



**LARRY WALKER**  
Auditor/Controller – Recorder

P Counter

WHEN RECORDED MAIL TO:

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

Doc#: 2006 – 0778139

Titles: 1 Pages: 30



Fees	95.00
Taxes	0.00
Other	0.00
PAID	\$95.00

Project: Dulce Vida ,LLC Tract 17264  
Grand Terrace, California

FOR RECORDER'S OFFICE USE ONLY

### COVENANT AND AGREEMENT AND DECLARATION OF MAINTENANCE AND USE OBLIGATIONS

THIS COVENANT AND AGREEMENT AND DECLARATION OF MAINTENANCE AND USE OBLIGATIONS is made and entered into this *28th* day of *July*, 2006, by Dulce Vida ,LLC (“Declarant”), with reference to the following facts:

A. Declarant is fee owner of that certain real property (“the Subject Property”) consisting of approximately 3.52 acres, situated East of Canal Street and North of Terrace Pines Drive which legal description is set forth specifically in Exhibit “A” attached hereto and incorporated herein by this reference.

B. Declarant has or will execute a License Agreement for the use of property owned by the City of Riverside (“City”), which is adjacent to the Subject Property (the “Licensed Property”). The Licensed Property is more fully described in the License Agreement, a copy of which is attached hereto as Exhibit “B” and incorporated herein by this reference.

C. Declarant is required to record a covenant over the Subject Property, indicating the project includes the use of the Licensed Property and that the Licensed Property cannot be redesigned for another use without The City of Riverside approval nor used without the approval of the Public Utilities Department, and also that the Declarant is subject to the terms and conditions of the License Agreement.

E. Declarant desires to record a covenant and agreement and declaration of maintenance and use obligations acceptable to the City, which meets the above-referenced condition and restricts the use of the Licensed Property.

NOW, THEREFORE, Declarant hereby covenants and agrees with the City of Riverside 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 “License

CIA 991

Agreement, Gage Canal," a copy of which is attached hereto as Exhibit B.

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 herein above.

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

4. This Covenant and Agreement and Declaration of Maintenance and Use Obligations 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 Covenant and Agreement and Declaration of Maintenance and Use Obligations to be executed the day and year first above written.

Dulce Vida LLC

By:

Name:

Title:

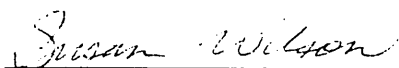
ATTEST

By:

Name:

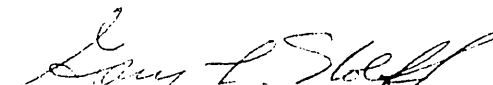
Title:

APPROVED AS TO FORM:



Deputy City Attorney

APPROVED AS TO CONTENT:



Public Utility Department

**LEGAL DESCRIPTION**

Real property in the City of Grand Terrace, County of San Bernardino, State of California, described as follows:

TENTATIVE TRACT NO. 17264, BEING A SUBDIVISION OF THE FOLLOWING:

PARCEL 1:

THAT PORTION OF LOTS 2 AND 13, BLOCK "E" OF GRAND TERRACE, AS PER PLAT RECORDED IN BOOK 11 OF MAPS, PAGE 4, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH SIDE OF PALM AVENUE AND DISTANT 804 FOOT WEST OF THE SOUTHEAST CORNER OF LOT 1, IN SAID BLOCK "E";  
THENCE RUNNING WEST 170 FEET ALONG THE NORTH LINE OF SAID PALM AVENUE;  
THENCE RUNNING NORTH 7° 18' WEST, 400 FEET;  
THENCE RUNNING NORTH 15°33' WEST, 100 FEET;  
THENCE RUNNING NORTH 27°40' WEST, 200 FEET;  
THENCE RUNNING NORTH 26°43' WEST, 400.8 FEET;  
THENCE RUNNING SOUTH 88°59' EAST, 612 FEET;  
THENCE RUNNING SOUTH 1°1' WEST, 130 FEET;  
THENCE RUNNING NORTH 88°59' WEST, 76 FEET;  
THENCE RUNNING SOUTH 1°1' WEST, 898.5 FEET TO THE POINT OF BEGINNING.

EXCEPTING ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING WITHIN THE RIGHT OF WAY OF GAGE CANAL, AS SHOWN ON THE SAID MAP OF GRAND TERRACE;

ALSO EXCEPTING A PORTION OF LOT 13, BLOCK "E" GRAND TERRACE, AS PER PLAT RECORDED IN BOOK 11 OF MAPS, PAGE 4, RECORDS OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH SIDE OF PALM AVENUE, DISTANT 804 FEET WEST OF THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK "E";  
THENCE NORTH 1°1' EAST, 431.82 FEET;  
THENCE WEST 240.49 FEET TO THE EAST LINE OF GAGE CANAL RIGHT OF WAY;  
THENCE SOUTH 15°37' EAST, 37.63 FEET;  
THENCE SOUTH 7°10' EAST, 400 FEET ALONG THE EAST LINE OF GAGE CANAL TO THE NORTH LINE OF PALM AVENUE;  
THENCE EAST ALONG THE NORTH LINE OF PALM AVENUE, 170 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH SIDE OF PALM AVENUE WHICH BEARS SOUTH 89°50'33" WEST, A DISTANCE OF 804.00 FEET FROM THE SOUTHEAST CORNER OF LOT 1, IN SAID BLOCK "E";  
THENCE NORTH 0°50'03" EAST, A DISTANCE OF 431.96 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 0°50'03" EAST, A DISTANCE OF 265.00 FEET;  
THENCE SOUTH 88°37'03" WEST, A DISTANCE OF 178.40 FEET;

