

**2016-0507228**

11/14/2016 03:19 PM Fee: \$ 240.00

Page 1 of 76

Recorded in Official Records  
County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder



RECORDING REQUESTED BY  
AND UPON RECORDING SHOULD  
BE RETURNED TO:

Los Ranchitos Homeowners Association  
c/o Ralston Management  
41874 Sixth Street  
Temecula, CA 92590

139					R	A	Exam:	937	
Page	DA	PCOR	Misc	Long	RFD	1st Pg	Adtl Pg	Cert	CC
76									1
SIZE	NCOR	SMF	NCHG	T:	#24150				

APN: 922-170-012, 922-170-013

APN: 922-170-014, 922-170-015

(SPACE ABOVE LINE FOR RECORDER'S USE)

**2016 AMENDMENT TO  
DECLARATION OF COVENANT, CONDITIONS AND RESTRICTIONS  
FOR  
LOS RANCHITOS HOMEOWNERS ASSOCIATION  
*A California Nonprofit Corporation*  
[Lots 1 through 4, Inclusive of Tract 3750]**

**NOTICE  
(Gov't Code §12956.1)**

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

**2016 AMENDMENT TO  
DECLARATION OF COVENANT, CONDITIONS AND RESTRICTIONS FOR  
LOS RANCHITOS HOMEOWNERS ASSOCIATION**

This 2016 Amendment to Declaration of Covenants, Conditions and restrictions for Los Ranchitos Homeowners Association (this "Amendment") is dated Nov 7<sup>th</sup>, 2016, for reference purposes only, and is made and executed on the dates set forth on the signature page below, by Los Ranchitos Homeowners Association, a California nonprofit mutual benefit corporation (the "Association"), with reference to the following:

**RECITALS**

A. This Amendment is recorded for the purpose of amending that certain Declaration of Restrictions which was recorded in the Office of the County Recorder of Riverside County, California on October 11, 1966, as Document No. 100757, which document was later extended and amended by a document recorded on June 3, 2008, as Document No. 2008-0300969, and any other amendments, annexations or similar documents containing restrictions to which the Covered Property (defined below) is subject that may appear of record, all in the Official Records of Riverside County, California, hereinafter referred to collectively as the "Declaration" or the "CC&Rs," unless the context clearly indicates otherwise.

B. The legal description of the property that has been subjected to the terms of the Declaration (the "Covered Property") is:

Lots 1 through 102 in Tract 3552, as shown on a map recorded October 5, 1966, as Document No. 98816 in Book 56, Pages 63 through 66 of Miscellaneous Maps, Records of Riverside County, California.

Lots 1 through 33, inclusive, of Tract 3646, as shown on a map recorded September 20, 1967, as Document No. 82856, in Book 57, Pages 86 through 87, both inclusive, of Miscellaneous Maps, Records of Riverside County, California.

Lots 1 through 23, inclusive, and 26 through 49, inclusive, of Tract 3752, as shown on a map recorded July 1, 1968, as Document No. 74102, in Book 59, Pages 53 through 55, both inclusive, of Miscellaneous Maps, Records of Riverside County, California.

Lots 1 through 4, inclusive, of Tract 3750, as shown on a map recorded October 2, 1968, as Document No. 95104, in Book 59, Page 100 of Miscellaneous Maps, Records of Riverside County, California.

Parcel 4 of Parcel Map No. 13043, as shown on map filed in Book 70, Page(s) 21-22 in Miscellaneous Maps, Records of Riverside County, California.

C. The owners of Covered Property (the "Owner(s)") and the members of the Association (the "Member(s)") wish to modify the Declaration as to the Subject Property (defined below) by amending the Declaration as set forth in this Amendment.



D. The "Subject Property" is Lots 1 through 4, inclusive, of Tract No. 3750 as more particularly described in **Exhibit A** attached hereto. The Owner of the Subject Property ("Subject Property Owner") desires to use the Subject Property for the non-residential use as more fully set forth in the Development Agreement attached hereto as **Exhibit C**.

E. The Board of Directors (the "Board") and the Members have agreed to support this Amendment and to allow the non-residential use of the Subject Property, including any reasonable accessory purposes allowed by applicable zoning laws and regulations and subject to the terms, conditions and restrictions set forth in herein.

F. This Amendment has been adopted under Article VIII, Section 8.02 of the Declaration which requires approval by the written consent of Owners of at least fifty-one percent (51%) of the Property.

G. The Association has designated the President and the Secretary of the Board to certify the approval of this Amendment, and the President's and Secretary's certification is attached hereto as **Exhibit B**.

### **OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, the Declaration is hereby amended as follows:

1. This Amendment shall apply only to the Subject Property and to no other portion of the Covered Property.
2. The Association and the Subject Property Owner are parties to that certain Development Agreement dated Nov 7<sup>th</sup>, 2016, (the "Development Agreement"), which is attached hereto as **Exhibit C**, is hereby made a part of this Amendment.
3. With respect to the Subject Property only, Article VII of the Declaration shall be deleted in its entirety. The regulation of operations and permitted uses on the Subject Property shall be limited to the non-residential use as set forth in the Development Agreement, including any reasonable accessory purposes allowed by applicable zoning laws and regulations and subject to the terms, conditions and restrictions set forth in herein.
4. With respect to the Subject Property only, the following Article X is added to the Declaration:

### **ARTICLE X**

#### **ASSESSMENTS**

##### **10.01 Creation of Lien and Obligation of Assessment.**

After this Amendment is recorded in the Official Records of Recorder of Riverside County, California, the Subject Property Owner shall pay, or cause to be paid, for as long as the amended CC&Rs remain in effect an

annual assessment (the "Annual Assessment(s)") to the Association. Annual Assessments are due on July 1 of each year (each "year" is the Association's fiscal year from July 1 through June 30). The first year's Annual Assessment will be \$8,000.00 which will be prorated based on a 365-day year and reduced by the applicable proration amount for each day between June 30, 2016, and the date of recording of this Amendment. The amount of the (i) first year's Annual Assessment, and (ii) commencing on July 1, 2016, the Annual Assessment for the immediately preceding year, will be subject to annual increases of three percent (3%).

10.02 Purpose of Assessment.

The Annual Assessments shall be used exclusively by the Association to promote the economic interests, recreation, health, safety and welfare of all Members (including the Subject Property Owner).

10.03 Capital Contribution Assessment.

Within ten (10) business days following recordation of this Amendment, the Subject Property Owner shall pay or caused to be paid to the Association the amount of \$60,000.00 as a one-time capital contribution assessment.

10.04 Effect of Nonpayment of Assessment.

Assessments are delinquent fifteen (15) days after they become due. The Board shall set the date on which the Annual Assessment is due. A late charge of ten percent (10%) of the delinquent Annual Assessment shall be imposed upon any delinquent payment. Interest on delinquent Annual Assessments and late charges shall be imposed at an annual percentage rate of twelve percent (12%) interest commencing thirty (30) days after the applicable Annual Assessment becomes due but shall not exceed the maximum rate permitted under California law. Late charges and interest on past due amounts may be modified by the Board in subject to the maximum rate permitted by California law.

10.05 Enforcement and Remedies.

If any Annual Assessment is delinquent, the Association may record an assessment lien against the Subject Property which assessment lien shall be subordinate to the lien of any mortgage or deed of trust encumbering the Subject Property and may be enforced in accordance with, and using as a model, the provisions of California Civil Code §5660 et seq, as amended from time to time. The assessment lien shall be signed by an officer of the Association or any agent designated by the Board.



5. With respect to the Subject Property only, the following Article XI is added to the Declaration:

**ARTICLE XI**

**ADOPTION AND ENFORCEMENT OF RULES**

11.01 Adoption and Enforcement.

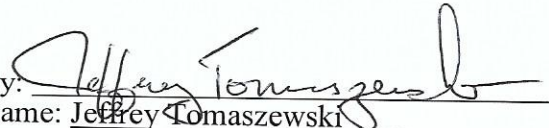
The Board may adopt reasonable operating rules for the Subject Property specifically to protect the quiet enjoyment of adjacent and nearby residential Owners. Such rules may supplement the provisions of this Amendment and the Declaration, provided that such rules shall not contradict, or be more restrictive than, the provisions of this Amendment or the CC&Rs.

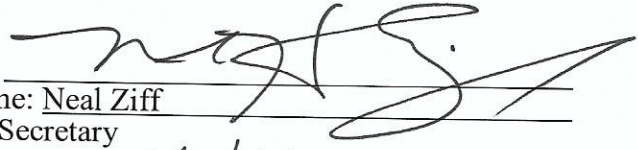
6. The Board is authorized to execute the Development Agreement attached as **Exhibit C** on behalf of the Members and the Association. By approval of this Amendment in accordance with the CC&Rs and the Bylaws of the Association, the Members hereby ratify each and every provision contained in the Development Agreement.
7. Except as expressly amended by this Amendment, the Declaration is hereby ratified, reaffirmed and approved as to the Subject Property.

IN WITNESS WHEREOF, the undersigned have executed this Amendment and certified to its approval on the dates set forth in the attached acknowledgments.

“ASSOCIATION”

LOS RANCHITOS HOMEOWNERS  
ASSOCIATION, a California nonprofit mutual  
benefit corporation

By:   
Name: Jeffrey Tomaszewski  
Its: President  
Date: Nov 7<sup>th</sup> 2016

By:   
Name: Neal Ziff  
Its: Secretary  
Date: 11/7/16

NOTARY ACKNOWLEDGMENT

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

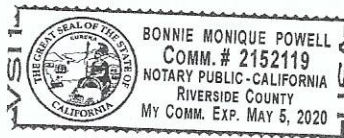
STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF RIVERSIDE                )

On 11-7-2016 before me, Bonnie Monique Powell, Notary Public, personally appeared **Jeffrey Tomaszewski and Neal Ziff**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
Notary Public





## EXHIBIT A

### LEGAL DESCRIPTION

#### **PARCEL 1:**

Those Portions of Lots 1, 2, and 3, inclusive, of Tract No. 3750, in the County of Riverside, State of California, as per Map recorded in Book 59, Page 100 of Maps, in the Office of the County Recorder of Said County.

Excepting therefrom those portions conveyed to the County of Riverside by Deed recorded on December. 27, 1996 as Instrument No. 486266 and Deed recorded on January 16, 1998 as Instrument No. 016284, described as follows:

Commencing at the Northerly Corner of said Lot 1, said corner also lying on the Southwesterly Right of Way Line of Vallejo Avenue (66.00 feet wide) as shown on said Map;

Thence along the Northwesternly Line of said Lot 1, South 50°11'19" West, 500.26 Feet to the Northerly Corner of the Property described in said Instrument. No. 486266;

Thence along the Northeasterly Line of the Property described in said Instrument No. 486266, South 57°44'27" East, 111.45 Feet;

Thence South 56°07'13" East, 72.52 Feet to the True Point Of Beginning;

Thence Leaving Said Line, North 33°54'0" East, 26.04 Feet;

Thence South 56°05'52" East, 27.00 Feet;

Thence South 82°25'25" East, 27.06 Feet;

Thence South 56°05'52" East, 18.75 Feet;

Thence North 50°11'19" East, 78.37 Feet;

Thence North 50°10'57" East, 83.95 Feet;

Thence South 39°54'37" East, 230.50 Feet;

Thence South 59°47'53" East, 35.43 Feet;

Thence South 30°12'07" West, 151.94 Feet to a Point on the Northeasterly Line of the Property described in said Instrument No. 016284;

Thence along said Line, North 60°19'02" West, 29.76 Feet to the most Northerly Corner of the Property described in said Instrument No. 016284;

Thence North 50°11'19" East, 20.78 Feet to the most Easterly Corner of the Property described in said Instrument No. 486266;

Thence along the Northeasterly Line of said Property, North 55°10'28" West, 129.91 Feet;

Thence North 56°07'23" West, 140.38 Feet;

Thence Continuing North 56°07'23" West, 87.91 Feet to the True Point of Beginning.

Said Land is also described and shown as Parcel "B" in that certain document entitled "Notice of Lot Line Adjustment PA16-0083", a certified copy of which is recorded February 11, 2016 as Instrument No. 2016-0058861 of Official Records.

**PARCEL 2:**

Those portions of Lots 3 and 4 of Tract No. 3750, as shown by Map on file in Book 59, Page 100 of Maps, records of Riverside County, State of California;

Excepting therefrom that portion of Lot 3, as conveyed to the County of Riverside, in Deed recorded January 16, 1998 as Instrument No. 16284, of official records of Riverside County, California; and

Also excepting therefrom that portion of Lot 4, as conveyed to the County of Riverside in Deed recorded January 16, 1998 as Instrument No. 16285, of official records of Riverside County, California.

APN: 922-170-012, 922-170-013, 922-170-014 and 922-170-015

Address: 31625 De Portola Road, Temecula, California



## EXHIBIT B

### CERTIFICATION OF PRESIDENT AND SECRETARY AS TO APPROVAL OF AMENDMENT

The undersigned do hereby certify the following:

1. We certify that we are the President and Secretary, respectively, of Los Ranchitos Homeowners Association, a California non-profit corporation (hereafter "Association").

2. This document is executed for the purpose of certifying the foregoing amendment to the Declaration and to certify that the amendment requirements of the Declaration have been met.

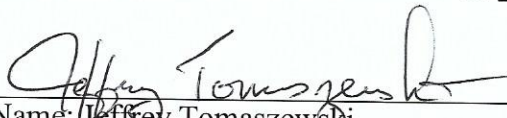
3. We certify that there are currently 504.599 acres in the Association. Thus, according to the requirements of Article VIII, Section 8.02, of the Declaration, the owners of at least fifty-one percent (51%) of the property subject to the Declaration must give their written consent to approve an amendment, thus the owners of at least 257.345 acres must approve the amendment.

4. We further certify that, as of the date this document is executed, the following represents the written consent of the owners of the acreage cast for and against the amendment:

Owner Votes Cast For and Against the Amendment		
Section(s) Amended	Votes For	Votes Against
Pursuant to Exhibit "A" of Ballot (Date of Mailing: August 24, 2016)	287.18	39.66

5. Since these totals reflect that the amendments outlined more fully in Exhibit "A" of the ballot mailed August 24, 2016 was approved by the written consent of the owners of at least fifty-one percent (51%) of the property subject to the Declaration, we certify that the amendment was approved.

On behalf of the Association, we declare under penalty of perjury under the laws of the State of California that the foregoing facts are true and correct. Executed on 11/7/16, 2016 at Temecula, California.

  
Name: Jeffrey Tomaszewski  
Title: President of Los Ranchitos Homeowners Association

  
Name: Neal Ziff  
Title: Secretary of Los Ranchitos Homeowners Association

# NOTARY ACKNOWLEDGMENT

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

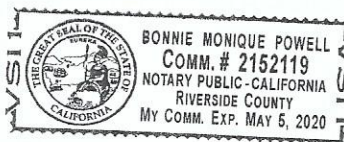
STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF RIVERSIDE                )

On 11-7-2016 before me, Bonnie Monique Powell, Notary Public, personally appeared Jeffrey Tomaszewski and Neal Ziff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Bonnie Powell  
Notary Public





**EXHIBIT C**  
**DEVELOPMENT AGREEMENT**

**[See attached]**

## DEVELOPMENT AGREEMENT

This Development Agreement is between the Los Ranchitos Homeowners Association, a California Non-profit Mutual Benefit Corporation (hereinafter referred to as "Association"), and Pacific Real Estate, LLC and Behrooz Mirshafiee, or their assignees (collectively referred to hereinafter referred to as "PRE") owners of interests of Lots 1-4 in Tract 3750 in City of Temecula, County of Riverside, State of California as per Map filed in Book 59, page(s) 100 inclusive of Maps in the office of the County Recorder of the said County (hereinafter referred to as "Subject Property"). The project is referenced in documents as the Gateway to Temecula (Project).

### RECITALS

- A. The Association is authorized to negotiate this Agreement on behalf of itself and the membership of Los Ranchitos Homeowners Association with regard to the commercial development of the Subject Property.
- B. PRE has made a request to the Board of the Association (hereinafter referred to as "Board") and membership to support and adopt an amendment to the CC&Rs which would permit commercial development on Subject Property. Under terms and conditions of the CC&Rs as they existed on the date of execution of this Agreement, and that CC&R Amendment dated 1/21/2000, some of those activities and uses requested by applicant are prohibited
- C. Owners and the Board have negotiated the following Agreement which will not be binding on any parties unless and until the members of the Association approve a CC&R amendment, and this Agreement, permitting commercial use of Subject Property as outlined. In the event that this CC&R amendment and Agreement is approved by the membership, this Development Agreement will be attached as "Exhibit A" and become a covenant running with the land and be fully binding on all parties. In the event the CC&R amendment is not approved by the membership, then this Agreement shall have no force or effect.

### AGREEMENT

In consideration of the mutual promises made herein, the parties agree as follows:

1. Commercial Use: Endorsement of CC&R Amendment. The Subject Property will remain within the Los Ranchitos Homeowners Association. Board will recommend to the membership that a CC&R Amendment be approved allowing commercial use of the Subject Property, with certain enumerated terms and conditions, which will be part of the Amendment. While Board will endorse the Amendment; it will not be responsible for securing the votes for passage. It will cooperate with PRE in that respect.



2. Architectural Control. Subject Property will be subject to the Association's Architectural and Environmental Control Committee (hereinafter referred to as "Committee") approval requirements, including site design, lighting, architectural design, and landscape design. Signage on Subject Property shall be acceptable to the Association as long as it is not above the horizontal eave lines of the roofs of any buildings on Subject Property and consistent with the sign ordinances and regulations of the City of Temecula. The sign layout will be according to page 7 of the Comprehensive Sign Program document dated 6/2/2016 supplied by Gateway to LRHOA Board. There will be 2 tenant monument signs – one at the corner of Bedford Ct and Temecula Pkwy, Project Entry Monument (B) (design per page 10), and one at the corner of La Paz and Temecula Pkwy, Corner Monument Sign (A) – (design per page 9). There will be 1 gas station monument sign (design per page 11). There will be no Pylon signage. There will be no face lit signage on the North or North East side of any structure.
3. Regular Assessment. After the Amendment has been fully adopted, approved and ratified by the Association and the Board, and successfully recorded in the Official Records of Riverside County, California ("Recording"), then once per year, the Association shall assess the Subject Property a regular assessment, as follows: (a) The initial baseline annual assessment for the prorated year shall be (i) the sum of \$8,000 (ii) prorated for the period starting on the Recording Date and ending on the June 30th immediately following the Recording Date; and (iii) is due and payable to the Association not more than ten (10) business days after the Recording date; and (b) subsequent assessments shall be payable to the Association on the first business day of each July, starting on the July 1st, immediately following the Recording Date. Each year's yearly assessment shall be subject to annual increases of the greater of the following: 3% or as prescribed by the year-over-year ("YOY") percent increase in annual average CPI – U ( Consumer Price Index, All Items, for All Urban Consumers, not seasonally adjusted) for Los Angeles, Riverside and Orange Counties as reported for the last full calendar year. As of the time of the writing of this Agreement this data is available at:  
[http://data.bls.gov/pdq/SurveyOutputServlet?series\\_id=CUURA421SA0,CUUSA421SA0](http://data.bls.gov/pdq/SurveyOutputServlet?series_id=CUURA421SA0,CUUSA421SA0)  
By way of example for the annual assessment - the annual assessment will be adjusted on July 1, 2015 by the year-over-year in percent increase in annual average CPI-U from 2013 to 2014. (The 2014 annual average CPI-U was 242.434, up from 239.207 in 2013, resulting in a year-over-year percent increase of 1.35 %.) Therefore, the resulting annual assessment will be 3%. The resulting annual assessment will be the baseline upon which the following year's annual increase will be applied. (i.e., Year 1 – baseline assessment, subject to proration = \$8,000. Year 2 – The greater of either, 3% or the YOY percent increase in annual average CPI-U of 1.35%, multiplied by the previous year's baseline assessment of \$8,000 equals \$8,240. Year 3 – the previous year's assessment of \$8,240 would again be multiplied by the greater of either, 3% or the YOY percent increase in annual average CPI-U, etc). In consideration of the possibility in the future of a drastic single year spike, or decline, in the CPI-U – the rate of change in the assessment may not exceed 2%. By way of example – assuming that, due to inflation, over the



course of future years the annual assessment had risen to 7.5%, and the next year's CPI-U adjustment is calculated (per the above formula) at 4%, the annual assessment will only be allowed to increase by 2% to 9.5%. Conversely, if the next year's CPI-U adjustment is calculated at -3%, it will only be allowed to drop to 5.5%. The Association may change the payment date to a later date, but may not advance it, upon no less than ninety (90) days' written notice given to Owner.

4. Effect of Non-Payment of Assessment. Assessments are delinquent fifteen (15) days after they become due. The Board of Directors shall set the date upon which the annual assessment is due. A late charge of ten percent (10%) of the delinquent assessment shall be imposed upon any delinquent payment. Interest on delinquent assessments and late charges shall be imposed at an annual percentage rate of twelve percent (12%) interest commencing thirty (30) days after the assessments become due. Late charges and interest on past due amounts may be modified by the Board in accordance with any changes permitted by law.
5. Capital Contribution Assessment. PRE will pay to the Association \$60,000.00 upon recordation of the Amendment. This shall be a one time payment as a Capital Contribution Assessment.
6. Compliance with Governing Documents. Owner agrees further to abide by Association's governing documents as they apply to the Subject Property, including, but not limited to, the CC&Rs, Bylaws, rules and regulations.
7. Membership Voting Privileges. Master Property Owners Association agrees that it will be limited to 4 votes as pertain to Bylaw procedures and commensurate votes per acreage as pertain to CC&R procedures.
8. City Zoning. Owner(s) and Lessees leases of the subject property must comply with the land uses and requirements specified within the City of Temecula's Planned Development Overlay-14 specific to this project (LRHOA PDO-14) (as of this writing, not yet in effect), subject however to any more restrictive requirements as set forth in this Development Agreement. If the land uses and requirements within the City of Temecula's Planned Development Overlay-14 are later changed, then Owner(s) and Lessees shall be required to comply with whatever land uses and requirements are the most restrictive - whether found in the Planned Development Overlay District-14 requirements as originally written, or as later amended, or as otherwise expressly set forth in this Development Agreement.
9. Use Restriction. The Project is illustrated here as Exhibit A. The Project is specific to PDO-14 and is divided into 2 Planning Areas – PA1 and PA2. PDO-14 is modified herein as Exhibit B, so as to be specific to the individual parcel uses of this project. Both areas will be managed by a master property owners association whose internal CC&Rs are included as Exhibit G. This Association will be considered a single member and therefore entitled to vote only as one (1) block per Section 7 above. Pacific Real Estate, LLC will be assuming the management



roll for all common elements of the entire project. Any change of tenancy for any food establishment not specifically designated as of the time of the signing of this Development Agreement must be approved by unanimous vote of the LRHOA Board of Directors. Any change of tenancy for any of the other establishments resulting in a change of footprint or façade must be approved by unanimous vote of the LRHOA Board of Directors.

- a. That area defined as PA1 is intended to be separated by virtue of lot line adjustment into 2 parcels [Exhibit C], and will have 2 operating businesses:
  - i. Parcel 1 must initially be developed as a fitness center (currently designated as LA Fitness) per submitted drawings to HOA. Operating hours will be restricted as follows: M-F from 4am to 12am. Weekends from 4am – 10pm. Later use changes to retail have been accommodated in the PDO. Retail operations would be limited to 6am to 10pm.
  - ii. Parcel 2 is intended to be a full-service restaurant, but may be modified to retail. Initial development must be as a restaurant. If functioning as a restaurant, hours of operation will be limited to Sunday thru Thursday opening no earlier than 5:00am and closing not later than 11:00pm. Fridays and Saturdays from 5:00am to Midnight. Ancillary start-up and shut-down operations may extend 1 hour either side of these times. Alcohol sales will be limited to beer and wine. If functioning as retail, hours of operation will be limited to 6am to 10pm.
- b. That area defined as PA2 is intended to be separated by virtue of lot line adjustments into 4 additional distinct parcels [Exhibit C]:
  - i. Parcel 3 is intended to be a gas station w/ carwash and retail store.
    1. The car wash hours shall vary seasonally, but be limited to dawn to dusk operations. Ancillary start-up and shut-down operations may extend 1 hour either side of these times.
    2. The retail store will be permitted to operate 24 hours. There will be no alcohol sales allowed between the hours of 2am and 6am. Alcohol sales at this facility will be limited to beer and wine.
    3. The service station will be permitted to operate 24 hours.
  - ii. Parcel 4 is intended to be additional retail and restaurant operations. If functioning as a restaurant, these facilities will be limited to hours of operation opening no earlier than 5:00 am and closing no later

than 11:00 pm on weekdays. On weekends the hours of operation would be limited to opening no earlier than 7am and closing no later than 12am. No alcohol sales will be permitted from these establishments. If functioning as retail, hours of operation will be limited to 6am to 10pm.

