

**AGENDA**  
**Borrego Water District Board of Directors**  
**Special Meeting**  
**July 16 9:00 a.m.**  
**806 Palm Canyon Drive**  
**Borrego Springs, CA 92004**

**I. OPENING PROCEDURES**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda
- E. Comments from Directors and Requests for Future Agenda Items
- F. Comments from the Public and Requests for Future Agenda Items (comments will be limited to 3 minutes)

**II. CURRENT BUSINESS MATTERS**

- A. Discussion and possible approval of Mesquite Trails Water Service Agreement
- B. Discussion of updating the Groundwater Management Plan
- C. Discussion of assigning the task of setting water credit price to the Due Diligence Committee
- D. Discussion of potential agenda items for July 24<sup>th</sup> board meeting

**III. CLOSED SESSION**

- A. Conference with Legal Counsel – Anticipated Litigation  
Significant exposure to litigation pursuant to paragraph 2 of subdivision (d) of Section 54956.9.  
Two cases.
- B. Conference with Labor Negotiators  
Gov't Code section 54956.8  
Agency representatives: Beth Hart, Marshal Brecht  
Employee organization: Unrepresented employees

**III. CLOSING PROCEDURE, Adjournment**

The next Regular Meeting of the Board of Directors is scheduled for July 24, 2013 at the Borrego Water District.

## AGREEMENT FOR THE CONSTRUCTION OF WATER FACILITIES

**THIS AGREEMENT FOR THE CONSTRUCTION OF WATER FACILITIES** (this “Agreement”) is entered into by and among the **BORREGO WATER DISTRICT**, a California Water District organized and operating pursuant to California Water Code Section 34000 et seq. (the “District”) and **Mesquite Trails LLC** (the “Developer”).

### RECITALS

A. The Developer desires to improve certain real property commonly referred to as Mesquite Trails Ranch, which consists of approximately 310 acres that is currently approved for 480 recreational vehicle lots, (the “Project”). The Project is located east of Borrego Valley Road at the intersection of Tilting “T” Drive in the community of Borrego Springs and is legally described in the Project Legal Description attached hereto as Exhibit “A” and incorporated herein.

B. The Project is within the District’s territorial boundaries and jurisdiction.

C. The Developer desires to provide domestic water service to the Project. The District has reviewed and accepted a hydraulic analysis (the “Analysis”) that was prepared or caused to be prepared by the Developer concerning the impact of the Project upon the District’s water system. Based upon the results and conclusions of the Analysis, the Developer has designed and will construct the water facilities described in Exhibit “B” attached hereto and incorporated herein (the “Water Facilities”). The Water Facilities will be dedicated to the District as a condition of the District providing domestic water service to the Project.

D. The Developer will construct and/or install the Water Facilities in more than one phase. The Developer has submitted to the District plans and specifications for the construction and installation of the initial phase of the Water Facilities, which initial phase consists of the off site water line construction along Tilting “T” Drive and the on site water line construction for phase 1 (the “Phase 1 Plans”). The Phase 1 Plans, which have been approved by the District, are attached hereto as Exhibit “C” and incorporated herein. The Developer shall prepare and submit to the District and the District shall have approved plans and specifications for the construction and installation of subsequent phases of the Water Facilities as set forth in this Agreement prior to the Developer commencing construction and/or installation of each such phase.

E. The Developer is required to construct the Water Facilities pursuant and subject to the plans and specifications approved by the District for each phase and is further required to comply with the terms and conditions of this Agreement.

**NOW, THEREFORE**, the District and the Developer hereby agree as follows:

**1. District’s Provision of Water Service.** The District shall provide water service to the Project pursuant and subject to all applicable federal, state and local laws and ordinances (including, without limitation, the District’s rules, regulations and policies) upon the Developer’s strict compliance with and satisfaction of each of the following conditions (each of which shall constitute an express condition precedent to the District’s obligation to provide water service to the Project):

**1.1 Approved Hydraulic Analysis.** Any amendment or supplement to the Analysis, shall be approved by the District's General Manager. All fees and costs directly or indirectly related to or associated with the Analysis shall be borne solely by the Developer.

