

LICENSE AGREEMENT

MARIA PADILLA DOING BUSINESS AS DOÑA TIMOS LA CASCADA

THIS LICENSE AGREEMENT ("License") is made and entered into this 20 day of May, 2015 by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), and MARIA PADILLA, a sole proprietor doing business as ("DBA") DOÑA TIMOS LA CASCADA ("Licensee").

RECITALS

- A. City owns that certain property located at 3843 Orange Street, between University Avenue and Mission Inn Avenue, Riverside, California known as Parking Garage 1 ("Property"). The City utilizes this property as a parking structure.
- B. Licensee desires to use a portion of the Property for its trash enclosure.
- C. City is agreeable to said use subject to the terms and conditions set forth below.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **GRANT OF LICENSE:** City hereby grants to Licensee use of a portion of the Property as generally depicted on Exhibit "A" attached hereto and made a part hereof by this reference ("Premises"), for a trash enclosure.
2. **TERM:** The term of this License shall be for a period of five (5) years, and shall become effective upon execution of this License by both parties ("Effective Date"), and shall terminate five (5) years from the Effective Date unless this License is earlier terminated pursuant to the termination provisions pursuant to paragraph 20. After the initial five (5) year term, the term of this license shall be automatically renewed on an annual basis.
3. **USE OF PREMISES:** The Premises shall be used solely for the purpose of Licensee to place their trash receptacle and for no other purpose. Such use shall not interfere with the primary function of the City's use of the Property. Licensee shall be subject to the following terms and conditions:
 - (a) Licensee shall comply with all applicable City ordinances and shall place all solid waste and recyclables in the trash containers or receptacles so as not to overfill them.
 - (b) Licensee's disposal shall be limited to disposal of solid Waste and recyclables generated at Licensee's Business. Licensee shall not overfill containers. Licensee shall not import solid waste from any other location for disposal in Premises. Licensee shall not permit solid waste to accumulate outside of the Premises.

(c) A neat and clean appearance, and safe and sanitary conditions, are required and are considered of utmost importance by City. At all times, Licensee shall maintain the Premises and immediately adjacent area clean and free from overfill, excessive solid waste and spillage of solid waste. Licensee shall strictly comply with all maintenance obligations created by this License including those contained in Section 6.

(d) Licensee shall arrange, at Licensee's expense, sufficient solid waste pick-ups per week with franchisee waste hauler. Licensee shall arrange for as many additional pick-ups as may be required to avoid overfill and spillage of solid waste and to maintain the Premises neat, clean and free from excessive solid waste.

(e) Licensee also agrees to assume all liability resulting from injury or damage to any person or entity caused by Licensee's exercise of License rights granted herein.

(f) Licensee shall take no action to interfere with access to the Premises and shall not permit solid waste to accumulate outside of, adjacent to or immediately surrounding the Premises. Licensee agrees to maintain the Premises and its immediately adjacent area in a neat and clean condition free of all weeds, trash and solid waste, and to keep the adjacent walls, fences, gates, signs and any other improvements free from graffiti.

(g) City makes no representation, covenant, warranty or promise, that the Premises is fit for any particular use, including the use for which this License is granted and Licensee is not relying on any such representation, covenant, warranty or promise and accepts the Premises in its "as is" condition.

(h) Licensee shall make no improvement to the Premises without the express written permission of City, other than regular maintenance.

(i) Licensee shall execute all documents that may be required for the purpose of carrying out the intent of this License. Any failure to cooperate by Licensee and any violation of Section 3 (a)-(i) of this agreement shall be deemed a material breach of and grounds for revocation and lockout.

(j) Licensee shall keep the Premises locked at all times.

(k) Licensee shall maintain the Premises in a neat, clean and safe condition at all times.

