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THE REDEVELOPMENT
AGENCY OF THE
CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92522

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FOR RECORDING USE



DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (the "Declaration"), is dated for referenced purposes as of July 20, 2004.

RECITALS

A. **ONTARIO GATEWAY BUSINESS CENTER LLC** ("Owner"), has acquired that certain parcel of real property located within the City of Riverside, County of Riverside, State of California, which is commonly known as Assessor's Parcel Numbers 207-130-003 (Parcel-Two) and which is more particularly described in the legal description attached hereto and incorporated herein by reference as Attachment "1," from the **REDEVELOPMENT AGENCY OF THE CITY OF RIVERSIDE**, a public body, corporate and politic, ("Agency"), pursuant to that Disposition and Development Agreement by and between Owner and Agency dated April 27, 2004 ("Agreement").

B. The Agreement and related documents are public records on file in the offices of the City Clerk of the City of Riverside located at 3900 Main Street, Riverside, California 92522. The Agreement and related documents are incorporated herein by reference. Unless otherwise specified herein, all terms in initial capitalization shall have the meaning ascribed to them in the Agreement.

C. The Agreement was entered into in accordance with, and subject to, the City of Riverside's Redevelopment Plan for the Merged Downtown/Airport Industrial Redevelopment Project and amendment(s) thereto, as enacted by Agency pursuant to the Community Redevelopment Law, Health and Safety Code § 33000, et seq. ("Redevelopment Plan"). The Redevelopment Plan and related documents are public records on file in the offices of the City Clerk of the City of Riverside located at 3900 Main Street, Riverside, California 92522. The Redevelopment Plan and related documents are incorporated herein by reference.

D. This Declaration of Restrictive Covenants ("Declaration") was expressly required by the Agreement and is in furtherance of the goals and objectives of both the Redevelopment Plan and the Agreement.

E. It is the intent of Owner to bind itself, and its successors, assigns, lessees, tenants, contractors, agents, and all persons claiming an interest in Parcel Two to own, use, maintain and transfer Parcel Two, and any interest therein, subject to the restrictions ("Restrictions") set forth in this Declaration. The term "Owner" as used in this Declaration, includes Owner and its successors, assigns, lessees, tenants, contractors, agents, and all persons claiming an interest in Parcel Two by and through any of the foregoing.

**RESTRICTIONS ON THE USE,
MAINTENANCE, AND TRANSFER OF PARCEL TWO**

NOW, THEREFORE, Owner, in consideration of Agency's entering into the Agreement and conveyance of Parcel Two to Owner, hereby agrees, covenants and declares that Parcel Two shall be owned, used, maintained, and any interest in Parcel Two shall be transferred, subject to the Restrictions of this Declaration as follows:

1. **Restrictions Run With the Land.** The restrictions ("Restrictions") set forth herein are limitations on the ownership and use of the land as provided in Civil Code § 784. The Restrictions are made for the direct benefit of Parcel Two, are appurtenant to the estate conveyed to Owner herein, and shall run with the land and be binding upon Owner, as defined herein, as provided in Civil Code § 1460 through § 1468. These Restrictions benefit, and may be enforced only by, the Agency, the City of Riverside ("City"), and their respective successors or assigns. Owner shall not challenge the Restrictions as set forth in this Declaration or any right of Agency or City created under this Declaration. Owner expressly acknowledges and agrees that the Restrictions are reasonable restraints on Owner's right to own, use, maintain, and transfer Parcel Two and any estate or interest therein and are not and shall not be construed to be an unreasonable restraint on alienation or a forfeiture.

2. **Use Covenant.** Owner covenants and agrees for itself, its successors and assigns, and any successor-in-interest to Parcel Two or part thereof, that during the Term of Restrictions, Owner shall use Parcel Two in accordance with the following provisions:

2.1 **Restaurant Approval.** Except for development of a 3,000 to 5,000 square foot building pad, Owner is not required to construct and complete a restaurant facility as part of the Project. Notwithstanding the foregoing, Owner covenants that prior to obtaining a building permit to construct a restaurant facility, Owner or its successors or assigns shall first submit the restaurant identity, type, quality, concept and theme to Agency for review and approval, provided however, that Agency shall not unreasonably delay or withhold such approval if the following conditions are met: (i) no drive-through restaurants shall be permitted; (ii) no restaurants typically classified as being "fast-food" shall be permitted; (iii) the restaurant shall provide full service in a sit-down environment; and (iv) the type and quality of the restaurant establishment shall be suitable to the environment the Redevelopment Plan intends to cultivate in the Project Area. Notwithstanding the foregoing, in the event that Owner is unable to sell or lease the restaurant to a restaurant owner, operator, or franchiser meeting the above-referenced

criteria due to generally prevailing market conditions in the Riverside Area and despite the exercise of Owner's best efforts to comply with the above-referenced criteria, then Agency will consider, in its sole discretion, a request by Owner to develop and/or operate a "fast-food" or "drive-through" restaurant. Nothing in this Section shall exempt or otherwise excuse Owner from obtaining all permits and approvals required development and operation of a restaurant under the Local Regulations then in effect. In the event that Developer is unable to sell or lease the restaurant to a restaurant owner, operator or franchisor meeting the above-referenced criteria by February 28, 2006, then the parties shall, in good faith, meet and confer regarding reasonably agreeable alternate uses of the restaurant pad area and shall enter into such subsequent and supplemental agreement as may be necessary to implement productive use of the area.

2.2 Use Consistent with Project. Owner shall use Parcel Two for a "Class A" commercial office building, of comparable quality to the Riverside Gateway Project (as defined in the DDA), and associated parking or such other uses as Agency may determine, in its sole discretion, are consistent with the Project and the Redevelopment Plan, and which the City has issued the appropriate permits, approvals and entitlements.

