

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CITY OF COSTA MESA  
77 Fair Drive  
Costa Mesa, CA 92626  
Attn: City Clerk

(Space above this line for Recorder's use only).

**ASSIGNMENT AND ASSUMPTION  
OF DEVELOPMENT AGREEMENT FOR SAKIOKA FARMS  
DEVELOPMENT PROPERTY**

This ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT FOR SAKIOKA FARMS DEVELOPMENT PROPERTY (this "Assignment") is dated as of the \_\_\_\_ day of \_\_\_\_\_, 2004, by and between ISCINA-SUNFLOWER, LLC, a California limited liability company ("Iscina"), RTS-SUNFLOWER, LLC, a California limited liability company ("RTS"), MARJACK LLC, a California limited liability company ("Marjack"), SAKIOKA FARMS, a California limited partnership ("Sakioka Farms"; Iscina, RTS, Marjack, and Sakioka Farms are collectively referred to herein as the "Sunflower Partners"), ROY K. SAKIOKA & SONS, a California general partnership ("RKSS Lot 2"), and the CITY OF COSTA MESA, a general law city ("City"). RKSS Lot 2, Sunflower Partners and the City are individually referred to herein as a "Party" and collectively referred to as the "Parties."

**RECITALS**

A. Sakioka Farms and RKSS Lot 2, and the City entered into that certain Development Agreement for Sakioka Farms Development Property dated November 15, 1999 and recorded on February 3, 2000 as Instrument No. 2000-0060847 ("Development Agreement"), which contains certain rights, duties and obligations relating to the development of that certain property located in the City of Costa Mesa, County of Orange, California, collectively consisting of approximately 73.34 acres, which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("Sakioka Property"). Terms not defined herein shall have the definitions set forth in the Development Agreement.

B. At the time the Development Agreement was executed, the Sakioka Property was under the common ownership of Sakioka Farms and RKSS Lot 2.

C. RKSS Lot 2 is the current owner of that certain real property within the Sakioka Property described as Lot 2 in the Development Agreement and shown on Exhibit B attached hereto and incorporated herein by this reference (the "RKSS Lot 2 Property"), (ii) Marjack, Iscina, and RTS are the current owners of all that certain real property within the Sakioka Property shown on Exhibit C attached hereto and incorporated herein by this reference (the "Sunflower Residential Property"), and (iii) Sakioka Farms and Marjack, are the current owners

of all that certain real property within the Sakioka Property described on Exhibit D attached hereto and incorporated herein by this reference (the "Pork Chop Property"; the Sunflower Residential Property and Pork Chop Property are collectively referred to herein as the "Sunflower Partners Property").

D. Section 3.9 of the Development Agreement provides that the rights and obligations of the Development Agreement may be transferred and assigned upon the transfer of any portion of the Sakioka Property, and the RKSS Lot 2 and Sunflower Partners have agreed that each shall assign to the other certain rights and interests and delegate certain obligations of Developer under the Development Agreement, as they apply to the RKSS Lot 2 Property and the Sunflower Partners Property.

E. The purpose of this Assignment is to set forth the terms and provisions agreed upon between RKSS Lot 2 and Sunflower Partners with respect to the assignment of certain rights and interests and the delegation of certain obligations of each of RKSS Lot 2 and Sunflower Partners under the Development Agreement, so as to have the practical effect of creating two separate and distinct agreements between the City and the respective owners of the RKSS Lot 2 Property and the Sunflower Partners Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Partial Assignment. Pursuant to Section 3.9 of the Development Agreement, and subject to Section 3 below, the Parties hereby agree as follows:

1.1 Sunflower Partners hereby assigns, conveys and transfers to RKSS Lot 2 all of Sunflower Partners' rights and interests under the Development Agreement to the extent such rights and interests relate to, benefit, or are reasonably necessary for the ownership, development or use of, the RKSS Lot 2 Property, including, but not limited to, all vested entitlement and development rights pursuant to the Existing Development Approvals and Existing Land Use Regulations applicable to the RKSS Lot 2 Property; and

1.2 RKSS Lot 2 hereby assigns, conveys and transfers to Sunflower Partners all of RKSS Lot 2's rights and interests under the Development Agreement to the extent such rights and interests relate to, benefit, or are reasonably necessary for the ownership, development or use of, the Sunflower Partners Property, including, but not limited to all vested entitlement and development rights pursuant to the Existing Development Approvals and Existing Land Use Regulations applicable to the Sunflower Partners Property.