*First American Title*

**EXHIBIT A**

DESCRIPTION APPROVAL:

BY: K. Straut 10/2/2006  
DATE

FOR: MARK S. BROWN  
CITY SURVEYOR

C/A 991

STATE OF CALIFORNIA )  
                          ) *LOS ANGELES*  
COUNTY OF ~~RIVERSIDE~~ )

On July 28, 2006, before me, B. Takiguchi, the undersigned, a notary public in and for said State, personally appeared Michael E. Foley and \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity, and that by his/~~her/their~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*B. Takiguchi*  
\_\_\_\_\_  
Notary Public

THENCE SOUTH 71°45'48" WEST, A DISTANCE OF 161.98 FEET, MORE OR LESS, TO THE EAST RIGHT OF WAY LINE OF GAGE CANAL;  
THENCE SOUTH 27°28'30" EAST, A DISTANCE OF 139.30 FEET; ALONG GAGE CANAL RIGHT OF WAY;  
THENCE SOUTHEASTERLY ALONG A CURVED LINE BEING CONCAVE TO THE SOUTHWEST ALONG GAGE CANAL RIGHT OF WAY HAVING A RADIUS OF 475 FEET AND THROUGH AN ANGLE OF 11°19'30", AN ARC DISTANCE OF 93.89 FEET;  
THENCE NORTH 89°50'30" EAST, A DISTANCE OF 229.24 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

AN EASEMENT FOR INGRESS, EGRESS AND ROAD PURPOSES OVER THE FOLLOWING DESCRIBED PROPERTY:

PARCEL 2A:

A 30.00 FOOT WIDE STRIP OF LAND, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT I, BLOCK "E" OF SAID GRAND TERRACE SUBDIVISION;  
THENCE SOUTH 89°50'37" WEST, ALONG THE SOUTHERLY LINE OF SAID LOTS 1 AND 13, 749.00 FEET, TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 00°48'29" EAST, 412.67 FEET TO THE BEGINNING OF A 200.00 FEET RADIUS CURVE CONCAVE TO THE WEST;  
THENCE NORTHWESTERLY ALONG SAID CURVE 25.98 FEET, THROUGH A CENTRAL ANGLE 7°26'32" TO A POINT OF TANGENCY;  
THENCE NORTH 6°38'03" WEST, 96.98 FEET TO THE BEGINNING OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE EAST;  
THENCE NORTHERLY ALONG SAID CURVE, 38.97 FEET, THROUGH A CENTRAL ANGLE OF 7°26'32" TO A POINT OF TANGENCY;  
THENCE NORTH 0°48'29" EAST, 155.49 FEET TO THE POINT OF TERMINUS OF SAID CENTERLINE, SAID TERMINUS BEING A POINT ON THE SOUTH LINE OF THAT PROPERTY DESCRIBED BY DEED RECORDED IN BOOK 6124, PAGE 108, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY; SAID POINT BEING 38.00 FEET EASTERLY OF THE SOUTHWEST CORNER THEREOF.

PARCEL 2B:

COMMENCING AT THE ABOVE MENTIONED POINT OF TERMINUS OF PARCEL "A";  
THENCE NORTH 89°58'31" WEST, 15.00 FEET ALONG THE SOUTH LINE OF THAT PROPERTY DESCRIBED IN DEED RECORDED IN BOOK 6124, PAGE 108, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID SOUTH LINE, NORTH 89°58'31" WEST, 23.00 FEET TO THE SOUTHWEST CORNER THEREOF;  
THENCE SOUTH 0°56'53" WEST, 33.07 FEET, ALONG THE WEST LINE OF THAT PROPERTY DESCRIBED AS PARCEL NO.1 BY DEED RECORDED IN BOOK 7078, PAGE 642, OFFICIAL RECORDS OF SAID COUNTY;  
THENCE SOUTH 89°58'31" EAST, 23.08 FEET TO THE WEST LINE OF THE ABOVE MENTIONED PARCEL "A";  
THENCE NORTH 0°48'29" EAST, 33.07 FEET ALONG SAID WEST LINE TO THE TRUE POINT OF BEGINNING.

APN: 0275-251-61

**EXHIBIT B**  
**LICENSE AGREEMENT**

**NONEXCLUSIVE LICENSE AGREEMENT  
GAGE CANAL -  
East of Canal Street and North of Terrace Pines Drive Grand Terrace California**

THIS NONEXCLUSIVE LICENSE AGREEMENT ("License") is made and entered into this 8th day of November, 2006 ("Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), and DULCE VIDA, LLC its successors and assigns, hereinafter referred to as "Licensee."

