



ORIGINAL

Contract Number

23-492

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Terry W. Thompson, Director, Real Estate Services Department
Telephone Number	(909) 387-5000
Contractor	Lennar Homes of California, LLC
Contractor Representative	Blaine Humbles
Telephone Number	(951) 258-2313
Contract Term	N/A
Original Contract Amount	N/A
Amendment Amount	N/A
Total Contract Amount	
Cost Center	1920002522
GRC/PROJ/JOB No.	
Internal Order No.	

Briefly describe the general nature of the contract: Easement exchange between San Bernardino County Flood Control District (District) and Lennar Homes of California, LLC (Developer) for District easement interest totaling 54,565 square feet in exchange for Developer-owned land totaling 41,444 square feet located on Landowner's property, Assessor Parcel Number 0264-842-03, Tract 2024 M.B 364/7-12, and Tract 20205 M.B 362/71-77, in the City of Rialto.

FOR COUNTY USE ONLY

Approved as to Legal Form

► Please See Signature Page

John Tubbs II
Deputy County Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►

Brandon Ocasio

Brandon J. Ocasio, Real Property Manager,
RESO

Date 5/16/23

EASEMENT EXCHANGE AGREEMENT

This EASEMENT EXCHANGE AGREEMENT ("**Agreement**") is entered into as of the date the last of the parties executes this Agreement ("**Effective Date**"), by and between Lennar Homes of California, LLC, or an affiliate thereof (hereinafter collectively referred to as, the "**Developer**") and the San Bernardino County Flood Control District, a public body corporate and politic of the State of California (hereinafter referred to as "**District**"). District and Developer are sometimes hereinafter collectively referred to as "**Parties**."

RECITALS

- A. The Developer is the fee owner of real property in the City of Rialto, over which is recorded Tentative Tract Map 20092, as approved by the Rialto City Council on January 23, 2018 in the City's public record as File # 18-065 ("**Developer Property**").
- B. The District is the owner of various access easements ("**District Easements**") in the Developer Property utilized by the District to obtain access to District owned properties.
- C. The Developer desires to complete a residential subdivision project on the Developer Property, however, the location of certain portions of District Easements, identified as Easement 302 E and 367 E and depicted in Exhibit "1", are incompatible with the proposed residential development project.
- D. The Developer, AG Essential Housing CA 4, L.P., a Delaware limited partnership ("**AG**"), and the District entered into that certain Participation Agreement on February 8, 2022, to negotiate the exchange of District Easements and Replacement Easements (the "**Participation Agreement**").
- E. Consistent with the terms of the Participation Agreement, the Parties desire for the District to terminate and release through a quitclaim to Developer a 48,565 square foot portion of Easement 302 E, as legally described in Exhibit "A", and the entirety of Easement 367 E containing 6,000 square feet, as legally described in Exhibit "B" (collectively the "**District Offered Quitclaim Easements**"), as attached hereto and incorporated herein by reference, in exchange for conveyance by the Developer to District of a 35,724 square foot easement to replace Easement 302 E, as depicted in Exhibit "C", and a 5,720 square foot easement to replace Easement 3367 E, as depicted in Exhibit "D" (collectively the "**Developer Offered Replacement Easements**"), as attached hereto and incorporated herein by reference. District-Offered Easement and Developer Offered Replacement Easements are sometimes hereinafter collectively referred to as the "Respective Properties".

AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, District and Developer agree as follows:

1. EXCHANGE OF THE PROPERTY.

- 1.1 Subject to all of the terms, conditions, and provisions of this Agreement, and for the

consideration herein set forth, the District agrees to quitclaim to Developer, and Developer agrees to accept the District Offered Quitclaim Easements, and the Developer agrees to convey to the District, and District agrees to accept, the Developer Offered Replacement Easements.

1.2 Acknowledgment of Values; No Money Exchanged. In consideration for the termination and release of the District Offered Quitclaim Easements the Developer shall convey the Developer Offered Replacement Easements to the District. The District and Developer agree that the easements being exchanged are equivalent in value and utility, and the parties agree that no cash will be exchanged.

1.3 Administrative Fees. As additional consideration for the exchange contemplated herein, the Developer agrees to pay all administrative fees due to the District within (15) business days following the Effective Date.

