

## **PURCHASE AND SALE AGREEMENT**

**MIKE SADEGHIAN**

**(9655 and 9670 Magnolia Avenue)**

This Purchase and Sale Agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, ("Effective Date"), by and between the CITY OF RIVERSIDE AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIVERSIDE, a public body ("Seller") and MIKE SADEGHIAN, as an individual ("Buyer"). In consideration of the mutual covenants and agreements, the parties agree to the following terms and conditions:

### **ARTICLE I AGREEMENT OF SALE**

1.1 **Property.** Seller owns certain real property located at 9655 and 9670 Magnolia Avenue, known as Assessor Parcel Numbers 234-101-028, 234-101-050, and 234-101-058 ("Property"), more particularly described and depicted in Exhibit "A" attached hereto and incorporated herein by reference.

1.2 **Intention.** Buyer desires to purchase in fee the Property for the development of a 6,050 square foot office building and a 3,241 square foot retail building to be operated as a restaurant ("Project") as described in Exhibit "B" attached hereto and incorporated herein subject to Covenants, Conditions, and Restrictions ("CC&R's") restricting the Property to uses permitted by the Magnolia Avenue Specific Plan described in Exhibit "C" attached hereto and incorporated herein by reference. Seller desires to sell and convey the Property to Buyer.

1.3 **Due Diligence.** Buyer shall have sixty (60) days from the Effective Date ("Contingency Date") to perform, in its sole discretion, its due diligence review of the condition of Property and all other matters concerning the Property, including without limitation, condition of title, economic, financial, and accounting matters relating to or affecting the Property or its value, and the physical and environmental condition of the Property. Prior to the Contingency Date, Buyer shall have made such inquiries, communicated with local, state and federal government agencies as it sees fit, retained such consultants, and taken such actions as Buyer deems necessary or appropriate to enter into this Agreement. Should Buyer, its contractors, consultants and agents require entry upon the Property for the purpose of surveying the same, making engineering and environmental tests and conducting such other investigations as approved by Seller, Buyer shall first obtain a Right of Entry from Seller and provide such insurance as Seller may require and hold Seller harmless from any liability which may arise due solely to such entry. Seller authorizes Buyer to make all inquiries of appropriate governmental authorities with respect to the Property, as Buyer, in its good faith and reasonable judgment deems necessary to satisfy itself as to the condition of title to the Property and the feasibility of any proposed development on the Property. On or before the Contingency Date, Buyer shall

deliver written notice to Seller accepting the Property, or terminating this Agreement. If Buyer fails to give such notice on or before the Contingency Date, Buyer shall be deemed to have accepted the Property and proceed with this Agreement.

**1.4 Assumption of the Risk.** Subject to the other provisions of this Agreement, Buyer agrees, that by its acceptance of the Property under Section 1.3, it assumes the risk that an adverse condition of the Property may not have been revealed by its own Due Diligence. On Buyer's acceptance, Seller shall have no obligation to repair, correct, or compensate Buyer for any condition of the Property, including defects in improvements, noncompliance with applicable laws and regulations, including without limitation zoning laws, building codes, and the Americans with Disabilities Act, whether or not such condition of the Property would have been disclosed by Buyer's Due Diligence.

**1.5 Subject to Approval.** In accordance with Health and Safety Code Section 34179(e), this Agreement is subject to adoption of a resolution by the Oversight Board; and in accordance with Health and Safety Code Section 34179(h), this Agreement is subject to approval by the State of California - Department of Finance.

**1.6 Duty to Act in Good Faith.** The parties agree to act in good faith and fair dealing and endeavor to utilize their best efforts to perform all terms of this Agreement and in any discussions related to the Project with the parties and third parties.

## **ARTICLE II PURCHASE PRICE, ESCROW AND DEPOSIT**

**2.1 Purchase Price.** The total purchase price to be paid by Buyer to Seller for the Property shall be the sum of Three Hundred Fifteen Thousand Dollars (\$315,000.00) ("Purchase Price"). The Purchase Price shall be payable by Buyer to Seller in immediately available funds in accordance with the provisions and requirements of this Agreement.

**2.2 Deposit.** Within fifteen (15) calendar days following the Effective Date, Buyer shall deliver a deposit in the amount of Five Thousand Dollars (\$5,000.00) ("Deposit") to the Escrow Holder which will be applied towards the Purchase Price at the Close of Escrow, subject however to the Sellers right to liquidated damages as set forth in Section 7.5 in the event of Buyer's default. After ninety (90) days following the Effective Date, Buyer's Deposit shall become non-refundable but may still be applied towards the Purchase Price at the Close of Escrow. If this Agreement is terminated for any reason after ninety (90) days, the Deposit shall be released to Seller.

**2.3 Escrow.** Upon execution of this Agreement by the parties, Seller shall open an escrow ("Escrow") with Stewart Title, 1200 California Street, Suite 120, Redlands, California, 92373 ("Escrow Holder"). The parties hereto shall execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder as may be required to complete this transaction. Any such instructions shall not conflict with, amend, or supersede any provision of this

Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control.

### **2.3 Buyers Obligations during Escrow.**

2.3.1 Within ninety (90) days following the Effective Date ("Developer Approval Period"), Buyer shall submit an application to the City of Riverside Planning Division ("Planning Division") for:

- (a) A lot line adjustment to consolidate Assessor Parcel No.'s 234-101-028, 234-101-050, and 234-101-058 for development of the Project;
- (b) A Project Design Review of Buyer's proposed development of the Property including site plan and preliminary elevations; and
- (c) Entitlements and environmental clearance for the Project.

