

Please return to:

*Executive Assistant
Kennewick Irrigation District
2015 S Ely Street
Kennewick, WA 99337*

KENNEWICK IRRIGATION DISTRICT RESOLUTION 2018-27

Approving Center Village Voluntary Mitigation Agreement

A RESOLUTION of the Board of Directors of Kennewick Irrigation District (KID), Benton County, Washington, for the purpose of approving a development agreement with Steezy Development, LLC, a Washington Corporation (hereinafter “Developer”),

WHEREAS, the Board of Directors of KID (the Board) met in regular session on September 18, with a quorum present, and

WHEREAS, the Property is proposed for subdivision into a development known as “Center Village” consisting 2.29 acres, of which 2.29 acres are classified as irrigable, which are proposed to be subdivided into 14 lots and legally described in **Exhibit A**; hereinafter referred to as the “Property.”

WHEREAS, the Property is being developed into a residential subdivision within the Benton County boundaries; and

WHEREAS, the Property is owned by the Developer and has an allotment of irrigation water from KID; and

WHEREAS, RCW 58.17.310 requires that irrigation water rights-of-way be provided for each parcel of land, and also requires that, if the subdivision lies within land within an irrigation district classified as irrigable, completed irrigation water distribution facilities for such land may be required by the irrigation district by resolution as a condition for approval of the short plat or final plat by the legislative authority of the city, town, or county; and

WHEREAS, KID Resolution 86-15A requires completed irrigation facilities as a condition for approval of the short plat or final plat; and

WHEREAS, KID Policy 4.19 “Standard Specifications” specifies what comprises completed irrigation facilities; and

WHEREAS, KID submitted a comment letter on February 12, 2018 requesting that the COK incorporate certain conditions into its final decision approving the Subdivision; and

WHEREAS, the Developer agrees to make irrigation improvements on the Property, which include the installation of distribution piping and service connections to each property of the subdivision; and

WHEREAS, the Center Village would become a new Pressurized Service Area (“PSA”); and

WHEREAS, the Developer and KID mutually agree that it is in each of their best interest for the Developer to contribute funds of \$39,974.90 towards KID’s planned regional system in lieu of constructing a pump station and appurtenant facilities to serve the Center Village subdivision; and


WHEREAS, the Developer shall provide an easement for a future pump station; and

WHEREAS, the KID cannot issue and sign an irrigation district certificate for any Final Plat phases of the Subdivision unless completed on-site irrigation systems are installed or bonded for, or the KID Board of Directors approves by resolution an acceptable security that creates a lien against the Property; and

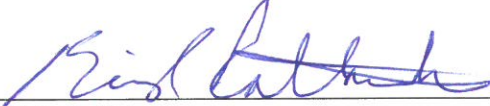
WHEREAS, the parties desire to set forth their agreements on how Developer’s contributions to irrigation facilities serving the Subdivision will be constructed, operated, maintained, and replaced;

NOW, THEREFORE, BE IT RESOLVED that the attached “Center Village Voluntary Mitigation Agreement” is approved.

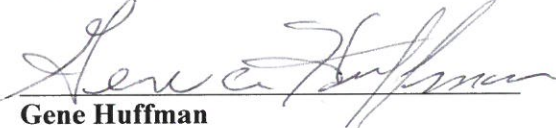
RESOLUTION 2018-27 IS HEREBY ADOPTED by the Board of Directors of Kennewick Irrigation District, Benton County, Washington, at a regular open public meeting thereof this 18th day of September, 2018.



Dean Dennis



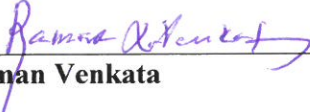
Kirk Rathbun



Gene Huffman



David McKenzie



Raman Venkata

**CENTER VILLAGE
VOLUNTARY MITIGATION DEVELOPMENT
AGREEMENT**

THIS AGREEMENT, made and entered into and effective this 18th day of September, 2018 by and between the parties hereto, who are identified as follows:

Steezy Ventures LLC, a Washington limited liability company (hereinafter “Developer”),

and

Kennewick Irrigation District, an irrigation district formed and operated pursuant to RCW Ch. 87.03, referred to herein as “KID,”

Relating to that property owned by Developer in the City of Kennewick (“COK”), County of Benton, and State of Washington, tax parcels numbered 1-3399-201-1560-008 and 1-3399-201-1560-009, legally described in **Exhibit A** and the preliminary plats shown on **Exhibit B**, hereinafter referred to as the “Property.”