**RECITALS**

A. City, through its Public Utilities Department, owns the Gage Canal ("Canal"), which is operated on behalf of the City by The Gage Canal Company, pursuant to an Agreement for Operation of Gage Canal Facilities and the amendments thereto ("Operating Agreement"); and

B. Licensee is the owner of the property adjacent to the Gage Canal located East of Canal Street and North of Terrace Pines Drive in Grand Terrace, California. Licensee is in the process of building a town home project ("Development").

C. In connection with Licensee's Development, Licensee wishes to use a portion of the Canal right-of-way ("Premises"), to access the Premises for purposes of constructing water, sewer, gas electrical and road improvements pursuant to grading and utility plans and installing landscaping on the Gage Canal as shown the attached plans titled "Tract Map 17264 Grand Canal Town Homes" and marked as Exhibit "C" hereto and incorporated herein by reference and only to the extent that such may be approved by the City.

D. City and the Gage Canal Company are agreeable to said use.

**NOW, THEREFORE,** the parties hereto mutually agree as follows:

1. **GRANT OF LICENSE:** City hereby grants to Licensee use of the Premises, as further described in the legal description attached as Exhibit "A" and generally shown on the map attached as Exhibit "B," both of which are incorporated herein by this reference. A non-refundable processing fee of One Hundred Fifty Dollars (\$150.00) shall be paid by Licensee to City at the time this License is executed by Licensee and submitted to City for processing

2. **TERM:** 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 twenty-five years therefrom, unless License is earlier terminated pursuant to termination provisions contained herein. This License shall be automatically extended for three 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 expiration of the License term then in effect. Within 90 days of the final expiration of the term, including all extensions, Licensee shall apply to the City for a new license.

3. **USE OF PREMISES:** The Premises shall be used solely for purposes of constructing water, sewer, gas electrical and road improvements pursuant to grading and utility plans and installing landscaping on the Gage Canal as shown the plans titled "Tract Map 17264 Grand Canal Town Homes, a complete full size set of these plans are on file in the City of Riverside's Property Management Division's offices. The rights granted herein to Licensee shall be for the benefit of and appurtenant to the real property (the Development) owned by the Licensee adjoining the Premises as shown on Exhibit "C."

Such use shall not interfere with the primary function of the Gage Canal to provide or transport



water, any use by the City of the Premises, or with the rights and obligations of the Gage Canal Company. All existing improvements located on the Premises are to be protected in place. Licensee shall be subject to the following terms and conditions:

(a) Any future construction or reconstruction within the Premises shall be in accordance with plans approved by the City's Public Utilities Department - Water Division, and the Gage Canal Company; provided, however, notwithstanding any such approval, the Licensee assumes full responsibility for the design, construction or reconstruction, including complete liability for defects in such design and construction or reconstruction all at Licensee's sole cost. During any construction, reconstruction, repair or maintenance by Licensee, Licensee's contractors or agents, all existing City and/or Gage facilities shall be protected in place by Licensee.

(b) Licensee's use of this License shall not at any time interfere with the operation of the Gage Canal, and the Licensee agrees to assume all liability resulting in injury or damage to any person or entity caused by the exercise of the rights herein granted which results in any water escaping from the Canal.

(c) Licensee acknowledges and agrees that this License is subject to the Operating Agreement.

(d) Licensee shall reimburse the City for all costs or expenses incurred by the City or The Gage Canal Company for any or all of the following: replacement water purchased due to water loss and/or relocation or repair of City's or Gage's facilities necessitated or caused by Licensee's use of the Premises and the exercise of the rights granted herein.

(e) Licensee agrees that the City and the Gage Canal Company has the right to partially or totally remove all or a portion of the surface improvements installed by Licensee for any

City or Gage Canal Company water pipeline installation determined to be necessary by the City or Gage Canal Company. Costs related to the removal of the surface improvements for such installation and costs related to the replacement of the subject surface improvements shall be borne by and be the responsibility of the Licensee.

(f) The Licensee shall keep the Premises clear and free of structures, invasive landscaping, and surface obstructions consistent with Licensee's intended use as approved by the City.

(g) No construction or reconstruction shall be commenced until this License has been executed by all parties hereto, and plans have been prepared by Licensee and approved by the City and Gage Canal Company. Licensee is to contact the Public Utilities Department prior to commencing work on the Premises.

(h) City makes no representation, covenant, warranty or promise that the Premises is fit for any particular use, including the use for which this License is granted and Licensee is not relying on any such representation, covenant, warranty or promise and accepts the Premises in its "as is" condition.

4. **CONSIDERATION:** As consideration for use of the licensed Premises, Licensee shall:

(a) As consideration for use of the licensed Premises, Licensee shall pay to City a license fee in the amount of Two Hundred and Sixty Dollars (\$260.00) per month. Said license fees shall be payable on the first of the month.

(b) Notwithstanding Section 4(a) above, the monthly rent shall be increased on each yearly anniversary of the Effective Date by an amount equal to five percent (5%) of such monthly

rent.