## **ARTICLE III CLOSING**

3.1 **Closing Date.** Escrow shall close the earlier of (i) 450 days following expiration of Developer Approval Period, or (ii) 30 days following Buyer obtaining permits (as described in Section 3.2.2) for the Project ("Close of Escrow"). Close of Escrow is subject to Buyer completing all of Buyer's obligations as described in Section 2.3 above and in Section 3.2 below. If the Escrow is not in a condition to close by the Close of Escrow, any party who is not then in default, upon notice in writing to the Escrow Holder and the other party, may demand the return of their documents and cancellation of the Escrow. Unless objected to in writing within ten (10) days from the receipt of the notice of cancellation, the Escrow will automatically be canceled. If no demand for cancellation is made, then Escrow will close as soon as possible. Notwithstanding the foregoing, the Close of Escrow may be extended by mutual agreement if the parties are diligently attempting to resolve the issue(s) that may be preventing or delaying the Close of Escrow.

### **3.2 Closing Documents.**

3.2.1 Seller, prior to the Close of Escrow, shall deliver to Escrow Holder each of the following items, the delivery of each of which shall be a condition to the performance by Buyer of its obligations under this Agreement:

- (a) A grant deed sufficient for recording, conveying the Property; and
- (b) All additional documents and instruments which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

3.2.2 Buyer, prior to the Close of Escrow, shall deliver to Escrow Holder each of the following items, the delivery of each of which shall be a condition to the performance by Seller of its obligations under this Agreement:

- (a) Funding for the Purchase Price of the Property and any additional funds necessary to satisfy Buyer's obligation relating to acquisition of the Property;
- (b) Copies of Buyer's authority documents and/or such other documents evidencing Buyer's due existence and authority to enter into and consummate the transaction contemplated by this Agreement as Seller or Escrow Holder may require;
- (c) Evidence of Project entitlements including grading and building permits and a lot line adjustment to consolidate Assessor Parcel No.'s 234-101-028, 234-101-050, and 234-101-058 for development of the Project;
- (d) Proof of financing and/or cash funding for the construction of the Project, such as a Development Pro-forma that shows the total construction costs and anticipated lease revenue of the Project; and
- (e) Any additional documents and instruments which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

3.3 **Taxes.** Buyer understands and acknowledges that Seller, as a municipal corporation, is not being assessed for any real property taxes or for any special assessments. However, upon the Close of Escrow, Buyer understands and acknowledges that real property taxes and special assessments will be assessed against the Property and Buyer will be responsible for the same. Buyer agrees to hold Seller harmless for any and all real property taxes and/or special assessments on the Property assessed on and after Close of Escrow.

3.4 **Condition of Title.** Seller shall convey fee simple merchantable and insurable title of the Property to Buyer free and clear of all liens, restrictions, delinquent taxes and assessments, and encumbrances as evidenced by a CLTA Title Insurance Policy ("Title Policy") issued by a title insurance company to be selected by Buyer in an amount equal to the purchase price. The Title Policy shall show as exceptions with respect to the Property only matters approved in writing by Buyer. Any exceptions to title representing monetary liens or encumbrances may, at the discretion of Buyer, be disapproved by Buyer, and upon the direction of the Buyer, Escrow Holder is hereby authorized and instructed to cause the re-conveyance or partial re-conveyance, as the case may be, of any such monetary exceptions to Buyer's title to the Property at or prior to the Close of Escrow.

### 3.5 **Costs.**

3.5.1 At the Close of Escrow, and as a debit from the closing proceeds to be paid to Seller, Seller shall be responsible for: (i) one half of the cost of any escrow charges imposed by the Escrow Holder; (ii) the cost for a CLTA standard form of policy of title insurance from Stewart Title of California; and (iii) any other expenses customarily charged to Seller in connection with similar transactions including its own attorney's fees.

3.5.2 At the Close of Escrow, Buyer shall be responsible for: (i) all recording fees and any and all state, county, and local governmental transfer taxes, documentary or otherwise, and/or the cost of documentary stamps to be affixed to the instrument or instruments of conveyance; (ii) the cost of an extended ALTA owners title policy and associated costs (if Buyer desires); (iii) one half of the cost of escrow charges to be imposed by the Escrow Holder; (iv) any taxes disclosed in Section 3.3 and (iv) any other expenses customarily charged to Buyer in connection with similar transactions including its own attorney's fees.

3.6 **Brokerage Commissions.** Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or person, who can claim a commission or finder's fee as a procuring cause of the sale contemplated in this Agreement. If any broker or finder perfects a claim for a commission or finder's fee based on any contract, dealings, or communication with a party (Indemnifying Party), then the Indemnifying Party shall indemnify, defend, and hold the other party (Nonindemnifying Party) harmless from all costs and expenses (including reasonable attorney fees and costs of defense) incurred by the Nonindemnifying Party in connection with such claim.

## **ARTICLE IV "AS-IS" PURCHASE**

4.1 **As-Is Information.** Buyer acknowledges, agrees, represents, and warrants that: (a) any information supplied or made available by Seller, whether written or oral, or in the form of maps, surveys, plats, soils reports, engineering studies, environmental studies, inspection reports, plans, specifications, or any other information whatsoever, without exception, pertaining to the Property, any and all records and other documents pertaining to the use of the Property, income thereof, the cost and expenses of maintenance thereof, and any and all other matters concerning the condition, suitability, integrity, marketability, compliance with law, or other attributes or aspects of the Property, or a part thereof, if furnished to Buyer, is furnished solely as a courtesy; (b) THE INFORMATION IS PROVIDED ON AN "AS-IS, WHERE-IS" BASIS AND SELLER MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE INFORMATION; and (c) no representations have been made by Seller, or its agents or employees, in order to induce Buyer to enter into this Agreement. Without limiting the generality of the foregoing, Buyer acknowledges, agrees, warrants and

represents to Seller that neither the Seller nor its agents or employees have made any representations or statements to Buyer concerning the Property's investment potential or resale at any future date, at a profit or otherwise, nor has Seller or its agents or employees rendered any advice or expressed any opinion to Buyer regarding any tax consequences of ownership of the Property.