**1.2 Fees and Charges.** The Developer shall pay all water service fees and charges as set forth in Exhibit "D" attached hereto and incorporated herein.

**1.3 Environmental Review.** The Developer shall provide to the District all environmental documents previously utilized to obtain approvals for the Project which were not previously provided to the District during the Project approval process. All fees and costs directly or indirectly related to or associated with the environmental review of the Project, the approval or implementation of this Agreement and/or the construction of the Water Facilities has been and/or shall be borne solely by the Developer.

**1.4 Approved Plans and Specifications.** The District's approval of the Phase 1 Plans, as well as the District's approval of the plans and specifications for subsequent phases, shall not relieve the Developer of liability based upon the design, construction or installation of the Water Facilities. The Phase 1 Plans, as well as the plans and specifications for each subsequent phase, shall be incorporated in and shall constitute a part of this Agreement.

**2. Water Facilities.** The Developer shall construct the Water Facilities required by this Agreement in strict compliance with the Phase 1 Plans and the plans and specifications approved by the District for each subsequent phase. All fees and costs of whatever type or nature necessary to design, build and dedicate the required Water Facilities to the District shall be borne solely by the Developer unless otherwise agreed by the District in writing (e.g., in the case of required upsizing to accommodate future service demands for downstream users).

**3. Liability Insurance.** Upon execution of this Agreement, Developer or Developer's contractor shall provide certificates of insurance and endorsements showing that Developer or Developer's contractor has liability insurance coverage with an insurance company authorized to do business in the State of California, and acceptable to the District, providing \$1,000,000 of coverage. The liability insurance coverage shall include each of the following types of insurance:

- A. General Liability
  - (1) Comprehensive Form
  - (2) Premises-Operations
  - (3) Explosion and Collapse Hazard
  - (4) Underground Hazard
  - (5) Products/Completed Operations Hazard
  - (6) Contractual Insurance
  - (7) Broad-form Property Damage, Including Completed Operations
  - (8) Independent Contractors

(9) Personal Liability

B. Auto Liability

(1) Comprehensive Form, including Loading and Unloading

(2) Owned

(3) Hired

(4) Non-owned

The Liability Insurance shall include as additional insureds the District, its directors, officers, agents, employees and consulting engineer. The insurance afforded to these additional insureds shall be primary insurance. If the additional insureds have other insurance, which might be applicable to any loss, the amount of the insurance provided under this section shall not be reduced or prorated by the existence of such other insurance.

Included in such insurance shall be contractual coverage sufficiently broad to insure matters set forth in Section 14 Agreement. All liability insurance shall include occurrence coverage with a deductible amount acceptable to the District. All such insurance coverage shall be submitted to the District on the approved certificate of insurance and endorsement form, which is attached hereto as Exhibit "F" and incorporated herein, or the functional equivalent satisfactory to the District. The endorsement shall be signed and notarized by an authorized agent/representative of the insurance carrier. The insurance certificate and endorsement shall be non-cancelable without thirty (30) days written notice to the District, other than cancellation for non-payment of premiums, with respect to which the certificate and endorsement shall be non-cancelable without ten (10) days written notice to the District.

**4. Worker's Compensation Insurance.** Upon execution of this Agreement, the Developer agrees to provide certificates of insurance showing that the contractor retained by the Developer has obtained, for the period of the contract, full worker's compensation insurance coverage for no less than the statutory limits covering all persons whom the Developer's contractor employs or may employ in carrying out the work under this Agreement. The Developer's contractor shall provide the District with certificates of workers compensation insurance and endorsements on the forms attached hereto as Exhibit "G" and incorporated herein or the functional equivalent satisfactory to the District.