- iii. Parcel 5 is intended to be a Starbucks coffee shop w/ drive-thru. Open-store hours of operation for this store shall be limited to opening no earlier than 4:00 am and closing no later than 1am. Drive-thru operations will be open 24 hours.
  - iv. Parcel 6 is a 2-story Office/Retail structure and is divided here and on Exhibit B into 6a and 6b to illustrate differences in their permitted uses. Lower front space(s) are permitted for Ice Cream (Yogurt) Parlor with restrictions as stated in Exhibit B. In both cases, these facilities will be limited to hours of operation opening no earlier than 6:00 am and closing no later than 10:00 pm.
- c. Delivery Times. With limited exception, for both Planning Areas delivery times shall be restricted to no earlier than 7:00 am and no later than 6:00 pm. Exceptions shall be granted for Gas Station fuel and Starbucks deliveries.
10. Lease Provisions. Owner shall supply to Association separate documentation, for and signed by each lessee, acknowledging their position as being subordinate to the LRHOA CC&Rs and this Development Agreement. Leases shall require tenants to follow rules and regulations of Association to be promulgated for the limited purpose of protecting the quiet enjoyment of Association member's property in the immediate area, so long as such rules and regulations do not contradict, or are more restrictive than this Development Agreement and the CC&Rs, Bylaws and other governing documents of the Los Ranchitos Homeowners Association. Failure of the Association to verify or enforce this provision shall not constitute a waiver.
11. Fines; Quiet Enjoyment. Both PRE and lessees of Property shall be subject to the imposition of fines, as determined by the Board of Directors, for violation of the provisions contained herein, Association rules directed specifically to protect the quiet enjoyment of adjacent and nearby property owners within the Association, or Association governing documents applicable to the Subject Property.
12. Building and Structure Design. All buildings and ancillary structures shall conform in scale, structural design and decoration to those elevation plans submitted to the Board and which are included here as Exhibit D. If not included by the final execution of this document prior to voting, elevation plans for Parcel 2 in Planning Area 1 will have to be submitted for unanimous Board approval prior to construction.



13. Emergency Ingress/Egress. The Ingress/Egress gate on Vallejo is for emergency access only, will remain closed, and will be controlled by a Knox Box. Gate design is represented here as Exhibit F.
14. Perimeter Landscaping and Hardscaping Screening. The entire perimeter along Vallejo Rd and La Paz Rd, with the exception of the emergency only ingress/egress point on Vallejo Rd, shall conform to those landscape plans as submitted to, and permitted by, the City, with the following exceptions. Perimeter landscaping shall be designed and maintained in such a manner as to ensure maximum screening of development from neighboring residences. A berm of varied heights will run the full length of La Paz and Vallejo, but without exception, berm shall be no smaller than 24" in height. Along La Paz and Vallejo, up to the emergency gate and terminating shortly thereafter (as designated on Exhibit E) there shall be a masonry wall built upon the berm to be no shorter than 6' at any point. The berm will diminish to 0' high on both sides of the emergency gate, but wall will increase in height to 8' accordingly. Emergency gate will be 8' high and per design as shown in Exhibit F. At designated point, block wall will connect to retaining wall and from that point on shall be topped by 6' wrought iron fencing to connect to Julian Charter perimeter fence along their Eastern driveway. The decomposed granite (dg) trail which is scheduled to run the entire length of Vallejo shall be multi-purpose. The horse trail shall be fenced on both sides by a 2-rail, 30" high, white polyvinyl fence. It shall be 8 feet wide between fence posts and shall be composed of a minimum of 4" of compacted decomposed granite, edged with a ¾" thick weed border between the posts and running along both sides the full length of the trail. This trail shall be designed so as to connect to, and be consistent with, the horse trail to be constructed in front of Julian Charter School and the Hope Lutheran Church project. All maintenance of the trail as well as all other common areas of the project shall be the responsibility of PRE. This trail will conform to City trail requirements. Perimeter landscape and hardscape construction shall be the first phase of the project and be completed before any project structure construction begins.
15. Julian Charter Horse Trail and Street Improvements. PRE has agreed to manage the construction of, and share in one third (1/3) of the costs for - the demolition of existing sidewalk curb, gutter and sidewalk, continuation of the horse trail, and street improvements in front of Julian Charter school and adjacent parking lot, connecting the trail to the Gateway project and the new Hope Lutheran Church.
16. Landscape Maintenance. Landscaping shall be maintained in such a manner as to ensure maximum health and full growth. Any diseased trees or shrubbery shall be promptly replaced same species of comparable stature.
17. Possible Additional Traffic Control Measures. If the city insists upon additional traffic control measures at the intersection of Ynez and La Paz, PRE (or future managing agency) agrees to adamantly oppose signalization and only support a single lane round-about, traffic circle.



18. Additional Restrictions. Additional restrictions with regards to the actual construction upon the Site are as follows:
- a. Diligent Efforts to Complete Approved Construction. Owner, once construction is started, shall make diligent efforts to complete construction in a reasonable time, following a reasonable construction schedule.
  - b. Construction Hours. All construction work or preparation for construction work of any kind occurring on any portion of the Subject Property, including the arrival of workers, equipment maintenance and refueling, deliveries, and starting of equipment, shall be done only between the hours from 7:00 a.m. and 5:00 p.m., Mondays through Saturdays, inclusive. On-site work or work preparation may not be conducted on any Sunday or any holiday observed by the City of Temecula, or at any other times proscribed by the City of Temecula. All workers must be off the Subject Property and outside of the Association's boundaries within 45 minutes after completion of workday.
  - c. Conduct of Personnel. On the site and adjacent areas: (1) no drug (other than pursuant to a prescription) or alcohol will be used; (2) no pets or animals of any kind will be permitted; (3) all personnel will exhibit reasonable decorum in dress with recognition of the work to be performed; (4); no loud music will be allowed.
  - d. Stockpiles and Storage of Materials. Owner agrees it shall not stockpile or store dirt, soil, construction materials, or any other kind of material or substance on any portion of the Association's property, except the Subject Property. Said materials or substances stored on the Subject Property during construction shall be maintained in a clean and neat manner, and shall not be allowed to constitute a nuisance. Owner and its contractors must complete reasonable clean up at end of each day. All construction materials shall be secured at cessation of daily activity, and stored in enclosures as is reasonably feasible.
  - e. Trash. Trash containers for construction activities must not be overflowing and lids must be secured. All debris must be regularly removed, and in no event less than twice weekly.
  - f. Dust Control. Owner shall provide adequate dust control to preclude causing a nuisance to the homeowners living in the Association. If adequate dust control measures are not implemented within forty-eight (48) hours of notice to Owner, Association may order a water truck to provide adequate dust control, and Owner shall reimburse Association for its actual costs incurred within ten (10) days after written request therefore.



- g. Fencing. Before starting construction, Owner shall install construction fencing around the perimeter of the Subject Property to secure the site and prevent debris from migrating onto adjacent property.
19. Documents. Owner shall supply to Association separate documentation, for and signed by each lessee, acknowledging their position as being subordinate to the LRHOA CC&Rs and this Development Agreement. If requested, Owner shall provide to the Association, at the Owner's expense, the following documents referenced below under subsections a - d. The Association reserves the right to request and require additional documents consistent with the Association's architectural control requirements.
- a. Copies of all plans and applications submitted to the City of Temecula and/or County of Riverside pursuant to the construction described herein, including without limitation building plans, architectural plans, landscaping plans, development agreements and use permits, etc., at the time such are submitted to the City and/or County.
  - b. Copies of marketing materials.
  - c. Copies of all bonds or letters of credit issued in favor of the project, regardless of whether or not the Association is the named beneficiary, including but not limited to, Completion Bonds.
  - d. Color boards showing all exterior surface colors and combinations.
20. No Precedent. Should this Development Agreement be reached with regard to commercial development of Subject Property, it will not be considered a precedent or open the possibility of any other land in the Association being considered for commercial development.
21. Indemnification; Maintenance; Warranties. Owner shall indemnify and hold Association, its members, directors, employees, servants, agents, attorneys, successors and assigns harmless from all claims, demands, liability and/or expenses (including without limitation attorneys' fees) arising out of or encountered in connection with the performance of work performed by Owner, its agents, employees and/or vendors, pursuant to its development of the Subject Property, whether such claims, demands, liability and/or expenses are caused by Owner, or its officers, agents, employees, contractors, or subcontractors, or others employed by same, or products installed on the project by said persons/entities, excepting only such injury or harm as may be caused solely and exclusively by Association's gross negligence or willful misconduct. Such indemnifications shall extend to claims, demands, expenses and/or liabilities occurring after completion of development of the Subject Property as well as during the work's progress. Further, Owner, expressly covenants, warrants and agrees that all grading, design, construction, maintenance and continued use of the improvements on the Subject Property shall be in accordance with generally accepted design, construction, maintenance and repair practices and in compliance with all local, state and



federal regulations, ordinances, laws and building codes. Association's consent to the terms of this Agreement shall not be construed as an acknowledgement that the development and/or improvements comply with applicable laws, and Owner shall be obligated to obtain any necessary building and grading permits and inspections and to verify compliance with all requirements imposed by law.

22. Release and Covenant not to Sue. The Owner agrees (i) that the Association and its Association Agents shall be released from any claim or liability for damage or injury that the Owner may suffer as a direct or indirect result of Association's failure to obtain approval of the Amendment (collectively, "Damages"), and (ii) not to sue the Association or its Association Agents for such Damages. Notwithstanding the foregoing, if the Amendment and this Agreement are approved, the Association shall provide the original, executed and notarized Amendment and this Agreement to the Owner and the Owner shall record the same or cause the same to be recorded in the Official Records of the Riverside County Recorder.
23. Restoration. If approval and recording of the Amendment does not occur, Owner agrees and promises that it shall use diligent efforts to repair and restore the Subject Property that has been impacted or affected by construction or pre-construction efforts, including irrigation systems and landscaping, and removing any materials, supplies, improvements or related items from the Subject Property.
24. Binding on Successors. This Agreement is binding upon, inure to the benefit of, and be enforceable by each Party and its respective legal representatives, successors, and assignees, and upon recordation, the Amendment shall be a covenant running with the land.
25. Entire Agreement; Amendment. This Agreement (including all exhibits referred to in this Agreement) and the Amendment contain the entire agreement of the Parties with respect to the matters contained herein and therein, and no prior or contemporaneous agreement, oral or written pertaining to such matters shall effective for any purpose. This Agreement may be modified, waived or amended only upon the written agreement of the Parties, which shall be subject to any prior approval of the Association, the Board and/or the Members required by the CC&Rs or the other Governing Documents, and any amendment of the CC&Rs that may be required. The Association, the Board and/or the Members are not obligated to endorse and/or approve any further amendment to the CC&Rs with respect to the Subject Property, except as provided in this Agreement and/or the Amendment.
26. Attorneys; Fees. In any legal or equitable proceeding between the Parties related to this Agreement, the prevailing Party in such proceeding, as determined by the final arbiter thereof, shall be awarded, in addition to any applicable damages, injunctive or other relief, and its reasonable attorneys' fees.



27. Mediation. Prior to commencement of any proceeding or litigation by either Party, the Parties shall first attempt to settle any dispute or claim by mediation in accordance with the then-current rules of the Judicial Arbitration and Mediation Service ("JAMS") at a JAMS location nearest to Temecula, California, unless the Parties mutually agree otherwise. A demand for mediation shall be made by written notice within a reasonable time after the dispute or claim arises or is discovered but in no event later than the date on which the dispute or claim would be barred by the applicable statute of limitation.
28. Authority. Each of the Parties represents and warrants to the other that the individual signing this Agreement on its behalf is duly authorized by such Party to execute and deliver this Agreement and such execution is binding on such Party. The signature of each such individual shall be acknowledged as set forth in the acknowledgements attached hereto.
29. Governing Law. This Agreement is governed by California law without regard to conflicts of laws principles. Jurisdiction for any dispute or claim arising in connection with this Agreement shall be in only in and with the courts of the State of California, and venue shall be exclusively in Riverside County, California.
30. Construction of Agreement. This Agreement has been negotiated at arm's-length by the Parties and shall not be construed for or against any Party on the grounds that such Party drafted the Agreement or any specific provision.
31. Gender; Headings. All references to any gender shall include all other genders and the singular shall include the plural and vice versa. All headings of articles, paragraphs and subparagraphs are for convenience only and do not limit or amplify such provisions.
32. Notices. Any notices or other communications between the Parties shall be done in writing and may be mailed by U.S. certified mail, return receipt requested, postage prepaid, and deposited with the U.S. Postal Service, or may be delivered by hand or by any other method or means permitted by law. For purposes hereof, a notice shall be deemed delivered upon the first to occur of the following: (i) personal delivery thereof, (ii) delivery by courier or a nationally-recognized overnight delivery service, (iii) delivery refusal, or (iv) 48 hours following deposit of such notice with the U.S. Postal Service.
33. Severability. Whenever possible, each provision of this Agreement including exhibits shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision, paragraph, section, sentence, clause or phrase herein or any exhibit hereto becomes, or is held by any court of competent jurisdiction to be, illegal, null or void, against public policy, or otherwise unenforceable for any reason, the remaining provisions, paragraphs, sections, sentences, clauses or phrases herein or any exhibit hereto shall not be affected thereby and shall remain in full force and effect.

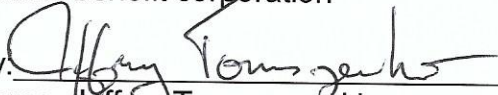
34. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Electronically reproduced or displayed signatures are valid as original signatures for all purposes of this Agreement.
35. Ballot and Voting Costs. The Owner is responsible for all costs associated with the creation of this Agreement. The Owner shall pay the Association for any out-of-pocket expenses actually paid by the Association in connection with the preparation of this Agreement or in connection with voting process, including, without limitation, the ballot, postage, legal fees, etc. (collectively, the "Voting Costs"). The reimbursement to the Association by the Owner shall be made within thirty (30) days receipt of a written invoice by the Owner with proper back-up documents (invoices, etc.). The Association shall not incur more than Five Thousand Dollars (\$5,000) in Voting Costs reimbursable to the Association pursuant to this Section without the Owner's express prior written approval.

SIGNATURES AND EXHIBITS TO FOLLOW



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

LOS RANCHITOS HOMEOWNERS  
ASSOCIATION, a California nonprofit  
mutual benefit corporation

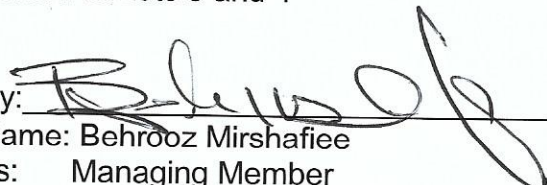
By:   
Name: Jeffrey Tomaszewski  
Its: President

Date: Nov 7<sup>th</sup> 2016

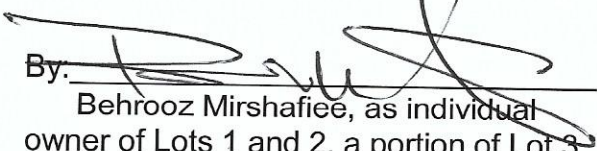
By:   
Name: Neal Ziff  
Its: Secretary

Date: 11/7/16

Pacific Real Estate, LLC, a California  
limited liability company, as owner of a  
portion of Lots 3 and 4

By:   
Name: Behrooz Mirshafiee  
Its: Managing Member

Date: 11/11/16

By:   
Behrooz Mirshafiee, as individual  
owner of Lots 1 and 2, a portion of Lot 3

Date: 11/11/16

## EXHIBIT LIST

Exhibit A – Planning Areas

Exhibit B – PDO 14

Exhibit C – Parcel Map

Exhibit D – Elevations of each parcel

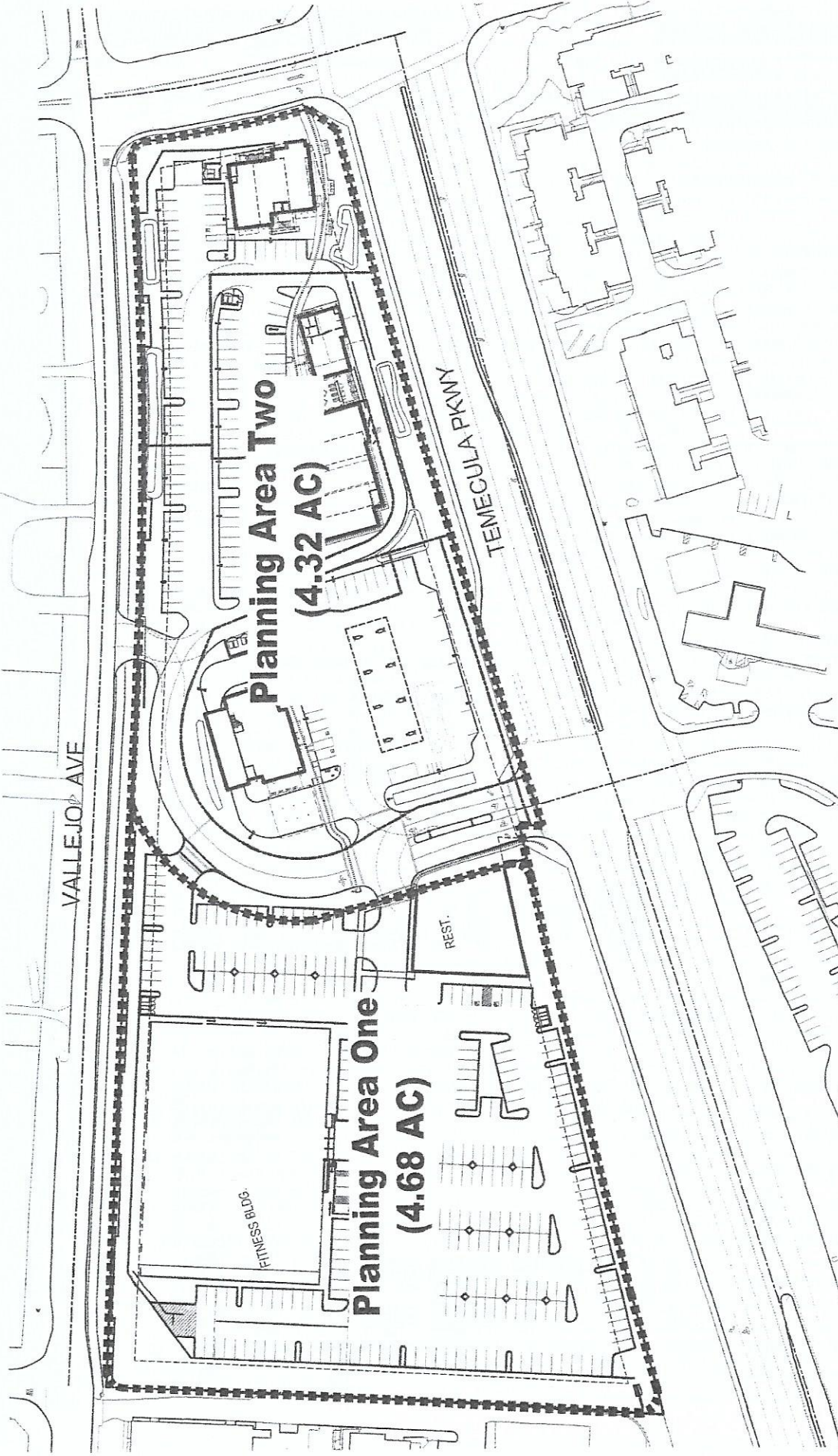
Exhibit E – Perimeter Wall/Bermings/Fencing layout

Exhibit F – Emergency Gate rendering

Exhibit G – Gateway Internal CC&Rs



# Exhibit A





## EXHIBIT B

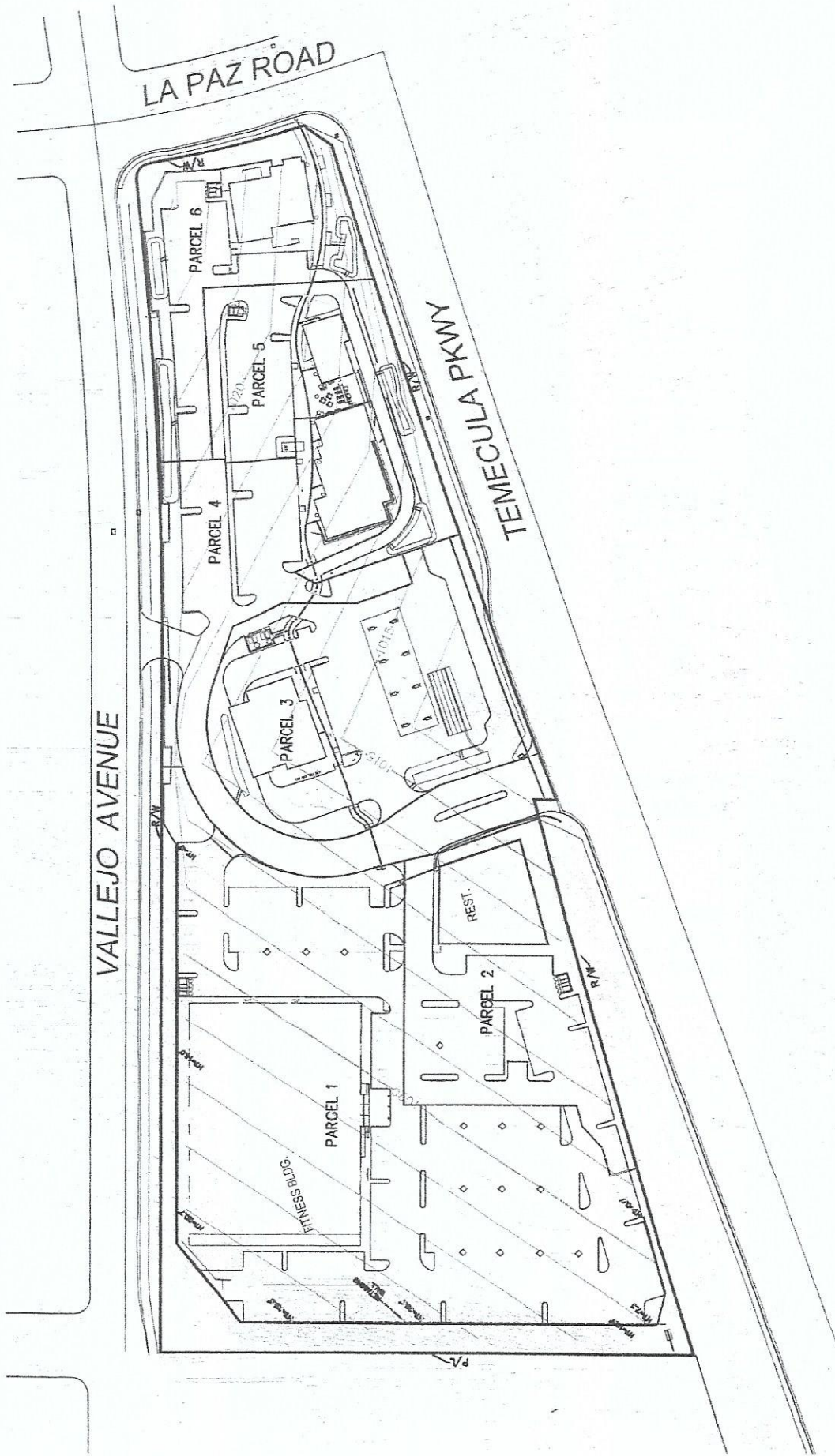
**Table 1 - LRHOA PDO-14**  
**Schedule of Permitted Uses**