4.2 **As-Is Property.** On the Close of Escrow, Buyer will be familiar with the Property and will have made such independent investigations as Buyer deems necessary or appropriate concerning the Property. Seller makes no representations or warranties and specifically disclaims any representation, warranty or guaranty, oral or written, past, present or future with respect to the use, physical condition or any other aspect of the Property, the conformity of the Property to past, current or future applicable zoning or building code requirements or the compliance with any other laws, rules, ordinances, or regulations of any government or other body, the financial earning capacity or expenses history of the operation of the Property, the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition, or otherwise, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill, susceptibility to landslides, sufficiency of undershoring, sufficiency of drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or nonexistence of hazardous waste or other toxic materials of any kind, whether known or unknown and whether or not regulated or governed by applicable laws (including, without limitation, hydrocarbons or asbestos), or any other matter affecting the condition, stability, suitability or integrity of the Property or portion thereof.

4.3 **Negligence or Failure to Investigate.** Seller shall not be responsible for any negligent misrepresentation or failure to investigate the Property on the part of Seller, any real estate broker or agent, or any other agent, contractor or employee of Seller or any third party.

4.4 **As-Is. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING SOLD AND ACCEPTED ON AN "AS-IS, WHERE-IS" BASIS, AND IS BEING ACCEPTED WITHOUT ANY REPRESENTATION OR WARRANTY. IF BUYER ELECTS TO PROCEED WITH THE PURCHASE OF THE PROPERTY, ANY OBJECTIONS WHICH BUYER MAY HAVE WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL MATTERS, HAZARDOUS SUBSTANCES, WASTES OR TOXIC MATERIALS THAT MAY BE LOCATED ON, UNDER OR ABOUT THE PROPERTY, WHETHER KNOWN OR UNKNOWN) SHALL BE WAIVED BY BUYER.**

4.5 **Past Uses. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES AS PART OF ITS ACCEPTANCE OF THE PROPERTY ON AN "AS-IS, WHERE-IS" BASIS THAT BUYER IS AWARE OF ALL PRIOR USES OF THE PROPERTY THAT MAY LEAD TO CONTAMINATION OF THE PROPERTY. BUYER HAS OBTAINED AND READ ALL ENVIRONMENTAL ASSESSMENTS REGARDING THE PROPERTY WHICH A REASONABLY DILIGENT BUYER WOULD HAVE OBTAINED PRIOR TO**

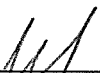
THE PURCHASE THEREOF. BUYER ASSUMES ALL RESPONSIBILITY FOR ANY CONTAMINATION THAT IS PRESENT ON THE PROPERTY DUE TO PRIOR AND/OR EXISTING USES OF THE PROPERTY.

4.6 **Waivers.** AS PART OF BUYER'S AGREEMENT TO PURCHASE AND ACCEPT THE PROPERTY "AS-IS, WHERE-IS", AND NOT AS A LIMITATION ON SUCH AGREEMENT, BUYER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS BUYER MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, RELATING TO THE PROPERTY AND IT IMPROVEMENTS. SUCH WAIVER IS ABSOLUTE, COMPLETE, TOTAL AND UNLIMITED IN ANY WAY. SUCH WAIVER INCLUDES, BUT IS NOT LIMITED TO, A WAIVER OF EXPRESS WARRANTIES, IMPLIED WARRANTIES, WARRANTIES OF FITNESS FOR A PARTICULAR USE, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF HABITABILITY, STRICT LIABILITY RIGHTS AND CLAIMS OF EVERY KIND AND TYPE, INCLUDING, BUT NOT LIMITED TO, CLAIMS REGARDING DEFECTS WHICH WERE NOT OR ARE NOT DISCOVERABLE, ANY RIGHTS AND CLAIMS RELATING OR ATTRIBUTABLE TO ENVIRONMENTAL CONDITIONS, ALL OTHER ACTUAL OR LATER CREATED OR CONCEIVED OR STRICT LIABILITY OR STRICT LIABILITY TYPE CLAIMS AND RIGHTS.

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH IS SET FORTH BELOW:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

BY INITIALING BELOW, BUYER HEREBY WAIVES THE PROVISIONS OF SAID SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING ACKNOWLEDGMENTS, WAIVERS AND RELEASES SET FORTH IN THIS ARTICLE 4.

  
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Buyer's Initials

## **ARTICLE V REPRESENTATIONS AND WARRANTIES**

**5.1 Seller's Representations, Warranties and Covenants.** Seller hereby represents, warrants and covenants to Buyer as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

5.1.1 Seller is a public body and has the full power and authority to enter into and carry out the agreements contained in, and transactions contemplated by, this Agreement. The person(s) signing this Agreement and any documents and instruments in connection herewith on behalf of Seller have full power and authority to do so. This Agreement has been duly authorized and executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Seller.

5.1.2 There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Seller or filed by Seller, or to the best of Seller's knowledge, pending in any current judicial or administrative proceeding against Seller.