**5. Easement and Fee Sites.** At the appropriate time, the district may order a preliminary title report covering all properties in which easements or fee interests are to be granted to the District. The costs of the preliminary title report shall be borne solely by the Developer. The Developer agrees to provide the District with such easements and fee sites as the District may require for the Project, and as may be reasonably required for ingress and egress and maintenance of the Water Facilities, as determined by the District in its sole discretion. The Developer agrees that the District shall be entitled to reacquire an easement extending to the boundaries of the Developer's property and of a width satisfactory to the District as it may determine, in its sole discretion, as may be reasonably required for ingress and egress and maintenance of the Water Facilities to be dedicated to the District. All easements and fee sites shall be free and clear of all liens and encumbrances which affect title and shall have recorded subordination agreements for all trust deeds or other liens

to insure that the District has prior rights in any easements or fee sites being conveyed to the District. The Developer shall procure a policy of title insurance in favor of the District covering easements and fee sites to be granted in amounts reasonably determined by the District, in its sole discretion, subject only to those conditions of record acceptable to the District. All fees and costs to procure easements or fee interests required by the District shall be borne solely by the Developer. Nothing in this Agreement shall obligate the District to exercise its condemnation authority to acquire any easement or fee interest determined necessary by the District. All easements and fee interests required by the District in accordance with this section shall be in recordable form, acceptable to the District, prior to the District's acceptance of the Water Facilities.

**6. Certification from the Engineer.** If and to the extent the Water Facilities, or any portion thereof, is to be constructed and/or installed in a roadway (either existing or planned), the Developer shall submit to the District prior to commencing construction and/or installation of such portion of the Water Facilities a sufficient survey or certification prepared by a qualified and licensed professional engineer evidencing the alignment and grades have been approved and conform to the applicable approved plans and specifications.

**7. Construction of Water Facilities.** Developer shall not commence construction of the Water Facilities, or any portion thereof, until Developer has received written authorization from the District to proceed. All work performed on the Water Facilities shall be: (1) in strict compliance with the plans and specifications approved by the District relative to such portion of the Water Facilities; (2) in a good and workmanlike manner as determined by the District; and (3) in accordance with District's current published standards and criteria for projects and standards and criteria which may be required by the District at any time, whether published or not, in the District's sole discretion. All work performed on the water facilities by Developer shall be subject to inspection by the District's designated representatives. The Developer shall comply with all reasonable instructions given by the District's representatives during construction of the Water Facilities. All fees and costs to construct, install, inspect and administer the construction of the Water Facilities shall be borne solely by Developer.

**8. Completion Date and Term of Agreement.** The Water Facilities shall be fully completed and accepted by the District prior to the Developer making application to the District for the provision of water service, prior to any obligation of the District to provide water service to the Project and pursuant and subject to the Schedule of Performance attached hereto as Exhibit "E" and incorporated herein. The term of this Agreement shall be ten years from the date of its execution. At the end of the initial ten-year term, the Agreement shall automatically be extended for successive one-year periods, unless one of the Parties provides 90-day written notice to the other Party of that Party's intention to terminate the Agreement.

**9. Compliance with Applicable Law.** The Developer shall insure that all work performed on the Project is performed in a manner which complies with all applicable federal, state, county, and local government rules and regulations, including all rules and regulations of the District as such rules and regulations may be modified or changed from time to time, to the extent such new rules or regulations are legally enforceable as to the Project. The Developer shall be solely responsible for obtaining and paying for all permits, licenses, and approvals necessary to construct and/or install the Water Facilities. The Developer shall provide evidence that permits, licenses and approvals have been obtained promptly upon demand by the District. The Developer shall comply with the contractor license requirements as provided by California Business and Professions Code Section 7059 as amended.

**10. Prevailing Wages.** The Developer has been alerted to the requirements of California Labor Code Section 1770 et seq., which would require the payment of prevailing wage rates and the performance of other requirements if it were determined that this Agreement constitutes a public works contract. The Developer has also been advised and understands that the Office of the Attorney General of the State of California has rendered an Opinion (No. 86-803) concluding that prevailing wages must be paid by a private developer where a public agency retains control over construction of the project and the facilities are ultimately dedicated to the public agency. The Developer has further been advised that the California Department of Industrial Relations presently disagrees with the position taken by the Office of the Attorney General in Opinion No. 86-803.