Description of Use	City Guide	Planning Area One		Planning Area Two				
		Parcel 1	Parcel 2	Parcel 3	Parcel 4	Parcel 5	Parcel 6a	Parcel 6b
		Fitness Center	Sit-Down Restaurant	Gas Stn / Carwash / Conv Store	Retail	Starbucks Drive through	Office upstairs	Retail downstairs
<b>A</b>								
Aerobics/dance/gymnastics/martial arts (<5,000sf)	P	P	P		P	P	P	P
Antique sales	P	P	P		P	P	P	P
Apparel and accessory shops	P	P	P		P	P	P	P
Automobile service stations/car wash/convenience store <sup>1</sup>	C			C <sup>5</sup>				
<b>B</b>								
Bakery retail	P	P	P		P	P		C <sup>4</sup>
Banks/financial <sup>1</sup>	P	P	P		P	P	P	P
Barber/beauty shops	P	C <sup>1</sup>	C <sup>1</sup>		C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>
Bicycle (sales, rental, services)	P	P	P		P	P		P
Bookstores	P	P	P		P	P	P	P
<b>C</b>								
Candy/confection	P	P	P		P	P		C <sup>4</sup>
Clothing sales	P	P	P		P	P	P	P
Computer sales/service	P	P	P		P	P	P	P
Congregate care housing for the elderly <sup>2</sup>	P	P	P					
Convenience market (with the sale of alcoholic beverages) <sup>1</sup>	C			C <sup>6</sup>				
<b>D</b>								
Daycare centers	P	P	P		P	P		P
Delicatessen	P	P	P		P	C <sup>4</sup>		C <sup>4</sup>
Drug store/pharmacy	P	P	P		P	P		P
Dry cleaners	P	P	P		P	P		P
<b>F</b>								
Financial/insurance/real estate offices	P	P	P		P	P	P	P
Floor covering sales	P	P	P		P	P	P	P
Florist	P	P	P		P	P	P	P
<b>G</b>								
General merchandise/retail store (<10,000sf)	C	P	P					
Grocery store, retail	C	P						
<b>H</b>								
Health and exercise clubs	C	P	P		P	P	P	P
Health food store	C	P	P		P	P	P	P
Health care facility	P	P	P					
Hotel/motel	P	C2	C2					
<b>I</b>								
Ice cream parlor	P	P	P		P	P		C <sup>4</sup>
Interior decorating service	P	P	P		P	P	P	P
<b>L</b>								
Locksmith	P	P	P		P	P	P	P
<b>M</b>								
Medical equipment sales/rental	P	P	P		P	P	P	P
<b>O</b>								
Office equipment/supplies/services								
Offices, administrative, corporate headquarters and professional services including, but not limited to, business law, medical, dental, veterinarian, chiropractic, architectural, engineering, real estate and insurance	P	P	P		P	P	P	P
<b>P</b>								
Parcel delivery services	P	P	P		P	P	P	P
Personal service shops	P	C <sup>1</sup>	C <sup>1</sup>		C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>
Pet grooming/pet shop	P	P	P		P	P		P
Photography studio	P	P	P		P	P	P	P
Postal services	P	P	P		P	P	P	P
<b>R</b>								
Restaurant, drive-thru/fast food	C					C <sup>3</sup>		
Restaurants and other eating establishments (with or without the sale of alcohol)	P		P	C <sup>7</sup>	P	C <sup>4</sup>		C <sup>4</sup>
Specialty market	P	P	P		P	P		P
Sports and recreation facility	C	P	P					
Swimming pool supplies/equipment sales	P							
<b>T</b>								
Tailor	P	P	P		P	P		P
<b>W</b>								
Wine tasting shop with or without product sale for off-site consumption (Department of Alcoholic Beverage Control Type 02 only)	C	P	P		P	P		P
Wine tasting shop with or without product sale for off-site consumption (Department of Alcoholic Beverage Control License Types other than Type 02)		P	P		P	P		P

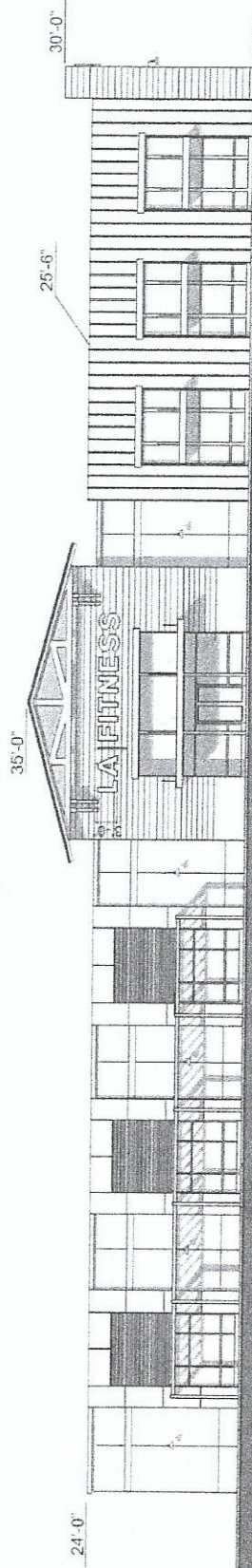
C<sup>1</sup> - Massage parlor must be approved by BoardC<sup>2</sup> - as long as it abides by the guidelines within the PDO i.e. only 2 stories visible from vallejo - Board to approve architectureC<sup>3</sup> - Starbucks, Coffe Bean and Tea Leaf, Peets or equivalent only - No fast food establishments (QSR) - new Starbucks "Evenings" model OKC<sup>4</sup> - No fryer/grill/bbq requiring ventilation. Subway/Jersey Mikes or equivalent ok. Frozen Yogurt/Juice, Smoothie shops okC<sup>5</sup> - Fuel only - No Mechanical ServiceC<sup>6</sup> - Alcohol sales not allowed 2am to 6amC<sup>7</sup> - No fryer/grill/bbq requiring ventilation. Subway/Jersey Mikes or equivalent ok. Frozen Yogurt/Juice, Smoothie shops ok. Ventilated pizza oven w/ ventilation scrubber OK. Any changes requires Board approval



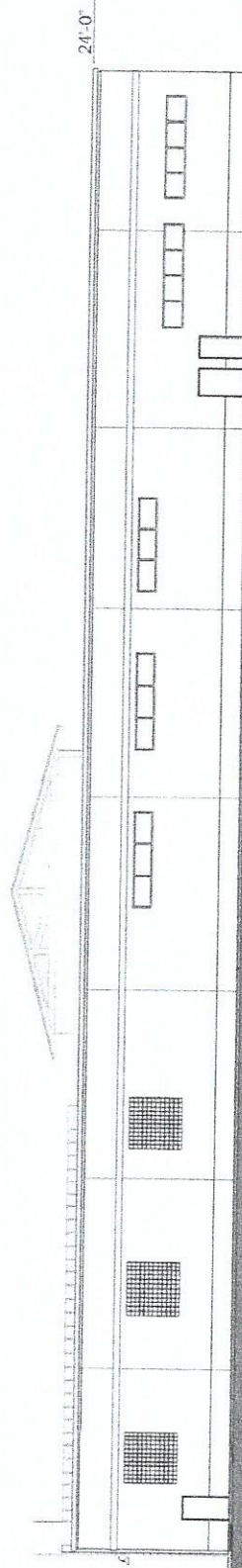
# Exhibit C



# Exhibit D - Elevations



SOUTH ELEVATION



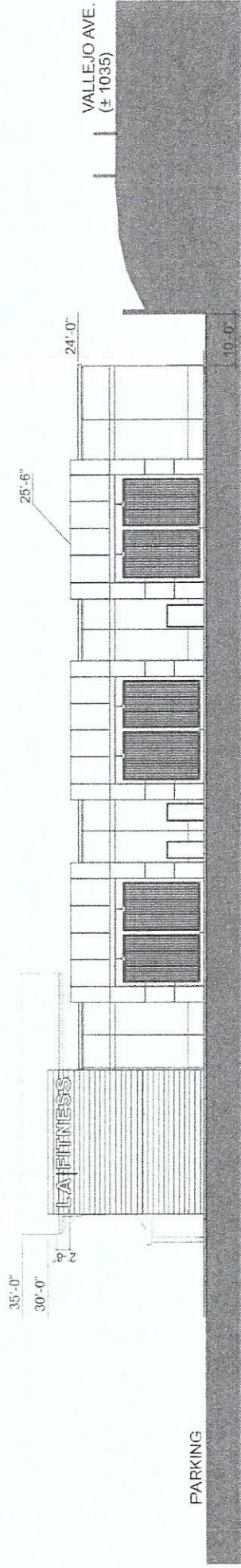
NORTH ELEVATION



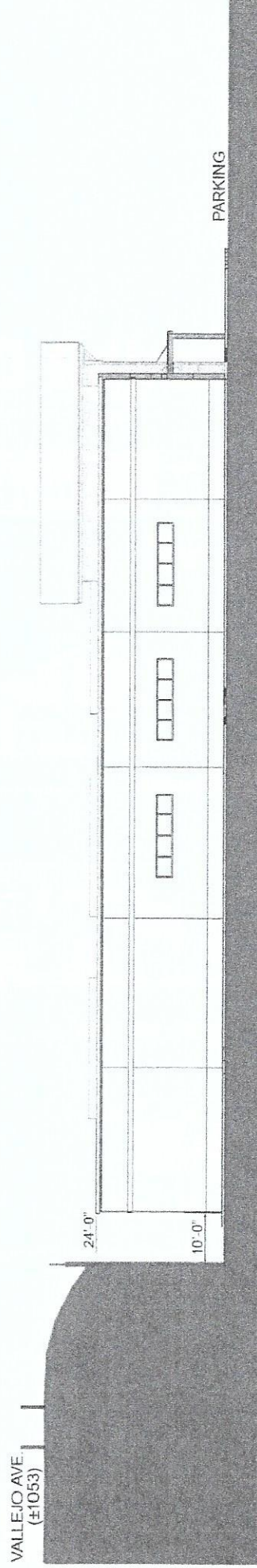
PARCEL 1



# Exhibit D - Elevations



EAST ELEVATION



WEST ELEVATION



PARCEL 1

# Exhibit D - Elevations



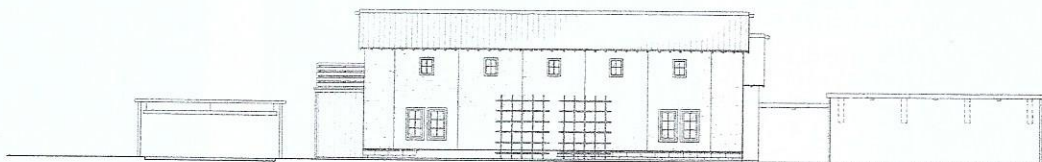
BUILDING A SOUTH ELEVATION

1/8" = 1'-0"



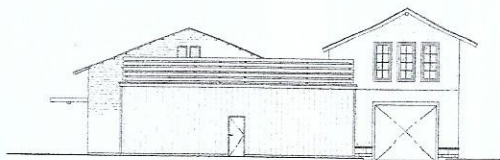
BUILDING A WEST ELEVATION

1/8" = 1'-0"



BUILDING A NORTH ELEVATION

1/8" = 1'-0"



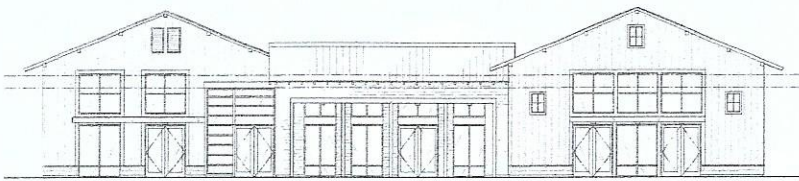
BUILDING A EAST ELEVATION

1/8" = 1'-0"

## PARCEL 3

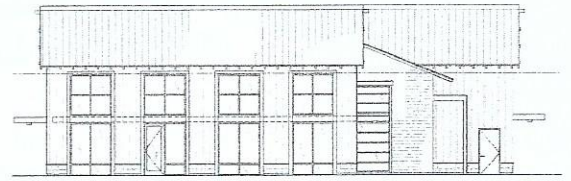


## Exhibit D - Elevations



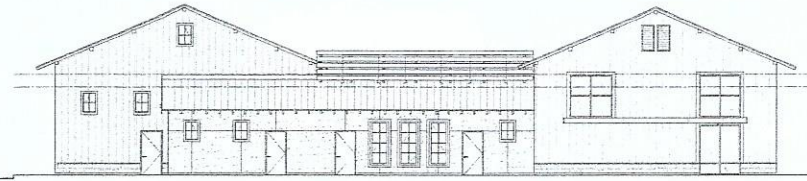
BUILDING B NORTH ELEVATION

1/8" = 1'-0"



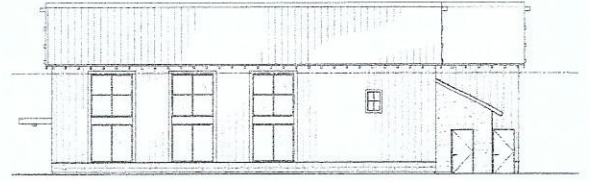
BUILDING B EAST ELEVATION

1/8" = 1'-0"



BUILDING B SOUTH ELEVATION

1/8" = 1'-0"

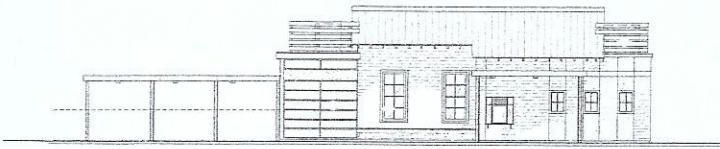


BUILDING B WEST ELEVATION

1/8" = 1'-0"

# PARCEL 4

# Exhibit D - Elevations



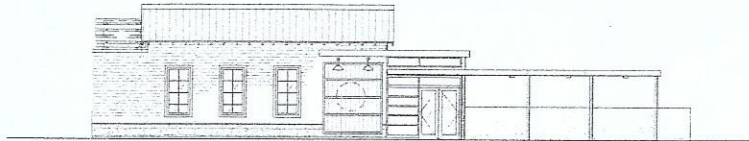
BUILDING C SOUTH ELEVATION

1/8" = 1'-0"



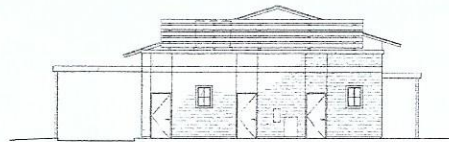
BUILDING C WEST ELEVATION

1/8" = 1'-0"



BUILDING C NORTH ELEVATION

1/8" = 1'-0"



BUILDING C EAST ELEVATION

1/8" = 1'-0"

# PARCEL 5

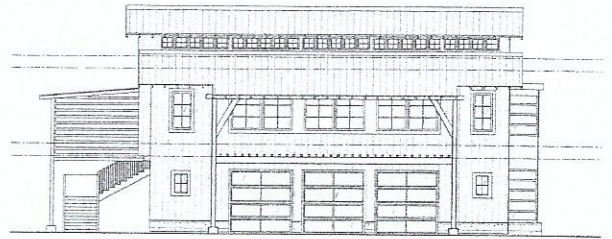


## Exhibit D - Elevations



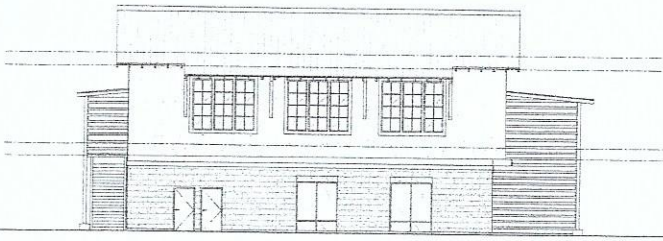
BUILDING D WEST ELEVATION

1/8" = 1'-0"



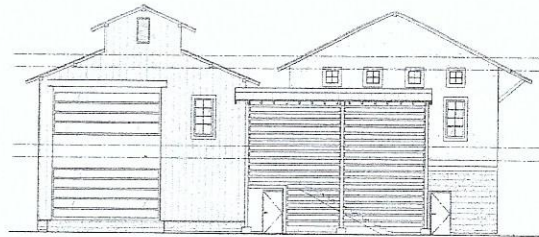
BUILDING D SOUTH ELEVATION

1/8" = 1'-0"



BUILDING D NORTH ELEVATION

1/8" = 1'-0"

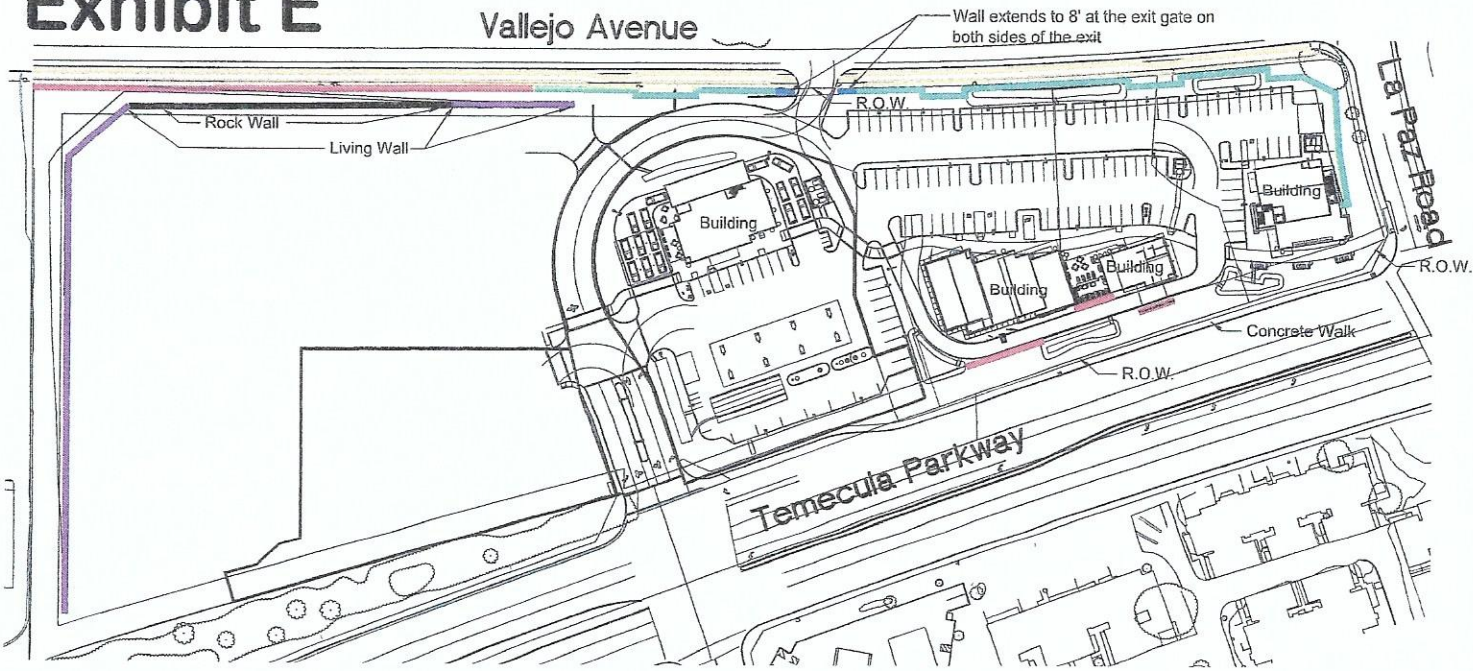


BUILDING D EAST ELEVATION

1/8" = 1'-0"

# PARCEL 6

# Exhibit E



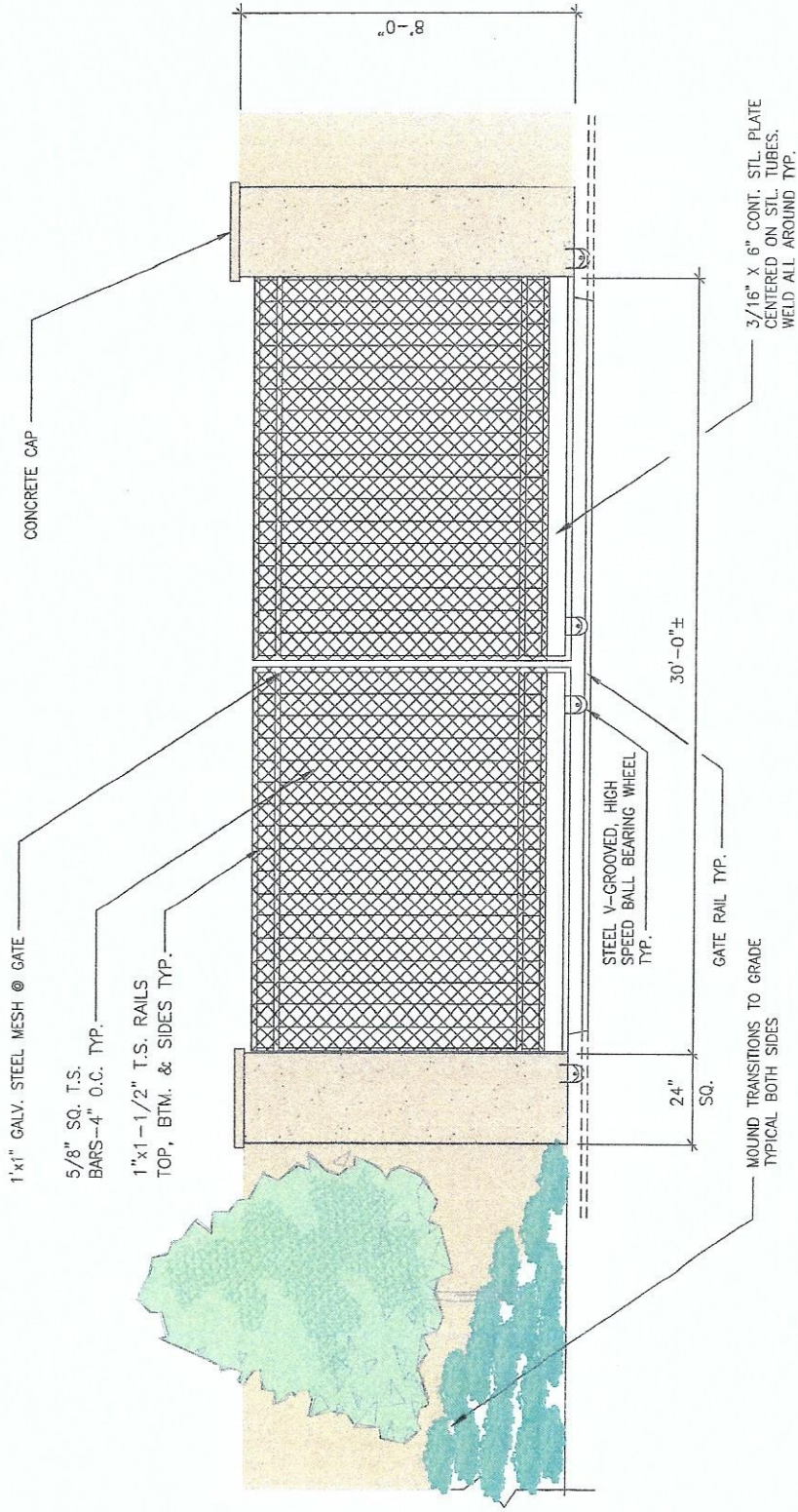
## Wall Legend

- 8' High @ exit gates
- 6' High Wall on a 2' Mound
- 4' High Wall
- 6' High Tubular Steel Fence on a 2' mound w/ vines
- 2 Rail Fence
- Living Wall





# Exhibit F



## Vallejo Fire Exit Gate

# **Exhibit G**

## **Temecula Gateway Project Internal CC&Rs**



**RECORDING REQUESTED BY,  
AND WHEN RECORDED, MAIL TO:**

Pacific Real Estate LLC  
Attn: Tony Dehbozorgi  
886 Oak Valley Parkway  
Beaumont, CA 92223

---

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**(Temecula Gateway Property Owners Association)**

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1.8	“Common Assessments” .....	2
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1.13	“Governing Documents” .....	3
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1.16	“LA Fitness Lease” .....	4
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# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

## (Temecula Gateway Property Owners Association)

### PREAMBLE

**This Declaration of Covenants, Conditions, and Restrictions** (this "Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by Pacific Real Estate LLC, a California limited liability company ("Pacific Real Estate"), and B & P Oil Services, a California corporation ("B & P" and together with Pacific Real Estate, the "Declarant") and Behrooz Mirshafiee, a single man, ("Mirshafiee") with reference to the following facts:

- A. Pacific Real Estate is the owner of "Parcel 3", "Parcel 4", "Parcel 5" and "Parcel 6" of Parcel Map 368862 recorded on \_\_\_\_\_, 2016 in Book \_\_\_\_ Page \_\_\_\_ of Maps in the Official Records of the County of Riverside, California (the "Parcel Map"). Such parcels (individually "Parcel 3", "Parcel 4", "Parcel 5" and "Parcel 6" and collectively, the "Pacific Real Estate Parcels"), which are more particularly described on Exhibit A attached hereto, which are located in the northwest corner of Temecula Parkway and La Paz Road in the City of Temecula, County of Riverside, State of California.
- B. B & P is the owner of "Parcel 1" of the Parcel Map, and Mirshafiee is the owner of "Parcel 2" of the Parcel Map. Such parcels (individually "Parcel 1" and "Parcel 2" and collectively, the "B & P Parcels"), which are more particularly described on Exhibit B attached hereto, are located adjacent to the parcels described in Preamble section A above.
- C. The Pacific Real Estate Parcels and the B & P Parcels (each, a "Parcel," and together, the "Parcels") are intended to be developed as an integrated retail shopping center to be commonly known as "Temecula Gateway", as shown on the site plan attached hereto as Exhibit C (the "Shopping Center").
- D. Declarant makes this Declaration in order for each Parcel to receive a reciprocal easement for ingress and egress over and through the easement area described in this Declaration, together will reciprocal parking easements with respect to the Pacific Real Estate Parcels, and to otherwise set forth certain rights and obligations with respect to the Parcels, including, maintenance obligations, insurance obligations and restricted uses.
- E. Declarant hereby establishes by this Declaration a plan for the individual ownership of the Parcels, as well as the co-ownership by the individual Owners, as tenants in common and as hereinafter set forth, of those portions of the Shopping Center hereinafter defined and referred to as the "Easement Areas."

