BOARD OF DIRECTORS
AGENDA

Note meeting time change to 9:00 a.m.

Friday, November 4, 2011
➤➤➤ 9 a.m. to 10 a.m. ◄◄◄
SANDAG Board Room
401 B Street, 7th Floor
San Diego

AGENDA HIGHLIGHTS

• HEARING OF NECESSITY: PARTIAL ACQUISITION
  OF EASEMENTS ON VARIOUS PROPERTIES
  LOCATED IN THE CITY OF SAN DIEGO

PLEASE TURN OFF CELL PHONES DURING THE MEETING

YOU CAN LISTEN TO THE BOARD OF DIRECTORS
MEETING BY VISITING OUR WEB SITE AT WWW.SANDAG.ORG

MISSION STATEMENT
The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transit, and provides information on a broad range of topics pertinent to the region’s quality of life.
Welcome to SANDAG. Members of the public may speak to the Board of Directors on any item at the time the Board is considering the item. Please complete a Speaker's Slip, which is located in the rear of the room, and then present the slip to the Clerk of the Board seated at the front table. Members of the public may address the Board on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Public speakers are limited to three minutes or less per person. The Board of Directors may take action on any item appearing on the agenda.

This agenda and related staff reports can be accessed at www.sandag.org under Meetings. Public comments regarding the agenda can be forwarded to SANDAG via the e-mail comment form available on the Web site. E-mail comments should be received no later than 12 noon, two working days prior to the Board of Directors meeting. Any handouts, presentations, or other materials from the public intended for distribution at the Board of Directors meeting should be received by the Clerk of the Board no later than 12 noon, two working days prior to the meeting.

SANDAG operates its programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. SANDAG has developed procedures for investigating and tracking Title VI complaints and the procedures for filing a complaint are available to the public upon request. Questions concerning SANDAG nondiscrimination obligations or complaint procedures should be directed to SANDAG General Counsel, Julie Wiley, at (619) 699-6966 or jwi@sandag.org. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the Federal Transit Administration.

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如有需要，我们可以把SANDAG议程材料翻译成其他语言。

请在会议前至少72小时打电话(619)699-1900提出请求。
BOARD OF DIRECTORS  
Friday, November 4, 2011

ITEM #  RECOMMENDATION
1.  PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Other public comments will be heard during the items under the heading “Reports.” Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Public speakers are limited to three minutes or less per person. Board members also may provide information and announcements under this agenda item.

REPORTS (2)
+2.  HEARING OF NECESSITY: PARTIAL ACQUISITION OF EASEMENTS ON VARIOUS PROPERTIES LOCATED IN THE CITY OF SAN DIEGO  (John Kirk, Bruce Beech)*

The Board of Directors is asked to: (1) receive public testimony; (2) adopt Resolution of Necessity No. 2012-11 (in substantially the same form as Attachment 1) by a two-thirds vote, pertaining to acquisition of temporary and permanent easements on portions of assessor parcel numbers owned by CLL Roselle LLC (340-080-40), Canyon Properties, LLC (341-321-37 & 38, 343-010-19), The Silverstone Company, LP (343-130-09), Edward G. Wong and Ellen G. Wong, Sorrento Creek Corporation (343-130-20, 343-130-01), Creekside Property Holdings, LLC (343-130-17), and Helf Sorrento, LLC (343-130-16), located in the City of San Diego; and (3) authorize staff to proceed with the condemnation proceedings necessary to acquire the partial interests in the subject parcels.

3.  CONTINUED PUBLIC COMMENTS

If the five speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

4.  UPCOMING MEETINGS

The next Board Business meeting is scheduled for Friday, November 18, 2011, at 9 a.m. (third Friday of the month due to the Thanksgiving holiday schedule). The next Board Policy meeting is scheduled for Friday, December 2, 2011, at 10 a.m. (first Friday of the month due to the Christmas holiday schedule).

5.  ADJOURNMENT

+ next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego County Regional Transportation Commission item
HEARING OF NECESSITY: PARTIAL ACQUISITION OF EASEMENTS ON VARIOUS PROPERTIES LOCATED IN THE CITY OF SAN DIEGO

Introduction

SANDAG is seeking numerous temporary easements and one permanent easement to facilitate construction of the Sorrento to Miramar Phase 1 Double Tracking Project. The easements are located on portions of the following assessor parcel numbers (with referenced owners), all located in the Sorrento Valley area of the City of San Diego:

- 340-080-40 (CLL-ROSELLE LLC) (set forth in Attachment 1A to the Resolution (Attachment 1 to this Board Report)
- 341-321-37 & 38, 343-010-19 (CARYON PROPERTIES, LLC) (set forth in Attachment 1B to the Resolution)
- 343-130-09 (THE SILVERSTONE COMPANY, LP) (set forth in Attachment 1C to the Resolution)
- 343-130-20, 343-130-01 (EDWARD G. WONG AND ELLEN G. WONG, SORRENTO CREEK CORPORATION) (set forth in Attachment 1D to the Resolution)
- 343-130-17, (CREEKSIDE PROPERTY HOLDINGS, LLC) (set forth in Attachment 1E to the Resolution)
- 343-130-16, (HELF SORRENTO, LLC) (set forth in Attachment 1F to the Resolution)

The acquisitions are primarily adjacent to the railroad right-of-way and will enable construction of the project.

Recommendation

The Board of Directors is asked to: (1) receive public testimony; (2) adopt Resolution of Necessity No. 2012-11 (Attachment 1) by a two-thirds vote, pertaining to acquisition of temporary and permanent easements on portions of assessor parcel numbers owned by CLL Roselle LLC (340-080-40), Caryon Properties, LLC (341-321-37 & 38, 343-010-19), The Silverstone Company, LP (343-130-09), Edward G. Wong and Ellen G. Wong, Sorrento Creek Corporation (343-130-20, 343-130-01), Creekside Property Holdings, LLC (343-130-17), and Helf Sorrento, LLC (343-130-16), located in the City of San Diego; and (3) authorize staff to proceed with the condemnation proceedings necessary to acquire the partial interests in the subject parcels.
Discussion

The project will build 1.2 miles of new, realigned double track in the Sorrento to Miramar area. The improvement will add an additional track, a new bridge, replace an existing bridge, and provide retaining walls and improved drainage. The project will improve train speeds, service reliability, and safety for train operations. This project is necessary as one of several projects that will be constructed within the next five years to expand COASTER, Amtrak, and Burlington Northern Santa Fe (BNSF) Railway service between San Diego and Orange County.

The project alignment is within existing railroad right-of-way. The project minimizes right-of-way acquisition to access and construction easements. An extensive analysis of alternatives was completed in design of the track, retaining walls, and drainage improvements in order to keep the project within the right-of-way. The project, however, is located in an area that does not have access from the right-of-way to construct the improvements. Therefore, temporary access easements are required to construct the improvements from outside the right-of-way. One permanent easement for long-term maintenance access also is required for North County Transit District (NCTD). Three of the construction easements are in the property owners' parking areas. To minimize business impacts, construction will be limited to weeknights and weekends on those parcels.

The project requires 193,133 square feet of temporary construction and temporary access easements on nine parcels; 19,283 square feet for maintenance and monitoring easements on four parcels; and 18,550 square feet for a permanent access easement for maintenance on one parcel, as shown on Attachment 2.

Description

California eminent domain law provides that a public entity may not commence an eminent domain proceeding until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

- Whether the public interest and necessity require the project
- Whether the project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury
- Whether the interest in the property is necessary for the project
- The offer of just compensation that has been made to the property owner

The Public Interest and Necessity Require the Project

Approval of the eminent domain action to acquire the property rights serves the public interest and is necessary for completion of the project. The project is a linear transportation improvement and a historical bottleneck in the San Diego County portion of the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor. It is a slow speed area for train service at the present and also a historical site of several freight train derailments, which have caused commuter rail service to come to an abrupt halt during these emergencies. The planned improvements will provide for increased speed, service,
reliability, and safety for train operations in this area and along the entire corridor. This project is necessary as one of several projects that will be constructed within the next five years that will allow expansion of COASTER and other train operator service between the Santa Fe Depot in downtown San Diego and the Orange County line at the northern end of Camp Pendleton.

The Project is Planned or Located in the Manner That will be Most Compatible with the Greatest Public Good and the Least Private Injury

The project has been designed to minimize property impacts. In fact, it only requires permanent right-of-way acquisition on one parcel for NCTD to have access to the project site for maintenance purposes once construction is complete. Otherwise, only temporary rights necessary to access the project site and facilitate the construction are required. The proposed alignment of the project is controlled by the existing rail alignment and rail right-of-way. The alignment has been optimized to maximize the use of existing right-of-way and minimize right-of-way acquisition for temporary access and construction easements. In order to minimize impacts to the properties, construction activities are planned to be limited to evenings and weekends when the parking lots over which the temporary easements are located would be generally unused. In addition, several other properties that are impacted by the project are owned by public entities and are not subject to these eminent domain actions.

The Interests in the Properties Are Necessary for the Project

An extensive analysis of alternatives was completed before arriving at the proposed alignment and footprint. Staff has evaluated multiple alternatives, with costs and constructability for each alternative determined based on the results of preliminary engineering analyses. The project is located in a relatively isolated area, and temporary access easements are required in order for the contractor to access the project site to facilitate the construction of the project. In addition, to maximize the use of the existing rail right-of-way and minimize grading and retaining wall costs, the temporary construction easements are required in order to facilitate construction of retaining walls from adjacent properties. One permanent access easement also is required in order for NCTD to have maintenance access to the right-of-way upon completion of construction.

Offers of Just Compensation Have Been Made to the Property Owners

Appraisals and review appraisals were prepared for each easement pursuant to SANDAG policy and applicable law. Offers of just compensation were made to all owners on June 23, 2011. Negotiations have been ongoing with the property owners since the offers were made. Settlements have been reached with four of the six owners, but escrows have not closed, and the remaining two owners have yet to reach negotiated settlements. Adoption of the proposed Resolution of Necessity (Attachment 1) would start a date certain timeline for construction access in March 2012 that would allow construction to start on time to minimize delays and associated cost risks.

The current appraised value of the interests to be acquired for the permanent access easement, two-year temporary construction easements, two-year temporary access easements, and five-year temporary maintenance and monitoring easements is $936,919. The temporary construction and access easements also have three, one-year options with an appraised value of $417,935 per year. The options are needed as the duration of construction is dependent on bird breeding season restrictions that are not known at this time. Construction is expected to take between two and
three years. The cost for three years at the current appraised value is $1,354,854, pending final settlements and the cost of any litigation. These costs will be funded from the Right-of-Way budget line item of the Sorrento to Miramar Phase I Project budget, which has a sufficient available balance.

An appraisal was prepared for each of the parcels sought to be acquired, establishing the fair market value of each of the required easements. On June 23, 2011, SANDAG made an offer of just compensation to each of the property owners to purchase the easements, temporary construction easement, and limited right of entry as required by Section 7267.2 of the California Government Code. Tentative settlements have been reached with some of property owners. Condemnation proceedings would only go forward on such parcels if the purchase falls through and escrow does not close.

GARY L. GALLEGOS
Executive Director

Attachments: 1. Resolution of Necessity No. 2012-11 declaring that the Acquisition of Certain Real Property by Eminent Domain is Necessary for Sorrento to Miramar Phase 1 Double Tracking Project
2. Right of Way Requirement Map, Sorrento to Miramar – Phase 1, 10/4/11

Key Staff Contact: John F. Kirk, (619) 699-1997, jki@sandag.org
DECLARING THAT THE ACQUISITION OF CERTAIN REAL PROPERTY BY EMINENT DOMAIN IS NECESSARY FOR SORRENTO TO MIRAMAR PHASE 1 DOUBLE TRACKING PROJECT

WHEREAS, the San Diego Association of Governments (“SANDAG”) is a public agency, organized and existing under Government Code section 6500, et. seq., and is authorized to determine exclusive mass transit guideways to be acquired and constructed within San Diego County pursuant to Public Utilities Code (PUC) section 132350, et. seq.; and

WHEREAS, SANDAG is empowered to use the power of eminent domain to acquire real and personal property of every kind necessary to the full and convenient exercise of its power pursuant to PUC section 132354, and Code of Civil Procedure (“CCP”) sections 1240.110 and 1240.120; and

WHEREAS, SANDAG proposes to use its powers of eminent domain to acquire interests in certain real property for the use of the Sorrento to Miramar Phase 1 Double Tracking Project (“Project”) that would construct approximately 1.2 miles of new, realigned double track in the Sorrento Valley area of the City of San Diego; and

WHEREAS, the Project will add an additional track, a new bridge, replace an existing bridge, and provide retaining walls and improved drainage as well as improve train speeds, service reliability, and safety for train operations; and

WHEREAS, the Project is necessary as one of several projects that is planned to be constructed within the next five years to expand COASTER, Amtrak, and BNSF Railway service between San Diego and Orange County; and

WHEREAS, pursuant to CCP section 1245.235, SANDAG scheduled a public hearing for November 4, 2011, at 9:00 a.m., located at the Board Room of SANDAG, located at 401 B Street, Suite 700, San Diego, California 92101 and gave each person whose property is to be acquired and whose name and address appear on the last equalized San Diego County Assessment Roll notice and a reasonable opportunity to appear and be heard on the matters referred to in CCP section 1240.030;

NOW THEREFORE

BE IT RESOLVED, DETERMINED AND ORDERED by a vote of two-thirds or more of all of the members of the Board of Directors of SANDAG as follows:

1. SANDAG has provided notice of this hearing as required by CCP section 1245.235. On October 7 and October 18, 2011, notices of this hearing were mailed by first class mail to all persons whose names appear on the last equalized San Diego County Assessment Roll as having an interest in the properties described herein, and each such person was given a reasonable opportunity to appear before this Board and be heard.
The public use for which the real property described herein is to be acquired is the construction of the Project and related appurtenances. This use is a public use for which SANDAG may acquire real or personal property by eminent domain pursuant to PUC section 132354 and CCP sections 1240.110 and 1240.120.

2. The following real property and property interests are required for the Project:

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Assessor’s Parcel Nos.</th>
<th>Property Owner</th>
<th>Property Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<td>340-080-40</td>
<td>CLL-Roselle LLC</td>
<td>Temporary Construction and Monitoring and Maintenance Easement</td>
</tr>
<tr>
<td>1B</td>
<td>341-321-37, 38, and 343-010-19</td>
<td>Caryon Properties, LLC</td>
<td>Temporary Access Easement</td>
</tr>
<tr>
<td>1C</td>
<td>343-130-09</td>
<td>The Silverstone Company, L.P.</td>
<td>Temporary Construction Easement</td>
</tr>
<tr>
<td>1D</td>
<td>343-130-01 and 343-130-20</td>
<td>Edward G. Wong and Ellen G. Wong, Sorrento Creek Corporation</td>
<td>Temporary Construction and Monitoring and Maintenance Easement</td>
</tr>
<tr>
<td>1E</td>
<td>343-130-17</td>
<td>Creekside Property Holdings, LLC</td>
<td>Temporary Construction Easement, Temporary Access Easement, and Permanent Access Easement</td>
</tr>
<tr>
<td>1F</td>
<td>343-130-16</td>
<td>Helf Sorrento LLC</td>
<td>Temporary Construction Easement, Temporary Access and Monitoring and Maintenance Easement</td>
</tr>
</tbody>
</table>

The legal descriptions and depictions of the real property interests to be acquired are shown in Attachments 1A through 1F inclusive, attached hereto and incorporated fully by this reference, describing the location of the properties to be acquired with sufficient detail for reasonable identification, including plat maps depicting the area to be acquired by SANDAG.