It shall be the sole responsibility of the Developer to determine whether to pay prevailing wages for any or all work required by this Agreement. As a material part of this Agreement, the Developer agrees to assume all risk of liability arising from any decision by the Developer or any contractor or subcontractor of Developer to not pay prevailing wages for work required by this Agreement. As a further material part of this Agreement, the Developer agrees to defend (with counsel of the District's choice), hold harmless and indemnify the District, its officers, employees, consultants, and agents (collectively, the "Indemnified Parties") from any and all claims, liability loss, costs, damages, expenses, fines and penalties, of whatever type or nature, including all costs of defense and attorney's fees, arising from any alleged failure of the Developer or the Developer's contractors to comply with the prevailing wage laws of the State of California. If the District or any of the Indemnified Parties are named as a party in any dispute arising from the failure of the Developer or the Developer's contractors to pay prevailing wages, the Developer agrees that the District and the other Indemnified Parties may appoint their own independent counsel, and the Developer agrees to pay all attorney's fees and defense costs of the District and the other Indemnified Parties as billed, in addition to all other damages, fines, penalties, and losses incurred by the District and the other Indemnified Parties as a result of he action.

**11. Acceptance of Work.** Upon completion of the Water Facilities (or individual phase thereof) to the reasonable satisfaction of the District, such Water Facilities (or individual phase thereof) shall be presented to the District's Board of Directors for acceptance. Upon the District's acceptance of the Water Facilities (or individual phase thereof), the District shall prepare and record a notice of completion as to the accepted phase of the Water Facilities. The District shall have no obligation to accept any portion or phase of the Water Facilities if the District determines, in its sole and absolute discretion, that the design and/or construction of such portion and/or phase of the Water Facilities fails to strictly comply with the applicable approved plans and specifications. The District will not prepare or record a notice of completion unless and until the Developer submits "as-built mylar drawings." The Developer understands and agrees that by recordation of the notice of completion, all right, title, ownership, and interest in and to the Water Facilities constructed under this Agreement are granted, conveyed, transferred, assigned and delivered to the District, its successors, and assigns. The Developer agrees to execute such transfer documents as the District may request to reflect title and ownership in the name of the District.

**12. Liability for Work Prior to Formal Acceptance.** Until the District has accepted the Water Facilities (or portion/phase thereof) pursuant to Section 11 of this Agreement, District shall not be responsible or liable for any damage to the Water Facilities (or portion/phase thereof) regardless of the cause.

**13. Warranty.** Developer shall and hereby does warrant the Water Facilities and materials for the Water Facilities to be free from all defects due to faulty materials for the duration of

any warranty provided by the material supplier, or for faulty workmanship for a period of one (1) year from the date of acceptance of the Water Facilities (or portion/phase thereof). The Developer shall repair or remove and replace any and all such work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship and/or materials within the time period state above, without any expense whatsoever to the District, ordinary wear and tear and unusual abuse or neglect by the District excepted. In the event the Developer fails to commence to cure any defects within one (1) week after being notified in writing, the District is hereby authorized to proceed to have the defects remedied and made good at the expense of Developer, who hereby agrees to pay the cost and charge thereof immediately upon demand. Such action by the District will not relieve the Developer of the warranty required by this section. This section does not in any way limit the liability of the Developer for any design defects or any defects in the work subsequently discovered by the District.

**14. Indemnity.** The Developer shall be solely responsible and liable for design defects or defects in work performed to construct the Water Facilities. This shall include liability and responsibility for injury or damage to the work itself. The Developer hereby agrees to hold harmless, indemnify, and defend the District and the other Indemnified Parties from any and all claims, suits, or actions of every name, kind, and description brought for or on account of injuries to or death of any person or damage to any property, occurring or resulting from action occurring prior to the acceptance of the Water Facilities by the District, and resulting from the Developer's negligence in the design or construction of the Water Facilities. This indemnity shall include claims by the District for damage arising from improper design or workmanship of the Water Facilities, except to the extent the injury or damage has been caused by the sole active gross negligence of the District or its representatives. In the event that any suit is instituted naming the District or any other Indemnified Parties as a defendant, the District or such other Indemnified Parties shall be entitled to appoint their own independent counsel to represent them, and the Developer agrees to pay all attorney's fees and litigation costs associated with this defense.