2. CLOSING.

2.1 Closing Date. The Closing shall occur as soon as reasonably practicable, but in no event later than the date that is thirty (30) days following the Effective Date ("**Closing Date**"). The term "**Closing**" shall mean the consummation of the transactions contemplated by this Agreement including District's quitclaim of the District Offered Quitclaim Easements to Developer, and Developer's conveyance of the Developer Offered Replacement Easements to the District.

2.2 Deliveries by District. On or before 12:00 noon Pacific Time on the business day preceding the scheduled Closing Date, District shall submit for recording the Quitclaim Deeds in the form attached hereto as Exhibit "E" ("**Quitclaim Deeds**"), executed and acknowledged by District.

2.3 Deliveries by Developer. On or before 12:00 noon Pacific Time on the business day preceding the scheduled Closing Date, Developer shall deliver to District the Grant Deeds in the form attached hereto as Exhibit "F" ("**Grant Deeds**"), executed and acknowledged by Developer.

2.4 Taxes. Real property taxes will not be prorated between District and Developer. Upon recordation of the Quitclaim Deeds and Grant Deeds, District will notify the Tax Collector of this real property exchange, and a determination as to the future taxability of the exchanged properties will be made pursuant to California Revenue and Taxation Code Section 4986. If current taxes have not yet been paid for the Developer Property as of the Closing Date, then at Closing Developer shall pay directly to the Tax Collector, the full amount of the installment applicable for the period in which Closing occurs. If Developer is entitled to a refund of any excess payment made to the Tax Collector on account of this exchange, including any taxes paid by Developer and applicable to any period from and after the Closing Date, the Tax Collector will notify Developer of any refund due Developer resulting from the exchange after a review and any subsequent proration of the property tax assessment by the County Assessor. Developer retains the right, following the Closing, to apply to the County Tax Collector for a refund pursuant to Revenue and Taxation Code Section 5096.7.

2.5 Conditions to Closing.

2.5.1 Conditions to Developer Obligations. In addition to any other condition set forth in this Agreement in favor of Developer, Developer shall have the right to condition its obligation to convey the Developer Offered Replacement Easements to District upon the satisfaction, or written waiver by

Developer, of each of the following conditions precedent on the Closing or such earlier time as provided for herein (collectively the “**Developer Conditions**”):

(a) *Delivery of Documents.* District shall have executed and delivered to the Escrow Holder the Quitclaim Deeds and the Escrow Holder is prepared and fully authorized to record the Quitclaim Deeds.

(b) *Representations and Warranties.* All representations and warranties made by District in this Agreement are true and correct in all material respects as of the Closing as though made at that time.

(c) *No Default under the Agreement.* District shall not be in material default of any of its obligations under this Agreement and no event shall have occurred that would constitute a default with the giving of notice or the passage of time.

2.5.2 Conditions to District’s Obligations. In addition to any other condition set forth in this Agreement in favor of District, District shall have the right to condition its obligation to quitclaim the District Offered Quitclaim Easements to Developer upon the satisfaction, or written waiver by District, of each of the following conditions precedent on the Closing Date or such earlier time as provided for herein (collectively, the “**District Conditions**”):

(a) On or prior to the Closing, Developer shall have acquired the Developer Property.

(b) Prior to the Closing, Developer shall have provided the District with certified copy of a corporate authorizing resolution approving this Agreement, and any other documents and instruments required to be executed and delivered, all in the form and substance satisfactory to the District and the District’s counsel.

(c) *Delivery of Documents.* Developer shall have executed and delivered to the Escrow Holder the Grant Deeds and the Escrow Holder is prepared and fully authorized to record the Grant Deeds.

(d) *Condition and Possession.* The condition of the Developer Offered Replacement Easements on the Closing Date shall be in substantially the same condition as it existed at the time of the Effective Date, as determined by District.

(e) Prior to Closing, at the expense of the Developer, the Developer’s land surveyor has provided, and the District has approved, the legal descriptions and plats of the Developer Offered Replacement Easements signed and stamped by a licensed surveyor.

(f) *CEQA.* The requirements under the California Environmental Quality Act, as amended, shall have been complied with.

(g) *Representations and Warranties.* All representations and warranties made by Developer in this Agreement are true and correct in all material respects as of the Closing as though made at that time.

(h) *No Default under Agreement.* Developer shall not be in material default of

any of its obligation under this Agreement (and shall not have received notice of a default here under which has not been cured).

