

Attachment R  
Proposed Second Amendment to  
Agricultural Buffer Easement Deed

Charles F. & Judith A. Nichols TRS  
(Yanks Air Museum)  
PLN120376

**Recording Requested By, and  
When Recorded, Mail To:**

Monterey County Resource Management  
Agency – Planning Department 168 W. Alisal  
Street, 2nd Floor  
Salinas, CA 93901

Attn: Luis Osorio, Planner

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**SECOND AMENDMENT TO AGRICULTURAL BUFFER EASEMENT DEED**

THIS SECOND AMENDMENT TO AGRICULTURAL BUFFER EASEMENT DEED is made this 6<sup>th</sup> day of November 2012 by and between CHARLES F. NICHOLS and JUDITH A. NICHOLS, as Trustees of the NICHOLS FAMILY TRUST UTA dated January 17, 1991 (“Grantors”); and the COUNTY OF MONTEREY, a political subdivision of the State of California (“Grantee”), (collectively referred to as “the parties”) with reference to the following facts and circumstances:

**RECITALS:**

A. Grantors are the owners in fee simple of that certain real property situated in the County of Monterey, State of California, referred to as the Yanks Air Museum property, and more particularly shown on **Exhibit A**, attached hereto (“the Yanks Property”).

B. Grantors applied for, and Grantee approved a Combined Development Permit (SH 94002) (Board of Supervisors Resolution No. 97-445 and Ordinance No. 03943) (“CDP”) for a General Plan Amendment, rezoning and use permit to allow an air museum, air strip, RV park and other uses on the Yanks Property.

C. On or about April 20, 2002, Grantors and Grantees executed an Agricultural Buffer Easement Deed which document was recorded on May 6, 2002 at Document number 2002043168

in the official records Monterey County (Agricultural Buffer Easement Deed) to satisfy Condition 20 of the CDP. Said uses allowed within the Agricultural Buffer Easement included the airstrip, water detention ponds and parking.

C. On or about October 12, 2004 Grantee approved (Board of Supervisors Resolution No. 04-351) an extension of the CDP.

D. On or about October 28, 2008 Grantee approved (Board of Supervisors Resolution No. 08-362) a second extension of the CDP. The second extension was subject to a condition that parking not be allowed in the southern portion of Agricultural Buffer Easement Deed buffer area.

E. On or about June 2, 2010 Grantors and Grantees executed an Amendment to Agricultural Buffer Easement Deed which document was recorded on September 20, 2010 as Document number 2010052812 in the official records Monterey County, ([First] Amendment to Agricultural Buffer Easement Deed) to satisfy the terms of the October 28, 2008 extension approval to eliminate parking as an allowed use within that portion of the 200-foot Agricultural Buffer Easement area running along the southern boundary of the Yanks Property, as long as the adjacent property directly south of the Yanks Property remains in agricultural use.

F. On or about November 6, 2012 Grantor adopted (Resolution No. 12 - \_\_\_\_\_) a lot-line adjustment adjusting the boundary between the existing Parcel A and Parcel B shown on the Record of Survey recorded at Volume 25 Surveys Page 73, which approval adjusted the boundary between the existing Parcel A and Parcel B, approximately 217 feet to the east. Consistent with the purpose of and requirement to maintain a 200 foot agricultural buffer along the northern, southern and eastern boundary of the adjusted parcel to protect adjacent agricultural operations, Grantor requested that the existing 200 foot agricultural buffer easement also be moved approximately 217 feet to the east.

G. This Second Amendment to Agricultural Buffer Easement Deed shall run with the land and bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the parties hereto.

H. Upon execution of this Second Amendment to Agricultural Buffer Easement Deed, the parties shall cause recordation thereof with the Monterey County Recorder's Office.

I. The parties hereto understand and agree that this Second Amendment to Agricultural Buffer Easement Deed has been arrived at through negotiations and that neither party is to be deemed the party which prepared this agreement within the meaning of Civil Code Section 1654.