**15. As-Built Mylar Drawings.** Prior to the District's acceptance of the Water Facilities (or portion/phase thereof) and prior to a notice of completion being recorded, the Developer shall provide the District with one (1) mylar copy of the as-built drawings bearing the seal of the engineer and three (3) copies of as-built drawings with certification by a licensed engineer in the State of California as to the accuracy and completeness. The Developer shall be solely responsible and liable for insuring the completeness and accuracy of all as-built drawings.

**16. Cash Deposits.** The Developer shall pay all of the District inspection costs and any and all other costs associated with and/or related to the Water Facilities. Upon executing this Agreement, the Developer shall submit to the District a cash deposit in the amount of \$10,000 (the "Deposit"). The District shall utilize the Deposit to pay all of the District inspection costs and any and all other costs associated with and/or related to the Water Facilities as such costs are incurred. The District shall provide to the Developer a monthly statement that itemizes each disbursement of the Deposit made during such statement period and that indicates the current balance of the Deposit. The Developer shall replenish the Deposit within ten (10) days of the date of each monthly statement to extent necessary in order to maintain a minimum Deposit of at least \$3,000.

**17. Personal Liability.** No director, officer, employee, agent, consultant, engineer or architect of the District or the Developer shall be personally responsible for any, liability arising under or by virtue of this Agreement.

**18. District Remedies for Breach.** In the event the Developer fails to strictly comply with any term, covenant or condition of this Agreement or fails to complete performance of any matter specified in this Agreement on the date it is due, including payment of all fees and charges when due, then the District shall be entitled to elect any or all of the following remedies, at the District's option:

A. Unilaterally terminate this Agreement and/or all rights of the Developer to water service for the Project, excepting service to then existing third party homeowners (if any) and common area facilities (if any). The termination shall be effective one (1) week after the delivery of written notice of termination to the Developer unless the Developer has cured the default specified in the notice.

B. File suit against the Developer for damages arising from breach of this Agreement. Amounts payable to the District as specified in this Agreement (e.g., District inspection fees and charges), shall earn interest at the rate of one and one-half percent (1-1/2%) per month until paid in full.

**19. Cumulative Rights and Remedies.** The rights and remedies granted to the District pursuant to this Agreement shall be in addition to any rights or remedies granted to the District as a result of other agreements with the Developer. All such other agreements shall remain valid and enforceable as written and all such agreements shall be interpreted in a manner as to be consistent with each other and in a manner, which provides the greatest rights and remedies to the District.

**20. Venue.** In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

**21. Modification.** This Agreement may not be altered in whole or in part except by a written modification approved by the Board of Directors of the District and executed by all the parties to this Agreement.

**22. Attorney's Fees.** In the event any action of proceeding is initiated to challenge, invalidate, enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to all reasonable attorney's fees and costs in addition to any other relief granted by law. This provision shall apply to the entire Agreement.

**23. Entire Agreement.** This Agreement, together with all exhibits attached hereto, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. The Developer warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement.

**24. Assignment.** The Developer shall not be entitled to assign or transfer all or any portion of its rights or obligations contained in this Agreement without obtaining the prior written consent of the District, which consent shall not be unreasonably withheld. Any purported assignment without the District's prior written consent shall be void.



**25. Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs and assigns.

**26. Unenforceable Provisions.** The terms, conditions and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions nevertheless so remain enforceable to the extent that they effectuate the original intent of the parties.

**27. Representation of Capacity to Contract.** Each party to this Agreement represents and warrants that he/she has the authority to execute this Agreement on behalf of the entity represented by that individual.

**28. Opportunity to be Represented by Independent Counsel.** Each of the parties to this Agreement warrant and represent that they have been advised to consult independent legal counsel of their own choosing and have had a reasonable opportunity to do so prior to executing this Agreement.

**29. No Waiver.** The failure of either party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other term, covenant or condition of the Agreement at any later date or as a waiver of any term, covenant or condition of this Agreement.

**30. Notices.** All letters, statements or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served or when sent certified mail, return receipt requested, to the following address:

To Developer: Mesquite Trails LLC  
1141 E. Main Street, #100  
East Dundee, IL 60118

To District: Borrego Water District  
P.O. Box 1870  
Borrego Springs, CA 92004

**31. Special Conditions.** The special conditions set forth in Exhibit "D" attached hereto are incorporated herein.

**32. Effective Date.** The effective date of this Agreement executed in counterparts in the North County Judicial District, County of San Diego, State of California is \_\_\_\_\_, 2013.