3. Based upon the evidence presented at the hearing and pursuant to CCP section 1245.230(c), SANDAG hereby finds and determines that:

(a) The public interest and necessity require the Project;

(b) The Project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury;

(c) The property described herein is necessary for the Project; and

(d) The Government Code section 7267.2(a) offer has been made to the record owner of the properties described herein.
4. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with SANDAG and describe the general location and extent of the easements and rights-of-way with a sufficient detail for reasonable identification. To the extent the herein described use or uses will unreasonably interfere with or impair continuance of the public use now existing, or which may reasonably be expected to exist in the future, SANDAG finds and determines that the herein described use or uses are compatible or more necessary than said existing public use or uses. SANDAG is authorized to acquire the property irrespective of such existing public uses pursuant to CCP sections 1240.501 and 1240.610. SANDAG staff is further authorized to make such improvements to the property being acquired that it determines are reasonable and necessary to mitigate any adverse impact upon existing public uses.

5. All appropriate officers, representatives, and attorneys for SANDAG are hereby authorized to acquire the described real property in the name of and on behalf of SANDAG by eminent domain and are further authorized to institute such legal proceedings as may be required and take such steps as may be authorized by law, including the making of deposits necessary to allow SANDAG to take possession of the real property at the earliest possible date.

6. All appropriate officers, representatives and attorneys are further authorized to correct any type of errors or to make nonmaterial changes in the legal descriptions of the real property that are deemed necessary for the conduct of the condemnation action or any other proceedings or transactions required to acquire the property.

PASSED AND ADOPTED this 4th day of November 2011.

________________________________________           ATTEST: ________________________________________
CHAIRPERSON                   SECRETARY

MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and County of San Diego.

ADVISORY MEMBERS: California Department of Transportation, Metropolitan Transit System, North County Transit District, Imperial County, U.S. Department of Defense, San Diego Unified Port District, San Diego County Water Authority, Southern California Tribal Chairmen’s Association, and Mexico.
TEMPORARY CONSTRUCTION EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CLL-Roselle LLC, a California limited liability company, ("Grantor"), hereby grants and conveys to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary construction easement ("Easement") and the right to use and occupy the surface of said easement for a period of twenty four (24) months, commencing upon the start of construction activities on Grantor's property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension and pay the additional extension consideration. Construction activities on Grantor's property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Grantor's property is located in the County of San Diego, State of California, and the portion of Grantor's property encumbered by the easement granted hereby ("the Easement Area") is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof. The purpose for the Easement granted hereby shall be to perform all acts beneficial for the purpose of constructing, repairing, replacing, grading for, and installing a second railroad track and related appurtenant structures associated with the "Sorrento to Miramar Double Track Phase 1 Project" on property near or adjacent to Grantor's property. Such acts shall include, without limitation, constructing and installing railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, grading for earthen slopes, temporary irrigation and permanent revegetation landscaping, as well as ingress and egress for maintenance and monitoring of said temporary irrigation and landscaping for a period up to five (5) years after the termination of said construction activities. Said maintenance and monitoring area is shown on Exhibit "C" attached hereto and made a part hereof.

Grantor further grants the right of unobstructed ingress and egress to the Easement Area, including the right to pass and re-pass over and along the Easement Area and to deposit tools, implements and other materials on the Easement Area and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.
Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement Area to a compacted, neat, clean condition, and substantially the same condition as prior to such work. No permanent alterations or improvements constructed by Grantee or others pursuant to the Easement granted hereby shall remain on Grantor's property following termination of the Easement.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement Area by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this 21 day of September, 2011.

GRANTOR(S): CLL-Roselle LLC, a California limited liability company

By: ____________________________
Print name: Christopher L. Loughridge, Manager/Member

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ____________________________
Gary Gallegos (or designee)
Executive Director

Date: 10/14/11
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

State of California
County of San Diego

On Sept. 21, 2011 before me, Flora P. Gault, Notary Public
(Here insert name and title of the officer)

personally appeared CHRISTOPHER L. LOUCHBRIDGE

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.

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 of Notary Public

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as
appears above in the notary section or a separate acknowledgment form must be
properly completed and attached to that document. The only exception is if a
document is to be recorded outside of California. In such instances, any alternative
acknowledgment verbiage as may be printed on such a document so long as the
verbiage does not require the notary to do something that is illegal for a
notary in California (i.e. certifying the authorized capacity of the signer). Please check
the document carefully for proper notarial wording and attach this form if required.

State and County information must be the State and County where the document
signer(s) personally appeared before the notary public for acknowledgment.

Date of notarization must be the date that the signer(s) personally appeared which
must also be the same date the acknowledgment is completed.

The notary public must print his or her name as it appears within his or her
commission followed by a comma and then your title (notary public).

Print the name(s) of document signer(s) who personally appear at the time of
notarization.

Indicate the correct singular or plural forms by crossing off incorrect forms (i.e.
he/she/they is/are) or circling the correct forms. Failure to correctly indicate this
information may lead to rejection of document recording.

The notary seal impression must be clear and photographically reproducible.
Impression must not cover text or lines. If seal impression smudges, re-seal if a
sufficient area permits, otherwise complete a different acknowledgment form.

Signature of the notary public must match the signature on file with the office of
the county clerk.

Additional information is not required but could help to ensure this
acknowledgment is not misused or attached to a different document.

Indicate title or type of attached document, number of pages and date.

Indicate the capacity claimed by the signer. If the claimed capacity is a
corporate officer, indicate the title (i.e. CEO, CFO, Secretary).

Securely attach this document to the signed document.
EXHIBIT "A"
APN 340-080-40 - TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THAT PORTION OF THE LAND, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED IN THE GRANT DEED RECORDED AUGUST 14, 2000, AS INSTRUMENT NO. 2000-0431554 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING EASTERLY AND NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST NORTHERLY CORNER OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG THE NORTHEASTERLY LINE OF SAID LAND, SOUTH 38°34'47" EAST, 212.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 03°29'42" WEST, 68.65 FEET; THENCE SOUTH 38°34'47" EAST, 329.05 FEET; THENCE SOUTH 81°59'33" EAST, 14.55 FEET; THENCE SOUTH 38°34'47" EAST, 152.43 FEET TO THE SOUTHEASTERLY LINE OF SAID LAND.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "A"
COUNTY: SAN DIEGO  CITY: SAN DIEGO
SHEET: 1  TOTAL: 1  APN: 340-080-40
JOB NO.: SNDG-0000-0036

LICENSED LAND SURVEYOR
STATE OF CALIFORNIA
JOHN MARTIN SMITH
8070

CHECKED BY: RDV
DRAWN BY: MXSM
DATE: 08/31/11
SCALE: N/A
EXHIBIT "B"
APN 340-080-40 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

LEGEND

- AFFECTED PROPERTY

- DESCRIPTION AREA

- ADJACENT PROPERTY LINES

- EXISTING EASEMENT DESCRIBED ON SHEET 2.

AREA
22,221± SQUARE FEET
LEGEND

A. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET RECORDED 11/20/1962 AS INSTRUMENT NO. 198503 OF OFFICIAL RECORDS.

B. INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 04/24/1963 AS INSTRUMENT NO. 70072 OF OFFICIAL RECORDS.

C. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR STORM DRAINS RECORDED 12/31/1965 AS INSTRUMENT NO. 236049 OF OFFICIAL RECORDS.

D. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET RECORDED 01/06/1966 AS INSTRUMENT NO. 2880 OF OFFICIAL RECORDS.

E. INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 12/01/1982 AS INSTRUMENT NO. 82-0368918 OF OFFICIAL RECORDS.

F. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR WATER MAINS RECORDED 11/06/1962 AS INSTRUMENT NO. 192234 OF OFFICIAL RECORDS.
LEGEND

A  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET RECORDED 11/20/1962 AS INSTRUMENT NO. 198503 OF OFFICIAL RECORDS.

B  INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 04/24/1963 AS INSTRUMENT NO. 70072 OF OFFICIAL RECORDS.

C  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR STORM DRAINS RECORDED 12/31/1965 AS INSTRUMENT NO. 236049 OF OFFICIAL RECORDS.

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E  INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 12/01/1982 AS INSTRUMENT NO. 82-0369918 OF OFFICIAL RECORDS.

F  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR WATER MAINS RECORDED 11/06/1962 AS INSTRUMENT NO. 192234 OF OFFICIAL RECORDS.
TEMPORARY ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Caryon Properties LLC, a California limited liability partnership, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS ("Grantee"), a temporary easement for access ("Easement"). Said Easement is for the right of ingress and egress as needed for construction activities on the adjacent railroad right of way ("Project"), the right to place asphalt paving, temporary irrigation and permanent revegetation landscaping on said easement as needed by Grantee, together with the right of others to use said access as needed for the Project, for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work, including and necessary revegetation planting and irrigation as described above.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction and installation of Grantee’s facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Access Easement as of this ___ day of ______________ , 2011.

GRANTOR(S): Caryon Properties LLC, a California limited liability partnership

By: _______________________________ By: _______________________________
Print name: ______________________ Print name: ______________________
CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ________________________________
Gary Gallegos (or designee)
Executive Director

Date: ____________________________
SAN DIEGO
EXHIBIT “A”
APN 341-321-37 - TEMPORARY ACCESS EASEMENT
LEGAL DESCRIPTION

TWO STRIPS OF LAND, 30.00 FEET IN WIDTH, LYING WITHIN LOT 74 OF MAP NO. 9694, IN THE
CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED JUNE 27, 1980, IN
THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE CENTERLINES OF SAID STRIPS
ARE DESCRIBED AS FOLLOWS:

STRIP 1

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID LOT 74, SAID POINT BEING THE
WESTERLY TERMINUS OF THE COURSE SHOWN ON SAID MAP AS "N79°38'30"E 16.43' " THENCE
ALONG SAID NORTHERLY LINE, NORTH 79°41'25"E (RECORD NORTH 79°38'30"E), 16.43
FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 2549.76
FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°45'40" AN
ARC LENGTH OF 33.88 FEET TO POINT "A"; THENCE CONTINUING EASTERLY ALONG SAID CURVE
THROUGH A CENTRAL ANGLE OF 03°34'20" AN ARC LENGTH OF 158.96 FEET; THENCE NORTH
75°21'25"EAST, 64.15 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID
NORTHERLY LINE, SOUTH 75°20'46"EAST, 29.65 FEET TO THE BEGINNING OF A CURVE,
CONCAVE NORTHERLY, HAVING A RADIUS OF 180.00 FEET; THENCE EASTERLY ALONG SAID
CURVE THROUGH A CENTRAL ANGLE OF 26°04'29" AN ARC LENGTH OF 81.92 FEET; THENCE
NORTH 76°54'45"EAST, 55.90 FEET.

THE SIDELINES OF SAID STRIP 1 TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE
NORTHERLY LINE OF SAID LOT 74 AND TO TERMINATE IN THE SOUTHERLY LINE OF SAID LOT 74.

STRIP 2

BEGINNING AT POINT 'A' DESCRIBED ABOVE; THENCE SOUTH 25°13'55" EAST, 108.50 FEET TO
THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 95.00
FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF
18°31'58" AN ARC LENGTH OF 30.73 FEET TO THE SOUTHERLY LINE OF SAID LOT 74.

THE SIDELINES OF SAID STRIP 2 TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE
NORTHERLY LINE OF SAID LOT 74 AND TO TERMINATE IN THE SOUTHERLY LINE OF SAID
LOT 74.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLB 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 341-321-37 - TEMPORARY ACCESS EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

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TOTAL AREA
7,321± SQUARE FEET
LEGEND

A  INDICATES THE CENTERLINE OF A NO-WIDTH STRIP EASEMENT TO SDG&E RECORDED 07/14/1947 AS INSTRUMENT NO. 71989, OF OFFICIAL RECORDS.

B  INDICATES THE CENTERLINE OF A NO-WIDTH STRIP EASEMENT TO SDG&E RECORDED 02/01/1949 IN BOOK 3097, PAGE 357, OF OFFICIAL RECORDS.

C  INDICATES THE CENTERLINE OF A NO-WIDTH STRIP EASEMENT TO SDG&E RECORDED 02/02/1949 IN BOOK 3099, PAGE 85, OF OFFICIAL RECORDS.

D  INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 12/20/1957 AS INSTRUMENT NO. 192464 OF OFFICIAL RECORDS.

E  INDICATES AN EASEMENT TO SAN DIEGO PIPELINE COMPANY RECORDED 01/23/1963 AS INSTRUMENT NO. 14085 OF OFFICIAL RECORDS.

F  INDICATES AN EASEMENT TO SAN DIEGO PIPELINE COMPANY RECORDED 09/30/1964 AS INSTRUMENT NO. 178916 OF OFFICIAL RECORDS.

G  INDICATES A BLANKET EASEMENT FOR OPEN SPACE, FLOWAGE, AND SLOPES DEDICATED ON MAP NO. 9994.

H  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWERS RECORDED 12/11/1981 AS INSTRUMENT NO. 81-0389301 OF OFFICIAL RECORDS.

I  INDICATES AN EASEMENT FOR PUBLIC HIGHWAY, WALL AND FOOTING, AND TEMPORARY CONSTRUCTION RECORDED 10/19/2009 AS INSTRUMENT NO. 2009-0602681 OF OFFICIAL RECORDS.
RECORDING REQUESTED BY and AFTER RECORDING MAIL TO:

San Diego Association of Governments
Right of Way Manager
401 “B” Street, Suite 800
San Diego, California 92101

NO FEES DUE - FOR BENEFIT OF PUBLIC AGENCY
APN: 341-321-38
SANDAG CONTRACT No. 5003092

TEMPORARY ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Caryon Properties LLC, a California limited liability partnership, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS ("Grantee"), a temporary easement for access ("Easement"). Said Easement is for the right of ingress and egress as needed for construction activities on the adjacent railroad right of way ("Project"), the right to place asphalt paving, temporary irrigation and permanent revegetation landscaping on said easement as needed by Grantee, together with the right of others to use said access as needed for the Project, for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made a part hereof.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work, including and necessary revegetation planting and irrigation as described above.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Access Easement as of this ___ day of ______________, 2011.