2.3 Limit on Conveyances to Tax Exempt Entities. During the period set forth in Section 4.1 [Term of Covenants] of the DDA, Owner, its successors, and assigns shall not sell, convey, transfer, assign, lease, or sublet Parcel Two, the buildings, or any part of the gross leasable square footage of the buildings, to any person or entity that is exempt, or that is seeking exemption, from payment of *ad valorem* taxes imposed under Article XIII A of the California Constitution ("Tax Exempt Entity"), unless one of the following conditions is met:

2.3.1 Convey to Agency or City. Owner may sell, convey, transfer, assign, lease or sublet all or any portion of Parcel Two and building thereon to the Agency, the City of Riverside, any division, department, or affiliated agency of either the Agency or City and any directly controlled and related entity of the Agency or City; or

2.3.2 In Lieu Payments. Owner may sell, convey, transfer, assign, lease or sublet all or any portion of Parcel Two and building thereon to any Tax Exempt Entity, except for any publicly funded schools (or any directly controlled and related entity of publicly funded schools), provided that Owner pays to Agency an amount equal to the *ad valorem* taxes the entity would be required to pay in accordance with Article XIII A of the California Constitution and implementing laws and regulations, if it were not a Tax Exempt Entity. In the event of the sale of Parcel Two, parcel thereon, or building thereon, to a Tax Exempt Entity (excluding publicly funded schools as provided herein), Owner shall pay to Agency, prior to closing of such sale or similar transaction, an amount agreed upon by the parties that equals a fair approximation of the property tax increment that will be lost by the Agency as a result of such sale. In the event of a lease or similar transaction, Owner shall pay to Agency, annually (on or before December 31st of each year) during the term of the lease or interest conveyed, an amount equal to the property tax increment that would have been received by the Agency if the lease or similar transaction had been undertaken with a non-Tax Exempt entity.

2.4 Adult Businesses. No "Adult-oriented Business" or "Adult Entertainment Establishment (as defined in the Riverside Municipal Code § 9.40.20 and/or § 19.61.020, or the sale or exhibition of material that is obscene or that depicts "Specified anatomical areas" or

"Specified sexual activities" (as defined in the Riverside Municipal Code § 9.40.20 and/or § 19.61.020 shall be established, maintained, or permitted to be established or maintained on Parcel Two.

2.5 **Sales of Alcohol.** No sale, or offering for sale, of any alcoholic beverages shall be permitted on Parcel Two, except as may be allowed by the City after review and approval thereof by the City under ordinances, rules, and official procedures of the City and as lawfully permitted under a valid permit or license obtained from the appropriate governmental agency having jurisdiction.

2.6 **Sales of Tobacco Products.** Intentionally Deleted.

2.7 **Sales of Weapons.** No sale, or offering for sale, of any lethal or potentially lethal weapon, including but not limited to any gun, rifle, shotgun, revolver, pistol, knife, dagger, dirk, sword, deadly implement of the martial arts or other implement the primary purpose of which is to cause serious bodily injury.

2.8 **Riverside Utilities.** Owner shall purchase from the City (including its constituent utility agencies) electrical service, and all other utility services, for Parcel Two and any buildings, structures, fixtures, or equipment thereon, as are available for purchase from the City (including its constituent agencies).

3. **Hiring Practices.** Owner understands and agrees that in order to facilitate tenant employment assistance and potential benefits and tax credits, an Employment Plan has been agreed to among the City of Riverside, the County Workforce Development Center and the State Employment Development Department. As the assistance provided under this Agreement incorporates federal funding assistance, certain job creation activities and reporting will be required of the Project tenants. These requirements are outlined in the Employment Plan, which shall be a required attachment to any lease or purchase and sales agreement entered into by Owner. The employment plan is on file with the City of Riverside Development Department at 3900 Main Street, Riverside, California.

4. **Maintenance of Parcel Two.** Owner covenants and agrees for itself, its successors and assigns, and any successor-in-interest to Parcel Two, or part thereof, that it will, at its sole cost and expense: (i) maintain the appearance and safety of Parcel Two (including all improvements, fixtures, and landscaping) in good order, condition, and repair, and free from the accumulation of trash, waste materials, and other debris; (ii) remove all graffiti placed upon Parcel Two (including all improvements, fixtures, and landscaping) within seventy-two (72) hours of its appearance; (iii) maintain in good order, condition and repair, properly functioning landscape irrigation systems on Parcel Two; and (iv) remove and promptly replace all dead or diseased landscaping material on Parcel Two. In the event of a default of this Covenant and of a failure to cure the default within thirty (30) days after service of a written notice by Agency and/or the City, Agency and/or the City or their agents, employees and contractors shall have the right to enter upon Parcel Two without further notice and to take such actions as are necessary to cure the default. Owner shall reimburse Agency and/or the City for all costs associated with cure of the default (including but not limited to, staff services, administrative costs, legal services, and third party costs), within thirty (30) days after service of a written notice by Agency and/or City.

If Owner fails to pay within the time provided, such costs shall be a lien upon Parcel Two, as provided by California Civil Code §2881. Agency may enforce and foreclose such lien in any manner legally allowed.

4.1 **Assignment.** There shall be no assignment, sale, lease, conveyance, devise, or other transfer ("Assignment") of the rights and/or obligations of Owner under the DDA or of Parcel Two or interest therein, until Completion of the Project ("Pre-Completion Assignment"), except and unless one or more of the conditions specified in Sections 4.1.1. through 4.1.4. ("Permitted Assignment") are met. Subject to Section 2.3 [Limit on Conveyances to Tax Exempt Entities], after Completion of the Project, Owner may assign its rights and/or obligations under this Agreement, without first obtaining the permission of the Agency.

4.1.1 Assignment to Holder. Owner may make a Pre-Completion Assignment if such Assignment is required under Section 7.3 [Security Financing; Rights of Holders] of the DDA. The Parties expressly agree that an Assignment of a security interest in Parcel Two to Owner's construction lender, currently contemplated to be Bank of the West located in Walnut Creek, California, is a Permitted Assignment.

4.1.2 Assignment to Related Entity. Owner may make a Pre-Completion Assignment to a Related Entity, provided Owner remains fully responsible for the performance and liable for the obligations of Owner under this Agreement. Owner shall provide the Agency with advance written notice of the intent to make such an Assignment not less than thirty (30) days prior to the closing of such Assignment. The written notice shall identify the Related Entity, shall demonstrate that the entity meets the defining of a Related Entity under this Agreement and shall provide a copy of the instrument that will effectuate the Assignment wherein which Owner commits to remain fully responsible for the performance, and liable for the obligations, of Owner under this Agreement. In addition, nothing in this Section shall prohibit the Owner from utilizing a properly recorded and registered fictitious business name for purposes of marketing tenancies in the office buildings or restaurants.

4.1.3 Leasing of Buildings. The parties acknowledge that Owner's pre-leasing and leasing to private third party tenants of some or all of the gross leasable space of each office building and/or restaurant to be constructed as part of the Project, subject to the limitations stated in Section 2.3 [Limit of Conveyances to Tax Exempt Entities], is contemplated and encouraged under this Agreement. Therefore, Owner's pre-lease or lease of any of the gross leasable square footage of the office buildings and/or restaurant to one or more private third party tenants is deemed to be a Permitted Assignment.

