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Government Code
Section 27383

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C.V.W.D.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

COACHELLA VALLEY WATER DISTRICT
Post Office Box 1058
Coachella, California 92236

DOC # 2001-616380

12/11/2001 08:00A Fee:NC

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Recorded in Official Records

County of Riverside

Gary L. Orso

Assessor, County Clerk & Recorder



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IRRIGATION WATER SERVICE

A G R E E M E N T



THIS AGREEMENT is made on this 27th day of November, 2001, by and between the COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California, with its headquarters at Coachella, California, hereinafter designated as "District" and THE PALMS GOLF CLUB, INC., located at 57-000 Palm Drive, La Quinta, California 92253, hereinafter designated as "The Palms."

WHEREAS, The Palms is developing a project located in portions of the east half of Section 22, Township 6 South, Range 7 East, San Bernardino Meridian, in the City of La Quinta, California, as described on Exhibit "A" and as shown on Exhibit "B" attached hereto and hereinafter referred to as "Project"; and

WHEREAS, said Project lies within the District's existing irrigation service area which was previously farmed and has now been developed; and

WHEREAS, said Project will include 153 acres of perimeter landscaped parkways and one (1) 18-hole golf course with water features and amenities and will require irrigation water service for purposes of irrigating the parkways and golf course. Except as otherwise set forth herein, the term "irrigation water" is intended to refer to canal water from the Coachella Branch of the All American Canal; and

WHEREAS, The Palms requests to modify the existing delivery point (Meter No. 1844) which consists of the removal of the existing vertical meter and replacing it with a 12-inch line meter (Meter No. 9037), gate valves and all related appurtenances at The Palms' expense, with approval by District; and

WHEREAS, Irrigation Lateral Nos. 122.7-1.9, 122.7-2.1, 122.7-1.8Rt-2.1 and Meter No. 4799 exist within the proposed Project development and conflict with proposed improvements; and

WHEREAS, The Palms requests to abandon Irrigation Lateral Nos. 122.7-1.9, 122.7-2.1, 122.7-1.8Rt-2.1 and Meter No. 4799.

WHEREAS, The Palms requests to relocate portions of Lateral No. 122.7 along Airport Boulevard beginning at Madison 0.5 (½ mile east of Madison Street) and extending ½ mile east to Monroe Street at The Palms' expense with approval by District; and

WHEREAS, The Palms requests to relocate portions of Lateral No. 122.7-1.8Rt along Avenue 57 beginning at Madison 0.75 (¾ mile east of Madison Street) and extending ¼ mile east to Monroe Street at The Palms' expense with approval by District; and

WHEREAS, District will require that The Palms grant to District certain easements for ingress and egress on those portions of Project as described in subparagraph 9.E., 9.F. and 9.G. hereof; and

WHEREAS, at present, no groundwater replenishment assessment exists which affects The Palms; and

WHEREAS, District has embarked upon a long-term water management plan that encourages the use of alternative sources of water, thus protecting valuable groundwater resources for domestic consumption.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Execute District's Well Metering Agreement for each irrigation well within or supplying water to The Palms.

2. Upon acceptance of the Delivery System by District as described in subparagraph 9.E., 9.F. and 9.G. hereof, said Project shall be placed on the water availability roll.



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3. The Palms acknowledges that said Project must be irrigated by a method that does not permit unreasonable use or waste of water. Only sprinkler or drip irrigation will be permitted except for lake filling purposes.

4. District shall have the right, but not the obligation, to conduct a water audit of said Project once every five (5) years beginning with the execution of this Agreement. District shall give The Palms a 30-day prior written notice of each audit and an invitation to participate.

5. All costs incurred by District in connection with the audit, including labor costs, shall be at The Palms' expense. District shall invoice The Palms for the costs incurred herein. The Palms shall make payment to District within thirty (30) days of receipt of the billing from District. Payments not received within thirty (30) days of receipt of the billing shall bear interest at the rate of ten percent (10%) per annum from thirty (30) days after receipt of the billing from District until paid in full.