**NOW, THEREFORE**, Declarant hereby declares that the Shopping Center is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and



improved subject to the following covenants, conditions, restrictions, and easements, all of which are declared and agreed to be established and agreed upon for the purpose of protecting the value of the Parcels. The provisions set forth in this Declaration are imposed upon the Owners for the benefit of the Parcels and all Owners thereof. The provisions set forth in this Declaration shall be a burden upon and a benefit to the respective Parcels, the Owners thereof, and their respective successors and assigns. All covenants set forth in this Declaration are intended as and are declared to be covenants running with the land as well as equitable servitudes upon the land. Declarant further declares that it is the express intent that this Declaration comply with California Civil Code Section 6614.

## ARTICLE I

### DEFINITIONS

1.1 “Articles” shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 “Assessment” shall mean any Common Assessment, the Los Ranchitos Assessment, Capital Assessment or Special Assessment imposed in accordance with this Declaration.

1.3 “Association” shall mean and refer to Temecula Gateway Property Owners Association, a California mutual benefit corporation, the Members of which shall be the Owners of the Shopping Center.

1.4 “Building Areas” shall mean the areas of the Shopping Center within which buildings (which for the purpose of this Declaration shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions) are constructed, placed or located. Each Building Area is shown on the site plan attached hereto as Exhibit C.

1.5 “Board” or “Board of Directors” shall mean and refer to the governing body of the Association.

1.6 “Bylaws” shall mean and refer to the Bylaws of the Association as amended from time to time.

1.7 “Capital Improvement Assessment” shall mean a charge against each Owner and such Owner’s real property, representing the pro-rata portion of (a) reserves in amounts approved by the Board or Declarant, as applicable, for the replacement of improvements and equipment within the Easement Area, and (b) any extraordinary expense of the Association, which the Association may from time to time authorize in accordance with Article IV, paragraph 4 hereof.

1.8 “Common Assessments” shall mean that portion of the cost of ordinary maintenance, improvements, repairs, operation, and management of the Shopping Center which is to be paid by each Owner as determined by the Association to satisfy the Common Expenses and each Owner’s obligation to reimburse Declarant pursuant to Section 4.1 below.



1.9 “Common Expenses” shall mean and include all sums designated as Common Expenses by or pursuant to the Governing Documents and any other expenses of the Association incurred for activities of the Association concerning the Shopping Center authorized by the Governing Documents or the Board. Common Expenses include, by way of example and not limitation, payments for insurance and property taxes on the Easement Area (if separately assessed from the underlying Parcel(s)); payments for maintaining, repairing, and operating the Easement Area and the improvements and equipment located in the Easement Area; payments for maintaining, repairing, and operating other aspects of the Shopping Center, including management fees with a management company approved by the Association, as such expenses are incurred by the Association pursuant to the Governing Documents or at the direction of the Board in accordance with the Governing Documents.

1.10 “Easement” or “Easements” shall mean the easements for ingress, egress, and parking purposes being granted herein, as more particularly described in Article VII of this Declaration.

1.11 “Easement Area” shall mean those portions of, and facilities within, the Parcels from time to time which are intended for the common use of the Users of each Parcel, including, by way of example but without limitation, curb cuts, roadways, parking areas, aisles, driveways, walkways, sidewalks, loading zones, access and interior roads, drainage systems, utility systems, bus stops, Utility Facilities, to the extent located (a) outside of any tenant’s/occupant’s premises, (b) underground or (c) inside any tenant’s/occupant’s premises but not exclusively serving such tenant’s occupant’s premises, irrigation systems, lighting facilities and landscaping. The Easement Area, as initially contemplated, is shown on the site plan attached hereto as Exhibit C. The Easement Area shall not include any permanently enclosed buildings or structures located within the Shopping Center.

1.12 “Floor Area” shall mean the actual number of square feet of space contained within the areas of the Shopping Center from time to time available or held for the exclusive use and occupancy of Occupants of the Shopping Center (including, without limitation, any building or permanently enclosed structure in the Shopping Center and any loading and trash areas within the building lines, any mezzanine areas, and any patios or other outdoor seating areas), regardless of whether such areas are built-out, rented or occupied. Floor Area shall be measured pursuant to ANSI/BOMA Z65.5-2010 Standard Methods of Measurement (Retail Buildings) (Exterior Gross Area), with all occupant voids being deducted in the calculation of Floor Area. Floor Area shall not include arcades, pop-outs, bump-outs, stairs, staircases, passageways, shafts, leave outs, and other architectural elements, and, except as set forth above, any areas used for truck parking, exterior loading or unloading, trash storage or sidewalks.

1.13 “Governing Documents” shall mean and include this Declaration as it may be amended from time to time; the exhibits, if any, attached hereto; the Articles; the Bylaws; and the rules and regulations to which the Members are subject, as established by the Association from time to time.

1.14 “Institutional Lender” shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any real property within the Shopping Center.



1.15 “LA Fitness” shall mean Fitness International, LLC, a California limited liability company or any successor, assign, licensee, sublessee, or concessionaire of such party pursuant to the LA Fitness Lease.

1.16 “LA Fitness Lease” shall mean the Retail Lease dated as of May, 2016 between B & P as landlord and LA Fitness as tenant, for the LA Fitness Premises.

1.17 “LA Fitness Premises” shall mean the portion of Parcel 1 leased to LA Fitness pursuant to the LA Fitness Lease, together with the building located thereon (the “LA Fitness Building”).

1.18 “Los Ranchitos Assessment” shall mean any assessment paid by the Association to the Los Ranchitos Homeowners Association (the “Los Ranchitos HOA”) pursuant to the Senior CC&R’s.

1.19 “Member” shall mean and refer to every person or entity entitled to membership in the Association as provided herein.

1.20 “Mortgage” shall include a deed of trust as well as a mortgage.

1.21 “Mortgagee” shall include a beneficiary or holder of a deed of trust as well as a mortgagee.

1.22 “Mortgagor” shall include the trustor of a deed of trust as well as a mortgagor.

1.23 “Occupant” shall mean the Owner or any Person entitled at any time to the use or occupancy of any portion of a Parcel or Parcels under this Declaration or under any lease, license, concession agreement, or other instrument or arrangement.

1.24 “Owner” or “Owners” shall mean and refer to the record holder or holders of title, if more than one, of a Parcel. This shall include any person having a fee simple title to any Parcel, and shall include contract sellers, but shall exclude persons or entities having any interest merely as security for the performance of an obligation. Provided that a Parcel which is sold under a recorded contract of sale to a purchaser who occupies the associated Parcel, the occupying purchaser, rather than the fee owner, shall be considered the “Owner” as long as said purchaser occupies the Parcel as a contract purchaser.

1.25 “Person” shall mean a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.26 “Property” or “Properties” shall mean and include the real property described above and all improvements erected thereon and all property, real, personal, or mixed, intended for or used in connection with the Shopping Center.

1.27 “Senior CC&R’s” shall mean the Declaration of Restriction which was recorded in the Office of the County Recorder of Riverside County, California on October 11, 1966, as Document No. 100757, and any other amendments, annexations, extensions or similar



documents containing restrictions to which the Property is subject that appear of record and are derived therefrom.

1.28 “Share” shall mean the percentage interest in and to the Easement Area attributed to and appurtenant to each Parcel determined in accordance with this Section 1.29. Each Owner with or accepting title to a Parcel agrees that such percentage interest represents the reasonable and fair allocation to that Owner of the benefits received by such Owner pursuant to this Declaration and the burdens imposed on such Owner pursuant to this Declaration, regardless of the manner in which the Parcel is used. Upon the construction and occupancy of improvements on the first Parcel, and each Parcel thereafter, and as necessary in the future to take into account alterations to any of such improvements, the Share shall be adjusted from time to time in accordance with the relative Floor Area of such improvements, provided that in all events the Los Ranchitos Assessment shall be allocated among the Parcels in accordance with Exhibit D attached hereto, which is based upon the ratio of the square footage, as specified on the Parcel Map, of each Parcel in proportion to the total square footage of all Parcels within the Shopping Center. For example, if the total Los Ranchitos Assessment is \$10,000 per year, the total of all other sums included in the Common Assessment is \$100,000, and Parcel 1 is improved with a building with a Floor Area of 37,000 square feet, and the other Parcels are improved with buildings totaling 63,000 square feet, then Parcel 1’s Share shall constitute \$37,000 for the Common Assessment plus \$4,193 for the Los Ranchitos Assessment for that year.

1.29 Sign Program: The Gateway to Temecula Comprehensive Sign Program dated March 22, 2016, a copy of which is attached hereto as Exhibit E.

1.30 Singular and Plural: The singular and plural number and masculine, feminine, and neuter gender shall each include the other where the context requires.

1.31 “Special Assessments” shall mean a charge against a particular Owner and said Owner’s Parcel, directly attributable to, or reimbursable by, the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration.

1.32 “Users” shall mean all Persons who have been granted permission to use any portion of the Property, including Owners, Occupants, employees, guests, invitees, customers, agents, and contractors.

## ARTICLE II

### INTENTIONALLY DELETED

## ARTICLE III

### ASSOCIATION, ADMINISTRATION, MEMBERSHIP, AND VOTING RIGHTS

3.1 Association to Manage the Shopping Center: The management of the Shopping Center, including the Easement Area, shall be vested in the Association in accordance with the Bylaws. The Owners shall covenant and agree that the administration of the Shopping Center shall be in accordance with the provisions of this Declaration, and the Articles and the Bylaws. The Association is required to establish the Bylaws, to the extent it has not previously done so.



3.2 Membership: Each Owner shall automatically, upon becoming an Owner, be a Member, and shall remain a Member thereof until such time as said ownership ceases for any reason, at which time said membership in the Association shall automatically cease. Membership shall be held in accordance with the Bylaws.

3.3 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the Parcel to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance (provided that the Mortgagee has become an Owner by foreclosure or otherwise), of such Parcel. Membership in the Association shall be inseparable from ownership of individual Parcels. Upon the death of a Member, such Member's membership passes automatically along with title to such Member's Parcel, his heirs, or devisees. As referenced above, a Mortgagee does not have membership rights until said Mortgagee becomes an Owner by foreclosure or deed in lieu thereof or otherwise. Any attempt to make a prohibited transfer hereunder is void. No Member who remains an Owner may resign his membership. In the event an Owner should fail or refuse to transfer the membership registered in his name to the purchaser of such Member's Parcel, the Association shall have the right to record the transfer upon its books and may issue a new certificate to the purchaser of said Parcel and thereupon any old certificate outstanding in the name of the seller shall be null and void.

3.4 Membership Classes and Voting Rights: The Association shall have two (2) classes of voting membership. Any action by the Association which must have the approval of the Members before being undertaken shall require the vote or written assent of at least a majority of votes within the Shopping Center. Any conflict between the provisions of the Governing Documents concerning votes of the Members and this Declaration shall be resolved in favor of this Declaration.

a. Class A. "Class A Member(s)" refers to the Owners of all Parcels, with the exception of Declarant parties. Each Class A Member shall have the number of Votes specified for each Parcel owned by such Class A Member in Exhibit D attached hereto.

b. Class B. "Class B Member(s)" refers to Declarant, and each of them, each of whom shall be entitled to vote as follows: Voting shall be the same as for Class A Members, except that the vote of a Class B Member with respect to any Parcel owned by the Class B Member shall be fourteen (14) multiplied by the number of votes a Class A Member owning such Parcel would have. Each Class B Member shall cease to be a Class B Member once its last Parcel is sold.

## ARTICLE IV

### ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: Each Declarant, for all Property owned within the Shopping Center, hereby covenants, and each Owner by acceptance of a deed for any Parcel, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) all annual Common Assessments; (2) its Share of the Los Ranchitos Assessment; (3) all Capital Improvement Assessments; and (3) all



applicable Special Assessments, such assessments to be established and collected as hereinafter provided. Each Assessment, together with interest thereon, costs, and reasonable attorneys' fees, shall be a charge on, and a continuing lien upon, the Parcel against which each such Assessment is made, the lien to become effective upon recordation of a notice of assessment. Each Assessment, together with interest thereon, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Parcel at the time when the assessment became due, and shall bind said Person's heirs, successors in interest, devisees, personal representatives, and assigns. No Owner may exempt itself from this personal obligation by waiver of the use or enjoyment of any of the Easement Area or by the abandonment of its Parcel(s).

4.2 Purpose of Assessments: Each Assessment shall be used exclusively to promote the economic interests, health, safety, and welfare of all occupants of the Shopping Center and for the improvement and maintenance of the Easement Area, and to enable the Association to perform its obligations hereunder.

4.3 Minimum Annual Common Assessment.

a. Each annual Common Assessment may not be increased by more than twenty percent (20%) relative to the annual Common Assessment for the immediately preceding year in any one year without the approval of two-thirds of a quorum of Members at a Member meeting.

b. Subject to the limitations on the minimum amount of Common Assessments herein provided, if at any time during the course of any year the Board shall deem the amount of the annual Common Assessment to be inadequate or excessive, the Board shall have the power, at a regular or special meeting, to revise the assessment for the balance of the assessment year, effective on the first day of the month next following the date of the revisions.

4.4 Capital Improvement Assessments; Reserve Funds: The Board may levy, in each or any assessment year, a Capital Improvement Assessment applicable for the purpose of (a) funding reserves in amounts approved by the Board or Declarant, as applicable, for the replacement of improvements and equipment within the Easement Area, and/or (b) sums necessary for defraying, in whole or in part, extraordinary expenses incurred by the Association, provided that in the event Capital Improvement Assessment(s) exceed in the aggregate two hundred percent (200%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of Members holding a majority of the voting power of the Association shall be required to approve such assessment(s). Capital Improvement Assessments shall be levied on the same basis as Common Assessments.

Any Capital Improvement Assessment imposed by the Board may include a sum deemed prudent by the Board for purposes of accumulating a reserve over the useful life of the improvements to and equipment within the Easement Area sufficient to cover the costs or estimated costs of any reconstruction, repair, or replacement of improvements to the Easement Area, including fixtures and personal property related thereto.



Amounts received by the Association as contributions, assessments, or dues from the Owners shall be held in one or more accounts. Deposits shall be made, and funds accounted for, so that funds for capital improvements and replacement can be clearly separated from funds for operational expenses. Capital improvement and replacement funds shall be used solely for capital improvements and replacements within the Easement Area.

4.5 Notice and Quorum for any Action Authorized Hereunder: Any action authorized hereunder which requires a vote of the Members shall be taken at a meeting called for such purpose, written notice of which shall be sent to all Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting, specifying the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

4.6 Division of Common Assessments and Capital Improvement Assessments: All Common Assessments and all Capital Improvements Assessments shall be allocated to the Owners in accordance with each Owner's percentage interest in the Easement Area set forth in Exhibit D attached hereto. Assessments may be collected on an annual or monthly basis, or at such other intervals as the Board may fix from time to time.

4.7 Date of Commencement of Annual Common Assessment: Due Dates: The Common Assessments provided herein shall commence as to all Property covered by this Declaration on the first day of the first full calendar month following recordation of this Declaration, and shall be paid in equal monthly installments starting on the first calendar day of the first full calendar month following recordation of this Declaration. Any previously accrued Common Assessments shall be accrued, pro-rated, and paid with the first monthly installment. Subject to the provisions of Section 4.3 hereof, the Board shall determine and fix the amount of any annual Common Assessments against the Parcels and send written notice thereof to every Owner at least sixty (60) days in advance of the first due date for payment of the initial and any revised Common Assessment. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Parcel have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 Transfer of Property by Sale or Foreclosure: Sale or transfer of any Parcel shall not affect any assessment lien authorized hereby, subject to the terms hereof. However, the sale or transfer of any Parcel pursuant to Mortgage foreclosure shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, except to the extent any such assessment lien was recorded prior to the recording of the notice of the foreclosure sale. Subject to the foregoing, no sale or transfer shall relieve any Parcel from liability for any assessments coming due after a Mortgage foreclosure. To the extent a purchaser of a Parcel obtains title to the same as a result of foreclosure of any such first mortgage, such acquirer of title, his successor, and assigns shall not be liable for the Share of the Common Expenses or assessments by the Association chargeable to such Parcel which became due prior to the acquisition of title to such Parcel by such acquirer which are not set forth in an assessment lien recorded before the notice of foreclosure sale. Notwithstanding the foregoing, such unpaid Share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all Owners in subsequent Common Assessments.



In a voluntary conveyance of a Parcel, the grantee of the same shall be jointly and severally liable with the grantor for all the unpaid assessments of any nature by the Association owing and outstanding as of the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments owing and outstanding as of the date of the transfer of the Parcel, and such grantee shall not be liable for, nor shall the Parcel conveyed be subject to a lien for, any unpaid assessments in excess of the amount set forth in such statement, provided, however, the grantee shall be liable for all assessments coming due after the date of the conveyance, including sums due to Declarant pursuant to Section 4.1 above.

4.9 Delinquency: Any assessment or installment of any assessment provided for in this Declaration shall become delinquent if not paid on the due date as established by the Board. With respect to each assessment or installment of an assessment not paid within ten (10) days after its due date, the Board of Directors may, after giving the delinquent Owner written notice and an opportunity to have a hearing before the Board of Directors, require the delinquent Owner to pay a late charge of ten percent (10%) of the amount of such delinquent sums, calculated from the date of delinquency to and including the date full payment is received by the Association. If any assessment or installment of any assessment is not paid within thirty (30) days after it is due, the Board may mail a notice to the Owner and to the first Mortgagee and to Declarant (if also a Mortgagee) of such Owner. The notice shall specify (1) the fact that the installment is delinquent; (2) the action required to cure the default; (3) a date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured; and (4) that failure to cure the default on or before the date specified in the notice may result in the balance of the installments of the Common Assessments for the then-current fiscal year becoming immediately due and payable, sale of the Owner's interest in the Parcel, and any other remedies available to the Association at law or in equity. The notice shall further inform the Owner of his right to cure after acceleration of his payment obligations and of his rights to a hearing before the Board of Directors. If after said hearing, or if the Member waives his right to a hearing, the delinquent assessment or installments of the assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of the annual Common Assessment for the then-current fiscal year, attributable to that Owner and such Owner's Parcel or interest therein, to be immediately due and payable without further demand, and may enforce the collection of the delinquent assessment and the full Common Assessment and all charges thereon in any manner authorized by law and this Declaration.

4.10 Notice of Lien: The Board of Directors may cause to be recorded in the office of the County Recorder of Riverside County a notice of assessment ("Notice of Lien") securing the payment of any assessment, or installment thereof, levied by the Association against any Owner. Such Notice of Lien shall state the amount of such assessment or installment, as the case may be, and other authorized charges and interest, including the cost of preparing and recording such Notice of Lien, the expenses of collection in connection with any delinquent installments, reasonable attorneys' fees, a sufficient description of the Parcel or interest therein against which the same has been assessed, the name of the Owner thereof, and the name and address of the Association. Such Notice of Lien shall be signed by an authorized representative of the Association. Upon payment to the Association of the full amount claimed in the Notice of Lien,



or other satisfaction thereof, the Board of Directors shall cause to be recorded a notice of satisfaction and release of lien ("Notice of Release") stating the satisfaction and release of such amount claimed. The Board of Directors may demand and receive from the applicable Owner a reasonable charge for the preparation and recordation of such Notice of Release before recording the same. Any purchaser or encumbrancer, who had acted in good faith and extended value, may rely upon such Notice of Release as conclusive evidence of the full satisfaction of the sums stated in the Notice of Lien.

4.11 Liens; Enforcement: All sums assessed on any Parcel in accordance with the provisions of this Declaration shall constitute a lien on such Parcel prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto; and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority or seniority over other mortgages or deeds of trust), made in good faith and for value, and recorded prior to the date on which the assessment lien became effective. Assessment liens shall become effective upon the recordation of the Notice of Lien in the manner provided in Section 4.10. It shall be the duty of the Board of Directors to enforce the collection of any amounts due under this Declaration by one or more of the alternative means of relief afforded by this Declaration. Assessment liens may be enforced by sale of the interest of such Owner in the Parcel by the Association, its attorney, or other person authorized to make the sale, after failure of the Owner to pay an assessment or installment thereof, as provided herein. Such sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any manner permitted by law. A civil action may be brought to foreclose the lien of the Association by the Board, or by any Owner if the Board fails or refuses to act, after affording the delinquent Owner an opportunity to have a hearing before the Board of Directors and after the expiration of at least thirty (30) days from the date on which the Notice of Lien was recorded, provided that at least ten (10) days have expired since a copy of the Notice of Lien was mailed to the Owner affected thereby, and subject to the provisions of Section 4.10 in the event that the Board accelerates the due date of any Common Assessment installments. In any such foreclosure, the Owner shall be required to pay a reasonable rental for the Parcel, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association, through its agent, shall have the power to bid on the Parcel at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. During the period a Parcel is owned by the Association, following foreclosure:

- a. No right to vote shall be exercised on behalf of the Parcel;
- b. No assessment shall be assessed or levied on the Parcel; and
- c. Each other Parcel shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to the acquired Parcel had it not been acquired by the Association as a result of foreclosure.