4.1.4 Assignment to Third Party. Owner may make a Pre-Completion Assignment to a third party with the prior written consent from Agency. Agency agrees not to unreasonably withhold its consent to such Assignment provided: (i) Owner is not then in Default of the Agreement; (ii) the assignee has experience, expertise, and financial resources commensurate with Owner such that the assignee is reasonably able (in the reasonable determination of the Agency) to carry out and complete Owner's obligations under the Agreement; and (iii) the requirements of Section 3.4. [Management of Project] of the DDA are satisfied.

4.2 **Transfer to Government Agency.** Until the expiration of the Term of Restrictions, and subject to Section 2.3 [Limit of Conveyances to Tax Exempt Entities], Owner shall not sell, lease, convey, assign or otherwise transfer the fee interest in Parcel Two to any governmental or non-governmental tax exempt entity that would result in Parcel Two becoming exempt from the payment of real property taxes. The foregoing restrictions shall not apply to any of the following:

4.2.1 **Dedications.** The conveyance or dedication of any part of Parcel Two to the City or Agency or other appropriate governmental agency for street, utility, or other public purposes consistent with City and Agency Regulations;

4.2.2 **Public Benefit Easements.** A conveyance of easement or rights-of-way for public improvements, utilities, access, and other rights of public benefit; or

4.2.3 **Eminent Domain.** A conveyance resulting from eminent domain action or an acquisition under threat of an acquisition under threat of eminent domain.

5. **Nondiscrimination in Employment.** Owner covenants and agrees for itself, its successors and assigns and any successor-in-interest to Parcel Two or part thereof, that all persons employed by or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth, or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 200, et seq., the Federal Equal Pay Act of 1963, 29 U.S.C. § 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq., the Immigration Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq., the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b, et seq., 42 U.S.C. § 1981, the California Fair Employment and Housing Act, California Government Code § 12900, et seq., the California Equal Pay Law, California Labor Code § 1197.5, California Government Code § 11135, the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and all other anti-discrimination laws and regulations for the United States and the State of California as they now exist or may hereafter be amended.

6. **Nondiscrimination and Nonsegregation.** Owner covenants and agrees for itself, its successors and assigns and any successor-in-interest to Parcel Two or part thereof, that it shall abide by the following provisions:

6.1 **Obligation to Refrain from Discrimination.** They shall refrain from restricting the rental, sale, lease, sublease, transfer, use development, occupancy, tenure, or enjoyment of Parcel Two (or any part thereof) on the basis of race, color, creed, religion, sex, marital status, ancestry, national origin, familial status, physical disability, mental disability, or medical condition (including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS), the Human Immune Deficiency Virus (HIV), or condition related thereto), of any person or group of persons, and shall comply with the applicable anti-discrimination provisions of the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.) and the California Fair Employment and Housing Act (Cal. Government Code § 12900, et seq.) as they exist on the date

of these CC&R's or as they may thereafter be amended, repealed and reenacted, or otherwise modified. They shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed.

6.2 Nondiscrimination and Nonsegregation Clauses. Any deeds, leases, or contracts which are proposed to be, or which are, entered into with respect to the rental, sale, lease, sublease, transfer, use, development, occupancy, tenure, or enjoyment of Parcel Two (including improvements and fixtures) (or party thereof), shall be subject to, and shall expressly contain, nondiscrimination or nonsegregation clauses in substantially the following form:

6.2.1 In Deeds. "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that it shall comply with the applicable anti-discrimination provisions of the Americans with Disabilities Act (42 U. S. C. § 12101, et seq.) and the California Fair Employment and Housing Act (Cal. Government Code § 12900, et seq.), as they currently exist or as they may thereafter be amended, repealed and reenacted, or otherwise modified, and that there shall be no discrimination against or segregation of, any person or group or persons on account of race, color, creed, religion, sex, marital status, ancestry, national origin, familial status, physical disability, mental disability, or medical condition (including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS), the Human Immune Deficiency Virus (HIV), or condition related thereto) in the rental, sale, lease, sublease, transfer, use, occupancy, tenure of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices or discrimination or segregation with reference to the selection, location, number, use or occupancy or tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

6.2.2 In Leases. "The lessee covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that it shall comply with the applicable anti-discrimination provisions of the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.) and the California Fair Employment and Housing Act (Cal. Gov. Code § 12900, et seq.), as they currently exist or as they may thereafter be amended, repealed and reenacted, or otherwise modified, and that there shall be no discrimination against or segregation of, any person or group or persons on account of race, color, creed, religion, sex, marital status, ancestry, national origin, familial status, physical disability, mental disability, or medical condition (including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS), the Human Immune Deficiency Virus (HIV), or condition related thereto) in the rental, sale, lease, sublease, transfer, use, occupancy, tenure of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices or discrimination or segregation with reference to the selection, location, number, use or occupancy or tenants, lessees, subtenants, sublessees, or vendees in the premises herein leased."

6.2.3 In Contacts. "There shall be no discrimination against or segregation of, any person or group or persons on account of race, color, creed, religion, sex, marital status, ancestry, national origin, familial status, physical disability, mental disability, or medical condition (including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS), the Human Immune Deficiency Virus (HIV), or condition related thereto) in the rental,

sale, lease, sublease, transfer, use, occupancy, tenure of the land or premises affected by this instrument, nor shall the contracting or subcontracting party or parties, or other transferees under this instrument or any person claiming under or through it, violated the applicable anti-discrimination provisions of the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.), and the California Fair Employment and Housing Act (Cal. Gov. Code § 12900, et seq.) as they currently exist or as they may thereafter be amended, repealed and reenacted, or otherwise modified, nor establish or permit any such practice or practices or discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land. This provision shall obligate the contracting and subcontracting party or parties, and other transferees under this instrument or any person claiming under or through it.”

6.2.4 Taxes and Encumbrances. Owner shall pay, when due: (i) all *ad valorem* property taxes imposed on Parcel Two under Article XIII A of the California Constitution; (ii) all special taxes imposed on Parcel Two; (iii) all special assessments imposed on Parcel Two; (iii) all taxes payable under the California Bradley-Burns Uniform Local Sales & Use Tax Law, Revenue and Taxation Code § 7200, et seq.; and (iv) all other taxes, assessments, fees, exactions, or charges any portion of which are allocated to, or received by, the City or Agency and which are imposed due to the ownership, use, or possession of Parcel Two or interest therein or due to the construction or operation of the Project. Upon failure to so pay, Owner shall remove any lien, levy, or encumbrance made on Parcel Two within ninety (90) days of the attachment of such. Owner hereby waives any right it may have to contest the right of the City, Agency, the County of Riverside, State of California or special district, to impose a tax, assessment, fee, exaction, or charge against Parcel Two or upon the construction or operation of the Project provided however that Developer shall retain its right, as they may exist under the law, to challenge or contest the levy, calculation amount or other procedural aspect of such tax, assessment, fee, exaction or charge.