5.1.3 Seller has not entered into any other written contracts or agreements for the sale or transfer of any portion of the Property.

5.1.4 To Seller's knowledge, Seller has received no written notice of any hazardous materials located on, under, or about the Property, except as disclosed to Buyer.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Buyer's obligations hereunder. Prior to the Close of Escrow, Seller shall notify Buyer of any facts or circumstances which are contrary to the foregoing representations and warranties.

**5.2 Buyer's Representations and Warranties.** Buyer hereby represents, warrants and covenants to Seller as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

5.2.1 Buyer has the full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by this Agreement. The person(s) signing this Agreement and any documents and instruments in connection herewith on behalf of Buyer have full power and authority to do so. This Agreement has been duly authorized and executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Buyer.

5.2.2 There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Buyer or filed by Buyer, or to the best of Buyer's knowledge, pending in any current judicial or administrative proceeding against Buyer.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Seller's obligations hereunder. Prior to the Close of Escrow, Buyer shall notify Seller of any facts or circumstances which are contrary to the foregoing representations and warranties.

5.3 **No Warranties.** Except for those representations and warranties expressly set forth in this Agreement, the parties understand and acknowledge that no person acting on behalf of Seller is authorized to make, and by execution hereof Buyer acknowledges that no person has made any representations, agreement, statement, warranty, guaranty or promise regarding the Property or the transaction contemplated herein, or regarding the zoning, construction, development, physical condition or other status of the Property. Without limiting the generality of the foregoing, Seller makes no representation or warranties with respect to the amount or types of fees required to obtain building permits or otherwise to rezone and develop the Property.

## **ARTICLE VI BUYER'S OBLIGATION AFTER CLOSE OF ESCROW RIGHT OF FIRST REFUSAL**

### **6.1 Buyers Obligations after Closing.** Following the Close of Escrow:

6.1.1 Buyer shall comply with all zoning, planning and building laws, regulations, and procedures imposed by the City and any other public and/or quasi-public entity, as well as adhering to the design standards of the Magnolia Specific Plan and the Title 20 of the Riverside Municipal Code.

6.1.2 Buyer shall construct a 6,050 square foot office building and a 3,241 square foot retail building to be operated as a restaurant on the Property and obtain a Certificate of Occupancy before such development may be deemed fully developed.

6.1.3 Buyer shall commence construction not later than ninety (90) days after Close of Escrow, subject to force majeure delays (including, without limitation, acts of destruction by nature). Notwithstanding the foregoing, upon mutual written agreement of the parties, the construction deadline may be extended for up to three (3) months.

6.1.4 Buyer shall complete construction within three hundred sixty five (365) days from start of construction.

6.1.5 **Completion Bond Requirement:** When applying for a building permit of any phase of the Project, Buyer shall submit to the Seller a written estimate of the anticipated construction cost of the phase for which the permit is being sought. Prior to the issuance of a

building permit for such phase, Buyer shall supply Seller with a completion bond (or equivalent) equal to one hundred (100) percent of the estimated construction cost of the phase, based on the plans approved by the City for the applicable building. Buyer agrees to comply with these requirements until completion of all phases of the Project.

Buyer further agrees that if a building permit is issued for any phases of the Project, once construction has commenced on such permitted phase, and construction stops for any reason other than a Force Majeure Event for a period greater than one hundred twenty (120) calendar days, then the seller may, upon thirty (30) days prior written notice to Buyer, elect to either (i) complete the construction of the permitted phase or (ii) remove the building and/or improvement. If after the thirty (30) day notice period, Buyer has not mobilized either (a) a construction crew to complete construction of the permitted phase or (b) a demolition crew to remove the building and/or improvement, Seller may use the performance bond provided by the Buyer to complete or remove the building and/or improvements.

6.1.6 Prior to commencing construction of any portion of the Project, Buyer shall provide to Seller a performance bond equal to one hundred percent (100%) of the estimated construction cost of the portion of the Project then being constructed.

6.2 **Sale to a Tax-Exempt Entity Prohibited.** Buyer is prohibited from selling or transferring the Property to any entity that is exempt from paying real property taxes.

## **ARTICLE VII DEFAULTS**

7.1 **Default.** A party shall be deemed in default hereunder if any of the warranties or representations set forth herein are or become untrue or if it fails to meet, comply with, or perform any covenant, agreement, or obligation on its part required within the time limits and in the manner required in this Agreement for any reason other than a default by the other party hereunder or termination of this Agreement prior to Close of Escrow.

7.2 **Opportunity to Cure.** No act, failure to act, event or circumstance which might be deemed to be a default by either party shall be deemed to be a default under any of the provisions of this Agreement, unless and until, notice thereof is first given by the non-defaulting party to the party alleged to be in default and said party fails to cure the alleged default within fifteen (15) business days in the case of a non-monetary default, or five (5) business days in the case of a monetary default. The parties agree that all notices of default in order to be effective must state with reasonable specificity (a) the nature of the default, (b) the reasonable actions which the defaulting party must take to cure such default, and (c) the time in which such action must be taken. In the event that a default cannot be cured within a fifteen (15) day period, as long as the defaulting party is diligently attempting to cure such default, the parties can mutually agree to extend the time period in which the default must be cured.

7.3 **Remedies.** If Buyer is deemed to be in default hereunder, Seller shall be entitled to termination of this Agreement.

7.4 **Waiver of Right to Specific Performance.** If Seller fails to convey the Property to Buyer in accordance with the provisions of this Agreement, and such failure constitutes a default under this Agreement, Buyer shall not have the right to receive any equitable relief, including without limitation the right to record a lis pendens against the Property under applicable law or to pursue the specific performance of this Agreement.