(i) *Encumbrances.* There are no encumbrances on the Developer Offered Replacement Easements except for those approved by District.

2.5.3 Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by Developer or District, each party shall use its diligent efforts, in good faith, and at its own cost, to satisfy such condition.

2.5.4 Waiver. Developer may at any time or times, at its election, waive any of the Developer Conditions set forth in Section 2.5.1 above to its obligations hereunder, but any such waiver shall be effective only if contained in writing and signed by Developer and delivered to District. District may at any time or times, waive any of the District Condition set forth in Section 2.5.2 above to its obligations hereunder, but any such waiver shall be effective only if contained in writing and signed by District and delivered to Developer.

3. REPRESENTATIONS AND WARRANTIES.

3.1 District Representations and Warranties. District hereby makes the following representations and warranties to Developer, each of which is material and relied upon by Developer in making its determination to enter into this Agreement and each of which is re-made as of the Closing Date:

(a) District's execution, delivery and performance of its obligations under this Agreement does not constitute a default or a breach under any contract, agreement or order to which District is a party or by which it is bound.

(b) There are no pending actions, suits, writs, injunctions, decrees, legal proceedings or governmental investigations against the District Offered Quitclaim Easements.

(c) District has not received any notices and has no knowledge of any violation of any laws, ordinances, rules, regulations or requirements of any governmental agency, body or subdivision affecting or relating to the District Offered Quitclaim Easements.

3.2 Developer's Representations and Warranties. Developer hereby makes the following representations and warranties to District, each of which is material and relied upon by District in making its determination to enter into this Agreement and each of which is re-made as of the Closing Date:

(a) Developer is compliance with all applicable laws, including but not limited to applicable environmental laws regarding the design, entitlement, and construction of the residential development project.

(b) Developer has the full right, power and lawful authority to accept the District Offered Quitclaim Easements and undertake all obligations as provided herein. The execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of Developer.

(c) Developer's execution, delivery and performance of its obligations under this

Agreement does not constitute a default or a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(d) There is no claim, action, litigation, arbitration or other proceeding pending or to the best of its knowledge threatened against it which relates to the Developer Offered Replacement Easement. If Developer receives notice of any such claim, litigation, arbitration or proceeding prior to the Closing, then Developer shall promptly notify the District of the same in writing.

(e) Other than the Participation Agreement, there are no contracts or other agreements which will affect or will be obligations in connection with the Developer Offered Replacement Easement which cannot be terminated with thirty (30) days prior notice, other than as approved by the District in writing, in the District's sole and absolute discretion.

(f) No person is occupying the Developer Offered Replacement Easement, or any portion thereof, and no person currently has any lease, rental agreement, or other right to occupy the Developer Offered Replacement Easement, or any portion thereof. In the event the foregoing warrant is breached, each entity comprising the Developer shall indemnify and hold harmless the District for all costs (including, but not limited to, reasonable attorneys' fees and costs and fees and costs of other professionals) and damages sustained or incurred by the District, including but not limited to, any compensation and benefits that the District is required to pay any person or entity under the Eminent Domain Law (Civil Procedure Code Sections 1230.010 et seq.), or the Relocation Law (Government Code Sections 7260, et seq.) in connection with the District's acquisition of that person's interest in the Developer Offered Replacement Easement and/or relocation from the Developer Offered Replacement Easement.

(g) There shall be no personal property located on the Developer Offered Replacement Easement.

(h) The Developer is not aware of any Hazardous Materials on or about or beneath the Developer Offered Replacement Easement, and Developer has not received written notice of any Hazardous Materials located on the Developer Offered Replacement Easement in violation of any Hazardous Materials Laws

(i) Developer is not a "foreign person" under Section 1445 of the Internal Revenue Code.

(j) Neither the Developer nor the Developer Offered Replacement Easement are the subject of bankruptcy, insolvency, or probate proceedings.

(k) Developer is not the subject of a current or pending bankruptcy proceeding.