2. Delegation and Assumption of Obligations. Subject to Sections 3 and 4 below, the Parties hereby agree as follows:

2.1 RKSS Lot 2 hereby delegates to Sunflower Partners and Sunflower Partners hereby assumes those obligations of RKSS Lot 2 under the Development Agreement which relate specifically to the Sunflower Partners Property ("Sunflower Partners Obligations"),

including without limitation, those obligations relating to onsite development and the payment of fees with respect to the Sunflower Partners Property; and

2.2 Sunflower Partners hereby delegates to RKSS Lot 2 and RKSS Lot 2 hereby assumes those obligations of Sunflower Partners under the Development Agreement that relate specifically to the RKSS Lot 2 Property ("RKSS Lot 2 Obligations"), including without limitation, those obligations relating to onsite development and the payment of fees with respect to the RKSS Lot 2 Property.

3. Fee Credits. The Parties acknowledge and agree that pursuant to Section 2.2(v) of the Development Agreement, the Sakioka Property has been allocated an aggregate fee credit of \$1,046,000.00 (the "Fire Safety Fee Credit") to be applied by the City against any future fire safety impact fee or other public safety or similar fee proposed to be imposed on the Sakioka Property. The Parties hereby irrevocably allocate and assign the Fee Credit as follows: 54.18%, or \$566,723.00, to the Sunflower Partners Property, and 45.82%, or \$479,277.00, to the RKSS Lot 2 Property.

4. Urban Rail Station Easements. The Parties acknowledge and agree that pursuant to Section 2.1(v) of the Development Agreement, the City has certain rights to request the dedication of land for the purpose of locating a future urban rail transit station on the Sakioka Property. Such dedication can only be required upon the satisfaction of conditions (a)-(f) of Section 2.1(v) and the final approval by the City of Future Development Approvals with respect to at least 25% of the cumulative aggregate amount of Development permitted under the Existing Approvals for the entire Sakioka Property, and the expiration of any applicable statute of limitations. The Parties intend for the City to have the same rights to require the station dedication, notwithstanding the separation of ownership of the Sakioka Property. Consequently, to the extent the City issues final discretionary approval of Future Development Approvals with respect to at least 25% of the cumulative aggregate amount of Development permitted under the Existing Approvals (on either or both of the RKSS Lot 2 Property and the Sunflower Partners Property), the applicable statute of limitations has expired, and conditions (a)-(f) of Section 2.1(v) have been satisfied, (and without altering whatever rights or obligations Sunflower Partners may have as the Developer of the Sunflower Partners Property), RKSS Lot 2 agrees to perform the obligations of Developer specified in Section 2.1(v), to the extent the obligations apply to the RKSS Lot 2 Property. To the extent the City issues final discretionary approval of Future Development Approvals with respect to at least 25% of the cumulative aggregate amount of Development permitted under the Existing Approvals (on either or both of the RKSS Lot 2 Property and the Sunflower Partners Property), the applicable statute of limitations has expired, and conditions (a)-(f) of Section 2.1(v) have been satisfied, (and without altering whatever rights or obligations RKSS Lot 2 may have as the Developer of the RKSS Lot 2 Property), Sunflower Partners agrees to perform the obligations of Developer specified in Section 2.1(v), to the extent the obligations apply to the Sunflower Partners Property. The purpose of this Section 4 is to apportion responsibility for compliance with Section 2.1(v) of the Development Agreement among the separated properties, so that either the station easement will ultimately be located on the RKSS Lot 2 Property as currently contemplated in the Development Agreement, or the station easement will be located on the Sunflower Partners Property with the mutual consent of Sunflower Partners and the City. Nothing in this Section 4 is intended to modify in any way the

rights and obligations of Developer with respect to the urban rail easements as specified in the Development Agreement.