7.5 **Liquidated Damages.** BUYER AND SELLER AGREE THAT AT THE TIME THIS AGREEMENT IS MADE AND ENTERED INTO, SELLER'S DAMAGES UPON DEFAULT BY BUYER UNDER THIS AGREEMENT ARE EXTREMELY DIFFICULT OR IMPOSSIBLE TO CALCULATE AND BUYER AND SELLER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES SET FORTH HEREIN IS A REASONABLE ESTIMATE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME THIS AGREEMENT IS MADE OF THE DAMAGES SELLER WOULD SUSTAIN BECAUSE OF SUCH DEFAULT BY BUYER UNDER THIS AGREEMENT. FURTHER, BUYER DESIRES TO HAVE A LIMIT PLACED ON THE AMOUNT OF DAMAGE TO BE PAID TO SELLER UPON BUYER'S DEFAULT. BUYER HEREBY AGREES THAT SHOULD BUYER DEFAULT IN THE PERFORMANCE OF BUYER'S OBLIGATION AFTER CLOSE OF ESCROW, SELLER SHALL BE ENTITLED TO THE SUM OF FIVE THOUSAND DOLLARS (\$5,000.00) AS LIQUIDATED DAMAGES FROM BUYER. THE FOREGOING PROVISIONS OF THIS SECTION 7.5 CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO SELLER AS A RESULT OF A DEFAULT BY BUYER OF ITS OBLIGATIONS UNDER THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 7.5 DO NOT LIMIT ANY DAMAGES DUE SELLER BY REASON OF BUYER'S ENTRY ONTO THE PROPERTY PURSUANT TO SECTIONS 1.3.

  
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Buyer's Initials

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Seller's Initials

## ARTICLE VIII MISCELLANEOUS

8.1 **CEQA Compliance.** Buyer and Seller understand, acknowledge and agree that the close of this escrow is contingent upon Seller's compliance with the California Environmental Quality Act ("CEQA"). Buyer must comply with CEQA prior to development of the Property.

8.2 **Exhibits.** All Exhibits annexed hereto are a part of this Agreement for all purposes.

8.3 **Assignability.** Buyer may, at any time prior to the Close of Escrow, assign all of its rights, title, and interest in and to this Agreement to any affiliate or any subsidiary with the consent of Seller, otherwise, this Agreement is not assignable. Seller's consent shall not be unreasonably withheld. As used herein, an "affiliate" or "subsidiary" shall mean any entity which is controlled by or is under common control with Buyer.

8.4 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective successors and permitted assigns.

8.5 **Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

8.6 **Number and Gender of Words.** Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

8.7 **Notices.** All notices, terminations, waivers and other communications hereunder shall be in writing and shall be delivered personally or shall be sent by registered or certified United States mail or a nationally recognized, overnight courier service, postage prepaid, and addressed as follows:

If to Seller:                      Successor Agency for the Redevelopment Agency  
Community & Economic Development Department -  
Real Property Services Division  
3900 Main Street  
Riverside, CA 92522  
Attn: David Welch, Real Property Services Manager  
Phone: (951) 826-5665  
Facsimile: (951) 826-5744

If to Buyer:                      Mike Sadeghian  
3570 Van Buren Boulevard  
Riverside, CA 92503  
Phone: (951) 660-1035

Any notice in accordance herewith shall be deemed received when delivery is received or refused, as the case may be. Additionally, notices may be given by telephone facsimile transmission, provided that an original of said transmission shall be delivered to the addressee by a nationally recognized overnight delivery service on the business day following such transmission. Telephone facsimiles shall be deemed delivered on the date of such transmission.

**8.8 Governing Law and Venue.** The laws of the State of California shall govern the validity, construction, enforcement, and interpretation of this Agreement. All claims, disputes and other matters in question arising out of or relating to this Agreement, or the breach thereof, shall be decided by proceedings instituted and litigated in the state court in the County of Riverside, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

**8.9 Entirety.** This Agreement embodies the entire agreement between the parties and supersedes all prior written or oral agreements and understandings, if any, between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto, relating to the subject matter contained in this Agreement which are not fully expressed herein.

**8.10 Amendments.** This Agreement may be amended or supplemented only by written documents signed by the parties or their designated representatives as designated at the time of execution of this document.

**8.11 Severability.** If any of the provisions of this Agreement, or its application to any party or circumstance, is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to make such provision legal, valid, and enforceable.

**8.12 Further Acts.** In addition to the acts and deeds recited herein and contemplated and performed, executed and/or delivered by Seller and Buyer, Seller and Buyer agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Close of Escrow or after the Close of Escrow any and all such further acts, deeds, and assurances as may be necessary to consummate the transactions contemplated herein.

**8.13 Construction.** No provision of this Agreement shall be construed in favor of, or against, any particular party by reason of any presumption with respect to the drafting of this Agreement; both parties, being represented by counsel, having fully participated in the negotiation of this instrument.

**8.14 Time of the Essence.** It is expressly agreed by the parties hereto that time is of the essence with respect to each and every provision of this Agreement.

**8.15 Attorneys' Fees.** In the event that any party hereto institutes an action or proceeding to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees and costs incurred, in addition to any other damages or relief awarded.

**8.16 Waiver of Covenants, Conditions or Remedies.** The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any other remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other remedies unless they are expressly excluded.