4. AS IS SALE; RELEASE OF PARTIES AS TO PROPERTY CONDITON.

The Parties acknowledge that they will be given an adequate opportunity to review and inspect all aspects of the Respective Properties during the Due Diligence Period. The Parties make no representations or warranties of any kind as to the physical or environmental condition of the Respective Properties or in connection with any matter, report, or information relating to the condition of the Respective Properties,

their values, fitness, use, zoning, entitlements, the existence of Hazardous Materials thereon, moratoriums, economic feasibility, developability, or any other matter relating to the Parties' proposed uses or development of the Respective Properties. The Parties shall, upon the Closing, be deemed to have disclaimed and waived any and all objections to the physical and environmental characteristics and conditions of the Respective Properties, including, without limitation, any Hazardous Materials located thereon and the condition of title thereto, whether or not such conditions would be disclosed by reasonable and diligent inspection. The Parties acknowledge and agree that this real property exchange will be on the basis of the Parties' respective investigations of the physical and environmental condition of the Respective Properties, including subsurface conditions, and the Parties' investigations of the status of zoning, maps and all other matters relating to entitlements. The foregoing disclaimers and waivers include, without limitation, topography, climate, air, water rights, utilities, present and future zoning, governmental restrictions, entitlement rights and obligations, and governmental conditions or development, soil, subsoil, environmental contamination, the purposes to which the properties are suited, drainage, access to public roads, proposed routes or roads or extensions thereof, or the availability of governmental permits or approvals of any kind. Each party agrees that the other shall have no responsibility for any patent or latent defect or physical or environmental condition of the Respective Properties, whether or not known or discovered, and the Parties accept all such responsibility. The Respective Properties are being transferred and sold "AS-IS," "WHERE-IS," "WITH ALL FAULTS" without representation or warranty expressed or implied by the Parties, by operation of law, or otherwise except as otherwise expressly provided in this Agreement. The Parties expressly disclaim for the Respective Properties, which each party hereby acknowledges and accepts, any implied warranty of condition, habitability, merchantability, or fitness for a particular purpose or use.

Except for claims for a breach of the representations and warranties of District provided in this Agreement and claims under CERCLA, Developer for itself and on behalf of each of its successors (collectively, the "Releasors") by this general release of known and unknown claims (this "Release") hereby irrevocably and unconditionally releases and forever discharges District and its officers, officials, employees, agents, and representatives (collectively, the "Releasees") or any of them, from and against any and all claims, damages, losses, costs, liabilities, fees or expenses, of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingent, liquidated or unliquidated, which any of the Releasors now have, own, hold, or claim to have had, owned, or held, against any of the Releasees arising from, based upon or related to, whether directly or indirectly any facts, matters, circumstances, conditions or defects (whether patent or latent) of all or any kinds, related to, arising from, or based upon, whether directly or indirectly, the District Offered Quitclaim Easements, including without limitation, the physical condition and quality of the District Offered Quitclaim Easements or the presence of Hazardous Materials in, on, about or under the District Offered Quitclaim Easements. Developer acknowledges that it is assuming the risk of such unknown and unanticipated claims and agrees that this release applies thereto, and expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD

**HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
THE DEBTOR OR RELEASED PARTY."**

Developer's Initials: CUS

As used in this Agreement, the following terms shall have the meaning ascribed below:

"Environmental Law" shall mean all applicable past, present, or future federal, state and local statutes, regulations, directives, ordinances, and rules, which pertain to environmental matters, contamination of any type whatsoever, or health and safety matters, as such have been amended, modified or supplemented from time to time (including any present and future amendments thereto and re-authorizations thereof), including, without limitation, those relating to: (a) the manufacture, processing, distribution, presence, release, generation, use, handling, assessment, investigation, study, monitoring, removal, remediation, cleanup, treatment, storage, transportation, or disposal of Hazardous Materials; (b) air, soil, surface, subsurface, surface water, and groundwater; (c) the operation and closure of underground storage tanks; (d) health and safety of employees and other persons; and (e) notification and record keeping requirements relating to the foregoing. Without limiting the above, Environmental Laws also include the following: (a) the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), as amended ("CERCLA"); (b) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §§6901 et seq.), as amended ("RCRA"); (c) the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. §§ 11001 et seq.), as amended; (iv) the Clean Air Act (42 U.S.C. §§ 7401 et seq.), as amended; (d) the Clean Water Act (33 U.S.C. §§1251 et seq.), as amended; (e) the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), as amended; (f) the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), as amended; (g) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), as amended; (h) the Federal Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), as amended; (i) the Federal Radon and Indoor Air Quality Research Act (42 U.S.C. §§ 7401 et seq.); (j) the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.), as amended; and (k) any state, county, municipal, or local statutes, laws, or ordinances similar or analogous to (including counterparts of) any of the statutes listed above.