6.2.5 Compliance with Laws. Owner covenants and agrees for itself, its successors and assigns and any successor-in-interest to Parcel Two or part thereof, that it shall operate and maintain the Project in conformity with the Redevelopment Plan, Local Regulations, the CC&Rs, and all applicable state and federal laws including all applicable labor standards, disabled and handicapped access requirements, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. and the Unruh Civil Rights Act, California Civil Code § 51, et seq.

7. Effect of Violation. Agency and City are deemed the beneficiaries of the terms and provisions of this Declaration. Only Agency and City shall have the right, but not the obligation, if the Agreement, this Declaration or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of the Agreement or this Declaration of Restrictive Covenants may be entitled.

8. Rights of Holder. The Restrictions and provisions of this Declaration do not limit the right of any mortgagee, beneficiary under a deed of trust, or other lien holder which secures construction or permanent financing to foreclose or otherwise enforce any mortgage, deed of trust or other lien upon Parcel Two or any portion thereof, or the right of any mortgagee,

beneficiary under a deed of trust, or lien holder to exercise any of its remedies for the enforcement of any pledge or lien upon Parcel Two; provided, however that in the event of any foreclosure under any such mortgage, deed of trust or other lien, or a sale pursuant to any power of sale included in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns and Parcel Two shall be and shall continue to be subject to all of the Restrictions and provisions contained in this Declaration.

9. **Notice of Transfer.** Prior to selling, conveying or otherwise transferring any interest in Parcel Two, Owner shall deliver a written notice to Agency setting forth the name, address and phone number of the transferee, and the type of transfer (i.e., sale, lease, mortgage, deed of trust, foreclosure). The notice shall be sent by certified mail, return receipt requested to Agency at the address set forth below:

REDEVELOPMENT AGENCY
OF THE CITY OF RIVERSIDE
Attn: Executive Director
3900 Main Street
Riverside, CA 92522

10. **Effect and Duration of Restrictions.** The Restrictions established in this Declaration shall, without regard to technical classification and designation, be binding on Owner and shall remain in effect for a period of Ten (10) years from and after the Close of Escrow, except that the covenants made in Section 6 [Nondiscrimination and Nonsegregation] shall be operative, effective, valid and shall bind and encumber Parcel Two in perpetuity, and the covenant restricting conveyances to tax exempt entities set forth in Section 2.3 shall be operative, effective, valid and shall bind and encumber the Site, for so long as the Agency is entitled to receive property tax increments pursuant to Health and Safety Code § 33670 et seq. from the Site..

11. **Remedies for Breach.** Agency and its successor and assigns, may utilize any or all of the following provisions in the event of a default or breach of this Declaration:

11.1 **Specific Performance.** The use and maintenance of Parcel Two in accordance with this Declaration are of a special and unique kind and character and the rights granted to Agency, its successors, and its assigns, hereunder are of a similar special and unique kind and character so that if there is a breach by Owner of any material provision of this Declaration, Agency, its successors, and its assigns, would not have an adequate remedy at law. Therefore, Agency's rights, and those of its successors, and its assigns hereunder may be enforced by an action for specific performance and such other equitable relief as is provided by the laws of the State of California. In any action seeking enforcement or interpretation of any of the terms or provisions of this Declaration, the prevailing party shall be awarded, in addition to damages, injunctive relief, or other relief, its Litigation Expenses, as provided in Section 11.2.3. [Attorney Fees] of this Declaration.

11.2 **Legal Actions.** In addition to any other rights and remedies any party may institute a legal action to require the cure of any breach or default and to recover damages

for any breach or default, or to obtain any other remedy consistent with the purpose of this Declaration. The following provisions shall apply to any such legal action:

11.2.1 Jurisdiction and Venue. Legal actions must be instituted and maintained in the Superior Court of the County of Riverside, State of California, or in the United States District Court for the Central District of California. Owner specifically waives any rights provided to it pursuant to California Code of Civil Procedure § 394 or federal or state statutes or judicial decisions of like effect.

11.2.2 Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Declaration.

11.2.3 Attorney's Fees. In the event either party commences an Action (as defined herein) against the other party which arises out of a default of, breach of, failure to perform this Declaration, or otherwise related to this Declaration, then the Prevailing Party (as defined herein) in the Action shall be entitled to recover its Litigation Expenses (as defined herein) from the other party in addition to whatever relief to which the Prevailing Party may be entitled. For the purposes of this Section, the term "Action" means any law suit, court or administrative proceeding (whether of a legal or equitable nature), arbitration or mediation (whether binding or non-binding), or any other alternative dispute resolution procedure, and the filing, recording, or service of any process, notice, claim, lien, or other instrument which is a prerequisite to commencement of the Action. For the purposes of this Section, the term "Litigation Expenses" means all costs and expenses, to the extent such are reasonable in amount, that are actually and necessarily incurred in good faith by the Prevailing Party directly related to the Action, including, but not limited to, court costs, filing, recording, and service fees, copying costs, exhibit production costs, special media rental costs, attorneys fees, consultant fees, fees for investigators, witness fees (both lay and expert), travel expenses, deposition and transcript costs, and any other cost or expense reasonably and necessarily incurred by the Prevailing Party in good faith and directly related to the Action. For the purposes of this Covenant, the term "Prevailing Party" shall have the meaning ascribed in Code of Civil Procedure § 1032(a)(4).

11.3 **No Liability for Non-Enforcement of Declaration.** Agency, its successors, or its assigns has the right, but not the duty, to enforce the provisions of this Declaration. However, Agency, its successors, or its assigns shall have no obligation to enforce this Declaration and shall have no liability for not enforcing the same.

11.4 **Rights and Remedies are Cumulative.** The rights and remedies of Agency regarding enforcement of this Declaration are cumulative, and the exercise by Agency of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same default or any other default by Owner.

11.5 **No Waiver.** Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

12. **Recitals.** The Recitals set forth at the beginning of this Declaration are a substantive and integral part of this Declaration and are incorporated by reference.