(c) The monthly license fee shall be paid by check made payable to the "City of Riverside" and sent to the City of Riverside, Central Cashiering, City Hall, 3900 Main Street, Riverside, California 92522.

(d) If Licensee fails to pay the monthly license fee by the tenth (10th) day of the month in which it is due, Licensee agrees that the actual damage to the City would be impracticable or extremely difficult to determine. Therefore, Licensee agrees to pay a late fee equal to ten percent (10%) of the monthly license fee, which amount shall be added to the license fee due and considered part of the license fee due City hereunder. The amounts due under this subparagraph are in addition to and not in lieu of any other remedies of City.

5. **NON-DISCRIMINATION:** Except as provided in Section 12940 of the California Government Code, during Licensee's performance of this License, Licensee shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical handicap, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex or sexual orientation in use of the premises during the term of this License. Further, Licensee agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this License.

6. **SUPERVISION:** Licensee shall be responsible for supervision and monitoring of all activities on the Premises, control of public access to the Premises at all times, and monitoring and abatement of any nuisance that is caused, or may be caused, by Licensee and Licensee's use.

7. **MAINTENANCE:** The Premises shall be maintained by Licensee in a clean and orderly manner, all in compliance with all provisions of the Riverside Municipal Code, and any other applicable laws. A neat and clean appearance and safe and sanitary conditions are required and are considered of utmost importance by City.

8. **FLAMMABLES, WASTE AND NUISANCES:** Licensee agrees that it will not place or store, or allow any placement or storage of any hazardous waste, hazardous material, or flammable materials within the boundaries of the Premises, and that it will not commit any waste upon or damage to the Premises, nor suffer any to be done. Licensee also specifically agrees that it will not allow others to take such actions within the boundaries of the Premises.

9. **HAZARDOUS SUBSTANCES INDEMNITY:** Licensee expressly agrees to and shall indemnify, defend, release and hold the City, and the Gage Canal Company, their officers, officials, directors, agents, servants, employees, harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Premises by Licensee, its officers, directors, agents, servants, employees. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this License.

10. **HAZARDOUS SUBSTANCES DEFINED:** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, *et seq.*; The Hazardous

Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); The Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; The Clean Water Act, 33 U.S.C. § 1251, *et seq.*; The Hazardous Waste Control Act, California Health and Safety Code ("H. & S.C.") § 25100, *et seq.*; the Hazardous Substance Account Act, H. & S.C. § 25330, *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, *et seq.*; Underground Storage of Hazardous Substances H. & S.C. § 25280, *et seq.*; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H & S.C. § 25300 *et seq.*); The Hazardous Waste Management Act, H. & S.C. §§ 25170.1, *et seq.*; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 *et seq.*; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, *et seq.*, all as amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

11. **UTILITIES:** There currently is no utility service to the Premises. The City shall be under no obligation to provide any utility service of any kind to the Premises during the term of this License. If Licensee determines utilities are required for Licensee's use of the Premises, Licensee shall arrange for such utilities and pay directly for all utilities and services supplied to the Premises,

including but not limited to water, electricity, telephone, gas and cleaning of the Premises, together with any taxes thereon.

12. **TAXES:** Without admitting any such liability, Licensee recognizes and understands that this License may create a possessory interest subject to property taxation pursuant to California Revenue and Taxation Code Section 107 and that Licensee may be subject to the payment of property taxes levied on such interest if such a determination is made by the Riverside County Tax Assessor or other government entity with the authority to make such determinations. All taxes and assessments which become due and payable on the subject premises and any improvements thereon shall be the sole responsibility of Licensee, and any such payments shall not reduce any payment due City hereunder.

If Licensee shall, in good faith, desire to contest the validity, the imposition, or the amount of any tax or assessment or any other governmental charge herein agreed to be paid by Licensee, Licensee shall be permitted to do so; provided, however, the Licensee shall not permit or allow any lien to be placed or assessed upon the real property or any improvements thereon.

13. **CITY'S RIGHT TO INSPECT:** City will have the right to inspect the Premises and the improvements located thereon at any time to ensure compliance with the terms of this Agreement. Any repairs found necessary as a result of inspections and which are the responsibility of Licensee shall be made promptly by Licensee, but in no event shall such repairs be initiated by Licensee later than 10 calendar days after receipt of written notification of the need for such repairs and such repairs shall be completed within a reasonable time as determined by City for the required repairs to be made.

14. **FREE FROM LIENS OR CLAIMS:** Licensee shall keep the premises free from any mechanics' or materialmen's liens or other liens of any kind or nature for any work done, labor performed, or material furnished thereon at the instance or on account of Licensee, and Licensee further agrees to indemnify and save harmless City from and against any and all claims, liens, demands, costs and expenses of whatsoever nature for any such work done, labor performed, or materials furnished. The City at any time may post and keep posted on the Premises appropriate notices to protect the City against the claims of any such persons, firms or corporations.

15. **INSURANCE:** Prior to City's execution of this Agreement, Licensee shall obtain, and shall thereafter maintain during the term of this Agreement at Licensee's sole expense, such commercial general and automobile liability insurance as required to insure Licensee against damages for personal injury, including accidental death, as well as from claims for property damage which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Licensee.