6. As a condition of continued water service, the recommendations, if any, resulting from the water audit must be implemented unless District's General Manager-Chief Engineer, at his discretion, determines otherwise. The Palms hereby agrees to undertake the recommendations set forth in the water audit within thirty (30) days of receipt of the audit and shall diligently and continuously complete the recommendations unless The Palms, within thirty (30) days of the receipt thereof, requests in writing to be relieved from the obligation to undertake one or more of the recommendations set forth in the water audit. Within a reasonable time after receipt of the notice from The Palms, the District's General Manager-Chief Engineer will notify The Palms, in writing, if The Palms shall be relieved from the obligations to undertake the recommendations. In the event the General Manager-Chief Engineer determines that one or more of the recommendations must be undertaken, The Palms shall begin within thirty (30) days of receipt of District notice and complete the recommendations within the time frame set in the notice from District's General Manager-Chief Engineer.

7. The Palms shall provide groundwater protection from nitrates and pesticides leaching into the groundwater by employing the use of Best Management Practices (BMP) as established by the University of California Turf Grass Research, which are attached hereto on Exhibit "C" and by this reference incorporated herein. District reserves the right to substitute or

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modify the attached Exhibit "C" within sixty (60) days of prior written notice to The Palms. An evaluation of said Project's BMP may occur during the water audit. All costs of the evaluation shall be at the expense of The Palms.

8. The Palms acknowledges and agrees that the irrigation water service provided by District is interruptible in nature and The Palms will maintain an alternate water supply in "ready" status. The Palms hereby waives and releases District from any claim, loss, damage or action that each may have against District for failure to deliver irrigation water including, but not limited to, damages, loss of business, loss of profit or inconvenience.

9. The Palms shall employ, at its sole cost and expense, a qualified professional engineer to plan, design and prepare detailed construction plans and specifications in accordance with District design criteria and standards for the Delivery System to said Project. All planning, design work and plans for the Delivery System shall be subject to review and approval by District prior to the beginning of any construction of the Delivery System. The entire cost of the design plans and construction to extend irrigation water service to said Project shall be paid by The Palms. The Palms shall design and construct the following improvements for the Delivery System:

- A. Abandon Lateral No. 122.7-1.9 along Madison 0.5 (½ mile east of Madison Street) beginning at Airport Boulevard and extending ¼ mile south of Airport Boulevard.
- B. Abandon Lateral No. 122.7-2.1 along Madison 0.75 (¾ mile south of Madison Street) beginning at Airport Boulevard and extending ¼ mile south of Airport Boulevard.
- C. Abandon Lateral No. 122.7-1.8Rt-2.1 along Madison 0.5 (½ mile east of Madison Street) beginning at Avenue 57 and extending ¼ mile south of Avenue 57.
- D. Vacate Meter No. 4799 located along Airport Boulevard at Madison 0.75 (¾ mile east of Madison Street).
- E. Replace existing 18-inch diameter concrete pipe with 18-inch diameter PVC pipe for lateral 122.7-1.8Rt along Avenue 57 beginning ¾-mile east of Madison (Madison 0.75) and extending east ¼-mile to Monroe Street.



F. Replace existing 18-inch diameter concrete pipe with 18-inch diameter PVC pipe for lateral 122.7 along Airport Boulevard beginning ½ mile east of Madison (Madison 0.50) and extending east ½ mile to Monroe Street.

G. Modify delivery point 1844 by abandoning the vertical 10-inch diameter baffle meter and replacing it with a 12-inch diameter line meter (meter 9037) and all related appurtenances.

10. The Palms shall, at its sole cost and expense, provide District with an easement for the location of the Delivery System that crosses said property as described in paragraphs 9.E., 9.F. and 9.G.

11. The Palms shall, at its sole cost and expense, vacate the existing easement for the portion of the existing irrigation laterals that will be abandoned as described in paragraphs 9.A., 9.B., 9.C. and 9.D. The Palms shall provide District with the required documentation for abandoning easements. Said abandoned easements shall be in recordable form and shall be executed by or on behalf of The Palms.