4. **NON-DISCRIMINATION:** Except as provided in Section 12940 of the California Government Code, during Licensee's performance of this License, Licensee shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical handicap, medical condition, including the medical condition of Acquired Immune

Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, gender expression, sex or sexual orientation in use of the Premises during the term of this License. Further, Licensee agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this License.

5. **SUPERVISION:** Licensee shall be responsible for supervision and monitoring of all activities on the Premises, including control of access to the Premises at all times, and monitoring and abatement of any nuisance that is caused, or may be caused, by Licensee or Licensee's use.

6. **MAINTENANCE:** The Premises shall be maintained by Licensee in a clean and orderly condition, including but not limited to free from rodents, insects, pests, trash and debris and all in compliance with all applicable provisions of the Riverside Municipal Code. A neat and clean appearance, and safe and sanitary conditions are required and are considered of utmost importance by City.

7. **FLAMMABLES, WASTE AND NUISANCES:** Licensee agrees that it will not place or store, or allow any placement or storage of any hazardous waste, hazardous material, or flammable materials within the boundaries of the Premises, and that it will not commit any waste upon or damage to the Premises, nor suffer any to be done. Licensee also specifically agrees that it will not allow others to take such actions within the boundaries of the Premises or in any trash receptacle. Licensee further agrees that it will keep the Premises clean, free from rubbish and debris, and in a condition satisfactory to City in accordance with Section 6.

8. **HAZARDOUS SUBSTANCES INDEMNITY:** Licensee expressly agrees to and shall indemnify, defend, release and hold the City, its officers, officials, directors, agents, servants, and employees harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up, and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Premises by Licensee, its officers, directors, agents, servants, or employees. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this License.

9. **HAZARDOUS SUBSTANCES DEFINED:** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, *et seq.*; The Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); The Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; The Clean Water Act, 33 U.S.C. § 1251, *et seq.*; The Hazardous Waste Control Act, California Health and Safety Code ("H. & S.C.") § 25100, *et seq.*; the Hazardous Substance Account Act, H. & S.C. § 25330, *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, *et seq.*; Underground Storage of Hazardous Substances H. & S.C. § 25280, *et seq.*; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H. & S.C. § 25300 *et seq.*); The Hazardous Waste Management Act, H. & S.C. § 25170.1, *et seq.*; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 *et seq.*; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, *et seq.*, all as amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

10. **UTILITIES:** There currently is no utility service to the Premises. The City shall be under no obligation to provide any utility service of any kind to the Premises during the term of this License. If Licensee determines utilities are required for Licensee's use of the Premises, Licensee shall arrange and pay directly for all new utilities and services supplied to the Premises, including but not limited to water, electricity, telephone, and natural gas, together with any taxes thereon.

11. **TAXES:** Without admitting any such liability, Licensee recognizes and understands that this License may create a possessory interest subject to property taxation pursuant to California Revenue and Taxation Code Section 107 and that Licensee may be subject to the payment of property taxes levied on such interest if such a determination is made by the Riverside County Tax Assessor or other government entity with the authority to make such determinations. All taxes and assessments which become due and payable with respect to the Premises, and any improvements thereon, shall be the sole responsibility of Licensee, and any such payments shall not reduce any payment due City hereunder.

If Licensee shall, in good faith, desire to contest the validity, the imposition, or the amount of any tax or assessment or any other governmental charge herein agreed to be paid by Licensee, Licensee shall be permitted to do so; provided, however, the Licensee shall not permit or allow any lien to be placed or assessed upon the Premises or any improvements thereon.

12. **CITY'S RIGHT TO INSPECT:** City shall have the right to inspect the Premises at any time to ensure compliance with the terms of this License. Any repairs or specific actions

found necessary as a result of inspections and which are the responsibility of Licensee shall be made promptly by Licensee, but in no event shall such repairs be initiated by Licensee later than two (2) calendar days after receipt of written notification of the need for such repairs and/or specific actions, and such repairs and/or specific actions shall be completed within two (2) days after receipt of such notification.