5. Urban Rail Track Reservation. The Parties acknowledge and agree that pursuant to Section 2.1(vi) of the Development Agreement, the Developer has agreed to design any Project so as to reserve space for an urban rail track line if so requested by the City. Such reservation can only be required by the City upon the satisfaction of conditions (a) - (e) of Section 2.1(vi). The Parties intend for the City to have the same rights to require the rail track reservation, notwithstanding the separation of ownership of the Sakioka Property. Consequently, RKSS Lot 2 agrees to perform the obligations of Developer specified in Section 2.1(vi), to the extent the obligations apply to RKSS Lot 2 Property. Sunflower Partners agrees to perform the obligations of Developer specified in Section 2.1(vi), to the extent the obligations apply to the Sunflower Partners Property. The purpose of this Section 5 is to apportion responsibility for compliance with Section 2.1(vi) of the Development Agreement among the separated properties. Nothing in this Section 5 is intended to modify in any way the rights and obligations of Developer with respect to the urban rail track reservation as specified in the Development Agreement.

6. No Cross-Defaults. The Parties agree that in accordance with Section 3.4.3 of the Development Agreement: (i) any default by RKSS, or its successors and assigns, with respect to the RKSS Lot 2 Obligations shall not be considered a default by Sunflower Partners as to the Sunflower Partners Property and shall not impact Sunflower Partners' development rights with respect to the Sunflower Partners Property under the Development Agreement, and (ii) any default by Sunflower Partners, or its successors and assigns, with respect to the Sunflower Partners Obligations shall not be considered a default by RKSS Lot 2 as to the RKSS Lot 2 Property and shall not impact RKSS Lot 2's development rights with respect to the RKSS Lot 2 Property under the Development Agreement.

7. Estoppel. In accordance with Section 3.13 of the Development Agreement, the Parties each certify that, to the best knowledge of the certifying party as of the date hereof, (i) the Development Agreement is in full force and effect and a binding obligation of the parties thereto; (ii) the Development Agreement has not been amended or modified or clarified except as set forth on Exhibit E attached hereto; and (iii) the Parties to the Development Agreement are not in default of their respective obligations under the Development Agreement.

8. Amendment to Development Agreement. RKSS Lot 2 and Sunflower Partners agree that any amendment to the Development Agreement requiring the approval of the "Developer" that (i) pertains solely to development of the Sunflower Partners Property and (ii) does not modify or reduce the intensity or permissible uses of the RKSS Lot 2 Property, shall only require the approval in writing of Sunflower Partners, and that any amendment to the Development Agreement requiring the approval of the "Developer" that (a) pertains solely to development of the RKSS Lot 2 Property and (b) does not modify or reduce the intensity or permissible uses of the Sunflower Partners Property, shall only require the approval in writing of RKSS Lot 2. Hereafter, RKSS Lot 2 shall have no rights as they relate to modification of the Development Agreement solely with respect to the Sunflower Partners Property and Sunflower Partners shall have no rights as they relate to the modification of the Development Agreement solely with respect to the RKSS Lot 2 Property. Any modification of, or amendment to, the



10.3 Authority. Each of the Parties hereto represents and warrants to the others that the person or persons executing this Assignment on behalf of such Party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such Party.

10.4 Further Assurances. RKSS Lot 2 and Sunflower Partners each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the Parties as contained herein.

10.5 Execution in Counterparts. This Assignment maybe executed in several counterparts, and all so executed shall constitute one agreement between the parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

10.6 No Modification. Except as specifically modified or clarified by this Assignment, the Development Agreement shall continue in full force and effect in accordance with its terms, without any waiver, amendment or other modification of any provision thereof.

[signature pages follow]

IN WITNESS WHEREOF, the parties have executed this Assignment to be effective as of the date first written above.