12. The Palms agree that no improvements may be constructed within the Bureau of Reclamation (Bureau) easements without written consent by District. This includes, but is not limited to, street, curb, gutter, sidewalk, landscaping, buildings, walls and other permanent structures.

13. The Palms hereby acknowledges and agrees that any portion of the Delivery System, installed by or on behalf of District, within the Bureau's right-of-way is the property of District, notwithstanding the funds necessary to construct the irrigation water system came from The Palms. The Palms shall, upon receipt of a notice, execute any further instruments as may be necessary to indicate District's ownership of the Delivery System installed by or on behalf of District. This includes, but is not limited to, that a receipt of declaration by The Palms or The Palms' contractor who furnished materials in the construction of the Delivery System has been paid in full and The Palms shall deliver to District a bill of sale which conveys title of the Delivery System to District.

14. Upon receipt of a notice of completion of construction of the Delivery System,



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District shall inspect same. Any variation from District's standards shall be called to The Palms' attention and shall be remedied by The Palms in accordance with District's requirements. When the Delivery System is reasonably determined to meet District standards and when a bill of sale for same in acceptable form has been tendered to District by The Palms, District shall accept same for purposes of ownership, operation and maintenance, provided, however, that charges for the cost of operating, maintaining, repairing and replacing the Delivery System may, in the future, be added to charges for water service to said Project as part of a District-wide policy.

15. The Palms hereby grants a perpetual nonexclusive easement and right-of-way to construct, enlarge, reconstruct, remove and replace, operate, inspect, test, maintain, repair, read meters or other measuring devices, improve and relocate irrigation water service facilities, including, but not limited to, laterals, valves, meters and appurtenant equipment for the transmission of irrigation water in, on, over, under, upon, along, through and across said Project, together with right of access to and from; (1) said easement for the purpose of exercising the rights granted in said easement, and (2) over and across said Project for the purpose of monitoring the use of the irrigation water and other purposes reasonably related thereto. In order to exercise the rights listed herein, District and its officers, employees, agents, contractors and subcontractors may utilize vehicles and equipment necessary to accomplish the rights set forth herein.

16. Prior to receiving irrigation water service, The Palms shall, at its own cost and expense, apply for and obtain all necessary consents, easements, approvals, permits, authority, licenses or entitlements ("Permits") from all appropriate governmental authorities including, but not limited to, the Bureau, required to allow District to deliver irrigation water to said Project, including, but not limited to, the construction of the Delivery System. District shall have no obligation to provide irrigation water Service to said Project until District receives the easements and necessary authorizations issued by said governmental authorities. The Palms shall comply with and conform to all laws and regulations including, but not limited to, any and all requirements and orders of all federal, state and local boards or authorities, present and future, in any way relating to the use of irrigation water and The Palms shall hold District free and harmless from any loss, damage or liability arising therefrom or in connection therewith.

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17. In the event of a shortage of available irrigation water, except as otherwise required by law, regulation or court order, the following irrigation water uses shall have priority to use irrigation water over said Project:

- A. Agricultural uses in existence as of the date of this Agreement; and
- B. Agricultural uses converted to nonagricultural uses prior to the date of this Agreement; and
- C. Nonagricultural uses in existence prior to the date of this Agreement.

During such periods of shortage, irrigation water for said Project may be supplied by non-District owned wells.

18. In order for District to monitor groundwater levels, The Palms or assigns, agree to install a metering device and appurtenances thereto (collectively "Meter") in accordance with District specifications at the expense of The Palms so that District may read the meter on each well to be used as a supplemental supply source at periodic intervals. Upon the written request of The Palms or its authorized representative, District will make available meter installation specifications.

19. District shall conduct an inspection of the meter. In the event that District determines that the meter installation has not been completed according to District specifications, District shall notify The Palms of its disapproval. District shall then have the right to direct that the discharge meter assembly be reconstructed at the expense of The Palms or to direct that other appropriate action be taken. After completion of the meter installation, District will, at District's cost and expense, obtain a hydraulic pump test on the well for determining any meter correction factors.