**8.17 Nondiscrimination.** The parties shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical or mental disability, medical conditions, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, genetic expression, sex or sexual orientation, in connection with the performance of this Agreement. The parties further agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

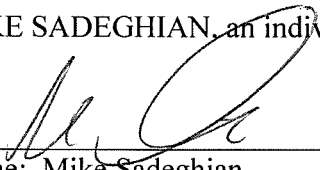
**8.18 Ratification.** This Agreement may be subject to the approval and ratification by the City of Riverside. In the event the City fails to approve this Agreement, there shall be no liability on the part of the Seller and this Agreement shall become null and void and of no further force and effect.

**8.19 Counterparts.** This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one original agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first set forth above.

CITY OF RIVERSIDE AS  
SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF  
THE CITY OF RIVERSIDE,  
a public body

MIKE SADEGHIAN, an individual

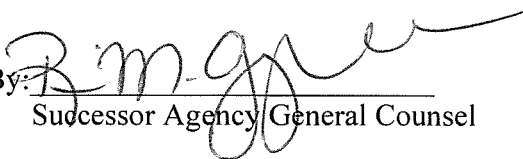
By:   
Name: Mike Sadeghian

By: \_\_\_\_\_  
City Manager, on behalf of the  
Successor Agency to the  
Redevelopment  
Agency of the City of Riverside

Attest:

By: \_\_\_\_\_  
City Clerk, on behalf of the  
Successor Agency to the  
Redevelopment  
Agency of the City of Riverside

Approved as to form:

By:   
Successor Agency General Counsel

**EXHIBIT "A"**

**LEGAL DESCRIPTION AND PLAT MAP**

**(Inserted behind this page)**

**EXHIBIT "A"**

A.P.N's. 234-101-028, 234-101-050 and 234-101-058

**PARCEL 1**

That certain real property in the City of Riverside, County of Riverside, State of California, described as follows:

Lot 47 together with Lots 48, 49 and 50 of Taft Tract, as shown by map on file in Book 7, Page 15 of Maps, Records of Riverside County, California;

**TOGETHER** with that portion of Lot 4 in Block 26 of Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, Records of San Bernardino County, California, described as follows:

**BEGINNING** at the most Westerly corner of said Lot 4;

THENCE Northeasterly along the Northwestern line of said Lot 4, to the most Westerly corner of Lot 47 of said Taft Tract;

THENCE Southeasterly along the Southwesterly line of said Lot 47, a distance of 150 feet to the most Southerly corner thereof;

THENCE Southwesterly parallel to the Northwestern line of said Lot 4, to the Southwesterly line thereof;

THENCE Northwesternly along the Southwesterly line of said Lot 4 to the most Westerly corner thereof, and to the **POINT OF BEGINNING**;

**EXCEPTING** therefrom the Northwesternly 11.00 feet of the above described Parcel of land;

**ALSO EXCEPTING** therefrom that portion conveyed to the City of Riverside by deed recorded December 27, 1972 as Instrument No. 169994 of Official Records of Riverside County, California;

**ALSO EXCEPTING** therefrom the Northeasterly 3.00 feet of Lot 50 of said Taft Tract

**ALSO EXCEPTING** therefrom Parcel "A" of a Certificate of Compliance For Lot Line Adjustment issued by the City of Riverside and recorded May 1, 2008 as Document No. 2005-0224356 of Official Records of Riverside County, California.

Area – 0.88 Ac. More or less

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

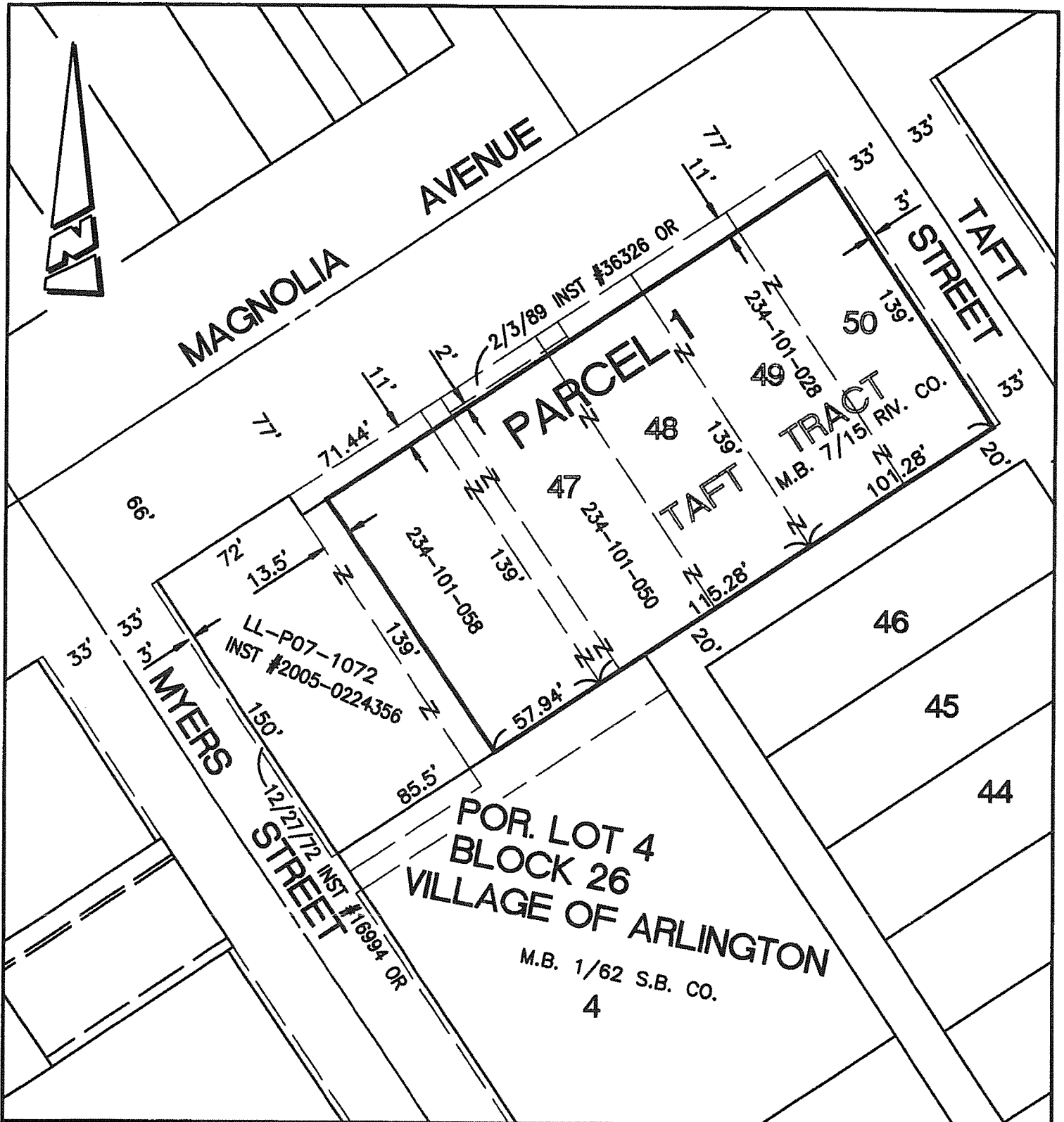
Curtis C. Stephens 9/10/14 Prep. CS  
Curtis C. Stephens, L.S. 7519 Date