13. **Interpretation.** Owner acknowledges that this Declaration is the product of mutual arms-length negotiation and drafting and each represents and warrants to the other that it has been represented by legal counsel in the negotiation and drafting of this Declaration. Accordingly, the rule of construction which provides the ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Declaration. In any action or proceeding to interpret or enforce this Declaration, the finder of fact may refer to such extrinsic evidence not in direct conflict with any specific provision of this Declaration to determine and give effect to the intention of the parties hereto.

14. **Severability.** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this Declaration shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this Declaration is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Declaration and shall not affect any other provision, term, condition, covenant, and/or restriction, of this Declaration and the remainder of the Declaration shall continue in full force and effect.

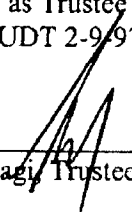
15. **Amendments to Declaration.** Any modification, change, or amendment to this Declaration must be in writing and signed by the appropriate authorities of Agency and Owner and thereafter appropriately recorded in the Official Records of the County of Riverside, State of California.

IN WITNESS WHEREOF, Owner has executed this Declaration which shall be effective as of the date of recording hereof in the Official Records of the County of Riverside, State of California.

**ONTARIO GATEWAY BUSINESS CENTER LLC,
a California limited liability company**

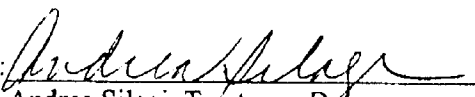
By: Moshe Silagi, as Trustee of the Silagi
Family Trust UDT 2-9-97

[Acknowledgment Required]

By:  _____
Moshe Silagi, Trustee Date: _____

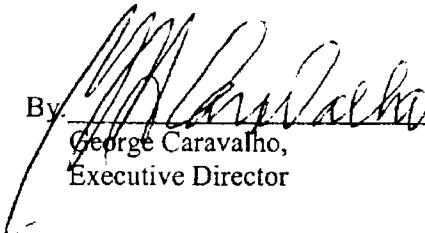
By: Andrea Silagi, as Trustee of the Silagi
Family Trust UDT 2-9-97

[Acknowledgment Required]

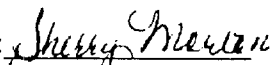
By:  _____
Andrea Silagi, Trustee Date: _____

Acknowledgment is hereby made to Owner's grants of this Declaration and its Restrictions in favor of Agency and City.

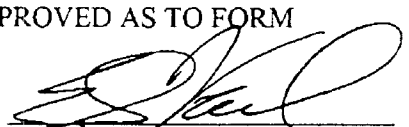
**REDEVELOPMENT AGENCY
OF THE CITY OF RIVERSIDE**

By:  Date: 7/20/04
George Carvalho,
Executive Director

ATTESTATION:

By: 
for Colleen J. Nicol
Agency Secretary

APPROVED AS TO FORM

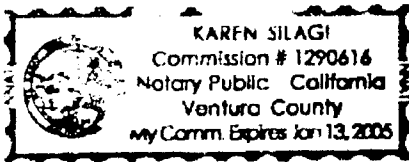
By: 
Eric S. Vail
Agency Special Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of VENTURA } ss.

On JUNE 27, 2004 before me, KAREN SILAGI, NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared MOSHE SILAGI AND ANDREA SILAGI
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) ~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~ they executed the same in ~~his~~ 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.

WITNESS my hand and official seal.

Karen Silagi
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: DECLARATION OF RESTRICTIVE COVENANTS

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



C/A 937

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Riverside } ss.

On July 20, 2004 before me, Janis Lowry, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared George Carvalho and Sherry Morton
Name(s) of Signer(s)

- personally known to me
- 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.



WITNESS my hand and official seal.

Janis Lowry
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

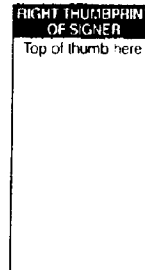
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



ATTACHMENT 1
(Legal Description)

RIV #4814-7413-9648 v2

Description: Riverside, CA Document-Year.DocID 2004.582636 Page: 15 of 25
Order: 112204GT Comment:

CJA 937

EXHIBIT "A"
(PARCEL TWO - FEE)


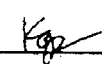
That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

All that portion of Lot A of Rivera Tract, as shown by map on file in Book 10, Page 4 of Maps, records of Riverside County, California, lying southerly and easterly of State Highway 60 as conveyed to the State of California by Deeds recorded January 15, 1960, as Instrument No. 3776 and June 1, 1960, as Instrument No. 48907 of Official Records of said Riverside County; said State Highway 60 is shown on Sheet 14 of 26 Sheets of State Highway Right-of-Way Map VIII RIV 19 RIV on file with the County Surveyor of said Riverside County;

EXCEPTING THEREFROM any portion of said Lot A lying within that certain parcel of land shown as Segment "G" by Map of Relinquishment on file in Book 3, Pages 27 through 31 of State Highway Maps, records of said Riverside County; a portion of said Segment "G" lies within the real property described in said document recorded June 1, 1960;

ALSO EXCEPTING THEREFROM that portion of said Lot A lying southwesterly of the northeasterly line of that certain parcel of land described as Parcel 2 by Resolution No. 20360 of the City Council of the City of Riverside, a certified copy of said Resolution No. 20360, recorded May 22, 2003, per Document No. 2003-370713 of Official Records of said Riverside County.