20. Upon District's approval of the Meter, The Palms will own, operate, maintain and replace the Meter at the expense of The Palms. District may read the Meter at periodic intervals and make such reading available to The Palms, if so requested. The Palms agrees that District may obtain copies of current and past electrical power consumption and well pump test data directly from the electrical utility serving the well or from any individual conducting said tests, without obtaining additional releases. The Palms, as necessary, shall grant or obtain any releases that may be required of District in order to obtain said data from the power utility.

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21. District, its officers, employees and agents shall have an irrevocable license to use property owned or controlled by The Palms for access to the Delivery System and to each well and accompanying facilities, equipment and appurtenances for the purpose of performing the activities set forth in this Agreement. District agrees to indemnify, defend and hold harmless The Palms from any cost incurred or suffered by The Palms as a result of damage or injury to persons or property as a result of District exercising its right of ingress and egress, except for damage or injury caused by the negligence or intentional acts of The Palms.

22. Invoicing and payment for delivery of irrigation water shall be as follows:

A. District shall bill The Palms monthly for the delivery of irrigation water to The Palms. The irrigation water statement shall include: (1) the irrigation water delivery dates, (2) the water, tolls and charges, (3) the amount of irrigation water consumed in acre-feet, (4) the amount to be paid by The Palms to District.

B. The Palms shall make payment to District within thirty (30) days of receipt of the billing from District. Payments not received within thirty (30) days of receipt of the billing shall bear interest at the rate of ten percent (10%) per annum from thirty (30) days after receipt of the billing from District until paid in full.

23. This agreement is subject to Bureau rules and regulations.

24. In the event The Palms transfers or leases said Project, The Palms hereby agrees to deliver a copy of this Agreement to the transferees or lessees on or before the transfer of said Project. Concurrently with the delivery of the Agreement to the transferees or lessees, The Palms shall obtain a written acknowledgment executed by the transferees or lessees indicating that (a) the transferees or lessees have received a copy of the Agreement, and (b) the transferees or lessees have or shall have, prior to the date said Project is transferred or leased to the transferees or lessees, acknowledge the terms and provisions contained in the Agreement. The Palms shall deliver the executed acknowledgment to District within five (5) business days of receipt.

25. District shall not be liable for the replacement of surface improvements that District may be required to remove in the future to gain access to the Delivery System. The

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Palms waives the right of claim, loss, damage or action against District and hereby releases District from any matter arising out of or resulting from removal or destruction of surface improvements or any action of District exercising its rights hereunder and The Palms hereby waives all claims in respect thereof against District. The Palms hereby agrees to indemnify and hold harmless District against and pay in full all loss, damage or expense that District may sustain, incur or become liable for arising out of or in connection with the rights provided for hereunder.

26. This Agreement and the covenants and conditions created hereby shall inure to the benefit of, be binding upon and run with said Project and shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto and all other persons acquiring any part of said Project, whether or not any reference to this Agreement is contained in the instrument by which such person acquires an interest in said Project.

27. The Palms hereby waives any immunity that it may have and hereby agrees to submit to the jurisdiction of the courts of the State of California in connection with any dispute arising out of this Agreement or in connection with the breach thereof.

28. In the event of any controversy, claim or dispute relating to this Agreement or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

29. Each party agrees to perform any further acts and to execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

30. In the event that any provisions of this agreement shall be held to be invalid, the same shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement.

31. The provisions of this Agreement shall be constructed as to their fair meaning and not for or against any party based upon any attribution to such party as the source of language in question.



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32. District will provide irrigation water service to said Project in accordance with District's Rules and Regulations Governing Water Service.

PLEASE ATTACH APPROPRIATE
NOTORIAL CERTIFICATES

COACHELLA VALLEY WATER DISTRICT

By: Tom Levy
Tom Levy
General Manager-Chief Engineer
Dated: November 27, 2001

PLEASE ATTACH APPROPRIATE
NOTORIAL CERTIFICATES

THE PALMS GOLF CLUB, INC.