After acquiring title to the Parcel at foreclosure sale following notice and publication, the Association may execute, acknowledge, and record a deed conveying title to the Parcel which deed shall be binding upon the Owners, successors, and all other parties.



The Board may temporarily suspend the voting rights of a Member who is in default in payment of any assessment, after notice and hearing as provided in the Bylaws.

Suit to recover a money judgment for unpaid Common Assessments shall be maintainable without foreclosing or waiving the lien securing the same, but this provision or any institution of suit to recover a money judgment shall not constitute an affirmation of the adequacy of money damages. Any recovery resulting from a suit in law or equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

4.12 Unallocated Taxes: In the event that any taxes are assessed against the Easement Area, or the personal property of the Association, rather than against the Parcels, said taxes shall be included in the assessments made under the provisions of Section 4.1, and, if necessary, a Capital Improvement Assessment may be levied against the Parcels in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

4.13 Taxes: Each Owner shall pay all property taxes and other assessments made against its Parcel as reflected in its bill from the Riverside County Tax Collector, as well as all other taxes and assessments by any public agency imposed or otherwise representing a lien against its Parcel. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain a separate real-estate tax assessment of each Parcel. If any taxes or assessments may, in the opinion of the Association, nevertheless be a lien on the Easement Area, or any part thereof, they may be paid by the Association, and each Owner shall be obliged to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against the Easement Area and attributable to such Owner's Parcel and interest in the Easement Area.

4.14 Exemption from Assessments: All Property dedicated to, and accepted by, a local public authority or public agency, and all Property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California, shall be exempt from the assessments created by Section 4.13 hereof.

## ARTICLE V

### DUTIES AND POWERS OF THE ASSOCIATION

5.1 Duties: In addition to the duties enumerated in its Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

a. Maintenance: The Association, shall maintain, repair, replace, restore, operate, and manage all of the Easement Area and the facilities, improvements, monument and directional signs (if any), lighting, furnishings, equipment, and landscaping thereon, and all Property that may be acquired by the Association. Maintenance shall include (without limitation): painting, maintaining, repairing, and replacing all the improvements in the Easement Area. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of, or caused by, the willful or negligent act, or neglect of an Owner, or such Owner's guests, tenants, or invitees, the cost of which is not covered by



insurance. The Association may delegate management to a third party management company, or an affiliate of one or more of the Owners, as approved by the Association, provided that an Owner may vote to approve a commercially reasonable contract with a management company affiliated with such Owner that provides for payment of a management fee as part of the Common Expenses.

b. Maintenance Standards: The Easement Area shall be maintained in a good, clean, safe, sightly, sanitary and orderly condition and repair, in compliance with applicable laws and regulations and otherwise to a level which, at a minimum equals or exceeds the level of other retail shopping centers of similar size, quality, and nature within the metropolitan area where the Shopping Center is located. All Easement Area landscaping areas shall be properly maintained such that landscaped shrubs and other greenery are evenly cut, evenly edged, and reasonably and materially free of bare or brown spots, debris, or weeds in a manner which maximizes visibility of, and increases the sight lines to, the buildings of the Shopping Center and signage for and within the Shopping Center from Temecula Parkway and Bedford Court to the reasonable satisfaction of the Owners, provided that any such landscape maintenance shall not compromise the health of any of the vegetation and shall be permitted to screen the view of the Shopping Center from Vallejo Avenue. Trees and shrubs shall be trimmed such as not to impede pedestrian or vehicular traffic. Trees shall be reasonably pruned so as not to substantially intrude into neighboring properties and shall be maintained so as not to have droppings or otherwise create nuisance to neighboring properties. Trees shall also be root pruned to eliminate exposed surface roots and related damage to sidewalks, driveways, and structures. All Easement Area paved areas, including sidewalks and curbs shall be properly maintained in a smooth and evenly covered condition, which maintenance work shall include, without limitation, cleaning, sweeping, restriping, repairing, resurfacing and replacement of the paved areas and curbs, using surfacing material of a quality equal or superior to the original surfacing material. Significant pavement cracks or distress, excessive slab settlement, abrupt vertical variations, and debris on travel ways shall be removed or repaired promptly.

c. Lighting: The Association shall keep the Easement Area well illuminated during those hours of darkness when the applicable occupants of the Shopping Center are conducting its business on the Premises to provide adequate protection for each such occupant's agents, guests, invitees, employees and customers.

d. Insurance: The Association shall maintain such policy or policies of insurance as are required by Section 10.7 of this Declaration.

e. Discharge of Liens: The Association shall discharge by payment, if necessary, any liens against the Easement Area, and assess the cost thereof to the Members responsible for the existence of said lien.

f. Assessments: The Association shall fix, levy, collect, and enforce assessments as set forth in Article IV hereof.

g. Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, and governmental charges levied or imposed against the Property



of the Association. The Association shall also pay all private easements imposed against the Property pursuant to easements, covenants, or other encumbrances which affect either the entire Property or the Easement Area.

h. Enforcement: The Association shall enforce this Declaration.

i. Compliance with Senior CC&Rs: The Association shall comply with the Senior CC&Rs and comply with the directives of the Los Ranchitos HOA related to the Parcels or the Shopping Center where such directives are authorized under the Senior CC&R's.

5.2 Powers: In addition to the powers enumerated in its Articles and the Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

a. Easements: The Association shall have the authority to grant easements where necessary for drainage, utilities, sewer facilities, fire access, and private fire service water mains (collectively, "Utility Facilities") over the Easement Area (and not over, under or within any Building Area) to serve the same and the Shopping Center. Whenever feasible, Utility Facilities shall be located below the surface of the Easement Area, or below the surface of any other above-ground improvements located thereon; provided, however, that in any event, (i) all Utility Facilities that are located above the surface of the Easement Area shall be placed so as not to interfere with, restrict, or impede other uses of Easement Area provided for herein; and (ii) no Utility Facilities that must be located above the surface of the Easement Area shall be installed upon any Parcel without the prior written consent of the Owner of such Parcel. Whenever feasible, and subject to the approval of all applicable governmental authorities, any Utility Facilities that are located above the surface of the Easement Area and that is visible from the front entrance of any building shall be screened and/or landscaped.

b. Fire Protection: The Association shall cause to be maintained all structures, including sprinkler and alarm systems; elevators; fire hydrants; roads (including resurfacing as needed, and placing red curb markings and appropriate signage); and fire extinguishers located in the Easement Area. All such systems, equipment, and structures shall be maintained in working condition at all times. The Association shall pay all expenses in connection with fulfilling its obligations pursuant to this Section 5.2(b) as a Common Expense.

c. Manager: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except the power to conduct a hearing or levy fines, provided that the term for any contract with a firm or person appointed as a manager or managing agent shall not exceed three (3) years, shall provide for the right of the Association to terminate the same at the first annual meeting of the Members of the Association, and to terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days' written notice. Without limiting the foregoing, the Association shall not owe any terminated manager a termination fee, whether such manager is terminated with or without cause, unless the Association and manager have entered a written agreement whereby a termination fee will be so owing upon the manager's termination.



d. Adoption of Rules: The Association may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Easement Area and all facilities thereon.

e. Assessments, Liens, and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay assessments or for violation of any provision of the Governing Documents. Penalties may include, but are not limited to, fines, temporary suspension of voting rights, or other appropriate discipline, provided that the accused Member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose discipline is made.

f. Enforcement: The Association shall have the authority to enforce this Declaration as provided in Article X hereof.

g. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of personal property in connection with the affairs of the Association.

h. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of Members holding a majority of the voting power of the Association, to mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

i. Intentionally Deleted.

j. Contracts: The Association shall have the power to contract for goods and/or services for the Easement Area, facilities, and interest or for the Association, subject to any limitations set forth in the Governing Documents.

k. Enforcement of Senior CC&R's. The Association shall have the power to enforce the Senior CC&R's with respect to the Owners, the Parcels or the Shopping Center.

l. Delegation: The Association shall have the power to delegate its authority and powers to committees, officers, or employees of the Association.

## ARTICLE VI

### UTILITIES

6.1 Owners' Rights and Duties: Whenever sanitary sewer, water, electricity, gas, television receiving, telephone lines or connections, are installed within the Shopping Center, which connections, or any portion thereof, lie in or upon Property owned by other than the Owner of a Parcel served by said connections, the Owners of any Parcels served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon such Property of others or to have the utility companies enter upon such



Property of others, in or upon which said connections, or any portion thereof, lie, to repair, replace, and generally maintain said connections as and when necessary.

## ARTICLE VII

### EASEMENTS AND RIGHTS OF ENTRY

7.1 Grant of Reciprocal Ingress and Egress Easement: Declarant hereby reserves and grants to each Owner and all other Users, a nonexclusive easement for ingress and egress (the "Ingress and Egress Easement"), including vehicular access over and through those portions of the Easement Area improved for such purpose. No use or operation shall be made, conducted, or permitted on or with respect to all or any portion of any Parcel that would impede the flow of traffic through the Easement Area unless such use or operation is expressly permitted in this Declaration.

7.2 Grant of Easement for Parking Purposes: Declarant hereby reserves and grants to each Owner and all other Users of the Pacific Real Estate Parcels an easement for parking in all designated parking areas on the Pacific Real Estate Parcels. Notwithstanding the foregoing, the parking spaces on the B & P Parcels are reserved for the exclusive use of the Occupants of each respective such Parcel, and no Users of the Pacific Real Estate Parcels may park on either of the B & P Parcels.

7.3 Grant of Easement for Monument Signs: Declarant shall initially construct (a) one (1) dual-sided Shopping Center monument sign along Temecula Boulevard in the location identified as "PROJECT AND TENANT ENTRY MONUMENT SIGN (B)" on the site plan that is part of the Sign Program (page 7 thereof) and pursuant to the design shown on page 10 of the Sign Program (the "Temecula Parkway Monument Sign"), (b) one (1) single-sided Shopping Center monument sign along La Paz Road in the location identified as "MONUMENT TENANT SIGN (A)" on the site plan that is part of the Sign Program (page 7 thereof) and pursuant to the design shown on page 9 of the Sign Program (the "La Paz Road Monument Sign") and (c) one (1) dual-sided Shopping Center freestanding directional sign in the location identified as "DIRECTIONAL SIGN (F)" on the site plan that is part of the Sign Program (page 7 thereof) and pursuant to the design shown on page 13 of the Sign Program (the "Shopping Center Directional Sign"). The Association shall be responsible for the on-going maintenance, repair, replacement and operation of the Temecula Parkway Monument Sign, the La Paz Road Monument Sign and the Shopping Center Directional Sign including insuring and illuminating the same, the cost of which shall be included in Common Expenses. B & P and Mirshafiee hereby reserve for the exclusive use of B&P (which B & P shall use for the benefit of LA Fitness), the portion of the Temecula Parkway Monument Sign identified as "TENANT NAME 1" on page 10 of the Sign Program, along with the corresponding area on the opposite side of the Temecula Parkway Monument Sign (i.e., the side of the Temecula Parkway Monument Sign facing La Paz Road that is not shown on page 10 of the Sign Program). Pacific Real Estate hereby grants, declares and establishes for the benefit of B & P and Mirshafiee, and the B & P Parcels (which B & P shall use for the benefit of LA Fitness), (i) the perpetual, exclusive right to use the portion of the La Paz Road Monument Sign identified as "LA FITNESS" on page 11 of the Sign Program and (ii) the perpetual, exclusive right to use the portion of the Shopping Center Directional Sign identified as "LA FITNESS" on page 13 of the Sign Program, along with the



corresponding area on the opposite side of the Shopping Center Directional Sign (i.e., the side of the Shopping Center Directional Sign not shown on page 13 of the Sign Program). Any permitted party shall have the right, at any time, to provide a new panel for the Temecula Parkway Monument Sign and the La Paz Road Monument Sign (as applicable) containing its standard signage, as the same from time to time shall be determined by such party in its sole and absolute discretion, provided such panel remains in the same location and does not exceed the size provided therefor in the Sign Program. Each applicable Owner shall cause the panel advertising the business(es) of its Occupant(s) to be maintained in a good, clean, sightly, and orderly condition and repair, in compliance with applicable laws and regulations and otherwise to a level which, at a minimum equals or exceeds the level of other retail shopping centers of similar size, quality, and nature within the metropolitan area where the Shopping Center is located.

7.4 Restrictions on Use: No Owner shall use any Easement herein in a manner which unreasonably interferes with another Owner's use or enjoyment of its Parcel.

7.5 Nature of Easement: For purposes of the Easements granted in Article VII of this Declaration, the Parcel benefited by the Easement constitutes the dominant estate, and the Parcel burdened by any such Easement constitutes the servient estate. The Easements created in Article VII of this Declaration are appurtenant to and for the benefit of the Parcel with the dominant estate. Except as expressly provided herein, no Easement may be transferred, assigned, or encumbered except as an appurtenance to the benefited Parcel.

7.6 No Public Dedication: This Declaration may not be construed as providing a public dedication for any of the Parcels.

7.7 Non Merger: This Declaration shall not be subject to the doctrine of merger, even though the underlying fee ownership of the Parcels described herein, or any parts thereof, is vested in one party or entity.

7.8 Right of Entry: For the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of Directors of their respective responsibilities, the Association's agents or employees shall have the right, upon notice to the Owner, to enter any portion of the Easement Area at reasonable hours. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the Association. Notwithstanding the foregoing, the Association's agents or employees shall have the further right to enter any portion of the Easement Area at any time without notice in the event of an emergency. During the term of the LA Fitness Lease, the Association shall notify LA Fitness in writing at least ten (10) days prior to the commencement of any reconstruction, repairing or repaving of the Easement Area within either of the B & P Parcels and use commercially reasonable efforts to accomplish any such repairing, repaving or reconstruction diligently and at such times as to create as little interference with LA Fitness' use and operation of the LA Fitness Premises and the Easement Area as reasonably possible, and in no event shall any repaving or reconstruction occur during the month of January.



7.9 Regulation of Parking: The Association, through its officers, committees, and agents, is hereby empowered to establish "parking" and "no parking" areas within the Pacific Real Estate Parcels in accordance with Section 22658 of the California Vehicle Code, as amended from time to time, or any similar statute hereafter enacted, to establish all or any portion of any parking area located within the Pacific Real Estate Parcels as being for the exclusive use of the Owners or Occupants and the respective agents, employees and invitees of each, as well as to enforce these parking limitations by all means lawful for such enforcement on county streets, including the removal of any violating vehicles by those so empowered. Notwithstanding, the foregoing, the foregoing shall not apply to the B & P Parcels during the term of the LA Fitness Lease and the Association shall have no right to modify any parking rights with respect to the B & P Parcels during the term of the LA Fitness Lease.

7.10 Insurance and Indemnity Relating to Easements: Each Owner shall indemnify, defend, and hold each other Owner harmless from all claims, liabilities, judgments, losses, or expenses (including reasonable attorneys' fees and other expenses of litigation) arising out of its exercise of the easement rights granted to it in this Declaration. Furthermore, each Owner shall maintain a policy of commercial general liability insurance (sometimes known as broad form comprehensive general liability insurance) insuring against liability for property damage (including loss of use of property) and personal injury arising out of its exercise of the easement rights granted to it in this Declaration. The initial amount of such insurance shall be not less than One Million Dollars (\$1,000,000.00) per occurrence.

## ARTICLE VIII

### USE OF PARCELS

8.1 Permitted Uses: The Parcels may be used for any lawful purpose, except as otherwise provided in this Article VIII.

8.2 Prohibited Use: The following operations and uses are in all events prohibited within the Parcels:

- a. Marijuana production, dispensing, distribution, or sales;
- b. Residential use of any type;
- c. Trailer courts, mobile home parks, and recreational vehicle campgrounds;
- d. Junk yards and recycling facilities;
- e. Commercial excavation of building or construction materials, except in the usual course of construction of improvements to the Shopping Center;
- f. Distillation of bones;
- g. Stockyard and slaughter of animals;

- h. Refining of iron, tin, zinc, or other metals or chemicals, including petroleum products;
- i. Cemeteries;
- j. Jails and honor farms; and
- k. Labor camps and migrant worker camps.
- l. Nightclubs or dance halls;
- m. The sale of drug-themed paraphernalia a.k.a.: “headshop”;
- n. Any adult bookstore, x-rated theater or other establishment for the sale of pornographic materials;
- o. Any “massage parlor” or similar establishment offering sexually oriented massage services (the provision of therapeutic massage services in accordance with applicable law does not violate this prohibition); nude modeling studio;
- p. Any adult themed restaurant (including but not limited to a format similar to Hooters, Tilted Kilt, or Twin Peaks as conducted at the time this Declaration was recorded) or other type of establishment with nude or seminude waiters, waitresses, or entertainers;
- q. Any tattoo parlor
- r. Any billiard room or pool hall;
- s. Any “flea market”; auction house; discount store; second-hand store; “pawn shop”; army/navy type store; “governmental surplus” store; wholesale or factory-outlet store, a “surplus” store or a store commonly referred to as a “discount house”;
- t. Any cooperative store or similar establishment;
- u. Any government uses open to the public
- v. Any laundromat;
- w. Any automobile, truck, trailer, or recreational-vehicle sales; leasing, display on any portion of the Property other than on Parcels 4 or 6;
- x. Any body shop repair operation;
- y. Any animal raising or boarding facility;
- z. Any mortuary or funeral home;
- aa. Any gambling facility or similar operation, not including the incidental sales of materials from the California Lottery;



- bb. Any unlawful use;
- cc. Any shooting gallery;
- dd. Any unemployment agency;
- ee. Any check cashing/pay day loan business;
- ff. Any call center/phone bank;
- gg. Any “park and ride”; or
- hh. Any amusement park.

### 8.3 Additional Prohibited Uses:

a. No Parcel, other than Parcel 3, may be used for the purpose of operating therein a gas station, car wash, or convenience store, without the prior written approval of Owner of Parcel 3.

b. As long as Starbucks Corporation is operating as a Starbucks Coffee within Parcel 5, no portion of the Shopping Center may be used for the sale of: (i) whole or ground coffee beans, (ii) espresso, espresso-based drinks or coffee-based drinks, (iii) tea or tea-based drinks, (iv) brewed coffee or (v) blended beverages containing coffee, espresso and/or tea. Notwithstanding the foregoing sentence, other Occupants of the Shopping Center may sell brewed coffee or brewed tea which is neither (A) gourmet, nor (B) brand identified. For purposes of this Section 8.3b, “gourmet” shall be defined as: (1) beverages made using Arabica beans or (2) sourced from a gourmet coffee brand such as Coffee Bean & Tea Leaf, Intelligentsia, Peets, Caribou or other coffee purveyor. For purposes of this Section 8.3b, “brand identified” shall mean beverages advertised or marketed within the applicable retail space using a brand name. Full service, sit-down restaurants with a wait staff and table service serving a complete dinner menu may sell, in conjunction with a sale of a meal, brewed coffee or tea and hot espresso drinks for on-premises consumption only. Additionally, the foregoing exclusive shall not apply to any hotel located in the Shopping Center. In addition, the proposed fuel station/convenience store within Parcel 3 may be allowed to sell the above-referenced items for as long as the proposed fuel station/convenience store is open and operating within the Shopping Center pursuant to a valid lease, provided the sale of such items does not exceed 15% of the fuel station/convenience store’s gross sales. Notwithstanding the foregoing, such fuel station/convenience store operating within Parcel 3 shall not be allowed to create a coffee bar or kiosk with an employee serving customers coffee-related drinks.

c. For so long as the LA Fitness Lease remains in full force and effect, no Parcel (other than the LA Fitness Premises) may be used (i) for any fitness related operation (including, without limitation, health club, aerobics, yoga, Pilates, dance studio offering fitness-oriented classes such as Zumba, spinning/cycling, circuit training, personal training, basketball, boxing, cardiovascular or jazzercise operations) or (ii) to sell health club, gym or fitness related memberships (including, without limitation, any sales from kiosks) other than for any of Tenant’s health club and fitness facilities. The foregoing restriction (the “Exclusive Use



Restriction”) shall not, however, preclude another tenant of the Shopping Center to engage in the retail sale of fitness equipment for off-premises use.

d. The following operations and uses are in all events prohibited within Parcel 2: (i) any school, training, educational or day care facility, including but not limited to: beauty schools, barber colleges, nursing schools, diet centers, real estate school including a real estate office that includes a school, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers such as tutoring of any grade/level of school/university for subjects/testing such as Score, Mathnasium, etc.; (ii) office (provided, however, the foregoing restriction shall not prohibit the operation of any office and service uses commonly found in first class shopping centers such as, by way of example only, banks, mortgage/loan and financial service businesses, real estate services, security brokerage services, tax preparation services, accounting services, insurance services, travel agencies and automobile clubs (e.g., AAA) (“Parcel 2 Permitted Office Uses”)); (iii) medical office/clinic (provided, however, the foregoing restriction shall not prohibit the operation of medical service uses commonly found in first class shopping centers such as, by way of example only, chiropractors, physical therapists, dentists (e.g., Aspen Dental), but not urgent care centers (“Parcel 2 Permitted Medical Uses”)); (iv) sports bar; (v) cocktail lounge or bar (unless incidental to a permitted restaurant, and in all events the sale of liquor and spirits within any permitted restaurant shall be limited to not more than five percent (5%) of the gross sales of such restaurant), or (vi) bingo or similar games of chance, but lottery tickets and other items commonly sold in retail establishments may be sold as an incidental part of business; second-hand store (provided, however, the foregoing restriction shall not prohibit antique shops or stores selling high quality used merchandise such as Play It Again Sports and Game Stop); auction house or flea market; or any other use that could materially and adversely affect parking for the B&P Parcels.

e. In addition, Parcel 2 shall be restricted as follows:

i) In no event shall the highest point of any building or structure (inclusive of the height of all types of projections or architectural treatments or embellishments thereon, such as, but without limitation, HVAC equipment, parapets, mansards, signs, satellite dishes, and antennae) located within Parcel 2 exceed twenty-four (24) feet in height, as measured from the finished floor level to the highest point on such building or structure.

ii) In no event shall Parcel 2 contain less than the greater of (A) five (5) parking spaces for each one thousand (1,000) square feet of Floor Area within Parcel 2 or (B) sufficient striped parking to satisfy all applicable laws, without variance; provided, however, in the event that any portion of Parcel 2 is being operated as a restaurant, in no event shall Parcel 2 contain less than sixty (60) standard nine foot (9’) wide parking spaces.

iii) In the event that any portion of Parcel 2 is being operated as a restaurant, for any Parcel 2 Permitted Office Uses or for any Parcel 2 Permitted Medical Uses, in no event shall the buildings or temporary structures located from time to time within Parcel 2 contain an aggregate of more than eight thousand (8,000) square feet of Floor Area.



8.4 Nuisances: No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any site other than normal accumulation and storage of trash in connection with a confirmed and reasonably prompt trash disposal or pick-up to render any site or portion thereof unsanitary, unsightly, offensive, or detrimental to any of the property in the vicinity thereof, or to its occupants.

8.5 Antennae: No telephone, radio, or other electronic antenna or device of any type shall be erected, constructed, placed, or permitted to remain on any building within the Shopping Center or other improvements constructed therein, unless and until the same shall have been approved in writing by an architectural control committee appointed pursuant to Section 9.2 (the "Architectural Control Committee"); provided that the foregoing shall not preclude the operation of a solar panels and one (1) or more antennae or satellite dishes on the roof of the LA Fitness Building, to the extent permitted pursuant to the LA Fitness Lease.

8.6 Signs: All signs shall comply with applicable laws and the Sign Program.

8.7 Drainage: There shall be no interference with the established drainage pattern over any portion of the Shopping Center unless adequate provision is made for proper drainage and is approved by the Architectural Control Committee. For the purposes hereof, "established" drainage is defined as the drainage which exists at the time this Declaration is executed or which is shown on any plans approved by the Architectural Control Committee.

8.8 Compliance with City and Fire District Ordinances: Nothing contained herein shall be deemed to exempt the Shopping Center from compliance with all applicable city and Fire District ordinances to the extent such regulations establish more restrictive requirements than those set forth herein.