13. **FREE FROM LIENS OR CLAIMS:** Licensee shall keep the Premises free from any mechanics' or materialmen's liens or other liens of any kind or nature for any work done, labor performed, or material furnished thereon at the insistence of or on account of Licensee, and Licensee further agrees to indemnify and save harmless City from and against any and all claims, liens, demands, costs and expenses of whatsoever nature for any such work done, labor performed, or materials furnished. The City at any time may post and keep posted on the Premises appropriate notices to protect the City against the claims of any such persons, firms or corporations.

14. **INSURANCE:** Prior to City's execution of this License, Licensee shall obtain, and shall thereafter maintain during the term of this License at Licensee's sole expense, such commercial general liability insurance as required to insure Licensee against damages for personal injury, including accidental death, as well as from claims for property damage which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Licensee.

(a) All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California, with a liability rating of A or higher, and a financial rating of at least VII.

(b) Licensee's commercial general liability policy shall cover both bodily injury (including death) and property damage (including but not limited to premises-operations liability, products-completed operations liability, independent contractors liability, personal injury liability, and contractual liability), in an amount not less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

(c) These minimum amounts of coverage shall not constitute any limitation or cap on Licensee's indemnification obligations under Section 16 hereof.

(d) Insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this License, for both commercial general and auto liability, shall be filed with City and shall include City, their officers, agents and employees as additional insureds. Said policies shall be in the usual form of commercial general liability insurance, but shall include the following:

"It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy."

(e) The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail.

(f) City, its agents and employees make no representation that the limits of the insurance specified to be carried by Licensee pursuant to this License are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, Licensee will obtain such additional insurance coverage as Licensee deems adequate, at Licensee's sole expense.

15. **NONINTERFERENCE WITH USE:** Licensee's use of the Premises and the exercise of the rights herein granted shall not in any manner whatsoever interfere with the City's operations. City shall at all times have access to the Premises. The rights herein granted are not exclusive rights and in no way limit the City's use of the Premises for purposes not inconsistent with the uses granted herein.

16. **INDEMNIFICATION:** Except as to the sole negligence or willful misconduct of City, Licensee shall protect, defend, indemnify, and hold City and its officers, agents, employees and volunteers completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this License and/or the use or occupancy of the Premises or the acts or omissions of Licensee's officers, agents, employees, contractors, subcontractors, licensees, invitees or guests, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the negligence or willful misconduct of City and/or its officers, employees or agents. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Licensee or any of Licensee's officers, agents, employees, contractors, subcontractors, licensees, invitees or guests. City shall give Licensee reasonable notice of any such claims or actions. Licensee shall use counsel reasonably acceptable to City in carrying out its obligations hereunder.

The parties expressly agree that any payment, attorney fee, cost or expense City may incur or makes to or on behalf of an injured employee under City's self-administered workers' compensation program is included as a loss, expense or cost for the purpose of this section, and that this section shall survive termination of this License.

17. **ASSIGNMENTS:** This License is personal to Licensee, and Licensee shall not assign or transfer this License or any privilege thereunder, in whole or in part, and any attempt so to do shall be void and shall confer no right on any third party.

18. **NON-POSSESSORY INTEREST:** No permanent or possessory interest shall accrue to Licensee in the licensed Premises by reason of this License or by exercise of the permission given and Licensee agrees to claim no such interest.

19. **GOVERNING LAW AND JURISDICTION:** Licensee agrees that in the exercise of its rights under this License, Licensee shall comply with all applicable federal, state, county and local laws, and regulations in connection with its use of the licensed Premises. The existence, validity, construction, operation and effect of this License and all of its terms and provisions shall be determined in accordance with the laws of the State of California. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this License shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

20. **TERMINATION:** In addition to the other methods of terminating this License, as provided herein, this License may be terminated at any time upon sixty (60) days' notice in writing to Licensee. City will give Licensee ten (10) days written notice to terminate in the event Licensee has failed to perform or has breached any of the terms, covenants or conditions of this License. Licensee shall then have ten (10) days in which to cure the default. Should Licensee fail to cure within that ten (10) day period, this License shall automatically be terminated.