By: Dale Walter
DALE WALTER
Dated: 10/18/01

By: J.D. EBERSBERGER
J.D. EBERSBERGER
Dated: 10/22/01



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STATE OF CALIFORNIA)
) ss.
County of Riverside)

On November 27, 2001, before me, Grace Barragan, Notary Public, personally
appeared Tom Levy-----,

(X) personally known to me

() proved to me on the basis
of satisfactory evidence

to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same in his authorized capacity, and
that by his signature on the instrument the person, or the entity upon behalf of
which the person acted, executed the instrument.

WITNESS my hand and official seal.



Grace Barragan
Grace Barragan, Notary Public in
and for said County and State

CAPACITY CLAIMED BY SIGNER:

() Individual(s)	() Attorney-In-Fact
() Partner(s)	() Subscribing Witness
() Trustee(s)	() Guardian/Conservator
(X) Corporate	() Other:
Officer <u>General Manager-Chief Engineer</u>	
Title	

SIGNER IS REPRESENTING:

Name of Entity: Coachella Valley Water District

OPTIONAL SECTION

Title or type of Document: Irrigation Well Metering Agreement with The Palms
Golf Club, Inc.

Document Dated: November 27, 2001

Number of Pages: 4 plus attachments.



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ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Riverside

} SS.

On 10-18-01

(DATE)

before me, Christina Castellano "Public Notary"

(NOTARY)

personally appeared Dale Walter

SIGNER(S)

☒ personally known to me

- OR -

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



WITNESS my hand and official seal.

Christina Castellano
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

OTHER

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

RIGHT THUMBPRINT
OF
SIGNER

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ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Riverside

} SS.

On 10-22-01
(DATE)

before me, CHRISTINA CASTELLANO "Public Notary"
(NOTARY)

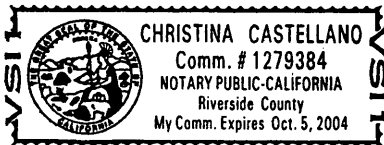
personally appeared JD EBERSBERGER

SIGNER(S)

☒ personally known to me

- OR -

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



WITNESS my hand and official seal.

Christina Castellano
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

OTHER

RIGHT THUMBPRINT
OF
SIGNER

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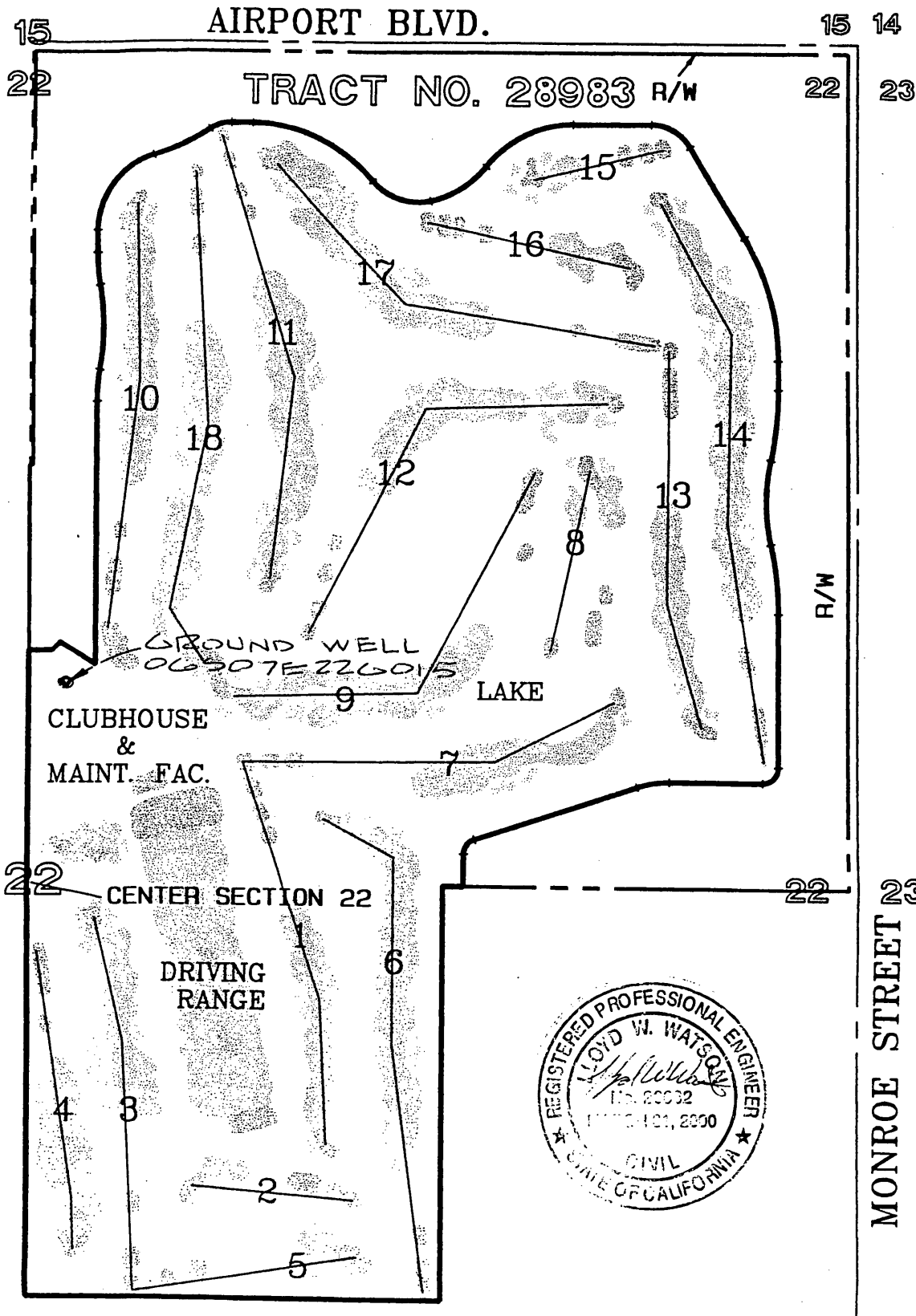
EXHIBIT "A"