GRANTOR(S): Caryon Properties LLC, a California limited liability partnership

By: ________________________________  By: ________________________________
Print name: __________________________  Print name: __________________________
CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ________________________________
   Gary Gallegos (or designee)
   Executive Director

Date: ______________________________
EXHIBIT "A"
APN 341-321-38 - TEMPORARY ACCESS EASEMENT
LEGAL DESCRIPTION

A STRIP OF LAND, 30.00 FEET IN WIDTH, LYING WITHIN THE LAND DESCRIBED IN THE DIRECTOR'S DEED, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, RECORDED NOVEMBER 30, 1973, AS INSTRUMENT NO. 73-333057 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE CENTERLINE OF SAID STRIP IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID LAND; THENCE ALONG THE NORTHEASTERLY LINE OF SAID LAND, SOUTH 26°11'24" EAST, 15.89 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 05°22'14" WEST, 59.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 85.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°38'20" AN ARC LENGTH OF 43.97 FEET; THENCE SOUTH 24°16'06" EAST, 105.07 FEET TO THE SOUTHWESTERLY LINE OF SAID LAND.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE NORTHEASTERLY LINE OF SAID LAND AND TO TERMINATE IN THE SOUTHWESTERLY LINE OF SAID LAND.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 341-321-38 - TEMPORARY ACCESS EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

CURVE TABLE

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<td>59.77'</td>
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<tr>
<td>L3</td>
<td>S24°16'06&quot;E</td>
<td>105.07'</td>
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LEGEND
- AFFECTED PROPERTY
- DESCRIPTION AREA
- ADJACENT PROPERTY LINES
- EXISTING EASEMENT DESCRIBED ON SHEET 2.
- EXISTING NO-ACCESS PER DOCUMENT DESCRIBED ON SHEET 2.

AREA
6,192± SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "B"
TEMPORARY ACCESS EASEMENT

COUNTY: SAN DIEGO
CITY: SAN DIEGO

CHECKED BY: RDV
DRAWN BY: MXSM
DATE: 08/31/11
SCALE: 1"=50'

4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750
EXHIBIT "B"
APN 341-321-38 - TEMPORARY ACCESS EASEMENT
EXISTING EASEMENT LEGEND

LEGEND

A – INDICATES AN EASEMENT TO SDG&E FOR PUBLIC UTILITIES RECORDED 08/30/1917 IN BOOK 740, PAGE 445 OF DEEDS.

B – INDICATES NO ACCESS RIGHTS TO OR FROM THE STREET, HIGHWAY, OR FREEWAY PER DOCUMENT RECORDED 11/30/1973 AS INSTRUMENT NO. 73-333057 OF OFFICIAL RECORDS.

C – INDICATES NO ACCESS RIGHTS TO OR FROM THE STREET, HIGHWAY, OR FREEWAY PER DOCUMENT RECORDED 05/28/1992 AS INSTRUMENT NO. 1992-0325239 OF OFFICIAL RECORDS.

D – INDICATES AN EASEMENT FOR PUBLIC STREET RECORDED 06/02/1992 AS INSTRUMENT NO. 1992-0337622 OF OFFICIAL RECORDS.
TEMPORARY ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Caryon Properties LLC, a California limited liability partnership, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS ("Grantee"), a temporary easement for access ("Easement"). Said Easement is for the right of ingress and egress as needed for construction activities on the adjacent railroad right of way ("Project"), the right to place asphalt paving, temporary irrigation and permanent revegetation landscaping on said easement as needed by Grantee, together with the right of others to use said access as needed for the Project, for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee’s expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work, including and necessary revegetation planting and irrigation as described above.

The Grantor, for the Grantor and Grantor’s successors and assigns hereby waives any claim for any and all damages to the Grantor’s remaining property contiguous to the Easement by reason of the location, construction and installation of Grantee’s facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Access Easement as of this ____ day of _________________, 2011.

GRANTOR(S): Caryon Properties LLC, a California limited liability company

By: ________________________________ By: ________________________________
Print name: _________________________ Print name: _________________________
CERTIFICATE OF ACCEPTANCE  
(Government Code Section 27281) 

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,  
a California Public Agency

By: ______________________________  
Gary Gallegos (or designee)  
Executive Director

Date: ____________________________
EXHIBIT "A"
APN 343-010-19 - TEMPORARY ACCESS EASEMENT
LEGAL DESCRIPTION

TWO PARCELS OF LAND LYING WITHIN LOT 75 OF MAP NO. 9694, IN THE CITY OF SAN DIEGO,
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED JUNE 27, 1980, IN THE OFFICE OF THE
COUNTY RECORDER OF SAID COUNTY, SAID PARCELS BEING DESCRIBED AS FOLLOWS:

PARCEL 1

A STRIP OF LAND, 30.00 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP DESCRIBED AS
FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 74; THENCE ALONG THE NORTHERLY
LINE OF SAID LOT, NORTH 54°06'30" EAST, 113.75 FEET TO THE TRUE POINT OF BEGINNING, SAID
POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY,
HAVING A RADIUS OF 96.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS
SOUTH 53°20'47" WEST; THENCE LEAVING SAID NORTHERLY LINE, SOUTHEASTERLY ALONG
SAID CURVE THROUGH A CENTRAL ANGLE OF 13°01'48" AN ARC LENGTH OF 21.83 FEET;
THENCE SOUTH 23°37'25" EAST, 133.37 FEET TO THE BEGINNING OF A CURVE, CONCAVE
WESTERLY, HAVING A RADIUS OF 271.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE
THROUGH A CENTRAL ANGLE OF 09°46'10" AN ARC LENGTH OF 46.21 FEET; THENCE SOUTH
13°51'15" EAST, 96.92 FEET; THENCE SOUTH 03°10'25" WEST, 82.19 FEET; THENCE SOUTH
08°19'13" WEST, 36.79 FEET; THENCE SOUTH 22°13'05" WEST, 36.65 FEET TO THE WESTERLY
LINE OF SAID LOT AND A POINT HEREINAFTER REFERRED TO AS POINT 'A'.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN SAID
NORTHERLY LINE OF LOT 75 AND TO TERMINATE IN THE WESTERLY AND SOUTHERLY LINES OF
SAID LOT 75.

PARCEL 2

BEGINNING AT POINT 'A' DESCRIBED ABOVE; THENCE ALONG THE WESTERLY AND
SOUTHERLY LINES OF SAID LOT THE FOLLOWING 5 COURSES:

1. SOUTH 26°16'14" EAST, 15.39 FEET;
2. SOUTH 89°27'59" EAST, 36.81 FEET;
3. NORTH 63°42'23" EAST, 68.97 FEET;
4. NORTH 46°36'47" EAST, 55.95 FEET TO THE BEGINNING OF A NON-TANGENT CURVE,
   CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 673.68 FEET, A RADIAL LINE FROM
   SAID BEGINNING OF CURVE BEARS SOUTH 43°31'37" EAST;
5. NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°13'08" AN
   ARC LENGTH OF 108.40 FEET;

CONTINUED ON SHEET 2 OF 2
EXHIBIT "A"
APN 343-010-19 - TEMPORARY ACCESS EASEMENT
LEGAL DESCRIPTION

PARCEL 2 (CONTINUED)

THENCE LEAVING SAID LINE ALONG THE FOLLOWING 6 COURSES:

1. NORTH 89°59'55" WEST, 6.90 FEET;
2. SOUTH 70°41'08" WEST, 120.73 FEET;
3. NORTH 87°35'01" WEST, 13.78 FEET;
4. NORTH 61°32'10" WEST, 16.23 FEET;
5. NORTH 43°53'35" WEST, 32.95 FEET;
6. NORTH 33°49'33" WEST, 99.00 FEET TO THE CENTERLINE OF PARCEL 1 DESCRIBED
   ABOVE;

THENCE ALONG SAID CENTERLINE, SOUTH 13°51'15" EAST, 46.03 FEET; THENCE SOUTH
03°10'25" EAST, 82.19 FEET; THENCE SOUTH 08°19'13" WEST, 36.79 FEET; THENCE SOUTH
22°13'05" WEST, 36.65 FEET TO SAID POINT 'A'.

EXCEPTING THEREFROM THAT PORTION WITHIN PARCEL 1 DESCRIBED ABOVE.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
### Curve Table

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<td>L8</td>
<td>S89°27'59&quot;E</td>
<td>36.81'</td>
</tr>
<tr>
<td>L9</td>
<td>S13°51'15&quot;E</td>
<td>46.03'</td>
</tr>
<tr>
<td>L11</td>
<td>N89°59'55&quot;W</td>
<td>6.90'</td>
</tr>
</tbody>
</table>

### Legend

- **Affected Property**
- **Description Area**
- **Adjacent Property Lines**
- **Existing Easement Described on Sheet 4**

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**EXHIBIT "B"**

APN 343-010-19 - TEMPORARY ACCESS EASEMENT

PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

INDEX SHEET

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**EXHIBIT "B" DRAWN BY:**

AND ASSOCIATES INC. TEMPORARY MAXSM4200 Concours, Suite 200

**SAN DIEGO COUNTY: CITY: CHECKED BY:**

DAVID EVANS SAN DIEGO RDV 08/31/11

Phone: 909.481.5750 SHEET: TOTAL: APN: 343-010-19 SCALE: 1"=500'
EXHIBIT "B"
APN 343-010-19 - TEMPORARY ACCESS EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

LEGEND

AFFEC TED PROPERTY

DESCRIPTION AREA

AD JACENT PROPERTY LINES

NOTE
SEE SHEET 1 FOR LINE
AND CURVE TABLES.

DAVID EVANS
AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "B"

COUNTY: SAN DIEGO CITY: SAN DIEGO
CHECKED BY: RDV
DRAWN BY: MXSM
DATE: 08/31/11
SCALE: 1"=80'

SNDG-0000-0036

TEMPORARY ACCESS EASEMENT

APN: 343-010-19
LEGEND

A. Indicates the centerline of a no-width strip easement to SDG&E recorded 07/14/1947 as Instrument No. 71989, of Official Records.

B. Indicates an easement to SDG&E for public utilities recorded 12/20/1957 as Instrument No. 192464 of Official Records.

C. Indicates an easement to SDG&E for public utilities recorded 07/19/1960 as Instrument No. 145625 of Official Records.


E. Indicates an easement to the City of San Diego for sewers recorded 08/06/1972 as Instrument No. 208229 of Official Records.

F. Indicates an easement dedicated on Map No. 9694 for sewer.

G. Indicates an easement dedicated on Map No. 9694 for drainage.

H. Indicates an easement dedicated on Map No. 9694 for flowage.

A blanket easement dedicated on Map No. 9694 for open space.

I. Indicates an easement dedicated on Map No. 9694 for slopes.

J. Indicates an easement to San Diego Pipeline Company recorded 09/30/1964 as Instrument No. 178916 of Official Records.


L. Indicates an easement to the City of San Diego for sewers recorded 01/07/1988 as Instrument No. 88-007407 of Official Records.

TEMPORARY CONSTRUCTION EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, The Silverstone Company LP, a California Limited Partnership, ("Grantor"), hereby grants and conveys to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary construction easement ("Easement") and the right to use and occupy the surface of said easement for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012, and use of said Easement shall be restricted to weeknights and weekends. Weeknights are hereby defined as beginning at 8 pm on Monday – Thursday night and concluding at 5 am the following day. Weekends are hereby defined as beginning at 8 pm on Friday night and concluding at 5 am on Monday morning. Said Easement is located in the County of San Diego, State of California, more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof. Said Easement and right shall be all acts beneficial for the purpose of constructing, repairing, replacing, grading for, and installing a second railroad track and related appurtenant structures associated with the "Sorrento to Miramar Double Track Phase 1 Project". Such acts shall include, without limitation, constructing and installing railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, and grading for earthen slopes.

Grantor further grants the right of unobstructed ingress and egress to the Easement, including the right to pass and re-pass over and along the Easement and to deposit tools, implements and other materials on the Easement and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.
Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this ___ day of __________, 2011.

GRANTOR(S): The Silverstone Company LP, a California Limited Partnership

By: ______________________
Print name: ________________
Beckius Corp. C.P.

By: ______________________
Print name: ____________________

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ______________________
Gary Gallegos (or designee)
Executive Director

Date: ______________________
EXHIBIT "A"
APN 343-130-09 - TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THAT PORTION OF PARCEL 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS DESCRIBED IN THE GRANT DEED RECORDED MARCH 9, 2001, AS INSTRUMENT NO. 2001-0137158 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST SOUTHERLY CORNER OF PARCEL 1 OF PARCEL MAP NO. 12099, FILED MAY 7, 1982, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL MAP NO. 12099, NORTH 40°21'29" EAST, 47.57 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID SOUTHEASTERLY LINE, SOUTH 50°45'54" EAST, 239.75 FEET TO THE SOUTHEASTERLY LINE OF PARCEL 1 OF SAID GRANT DEED.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 343-130-09 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

PARCEL 1
INST. 2001–137158, OR
APN 343–130–09

PARCEL 1

AREA
10,324± SQUARE FEET

LEGEND
- AFFECTED PROPERTY
- DESCRIPTION AREA
- ADJACENT PROPERTY LINES
- EXISTING EASEMENT DESCRIBED ON SHEET 2.
LEGEND

A  INDICATES THE CENTERLINE OF A NO WIDTH STRIP EASEMENT TO SDG&E UTILITIES RECORDED 01/31/1946, AS INSTRUMENT NO. 11607 OF OFFICIAL RECORDS.

B  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR THE NATURAL FLOWAGE OF WATERS RECORDED 08/26/1983, AS INSTRUMENT NO. 83-302749 OF OFFICIAL RECORDS.

C  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET PURPOSES RECORDED 02/24/1992, AS INSTRUMENT NO. 1992-0096710 OF OFFICIAL RECORDS.
STATE OF CALIFORNIA  )  
) ss.  
COUNTY OF SAN DIEGO )

On 11/21/2011, before me, Vicki Vail, a Notary Public, personally appeared Lashawn C. Raymond 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.

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]

[seal]
TEMPORARY CONSTRUCTION EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sorrento Creek Corporation, a California corporation, ("Grantor"), hereby grants and conveys to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary construction easement ("Easement") and the right to use and occupy the surface of said easement for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Said Easement is located in the County of San Diego, State of California, more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof. Said Easement and right shall be all acts beneficial for the purpose of constructing, repairing, replacing, grading for, and installing a second railroad track and related appurtenant structures associated with the "Sorrento to Miramar Double Track Phase 1 Project". Such acts shall include, without limitation, constructing and installing railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, grading for earthen slopes, temporary irrigation and permanent revegetation landscaping, as well as ingress and egress for maintenance and monitoring of said temporary irrigation and landscaping for a period up to five (5) years after the termination of said construction activities. Said maintenance and monitoring area is shown on Exhibit "C" attached hereto and made a part hereof.