"Hazardous Material(s)" includes, without limitation, any hazardous or toxic material, substance, irritant, chemical, or waste, including without limitation (a) any material defined, classified, designated, listed or otherwise considered under any Environmental Law, including, without limitation, as defined in California Health & Safety Code Section 25260, as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "biohazardous waste," "pollutant," "toxic pollutant," "contaminant," "restricted hazardous waste," "infectious waste," "toxic substance," or any other term or expression intended to define, list, regulate, or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment; (b) any material, substance, or waste which is toxic, ignitable, corrosive, reactive, explosive, flammable, infectious, radioactive, carcinogenic, or mutagenic, and which is or becomes regulated by any local governmental authority, any agency of the State of California, or any agency of the United States Government; (c) asbestos, and asbestos containing material; (d) oil, petroleum, petroleum based products, and petroleum additives and derived substances; (e) urea formaldehyde foam insulation; (f) polychlorinated biphenyls (PCBs); (g) freon and other chlorofluorocarbons; (h) any drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (i) mold, fungi, viruses, or bacterial matter; and (j) lead-based paint.

5. DEFAULTS.

5.1 Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions set forth in this Agreement, either party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct, or remedy any default, to recover damages for any default (subject to the restriction on Developer's rights to recover monetary damages against District set forth in the final clause of this sentence), or to obtain any other remedy consistent with the purpose of this Agreement; provided, however, that notwithstanding anything in the foregoing to the contrary, in no event shall Developer be entitled to obtain monetary damages of any kind from District, including but not limited to for economic loss, lost profits, or any other economic or consequential damages of any kind. Such legal actions must be instituted in the Superior Court of the County of San Bernardino, State of California.

5.2 Rights and Remedies are Cumulative. Except as otherwise expressly provided in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

5.3 Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

6. MISCELLANEOUS.

6.1 Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be delivered by either (a) personal delivery, (b) reliable courier service that provides a receipt showing date and time of delivery, including federal express, or (c) registered or certified U.S. Mail, postage prepaid, return receipt requested. Notices shall be addressed to the respective parties as set forth below or to such other persons as the parties may hereafter designate by written notice to the other party hereto:

To District: San Bernardino County Flood Control District
c/o Real Estate Services Department
385 North Arrowhead Ave, 3rd Floor
San Bernardino, CA 92415

To Developer: Lennar Homes of California, LLC
c/o Geoffrey Smith
980 Montevideo Drive, Suite 302
Corona, CA 92879
Attn: Geoffrey Smith
Copy via email at: geoffrey.smith@lennar.com

Each notice shall be deemed delivered on the date delivered if by personal delivery or by overnight courier service, or on the date of receipt as disclosed on the return receipt if by mail. By giving to the other parties written notice as provided above, the parties to this Agreement and their respective successors and assigns shall have the right from time to time, and at any time during the term of this Agreement, to change their respective addresses.

6.2 Relationship Between District and Developer. It is hereby acknowledged that the relationship between District and Developer is not that of a partnership or joint venture and that District and Developer shall not be deemed or construed for any purpose to be the agent of the other.

6.3 Attorneys' Fees. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This subsection shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Section 6.10 ("Real Estate Brokerage Commission") or Section 6.13 ("Indemnification").

6.4 Successors and Assigns; Assignment. This Agreement shall bind and inure to the benefit of District and Developer and their respective successors and permitted assigns.

6.5 Entire Agreement, Waivers, and Amendments. This Agreement incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to all or part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged. Any amendment or modification to this Agreement must be in writing and executed by District and Developer.

6.6 Prohibited Persons and Transactions. District represents to Developer that it is not a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

6.7 Computation of Time. In the event that the day on which a party is required to take any action under the terms of this Agreement is a holiday, Saturday or Sunday, such action shall be taken on the next succeeding business day. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code.

6.8 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California, without regard to conflict of interest principles.

6.9 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

6.10 Real Estate Brokerage Commission. If Developer has retained any brokers or finders to represent its interests in connection with this transaction, Developer shall, upon the Close of Escrow, pay, at Developer's sole cost, a brokerage commission to the Developer's broker or finder pursuant to a separate agreement. District represents and warrants that it has not retained any brokers or finders to represent its

interests in connection with this transaction. Developer agrees to indemnify and hold the District harmless from and against all liabilities, costs, damages and expenses, including, without limitation, reasonable attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay any additional broker's commission and/or finder's fee.