WHEREAS, the Property is proposed for subdivision into a development known as “Center Village” (“Subdivision”) consisting 2.29 acres, of which approximately 2.29 acres is classified as irrigable, which are proposed to be subdivided into 14 lots; and

WHEREAS, the Subdivision is within the COK boundaries; and

WHEREAS, the Property is owned by the Developer and has an allotment of irrigation water from KID; and

WHEREAS, RCW 58.17.310 requires that irrigation water rights-of-way be provided for each parcel of land, and also requires that, if the subdivision lies within land within an irrigation district classified as irrigable, completed irrigation water distribution facilities for such land may be required by the irrigation district by resolution as a condition for approval of the short plat or final plat by the legislative authority of the city, town, or county; and

WHEREAS, KID Resolution 86-15A requires completed irrigation facilities as a condition for approval of the short plat or final plat; and

WHEREAS, KID Policy 4.19 “Standard Specifications” specifies what comprises completed irrigation facilities; and

WHEREAS, KID submitted a comment letter on February 12, 2018 requesting that the COK incorporate certain conditions into its final decision approving the Subdivision; and

WHEREAS, the Developer agrees to make irrigation improvements on the Property, to provide pressurized irrigation water to the subdivision as a completed irrigation facility; and

WHEREAS, the Subdivision would become a new Pressurized Service Area (“PSA”); and

WHEREAS, the Developer and KID mutually agree that it is in each of their best interest for the Developer to contribute funds of \$39,974.90 to KID for system improvements in lieu of constructing a pump station and appurtenant facilities to serve the Subdivision; and

WHEREAS, the Developer shall provide an easement for a future pump station; and

WHEREAS, the developer shall provide an electrical service sized for the future pump station to said easement; and

WHEREAS, the KID cannot issue and sign an irrigation district certificate for any Final Plat phases of the Subdivision unless completed on-site irrigation systems are installed or bonded for, or the KID Board of Directors approves by resolution an acceptable security that creates a lien against the Property; and

WHEREAS, the parties desire to set forth their agreements on how Developer’s contributions to irrigation facilities serving the Subdivision will be constructed, operated, maintained, and replaced;

NOW THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:

1. The Developer’s Obligations. Developer:

- a. Shall pay to KID a total of \$39,974.90, or \$2,855.35 per (14 lots) for the Subdivision, an amount mutually agreed upon by KID and the Developer. Payment shall be required upon completion of any one of the following:
 - i. Transfer of parcel ownership
 - ii. Building permit application
 - iii. Utilization of irrigation
- b. Shall grant an irrigation easement for the future pump station.
- c. Shall provide an electrical conduit sized for the future pump station to said easement

2. KID Obligations. KID shall:

- a. Construct a pump to provide pressurized water to the Subdivision.
- b. Provide a proportionate share of available irrigation water to the Subdivision starting April 1, 2019.