Grantor further grants the right of unobstructed ingress and egress to the Easement, including the right to pass and re-pass over and along the Easement and to deposit tools, implements and other materials on the Easement and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.
Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee’s expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor’s successors and assigns hereby waives any claim for any and all damages to the Grantor’s remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee’s facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this 7 day of October, 2011.

GRANTOR(S): Sorrento Creek Corporation, a California corporation

By: ____________________________  
Print name: Edward G. Wang

By: ____________________________  
Print name: Elon G. Wang

CERTIFICATE OF ACCEPTANCE  
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,  
a California Public Agency

By: ____________________________  
Gary Gallegos (or designee)  
Executive Director

Date: 10-7-11
THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 15635, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED APRIL 13, 1989, AS INSTRUMENT NO. 89-0193283 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID PARCEL 2; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL 2, NORTH 51°24'08" EAST, 27.67 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 3607.50 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 50°13'36" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°40'16" AN ARC LENGTH OF 357.07 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 2.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 343-130-20 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

PARCEL 1
PM 15635

PARCEL 2
PM 15635
APN 343-130-20

AREA
11,738± SQUARE FEET

LEGEND

AFFECTED PROPERTY

DESCRIPTION AREA

ADJACENT PROPERTY LINES

EXISTING EASEMENT DESCRIBED ON SHEET 2.

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

COUNTY: SAN DIEGO
CITY: SAN DIEGO

APN: 343-130-20

DRAWN BY: MXSM
DATE: 08/31/11

SCALE: 1"=100'

43
LEGEND

- **A**
  Indicates easement to the City of San Diego for open space recorded 11/03/1988, as instrument no. 88-565325 of official records.

- **B**
  Indicates easement to the City of San Diego for drainage facilities recorded 01/19/1989, as instrument no. 89-030610 of official records.

- **C**
  Indicates easement to the City of San Diego for water facilities recorded 04/12/1990, as instrument no. 1990-197911 of official records.
EXHIBIT "C"
APN 343-130-20 - RE-VEGETATION AREAS

LEGEND

AFFECTED PROPERTY

DESCRIPTION AREA

ADJACENT PROPERTY LINES

EXISTING EASEMENT DESCRIBED ON SHEET 2.

RE-VEGETATION AREA
6,347± SQUARE FEET

TCE AREA
11,736± SQUARE FEET

4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750
LEGEND

A. INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR OPEN SPACE RECORDED 11/03/1988, AS INSTRUMENT NO. 88-565325 OF OFFICIAL RECORDS.

B. INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR DRAINAGE FACILITIES RECORDED 01/19/1989, AS INSTRUMENT NO. 89-030610 OF OFFICIAL RECORDS.

C. INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR WATER FACILITIES RECORDED 04/12/1990, AS INSTRUMENT NO. 1990-197911 OF OFFICIAL RECORDS.
CALIFORNIA ACKNOWLEDGEMENT

State of California
County of San Diego

On July 29, 2011, before me, Marlene M. Zeichick, Notary Public, personally appeared Edward W. Wong, Pres., and Ellen D. Wong, VP., who proved to me on the basis of satisfactory evidence to be the person(s) whose names are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in 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.

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

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further description of Any Attached Document

Title or Type of Document: 343-13820
Document Date 7/29/11 Number of Pages: 

Signers Other Than Named Above

Right thumbprint of signer #1 Right thumbprint of signer #2

Top of thumb here

Edward D. Wong, Pres., Santee's Creek Corp
Ellen D. Wong, V. Pres., Santee's Creek Corp
CALIFORNIA ACKNOWLEDGEMENT

State of California
County of San Diego

On July 27, 2011, before me, Marlene M. Zeichick, Notary Public, personally appeared Educational Visions, Inc., who proved to me on the basis of satisfactory evidence to be the person(s) whose names are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and that by he/she/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL.

Signature ____________________________

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further description of Any Attached Document

Title or Type of Document: TCE 343-130-20
Document Date 7/1/11 Number of Pages: seven (7)

Signers Other Than Named Above ____________________________________________

Right thumbprint of signer #1 Right thumbprint of signer #2

Top of thumb here Top of thumb here
TEMPORARY CONSTRUCTION EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Edward G. Wong and Ellen G. Wong, husband and wife as community property, ("Grantor"), hereby grants and conveys to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary construction easement ("Easement") and the right to use and occupy the surface of said easement for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012. Said Easement is located in the County of San Diego, State of California, more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof. Said Easement and right shall be all acts beneficial for the purpose of constructing, repairing, replacing, grading for, and installing a second railroad track and related appurtenant structures associated with the "Sorrento to Miramar Double Track Phase 1 Project". Such acts shall include, without limitation, constructing and installing railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, grading for earthen slopes, temporary irrigation and permanent revegetation landscaping, as well as ingress and egress for maintenance and monitoring of said temporary irrigation and landscaping for a period up to five (5) years after the termination of said construction activities. Said maintenance and monitoring area is shown on Exhibit "C" attached hereto and made a part hereof.

Grantor further grants the right of unobstructed ingress and egress to the Easement, including the right to pass and re-pass over and along the Easement and to deposit tools, implements and other materials on the Easement and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work.
The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this 7th day of October, 2011.

GRANTOR(S): Edward G. Wong and Ellen G. Wong, husband and wife as community property

By: ____________________________
Print name: Edward G. Wong

By: ____________________________
Print name: Ellen G. Wong

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ____________________________
Gary Gallegos (or designee)
Executive Director

Date: 10-7-11
EXHIBIT "A"
APN 343-130-01 - TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

A STRIP OF LAND 15.00 FEET IN WIDTH, WITHIN THOSE PORTIONS OF ACRE LOTS 5 AND 6 OF THE
MAP OF SORRENTO LANDS AND TOWNSITE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA, FILED AS MAP 483 ON FEBRUARY 9, 1888, IN THE OFFICE OF THE COUNTY
RECORER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE NCTD RAILWAY (FORMERLY
AT&SF RAILWAY) RIGHT OF WAY, AS SHOWN ON RECORD OF SURVEY 20266, AS FILED IN SAID
OFFICE OF THE COUNTY RECORDER, THE NORTHEASTERLY LINE OF SAID STRIP BEING
COINCIDENT WITH THE SOUTHWESTERLY LINE OF SAID NCTD RAILWAY RIGHT OF WAY.

THE SOUTHWESTERLY LINE OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN
THE NORTHEASTERLY LINE OF SAID ACRE LOT 6 AND TO TERMINATE IN THE SOUTHWESTERLY
LINE OF SAID ACRE LOTS 5 AND 6.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR’S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11

LICENSED LAND SURVEYOR
JOHN MARTIN SMITH
STATE OF CALIFORNIA
8070
EXHIBIT "B"
APN 343-130-01 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

PORTION
LOT 7
MAP 483

LOT B
MAP 483

PCL 5
PM 18286

SORRENTO VALLEY ROAD

NC T D R A I L W A Y

PORTION
MAP 483

LOTS 5 & 6
MAP 483

APN 343-130-01

PORTION
P.L. 1351

AREA
8,742± SQUARE FEET

LEGEND

AFFlicted PROPERTY

DESCRIPTION AREA

ADJACENT PROPERTY LINES

DAVID EVANS
AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "B"

COUNTY: SAN DIEGO
CITY: SAN DIEGO
DRAWN BY: RDV

JOB NO.: SNDG-0000-0036

DATE: 08/31/11

SHEET: 1 TOTAL: 1

APN: 343-130-01

SCALE: 1"=100'

52
CALIFORNIA ACKNOWLEDGEMENT

State of California
County of San Diego

On July 29, 2011, before me, Marlene M. Zeichick, Notary Public, personally appeared Edward Shyu and Ellen Shyu who proved to me on the basis of satisfactory evidence to be the person(s) whose names is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and that by he/she/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL.

Signature ___________________________  

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further description of Any Attached Document

Title or Type of Document: Temporary Court Order 343-130
Document Date 7/29/11 Number of Pages: Five (5)

Signers Other Than Named Above ___________________________ ___________________________

Right thumbprint of signer #1 Right thumbprint of signer #2

Top of thumb here Top of thumb here
CALIFORNIA ACKNOWLEDGEMENT

State of California
County of San Diego

On July 29, 2011 before me, Marlene M. Zeichick, Notary Public, personally appeared Edward G. Poveromo, who proved to me on the basis of satisfactory evidence to be the person(s) whose names are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in 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.

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 ____________________________

______________________________ OPTIONAL ____________________________

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further description of Any Attached Document

Title or Type of Document: 343-130-01
Document Date 7/29/11 Number of Pages: 

Signers Other Than Named Above ____________________________

Right thumbprint of signer #1 Right thumbprint of signer #2

Top of thumb here Top of thumb here
TEMPORARY CONSTRUCTION EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Creekside Property Holdings, LLC, a Delaware limited liability company, ("Grantor"), hereby grants and conveys to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary construction easement ("Easement") and the right to use and occupy the surface of said easement for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012, and use of said Easement shall be restricted to weeknights and weekends. Weeknights are hereby defined as beginning at 8 pm on Monday – Thursday night and concluding at 5 am the following day. Weekends are hereby defined as beginning at 8 pm on Friday night and concluding at 5 am on Monday morning. Said Easement is located in the County of San Diego, State of California, more particularly described in Exhibit "A" and depicted in Exhibit “B” attached hereto and made a part hereof. Said Easement and right shall be all acts beneficial for the purpose of constructing, repairing, replacing, grading for, and installing a second railroad track and related appurtenant structures associated with the “Sorrento to Miramar Double Track Phase 1 Project”. Such acts shall include, without limitation, constructing and installing railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, and grading for earthen slopes.

Grantor further grants the right of unobstructed ingress and egress to the Easement, including the right to pass and re-pass over and along the Easement and to deposit tools, implements and other materials on the Easement and to utilize construction, automotive and other equipment thereon when necessary for the purpose of exercising its rights hereunder.
Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Construction Easement as of this ___ day of ____________, 2011.

GRANTOR(S):  Creekside Property Holdings, LLC, a Delaware limited liability company

By: ________________________________
Print name: __________________________

By: ________________________________
Print name: __________________________

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ________________________________
Gary Gallegos (or designee)
Executive Director

Date: ______________________________

See revised report in handouts
EXHIBIT "A"
APN 343-130-17 - TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 12099, IN THE CITY OF SAN DIEGO, COUNTY
OF SAN DIEGO, STATE OF CALIFORNIA, FILED MAY 7, 1982, AS INSTRUMENT NO. 82-135231 OF
OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY LYING
SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID PARCEL 1; THENCE ALONG THE
NORTHWESTERLY LINE OF SAID PARCEL 1, NORTH 40°21'24" EAST, 50.11 FEET TO THE TRUE
POINT OF BEGINNING; THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 58°44'36" EAST,
168.05 FEET; THENCE SOUTH 53°36'44" EAST, 229.86 FEET; THENCE SOUTH 53°38'34" EAST,
332.61 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 1.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 343-130-17 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

LEGEND

AFFECTED PROPERTY

DESCRIPTION AREA

ADJACENT PROPERTY LINES

EXISTING EASEMENT DESCRIBED ON SHEET 2.

AREA

1.077± ACRES

DAVID EVANS
AND ASSOCIATES INC.

EXHIBIT "B"

SHEET: 1
APN: 343-130-17

SNDG-0000-0036
08/31/11
1"=150'

COUNTY: SAN DIEGO
CITY: SAN DIEGO
DRAWN BY: MXSM
CHECKED BY: RDV

4200 Concourse, Suite 200
Ontario California 91764
Phone: 909.481.5750

JOB NO.

TOTAL:
2
LEGEND

- **A** Indicates easement to the City of San Diego for public street and highway recorded 11/29/1937 as Instrument No. 72394 of Official Records.

- **B** Indicates the centerline of a no-width strip easement to SDG&E recorded 07/24/1952 in Book 4536, Page 366, of Official Records.


- **D** Indicates an easement to the City of San Diego for flowage recorded 05/05/1983 as Instrument No. 83-148280 of Official Records.

- **E** Indicates an easement to the City of San Diego for temporary construction recorded 01/05/2010 as File No. 2010-0003783 of Official Records.

---

**EXHIBIT "B"**

APN 343-130-17 - Temporary Construction Easement

**EXISTING EASEMENT LEGEND**

---

David Evans and Associates Inc.

4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750
TEMPORARY ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Creekside Property Holdings, LLC, a Delaware limited liability company, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a temporary easement for access ("Easement"). Said Easement is for the right of ingress and egress as needed for construction activities on the adjacent railroad right of way ("Project"), the right to place asphalt paving, temporary irrigation and permanent revegetation landscaping on said easement as needed by Grantee, together with the right of others to use said access as needed for the Project, for a period of twenty four (24) months, commencing upon the start of construction activities on your property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend of no more than one (1) year each. Grantee shall provide a minimum of 60 days written notice to Grantor of the need for each such extension. Construction activities on your property will commence no earlier than October 1, 2011, and no later than October 1, 2012, and use of said Easement shall be restricted to weeknights and weekends. Weeknights are hereby defined as beginning at 8 pm on Monday – Thursday night and concluding at 5 am the following day. Weekends are hereby defined as beginning at 8 pm on Friday night and concluding at 5 am on Monday morning. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee's expense, the surface of the Easement to a compacted, neat, clean condition, and substantially the same condition as prior to such work, including any necessary revegetation planting and irrigation as described above.
The Grantor, for the Grantor and Grantor’s successors and assigns hereby waives any claim for any and all damages to the Grantor’s remaining property contiguous to the Easement by reason of the location, construction and installation of Grantee’s facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Access Easement as of this ____ day of ______________, 2011.

GRANTOR(S): Creekside Property Holdings, LLC, a Delaware limited liability company

By: ___________________________ By: ___________________________
Print name: ____________________ Print name: ____________________

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ___________________________
Gary Gallegos (or designee)
Executive Director

Date: __________________________
EXHIBIT "A"
APN 343-130-17 - TEMPORARY ACCESS EASEMENT
LEGAL DESCRIPTION

A STRIP OF LAND, 20.00 FEET IN WIDTH, LYING WITHIN PARCEL 1 OF PARCEL MAP NO. 12099, IN
THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED MAY 7, 1982, AS
INSTRUMENT NO. 82-135231 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY
RECODER OF SAID COUNTY, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:

REFERENCE LINE
FOR THIS PURPOSES OF THIS DESCRIPTION, THE FOLLOWING REFERENCE LINE IS HEREBY
DESCRIBED:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID PARCEL 1; THENCE ALONG THE
NORTHWESTERLY LINE OF SAID PARCEL 1, NORTH 40°21'24" EAST, 50.11 FEET; THENCE
LEAVING SAID NORTHWESTERLY LINE, SOUTH 58°44'36" EAST, 168.05 FEET; THENCE SOUTH
53°36'44" EAST, 37.70 FEET TO POINT 'A'; THENCE CONTINUING SOUTH 53°36'44" EAST, 192.16
FEET.