CITY OF COSTA MESA

By: \_\_\_\_\_  
Mayor of the City of Costa Mesa

Attest:

\_\_\_\_\_  
Deputy City Clerk and ex-officio Clerk of the  
City of Costa Mesa

Approved as to Form:

\_\_\_\_\_  
City Attorney, City of Costa Mesa

**"RKSS LOT 2"**

ROY K. SAKIOKA & SONS, a California general  
partnership

By: JKS-RKS, LLC  
a California limited liability company,  
General Partner

By: \_\_\_\_\_  
George M.K. Sakioka, Manager

By: AMS CRAIG, LLC  
a Delaware limited liability company, General  
Partner

By: \_\_\_\_\_  
Arthur Masaki Sakioka, Manger

By: \_\_\_\_\_  
Marilyn Sakioka, Manager

**"SUNFLOWER PARTNERS"**

MARJACK, LLC, a California limited liability company

By: \_\_\_\_\_  
Phyllis T. Sakioka, Manager

By: \_\_\_\_\_  
Roy T. Sakioka, Manager

SAKIOKA FARMS, a California general partnership

By: \_\_\_\_\_  
\_\_\_\_\_, General Partner

By: \_\_\_\_\_  
\_\_\_\_\_, General Partner

ISCINA-SUNFLOWER, LLC, a California limited liability company

By: \_\_\_\_\_  
Phyllis T. Sakioka, Member

RTS-SUNFLOWER, LLC, a California limited liability company

By: \_\_\_\_\_  
Roy T. Sakioka, Member

EXHIBIT A

LEGAL DESCRIPTION OF SAKIOKA PROPERTY

LOT B AND THAT PORTION OF LOT 1 OF TRACT NO. 10950, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 515, PAGES 1 TO 8 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL-90-11 RECORDED APRIL 16, 1991 AS INSTRUMENT NO. 91-178038 OF OFFICIAL RECORDS.

LOT 2 OF TRACT NO. 10950, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 515, PAGES 1 TO 8 INCLUSIVE OF MISCELLANEOUS MAPS, AS AMENDED BY A CERTIFICATE OF CORRECTION RECORDED APRIL 23, 1986 AS INSTRUMENT NO. 86-160488 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF SAID LAND AS GRANTED TO THE CITY OF COSTA MESA, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA BY GRANT DEED DATED OCTOBER 10, 1994 AND RECORDED OCTOBER 11, 1994 AS INSTRUMENT NO. 94-604167 OF OFFICIAL RECORDS.

EXHIBIT B

LEGAL DESCRIPTION OF RKSS LOT 2 PROPERTY

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF LOT 2, TRACT NO. 10950 AS SHOWN ON A MAP THEREOF FINED IN BOOK 515, PAGES 1 THROUGH 8 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