2014-0356425  
09/19/2014 09:19A  
3 of 4



2014-0356425  
69/19/2014 09:19A  
4 of 4



• CITY OF RIVERSIDE, CALIFORNIA •

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

SHEET 1 OF 1

SCALE: 1"=60'

DRAWN BY: CURT

DATE: 9/03/14

SUBJECT: MAGNOLIA/TAFT SURPLUS PROPERTY

**EXHIBIT “B”**

**PROJECT DESCRIPTION**

**(Inserted behind this page)**

### PROJECT DESCRIPTION

Buyer shall construct on the Property a 6,050 square foot office building and a 3,241 square foot retail building to be operated as a restaurant.

ORIGIN

**EXHIBIT "C"**

**COVENANT TO RESTRICT USE OF PROPERTY**

**(Inserted behind this page)**

WHEN RECORDED MAIL TO:

City Clerk  
City of Riverside  
City Hall, 3900 Main Street  
Riverside, CA 92522

Project: 9655 and 9670 Magnolia Avenue  
APNs: 234-101-028, 234-101-050, and  
234-101-058

For Recorder's Office Use Only

**COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS  
(Future Use)**

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by **MIKE SADEGHIAN** ("Declarant") with reference to the following facts.

**RECITALS**

- A. Declarant is the fee owner of the real property located at 9655 and 9670 Magnolia Avenue, Riverside, California (the "Property") as legally described on Exhibit "A" which is attached hereto and incorporated herein by reference.
- B. Property is located in the Magnolia Specific Plan.
- C. Per the Purchase and Sale Agreement dated: \_\_\_\_\_, Declarant purchased the property from the Successor Agency to the Redevelopment Agency of the City of Riverside and as a condition of the sale, City is requiring Declarant to execute and record a covenant restricting property uses to only those uses permitted by the Magnolia Specific adopted in November 10, 2009.
- D. Declarant offers and agrees to record a covenant and agreement to put future owners, lessees, successors and assigns on notice of the Magnolia Specific Plan use restrictions.

NOW, THEREFORE, incorporating the above recitals and for the purposes of complying with the condition of approval and putting future owners, lessees, successors and assigns on notice, Declarant hereby covenants and agrees to the following covenants, conditions, and restrictions.

1. The following uses are prohibited in the Magnolia Specific Plan – Arlington District.

a) Home Improvement, Sales and Service (Hardware, Lumber and Building Material Stores) – Retail over 20,000 square feet in area except in the La Sierra and Galleria Districts, Home Improvement over 20,000 square feet in the area may be allowed with a conditional use permit.

b) Vehicle Related Uses – when fronting onto Magnolia Avenue or are readily visible from the corridor. Prohibited vehicle related uses include vehicle dismantling and wrecking, fuel stations, impound yards, vehicle repair, sales, rental and leasing and was facilities as defined in Article X of Title 19 (Zoning Code).

c) Drive-thru Businesses – when fronting onto Magnolia Avenue or are readily visible from the corridor.

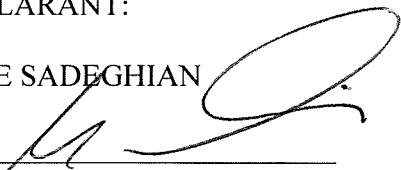
2. The terms of this Covenant and Agreement and Declaration of Restrictions may be enforced by the City of Riverside, and its successors and assigns. Should the City bring an action to enforce the terms of this Covenant and Agreement and Declaration of Restrictions, the prevailing party shall be entitled to court costs, including reasonable attorney's fees.

3. This Covenant and Agreement and Declaration of Restrictions shall run with the land and each and all of its terms shall be binding upon the Declarant, its heirs, successors and assigns, and shall continue in effect until such time as released the Community & Economic Development Director of the City of Riverside, California, by a writing duly recorded.