J. The parties to this Second Amendment to Agricultural Buffer Easement Deed understand and agree that the above Recitals are hereby incorporated into this Second Amendment to Agricultural Buffer Easement Deed.

**NOW, THEREFORE**, for the reasons set forth above and in consideration of their mutual promises and covenants, terms and conditions, and restrictions contained herein, Grantors and Grantees do hereby amend the Agricultural Buffer Easement Deed and the (First) Amendment to Agricultural Buffer Easement Deed as follows:

The property descriptions and location of the 200 foot agricultural buffer described in the legal descriptions and exhibits attached to the Agricultural Buffer Easement Deed and the (First) Amendment to Agricultural Buffer Easement Deed, are hereby rescinded and are hereby replaced with the legal descriptions attached hereto as **Exhibit A, Exhibit B, and Exhibit C** which are hereby incorporated by this reference.

The uses allowed within the relocated buffer area as described on Exhibit B, attached hereto and shown on Exhibit C, attached hereto, shall remain the same as those uses allowed under the Agricultural Buffer Easement Deed and the (First) Amendment to Agricultural Buffer Easement

Deed.

In all other respects, the terms and conditions of the Agricultural Buffer Easement Deed and the (First) Amendment to Agricultural Buffer Easement Deed remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to Agricultural Buffer Easement Deed to be executed as of the date and year first above written and County hereby Consents to Recordation of this Second Amendment to Agricultural Buffer Easement Deed as set forth below.

**GRANTORS:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
CHARLES F. NICHOLS, Trustee of the  
NICHOLS FAMILY TRUST UTA  
dated January 17, 1991

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDITH A. NICHOLS, Trustee of the  
NICHOLS FAMILY TRUST UTA  
dated January 17, 1991

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF \_\_\_\_\_         )

On \_\_\_\_\_, 2012, before me, \_\_\_\_\_, Notary Public, personally appeared CHARLES F. NICHOLS and JUDITH A. NICHOLS 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.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

**GRANTEE:**

COUNTY OF MONTEREY

Dated: \_\_\_\_\_

\_\_\_\_\_  
DAVE POTTER, CHAIR  
Monterey County Board of Supervisors

**CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION**

This is to certify that the interest in real property conveyed by the **Second Amendment to Agricultural Buffer Easement Deed** from CHARLES F. NICHOLS AND JUDITH A. NICHOLS, as Trustees of the NICHOLS FAMILY TRUST UTA dated January 17, 1991 ("Grantors"), as their interest appears of record, to the COUNTY OF MONTEREY, a political corporation and/or governmental agency ("Grantee") is hereby accepted pursuant to Board of Supervisors Resolution No. \_\_\_\_\_ adopted on November 6, 2012, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_

\_\_\_\_\_  
DAVE POTTER, CHAIR  
Monterey County Board of Supervisors

**ACKNOWLEDGMENT**

State of California    )  
County of Monterey   )

On \_\_\_\_\_, 2012, before me, \_\_\_\_\_  
Clerk of the Board of Supervisors, personally appeared \_\_\_\_\_,  
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.

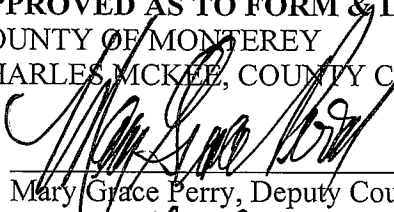
**GAIL T. BORKOWSKI**  
Clerk of the Board of Supervisors of  
Monterey County, State of California

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

Legal Reference for Acknowledgment by County Official:  
Civil Code Sections 1181, 1184, 1185, 1188, 1189  
Code of Civil Procedure Section 2012

[COUNTY SEAL]:

**APPROVED AS TO FORM & LEGALITY:**  
COUNTY OF MONTEREY  
CHARLES MCKEE, COUNTY COUNSEL

By   
Mary Grace Perry, Deputy County Counsel

Dated: 10-29-2012

# EXHIBIT A

## LEGAL DESCRIPTION

Real property in the City of Greenfield, County of Monterey, State of California, described as follows:

### PARCEL 1:

PARCELS A AND B, AS SHOWN ON THAT CERTAIN MAP FILED FOR RECORD JUNE 27, 2002 IN VOLUME 25 OF SURVEYS, AT PAGE 73, FILED IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF MONTEREY, STATE OF CALIFORNIA.