8.9 Declarant's Powers: While the Class B Member survives, the Declarant may permit any activity the Board of Directors can approve pursuant to this Article VIII, provided that such approval must be in writing and must be delivered by the Declarant to the Board before the Declarant has conveyed its last Parcel.

## ARTICLE IX

### ADDITIONS, ALTERATIONS, OR IMPROVEMENTS BY OWNERS

9.1 Approval Required: Following the initial construction thereof in accordance with the site plan attached hereto as Exhibit C, no Owner shall make structural changes to any of the Easement Area, or excavate or otherwise alter the Easement Area, without the prior written consent of the Architectural Control Committee.

9.2 Architectural Control Committee: The Architectural Control Committee shall consist of up to three (3) members. Declarant may appoint all of the original members of the Architectural Control Committee and all replacements until the second anniversary of the execution of this Declaration (the "Association Takeover Date"). Thereafter, the Board shall have the power to appoint all of the members of the Architectural Control Committee. Members appointed to the Architectural Control Committee by the Board shall be Members of the Association or officers, employees, or principals thereof, except where the Class B Members



survive, in which case the Architectural Control Committee can be any individual approved by the Board or Declarant, as applicable. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of any member of the committee, the successor shall be appointed by Declarant until Declarant no longer has the right to appoint any members to the committee, and thereafter the remaining members of the committee shall have full authority to designate such a successor.

9.3 Violations; Waiver: If, after the initial construction of the Shopping Center, any improvements to any portion of the Easement Area are altered, erected, or maintained other than as approved by the Board of Directors or the Architectural Control Committee, such alteration, erection, or maintenance shall be deemed to have been undertaken without the approval of the Board of Directors or the Architectural Control Committee as required by this Declaration. After the expiration of one (1) year from the date of completion of any improvement, addition, or alteration, said improvement shall, in favor of purchasers and encumbrancers, in good faith and for value, be deemed to comply with all of the provisions hereof, unless a notice of such noncompliance, executed by one (1) member of the Board of Directors or Architectural Control Committee, shall appear of record in the office of the County Recorder of Riverside County, California, or legal proceedings shall have been instituted to enforce compliance with these provisions. Upon approval of the Board of Directors or Architectural Control Committee, it shall be conclusively presumed that any improvement, addition, or alteration placed or constructed in accordance with the approved plans and specifications does not violate the provisions of this Declaration. The approval of the Board of Directors or Architectural Control Committee of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Board of Directors or Architectural Control Committee of its rights to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted, nor shall its approval be deemed approval of any plan of design from the standpoint of structural safety or conformance with building or other codes. Until the Association Takeover Date, Declarant shall have the powers granted to the Board of Directors in this Section 9.3.

9.4 Non-Liability of Committee Members: Neither Declarant, the Board of Directors, or Architectural Control Committee, nor any member thereof, nor their duly-authorized representatives, shall be liable to any Owner for any loss, damage, or injury arising out of or in any way connected with the negligent performance of their duties hereunder, unless due to willful misconduct or bad faith. The Board of Directors and the Architectural Control Committee members shall not be entitled to any compensation for services performed pursuant to this Declaration.

9.5 Location/Size: No building shall be constructed on the Shopping Center (as either immediate development or future expansion) except within the Building Areas.

## **ARTICLE X**

### **GENERAL PROVISIONS**

10.1 Enforcement: The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and



charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by Court. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event that the Association fails to act within thirty (30) days following notice from an Owner or Occupant of a violation of this Declaration or the rules of the Association, then an aggrieved Owner may either (i) initiate an action to enforce this Declaration or the applicable rule and seek all remedies provided under this Declaration or available at law or equity or (ii) delegate an Occupant holding a lease with an initial term of five (5) years or more to initiate in its own name and at its sole expense an action to enforce this Declaration or the applicable rule and seek all remedies provided under this Declaration or available at law or equity.

10.2 Enforcement by Los Ranchitos Homeowners Association: The Los Ranchitos HOA shall have the right, but not the obligation, to enforce the terms this Declaration and/or the Senior CC&Rs.

10.3 Invalidity of any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Shopping Center is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

10.4 Term: Unless the Owners holding at least three-fourths (3/4) of the total voting power of the Association and three-fourths (3/4) of the Institutional Lenders (based upon one vote for each mortgage owned) elect otherwise in writing, this Declaration shall continue in full force and effect. Following such election to revoke this Declaration, the Board shall execute and record an instrument revoking this Declaration and a grant deed conveying all remaining Easement Area to the Parcel Owners in equal undivided interests. Notwithstanding the foregoing, no termination of this Declaration shall be permitted without the prior written consent of the City of Temecula and the Los Ranchitos HOA and no termination of this Declaration shall be permitted for so long as the LA Fitness Lease remains in full force and effect.

10.5 Amendments: This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing three-quarters (3/4) of the total voting power of the Association, subject to Section 10.4 above. Any amendment must be recorded and shall become effective upon being recorded in the Recorder's Office of Riverside County. Notwithstanding the foregoing, no amendment to alter, modify, terminate, or change the Association's obligation to maintain the Easement Area or to perform any other obligation under this Declaration in which the City has an interest, or to alter, modify, terminate, or change the City's right to enforce maintenance of the Easement Area, shall be permitted without the prior written consent of the City of Temecula. An amendment to this Declaration shall not be permitted without the prior written consent of the Los Ranchitos HOA, which shall not be unreasonably withheld, conditioned or delayed. It shall be unreasonable for Los Ranchitos to delay or withhold consent in the case of changes which do not pertain to the use or maintenance of the Shopping Center or the abolition of the Association. In addition, no amendment shall (a) adversely affect the right of the holder of any mortgage of record prior to the recordation of such amendment or (b) conflict with any of LA Fitness' rights under the LA Fitness Lease, lessen or eliminate any of B & P's obligations under the LA Fitness Lease, increase any of LA Fitness'



obligations under the LA Fitness Lease, obligate LA Fitness to incur any financial obligation other than LA Fitness' financial obligations set forth in the LA Fitness Lease, or adversely affect vehicular and pedestrian access to the LA Fitness Premises, the visibility of the LA Fitness Building, LA Fitness' signage, or parking for the LA Fitness Premises.

10.6 Right of Institutional Lenders and Declarant: No breach of any of the covenants, conditions, and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) or the lien of any mortgage in favor of Declarant on any Parcel, but all of said covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the Governing Documents to the contrary, Institutional Lenders and Declarant (if also a lender) shall have the following rights:

a. Declarant and all Institutional Lenders that have filed with the Association a request for notice of default shall be entitled to receive written notice from the Association of any default by the trustor of any deed of trust on a Parcel or Parcel (the beneficial interest in which is held either by the Declarant or by said Institutional Lender) in the performance of such trustor's obligations under the Governing Documents, which is not cured within thirty (30) days.

b. The Association shall discharge its obligation to notify Declarant and Institutional Lenders by sending the written notices required hereby to the lender or lenders requesting notice, at the address given on the current request for notice, in the manner prescribed by Article X, paragraph 19.

c. The Governing Documents contain no provisions creating a "right of first refusal," but should any such rights be created in the future, any such rights shall not impair the rights of any Institutional Lender or the Declarant (if also a lender) to (1) foreclose or take title to a Parcel pursuant to the remedies provided in the mortgage, or (2) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or (3) sell or lease a Parcel acquired by the mortgagee.

d. Except as provided by statute in case of condemnation or substantial loss to the Easement Area, unless the Owners holding at least three-fourths (3/4) of the total voting power of the Association and three-fourths (3/4) of the Institutional Lenders based upon one vote for each mortgage owned have given their prior written approval, the Association shall not be entitled to:

(1) by act or omission, seek to abandon or terminate the Shopping Center;

(2) change the pro-rata interest or obligations of any individual Parcel for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro-rata share of ownership of each Parcel in the Easement Area;

(3) Partition or subdivide any Parcel or adjust the boundaries between Parcels;



(4) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Easement Area. (The granting of easements for public purposes consistent with the intended use of the Easement Area by the Shopping Center shall not be deemed a transfer within the meaning of this clause);

(5) Use hazard insurance proceeds from losses to any portion of the Shopping Center for other than the repair, replacement or reconstruction of the portion of the Shopping Center damaged;

(6) make any material amendment to the Declaration or to the Bylaws. "Material amendment" shall mean any amendment governing the following subjects: (a) the percentage interest of the Parcel Owners in the Easement Area; (b) the fundamental purpose for which the Shopping Center was created; (c) voting; (d) assessments, assessment liens, and subordination thereof; (e) property maintenance obligations; (f) casualty and liability insurance; (g) reconstruction in the event of damage or destruction; (h) rights to use the Easement Area; (i) annexation; (j) any provision which by its terms is specifically for the benefit of first mortgagees or specifically confers rights on first mortgagees.

e. Institutional Lenders and Declarant shall have the right to examine the books and records of the Association.

f. No provision of the Governing Documents gives a Parcel Owner, or any other party, priority over any rights of first mortgagees of Parcels pursuant to their mortgages in the case of a distribution to Parcel Owners of insurance proceeds or condemnation awards for losses to or taking of Parcels and/or Easement Area.

g. Each holder of a lien on a Parcel who comes into possession of the Parcel by virtue of foreclosure of such lien, or any purchaser at a foreclosure sale, will take the Parcel free of any claims for unpaid assessments and charges against the Parcel, except as provided in Section 4.8 above.

h. Partition or subdivision of any Parcel as provided in Article II, paragraph 2(f) is subject to rights of Institutional Lenders.

#### 10.7 Owner Covenants:

a. Free Access: Each Owner covenants that all of the Owners shall be unimpeded in their free access to the Easements on the burdened Parcels, and that there shall be no fence, division, partition, rail, or obstruction of any type or kind placed, kept, permitted, or maintained by any Owner in such a manner as to interfere with the use of the Easements by any other Owner; except as may be required minimally and temporarily at any time from time to time in connection with the maintenance and repair of the Easement Area.

b. Repair and Maintenance: The Owner of each Parcel is obligated to repair and maintain at its sole cost and expense its own respective Parcel, keeping the same in good condition and repair; however, repair and maintenance of the Easement Area shall be provided by Declarant and then the Association in accordance with Article V. In the event an Owner fails to maintain its Parcel in good condition and repair and in a manner which the Board deems



necessary to preserve the appearance and value of the Parcel, the Board may notify Owner of the work required and request it be done within sixty (60) days from the giving of such Notice. In the event Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner and, following notice and hearing, if necessary, lien the Parcel for the amount thereof.

10.8 Association Insurance: The Association shall obtain and continue in effect a master policy of insurance covering all of the real property and within the Easement Area, excluding the LA Fitness Building, and protecting the interests of the Association and its members, including, without limitation, directors and officers liability coverage; employment practices coverage; crime, fire, and extended coverage (special form); and insuring the full replacement value of all improvements in the Shopping Center (excluding the LA Fitness Building) and commercial general liability insurance insuring the Association and each Owner for his liability for the Easement Area with "severability" and a fidelity bond covering officers, directors, and employees in an amount to be determined by the Board.

The minimum limits on the public liability insurance policy shall be \$1,000,000.00 single limit and shall include personal injury, bodily injury, property damage, and liability for non-owned automobiles. In addition, the Association shall obtain and continue in effect additional umbrella coverage of \$1,000,000.00, or as an alternative may carry a \$2,000,000.00 single-limit policy. Workers' compensation insurance shall at all times be carried to the extent required to comply with any applicable law. Officers and directors liability insurance shall be carried by the Association to cover persons serving in such capacities. The Board may obtain insurance with higher policy limits where the premium for such higher limits will not cause the assessments to increase beyond the limits permitted in this Declaration or where such increase limits are required to maintain parity with any increase and costs of living since the recording date of this Declaration without regard to any resulting increase in the Common Assessments.

Insurance premiums for the master policy shall be a Common Expense to be included in the Common Assessments levied by the Association. Each buyer of a Parcel shall pay the portion of the premium(s) attributable to said Parcel for the policy or policies purchased by Declarant for the Association.

In the event of substantial damage to or destruction of any part of the Easement Area (excluding the LA Fitness Premises), the Institutional Lender and Declarant (if also a lender), with respect to each Parcel affected by such damage, will be entitled to timely written notice of such damage and destruction and no provision of the Declaration or the Bylaws will entitle the Owner of the affected Parcel or other party to priority over such Institutional Lender and Declarant (if also a lender) with respect to the distribution to such Parcel of any insurance proceeds. All property and liability insurance carried by the Association or the Owners shall contain a cross liability endorsement and waiver of subrogation as to the Association, officers, and directors, and any members, their guests, agents, and employees.

10.9 Right and Duty of Owners to Insure: Each Owner shall provide fire and extended coverage insurance on his personal property and fixtures within its Parcel. Each Owner shall carry commercial general liability insurance to cover its individual liability for damage to person or property occurring within its Parcel or elsewhere upon the Property, in any manner arising out



of use of such Owner's Parcel. Such insurance shall be in an amount of not less than \$1,000,000, or such other minimum amount as the Board may determine, covering all claims for personal injury and property damage arising out of a single occurrence, or in such lesser amount as may be permitted by the Association. All such policies as may be carried by Owners shall contain waivers of subrogation of claims against Declarant, the Association, the Board of Directors of the Association, the Officers of the Association, and all other Owners. Each Owner shall annually review the limits of its insurance coverage and increase such limits as appropriate. Each Owner shall carry the Association as a named insured on all policies of the insurance carried by such Owner, and shall furnish the Association with a current certificate of such insurance. Such policies shall not adversely affect or diminish any liability under any insurance obtained by the Association, and duplicate copies of such other policies shall be deposited with the Board of Directors. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable hereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance to the Association, to the extent of such reduction, for application by the Board of Directors to the same purposes as the reduced proceeds are to be applied.

10.10 Notice of Expiration Requirements: All of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be cancelled or terminated, nor expire by their terms, without thirty (30) days' prior written notice to the Board of Directors, Declarant, the Owners and their respective first Mortgagees (provided that such Mortgagees have filed written requests with the carrier for such notice), and every other Person in interest who shall have requested such notice of the insurer.

10.11 Trustee for Policies: The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Article X, paragraph 7 hereof shall be paid to the Board of Directors as trustees. The Board of Directors shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the Parcel for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board of Directors is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire. Any two (2) directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

10.12 Actions as Trustee: Except as otherwise specifically provided in this Declaration, the Board of Directors, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association; the settlement of a loss claim; and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance carried by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Mortgagees who have requested the same in writing.



10.13 Annual Insurance Review: The Board of Directors shall review the insurance carried by the Association at least annually, for the purpose of determining the amount of the insurance referred to in paragraph 7 above. The Board of Directors may, at its option, obtain a current appraisal of the full replacement value of the Easement Area, without deduction for depreciation, by a qualified independent insurance appraiser, prior to each such annual review.

10.14 Required Waiver: All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers: (a) subrogation of claims against the tenants of the Owners; (b) any defense based on co-insurance; (c) any right of set-off, counterclaim, apportionment, proration, or contribution by reason of other insurance not carried by the Association; (d) any invalidity, other adverse effect, or defense on account of any breach of warranty or condition caused by the Association, any Owner, or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors, and employees of any insured; (e) any right of the insurer to repair, rebuild, or replace, and, in the event the Property is not repaired, rebuilt, or replaced following loss, any replacement value of the improvements insured or the fair market value thereof; (f) notice of assignment by any Owner of its interest in the insurance by virtue of a conveyance of any Parcel; and (g) the right to require any assignment of any mortgage to the insurer. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the manager, Declarant, and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.15 Restoration of Easement Area: Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Easement Area and any other improvements insured by the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article X, paragraph 7 hereof shall be used for such purposes, unless otherwise provided herein. The Board of Directors shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Easement Area and all other improvements shall be reconstructed or rebuilt substantially in accordance with the original construction plans, if they are available, with such changes as are recommended by the Architectural Control Committee. In the event the amount available from the proceeds of such insurance policies exceeds the cost of restoration and repair, the excess shall be deposited to the general funds of the Association. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than the estimated cost of restoration and repair, a Capital Improvement Assessment, shall be levied by the Board of Directors upon the Owners and their property in order to provide the necessary funds for such reconstruction over and above the amount of any insurance proceeds available for such purpose. Notwithstanding the foregoing, in the event of total destruction of all of the Improvements in the Shopping Center, and a decision of the Owners owning two-thirds (2/3) of the Shares not to rebuild, the proceeds of the insurance carried by the Association shall be divided among the Owners in accordance with the Share of each Owner, provided that the balance then due on any



valid mortgage of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Parcel is so encumbered.

10.16 Condemnation: In the event of an award for taking of any Parcel in the Shopping Center by eminent domain, the Owner of such Parcel shall be entitled to receive the award for such taking; and after acceptance thereof, the Owner and his mortgagee shall be divested of all interest in the Shopping Center as such Owner. The remaining portion of the Shopping Center shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Easement Area. In the event of a taking by eminent domain of any part of the Easement Area, the Association shall participate in the negotiations and, where Properties are not valued separately by the condemning authority or by the court, shall propose the method of division of the proceeds of condemnation. In the event of inverse condemnation, any award received shall be allocated fairly and proportionately among the Owners of Properties involved. The Association shall give careful consideration to the allocation of percentage interests in the Easement Area in determining how to divide proceeds of condemnation. In the event that an Owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under the rules of the American Arbitration Association. In the event of eminent domain proceedings against the Shopping Center or any portion thereof, Institutional Lenders and the Declarant (if also a lender) shall be given timely written notice thereof. If any Parcel or portion thereof or the Easement Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or its otherwise sought to be acquitted by a condemning authority, the Institutional Lender and Declarant (if also a lender) with respect to any such Parcel, will be entitled to timely written notice of such proceedings or proposed acquisition and no provision of any document establishing the Shopping Center will entitle the owner of a Parcel or other party to priority over such Institutional Lender and the Declarant (if also a lender) with respect to the distribution to such Parcel Owner of the proceeds of any award or Settlement.

10.17 Owners' Compliance: Each Owner, tenant, or occupant of a Parcel shall comply with the provisions of this Declaration, and to the extent they are not in conflict with the Declaration, the Articles, the Bylaws, decisions, and resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws shall be deemed to be binding on all Owners, their successors, and assigns.

10.18 Notices: Any Notice permitted or required by the Declaration, the Articles, or the Bylaws shall be in writing and may be delivered personally or by mail. If delivery by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each person at the current address given by such person to the Secretary of the Board or addressed to the Parcel of such person if no address has been given to the Secretary. Personal delivery of such notices to one of more co-Owners of a Parcel, or to any Partner of a partnership owning a Parcel, or to any officer or agent for services of process of a corporation owning a Parcel, shall be deemed to be delivery to all co-Owners, the partnership, or the corporation, as the case may be.



10.19 No Liability and Indemnification: No right or power conferred on the Board of Directors or the Architectural Control Committee by virtue of this Declaration, or by the Articles or the Bylaws, shall be construed as a duty, obligation, or liability charged upon the Board of Directors, the committee, or upon any director or member thereof; and except for injuries arising out of their malicious acts, no member of the Board of Directors or the committee shall be liable to any person for his decisions, or failure to act in making decisions, as a member of the Board of Directors or the committee. The Association shall pay all expenses incurred by, and satisfy any judgment or fine rendered or levied against, any person who is or has been a director, officer, employee, or committee member of the Association, in any action brought by a third party or by the Association against such person (whether or not the Association is joined as a party defendant), to impose a liability or penalty on such person for action undertaken while a director, officer, employee, or the Association determines in good faith that such director, officer, employee, or committee member was acting in good faith within what he reasonably believed to be the scope of his employment or authority, and for a purpose which he reasonably believed to be in the best interests of the Association or its Members. Payments include amounts paid and expenses incurred in settling any such action or threatened action. This Section does not apply to any action instituted or maintained in the right of the Association by a Member. This provision shall be construed to provide for such payments and indemnification to the fullest extent permitted by the provisions of the applicable laws. Notwithstanding the foregoing, the members of the Board of Directors shall receive no compensation for their services performed pursuant to this Declaration or the Bylaws of the Association.

10.20 Enforcement: Declarant, until the Association Takeover Date and, thereafter, the Association, shall each have the right to enforce, by proceedings at law or in equity, the terms and conditions of this Declaration. The right to enforce this Declaration shall include, without limitation, the right to maintain an action at law or in equity against any Person or Persons who have violated or who are attempting to violate the terms or provisions of this Declaration, to enjoin or prevent them from doing so, to cause the violations to be remedied, and/or to recover damages. Notwithstanding the foregoing, the City shall have no obligation to enforce this Declaration or any provision hereof.