All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California.

Licensee's commercial general liability policy shall cover both bodily injury (including death) and property damage (including but not limited to premises-operations liability, products-completed operations liability, independent contractors liability, personal injury liability, and contractual liability), in an amount not less than \$1,000,000 per-occurrence limit/\$2,000,000 aggregate.

Licensee's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per-occurrence limit, unless otherwise approved by the City's

Risk Manager and the City Attorney, or their designees. These minimum amounts of coverage shall not constitute any limitation or cap on Licensee's indemnification obligations under Section 17 hereof.

Insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and auto liability, shall be filed with City and shall include City and The Gage Canal Company, their officers, agents and employees as additional insureds. Said policies shall be in the usual form of commercial general liability insurance.

The policies shall not be canceled unless thirty (30) days' prior written notification of intended cancellation has been given to City by certified or registered mail.

City, its agents and employees make no representation that the limits of the insurance specified to be carried by Licensee pursuant to this Agreement are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, Licensee will obtain such additional insurance coverage, as Licensee deems adequate, at Licensee's sole expense.

16. **NONINTERFERENCE WITH USE:** Licensee's use of the Premises and the exercise of the rights herein granted shall not in any manner whatsoever interfere with the City's operations. City and the Gage Canal Company shall at all times have access to the Premises. The rights herein granted are not exclusive rights and in no way limit the City and/or The Gage Canal Company in the use of the licensed area for purposes not inconsistent with the uses granted herein.

17. **INDEMNIFICATION:** Except as to the sole negligence, or willful misconduct of City and/or the Gage Canal Company, Licensee shall protect, defend, indemnify, and hold City and the Gage Canal Company and their officers, agents, employees and volunteers completely harmless



from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this License and/or the use or occupancy of the Premises or the acts or omissions Licensee or Licensee's officers, agents, employees, contractors, or subcontractors, licensees, invitees or guests, regardless of where the injury, death or damage may occur, unless such injury, death or damage is caused by the negligence or willful misconduct of City and/or The Gage Canal Company or its officers, employees or agents. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Licensee or any of Licensee's officers, agents, employees, contractors, subcontractors, licensees, invitees or guests. City shall give Licensee reasonable notice of any such claims or actions. Licensee shall use counsel reasonably acceptable to City in carrying out its obligations hereunder.

The parties expressly agree that any payment, attorney fee, cost or expense City and/or The Gage Canal Company incurs or makes to or on behalf of an injured employee under City's self-administered workers' compensation program or that of The Gage Canal Company is included as a loss, expense or cost for the purposes of this Section 17.

The provisions of this section shall survive the expiration or early termination of this License.

18. **ASSIGNMENTS:** This License is personal to Licensee, and Licensee shall not assign or transfer this License or any privilege thereunder, in whole or in part, without the prior consent of the City, and any attempt so to do shall be void and shall confer no right on any third party.

19. **NON-POSSESSORY INTEREST:** No permanent or possessory interest shall accrue to Licensee in the licensed Premises by reason of this License or by exercise of the permission given and Licensee agrees to claim no such interest.

20. **GOVERNING LAW AND JURISDICTION:** Licensee agrees that in the exercise of its rights under this License, Licensee shall comply with all applicable federal, state, county and local laws, and regulations in connection with its use of the licensed Premises. The existence, validity, construction, operation and effect of this License and all of its terms and provisions shall be determined in accordance with the laws of the State of California. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this License shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

21. **TERMINATION:** In addition to the other methods of terminating this License provided in this agreement, if in the City's determination the premises are required for City's use, this License may be terminated at any time upon thirty (30) days' notice in writing to Licensee. Upon termination of this License in any manner provided in this agreement, 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 City. Should the City accept the Premises with all improvements thereon, then such improvements shall become the property of the City.

If the Premises are abandoned by the Licensee for a period of six (6) months, all rights of the Licensee shall automatically terminate hereunder. Further, if the Licensee hereunder fails to conform with the terms and conditions of this License, all of the Licensee's rights hereunder shall terminate.

No termination hereunder shall release the Licensee from any liability or obligation which may have attached or accrued prior to or which may accrue as of the time of termination of this License.

22. **DEFAULT:** 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 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, License shall then terminate immediately without further notice. Also, the City shall have the right to require that all operations immediately cease if City determines that the activities are being conducted in an unsafe or illegal manner. Upon termination of this License and if City requests, the Licensee shall immediately remove all personal property, facilities and improvements from the Premises.

23. **HOLDING OVER:** If Licensee fails to vacate the Premises upon termination of this License or upon earlier termination at City's request, Licensee agrees to pay a fee of One Hundred Dollars (\$100.00) per day for each day that Licensee occupies the Premises beyond the termination date as stated in this License or earlier termination by City.

24. **ENTIRE AGREEMENT:** It is expressly agreed that this License embodies the entire agreement between the parties hereto in relation to the subject matter hereof and that neither agreement or understanding, verbal or otherwise, relative to this subject matter exists between the

parties hereto at the time of execution. This License may be modified or amended by the mutual consent of the parties in writing.