Upon termination of this License in any manner provided in this License, the Premises shall remain in its improved condition, including but not limited to all improvements, landscaping (personal property not applicable) existing on the Premises at the time of termination, unless the City submits a written request to Licensee that some or all of the improvements be removed, in which case Licensee is given thirty (30) days to complete said removal of the improvements as identified by City. Should the City accept the Premises with all improvements thereon, and then such improvements shall become the property of the City.

If the Premises are abandoned by the Licensee for a period of two (2) months, all rights of the Licensee shall automatically terminate hereunder. Further, if the Licensee fails to conform to the terms and conditions of this License, all of the Licensee's rights hereunder shall terminate.

No termination hereunder shall release the Licensee from any liability or obligation, which may have attached or accrued prior to or which may accrue as of the time of termination of this License.

21. **DEFAULT:** Upon the failure of Licensee to perform any condition or term required herein, the City shall give written notice of such failure to perform as constituting a default of this License. If within ten (10) calendar days Licensee does not correct the failure to the satisfaction of the City, or does not provide a written explanation of Licensee's failure to perform, which explanation must be acceptable to City, this License shall then terminate immediately without further notice. Also, the City shall have the right to require that all operations immediately cease if City determines that the activities are being conducted in an unsafe or illegal manner. Upon termination of this License and if City requests, the Licensee shall immediately remove all personal property, facilities and improvements from the Premises.

22. **HOLDING OVER:** If Licensee fails to vacate the Premises upon termination of this License, Licensee agrees to pay City a fee of One Hundred Dollars (\$100.00) per day for each day that Licensee occupies the Premises beyond termination of this License.

23. **ENTIRE AGREEMENT:** This License embodies the entire agreement between the parties hereto in relation to the subject matter hereof, and no other agreement or understanding, verbal or otherwise, relative to this subject matter exists between the parties at the time of execution of this License. This License may only be modified or amended by the mutual consent of the parties in writing.

24. **NOTICES:** Service of any notices, bills, invoices or other documents required or permitted under this License shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows:

<u>City</u>	<u>Licensee</u>
City of Riverside Public Works Director 3900 Main Street Riverside, CA 92522	Doña Timos La Cascada Attn: Maria Padilla 3635 University Avenue Riverside, CA 92501

25. **SEVERABILITY:** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this License shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this License is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this License and shall not affect any other provision, term, condition, covenant, and/or restriction, of this License and the remainder of the License shall continue in full force and effect.

26. **PARAGRAPH TITLES:** The paragraph titles of this License are (i) inserted only for the convenience of the parties, (ii) are not intended to describe, define, limit, or otherwise affect the provisions in the portions of the License to which they pertain, and (iii) in no way describe, define, limit, or otherwise affect the scope or intent of this License or in any way affect the agreement of the parties set out in this License.

27. **RESERVATIONS:** This License is subject to all reservations, restrictions, rights and rights-of-way of record.

28. **AUTHORITY:** The individuals executing this License and the instruments referenced herein each represent and warrant that they have the legal power, right and actual authority to bind their respective parties to the terms and conditions hereof and thereof.

(Signatures on following page)

IN WITNESS WHEREOF the parties hereto have caused this License to be duly executed on the date and year first written above.