IN WITNESS WHEREOF, Declarant has caused this Covenant and Agreement and Declaration of Restrictions to be executed as of the day and year first written above.

DECLARANT:

MIKE SADEGHIAN

By: 

Name: Mike Sadeghian

Its:

APPROVED AS TO FORM

APPROVED AS TO CONTENT

\_\_\_\_\_  
Rina M. Gonzales  
Deputy City Attorney

\_\_\_\_\_  
Community & Economic Development  
Director

## EXHIBIT "A"

A.P.N's. 234-101-028, 234-101-050 and 234-101-058

### PARCEL 1

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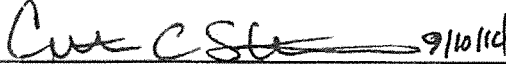
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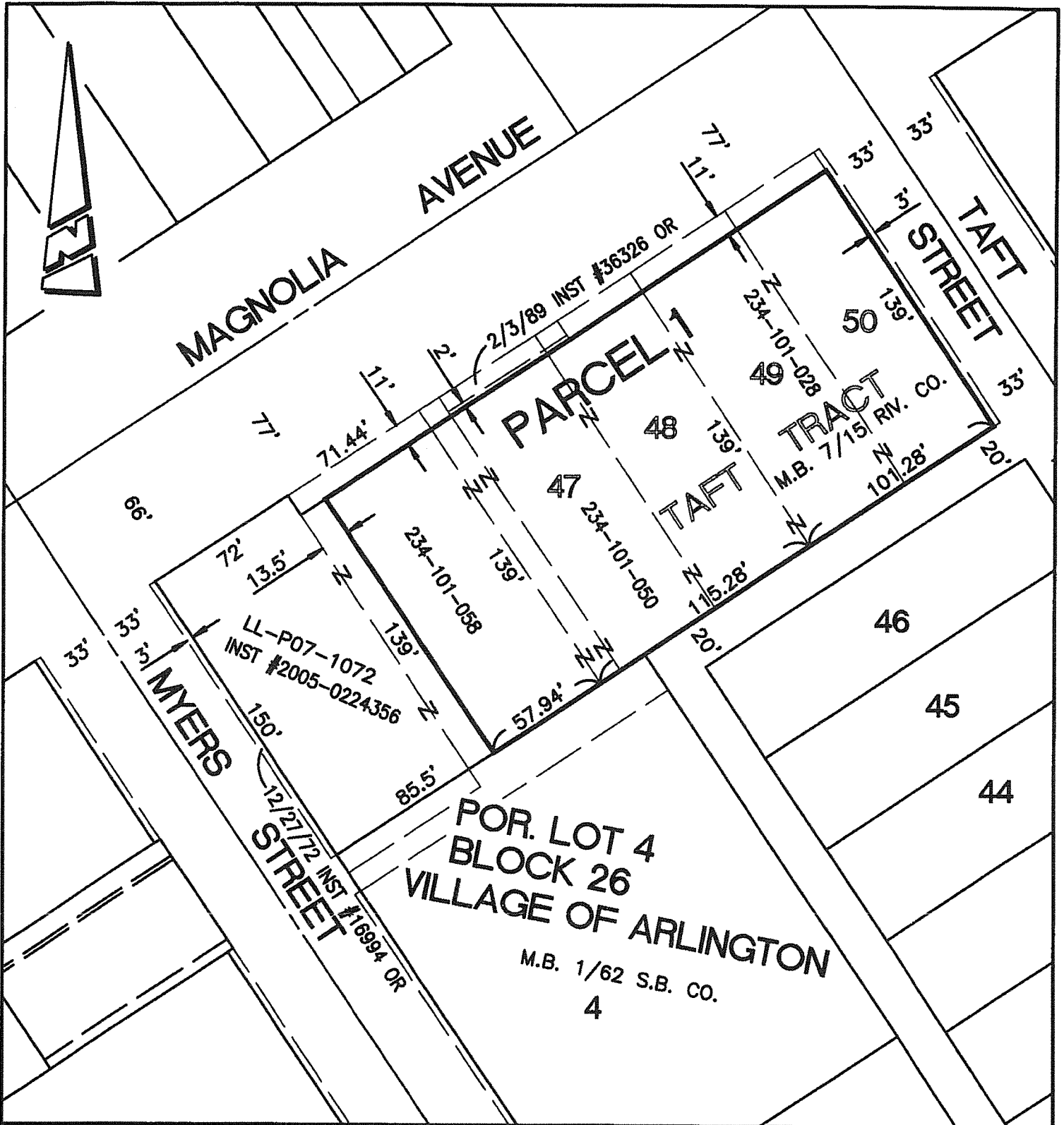
Area – 0.88 Ac. More or less

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 9/10/14 Prep.   
Curtis C. Stephens, L.S. 7519 Date



2014-0356425  
09/19/2014 09:19A  
3 of 4



• CITY OF RIVERSIDE, CALIFORNIA •

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SHEET 1 OF 1

SCALE: 1"=60'

DRAWN BY: CURT

DATE: 9/03/14

SUBJECT: MAGNOLIA/TAFT SURPLUS PROPERTY

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

### ACKNOWLEDGMENT

State of California  
County of Riverside

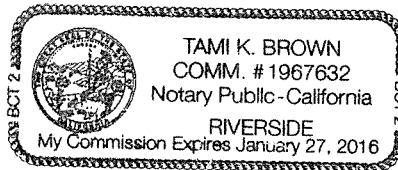
On June 10, 2015, before me, Tami K. Brown, a  
notary public, personally appeared Mike Sadeghian, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their 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.

Tami K. Brown

Signature



(SEAL)