25. **NOTICES:** Service of any notices, bills, invoices or other documents required or permitted under this License shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows:

City  
City of Riverside  
Property Management Division  
8095 Lincoln Ave.  
Riverside, CA 92504  
Phone 951 351 6154  
Fax 951 351 6100

Licensee  
Dulce Vida, LLC  
Mr. Mike Foley  
Managing Member  
2341 West 205<sup>th</sup> Street  
Suite #104 Torrance, Ca. 90501  
Phone 310 787 7203  
Fax 310 347 4116

The Gage Canal Company  
7452 Dufferin Avenue  
Riverside, CA 92504  
Phone 951 780 1333

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

27. **SECTION TITLES:** The Section titles of this License (i) are inserted only for the convenience of the parties, (ii) are not intended to describe, define, limit, or otherwise affect the

provisions in the portions of the License to which they pertain, and (iii) in no way describe, define, limit, or otherwise affect the scope or intent of this License or in any way affect the agreement of the parties set out in this License.

28. **RESERVATIONS:** This License is subject to all reservations, restrictions, rights and rights-of-way of record.

29. **AUTHORITY:** The individuals executing this License and the instruments referenced herein on behalf of Licensee each represent and warrant that they have the legal power, right and actual authority to bind Licensee to the terms and conditions hereof and thereof.

30. **LIST OF EXHIBITS:** The following documents are exhibits to this License and incorporated herein by this reference:

- Exhibit A: Legal Description of Premises
- Exhibit B: Map of Premises
- Exhibit C: Map of Licensee's Development

31. **Covenant and Agreement:** Licensee shall record, concurrent with execution of this License, a "Covenant and Agreement and Declaration of Maintenance and Use Obligations," subject to the approval of the City Attorney indicating that the Development, and each parcel of property therein, is subject to the terms and conditions of this License.]

[Signatures on Next Page]

IN WITNESS WHEREOF the parties hereto have caused this License to be duly executed

on the date and year first written above.

CITY OF RIVERSIDE

DULCE VIDA, LLC

By: *Bradley J. Hudson*  
Bradley J. Hudson

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

Michael Foley  
Title \_\_\_\_\_

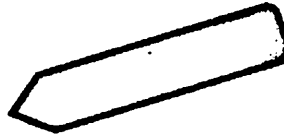
Managing Member  
Attest

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

\_\_\_\_\_  
Printed Name and Title

ATTEST:

By: *Sherry Norton Ellis*  
/s/ Colleen J. Nicol  
City Clerk



GAGE CANAL COMPANY

By: *Ross dFWIS*  
ROSS dFWIS GENERAL MANAGER

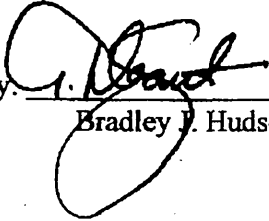
Printed Name and Title

APPROVED AS TO FORM:

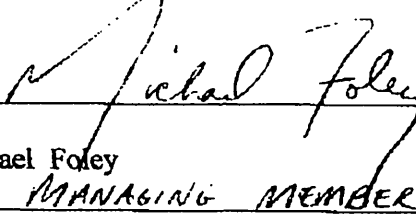
By: *Susan Wilson*  
Deputy City Attorney

IN WITNESS WHEREOF the parties hereto have caused this License to be duly executed on the date and year first written above.

**CITY OF RIVERSIDE**

By:   
Bradley J. Hudson


**DULCE VIDA, LLC**

By:   
Michael Foley  
Title MANAGING MEMBER

Managing Member  
Attest

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name and Title

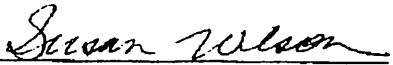
**ATTEST:**

By:   
Colleen J. Nicol  
City Clerk

**GAGE CANAL COMPANY**

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name and Title

**APPROVED AS TO FORM:**

By:   
Deputy City Attorney

IN WITNESS WHEREOF the parties hereto have caused this License to be duly executed on the date and year first written above.

CITY OF RIVERSIDE

DULCE VIDA, LLC

By: \_\_\_\_\_  
Bradley J. Hudson

By: Michael Foley  
Michael Foley  
Title MANAGING MEMBER

Managing Member  
Attest

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

\_\_\_\_\_  
Printed Name and Title

ATTES...