**DECLARANT**

**PACIFIC REAL ESTATE LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY**

By \_\_\_\_\_  
Tony Dehbozorgi  
Manager

**B & P OIL SERVICES,  
A CALIFORNIA CORPORATION**

By \_\_\_\_\_  
Behrooz Mirshafiee, President

\_\_\_\_\_  
Behrooz Mirshafiee, a single man

**EXHIBIT A**

**LEGAL DESCRIPTION OF PACIFIC REAL ESTATE PARCELS**

**PARCEL 3, PARCEL 4, PARCEL 5 AND PARCEL 6 OF PARCEL MAP 368862  
RECORDED ON \_\_\_\_\_, 2016 IN BOOK \_\_\_\_ PAGE \_\_\_\_\_ OF MAPS IN THE  
OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, CALIFORNIA**



**EXHIBIT B**

**LEGAL DESCRIPTION OF THE B & P PARCELS**

**PARCEL 1 AND PARCEL 2 OF PARCEL MAP 368862 RECORDED ON \_\_\_\_\_, 2016  
IN BOOK \_\_\_\_ PAGE \_\_\_\_\_ OF MAPS IN THE OFFICIAL RECORDS OF THE  
COUNTY OF RIVERSIDE, CALIFORNIA**

**EXHIBIT C**  
**SHOPPING CENTER SITE PLAN**

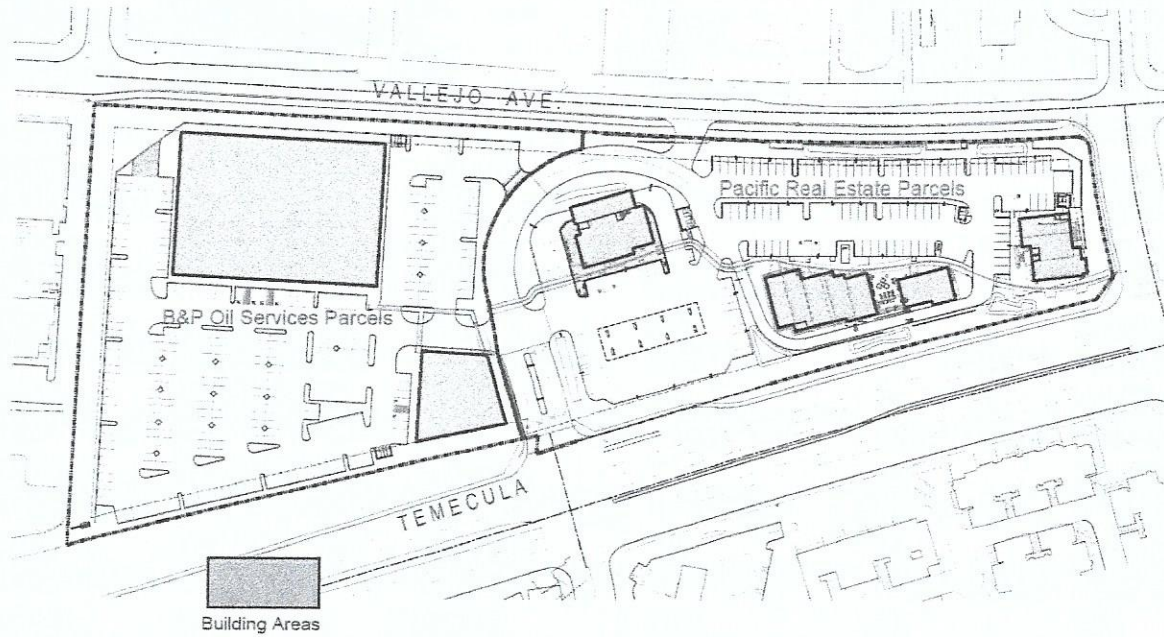


Exhibit C – Shopping Center Site Plan  
Temecula Gateway Declaration of Covenants, Conditions, and Restrictions



## EXHIBIT D

### ROSTER OF PARCELS, RESPECTIVE PERCENTAGE INTERESTS IN EASEMENT AREA, AND ALLOCATED VOTES

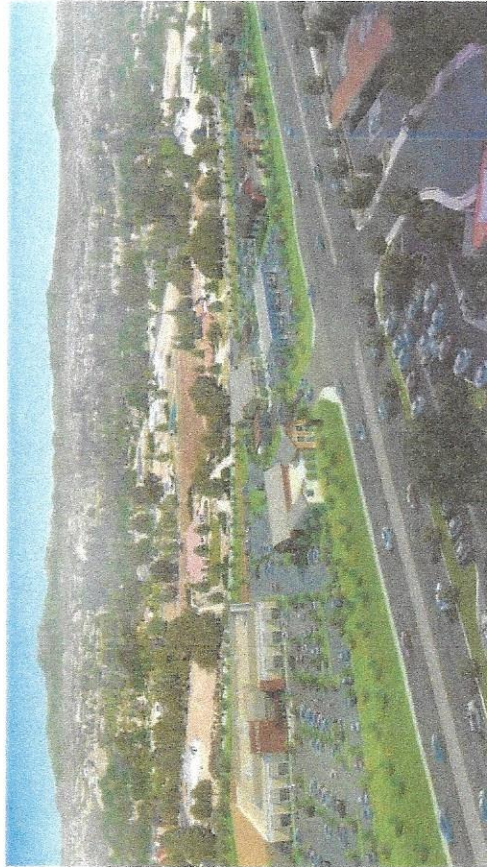
<u>Parcel</u>	<u>Land Area</u>	<u>Percentage allocation of Common Assessment (%)</u>	<u>Percentage allocation of Los Ranchitos Assessment (%)</u>	<u>Class A Votes</u>  (If Applicable)	<u>Class B Votes</u>  (If Applicable)
1	3.69 Acres	See Section 1.30.	41.98%	42	588
2	1.13 Acres	See Section 1.30	12.86%	13	182
3	1.29 Acres	See Section 1.30	14.68%	15	210
4	1.15 Acres	See Section 1.30	13.08%	13	182
5	0.75 Acres	See Section 1.30	8.53%	8	112
6	0.78 Acres	See Section 1.30	8.87%	9	126
<b>Total</b>	8.79 Acres	See Section 1.30	100.00%	100	1400

**EXHIBIT E**  
**SIGN PROGRAM**  
**(SEE ATTACHED)**



# GATEWAY TO TEMECULA

Temecula, CA



## COMPREHENSIVE SIGN PROGRAM

April 14th, 2016

PREPARED FOR  
Piedra Real Estate LLC and B & P Oil Services Inc.  
885 Oak Valley Parkway  
Beverly Hills, California 92223  
909.336.0779

PREPARED BY  
ADS  
1160 Railroad St.  
Corona, California 92882  
951.278.0080



DEVELOPER / OWNER  
 Pacific Real Estate LLC, and B & P Oil Services Inc.  
 886 Oak Valley Parkway,  
 Beaumont, California 92223  
 909.938.0979

SIGN CONSULTANT  
  
 1160 Railroad St.  
 Corona, California 92882  
 951.278.0680

# GATEWAY TO TEMECULA

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# O B J E C T I V E

The objective of the following sign criteria is to provide standards and specifications that assure consistent quality, size, variety and placement for tenant signs throughout this project. This criteria is also intended to stimulate creative invention and achieve the highest standard of excellence in environmental graphic communication. Such excellence is best achieved through open and frequent dialogue between Tenant/Landlord, and the project's graphic design consultant. Signage at Gateway to Temecula, Temecula, California is an integral part of the center's image and appeal, so signs must be thoughtfully designed, placed and proportioned to the individual architectural facade on which they are placed. Care in the design and installation of above signs will enhance customer's appreciation.

## OVERVIEW

The overview of this criteria is to assist the Developer/tenant and City relationship.

The Developer will be responsible to:

- Provide base building design and construction information requested by Tenant's sign design consultant.
- Review, comment and approve Tenant sign submission.

In return, the Tenant will be responsible for:

Design, fabrication, permitting and installation of signs, including any structural support and electrical service and any special installation requiring addition or modification to the shell building approved by the Developer.

## Maintenance of the Sign

The Tenant shall employ professional sign fabricators and installers approved by the Developer who are well qualified in the techniques and procedures required to implement the sign design concept. The Tenant will abide by all provisions, guidelines and criteria contained within this Gateway to Temecula Sign Program.

Only those sign types provided for and specifically approved by the Developer in Tenant's sign submission documents will be allowed. The Developer may, at his discretion and at the Tenant's expense and after proper notice to Tenant, replace or remove any sign that is installed without Developer's written consent or that is not executed in conformance with the approved submission. Tenant shall furnish the Developer with a copy of all sign fabrication and installation permits prior to installation.

It will be the responsibility of the Tenant to satisfactorily repair and patch holes of their storefront sign area should the Tenant vacate these premises.

**Note:** This sign program is intended to show the location, size and square footage of signs (building and site signs). Designs may change in the future as the project moves forward and are subject to change of Landlord's discretion. Such changes to this sign program must be approved by the City of Temecula.



- SIGN SIZE PARAMETERS**
- (A) Project Monument  
One (1) 17'-3" high maximum, double faced illuminated monument sign with Project and Tenant names.
- (B) Project Monument (Corner Monument)  
Four (4) Multi-Level, single faced illuminated monument sign with Tenant names.  
Note: Monument Signs A & B shall be located within planting areas consistent with development code section 17.28.070.
- (C) Gas Price Monument  
One (1) double faced illuminated monument sign with an LED digital display option.
- (D) LA Fitness  
Two (2) illuminated channel letter signs, One (1) illuminated logo sign, all Three (3) wall mounted.
- (E) Wall & Canopy Mounted Signs  
• Each Tenant is allowed storefront ID signs above their storefront.  
• Tenants with building elevations facing multiple exposures such as public streets and/or internal parking lots, alleys or alleyways, may incorporate signage at each elevation, as approved by Landlord at Landlord's discretion but not to exceed total square footage allowed for their leased building area.  
• Sign area allowed for each Tenant shall be calculated as follows: One (1) 0 square foot of sign area per linear foot of each Tenant's elevations.  
• Secondary sign copy is permitted but shall not exceed the total square footage of sign area permitted by the Tenant's leased storefront.  
• The maximum width of any Tenant's storefront sign may not exceed eighty-five (85%) percent of the Tenant's leased storefront.  
• In no case may a sign extend beyond the roof parapet or adjacent building eave line unless specifically approved by the City and the Landlord.  
• Signs are not allowed on or against any roof structures.
- Deviation from requirements:**  
When it is found that the and or literal interpretation of the provisions set forth in this criteria would cause undue difficulties and unnecessary hardship inconsistent with the purpose and intent of the criteria, a minor deviation or modification may be granted if the following conditions are met:  
• The sign is in proportion to the structure or use to which it relates.  
• The sign's external features are in balance and unity, and present a harmonious appearance.  
• The sign is consistent with the objectives of the overall general plan.  
• Deviations must be approved by the City of Temecula.
- All signs shall be measured for area by drawing a shape (rectangular or other) around each element of the individual signs.  
For example, measure the area of letters and area of icon and/or logo separately. The sign height shall be the total height of all letter and graphics combined.  
Ascenders and descenders will not be calculated in the overall sign area.



Logo **TENANT NAME**

Logo **Tenant Name**





#### Examples of Mixed Media:



Individual internally illuminated channel letters mounted on canopy



Example: Halo illuminated letters



Halo letters on wire mesh background and exposed neon accents.



Wall mounted Halo illuminated channel letters with an aluminum panel and routed copy.

#### SIGN STYLES

Creative and imaginative signage is strongly encouraged and will be the standard for Developers review/approval of all sign design submissions.

There are many acceptable sign treatments, however a **Mixed Media** three-dimensional approach combining several different fabrication and lighting techniques is preferred. Tenants are strongly encouraged to consider the specific architectural style of their facade, the overall concept of the project, the scale of the proposed sign and the critical viewing angles and sight lines when designing appropriate graphics and signs for the storefront. Note that specific locations and surrounding architectural treatments can limit the maximum sign height and length, which may differ from the general guidelines proposed above. The Developer and The City of Temecula reserve the right to approve or reject any proposed sign on the basis of the size and placement.

Acceptable sign styles include:

1. Creative use of Standard illuminated channel letters.
2. Front and halo illuminated channel letters.
3. Halo illuminated letters, 3" deep minimum.
4. Mixed media / dimensional signs using images, icons, logos, etc.
5. Mixed media, 3-dimensional signs painted gold, silver or copper leaf.
6. Dimensional geometric shapes.
7. Sandblasted, textured and/or burnished metal-leaf faced letters, pin mounted from facade with goose-neck light fixtures.

\* **Mixed Media** signs are signs employing two or more illumination and fabrication methods.

For example: Halo fill reverse channel letters with exposed neon accents. Also, for example: Reverse channel letters with exposed neon accents. Signs composed of elements of which may be panel or cabinet. However, the panel / cabinet sign should not exceed 50% of the total sign area. With the Developer approval, complex shaped (i.e. Polyhedron) sign cabinets which is part of a national logo may be used alone if they incorporate dimensional elements such as push-through letters.

NOTE: ALL TENANT WALL SIGNS ON THE NORTH ELEVATION ABOVE THEIR STORE FRONTS FACING THE RESIDENTIAL HOMES MAY ONLY BE HALO ILLUMINATED.



## TYPE STYLES & LOGOS

The use of logos and distinctive type styles is encouraged for all Tenant signs. Sign lettering may be combined with other graphics and/or dimensional elements denoting the type of business. The Tenant may adopt established styles, logos and/or images that are in use on similar buildings operated by the Tenant in California, provided that these images are architecturally compatible and approved by the Landlord. The typeface may be arranged in one (1) or two (2) lines of copy and may consist of upper and/or lower case letters. The Tenant should identify trademark, protected type and marks in their sign submission to assist the Landlord in the review process.

## LIGHTING

Tenant signs should be creatively illuminated using a variety of lighting techniques. One or more of the following are allowed:

1. Light Emitting Diodes (LEDs)
2. Fiber Optics
3. Cove Lighting (Indirect Illumination)
4. Incandescent light bulbs

If it is determined by Landlord at any time that the primary lighting of Tenant's well sign or blade sign is too intense, the Landlord may require of Tenant's expense to install a dimmer switch.

## COLORS

The following guidelines are for selecting colors of Tenant's signing. The project and the individual building facade will consist of a variety of colors and materials.

Signs may incorporate regionally and nationally recognized logo colors.

Sign colors should be selected to provide sufficient contrast against building background colors.

Sign colors should be compatible with and complement building background colors.

Sign colors should provide variety, sophistication and elegance.

Color of lettering shall be a contrasting color to the face of the letter.

Neon accent colors should complement related signing elements.

Bright colors such as "Hot Pink" will not be allowed.

## APPROVAL PROCESS

At least thirty (30) days prior to the Landlord's scheduled delivery of the premises, Tenant shall provide the following information to the Landlord for review.

Note: This information is separate from sign approval submission and store design and drawing submissions, and will be used to begin the sign design process.

- Store Name;
- Store logo (in color with colors identified);
- Store interior materials, colors and finishes.

Allowing reasonable time for Landlord's review and Tenant's revision of submission in advance of sign fabrication, Tenant shall submit for Landlord's approval, three (3) sets of complete and fully dimensioned shop drawings of the Tenant's sign to the Landlord's Tenant Development Director.

Shop drawings shall include at least the following: Tenant's entire building facade elevation, showing the proposed sign, in color drawing to scale of 1/4" = 1'-0". Plus a site plan with the marked locations of the proposed sign(s).

Storefront (portal building) elevation showing the location, size, color, construction and installation details of the Tenant's proposed sign. Typical "section-through" letter and/or sign panel showing the dimensional projection of the letter or panel face and the illumination method.

Color and material samples together with a photograph (if possible) of a similar installation.

Within thirty (30) days of receipt of the sign submission, the Landlord will approve, or noted, or disapprove, or request revision of the Tenant's sign design. Tenant must respond to the Landlord's comments in accordance with fourteen calendar days, and repeat the process until all sign design, fabrication and installation issues are resolved to the Landlord's satisfaction.

Upon receipt of final sign approval, Tenant may submit the proposed sign to the governing agency for review for consistency with the Sign Program and the required fabrication and installation permits. Tenant is required to provide two (2) sets of the Landlord approved drawings to the City of Temecula when submitting for building and electrical permits.



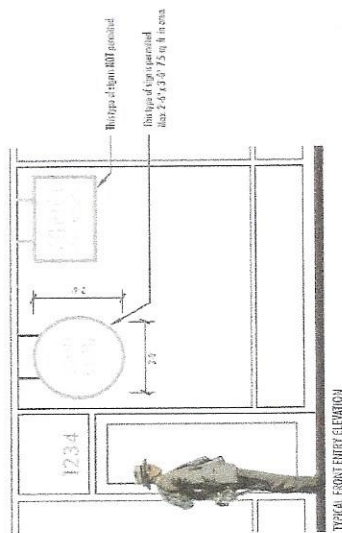
Creative use of cabinet with push-through copy and dimensions here are accurately as cabinet surface, when reflectively channel letter cannot be used





## THE FOLLOWING SIGNS AND ELEMENTS ARE PROHIBITED

1. A sign that consists of only an unadorned rectangular cabinet signs with translucent or opaque faces, unless with specific prior approval from Landlord.
2. Temporary wall signs, Point-to-Point, Sale/Promotional Banners, Inflatable displays or Sandwich boards.
3. Temporary signs are subject to The City of Temecula temporary sign regulations.
4. Gold leaf treatments on windows or bar signs without Landlord's written approval.
5. Exposed junction boxes, wires, plug in wires on window signs, transformers, lamps, tubing, conduits, raceways or neon crossovers of any type.
6. Signs using trim cup materials that do not match the color of the letter and logo returns (polished gold, silver or bronze trim caps are NOT permitted).
7. Pre-manufactured signs, such as franchise signs that have not been modified to meet these criteria.
8. Paper, cardboard, or Styrofoam signs, stickers, or decals hung around or behind storefronts.
9. Exposed fasteners, unless decorative fasteners are essential to the sign design concept.
10. Illuminated materials such as wood grained plastic, laminates or wall coverings.
11. Reflecting, oxidizing, mirrored lights or non-reflecting sign components.
12. Reflective or mirrored signs, and back or parapets.
13. Signs on mirrored roofs or equipment screens.
14. Advertising or promotional signs on parked vehicles.
15. Sign company decals in full view (limit to one placement only).
16. Painted signs.
17. Portable and A-frame signs, unless with specific approval of Landlord.
18. Wind activated and balloon signs.
19. Outdoor advertising structures (billboards).
20. Signs painted directly onto the building will not be permitted.
21. Noncompliant signs are to be removed immediately upon request.
22. Noncompliant and temporary signs will not be permitted without written Landlord approval and must be in accordance with City of Temecula ordinances.



GATEWAY TO TEMECULA

## WINDOW DISPLAY GRAPHICS

- Each Tenant is allowed a limited amount of window signage on their storefront windows.
1. Two (2) square feet of company vinyl name and/or logo in each storefront window of nine (9) square feet of a company logo (illuminated or non-illuminated) in any one (1) window of a Tenant's storefront. Note: Exposed neon is not permitted in windows.
  2. One (1) square foot of company store hours, to be white vinyl non lit copy.
  3. Alcohol & tobacco advertisements will not be permitted, unless specifically approved by Landlord.
- NOTE:** All of the above requires approval from the Landlord and the content will be at the sole discretion of the Landlord.

## FABRICATION

The Tenant must insure that his sign fabricator and installer understand their responsibilities before they begin the sign fabrication.

The Tenant's sign contractor is responsible for the following:

1. Signs must be fabricated of durable appropriate weather resistant materials, complementary to the store building materials.
2. Dissimilar metals used in sign fabrication shall be separated with non-conductive gaskets to avoid electrolysis. Additionally stainless steel fasteners shall be used to attach dissimilar metals.
3. Threaded rods or anchor bolts shall be used to mount sign letters which are held off the background panel. Angle clips attached to letter sides will NOT be permitted.
4. Colors, materials, finishes shall exactly match those submitted to and approved by the Landlord.
5. Visible welds and seams shall be ground smooth and filled with auto body compound before painting.
6. No fasteners, rivets, screws or other attachment devices shall be visible from any public vantage point.
7. Finished metal surfaces shall be free from staining and warping. All sign finishes shall be free of dirt, orange peel, dips and runs and shall have a uniform surface conforming to the highest industry standards.
8. Reverse channel letters shall be placed two (2) inches from the wall. The letter return depth shall be no more than three (3) inches and letters shall have a clear acrylic enclosure.
9. All signs to be seamed a minimum of a half (1/2) inch from wall or facade onto which the letters are attached.

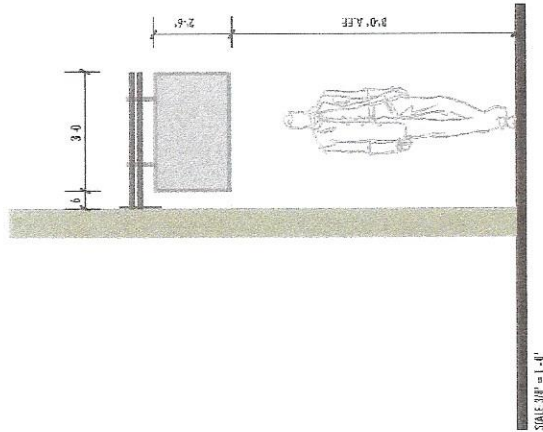
## INSTALLATION

The Tenant's sign installer will provide the following:

1. Provide the Landlord with an original certificate of insurance naming the Landlord as an additional insured for liability coverage in an amount required by Landlord.
2. Obtain all required sign permits from the City of Temecula, California and deliver copies to the Landlord before installing the sign(s).
3. Keep a Landlord approved set of sign drawings on site when installing the sign(s).
4. Warrant the sign(s) against latent defects in materials and workmanship for a minimum of one (1) year.



## PEDESTRIAN ORIENTED PROJECTING BLADE SIGN



Each tenant is permitted one (1) blade / under canopy sign per customer entrance. The blade sign program requires that each tenant's graphic identity be transformed into a 3-dimensional double-faced sign. The Landlord encourages the tenant to propose blade / under canopy sign design, which enrich the pedestrian environment with a creative use of color and material combined with a strong store name identification.

Blade / under canopy signs will be non-illuminated. Lighting for these must be indirect, non-internal LED or incandescent, not heat or fluorescent.

Blade / under canopy signs shall project no more than three feet six inches (3'-6") from the building face, and shall be no more than two feet six inches (2'-6") in height, with a maximum of eight (8) square feet of area for each face. Clearance from the underside of the blade sign to the finished common area paving shall be a minimum of eight (8'-0") feet.

The blade sign may not be the tenant's primary store identification sign and will not be included in the calculation for the overall area permitted.

The blade sign may use creative shapes and be 3-dimensional.

Landlord is not responsible for structural backing or the dedicated primary electrical power that may be required to support the blade sign. This must be coordinated with Tenant's Improvement Contractor prior to installation.





**SITE PLAN**

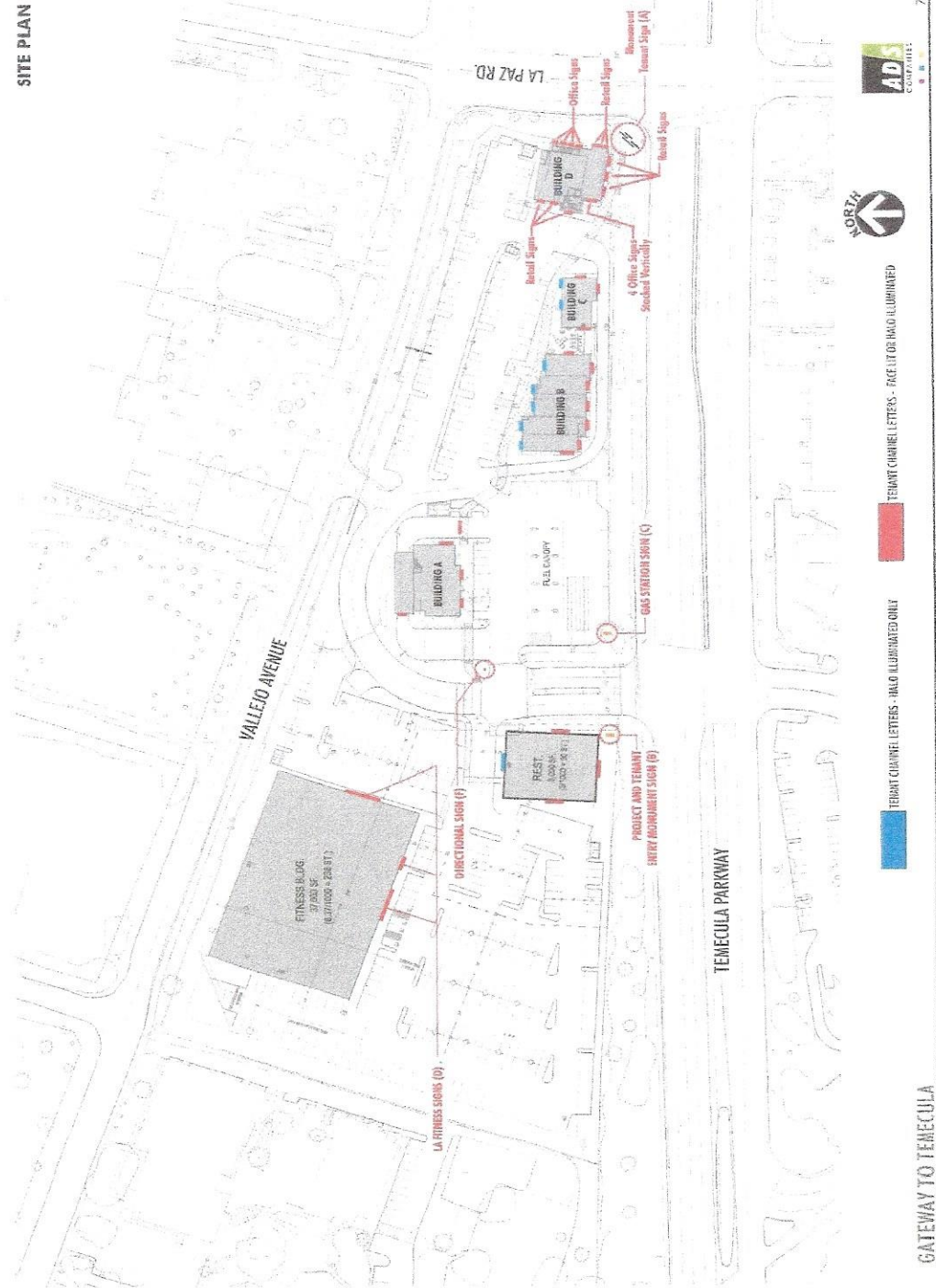
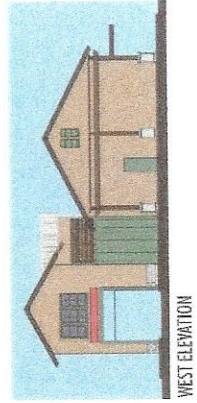
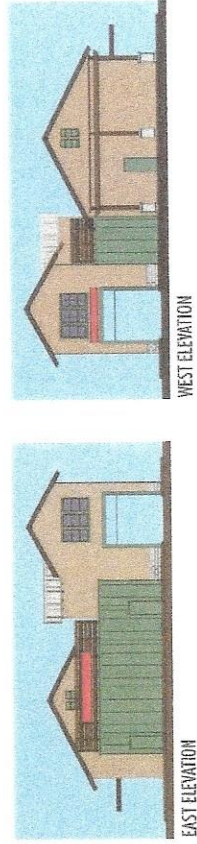
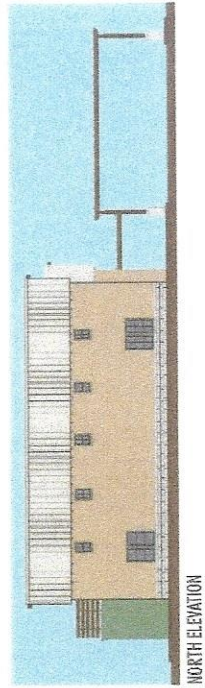
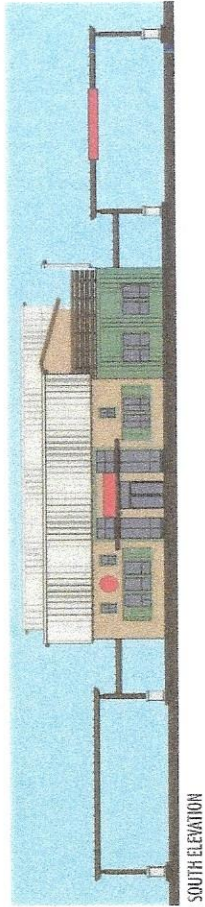


Exhibit E-10 – Sign Program  
Temecula Gateway Declaration of Covenants, Conditions, and Restrictions

# GAS STATION BUILDING-A ELEVATIONS



Note: Sign Locations are examples only, not exact and may vary slightly as shown.