3. Mutual Agreements.
 - a. The parties agree that the Developer's obligations set forth in Paragraph 1 above shall be the only conditions of Subdivision approval relating to KID's irrigation facilities. Upon mutual execution of this Agreement, this Agreement shall only apply to the Property described on **Exhibits A** and shall not preclude the KID from commenting on or requesting conditions of approval for other property owned by the Developer located within the KID boundaries.
 - b. The parties understand and agree that this Agreement shall supplement KID's requested conditions set forth in KID's comment letter of February 12, 2018 to the COK for approval of the Subdivision
4. Hold Harmless/Indemnification: The parties each agree for itself, its successors, and assigns to hold harmless and indemnify each other and its board of directors, officers, agents, consultants, contractors, representatives, attorneys, insurers and employees from any all claims, judgments, damages, penalties, fines, costs, liabilities or losses arising from or related to their respective acts or omissions relating to work performed under this Agreement ("Claims"). This hold harmless and indemnification provision applies to claims of negligence and any other theory of liability related to or arising out of this Agreement or otherwise raised against KID or Developer that involve the Subdivision that is the subject of this Agreement or the canal reach adjacent to the Subdivision. Notwithstanding the foregoing paragraphs, KID shall have no obligation to indemnify or hold harmless Developer for Claims arising from the sole negligence or willful misconduct of the Developer, its agents, officers, and employees; and Developer shall have no obligation to indemnify or hold harmless KID for Claims arising from the sole negligence or willful misconduct of KID, its agents, officials, and employees. Where such Claims result from concurrent acts or omissions of the parties, or their respective agents, employees or contractors, the hold harmless and indemnity provisions herein shall be valid and enforceable only to the extent such Claims are caused by each party's acts or omissions or those of their respective agents, employee and contractors.
5. Water Rights Unaffected: This Agreement does not create, grant, transfer, modify or affect any water rights of the Developer or KID.
6. Other Rights and Obligations Not Affected: No rights or obligations of the parties or to which the Property is subject are modified or affected hereby. Without limiting the generality of the foregoing, the Property, and all lots subsequently created from the Property, shall continue to be assessed in accordance with KID assessment rate structure and practices as they now exist and as they may be amended in the future.
7. Entire Agreement; Severability; Modification; Waiver: This Agreement contains the entire agreement of the parties and supersedes and replaces any and all prior or contemporaneous agreements or understandings, written or oral, express or implied, between the parties concerning the subject matter of this

Agreement. Should any term or provision of this Agreement, or any part thereof, be held unenforceable for any reason, such unenforceable term or provision, or part thereof, shall not affect the remainder of this contract, it being agreed the provisions hereof are severable. This Agreement shall not be subject to modification except by written agreement signed by both parties. Failure of either party to enforce any of the provisions of this Agreement shall not be construed as a waiver by that party of any such provisions or of the right of such party to thereafter strictly enforce each and every provision of this Agreement.

8. Injunctive Relief: The Developer and KID agree and stipulate that irreparable injury will result if either party fails to fully perform all of their obligations, and agree that if either party breaches this Agreement or fails to fully perform an obligation hereunder, the non-defaulting party shall be entitled to an injunction to restrain further breach and/or to force performance. Said injunctive relief shall be in addition to any other remedies either party may have at law or in equity.
9. Personal Warranty of Representative Authority: Each person signing this Agreement in a representative capacity covenants, represents and warrants that he or she has full authority to bind his or her principal to the terms of the Agreement, and hereby promises to hold the other parties hereto harmless from any claim or allegation that said person lacked such authority.
10. Attorney's Fees: In case litigation or arbitration is instituted arising directly or indirectly out of this Agreement, the substantially prevailing party or parties shall be awarded its reasonable attorney's fees, costs (including witness fees, expert witness fees and court reporter fees), at trial and on any appeal. In addition, in the event of arbitration, the substantially prevailing party shall be awarded its share of the arbitrator's fee.
11. Disputes, Default, Breach, Mediation and Arbitration: In the event any party alleges any default or breach against the other arising out of this Agreement and they are unable to resolve the same by direct negotiation within seven (7) days of written notification of same, then the following mediation and arbitration provisions shall apply. In the event of any such claims or disputes over this Agreement, and as a condition precedent to the commencing of any legal action on said Agreement, the parties agree that they will first submit said dispute to mediation and arbitration in Kennewick, Washington. Upon demand for mediation by either party, a single mediator shall be selected by agreement of the parties or, if the parties are unable to agree, by the presiding judge of Benton County Superior Court. Within ten (10) days of demand for mediation by a party, a mediator shall be selected by the parties. If the parties cannot agree on a mediator, either party may submit a request to the Benton County Superior Court presiding judge to appoint a mediator in compliance with this Agreement. The mediation shall held within forty-five (45) days of selection of the mediator. If mediation is not successful, the mediator shall thereafter become an arbitrator and shall make a decision on the dispute within ten (10) days of the mediation. The mandatory arbitration rules of the Benton/Franklin County Superior Courts shall be binding as to procedure, except as to the unique right of appeal which is not applicable. The limited right of appeal under the general arbitration laws of

the State of Washington shall apply.