STRIP CENTERLINE
BEGINNING AT POINT 'A' DESCRIBED ABOVE; THENCE SOUTH 65°01'29" EAST, 231.73 FEET;
THENCE NORTH 22°05'18" EAST, 204.67 FEET; THENCE NORTH 01°19'54" WEST, 61.33 FEET;
THENCE NORTH 24°09'41" EAST, 213.14 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 1.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE
REFERENCE LINE DESCRIBED ABOVE AND TO TERMINATE IN THE NORTHEASTERLY LINE OF
SAID PARCEL 1.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11

JOHN MARTIN
SMITH
8070
LICENSED LAND SURVEYOR
STATE OF CALIFORNIA
EXHIBIT "B"
APN 343-130-17 - TEMPORARY ACCESS EASEMENT
EXISTING EASEMENT LEGEND

LEGEND

A. INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET AND HIGHWAY RECORDED 11/29/1937 AS INSTRUMENT NO. 72394 OF OFFICIAL RECORDS.

B. INDICATES THE CENTERLINE OF A NO-WIDTH STRIP EASEMENT TO SDG&E RECORDED 07/24/1952 IN BOOK 4536, PAGE 366, OF OFFICIAL RECORDS.

C. INDICATES AN EASEMENT TO THE STATE OF CALIFORNIA FOR HIGHWAY SLOPES RECORDED 12/27/1971 AS INSTRUMENT NO. 300698 OF OFFICIAL RECORDS.

D. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR FLOWAGE RECORDED 05/05/1983 AS INSTRUMENT NO. 83-148280 OF OFFICIAL RECORDS.

E. INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR TEMPORARY CONSTRUCTION RECORDED 01/05/2010 AS FILE NO. 2010-0003783 OF OFFICIAL RECORDS.

DETAIL

REFERENCE LINE

168.05' S58°44'36"E

37.70'
S53°36'44"E

S65°01'29"E 231.73'

192.16'
S53°36'44"E

REFERENCE LINE

POINT 'A'

EXHIBIT "B"

COUNTY: SAN DIEGO
CITY: SAN DIEGO

TEMPORARY ACCESS EASEMENT

APN: 343-130-17

DRAWN BY: MXSM
DATE: 08/31/11
SCALE: 1"=20'

DAVID EVANS
AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750
ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Creekside Property Holdings, LLC, a Delaware limited liability company, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a permanent nonexclusive easement for access ("Easement"). The use of said Easement shall commence after construction of the Sorrento to Miramar Doubletrack Phase 1 has been completed. Said Easement is for the right of ingress and egress as needed, together with the right of others to use said access as needed. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor’s successors and assigns hereby waives any claim for any and all damages to the Grantor’s remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee’s facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Access Easement as of this ___ day of _____________ , 2011.

GRANTOR: Creekside Property Holdings, LLC, a Delaware limited liability company

By: _______________________________              By: _______________________________
Print name: ___________________________              Print name: ___________________________
CERTIFICATE OF ACCEPTANCE  
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,  
a California Public Agency

By: ____________________________
   Gary Gallegos (or designee)  
   Executive Director

Date: ___________________________
EXHIBIT "A"
APN 343-130-17 - PERMANENT ACCESS EASEMENT
LEGAL DESCRIPTION

THOSE PORTIONS OF PARCEL 1 OF PARCEL MAP NO. 12099, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED MAY 7, 1982, AS INSTRUMENT NO. 82-135231 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A
A STRIP OF LAND 20.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL SAID CORNER BEING THE NORTHWESTERLY TERMINUS OF THE COURSE SHOWN ON SAID PARCEL MAP AS "N63°52'41"W 135.05"; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL, SOUTH 63°54'21" EAST, 135.05 FEET AND SOUTH 69°04'20" EAST, 139.65 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY LINE ALONG THE FOLLOWING 7 COURSES:

1) SOUTH 24°09'41" WEST, 213.14 FEET;
2) SOUTH 01°19'54" EAST, 61.33 FEET;
3) SOUTH 18°42'35" WEST, 199.45 FEET;
4) SOUTH 59°49'12" EAST, 109.67 FEET;
5) SOUTH 55°53'23" EAST, 60.23 FEET;
6) SOUTH 51°43'38" EAST, 74.79 FEET;
7) SOUTH 37°30'15" WEST, 114.37 FEET A POINT ON THE SOUTHWESTERLY LINE OF SAID PARCEL, SAID POINT HEREAFTER REFERRED TO AS POINT A.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE NORTHERLY LINE OF SAID PARCEL AND TO TERMINATE IN THE SOUTHWESTERLY LINE OF SAID PARCEL.

PARCEL B
BEGINNING AT SAID POINT A; THENCE ALONG COURSE 7 DESCRIBED ABOVE, NORTH 37°30'15" EAST, 22.14 FEET; THENCE LEAVING SAID COURSE, NORTH 54°19'11" WEST, 90.05 FEET; THENCE SOUTH 37°30'15" WEST, 25.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2866.77 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS SOUTH 32°47'10" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°48'10" AN ARC LENGTH OF 90.20 FEET TO SAID POINT A.

EXCEPTING THEREFROM THAT PORTION WITHIN PARCEL A DESCRIBED ABOVE.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

J MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11

LICENSED LAND SURVEYOR
STATE OF CALIFORNIA

DAVID EVANS
AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91761
Phone: 909.461.5750
EXHIBIT "B"  
APN 343-130-17 - PERMANENT ACCESS EASEMENT  
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

LEGEND

- AFFECTED PROPERTY
- DESCRIPTION AREA
- ADJACENT PROPERTY LINES
- EXISTING EASEMENT DESCRIBED ON SHEET 2.

NOTE
SEE SHEET 2 FOR LINE AND CURVE TABLES.

TOTAL AREA
18,550± SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "B"  
PERMANENT ACCESS EASEMENT

COUNTY: SAN DIEGO  CITY: SAN DIEGO
CHECKED BY: RDV
DRAWN BY: MXSM
DATE: 08/31/11
SCALE: "1"=150'
EXHIBIT "B"
APN 343-130-17 - PERMANENT ACCESS EASEMENT
EXISTING EASEMENT LEGEND

LEGEND

A  INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC STREET AND HIGHWAY
RECORDED 11/29/1937 AS INSTRUMENT NO. 72394 OF OFFICIAL RECORDS.

B  INDICATES THE CENTERLINE OF A NO-WIDTH STRIP EASEMENT TO SDG&E RECORDED
07/24/1952 IN BOOK 4536, PAGE 366, OF OFFICIAL RECORDS.

C  INDICATES AN EASEMENT TO THE STATE OF CALIFORNIA FOR HIGHWAY SLOPES
RECORDED 12/27/1971 AS INSTRUMENT NO. 300698 OF OFFICIAL RECORDS.

D  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR FLOWAGE RECORDED
05/05/1983 AS INSTRUMENT NO. 83-148280 OF OFFICIAL RECORDS.

E  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR TEMPORARY CONSTRUCTION
RECORDED 01/05/2010 AS FILE NO. 2010-0003783 OF OFFICIAL RECORDS.

LINE TABLE

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<tr>
<td>L2</td>
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<td>22.14'</td>
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<tr>
<td>L3</td>
<td>N54°19'11&quot;W</td>
<td>90.05'</td>
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<tr>
<td>L4</td>
<td>S37°30'15&quot;W</td>
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</tbody>
</table>

CURVE TABLE

<table>
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<th>CURVE</th>
<th>DELTA</th>
<th>RADIUS</th>
<th>LENGTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1</td>
<td>1'48&quot;10&quot;</td>
<td>2866.77'</td>
<td>90.20'</td>
</tr>
</tbody>
</table>

EXHIBIT "B" DRAWN BY:

AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750
GRANT OF TEMPORARY CONSTRUCTION EASEMENT AND AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Helf Sorrento, LLC, a Delaware limited liability company**, ("Grantor"), hereby grants and conveys to **SAN DIEGO ASSOCIATION OF GOVERNMENTS**, a California public agency ("Grantee"), upon and subject to the terms and conditions of this Grant of Temporary Construction Easement and Agreement (this “Agreement”), a non-exclusive, temporary construction easement ("Easement") and right to use and occupy the surface of the Easement Area (as defined below) for a period of twenty four (24) months, commencing upon the start of the activities permitted hereunder on Grantor’s Property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend the term of the Easement for no more than one (1) year each. Grantee shall provide written notice to Grantor of its exercise of each such option together with payment for such extension in the amount agreed to by Grantor and Grantee pursuant to the letter agreement dated October 14, 2011, between Grantor and Grantee no later than sixty (60) days prior to the then scheduled expiration of the Easement. Any option exercised hereunder shall be memorialized via a recorded amendment to this Agreement. Extensions shall be continuous without gaps between multiple extensions, and if Grantee fails to deliver written notice of exercise of any extension option together with payment therefor in accordance with the prior sentence, such option shall terminate and the Easement shall expire automatically upon the then scheduled termination date. The term of this Easement will commence no earlier than October 1, 2011, and no later than October 1, 2012, and use of said Easement shall be restricted to weeknights and weekends. Weeknights are hereby defined as beginning at 8 pm on Monday – Thursday night and concluding at 5 am the following day. Weekends are hereby defined as beginning at 8 pm on Friday night and concluding at 5 am on Monday morning. Said “Easement Area” is located in the City of San Diego, County of San Diego, State of California, more particularly described in **Exhibit “A”** and depicted in **Exhibit “B”** attached hereto and made a part hereof. Said “Grantor’s Property” is located in the City of San Diego, County of San Diego, State of California, and is more particularly described in **Exhibit “C”** attached hereto and made a part hereof.

Said Easement and right shall enable Grantee to perform all acts beneficial for and reasonably related to the purpose of constructing, repairing, replacing, grading for, and installing on the railroad right of way adjacent to Grantor’s Property a second railroad track and related appurtenant structures associated with the “Sorrento to Miramar Double Track Phase 1 Project”, and for no other purpose. Such acts shall include, without limitation, constructing and installing on the railroad right of way adjacent to Grantor’s Property railroad track and supporting substructure, maintenance access road, railroad signaling equipment and structures, storm drainage structures, telecommunication utilities, retaining walls, and grading for earthen slopes.
Grantor further grants to Grantee the right to pass and re-pass over and along the Easement Area and to deposit tools, implements and other materials on the Easement Area and to utilize construction, automotive and other equipment thereon when reasonably necessary for the purpose of exercising its rights hereunder during authorized Easement hours.

Grantee shall keep Grantor’s Property free from any lien, restriction or other title limitation, including without limitation any mechanics liens, in connection with the use of the Easement Area and exercise of the rights under this Agreement. Grantee shall maintain in full force and effect during the term of the Easement such insurance coverage as Grantor may reasonably require in connection with Grantee’s or its employees, agents, contractors or subcontractors entry onto Grantor’s Property and performance of work within the Easement Area, which insurance shall include, at a minimum, general liability insurance (including coverage for damage to third party property) maintained by Grantee with single occurrence coverage of at least $2,000,000 (and aggregate coverage of $5,000,000) and naming Grantor and Grantor’s lender as additional insureds. Grantor acknowledges that such insurance coverage may be provided through self-insurance or through a joint powers authority insurance program.

Grantee shall perform, and shall cause its employees, agents, contractors and subcontractors to perform, all work permitted or required to be performed hereunder to completion in a good and workmanlike manner in accordance with all applicable laws, ordinances and other legal requirements, including without limitation all appropriate permits, and otherwise in a manner that does not unreasonably interfere with the use and enjoyment of Grantor’s Property by Grantor, its successor, assigns, invitees, tenants and subtenants.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee’s expense, the surface of the Easement Area to a compacted, neat, clean condition, and substantially the same condition as prior to such work. Notwithstanding the foregoing, any damage to paved areas located on Grantor’s Property shall be repaired by Grantee, at Grantee’s expense, within 72 hours of damage occurring.

In the event of a violation or breach of the provisions of this Agreement by Grantee which is not cured within ten (10) days after the date written notice of such default is delivered to Grantee (except in the event of an emergency or failure to maintain insurance required hereunder, in which event such notice and cure period shall be twenty-four (24) hours following written, telephonic or oral notice of such emergency or failure to Grantee), in addition to all other rights and remedies available at law or in equity, Grantor shall have the right to terminate the Easement by delivery of written notice to Grantee.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto; provided, however, that neither this Agreement nor any rights of Grantee hereunder may be transferred or assigned by Grantee without the prior written consent of Grantor. Time is of the essence with respect to each provision of this Agreement. If any provision contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent possible permitted by law. In the event of any action or proceeding to enforce or construe any of the provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to all of its reasonable attorneys’ fees and costs, whether or not such action or proceeding results in final judgment.

Continued next page
The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all severance damages, but not physical damages, to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor and Grantee have agreed to the foregoing and executed this Grant of Temporary Construction Easement and Agreement as of this ___ day of ________________, 2011.

GRANTOR:

Helf Sorrento, LLC,
a Delaware limited liability company

By: Helf Investments, L.P.,
a California limited partnership

By: Helf G.P., LLC,
a California limited liability company

By: Frank M. Goldberg, Manager

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: _________________
Gary Gallegos (or designee)
Executive Director

Date: _____________________
EXHIBIT "A"
APN 343-130-16 - TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THAT PORTION OF THE LAND DESCRIBED WITHIN THE GRANT DEED, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, RECORDED JUNE 12, 2006, AS INSTRUMENT NO. 2006-0413147 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID GRANT DEED; THENCE ALONG THE EASTERLY LINE OF SAID GRANT DEED, SOUTH 10°17'36" EAST, 446.97 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE, SOUTH 85°22'00" WEST, 39.49 FEET; THENCE SOUTH 22°18'19" WEST, 27.42 FEET; THENCE NORTH 89°23'03" WEST, 49.04 FEET; THENCE NORTH 78°40'03" WEST, 90.37 FEET; THENCE NORTH 83°09'54" WEST, 186.84 FEET; THENCE NORTH 70°29'01" WEST, 404.33 FEET; THENCE NORTH 49°28'45" WEST, 104.69 FEET; THENCE NORTH 51°44'43" WEST, 120.21 FEET TO THE NORTHWESTERLY LINE OF SAID GRANT DEED.

EXCEPTING THEREFROM THAT PORTION LYING SOUTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE OF THE NCTD RAILWAY (FORMERLY AT&SF RAILWAY) AS SHOWN ON RECORD OF SURVEY NO. 20266, FILED IN SAID OFFICE OF THE COUNTY RECORDER.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 343-130-16 - TEMPORARY CONSTRUCTION EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

TOTAL AREA
1.437± ACRES

NOTE
SEE SHEET 2 FOR LINE TABLE.

LEGEND
- - - - - AFFECTED PROPERTY
- - - - - DESCRIPTION AREA
- - - - - ADJACENT PROPERTY LINES
- - - - - EXISTING EASEMENT DESCRIBED ON SHEET 2.
EXHIBIT "B"
APN 343-130-16 - TEMPORARY CONSTRUCTION EASEMENT
EXISTING EASEMENT LEGEND

LEGEND

A  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWERS RECORDED 05/21/1970 AS INSTRUMENT NO. 1970-088214 OF OFFICIAL RECORDS.