[SIGNATURES BEGIN ON NEXT PAGE]

**DEVELOPER:**

**MESQUITE TRAILS LLC:**

[Redacted]

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

Its: \_\_\_\_\_

**DISTRICT:**

**BORREGO WATER DISTRICT**, a public corporation

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

Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
District Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lisa A. Foster  
McDougal, Love, Eckis, Boehmer & Foley  
District General Counsel

**EXHIBIT "A"**

**PROJECT LEGAL DESCRIPTION**

**[INSERT PROJECT LEGAL DESCRIPTION]**

Legal Description

Mesquite Trails Ranch

Tentative Tract Map No. 5373RPL4

(Eff. thru Sep-2014)

APN 199-090-05 thru 11

APN 199-090-16, 19 & 20

Southeast 1/4 of Section 10, T11S, R6E, S.B.B.M. + Lots 5-11 & Lots A, B & C & a portion of Lot 15, Borrego Village Unit No. 2, Map No. 2436, County of San Diego.

**EXHIBIT “B”**

**DESCRIPTION OF WATER FACILITIES**

[INSERT SCOPE OF WORK/DESCRIPTION OF WATER FACILITIES]

[INDICATE PHASES]

**MTR Phasing Map.jpg**

Diana:

Please accept the attached Legal Description for your use in completing the Mesquite Trails Ranch Master Water Agreement. I apologize for the delay.

I am transmitting a marked-up map that reflects project phasing.

A description of the water facilities is included in the Special Conditions portion of the agreement. For District purposes, it might suffice to simply note "See Special Conditions for a description of Water Facilities to be constructed".

Looking forward to your transmittal of the agreement for our execution.

Doug Wilson

[bampa.doug@yahoo.com](mailto:bampa.doug@yahoo.com)