12. Jurisdiction and Venue: Any litigation arising under, related to, or in connection with this Agreement shall occur solely in the state court of appropriate subject matter jurisdiction for Benton County, State of Washington, and in no other court.
13. Agreement is binding: The terms of this Agreement are intended to be and shall constitute a binding agreement and a covenant running with the land. The benefits and obligations herein shall benefit and bind the parties and their successors and assigns in interest unless otherwise terminated by the parties hereto.
14. Recording: A Memorandum of this Agreement and any amendments thereto shall be filed for recording with the Benton County Auditor.
15. Scrutiny: This Agreement has been submitted to the scrutiny of all parties and their respective legal counsel and shall be given a fair and reasonable interpretation in accordance with the words hereof without consideration or weight being given to its being drafted by or for one of the parties. If in fact one of the parties has not submitted this Agreement to the scrutiny of their legal counsel, such party stipulates that, despite having had the opportunity to do so, they waived the same and elected to proceed without the benefit of such legal review.

IN WITNESS WHEREOF, the parties execute this Agreement as follows.

DEVELOPER:

Steezy Development, LLC

BY [Signature]
AUTHORIZED MEMBER/MANAGER

Date Signed: September 14th, 2018

STATE OF WASHINGTON)

COUNTY OF Benton : ss

On this 14 day of September, 2018, before me personally appeared Kieth Hobart, to me known to be the member of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 14th day of September, 2018.



Dina M. McMahon
NOTARY PUBLIC,
State of Washington
Residing at Pasco
My Commission Expires 10/15/18

KENNEWICK IRRIGATION DISTRICT:

By: [Signature] FOR CHARLES FREEMAN
Charles Freeman, its Secretary Manager

Date: SEPT. 18, 2018

By: Dean Dennis
Dean Dennis, President of the Board of Directors

Date: 9-19-, 2018

As approved by Resolution of the Board of Directors in a regularly scheduled Board meeting on 9/18, 2018

STATE OF WASHINGTON)

: ss

COUNTY OF Benton)

On this 19th day of September, 2018, before me personally appeared Dean Dennis, to me known to be the ~~president of the corporation~~ that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

[Signature]
President of the Board of Directors

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 19th day of September, 2018.

[Signature]



NOTARY PUBLIC,
State of Washington
Residing at Kennewick WA
My Commission Expires 2/16/19

EXHIBIT A

Legal Description of Parcel 1-3399-201-1560-008

THAT PORTION OF LOT 5, SHORT PLAT NO. 1560, DESCRIBED AS FOLLOWS: BEGINNNING AT THE NORTHEAST CORNER OF SAID LOT 5 THENCE NORTH 89 DEGREES 44 MINUTES 45 SECONDS WEST 502.60 FEET: THENCE SOUTH 17 DEGREES 42 MINUTES 35 SECONDS WEST 136.28 FEET: THENCE SOUTH 89 DEGREES 44 MINUTES 45 SECONDS EAST 543.07 FEET PLUS OR MINUS TO THE EAST LINE OF SAID LOT 5: THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST TO THE POINT OF BEGINNING. (PER WD #97-15678, 7/1/97)

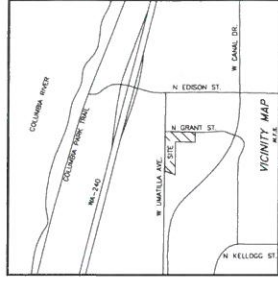
Legal Description of Parcel 1-3399-201-1560-009