6.11 Execution in Counterpart. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on both parties hereto, notwithstanding that both parties are not signatories to the original or the same counterpart. If authorized by law, the parties shall be entitled to manually sign and transmit this Agreement by electronic means (whether by PDF, or other email transmission) and are entitled to electronically sign and transmit this Agreement via DocuSign, AdobeSign, or other similar digital signature software, which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

6.12 Exhibits. Exhibits "1", "A", "B", "C", "D", and "E" are attached to this Agreement and are incorporated herein by this reference and made a part hereof.

6.13 Indemnification. The Developer agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless the District, San Bernardino County, and their authorized officers, employees, agents and volunteers ("Indemnities") from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the District on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnities, except as provided in the following sentence. The Developer's indemnification obligation applies to the District's "active" as well as "passive" negligence but does not apply to the District's "gross negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. This indemnification provision is not intended to and does not limit, negate, modify, nullify, or change the nonrecourse provisions of this Agreement or any other agreement, document, instrument, certificate, or covenant executed by Developer. The provisions of this Section will survive the expiration of the Term.

7. BOARD OF SUPERVISORS APPROVAL: This Agreement is subject to and shall have no force or effect until and unless approved by Board of Supervisors of the San Bernardino County Flood Control District.

[Signatures on next page]

IN WITNESS WHEREOF, DISTRICT and DEVELOPER have entered into this Agreement as of the date first set forth above.

DEVELOPER:

Lennar Homes of California, LLC

By: 
Geoffrey L. Smith
Vice President

Date: May 9, 2023

DISTRICT:

**San Bernardino County Flood Control
District**

By: 
By: Dawn Rowe
Chair, Board of Supervisors

MAY 23 2023

Date: _____

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIR OF THE
BOARD OF SUPERVISORS ~~AND BOARD~~
~~OF DIRECTORS~~

LYNNA MONELL

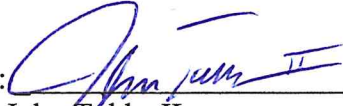
Clerk of the Board of Supervisors and Board of
~~Directors~~

By: 
Date: **MAY 23 2023**



APPROVED AS TO LEGAL FORM:

Tom Bunton, County Counsel
San Bernardino County, California

By: 
John Tubbs II
Deputy County Counsel

Date: 5/15/23

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

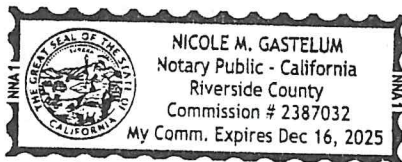
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Riverside }

On May 9, 2023 before me, Nicole M. Gastelum, Notary Public,
Date Here Insert Name and Title of the Officer
 personally appeared Geoffrey L. Smith
Name(s) of Signer(s)

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 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

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.

Signature

Nicole Gastelum

Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Easement Exchange Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Exhibit 1





EXHIBIT "A"

EASEMENT QUIT CLAIM
LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF LOT 3 OF TRACT 20092 PER MAP RECORDED IN BOOK 362 OF MAPS, PAGES 21 THROUGH 41, INCLUSIVE, RECORDS OF SAID COUNTY, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS A STRIP OF LAND 60.00 FEET IN WIDTH, LYING 30.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

COMMENCING AT THE MOST SOUTHEASTERLY CORNER OF SAID TRACT, SAID POINT ALSO BEING THE MOST SOUTHEASTERLY CORNER OF LOT F OF SAID TRACT;

THENCE NORTH 00°11'46" WEST, 1446.32 FEET TO THE SOUTHERLY LINE OF SAID LOT 3 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 00°11'46" WEST, 426.08 FEET TO AN ANGLE POINT THEREIN;

THENCE NORTH 54°03'47" EAST, 383.34 FEET TO THE NORTHEASTERLY LINE OF SAID LOT 3 AND THE **TERMINATION** OF SAID CENTERLINE.

THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT THE SOUTHERLY AND NORTHEASTERLY LINES OF SAID LOT 3.

CONTAINS 48,565.28 S.F., 1.11 AC., MORE OR LESS.