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

 6/25/04 Prep. 
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/05

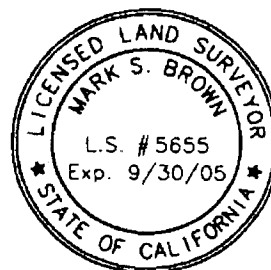
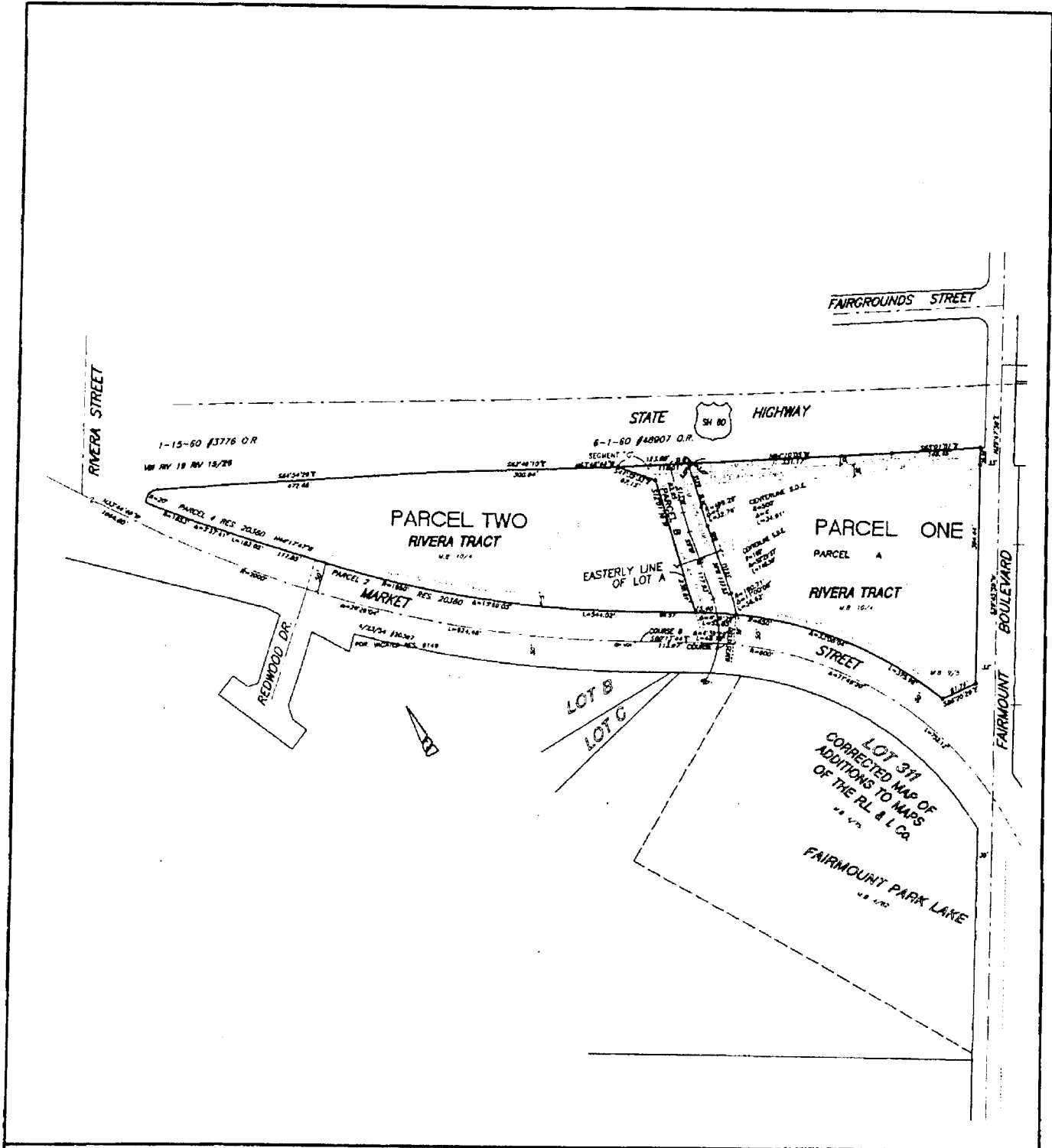


EXHIBIT "B"



• 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.

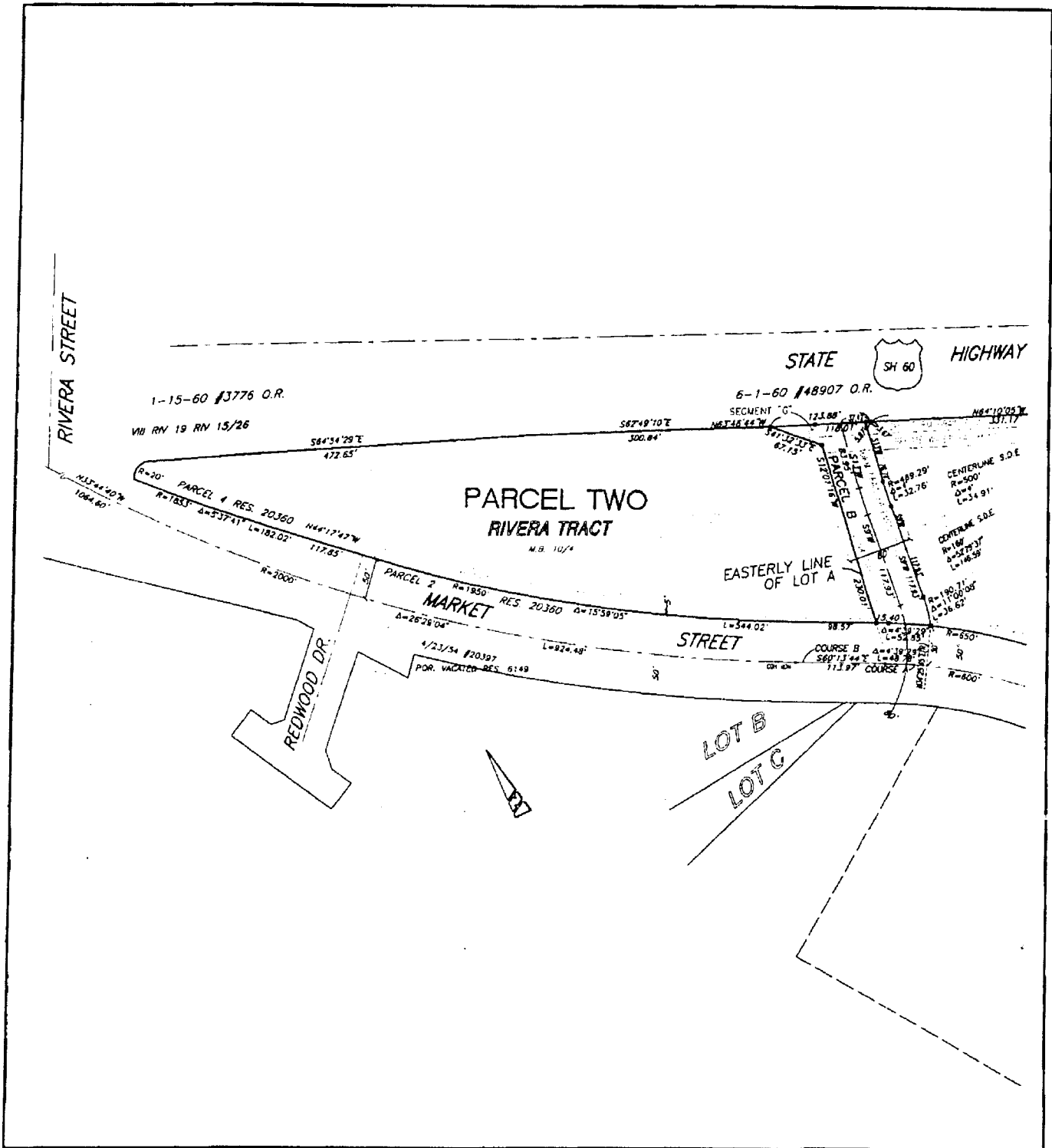
SHEET 1 OF 2

SCALE: N.T.S.