SHORT PLAT #1560, LOT 5, LESS THAT PORTION DESCRIBED AS FOLLOWS: BEGINNNING AT THE NORTHEAST CORNER OF SAID LOT 5 THENCE NORTH 89 DEGREES 44 MINUTES 45 SECONDS WEST 502.60 FEET: THENCE SOUTH 17 DEGREES 42 MINUTES 35 SECONDS WEST 136.28 FEET: THENCE SOUTH 89 DEGREES 44 MINUTES 45 SECONDS EAST 543.07 FEET PLUS OR MINUS TO THE EAST LINE OF SAID LOT 5: THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST TO THE POINT OF BEGINNING. (PER WD #97-15678, 7/1/97)

EXHIBIT B

PLAT OF CENTER VILLAGE KENNEWICK, WASHINGTON

PTN. NW 1/4 OF SECTION 33, T. 9 N., R. 29 E., W.M.



OWNERS CERTIFICATE.
I, the undersigned, being the owner of the land shown on the plat of Center Village, hereby declare that the same is shown hereon, and that the same is subject to the public utility easements and rights of way as shown hereon.

AUGMENTED REPRESENTATIVE
A. [Name]
[Address]
[City, State, Zip]

ACKNOWLEDGMENT.
I, the undersigned, being the owner of the land shown on the plat of Center Village, hereby declare that the same is shown hereon, and that the same is subject to the public utility easements and rights of way as shown hereon.

DATE OF RECORDED [Date]
THIS IS TO CERTIFY ON THE DATE OF RECORDED THAT THE PERSONS APPEARING BEFORE ME AS AUGMENTED REPRESENTATIVE AND AS WITNESSES TO THE ABOVE AND WHO SIGNED THE ABOVE COMPLETED INSTRUMENT ARE THE OWNERS OF THE LAND SHOWN ON THE PLAT OF CENTER VILLAGE, HEREBY DECLARED TO BE SUBJECT TO THE PUBLIC UTILITY EASEMENTS AND RIGHTS OF WAY AS SHOWN HEREON.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
My Commission Expires: [Date]

APPROVALS

THE PLAT IS HEREBY APPROVED BY AND FOR THE CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON.
CITY OF KENNEWICK FILE NUMBER _____ DATE _____
SOUNDING CITY OF KENNEWICK PLAT ADMINISTRATION
SOUNDING KENNEWICK CITY ENGINEER _____ DATE _____
SOUNDING MAYOR, CITY OF KENNEWICK _____ DATE _____
CITY CLERK, CITY OF KENNEWICK _____ DATE _____

TRAVELER'S CERTIFICATE

I HEREBY CERTIFY THAT THE LINES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND RECEIVED BY THE CITY OF KENNEWICK.
BENTON COUNTY TREASURER _____ DATE _____
BENTON COUNTY ASSESSOR _____ DATE _____