THAT PORTION OF THE EAST HALF OF SECTION 22, TOWNSHIP 6 SOUTH, RANGE 7 EAST SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTHEAST QUARTER OF SECTION 22, TOGETHER WITH THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 6 SOUTH, RANGE 7 EAST SAN BERNARDINO MERIDIAN, COUNTY OF RIVERSIDE, CALIFORNIA:

EXCEPTING THEREFROM TRACT 28983 AS RECORDED IN BOOK 285 OF MAPS AT PAGES 76 THROUGH 82, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.





GOLF COURSE ACREAGE: 153.23 AC.

EXHIBIT "B"
THE PALMS GOLF CLUB
GOLF COURSE BOUNDARY
 SECTION 22, T6S, R7E, S.B.M.

EXHIBIT "C"

Best Management Practices

1. Apply frequent light rates of N.
2. Use slow-release fertilizers.
3. Avoid fertilizing during periods when turf grass is naturally slow growing, dormant or stressed.
4. Avoid fertilizing when rain is forecasted.
5. Conservatively irrigate greenbelt areas to save water and reduce leaching. Limit irrigation to the amount necessary to replace moisture used by the plant. Irrigate according to ET and soil infiltration rates. Maintain the highest possible irrigation distribution. Try not to have irrigation application rate exceed soil infiltration rate by using multiple, short run times.
6. Use less energy demanding plants where possible and reduce the scope of the "heavily managed" areas.
7. Reduce annual N application rates as much as possible.
8. Minimize the reduction of growth of base turf areas during preparations of overseeding.
9. Reduce the amount of area within greenbelt areas that is overseeded.
10. Install under-drain system to collect the leachate from areas of the greenbelt areas that may be susceptible to leaching. The leachate should be properly disposed of through irrigation via infiltration through a proper soil profile.
11. Develop collection ponds to collect surface runoff and if necessary, install impervious liners to prevent groundwater leaching.
12. Collect runoff from sensitive areas and pass it through grassed swales or vegetated buffer strips.
13. As a condition of service, the recommendations of Best Management Practices must be implemented unless the General Manager – Chief Engineer finds it would be a hardship.



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