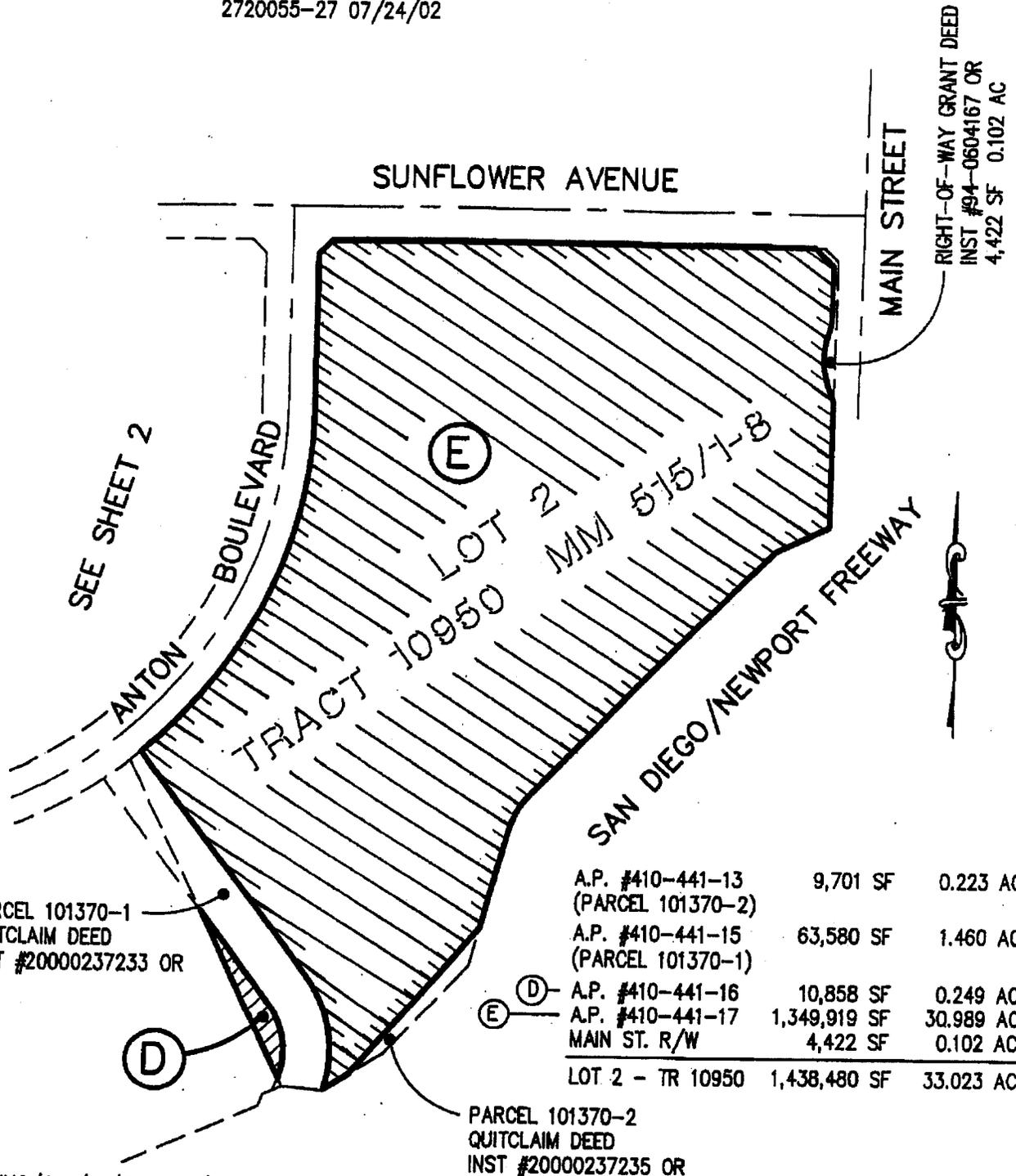
COMMENCING AT THE NORTHWESTERLY OF THAT CERTAIN COURSE SHOWN ON SAID MAP AS "NORTH 25°19'40" WEST 752.22 FEET" ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2, SAID TERMINUS BEING ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 290.468 METERS, A RADIAL LINE OF SAID CURVE TO SAID TERMINUS BEARS SOUTH 38°03'27" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE AND THE NORTHWESTERLY LINE OF LOT 3 OF SAID TRACT 20.460 METERS THROUGH A CENTRAL ANGLE OF 4°02'09" TO THE TRUE POINT OF BEGINNING; THENCE NON-TANGENT FROM SAID CURVE SOUTH 35°35'40" EAST, 104.306 METERS TO SAID SOUTHWESTERLY LINE OF LOT 2; THENCE CONTINUING SOUTH 35°35'40" EAST, 72.408 METERS TO THE BEGINNING OF A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 51.400 METERS; THENCE SOUTHERLY ALONG SAID CURVE 50.048 METERS THROUGH A CENTRAL ANGLE OF 55°47'21" TO SAID SOUTHWESTERLY LINE OF LOT 2.

LOT 2 OF TRACT NO 10950, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 515, PAGES 1 TO 8 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AND AS CORRECTED BY THAT CERTAIN CERTIFICATE OF CORRECTION RECORDED APRIL 23, 1986, AS INSTRUMENT NO. 86-160488, OFFICIAL RECORDS OF SAID ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE CITY OF COSTA MESA RECORDED OCTOBER 11, 1994, AS INSTRUMENT NO. 94-0604167 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED APRIL 10, 2000 AS INSTRUMENT NO. 20000182742 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE CITY OF COSTA MESA RECORDED MAY 8, 2000, AS INSTRUMENT NO. 20000237233 AND MAY 8, 2000, AS INSTRUMENT NO. 20000237235, BOTH OF OFFICIAL RECORDS.