CITY OF RIVERSIDE, a
California charter city and
municipal corporation

By: _____
City Manager

**MARIA PADILLA DBA
DOÑA TIMOS LA CASCADA**, a
sole proprietorship

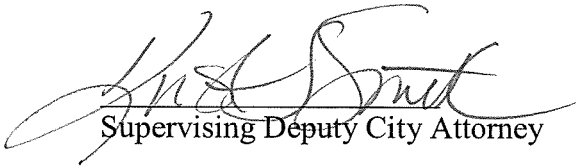
By: 

Maria Padilla, Owner
Vice-President

ATTEST:

By: _____
Colleen J. Nicol
City Clerk

Approved as to Form:



Supervising Deputy City Attorney

O:\Cycom\WPDocs\D007\P020\00235432.docx
CA: 15-0575

EXHIBIT "A"

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

Parcel 1 (Parking Garage No. 1 – POR. APN 213-271-012)

That portion of Block 7, Range 6 of the Town of Riverside as shown by Map on file in Book 7 of Maps at Page 17 thereof, Records of San Bernardino County, California, lying within a strip of land 17.50 feet in width, the Northwesternly line being described as follows:

COMMENCING at the most Westerly corner of Parcel "D" as described in Quitclaim Deed to the City of Riverside, by document recorded October 24, 2013 as Document No. 2013-507496, Official Records of Riverside County, California;

Thence N.29°42'34"E. along the Northwesternly line of said Parcel "D", a distance of 3.00 feet to the **POINT OF BEGINNING** of said line description;

Thence continuing N.29°42'34"E. along said Northwesternly line, a distance of 37.00 feet to the **TERMINATION** of said line description.

The above described parcel of land contains 648 square feet, more or less.

Parcel 2 (Parking Garage No. 2 – POR. APN 213-301-006)

That portion of Lot 12 of Davis Subdivision of Block 8, Range 6 of the Town of Riverside as shown by Map on file in Book 1 of Maps at Page 65 thereof, Records of San Bernardino County, California, lying within a strip of land 16.00 feet in width, the Northwesternly line being described as follows:

BEGINNING at the most Westerly corner of Parcel "E1" as described in Quitclaim Deed to the City of Riverside, by document recorded October 24, 2013 as Document No. 2013-507496, Official Records of Riverside County, California;

Thence N.29°44'59"E. along the Northwesternly line of said Parcel "E1", also being the Northwesternly line of said Lot 12, a distance of 39.00 feet to the **TERMINATION** of said line description.

The sidelines of said strip of land 16.00 feet in width shall be prolonged or shortened to terminate Southwesterly in the Southwesterly line of said Parcel "E1".

The above described parcel of land contains 624 square feet, 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 2-10-16 Date Prep. E.V.
Curtis C. Stephens, L.S. 7519