B  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR FLOWAGE RECORDED 09/25/1980 AS INSTRUMENT NO. 1980-0312569 OF OFFICIAL RECORDS.

C  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR STORM DRAIN AND PUBLIC STREET RECORDED 09/25/1980 AS INSTRUMENT NO. 1980-0312569 OF OFFICIAL RECORDS.

D  INDICATES AN EASEMENT TO RANCHO SORRENTO III FOR ACCESS AND RIGHT OF WAY RECORDED 05/20/1983 AS INSTRUMENT NO. 1983-0167007 OF OFFICIAL RECORDS.

LINE TABLE

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EXHIBIT C

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

REAL PROPERTY LOCATED IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ACRE LOT 3 OF THE SORRENTO LANDS AND TOWNSITE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 483, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 9, 1888, EXCEPTING THEREFROM THOSE PORTIONS THEREOF DESCRIBED AS FOLLOWS:

PARCEL A:

A STRIP OF LAND 100 FEET IN WIDTH OVER AND ACROSS SAID LOT 3, LYING EQUALLY 50 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTER LINE OF THE RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY, AS DESCRIBED IN DEED RECORDED AUGUST 17, 1926 IN BOOK 1248, PAGE 241, OF DEEDS.

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID LOT 3, DISTANT SOUTHERLY 570.78 FEET FROM THE NORTHEAST CORNER OF SAID LOT; THENCE WESTERLY ALONG A CURVE OF 6359.84 FOOT RADIUS CURVE, CONCAVE NORTHERLY 34.0 FEET; THENCE TANGENT TO SAID CURVE AT SAID POINT OF BEGINNING FORMS AN ANGLE OF 80°24’23” TO THE NORTHWEST WITH SAID EASTERLY LINE; THENCE WESTERLY ALONG A CURVE OF 4239.90 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 3,179.94 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 2543.96 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 1817.13 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 1590.0 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1432.698 FOOT RADIUS CURVE NORTHEASTERLY 650.0 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1590.0 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1817.13 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 2119.97 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 2543.96 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 3179.94 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 4239.90 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY 9.1 FEET TO A POINT OF ENDING ON THE NORTHWESTERLY LINE OF SAID LOT 3, DISTANT NORTHEASTERLY 52.50 FEET FROM THE MOST WESTERLY CORNER OF SAID LOT.
PARCEL B:

AN IRREGULAR PIECE OR PARCEL OF LAND IN SAID LOT 3, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT, 120 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID SOUTHWESTERLY LINE 15 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF ABOVE DESCRIBED 100 FOOT STRIP; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE TO THE NORTHWESTERLY LINE OF SAID LOT; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE TO POINT OF BEGINNING.

PARCEL C:

A RIGHT OF WAY 100 FEET WIDE, FOR RAILROAD PURPOSES, SAID RIGHT OF WAY BEING 50 FEET ON EACH SIDE OF THE CENTER LINE OF THE LOCATION OF THE RAILROAD OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY NOW THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AS AWARDED TO SAID RAILWAY COMPANY BY DECREE OF CONDEMNATION MADE BY THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR SAN DIEGO COUNTY MAY 21, 1881, A CERTIFIED COPY OF WHICH DECREE WAS RECORDED IN BOOK 38, PAGE 438 OF DEEDS.

Assessor’s Parcel Number: 343-130-16
GRANT OF TEMPORARY ACCESS EASEMENT AND AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Helf Sorrento, LLC, a Delaware limited liability company, (“Grantor”), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS, a California public agency (“Grantee”), upon and subject to the terms and conditions of this Grant of Temporary Access Easement and Agreement (this “Agreement”), a non-exclusive temporary easement for access (“Easement”). Said Easement is for the right of ingress and egress across the Easement Area (as defined below) as reasonably needed for construction activities on the adjacent railroad right of way (“Project”), the right to place, temporary irrigation and permanent revegetation landscaping on the portion of the Easement Area indicated as the area of revegetation in the attached Exhibit “C” (the “Maintenance and Monitoring Area”), as reasonably needed by Grantee, together with the right of Grantee’s agents, employees, contractors and subcontractors to use said Easement Area for ingress and egress as reasonably needed for the Project, for a period of twenty-four (24) months, commencing upon the start of the use permitted hereunder on Grantor’s Property with Grantee providing a minimum of 30 days written notice of such start date to Grantor, with the option which may be exercised unilaterally by Grantee for three (3) options to extend the term of the Easement for no more than one (1) year each. Grantee shall provide written notice to Grantor of its exercise of each such option together with payment for such extension in the amount agreed to by Grantor and Grantee pursuant to the letter agreement dated October 14, 2011, between Grantor and Grantee no later than sixty (60) days prior to the then scheduled expiration of the Easement. Any option exercised hereunder shall be memorialized via a recorded amendment to this Agreement. Extensions shall be continuous without gaps between multiple extensions and if Grantee fails to deliver timely written notice of exercise of any extension option together with payment therefor in accordance with the prior sentence, such option shall terminate and the Easement shall expire automatically upon the then scheduled termination date. Grantee shall also have the right of ingress and egress upon the Easement Area at any reasonable time as reasonably necessary for maintenance and monitoring of said temporary irrigation and landscaping for a period up to five (5) years after the termination of said construction activities. The maintenance and monitoring is for as long as necessary to re-establish native species in substantially the same condition as existed prior to the exercise by Grantee of its rights under this Agreement, but shall not exceed five years in duration. The term of this Easement will commence no earlier than October 1, 2011, and no later than October 1, 2012, and use of said Easement shall be restricted to weeknights and weekends. Weeknights are hereby defined as beginning at 8 pm on Monday – Thursday night and concluding at 5 am the following day. Weekends are hereby defined as beginning at 8 pm on Friday night and concluding at 5 am on Monday morning. Said “Easement Area” is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit “A” and depicted in Exhibit “B” attached hereto and made a part hereof. Said maintenance and monitoring area is shown on Exhibit “C”. “Grantor’s Property” is situated within the City of San Diego, County of San Diego, State of California and is more particularly described on Exhibit “D” attached hereto and made a part hereof.
The easterly access easement as shown on sheet one of five in the attached Exhibit “B” is for construction vehicle access. Grantee shall install creek crossing which will not damage creek. Grantee shall, at its sole cost and expense, construct, maintain, repair and replace such creek crossing as necessary in order to guarantee the same flow in stream as would have been the case if Grantee had not installed the creek crossing.

The two westerly access easements as shown on sheet one of five in the attached Exhibit “B” are for passenger vehicles not to exceed 2 tons in weight.

Grantee shall keep Grantor’s Property free from any lien, restriction or other title limitation, including without limitation any mechanics liens, in connection with the use of the Easement Area and exercise of the rights under this Agreement. Grantee shall maintain in full force and effect during the term of the Easement such insurance coverage as Grantor may reasonably require in connection with Grantee’s or its employees, agents, contractors or subcontractors entry onto Grantor’s Property and performance of work within the Easement Area, which insurance shall include, at a minimum, general liability insurance (including coverage for damage to third party property) maintained by Grantee with single occurrence coverage of at least $2,000,000 (and aggregate coverage of $5,000,000) and naming Grantor and Grantor’s lender as additional insureds. Grantor acknowledges that such insurance coverage may be provided through self insurance or through a joint powers authority insurance program.

Grantee shall perform, and shall cause its employees, agents, contractors and subcontractors to perform, all work permitted or required to be performed hereunder to completion in a good and workmanlike manner in accordance with all applicable laws, ordinances and other legal requirements, including without limitation all appropriate permits, and otherwise in a manner that does not unreasonably interfere with the use and enjoyment of Grantor’s Property by Grantor, its successor, assigns, invitees, tenants and subtenants.

In the event of a violation or breach of the provisions of this Agreement by Grantee which is not cured within ten (10) days after the date written notice of such default is delivered to Grantee (except in the event of an emergency or failure to maintain insurance required hereunder, in which event such notice and cure period shall be twenty-four (24) hours following written, telephonic or oral notice of such emergency or failure to Grantee), in addition to all other rights and remedies available at law or in equity, Grantor shall have the right to terminate the Easement by delivery of written notice to Grantee.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto; provided, however, that neither this Agreement nor any rights of Grantee hereunder may be transferred or assigned by Grantee without the prior written consent of Grantor. Time is of the essence with respect to each provision of this Agreement. If any provision contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent possible permitted by law. In the event of any action or proceeding to enforce or construe any of the provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to all of its reasonable attorneys’ fees and costs, whether or not such action or proceeding results in final judgment.

Upon completion of any work, for the purposes and uses herein granted, Grantee shall restore, at Grantee’s expense, the surface of the Easement Area to a compacted, neat, clean condition, and substantially the same condition as prior to such work, including restoration of the creek and any necessary revegetation planting and irrigation as described above. Notwithstanding the foregoing, any damage to paved areas located on Grantor’s Property shall be repaired by Grantee, at Grantee’s expense, within 72 hours of damage occurring.
The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all severance damages, but not physical damages, to the Grantor's remaining property contiguous to the Easement by reason of the location, construction and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor and Grantee have agreed to the foregoing and executed this Grant of Temporary Access Easement and Agreement as of this ___ day of ______________, 2011.

GRANTOR:

Helf Sorrento, LLC,
a Delaware limited liability company

By: Helf Investments, L.P.,
a California limited partnership

By: Helf G.P., LLC,
a California limited liability company

By: __________________________

Frank M. Goldberg, Manager

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: __________________________

Gary Gallegos (or designee)
Executive Director

Date: __________________________
THREE PARCELS LYING WITHIN THE LAND DESCRIBED IN THE GRANT DEED, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, RECORDED JUNE 12, 2006, AS INSTRUMENT NO. 2006-0413147 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID PARCELS DESCRIBED AS FOLLOWS:

REFERENCE LINE
FOR THE PURPOSES OF THIS DESCRIPTION, THE FOLLOWING REFERENCE LINE IS HEREBY DESCRIBED:
BEGINNING AT THE NORTHEASTERLY CORNER OF SAID GRANT DEED; THENCE ALONG THE EASTERLY LINE OF SAID GRANT DEED, SOUTH 10°17'36" EAST, 446.97 FEET TO POINT 'A'; THENCE LEAVING SAID EASTERLY LINE, SOUTH 22°18'19" WEST, 27.42 FEET; THENCE NORTH 85°22'03" WEST, 30.00 FEET; THENCE NORTH 78°40'03" WEST, 90.37 FEET; THENCE NORTH 78°40'03" WEST, 171.47 FEET TO POINT 'B'; THENCE CONTINUING NORTH 83°09'54" WEST, 15.37 FEET; THENCE NORTH 70°29'01" WEST, 404.33 FEET; THENCE NORTH 49°28'45" WEST, 104.69 FEET; THENCE NORTH 51°44'43" WEST, 19.67 FEET TO POINT 'C'; THENCE CONTINUING NORTH 51°44'43" WEST, 100.54 FEET TO THE NORTHWESTERLY LINE OF SAID GRANT DEED.

PARCEL 1
BEGINNING AT POINT 'A' DESCRIBED ABOVE; THENCE ALONG THE ABOVE DESCRIBED REFERENCE LINE, SOUTH 85°22'00" WEST, 30.15 FEET; THENCE LEAVING SAID REFERENCE LINE, NORTH 10°17'34" WEST, 31.10 FEET; THENCE NORTH 44°11'18" WEST, 7.82 FEET; THENCE NORTH 88°46'55" WEST, 6.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 30.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 142°31'19" AN ARC LENGTH OF 74.62 FEET; THENCE NORTH 53°44'24" EAST, 19.88 FEET TO A LINE PARALLEL WITH AND 30.00 FEET WESTERLY, MEASURED AT RIGHT ANGLES, OF THE EASTERLY LINE OF SAID GRANT DEED; THENCE ALONG SAID PARALLEL LINE, NORTH 10°17'34" WEST, 340.02 FEET TO THE NORTHERLY LINE OF SAID GRANT DEED; THENCE ALONG THE NORTHERLY AND EASTERLY LINE OF SAID GRANT DEED, NORTH 79°40'15" EAST, 30.00 FEET AND SOUTH 10°17'36" EAST, 446.97 FEET TO SAID POINT 'A'.

PARCEL 2
A STRIP OF LAND, 30.00 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:
BEGINNING AT POINT 'B' DESCRIBED ABOVE; THENCE NORTH 05°51'29" EAST, 47.59 FEET; THENCE NORTH 01°39'58" WEST, 26.78 FEET; THENCE NORTH 09°15'42" EAST, 84.20 FEET; THENCE NORTH 20°28'28" WEST, 14.44 FEET; THENCE NORTH 06°36'42" WEST, 216.60 FEET; THENCE NORTH 34°46'36" EAST, 34.19 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE ABOVE DESCRIBED REFERENCE LINE AND TO TERMINATE IN SAID NORTHEASTERLY LINE.
PARCEL 3

A STRIP OF LAND, 20.00 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:

BEGINNING AT POINT 'C' DESCRIBED ABOVE; THENCE NORTH 39°47'32" EAST, 174.60 FEET; THENCE NORTH 04°47'31" EAST, 150.20 FEET TO A LINE PARALLEL WITH AND 10.00 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES, OF THE NORTHWESTERLY LINE OF SAID GRANT DEED; THENCE ALONG SAID PARALLEL LINE, NORTH 40°37'24" EAST, 177.66 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE ABOVE DESCRIBED REFERENCE LINE AND TO TERMINATE IN SAID NORTHEASTERLY LINE.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR’S ACT.

JOHN MARTIN SMITH, PLS 8070
DATE PREPARED: 08/31/11
EXHIBIT "B"
APN 343-130-16 - TEMPORARY ACCESS EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

SHEET INDEX, REFERENCE LINE, AND EXISTING EASEMENTS

PARCEL 3
SEE DETAIL ON SHEET 4.

PORTION
LOT 4
MAP 438

POINT 'C'
100.5'

PORTION
LOT 4
MAP 438

SORENTO
VALLEY ROAD

POINT 'B'
N70°29'01" W
404.33'

19.67'

L6

POINT 'A'

TOTAL AREA
37,877± SQUARE FEET

NOTE
SEE SHEET 5 FOR LINE TABLE.

LEGEND

--- - AFFECTED PROPERTY

--- - DESCRIPTION AREA

--- - ADJACENT PROPERTY LINES

--- - REFERENCE LINE

--- - EXISTING EASEMENT DESCRIBED ON SHEET 5.