MAPPING/449/01/EXHIBITS/LOT2

**FUSCOE**  
**ENGINEERING**  
 Civil Engineers • Land Surveyors

18795 Von Korman, Ste 100  
 Irvine, California 92606  
 Phone (949) 474-1900  
 FAX (949) 474-6316

**LAND AREA EXHIBIT**  
 PORTIONS OF  
 TRACT NO. 10950  
 for  
 ROY K. SAKIOKA & SONS

DATE: 10/17/02  
 SCALE: 1"=300'  
 JN: 449.0101  
**3 of 3**

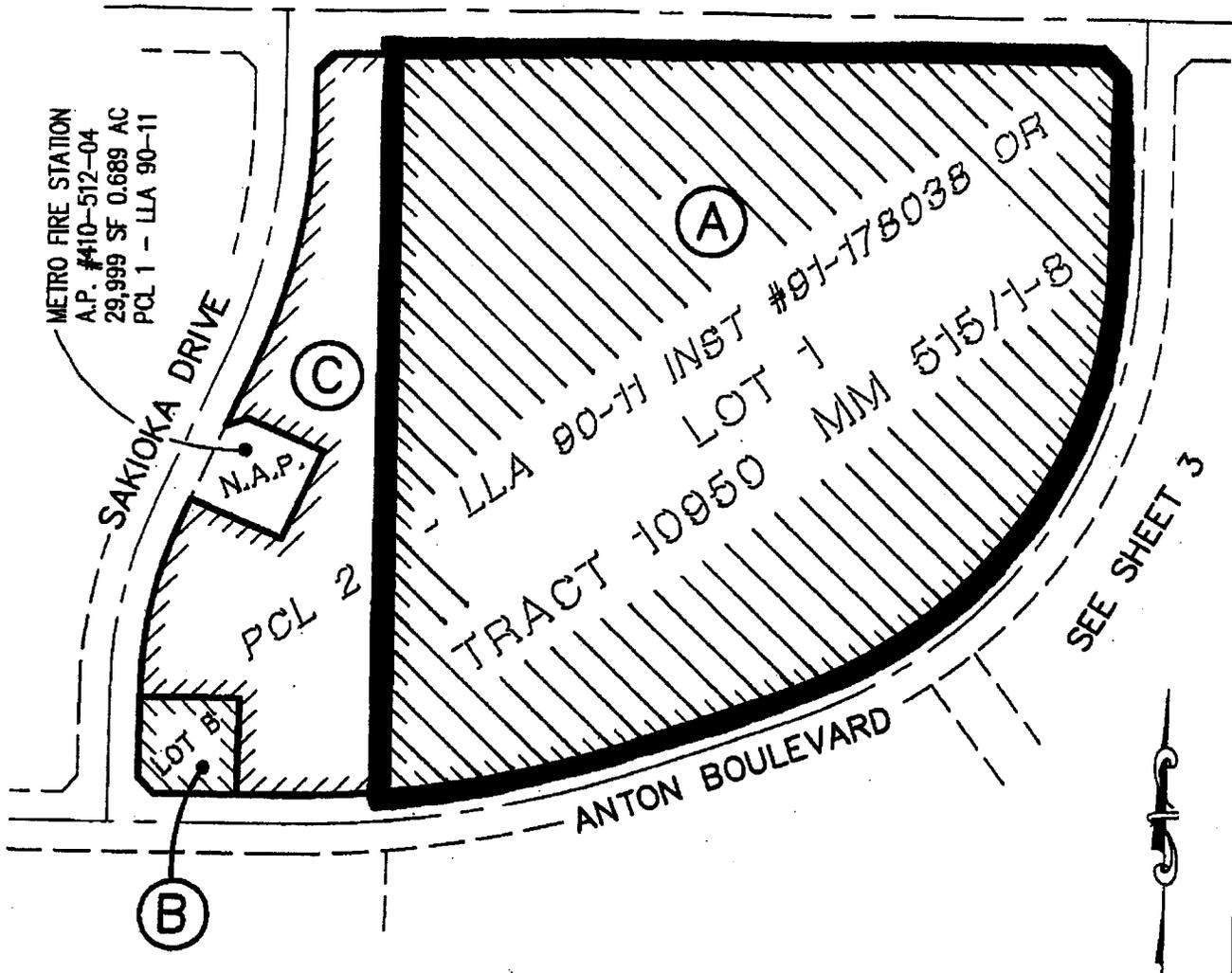
EXHIBIT C

LEGAL DESCRIPTION OF SUNFLOWER RESIDENTIAL PROPERTY

LOT 1 OF TRACT NO. 10950, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 515, PAGES 1 TO 8 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AS CORRECTED BY THAT CERTAIN CERTIFICATE CORRECTION RECORDED APRIL 23, 1986, AS INSTRUMENT NO. 86-160488 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL-90-1 1, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED APRIL 16, 1991, AS INSTRUMENT NO. 91-178038 OF OFFICIAL RECORDS LYING EASTERLY OF THE EASTERLY LINE OF THE LAND DESCRIBED IN DEED TO JACK TOSHIKI SAKIOKA AND JOHNNY KATSUI SAKIOKA RECORDED JULY 27, 1956, IN BOOK 3592, PAGE 553 OF OFFICIAL RECORDS OF SAID COUNTY.

SUNFLOWER AVENUE



(A)	A.P. #410-512-02	1,393,807 SF	31.997 AC
(B)	A.P. #410-512-03	29,999 SF	0.689 AC
(C)	A.P. #410-512-05	332,412 SF	7.631 AC
PCL 2 - LLA 90-11		1,756,218 SF	40.317 AC
INST #91-178038 OR			

MAPPING/449/01/EXHIBITS/LOT1

**FUSCOE**  
**ENGINEERING**

Civil Engineers

16796 Van Karman, Ste 100  
 Irvine, California 92606  
 Phone (949) 474-1000  
 FAX (949) 474-5316  
 Land Surveyors

**LAND AREA EXHIBIT**

PORTIONS OF  
 TRACT NO. 10950

for  
 ROY K. SAKIOKA & SONS

DATE: 10/17/02

SCALE: 1"=300'