### PARCEL 2:

A RIGHT OF WAY FOR ROAD PURPOSES OVER, UPON AND ACROSS A STRIP OF LAND 10 FEET WIDE LYING ALONG, CONTIGUOUS TO AND NORTHEASTERLY AND NORTHWESTERLY FROM THE FOLLOWING DESCRIBED LINE BEGINNING AT AN ANGLE POINT IN THE NORTHEASTERLY BOUNDARY OF SAID PARCEL "A" AS SHOWN ON THE MAP FILED FOR RECORD APRIL 29, 1971 IN VOLUME 10 OF SURVEYS, AT PAGE 15 FROM WHICH THE MOST EASTERLY CORNER THEREOF BEARS S 58° 07' 53" E, 100.44 FEET DISTANT; THENCE RUNNING ALONG THE BOUNDARY OF SAID PARCEL "A"

- (1) N 52° 25' 16" W, 604.52 FEET; THENCE
- (2) N 69° 10' 16" W, 297.18 FEET; THENCE
- (3) N 81° 58' 36" W, 1,199.68 FEET; THENCE
- (4) N 70° 13' 36" W, 602.05 FEET; THENCE
- (5) N 58° 28' 36" W, 1,215.82 FEET; THENCE TANGENTIALLY
- (6) CURVING TO THE LEFT ON A CIRCULAR ARC OF 119.05 FEET RADIUS THRU AN ANGLE OF 66° 44' 37" FOR A DISTANCE OF 138.68 FEET; THENCE TANGENTIALLY
- (7) S 54° 46' 47" W, 680.19 FEET; THENCE
- (8) S 82° 54' 03" W, 472.38 FEET; THENCE
- (9) S 59° 32' 22" W, 878.42 FEET; THENCE
- (10) S 20° 57' 42" W, 198.91 FEET; THENCE
- (11) S 49° 26' 53" W, 209.65 FEET; THENCE
- (12) S 60° 10' 51" W, 274.16 FEET; THENCE
- (13) S 15° 06' 40" W, 156.97 FEET; THENCE
- (14) S 39° 38' 33" W, 185.82 FEET TO A 6" X 6" CONCRETE MONUMENT STANDING AT THE MOST WESTERLY CORNER OF SAID PARCEL "A" COURSES ALL TRUE.

### PARCEL 3:

A NON-EXCLUSIVE EASEMENT AS CONTAINED IN THE "RUNWAY PROTECTION ZONE (RPZ) APPROACH AREA AND APPROACH SURFACE EASEMENT" RECORDED AUGUST 18, 1998 AS RECORDERS SERIES NO. 98 55010, AND RE-RECORDED SEPTEMBER 15, 1998 AS RECORDERS SERIES NO. 98 62146 DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT NO. 309 AND LOT NO. 310 OF THE CLARK COLONY SUBDIVISION IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA RECORDED AS THE MAP OF CLARK COLONY IN VOLUME 1 OF CITIES AND TOWNS, AT PAGE 64, FILED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY



## EXHIBIT B

THOSE PORTIONS OF PARCEL A AND PARCEL B, AS SHOWN ON THAT CERTAIN MAP FILED FOR RECORD JUNE 27, 2002 IN VOLUME 25 OF SURVEYS, AT PAGE 73, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF MONTEREY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE MOST WESTERLY CORNER OF SAID PARCEL A;

THENCE, ALONG THE NORTHWESTERLY BOUNDARY OF SAID PARCELS A AND B, NORTH 39° 38' 29" EAST 185.87 FEET;

THENCE, NORTH 15° 05' 18" EAST 157.00 FEET;

THENCE, NORTH 60° 12' 50" EAST 273.78 FEET;