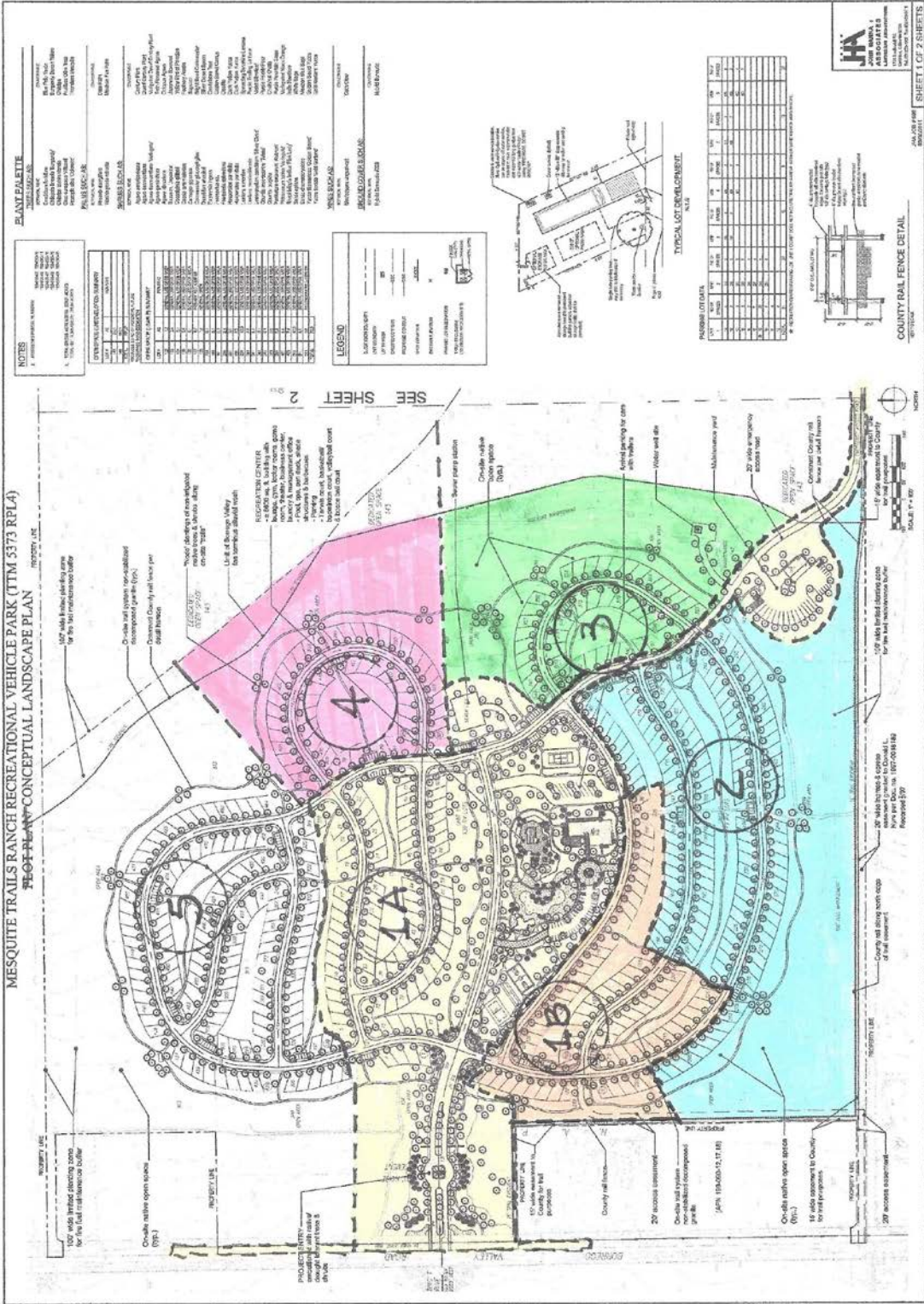
909.520.8428 cell

EXHIBIT "C"

PHASE 1 PLANS - New

PRELIMINARY PHASING PLAN

MESQUITE TRAILS RANCH RECREATIONAL VEHICLE PARK (TTM 5373 RPLA)  
 THE-OF-PLAN CONCEPTUAL LANDSCAPE PLAN



**PLANT PALETTE**

PLANT NAME	COMMON NAME	HEIGHT	SPACING
...	...	...	...

**LEGEND**

...	...
-----	-----

**NOTES**

- ...
- ...

**PERMITS/OTDAYS**

DATE	DESCRIPTION	STATUS
...	...	...

**TYPICAL LOT DEVELOPMENT**

**COUNTY RAIL FENCE DETAIL**

1-27, 99-130, 145-155, 201-214, 289-293 = 140+LOTS - (PHASES 1A & 1B) 06.25.13

**EXHIBIT “D”**

**SPECIAL CONDITIONS**

**Mesquite Trails Ranch**

1. Off site Main Extension - Tilting “T” Drive. The Developer shall furnish and install all necessary off site water facilities required to extend Borrego Water District water service to Borrego Valley Road and to service the Mesquite Trails Ranch development. The minimum requirements are:

(1) A 10” diameter pipeline along Tilting “T” Drive from sta. 20+92.43 to its end at Borrego Valley Road.

2. On site Main and Service Extension. The Developer shall furnish and install all necessary on site water facilities required to provide Borrego Water District water service to the TM5373RPL4 per the plans to be approved by the District.

3. Connection Fees. The Developer will pay the standard connection fees for the Improvement District which are based on the following formula:

Phase	Desc	Units	Capacity Fee (3/4")
			(\$2,775)
1	1-74	74	\$205,350
2		107	\$296,925
3		82	\$227,550
4		73	\$202,575
5		55	\$152,625
6		89	\$246,975



Common Area - Landscaping

Phase	Desc	Units	Capacity Fee
	3/4"		(\$2,775)
Open	Irrigation	18	\$49,950
	1-1/2"		(\$6,105)
Open	Irrigation	5	\$30,525

Developer will be responsible for installing all water mains, corp stops, service laterals, angle meter stops, meter boxes and lids to District specifications. The District shall furnish and install the meter and customer shut off valve when requested by the developer. Costs associated with furnishing and installation of the meter and shut off valve will be based on time and material costs at time of installation. The District "turn on" fee of \$340/service will be paid at the time the meter is placed in service.