JN: 449.0101

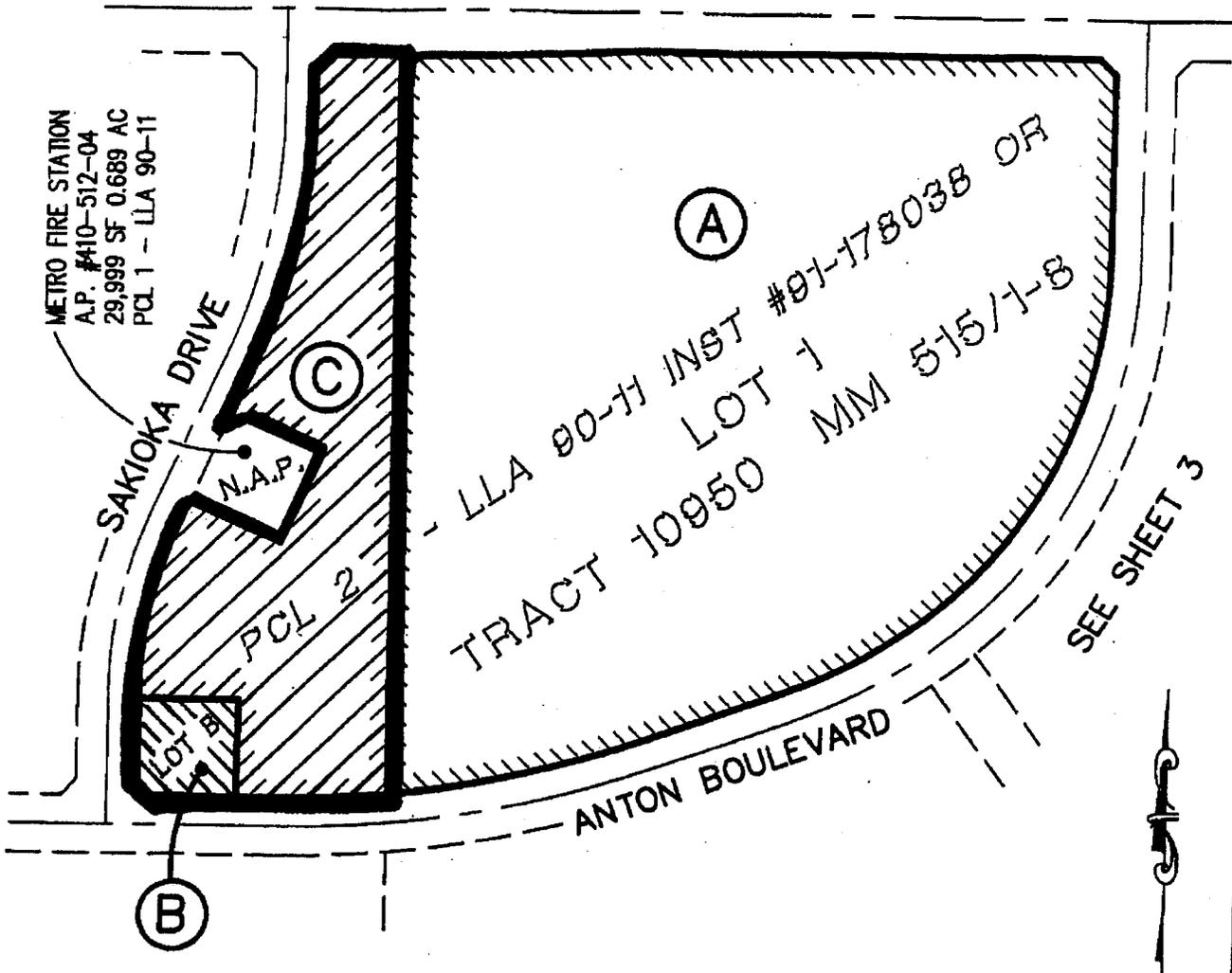
**2 of 3**

EXHIBIT D

LEGAL DESCRIPTION OF PORK CHOP PROPERTY

THAT PORTION OF PARCEL TWO OF LOT LINE ADJUSTMENT NO. LL-90-11,  
IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA,  
RECORDED APRIL 16, 1991 AS INSTRUMENT NO. 91-178038 OF OFFICIAL RECORDS  
LYING WESTERLY OF THE EASTERLY LINE OF THE LAND DESCRIBED IN DEED TO  
JACK TOSHIKI SAKJOKA AND JOHNNY KATSUI SAKIOKA RECORDED JULY 27, 1956  
IN BOOK 3592 PAGE 553 OF OFFICIAL RECORDS OF SAID COUNTY.

SUNFLOWER AVENUE



(A)	A.P. #410-512-02	1,393,807 SF	31.997 AC
(B)	A.P. #410-512-03	29,999 SF	0.689 AC
(C)	A.P. #410-512-05	332,412 SF	7.631 AC
PCL 2 - LLA 90-11		1,756,218 SF	40.317 AC
INST #91-178038 OR			

MAPPING/449/01/EXHIBITS/LOT1

**FUSCOE**  
**ENGINEERING**

Civil Engineers • Land Surveyors

16706 Van Karma, Ste 100  
 Irvine, California 92608  
 Phone (949) 474-1900  
 FAX (949) 474-6315

**LAND AREA EXHIBIT**

PORTIONS OF  
 TRACT NO. 10950  
 for

ROY K. SAKIOKA & SONS

DATE: 10/17/02

SCALE: 1"=300'

JN: 449.0101

**2 of 3**

EXHIBIT E

AMENDMENTS TO DEVELOPMENT AGREEMENT

None.

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