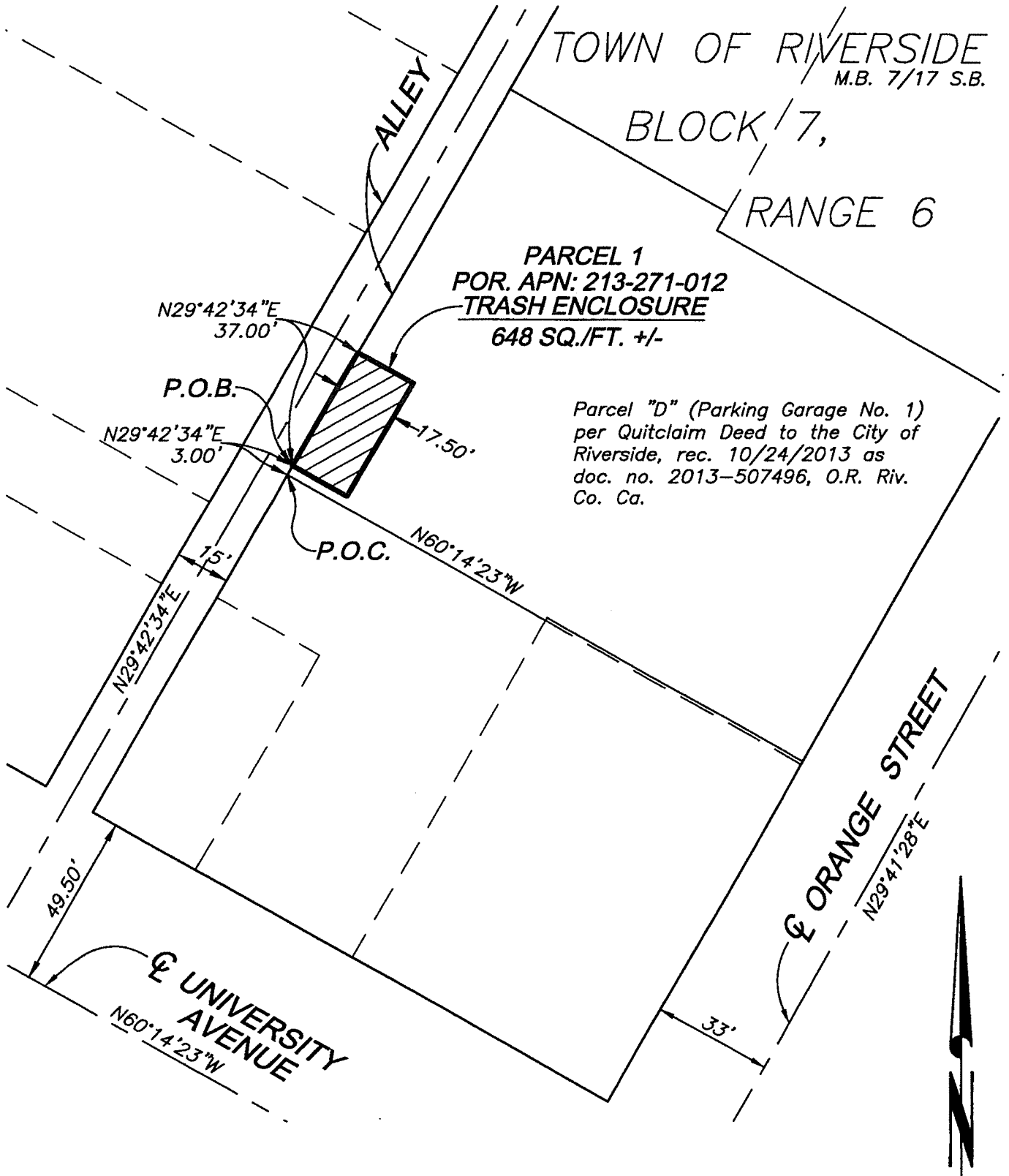
TOWN OF RIVERSIDE
M.B. 7/17 S.B.

BLOCK 7,

RANGE 6

PARCEL 1
POR. APN: 213-271-012
TRASH ENCLOSURE
648 SQ./FT. +/-

Parcel "D" (Parking Garage No. 1)
per Quitclaim Deed to the City of
Riverside, rec. 10/24/2013 as
doc. no. 2013-507496, O.R. Riv.
Co. Ca.



• 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 2

SCALE: 1"=40'

DRAWN BY: EV

DATE: 2/1/16

SUBJECT: TRASH ENCLOSURE - PARKING GARAGE # 1

25 24
DAVIS SUBDIVISION
OF B. 8, R. 6,
OF TOWN OF RIVERSIDE
M.B. 1/65 S.B.

22 21 20

23

PARCEL 2
POR. APN: 213-301-006
TRASH ENCLOSURE
624 SQ./FT. +/-

19

18

Parcel "E1" (Parking Garage No. 2) per
Quitclaim Deed to the City of Riverside,
rec. 10/24/2013 as doc. no.
2013-507496, O.R. Riv. Co. Ca.

13

33'
ORANGE STREET
N29°44'18"E
to University Ave.

ALLEY

P.O.B.



• 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 2 OF 2

SCALE: 1"=40'

DRAWN BY: EV

DATE: 2/1/16

SUBJECT: TRASH ENCLOSURE - PARKING GARAGE # 2