Payment of connection fee is required at the time service is requested for each phase of the project/completed spaces in increments of a minimum of 30 EDU's. Credit will be given for facilities paid for in advance as noted in Paragraph 1 hereof.

If in the future the District's connection fee is changed, the fee to be applied to any unpaid connection fees will be that which is in effect at the time service is requested.

Water credit price to be determined by market and availability. Payment of water credits due upon services being requested for each phase.

## EXHIBIT “E”

### SCHEDULE OF PERFORMANCE

*General Note:* Due to the dynamic nature of financing, development and construction, this schedule below is structured by milestones, requiring certain improvements prior to occupancies. The Developer is the responsible party for all items unless indicated herein.

Grow-in of landscape, and the associated demands for water will be completed prior to “first occupancy”. Open area and integral landscape irrigation will be accomplished using excess waters available as the proposed well is developed, and as demand for water permits.

Reasonable efforts will be made to manage water inside the irrigation system and open areas. Irrigation system can be deactivated during water availability emergencies, such as fires.

*Milestone No. 1: Prior to Grading and infrastructure improvements*

- Off-site transmission main extension along Tilting T to TM5373RPL4 easterly boundary

*Milestone No. 2: Prior to Open Area Grow-in Period and Prior to occupancy of Phase 1*

- On-site Phase 1 transmission main improvements with accompanying appurtenances.

*Milestone No. 3: Prior to occupancy of Phase 2*

- On-site Phase 2 transmission main improvements with accompanying appurtenances.

*Milestone No. 4: Prior to occupancy of Phase 3*

- On-site Phase 3 transmission main improvements with accompanying appurtenances.

*Milestone No. 5: Prior to occupancy of Phase 4*

- On-site Phase 4 transmission main improvements with accompanying appurtenances.

*Milestone No. 6: Prior to occupancy of Phase 5*

- On-site Phase 5 transmission main improvements with accompanying appurtenances.

*Milestone No. 7: Prior to occupancy of Phase 6*

- On-site Phase 6 transmission main improvements with accompanying appurtenances.

**EXHIBIT "F"**

**CERTIFICATE OF INSURANCE**

**[INSERT CERTIFICATE OF INSURANCE]**



# CERTIFICATE OF LIABILITY INSURANCE

OP ID: SC

DATE (MM/DD/YYYY)

06/17/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Alliant Insurance Services, Inc (Lic-0C36861) 735 Carnegie Drive, Ste 200 San Bernardino, CA 92408 Select Accounts	909-886-9861 909-886-2013	<b>CONTACT NAME:</b> Stephani Compton <b>PHONE (A/C, No, Ext):</b> 909-474-8730 <b>E-MAIL ADDRESS:</b> scompton@alliantinsurance.com <b>PRODUCER CUSTOMER ID #:</b> RAYMO-1	<b>FAX (A/C, No):</b> 909-886-2013
	<b>INSURED</b> Raymond E Plote & Basara Trust Raymond E Plote & Janice Plot Raymond E Plote & Daniel Plote C/O 1141 East Main Street #100 East Dundee, IL 60118		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: American States Insurance Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<b>GENERAL LIABILITY</b>	X		01C12275472	07/22/10	07/22/11	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS							\$
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE	\$
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE							\$
	<input type="checkbox"/> RETENTION \$							\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Premises 1 Parcels 37,37A,37B,37C,37E,37F,37G&66A, Borrego Springs CA 92004  
 Premises 2 Parcel #66-24 Lots, Borrego Springs CA 92004; Premises 3 Parcel  
 66B,6 Lots, Borrego Springs, CA 92004 Borrego Water District and its  
 officers are named as additional insured as required by written contract

**CERTIFICATE HOLDER****CANCELLATION**

Borrego Water District  
 Attn: Jerry Rolwing  
 P.O. Box 1870  
 Borrego Springs, CA 92004

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Chuck Shankle*

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**EXHIBIT “G”**

**CERTIFICATE OF WORKERS COMPENSATION INSURANCE**

**[INSERT CERTIFICATE OF WORKERS COMPENSATION INSURANCE]**