THENCE, NORTH 40° 26' 06" EAST 209.72 FEET;

THENCE, NORTH 20° 57' 58" EAST 123.72 FEET;

THENCE, LEAVING SAID NORTHWESTERLY BOUNDARY, SOUTH 49° 13' 28" EAST 4755.81 FEET TO A POINT ON THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL B;

THENCE, ALONG SAID SOUTHEASTERLY BOUNDARY OF SAID PARCELS B AND A, SOUTH 63° 04' 13" WEST 1884.32 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL A, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 272.00 FEET, A RADIAL LINE OF SAID CURVE FROM SAID POINT BEARS NORTH 89° 21' 34" EAST;

THENCE, ALONG THE SOUTHWESTERLY BOUNDARY OF SAID PARCEL A, NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03° 54' 32" AN ARC DISTANCE OF 18.56 FEET;

THENCE, NORTH 03° 16' 06" EAST 81.65 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 730.00 FEET;

THENCE, ALONG LAST SAID CURVE THROUGH A CENTRAL ANGLE OF 09° 49' 19" AN ARC DISTANCE OF 125.14 FEET TO A POINT ON A LINE PARALLEL TO AND 200.00 FEET NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL A;

THENCE, ALONG SAID PARALLEL LINE, NORTH 63° 04' 13" EAST 1482.92 FEET TO A POINT ON A LINE PARALLEL TO AND 17.53 FEET NORTHEASTERLY OF THE NORTHEASTERLY BOUNDARY OF SAID PARCEL A;

THENCE, ALONG LAST SAID PARALLEL LINE, NORTH 49° 13' 28" WEST 4215.22 FEET TO A POINT ON A LINE PARALLEL TO AND 200.00 FEET SOUTHEASTERLY OF THE NORTHWESTERLY BOUNDARY OF SAID PARCEL A;

THENCE, SOUTH 40° 26' 06" WEST 159.80 FEET;

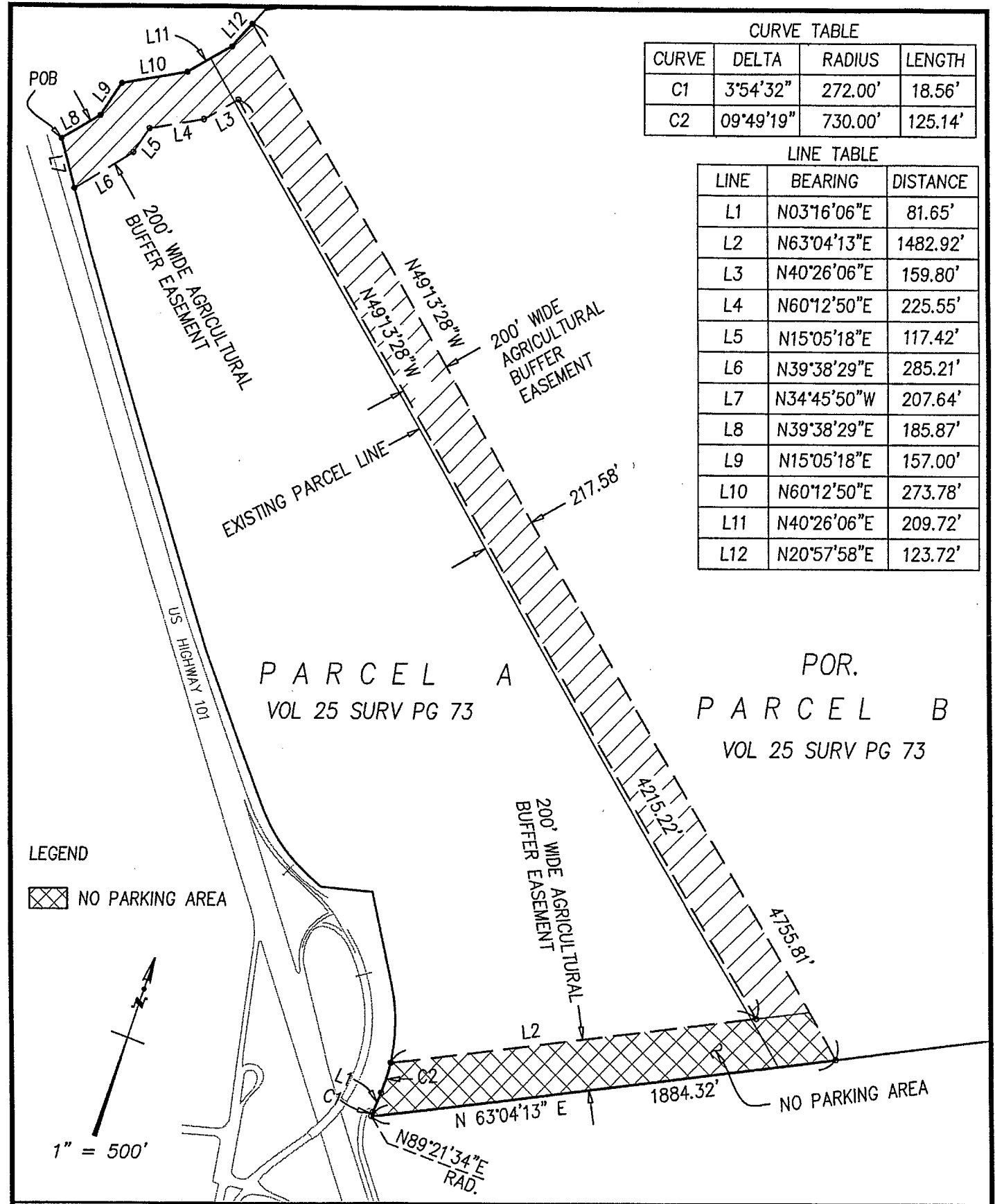
THENCE, SOUTH 60° 12' 50" WEST 225.55 FEET;