DRAWN BY: Kgs DATE: 6/24/04

SUBJECT: ONTARIO GATEWAY LLC

EXHIBIT "B"



• 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 2 OF 2

SCALE: N.T.S.

DRAWN BY: Kgs DATE: 6/24/04

SUBJECT: ONTARIO GATEWAY LLC - PARCEL TWO

EXHIBIT "D"
(STORM DRAIN EASEMENT)

Recorded at request of, and return to:
Riverside County Flood Control and
Water Conservation District
1995 Market Street
Riverside, California 92501-1770

DOC # 2004-0487133

06/24/2004

Conformed Copy

Has not been compared with original

Gary L. Orso

County of Riverside
Assessor, County Clerk & Recorder

NO FEE (GOV. CODE 6103)

Project Name: University Wash Channel-Stage 4
Project No: 1-0-0120-04
Case No:

EASEMENT DEED

The CITY OF RIVERSIDE, a municipal corporation of the State of California, and The REDEVELOPMENT AGENCY OF THE CITY OF RIVERSIDE, a public body, corporate and politic, as to their respective interests appear of record, hereby grants to RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, an easement for the construction, use, repair, reconstruction, inspection, operation, and maintenance of the University Wash Channel-Stage 4 and all appurtenant works, including ingress and egress thereto, over, upon, under and across that certain real property situated in the City of Riverside, County of Riverside, State of California described in legal description attached hereto as Exhibit "A" and made a part hereof.

In addition, the Grantors agree for themselves, their successors and assigns not to erect, place or maintain, nor to permit the erection, placement or maintenance of any building, planter boxes, earth fill or other structures, except walls, fences, parking lots, and ground cover landscaping on the above described real property. The Grantee, and its contractors, agent, employees, shall have the right to trim or cut tree roots as may endanger or interfere with said systems and shall have free access to said systems and every part thereof, at all times, for the purpose of exercising the right herein granted; provided however, that in making any excavation on said property of the Grantors, the Grantee shall make the same in such a manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground to as near the same condition as it was prior to such excavation as is practicable.

Dated May 23 2003

CITY OF RIVERSIDE,
a municipal corporation

By [Signature]
City Manager

Attest [Signature]
City Clerk

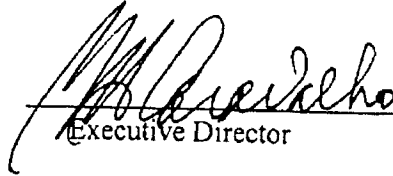
APPROVED BY
CITY ATTORNEY'S OFFICE

BY [Signature]
Deputy City Attorney

Dated May 23, 2003

REDEVELOPMENT AGENCY OF
CITY OF RIVERSIDE, CALIFORNIA,
a public body, corporate and politic

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE


Executive Director



Deputy City Attorney

Attest: 
Agency Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed to **RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT** is hereby accepted by the undersigned officer pursuant to authority conferred by resolution of the Board of Supervisors of said District adopted on May 12, 1961, and the grantee consents to the recordation thereof by its duly authorized officer.

Date 6/17/04

By: 
Warren D. Williams, General Manager-Chief Engineer

FLOOD CONTROL SDE MODIFIED.DOC

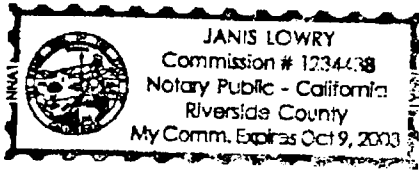
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Riverside } ss.

On MAY 23, 2003 before me, JANIS LOWRY, Notary Public
Date Name and Title of Office (e.g., "Jane Doe, Notary Public")
personally appeared George A. CARVALHO AND KELLY PALMER
Name(s) of Signer(s)

Personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) I ~~was~~
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.



WITNESS my hand and official seal.

Janis Lowry
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another 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

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

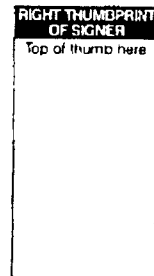


EXHIBIT "A"

STORM DRAIN EASEMENT

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

A strip of land 80.00 feet in width, lying within that portion Market Street (formerly Crestmore Avenue), and within Lot 311 of Corrected Map of Additions to Maps of the Riverside Land and Irrigating Co., as shown by map on file in Book 4, Page 75 of Maps, records of Riverside County, California, and shown my map of Fairmount Park Lake, on file in Book 4, Page 82 of Maps, records of Riverside County, California, and lying within portions of Lots A, B, C and D of the Rivera Tract, as shown by map on file in Book 10, Page 4 of Maps, records of said Riverside County, the centerline of said strip of land being described as follows:

COMMENCING at the intersection of a line that is parallel with and distant 33.00 feet northwesterly from the centerline of Fairmount Boulevard, as shown by said map of the Rivera Tract with the southwesterly line of State Highway Route 60, as shown by State Highway Right-of-Way Map VIII RIV 19 RIV Sheet 16 of 26 Sheets, on file with the County Surveyor of said Riverside County;

THENCE North 65°01'01" West, along said southwesterly line of State Highway Route 60, a distance of 149.45 feet to an angle point;

THENCE North 64°10'05" West, continuing along said southwesterly line, a distance of 331.17 feet to an angle point;

THENCE North 63°46'44" West, continuing along said southwesterly line, a distance of 37.42 feet to the POINT OF BEGINNING of this centerline description;

THENCE South 13°00'00" West, a distance of 83.95 feet to the beginning of a tangent curve concaving easterly and having a radius of 500.00 feet;

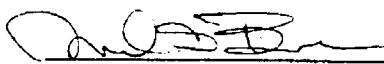

THENCE southerly to the left along said curve through a central angle of 4°00'00" an arc length of 34.91 feet;