A PORTION OF APN 0264-842-03

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

PREPARED BY ME OR UNDER MY SUPERVISION

 1-7-23

ROBERT JOHN DAWSON, P.L.S.

DATE

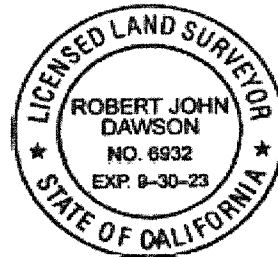


EXHIBIT "B"

EASEMENT QUIT CLAIM
LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, BEING PORTIONS OF TRACT 20204 RECORDED IN BOOK 364 OF MAPS, PAGES 7 THROUGH 12, INCLUSIVE, AND TRACT 20205 RECORDED IN BOOK 362 OF MAPS, PAGES 71 THROUGH 77, INCLUSIVE, BOTH RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHEASTERLY CORNER OF LOT 80 OF THE SEMI-TROPIC LAND AND WATER COMPANY SUBDIVISION PER MAP RECORDED IN BOOK 6, PAGE 12 OF MAPS, RECORDS OF SAID COUNTY;

THENCE SOUTH 53°24'25" EAST, 101.50 FEET;

THENCE NORTH 72°41'35" EAST, 759.44 FEET;

THENCE SOUTH 78°19'35" EAST, 1158.00 FEET;

THENCE NORTH 86°38'25" EAST, 759.50 FEET;

THENCE SOUTH 66°21'05" EAST, 600.00 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH 66°21'05" EAST, 200.00 FEET;

THENCE NORTH 23°38'55" EAST, 30.00 FEET;

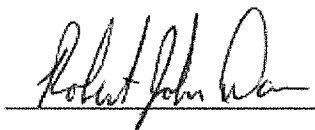
THENCE NORTH 66°21'05" WEST, 200.00 FEET;

THENCE SOUTH 23°38'55" WEST, 30.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS 6,000 S.F., 0.14 AC., MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

PREPARED BY ME OR UNDER MY SUPERVISION



ROBERT JOHN DAWSON, P.L.S.

1-7-23

DATE

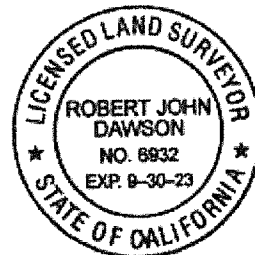


EXHIBIT "C"

EASEMENT
LEGAL DESCRIPTION

THAT REAL PROPERTY SITUATED IN THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, BEING PORTIONS OF LOT F OF TRACT 20092 RECORDED IN BOOK 362 OF MAPS, PAGES 21 THROUGH 41, INCLUSIVE, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, SAID PORTIONS BEING ALL OF SAID PART DESCRIBED AS FOLLOWS:

STRIP NO. 1

A STRIP OF LAND 20.00 FEET WIDE LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE NORTHEASTERLY END OF THAT COURSE SHOWN AS NORTH 54°03'47" EAST, 150.10 FEET PER SAID TRACT 20092, SAID POINT BEING ON THE MOST SOUTHEASTERLY LINE OF THAT PARCEL OF LAND DESCRIBED AS PARCEL "A" IN THAT DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED MARCH 3, 1961 IN BOOK 5367, PAGE 563, OFFICIAL RECORDED OF SAID COUNTY;

THENCE SOUTHWESTERLY ALONG SAID COURSE AND SAID SOUTHEASTERLY LINE, SOUTH 54°03'47" WEST, 31.66 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH 00°00'17" EAST, 694.34 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 30.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE, TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 99°16'22", AN ARC LENGTH OF 51.98 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1245.00 FEET TO WHICH A RADIAL LINE BEARS NORTH 09°16'05" EAST;

THENCE WESTERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 12°11'19", AN ARC LENGTH OF 264.85 FEET;

THENCE SOUTH 87°04'46" WEST, 164.05 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 805.00 FEET;

THENCE WESTERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 03°28'52", AN ARC LENGTH OF 48.91 FEET;

THENCE SOUTH 83°35'53" WEST, 74.08 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 45.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 46°25'48", AN ARC LENGTH OF 36.47 FEET;

THENCE SOUTH 37°10'06" WEST, 66.74 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 25.00 FEET;

THENCE SOUTHERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 55°28'22", AN ARC LENGTH OF 24.20 FEET;