By: \_\_\_\_\_  
Colleen J. Nicol  
City Clerk

GAGE CANAL COMPANY

By: Ross Lewis  
GENERAL MANAGER  
ROSS LEWIS  
Printed Name and Title

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy City Attorney



EXHIBIT "A"

That certain real property located in the City of Grand Terrace, County of San Bernardino, State of California, described as follows:

That portion of the right-of-way of the Gage Canal 50.00 feet in width, lying within the Southeast Quarter of Section 32, Township 1 South, Range 4 West, San Bernardino Meridian, lying southeasterly of the following described line:

BEGINNING at the southwesterly corner of Lot 1 of Tract No. 14264, as shown by map on file in Book 242, Pages 17 and 18 of Maps, records of San Bernardino County, California;


THENCE South  $62^{\circ}31'34''$  West, a distance of 50.00 feet to the southwesterly line of said right-of-way of the Gage Canal and the END of this line description;

EXCEPTING THEREFROM any portion of said right-of-way of the Gage Canal lying southeasterly of the following described line;

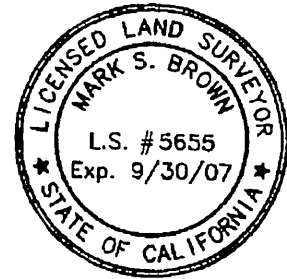
BEGINNING at the most westerly corner of Lot 1 of Tract No. 13364, as shown by map on file in Book 203, Pages 89 through 92 of Maps records of San Bernardino County, California;

THENCE South  $62^{\circ}31'34''$  West, a distance of 50.00 feet to the southwesterly line of said right-of-way of the Gage Canal and the END of this line description.

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  
License Expires 9/30/07

Date 9/29/07 Prep. KEP



**EXHIBIT B**  
**MAP OF PREMISES**

POR. SE 1/4 SECTION 32  
T. 1 S., R. 4 W., S.B.M.

TRACT NO. 14264  
M.B. 242/17-18

LOT 1

S62°31'34"W  
50'  
SW CORNER

CANAL

VICTORIA ST.

CARHART AVE.

STREET

S62°31'34"W  
50'

MCCLARREN ST.

BLOCK E  
GRAND TERRACE  
M.B. 11/4

TRACT NO. 13364  
M.B. 203/89-92

LOT 1

N27°26'07"N  
434.60±  
W'LY CORNER

TERRACE

PINES DR.

AVENUE

MT. VERNON

BARTON

ROAD

• 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

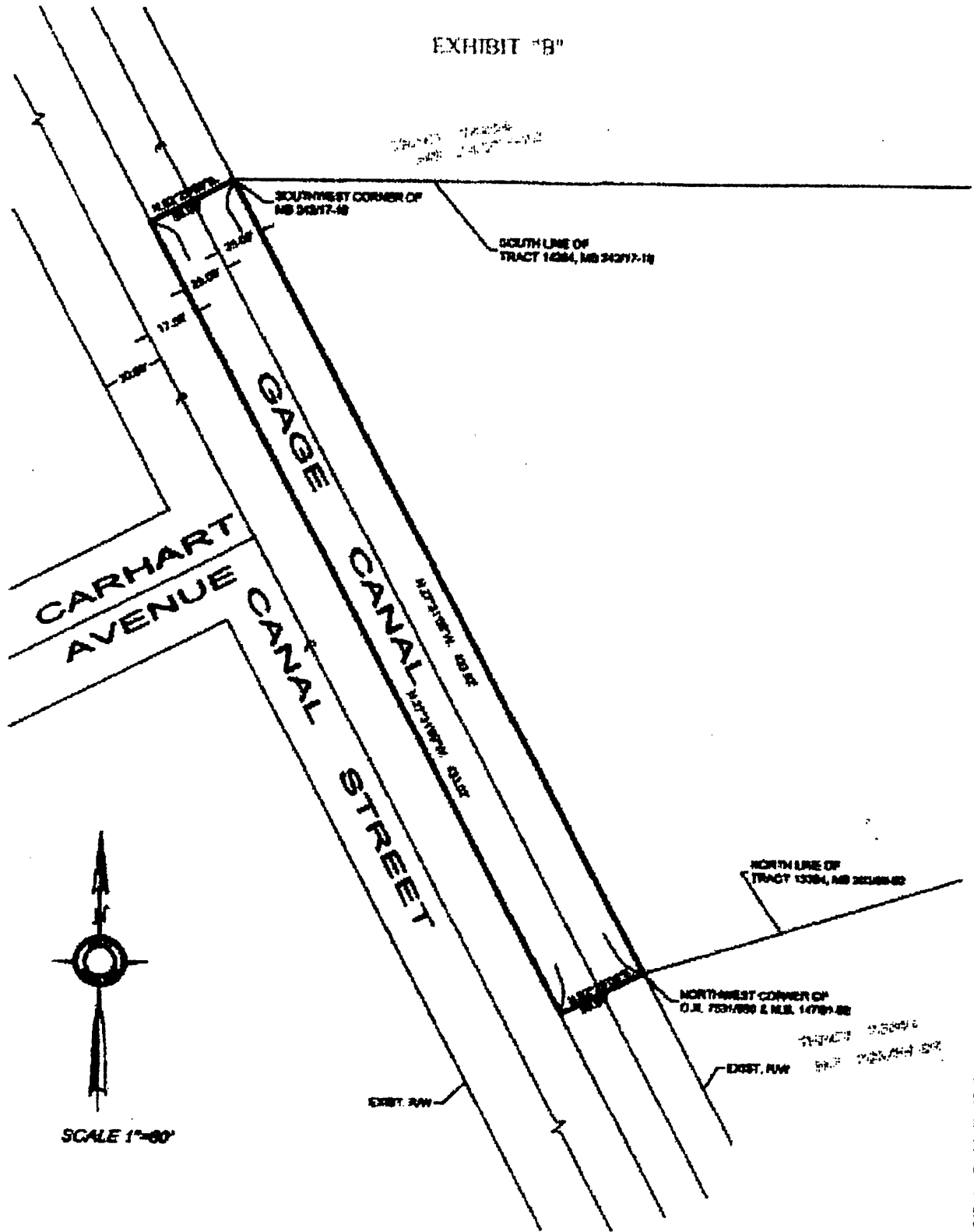
SCALE: N.T.S.