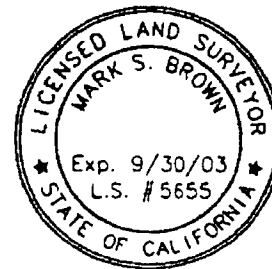
THENCE South 9°00'00" West, a distance of 117.93 feet to the beginning of a tangent curve concaving westerly and having a radius of 160.00 feet;

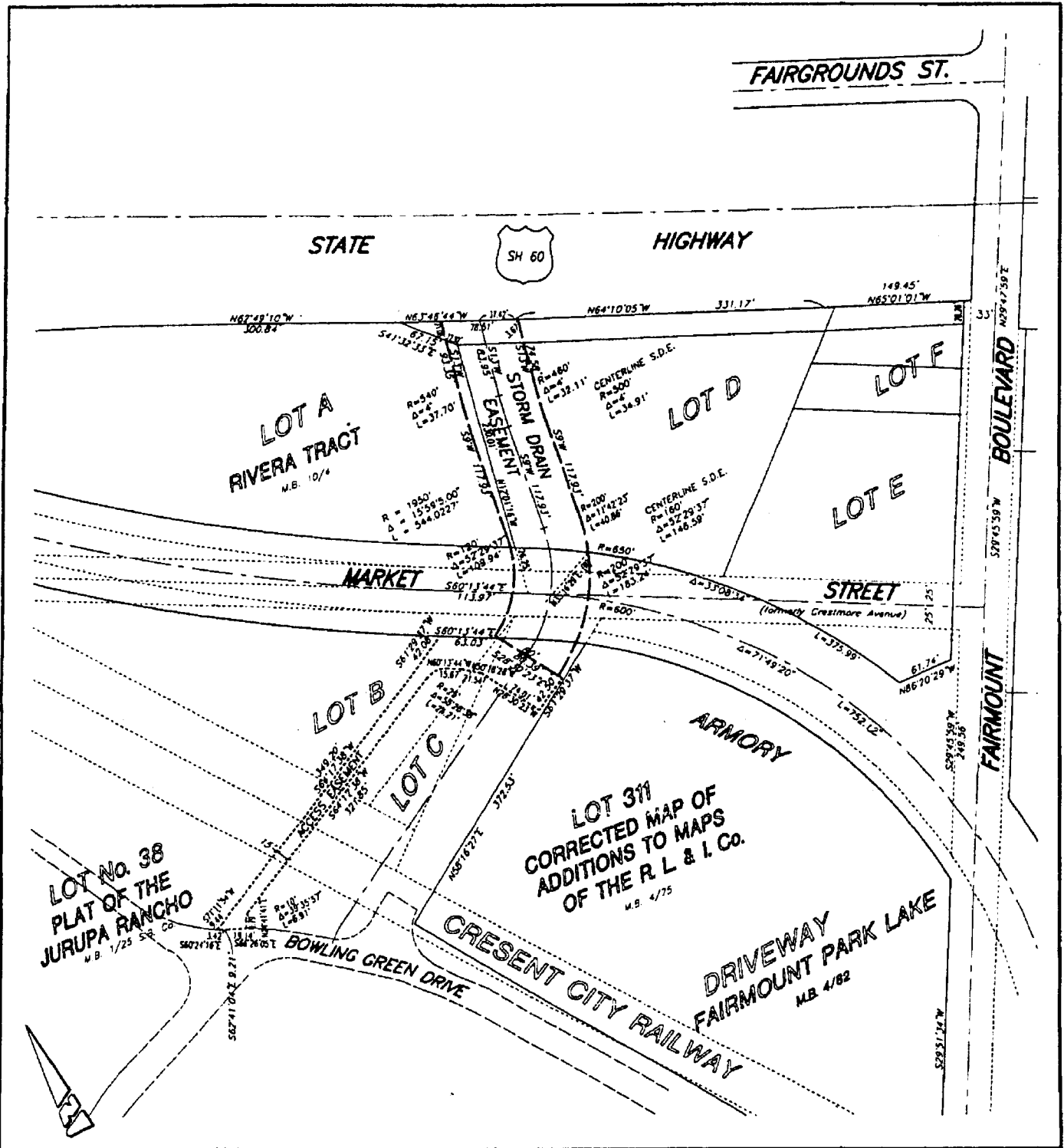
THENCE southerly to the right along said last mentioned curve through a central angle of 52°29'37" an arc length of 146.59 to the end of said curve and the END of this centerline description;

The sidelines of said strip of land 80.00 feet in width shall be lengthened or shortened to terminate in said southwesterly line of State Highway Route 60, and lengthened or shortened to terminate in a line measured at right angle to the end of said curve.

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

 4/28/03 Date Prep. 
Mark S. Brown, L.S. 5655 License Expires 9/30/03





• 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
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SCALE: N.T.S.	DRAWN BY: Kgs DATE: 12/26/02	SUBJECT: MARKET STREET STORM DRAIN
---------------	------------------------------	------------------------------------

CIA 937-24

EXHIBIT "E"
(WATERLINE EASEMENT - PARCEL TWO ATTACHMENT)

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

That portion of Lots A, D and F of Rivera Tract, as shown by map on file in Book 10, Page 4 of Maps, records of Riverside County, California, lying within the southwesterly 20.00 feet of a strip of land 35.00 feet in width, the northeasterly line of which is described as follows:

BEGINNING at the intersection of a line that is parallel with and distant 33.00 feet northwesterly from the centerline of Fairmount Boulevard, as shown by said map of the Rivera Tract with the southwesterly line of State Highway Route 60, as shown by State Highway Right-of-Way Map VIII RIV 19 RIV Sheet 16 of 26 Sheets, on file with the County Surveyor of said Riverside County;

THENCE North $65^{\circ}01'01''$ West, along said southwesterly line of State Highway Route 60, a distance of 149.45 feet to an angle point;



THENCE North $64^{\circ}10'05''$ West, continuing along said southwesterly line, a distance of 331.17 feet to an angle point;

THENCE North $63^{\circ}46'44''$ West, continuing along said southwesterly line, a distance of 123.88 feet to the END of this line description;

EXCEPTING THEREFROM that portion lying northwesterly of the northeasterly and southeasterly lines of said real property described in Exhibit "A";

ALSO EXCEPTING THEREFROM that portion lying southeasterly of a line that is parallel with and distant 33.00 feet northwesterly, as measured at right angles, from the centerline of Fairmount Boulevard.

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


Mark S. Brown, L.S. 5655 6/25/04 Date Prep. 
License Expires 9/30/05

