE, LTD,
a California limited partnership
by: Jamco Holdings Corp.,
a California corporation,
its general partner**

By: Alex Lowy
Alex Lowy
President

By: Mark Rubi
Mark Rubi
Secretary

APPROVED AS TO FORM:

By: Supervising Deputy City Attorney
Supervising Deputy City Attorney

CA 02-922.2
03/25/10