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT "B"
JOB NO.: SNDG-0030-0036
COUNTRY: SAN DIEGO
CITY: SAN DIEGO
CHECKED BY: RDV

TEMPORARY ACCESS EASEMENT

SHEET: 1
TOTAL: 5
APN: 343-130-16
SCALE: 1"=200'

DATE: 08/31/11
DRAWN BY: MXSM

84
NOTE
SEE SHEET 5 FOR LINE TABLE.

LEGEND

--- AFFECTED PROPERTY

--- DESCRIPTION AREA

--- ADJACENT PROPERTY LINES

--- REFERENCE LINE

EXHIBIT "B"
APN 343-130-16 - TEMPORARY ACCESS EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION ON EXHIBIT "A"

PARCEL 1 DETAIL

P.O.B. - REFERENCE LINE

LOT 2
MAP 438

SEE SHEET 1
EXHIBIT "B"
APN 343-130-16 - TEMPORARY ACCESS EASEMENT
EXISTING EASEMENT LEGEND

LEGEND

A  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWERS RECORDED 05/21/1970 AS INSTRUMENT NO. 1970-088214 OF OFFICIAL RECORDS.

B  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR FLOWAGE RECORDED 09/25/1980 AS INSTRUMENT NO. 1980-0312569 OF OFFICIAL RECORDS.

C  INDICATES AN EASEMENT TO THE CITY OF SAN DIEGO FOR STORM DRAIN AND PUBLIC STREET RECORDED 09/25/1980 AS INSTRUMENT NO. 1980-0312569 OF OFFICIAL RECORDS.

D  INDICATES AN EASEMENT TO RANCHO SORRENTO III FOR ACCESS AND RIGHT OF WAY RECORDED 05/20/1983 AS INSTRUMENT NO. 1983-0167007 OF OFFICIAL RECORDS.

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EXHIBIT "C"
APN 343-130-16 - RE-VeGETATION AREAS

SHEET INDEX, REFERENCE LINE, AND EXISTING EASEMENTS

PARCEL 3
SEE DETAIL ON SHEET 4.

PORTION LOT 4
MAP 438

SORRENTO
VALLEY ROAD

INST. 2006-04.3147. OR

PARCEL 2
SEE DETAIL ON SHEET 3.

PARCEL 1
SEE DETAIL ON SHEET 2.

POINT "A"

P.O.B.
REFERENCE LINE

LOT 2
MAP 438

POINT 'A'

PCL 1
PM 17965

NC DT D RAILWAY
(FORMERLY AT&SF)

LEGEND

--- AFFECTED PROPERTY

--- DESCRIPTION AREA

--- ADJACENT PROPERTY LINES

--- REFERENCE LINE

--- EXISTING EASEMENT DESCRIBED ON SHEET 5.

RE-VEGETATION AREA

2,352± SQUARE FEET

TOTAL TAE AREA

37,877± SQUARE FEET

NOTE

SEE SHEET 5 FOR LINE TABLE.

9406
50.38'

N 70° 29' 01" W

404.33'

100.54'

70.67'

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EXHIBIT "C"
APN 343-130-16 - RE-VEGETATION AREAS

PARCEL 1 DETAIL

P.O.B. - REFERENCE LINE

LOT 2
MAP 438

NOTE
SEE SHEET 5 FOR LINE TABLE.
# EXHIBIT "C"
APN 343-130-16 RE-VEGETATION AREAS

**LEGEND**

- **A** indicates an easement to the city of San Diego for public sewers recorded 05/21/1970 as instrument no. 1970-088214 of official records.

- **B** indicates an easement to the city of San Diego for flowage recorded 09/25/1980 as instrument no. 1980-0312569 of official records.

- **C** indicates an easement to the city of San Diego for storm drain and public street recorded 09/25/1980 as instrument no. 1980-0312569 of official records.

- **D** indicates an easement to Rancho Sorrento III for access and right of way recorded 05/20/1983 as instrument no. 1983-0167007 of official records.

### LINE TABLE

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<td>S22°18′19″W</td>
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<td>N89°23′03″W</td>
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<td>N78°40′03″W</td>
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<td>N49°28′45″W</td>
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<td>L7</td>
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<td>N88°46′55″W</td>
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<td>L12</td>
<td>N05°51′29″E</td>
<td>47.59′</td>
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<td>L13</td>
<td>N01°39′58″W</td>
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<tr>
<td>L15</td>
<td>N34°46′36″E</td>
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REAL PROPERTY LOCATED IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ACRE LOT 3 OF THE SORRENTO LANDS AND TOWNSITE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 483, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 9, 1888, EXCEPTING THEREFROM THOSE PORTIONS THEREOF DESCRIBED AS FOLLOWS:

PARCEL A:

A STRIP OF LAND 100 FEET IN WIDTH OVER AND ACROSS SAID LOT 3, LYING EQUALLY 50 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTER LINE OF THE RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY, AS DESCRIBED IN DEED RECORDED AUGUST 17, 1926 IN BOOK 1248, PAGE 241, OF DEEDS.

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID LOT 3, DISTANT SOUTHERLY 570.78 FEET FROM THE NORTHEAST CORNER OF SAID LOT; THENCE WESTERLY ALONG A CURVE OF 6359.84 FOOT RADIUS CURVE, CONCAVE NORTHERLY 34.0 FEET; THENCE TANGENT TO SAID CURVE AT SAID POINT OF BEGINNING FORMS AN ANGLE OF 80°24’23” TO THE NORTHWEST WITH SAID EASTERLY LINE; THENCE WESTERLY ALONG A CURVE OF 4239.90 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 3,179.94 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 2543.96 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 211.97 FOOT RADIUS CURVE, CONCAVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 1817.13 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE WESTERLY ALONG A CURVE OF 1590.0 FOOT RADIUS CURVE NORTHERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1432.698 FOOT RADIUS CURVE NORTHEASTERLY 650.0 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1590.0 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 1817.13 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 2119.97 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 2543.96 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 3179.94 FOOT RADIUS CURVE NORTHEASTERLY 37 FEET; THENCE NORTHWESTERLY ALONG A CURVE OF 4239.90 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY 9.1 FEET TO A POINT OF ENDING ON THE NORTHWESTERLY LINE OF SAID LOT 3, DISTANT NORTHEASTERLY 52.50 FEET FROM THE MOST WESTERLY CORNER OF SAID LOT.

PARCEL B:

AN IRREGULAR PIECE OR PARCEL OF LAND IN SAID LOT 3, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT, 120 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID SOUTHWESTERLY LINE 15 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF ABOVE DESCRIBED 100 FOOT STRIP; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE TO THE NORTHWESTERLY LINE OF
SAID LOT; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE TO POINT OF BEGINNING.

PARCEL C:

A RIGHT OF WAY 100 FEET WIDE, FOR RAILROAD PURPOSES, SAID RIGHT OF WAY BEING 50 FEET ON EACH SIDE OF THE CENTER LINE OF THE LOCATION OF THE RAILROAD OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY NOW THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AS AWARDED TO SAID RAILWAY COMPANY BY DECREE OF CONDEMNATION MADE BY THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR SAN DIEGO COUNTY MAY 21, 1881, A CERTIFIED COPY OF WHICH DECREE WAS RECORDED IN BOOK 38, PAGE 438 OF DEEDS.

**Assessor’s Parcel Number:** 343-130-16
ACCESS EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Creekside Property Holdings, LLC, a Delaware limited liability company, ("Grantor"), hereby GRANTS to SAN DIEGO ASSOCIATION OF GOVERNMENTS, ("Grantee"), a permanent nonexclusive easement for access ("Easement"). The use of said Easement shall commence after construction of the Sorrento to Miramar Doubletrack Phase 1 has been completed. Said Easement is for the right of ingress and egress as needed, together with the right of others to use said access as needed. Said Easement is situated within the City of San Diego, County of San Diego, State of California and is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof. In the event of future development of the parcel upon which this easement is located, Grantee agrees to relocate the access easement to a strip of land 20.00 feet in width elsewhere on the parcel consistent with Grantor's future access and redevelopment to allow Grantee access to its adjacent rail right of way.

The rights and obligations contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

The Grantor, for the Grantor and Grantor's successors and assigns hereby waives any claim for any and all damages to the Grantor's remaining property contiguous to the Easement by reason of the location, construction, and installation of Grantee's facilities, or the use of said Easement.

IN WITNESS WHEREOF, Grantor has executed this Grant of Access Easement as of this ___ day of ______________ , 2011.

GRANTOR: Creekside Property Holdings, LLC, a Delaware limited liability company

By: _______________________________  By: _______________________________
Print name: ________________________  Print name: ________________________
CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Association of Governments, a public agency, is hereby accepted by the undersigned officer on behalf of the San Diego Association of Governments pursuant to the authority granted to it under Section 120240 of the Public Utility Code, and delegated to said officer pursuant to SANDAG Board Policy 17, and the grantee consents to the recordation thereof by its duly authorized officer.

SAN DIEGO ASSOCIATION OF GOVERNMENTS,
a California Public Agency

By: ______________________________
    Gary Gallegos (or designee)
    Executive Director

Date: ___________________________
October 26, 2011

Gary Gallegos, Director
SANDAG Board of Directors
401 B Street
Suite 800
San Diego, Ca. 92101

RE: Resolution of Necessity to Acquire Property by Eminent Domain
APN Parcel #’s 341-321-37, 341-321-38, 343-010-19

Dear Mr. Gallegos,

I am addressing this to your attention in regards to the adoption of a Necessity of Taking scheduled to be heard at the Board meeting of November 4, 2011 involving the above parcels. I did plan to appear before the Board at the originally scheduled hearing for this item on October 28, 2011. Unfortunately we received notice that this item was to be continued until the November 4th meeting and I will be out of town at that time and will be unable to appear in person.

We are the owners of the above referenced parcels that will be impacted by phase 1 of the Sorrento Miramar Double Track Project. We also own APN Parcel #’s 343-010-19, 343-010-20, 343-010-21, 343-010-26, 343-010-31, 343-010-32, and have secured blanket easement rights on 343-010-46. A majority of these parcels, some of which have substantial lease hold commitments on them, will be affected by phase 2 of this same double track project which represents a significant impact to our business enterprise.

In regards to the Necessity to Acquire by Eminent Domain the above reference parcels which is the subject of this hearing, please be advised of the following:

In meetings held with SANDAG personnel and consultants, we discussed an exchange of property using the parcels under consideration today, as well as several of our other parcels, in lieu of monetary compensation to satisfy SANDAG’s needs for Right of Way for both their phase 1 and phase 2 portions of this double track project. The solutions discussed would also achieve the goal of satisfying the needs of our long term lease holders, as well as compensating us for the property to be lost to the ROW for these projects.

We also discussed with SANDAG staff the alternative that if we were unable to have in place a framework for an agreement prior to the end of this year, that we would need to place a conservation easement over these parcels that are under consideration today. This easement would be necessary to satisfy the requirements of the IRS for the allowance of a special tax deduction that is set to expire at the end of this year.
This deduction, which is part of the Unemployment Benefits Extension Bill signed into law on December 17, 2010, extended the expansive charitable tax benefits for the donation of qualified conservation property through the end of 2011.

Unfortunately for both SANDAG and ourselves, we were unable to structure a framework for a property exchange agreement, and as such, we are moving forward with the placement of a conservation easement on these parcels to secure the benefit of the tax deduction allowed under this law.

While we have offered to donate these parcels to SANDAG at no expense with the conservation easements in place, our offer was declined. Therefore we have secured the cooperation of a Land Conservancy organization that will accept this property with a conservation easement in place as a charitable donation, which meets the requirement of the IRS for a recognized conservation contribution.

In moving forward with our business plan to use this property for the benefits available for donating this property for conservation purposes, there exists a potential conflict with the needs as expressed by SANDAG’s representatives for their purposes on these same parcels.

In placing a conservation easement on this property, there is the possibility that the IRS will not recognize the conservation purposes of this donation if and when SANDAG were to place an active construction easement across these same parcels. In doing so, the IRS could disallow the favorable tax benefits associated with this donation, which would have a significant negative financial impact on our business enterprise.

We bring this to your attention at this time so that you may make an informed decision on this issue. If and when the IRS was to take the action of disallowing this donation for the reason stated above, we would look to SANDAG to compensate us for this significant financial loss.

Due to my unavailability to address the board in person, I request that this correspondence be entered into the record for this hearing on this item.

Sincerely,

[Signature]

Christian P. Tresize P.E.

Cc: Hon. Jerome Stocks
    Hon. Jack Dale
    Hon. Jim Janney
October 28, 2011

Clerk of the Board  
San Diego Association of Governments  
401 B Street, Suite 800  
San Diego, CA 92101

Re: Sorrento to Miramar Double Track/Realign Phase I Project ("Project") Resolution of Necessity (APN 343-130-17)

Dear Clerk of the Board:

This firm represents Creekside Property Holdings, LLC, the owner of the property designated as San Diego County Assessor's Parcel number 343-130-17 ("Property"). This submittal responds to the October 18, 2011, Notice of Continued Hearing on Resolution of Necessity indicating that the San Diego Association of Governments ("SANDAG") intends to adopt a Resolution of Necessity to acquire portions of the Property for the implementation of its Project. SANDAG noticed the continued hearing for the SANDAG Board of Directors to approve the Resolution of Necessity on November 4, 2011.

This letter constitutes Creekside's request to appear and be heard at the November 4, 2011, hearing. This letter also constitutes Creekside's objections to SANDAG's adoption of the proposed resolution of necessity. We request that copies of this objection letter be distributed to each of the members of the SANDAG Board of Director's prior to their considering the adoption of the proposed resolution of necessity. Creekside reserves the right to make further and different objections before and at the hearing, and any continuation thereof.

**OBJECTIONS**

1. **The Board of Directors' Adoption of a Resolution of Necessity Will Violate CEQA:** The Board of Directors' adoption of a resolution of necessity is a discretionary approval, as such that decision is subject to the requirements of the California Environmental Quality Act, or CEQA. We understand that the Project is a portion of a larger, double-track expansion project identified as the "LOSSAN Corridor from Los Angeles Union Station through Orange County and San Diego County and to San Diego's Santa Fe Depot" ("LOSSAN Project"). We understand that a 2007 Program level EIR/EIS was prepared that evaluated the LOSSAN Project at the programmatic...
level. According to a Notice of Exemption for the Project (the Sorrento to Miramar portion of the LOSSAN Project) filed in the Office of the San Diego County Clerk on November 12, 2009, SANDAG determined that the Project was exempt from CEQA pursuant to Public Resources Code, section 21080, subdivision (b)(10). The Notice of Exemption states that the cited exemption applies because the Project "proposes to increase passenger service on rail right-of-way ("ROW") already in use" and that the "project improvements would be contained within the existing ROW."

When Creekside inquired about SANDAG's CEQA review for the adoption of the resolution of necessity for the condemnation of Creekside's Property, SANDAG's consultants at the Wiggans Group, Inc. provided Creekside with a copy of the Notice of Exemption discussed above and explained that the "project satisfied the requirements for a CEQA Categorical Exclusion" and that the 2007 Program EIR/EIS "is still current." This is not correct.