THENCE, SOUTH 15° 05' 18" WEST 117.42 FEET;

THENCE, SOUTH 39° 38' 29" WEST 285.21 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY OF SAID PARCEL A;

THENCE, ALONG SAID SOUTHWESTERLY BOUNDARY, NORTH 34° 45' 50" WEST 207.64 FEET TO THE POINT OF **BEGINNING**;

CONTAINING AN AREA OF 32 ACRES, MORE OR LESS.



CURVE TABLE

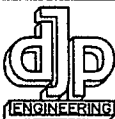
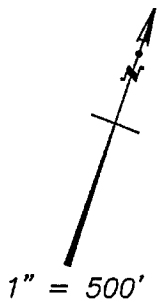
| CURVE | DELTA     | RADIUS  | LENGTH  |
|-------|-----------|---------|---------|
| C1    | 3°54'32"  | 272.00' | 18.56'  |
| C2    | 09°49'19" | 730.00' | 125.14' |

LINE TABLE

| LINE | BEARING     | DISTANCE |
|------|-------------|----------|
| L1   | N03°16'06"E | 81.65'   |
| L2   | N63°04'13"E | 1482.92' |
| L3   | N40°26'06"E | 159.80'  |
| L4   | N60°12'50"E | 225.55'  |
| L5   | N15°05'18"E | 117.42'  |
| L6   | N39°38'29"E | 285.21'  |
| L7   | N34°45'50"W | 207.64'  |
| L8   | N39°38'29"E | 185.87'  |
| L9   | N15°05'18"E | 157.00'  |
| L10  | N60°12'50"E | 273.78'  |
| L11  | N40°26'06"E | 209.72'  |
| L12  | N20°57'58"E | 123.72'  |

LEGEND

NO PARKING AREA



DJP ENGINEERING  
 100 NORTH BARRANCA, SUITE 860  
 WEST COVINA, CA 91791  
 TEL 626-966-8200  
 FAX 626-966-8255

EXHIBIT C  
 AGRICULTURAL BUFFER EASEMENT

SCALE: 1"=500'      DATE: 10/18/12      JOB NO.: 09007      SHEET 1 OF 1