THENCE SOUTH 18°18'16" EAST, 155.73 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 45.00 FEET TO WHICH A RADIAL LINE BEARS SOUTH 35°21'08" WEST;

THENCE SOUTHEASTERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 36°20'36", AN ARC LENGTH OF 28.54 FEET, SAID POINT HEREINAFTER KNOWN AS **POINT "A"**;

THENCE SOUTH 75°34'38" WEST, 63.93 FEET TO THE **POINT OF TERMINATION**, SAID POINT BEING ON NORTHEASTERLY RIGHT OF WAY OF RIVER RANCH PARKWAY, 45.00 FEET HALF WIDTH, (FORMERLY KNOWN AS EL RANCHO VERDE PARKWAY PER SAID TRACT 20092), SAID **POINT OF TERMINATION** BEING DISTANT NORTH 51°33'32" WEST, 87.39 FEET OF THE NORTHWESTERLY CORNER OF THAT LAND DESCRIBED IN THAT DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41, OFFICIAL RECORDS OF SAID COUNTY.

THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT SAID SOUTHEASTERLY LINE OF SAID PARCEL "A" AND SAID NORTHEASTERLY RIGHT OF WAY OF RIVER RANCH PARKWAY (FORMERLY KNOWN AS EL RANCHO VERDE PARKWAY PER SAID TRACT 20092).

CONTAINS 32,264 S.F., 0.76 AC., MORE OR LESS.

PORTION OF APN 0264-842-03

STRIP NO. 2

A STRIP OF LAND 20 FEET WIDE LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

BEGINNING AT THE AFORESAID **POINT "A"** SAID POINT BEING ON A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS 45.00 FEET TO WHICH A RADIAL LINE BEARS SOUTH 35°21'08" WEST;

THENCE SOUTHEASTERLY ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 30°48'03", AN ARC LENGTH OF 24.19 FEET;

THENCE SOUTH 85°26'56" EAST, 73.08 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 155.00 FEET;

THENCE ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 13°24'11", AN ARC LENGTH OF 36.26 FEET;

THENCE NORTH 81°08'53" EAST, 25.21 FEET;

THENCE SOUTH 08°51'07" EAST, 15.49 FEET TO THE **POINT OF TERMINATION**, SAID POINT BEING ON THE NORTHERLY LINE OF THAT LAND DESCRIBED IN THAT DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41, OFFICIAL RECORDS OF SAID COUNTY. SAID **POINT OF TERMINATION** BEING DISTANT ALONG SAID NORTHERLY LINE, NORTH 85°56'01" EAST 161.91 FEET FROM THE NORTHWESTERLY CORNER OF SAID LAND DESCRIBED IN SAID DEED.

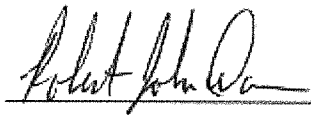
THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT THE SOUTHERLY LINE OF SAID STRIP NO. 1 AND SAID NORTHERLY LINE OF SAID DEED.

CONTAINS 3,460 S.F., 0.08 AC., MORE OR LESS.

PORTION OF APN 0264-842-03

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

PREPARED BY ME OR UNDER MY SUPERVISION

 1-7-23

ROBERT JOHN DAWSON, P.L.S.

DATE



EXHIBIT "D"

EASEMENT
LEGAL DESCRIPTION

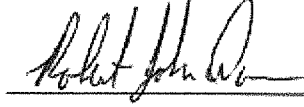
THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF TRACT 20204 RECORDED IN BOOK 364 OF MAPS, PAGES 7 THROUGH 12, INCLUSIVE, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEING OVER AND ACROSS LOT "E" OF SAID TRACT 20204.

CONTAINS 5,720 S.F., 0.13 AC., MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

PREPARED BY ME, OR UNDER MY SUPERVISION



1-7-23

ROBERT JOHN DAWSON, P.L.S.

DATE

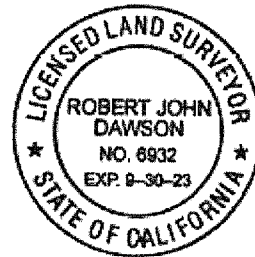


EXHIBIT "E"

QUITCLAIM DEEDS

Follows this page

EXHIBIT "F"

GRANT DEEDS

Follows this page