■ TENANT CHANNEL LETTERS - HAND ILLUMINATED ONLY

■ TENANT CHANNEL LETTERS - FACE IT OR HAND ILLUMINATED



# BUILDING-B ELEVATIONS



Note: Sign Locations are examples only, not exact and may vary slightly as shown.

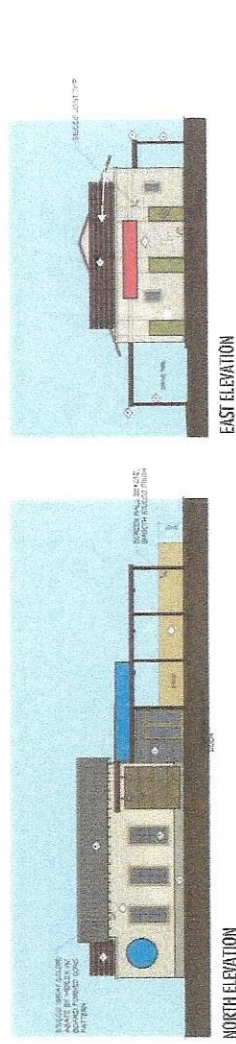
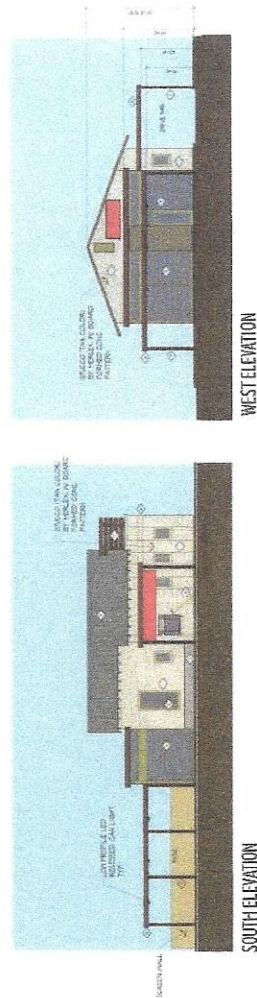


TEENANT CHANNEL LETTERS - FACE LIT OR HALO ILLUMINATED

TEENANT CHANNEL LETTERS - HALO ILLUMINATED ONLY

GATEWAY TO TEMECULA

# BUILDING-C ELEVATIONS



Note: Sign Locations are examples only, not exact and may vary slightly as shown.



TEENY CHANNEL LETTERS - FACE UP OR HALO ILLUMINATED

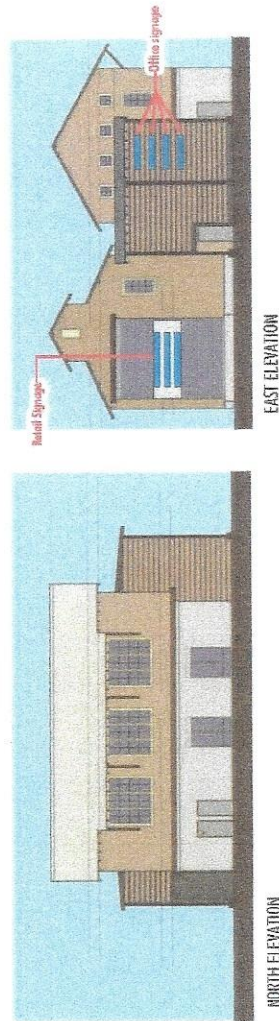
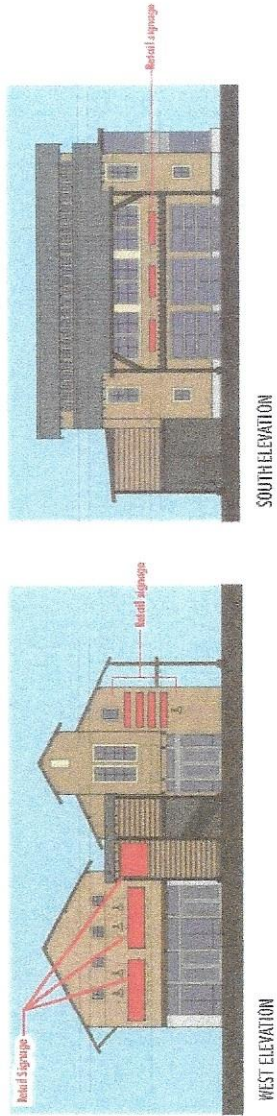
TEENY CHANNEL LETTERS - HALO ILLUMINATED ONLY

GATEWAY TO TEMECULA

8 C



# BUILDING-D ELEVATIONS



Note: Sign Locations are examples only, not exact and may vary slightly as shown.

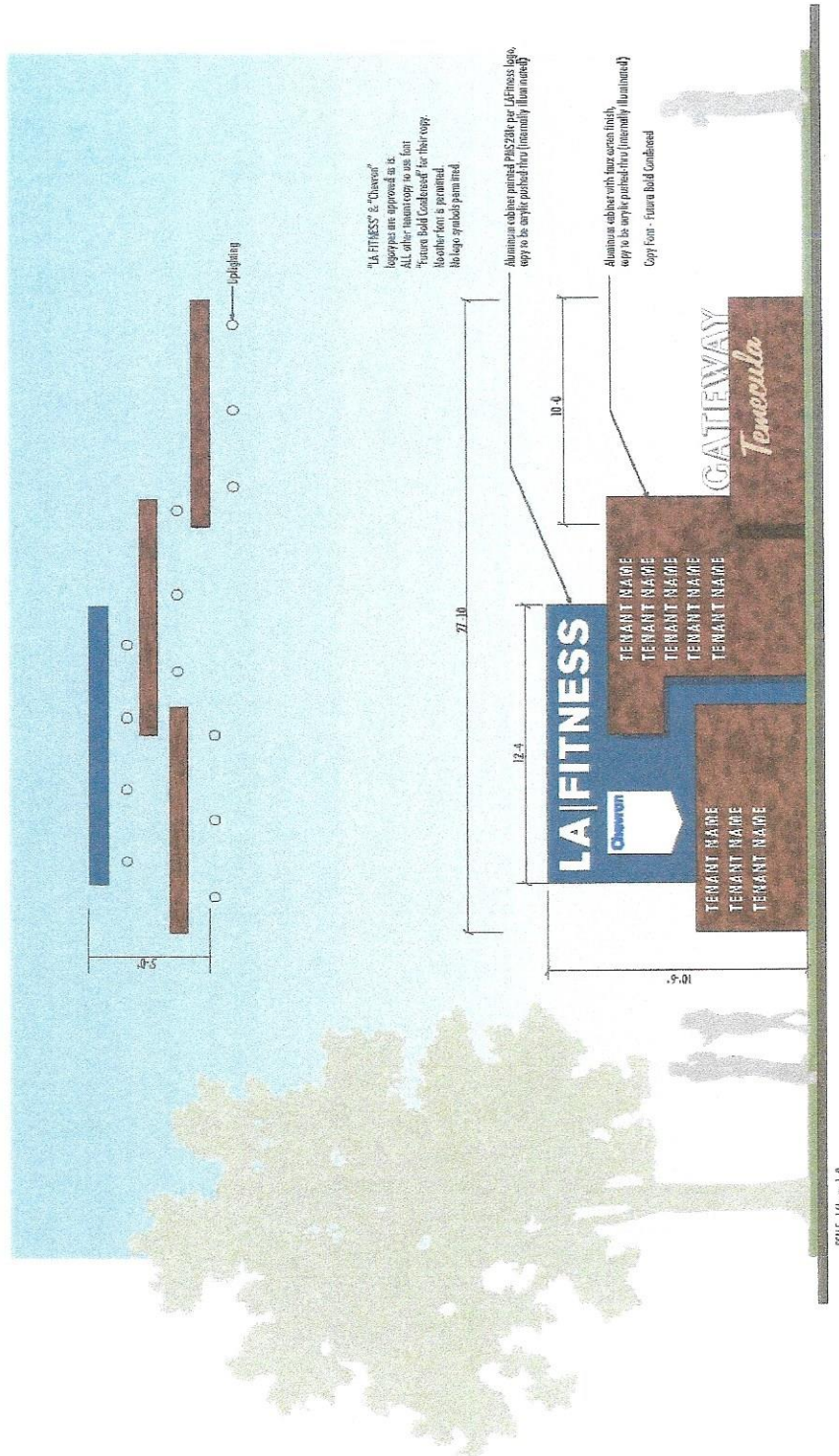


TEHANT CHANNEL LETTERS - FACE LIT OR HALO ILLUMINATED

TEHANT CHANNEL LETTERS - HALO ILLUMINATED ONLY

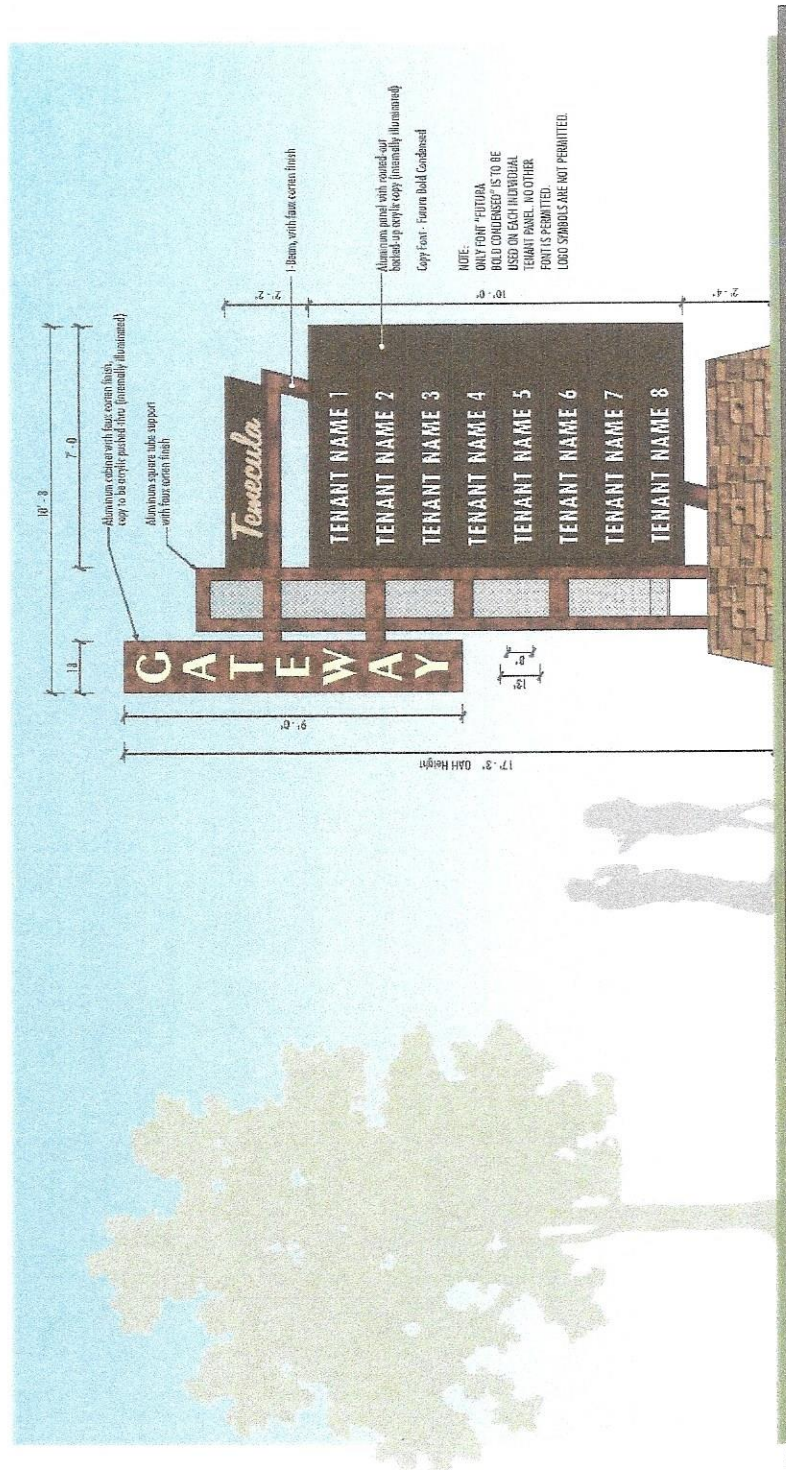
GATEWAY TO TEMECULA

CORNER MONUMENT SIGN (A)

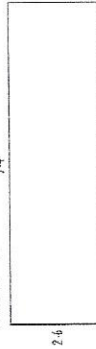




PROJECT ENTRY MONUMENT (B)



SCALE: 1/2" = 1'-0"



GATEWAY TO TEMECULA

**GAS STATION MONUMENT (C)**



SIZE: 3/8" = 1'-0" Gas Price Monument (1) Double faced illuminated monument sign with an LED digital display option.



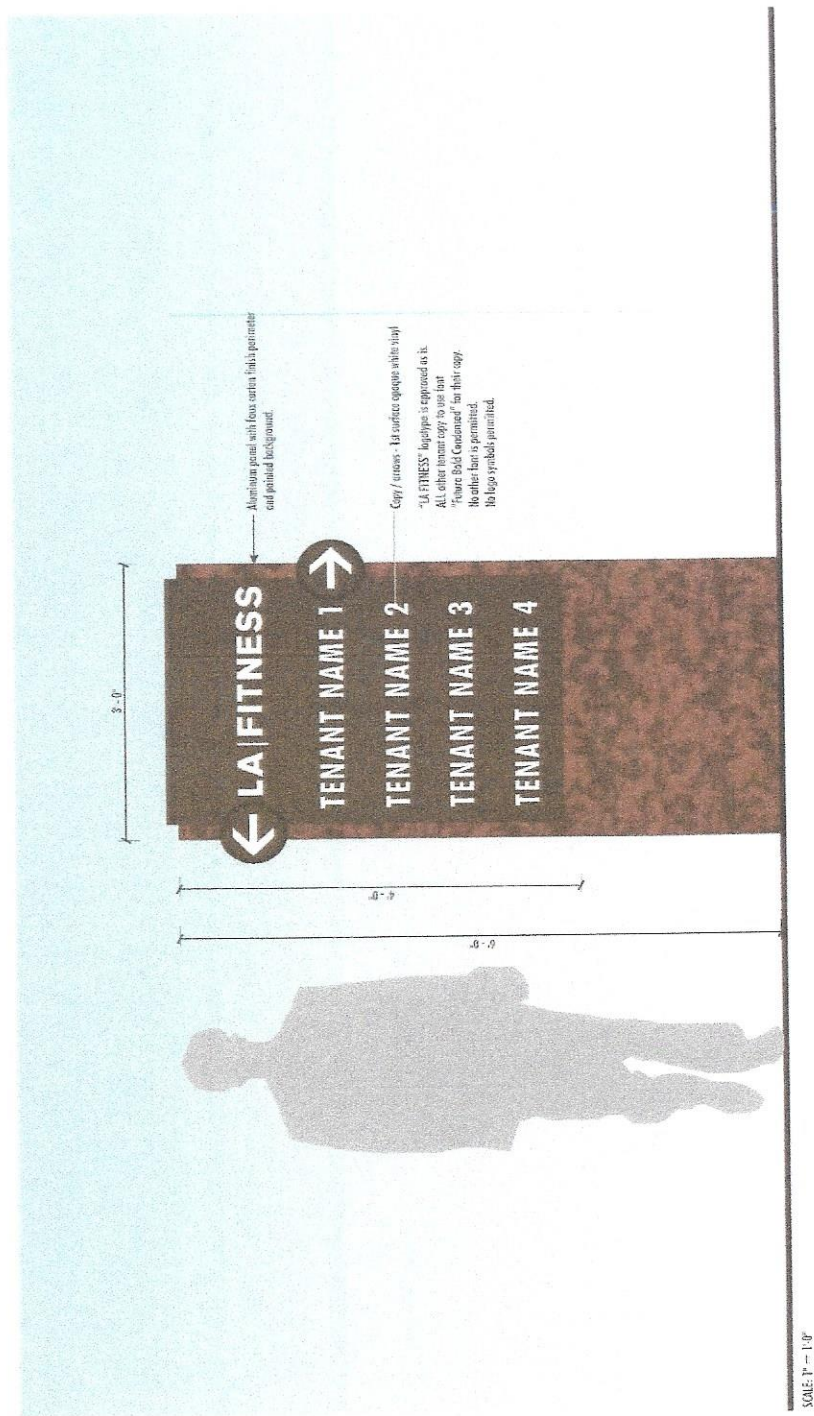
LA FITNESS (D)



Note: Sign Locations are examples only, not exact and may vary slightly as shown.



S/F DIRECTIONAL SIGN (F)



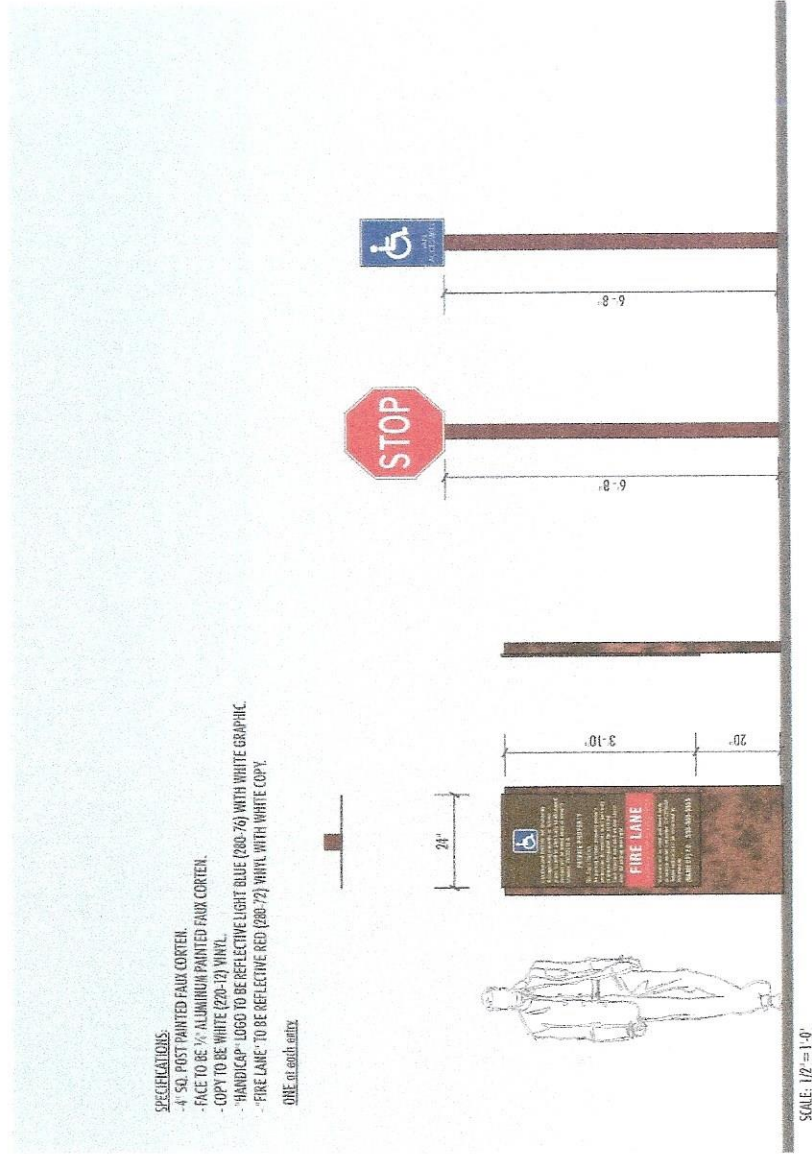
SCALE: 1" = 1'-0"



GATEWAY TO TEMECULA



# PARKING CODE ENTRY SIGN

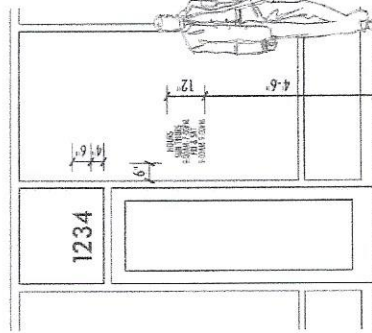


- SPECIFICATIONS:**
- 4" SQ. POST PAINTED FAUX CORTEN
  - FACE TO BE 1/2" ALUMINUM PAINTED FAUX CORTEN
  - COPY TO BE WHITE (200-12) VINYL
  - HANDICAP LOGO TO BE REFLECTIVE LIGHT BLUE (200-76) WITH WHITE GRAPHIC
  - FIRE LANE TO BE REFLECTIVE RED (200-72) VINYL WITH WHITE COPY
- ONE on each entry

**WINDOW HOURS AND  
REAR ENTRY SIGNS  
BUILDING ADDRESS NUMBERS**

**SPECIFICATIONS:**

- 6" HIGH OPAQUE WHITE VINYL NUMBERS/LETTERS ON ENTRY GLASS ABOVE DOOR.
- STORE HOURS TO BE WHITE VINYL ON WINDOW NEXT TO DOOR.
- ALL VINYL TO BE APPLIED SECOND SURFACE.
- 2 50. FT. MAXIMUM SIGN AREA.



TYPICAL FRONT ENTRY ELEVATION  
SCALE: 3/8"=1'-0"

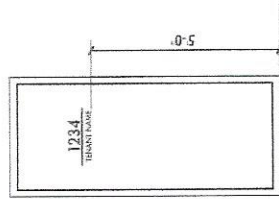
QTY. TO BE DETERMINED

**SPECIFICATIONS:**

- 4" AND 2" HIGH VINYL NUMBERS/LETTERS ON REAR ENTRY DOOR.
- COLOR TO BE IN CONTRASTING COLOR TO DOOR.
- 2 50. FT. MAXIMUM SIGN AREA.



TENANT NAME



TYPICAL REAR ENTRY ELEVATION  
SCALE: 3/8"=1'-0"

QTY. TO BE DETERMINED

**SPECIFICATIONS:**

- 10" HIGH x 1/2" THICK SINTRA NUMBERS.
- (Note: stroke of letter to be no less than 1/2" - CBC section 501.2)
- PAINT COLOR TO MATCH PROJECT (CONTRASTING TO BUILDING FASCIA COLOR).
- NUMBERS TO BE STUD MOUNTED TO BUILDING FASCIA.