While it appears correct that SANDAG filed a Notice of Exemption when it approved the Project, adoption of a resolution of necessity is a discretionary approval, which requires SANDAG to perform the appropriate analysis to determine if further environmental review is required. Thus, SANDAG must determine whether it must prepare a subsequent or supplemental EIR for the 2007 program level EIR/EIS, and if so, whether adoption of the resolution would be exempt from CEQA. (CEQA Guidelines, § 15168, subd. (c).)

When a program EIR is prepared, subsequent activities that are a part of that program "must be examined in light of the program EIR to determine whether an additional environmental document must be prepared." (CEQA Guidelines, § 15168, subd. (c).) If later activity would have effects not previously examined, a new initial study must be prepared. (CEQA Guidelines, § 15168, subd. (c)(1).) Here, SANDAG is proposing to acquire easement rights from Creekside in locations that were not identified previously. As such, the effects of the location of the proposed easement acquisition were not examined (i.e., impacts on traffic and parking both on Creekside's Property and adjacent public ROW). Thus, SANDAG was required to prepare an initial study, and it apparently did not. (CEQA Guidelines, § 15168, subd. (c)(1).) An initial study must be prepared so that SANDAG may make the appropriate CEQA findings to move forward with the adoption of the resolution of necessity.

Additionally, the CEQA exemption identified by SANDAG (Pub. Res. Code, § 21080, subd. (b)(10)) does not apply to the adoption of the resolution of necessity because SANDAG is proposing to acquire property rights that exceed the ROW "already in use." Likewise, the double tracking proposed as a part of the Project necessarily requires an expansion of the ROW beyond what is "already in use." As such, the proposed resolution does not fit within the exemption relied upon in the previously filed Notice of Exemption.
2. **The Easements Sought to be Acquired for the Project Have Not Been Planned or Located in a Manner that Will be Most Compatible with the Greatest Public Good and Least Private Injury:** A public agency may not exercise the power of eminent domain for a proposed project unless it establishes that "the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury." (Code Civ. Proc., § 1240.030, subd. (b).) The cutting of SANDAG's proposed easement through the middle of Creekside's Property does not satisfy this requirement.

Specifically, in addition to a temporary access easement that will impact Creekside's use of its parking lot during construction, SANDAG proposes to acquire a permanent access easement, which is proposed to be located through the middle of Creekside's Property from Sorrento Valley Road to the rail ROW area. SANDAG proposes that the use of the permanent access easement will commence once construction of the Project is complete and shall be a permanent easement used for "the right of ingress and egress as needed." The language of the proposed permanent access easement does not set any limits as to the time, frequency, or volume of access across Creekside's Property. Thus, the permanent access easement creates a tremendous burden. Because the permanent access easement is not limited in its scope, it approaches the equivalent of a fee taking; yet just compensation has not been properly determined for this taking (see discussion below). Thus, the permanent access easement places a cloud on Creekside's Property that affects marketability of the Property. Further, the ability of Creekside to re-develop the Property is impaired because any future buildings will need to be designed around the permanent access easement.

The greater public good would be served by locating the permanent access easement where there is no existing development, or on otherwise publicly owned property. It does not appear that SANDAG has explored such other options. Instead, it appears SANDAG considered only its own interests, rather than seeking the best location that reduces the extent of the private injury to Creekside. In that regard, there is an open space area to the northwest of Creekside's Property that appears would give SANDAG comparable access without disturbing the existing commercial use of Creekside's Property and/or affecting the marketability and developability of Creekside's Property.

3. **SANDAG Failed to Make an Offer of Just Compensation Based on a Proper Appraisal of the Property:** SANDAG must pay Creekside fair market value for the property taken. (Cal. Const., art. I, § 19; Code Civ. Proc., § 1263.310.) SANDAG provided Creekside with a copy of its Summary Basis of Valuation Statement. This summary specifically states that a determination of severance damages was beyond the scope of the appraiser's assignment. This makes it clear the appraiser made no substantive analysis of severance damages. However, as discussed below, the taking does cause severance damages to Creekside's Property. Creekside must be compensated for its severance damages. In addition, there are other defects in the appraisal. Because of these defects in the appraisal, SANDAG has not properly made an offer pursuant to Government Code section 7267.2 and cannot proceed with a resolution of necessity.
In particular, the appraisal is incomplete and invalid for at least the following reasons:

- **Severance damages from the development constraint caused by the taking should be appraised.** Because it bisects the Property, the permanent access easement necessarily limits future redevelopment of the Property, creating severance damages. Yet, SANDAG's appraisal does not address these severance damages.

- **The most injurious use of the permanent access easement was not valued.** SANDAG is required to compensate Creekside based on the most injurious use of the easement under the language of the resolution of necessity. (County of San Diego v. Bressi (1986) 184 Cal.App.3d 112.) Here, the permanent access easement SANDAG's Board plans to condemn pursuant to its resolution does not limit the scope of the easement, providing instead that the easement shall be "for the right of ingress and egress, as needed." As noted, the purpose of that ingress and egress is not specified in the proposed easement, nor is there any limit to the scope of when or how the easement area may be used by SANDAG. As such, SANDAG must value the permanent access easement based on the most injurious use potentially allowed under the easement. Yet, the appraisal indicates that the compensation is estimated at 20 percent of the fee value because the use by SANDAG would be "minimal and occasional." In terms of legal effect, Creekside is largely losing the entire area encompassed by the permanent access easement, as that area would be encumbered by the overly broad easement. This affects both current use and marketability and future redevelopment and marketability. The determination of just compensation must be based upon what would be lost by Creekside rather than what would be gained by SANDAG. (Id. at p. 122.) But SANDAG's appraisal failed to do this.

- **The proposed options to extend the temporary access easement have not been valued in SANDAG's appraisal.** SANDAG threatens condemnation of the temporary access easement, consisting of approximately 14,230 square feet, through the center of the Property. The duration of this temporary access easement is initially 24 months, but SANDAG plans to condemn three, one-year options. The options, whether or not SANDAG exercises them, will cloud title for the Property for as long as they exist. It seems questionable whether SANDAG can condemn options; either it is going to have the right to use the property or it will not. But assuming it can condemn options, SANDAG's appraisal does not value those options. SANDAG must appraise the options and make an offer before SANDAG proceeds with a resolution of necessity.

- **Severance damages for the access easements must be appraised.** As noted, SANDAG's appraisers assumed limited use of the easements, even though the easements themselves are largely unlimited. Instead, the appraisers should have assumed the "must injurious use." (See County of San Diego v. Bressi (1986) 184 Cal.App.3d 112, 122.) The appraisal should thus consider all existing and intended uses of the Property in order to
determine whether there will be severance damages to the Property. (City of Fremont v. Fisher (2008) 160 Cal.App.4th 666.)

- Severance damages from noise, dust, fumes, and vibrations must be appraised. Severance damages to the Property caused by noise, dust, fumes, and vibrations are compensable. (See Pierpont Inn, Inc. v. State of California (1969) 70 Cal.2d 282.) Use of the easements will cause noise, dust, fumes, and potentially cause damage to the Property from the use by trucks and vehicles. Severance damages for the losses caused by such nuisances must be appraised.

4. **SANDAG is prohibited from rubber-stamping a resolution of necessity:**

   SANDAG must arrive at any decision to take Creekside's Property by engaging in a "good faith and judicious consideration of the pros and cons of the issue." (Redevelopment Agency v. Norm's Slauson (1985) 173 Cal.App.3d 1121, 1125.) SANDAG's Board of Directors cannot simply "rubber-stamp" a predetermined result. (Id. at p. 1127.) Yet, rubber-stamping appears to be SANDAG's plan.

   As noted above, the Project (Sorrento to Miramar) is part of a larger project contemplating the double tracking and expansion of railroad ROW from Los Angeles through to San Diego. SANDAG has moved forward by adopting a Notice of Exemption in connection with the Project, and moved forward to acquire other properties in order to complete the Project. Notwithstanding the fact that Creekside's Property is not necessary for the Project, with the momentum SANDAG has created it seems obvious the Board plans to exercise no real discretion over what is necessarily a discretionary act (to take Creekside's Property). By virtue of SANDAG's previous actions, SANDAG has irrevocably committed itself to take Creekside's Property, regardless of any evidence that might be presented at the hearing concerning the proposed resolution of necessity. SANDAG's actions will make any approved resolution of necessity invalid. (Id. at p. 1127.)

**CONCLUSION**

For the reasons set forth in this letter, the SANDAG Board of Directors cannot validly adopt the proposed resolution of necessity to acquire Creekside's property. Therefore, Creekside requests that the Board of Directors not proceed with the hearing on the proposed resolution or, if it proceeds, that the Directors reject the defective resolution.

Very truly yours,

K. Erik Friess

KEF

cc: Bruce W. Beach, Esq., Best Best & Krieger LLP (via e-mail)
Hearing of Necessity
Sorrento to Miramar
Double Track
Phase 1

Board of Directors Meeting
November 4, 2011

Sorrento to Miramar Phase 1 Project

Project Vicinity
Sorrento to Miramar Phase 1 Project

- 1.2 miles of new double track
- New bridges, Carroll Creek
- 48,000 sf of retaining walls
- Signals & switches
- Drainage & re-vegetation

Affected Parcels

<table>
<thead>
<tr>
<th>Number</th>
<th>Parcel Area</th>
<th>Required Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
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<tr>
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<td></td>
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<tr>
<td>16</td>
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</tbody>
</table>
### Affected Parcels

<table>
<thead>
<tr>
<th>Location</th>
<th>Assessor’s Parcel Nos.</th>
<th>Owner</th>
<th>Type</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>340-080-40</td>
<td>CLL Roselle, LLC</td>
<td>TCE</td>
<td>Escrow</td>
</tr>
<tr>
<td>4 &amp; 13</td>
<td>341-321-37,38, and 343-010-19</td>
<td>Caryon Properties, LLC</td>
<td>TAE</td>
<td>No Settlement</td>
</tr>
<tr>
<td>5</td>
<td>343-130-09</td>
<td>The Silverstone Company, LP</td>
<td>TCE</td>
<td>Escrow</td>
</tr>
<tr>
<td>6 &amp; 16</td>
<td>343-130-01 and 343-130-20</td>
<td>Edward &amp; Ellen Wong, Sorrento Creek Corporation</td>
<td>TCE</td>
<td>Escrow</td>
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<tr>
<td>7</td>
<td>343-130-17</td>
<td>Creekside Property Holdings, LLC</td>
<td>TAE</td>
<td>No Settlement</td>
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<tr>
<td>8</td>
<td>343-130-16</td>
<td>Helf Sorrento, LLC</td>
<td>TAE</td>
<td>Escrow</td>
</tr>
</tbody>
</table>

### Required Findings

“The public interest and necessity require the project.”

- Approved LOSSAN regional rail project
- First phase of Sorrento to Miramar double track
- Improves passenger & freight capacity & reliability
- Reduces derailment risk
- Replaces aging track & bridge
**Required Findings**

“The project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury.”

- Designed to minimize cost & improve operations
- Location & design address safety & operational risks
- Planned to be compatible with other LOSSAN projects

- All permanent improvements in existing right-of-way
- Minimum construction easements for safety & staging
- Construction limited to nights & weekends in parking areas
- Access - temporary & permanent on existing drive aisles

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**Required Findings**

“Interest in the properties is necessary for the project.”

- Use of property only reasonable & feasible construction approach
- Working space required for safety & staging
- Construction access required to public street
- Permanent access required for maintenance
Required Findings

“Offers of just compensation have been made to the property owners”

• Code of Civil Procedure:
  obligated by state and federal law to offer just compensation of at least fair market value plus expenses
• Appraisals prepared by licensed and MAI certified appraisers
• June 23, 2011 – offers of just compensation presented to the property owners
• Settlements reached with 4 of 6 property owners
• Offers remain open with 2 owners

Acquisition Location No. 2

Owner: CLL-Roselle LLC
APN: 340-080-40
Type: Temporary
Construction, Maintenance and Monitoring Easement
Status: In Escrow

Resolution Attachment 1A
Acquisition Location No. 4

**Owner:** Caryon Prop, LLC

**APN:** 341-321-38

**Type:** Temporary Access Easements

**Status:** No Settlement
Acquisition Location No. 13

Owner: Caryon Prop, LLC
APN: 343-010-19
Type: Temporary Access Easements
Status: No Settlement

Resolution Attachment 1B

Acquisition Location No. 5

Owner: The Silverstone Company, LP
APN: 343-130-09
Type: Temporary Construction Easement
Status: In Escrow

Resolution Attachment 1C
Acquisition Location No. 6

Owner: Sorrento Creek Corporation and Edward G. Wong and Ellen G. Wong
APN: 343-130-20
Type: Temporary Construction, Maintenance and Monitoring Easements
Status: In Escrow

Acquisition Location No. 7

Owner: Creekside Property Holdings, LLC
APN: 343-130-17
Type: Temporary Construction Easement
Status: No Settlement
**Acquisition Location No. 7**

**Owner:** Creekside Property Holdings, LLC  
**APN:** 343-130-17  
**Type:** Temporary Access Easement  
**Status:** No Settlement

**Resolution Attachment 1E**

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**Acquisition Location No. 7**

**Owner:** Creekside Property Holdings, LLC  
**APN:** 343-130-17  
**Type:** Permanent Access Easement  
**Status:** No Settlement

**Resolution Attachment 1E**
Acquisition Location No. 8

Owner: Helf Sorrento LLC
APN: 343-130-16
Type: Temporary
Construction Easement
Status: In Escrow

Resolution Attachment 1F

Acquisition Location No. 8

Owner: Helf Sorrento LLC
APN: 343-130-16
Type: Temporary Access, Monitoring and Maintenance Easement
Status: In Escrow

Resolution Attachment 1F
Acquisition Location No. 16

Owner: Sorrento Creek Corporation and Edward G. Wong and Ellen G. Wong
APN: 343-130-01
Type: Temporary
Construction, Maintenance and Monitoring Easements
Status: In Escrow

Required Findings

- Whether the public interest and necessity require the project
- Whether the project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury
- Whether the interest in the properties is necessary for the project
- Whether an offer of just compensation has been made to the property owners
Recommendation

The Board of Directors is asked to:

1) receive public testimony;
2) adopt Resolution of Necessity No. 2012-11 (in substantially the same form as Attachment 1) by a two-thirds vote, pertaining to acquisition of temporary and permanent easements on portions of assessor parcel numbers owned by CLL Roselle LLC (340-080-40), Caryon Properties, LLC (341-321-37 & 38, 343-010-19), The Silverstone Company, LP (343-130-09),

(Continued next slide . . .)

Recommendation (Cont.)

The Board of Directors is asked to:

Edward G. Wong and Ellen G. Wong, Sorrento Creek Corporation (343-130-20, 343-130-01),
Creekside Property Holdings, LLC (343-130-17),
and Helf Sorrento, LLC (343-130-16), located in the City of San Diego;
and
3) authorize staff to proceed with the condemnation proceedings necessary to acquire the partial interests in the subject parcels