DRAWN BY: Kgs DATE: 9/28/06

SUBJECT: DULCE VIDA - GRAND TERRACE - GAGE CANAL

C/A 991

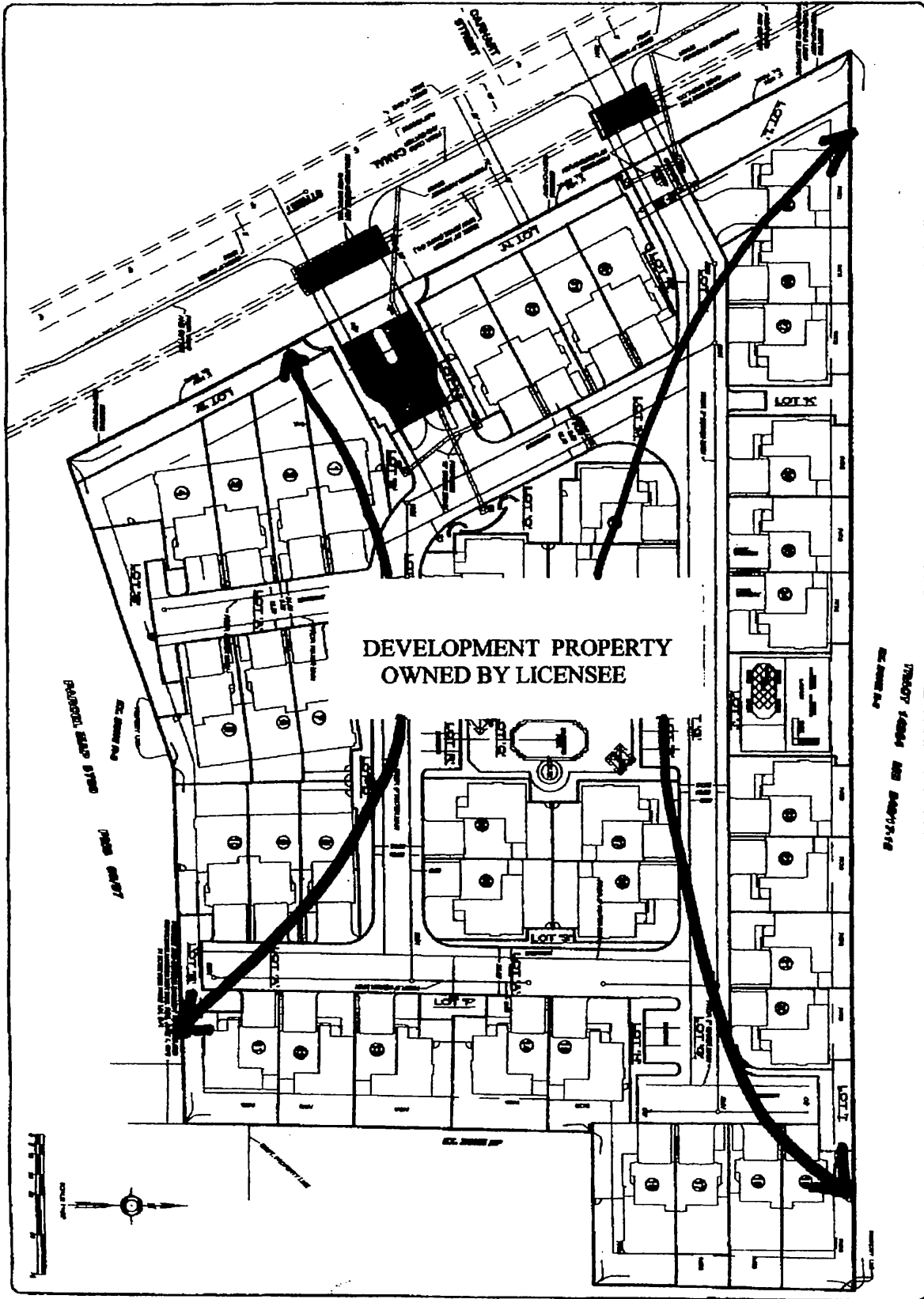
EXHIBIT "B"



57 Project Plans/1871-00 (Water-Canal Street) Drawing/Plan/Shop 2/14/2008 5:26:40 PM, Addys.rpf

**EXHIBIT C**  
**MAP OF LICENSEE'S DEVELOPMENT**

EXHIBIT "C"



17264	TTM-2
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TENTATIVE TRACT MAP 17264  
 Canal Street, Grand Terrace



Any person who...  
 State of California, Department of Public Safety



NO.	DATE	REVISION
1		
2		
3		
4		
5		