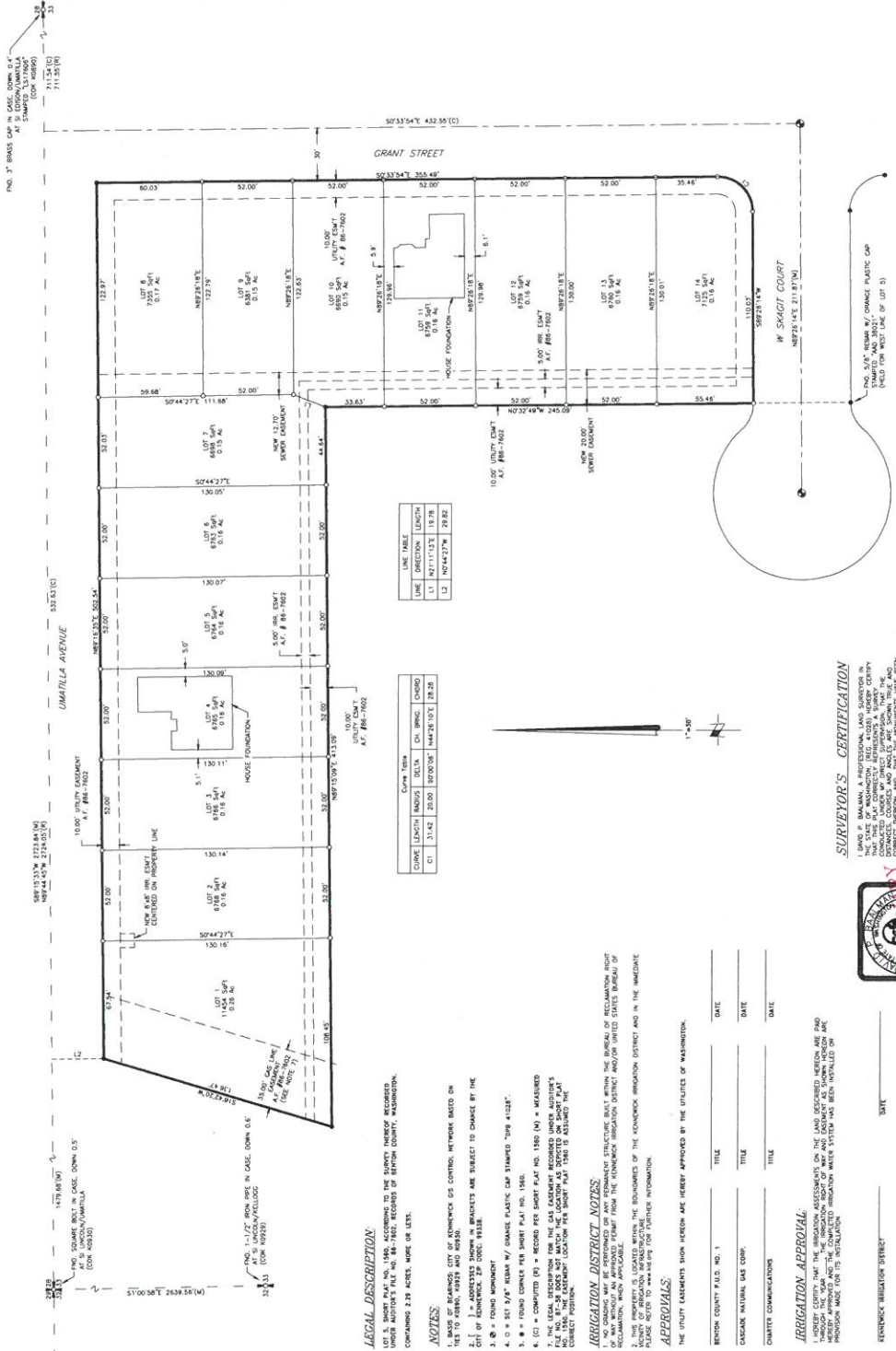
AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____, 20____, A.D., AT _____ OF PLATS.
WITNES MY HAND _____ AND RECORDED IN VOLUME _____ OF PLATS.
PAGE _____ AT THE REQUEST OF STEVE KENNEWICK, LLC.

BENTON COUNTY AUDITOR _____
BY DEPUTY _____
FEE NUMBER _____



SHEET 1 OF 1



LINE TABLE

LINE	DIRECTION	LENGTH
L1	N 27° 11' 13.3" E	19.78
L2	N 07° 44' 57.7" W	28.82

Curve Table

CURVE	LENGTH	RADIUS	DELTA	CH. BRNG.	CHORD
C1	31.42	20.00	107° 00' 00"	N 48° 18' 00" E	28.28

LEGAL DESCRIPTION

LOT 8, SHORT PLAT NO. 1580, ACCORDING TO THE SURVEY THEREOF RECORDED IN BENTON COUNTY RECORDS AT 5:00 P.M. APRIL 11, 1978, CONTAINING 2.28 ACRES, MORE OR LESS.

NOTES

1. BASIS OF BENTON COUNTY OF KENNEWICK GIS CONTROL, NETWORK BASED ON NAD 83 TO 1983, 1983 AND 1985.
2. ALL DIMENSIONS ARE SUBJECT TO CHANGE BY THE CITY OF KENNEWICK, THE 2000 B.M. 1181.
3. 0 = FOUND MONUMENT
4. 0 = SET 5/4" REBAR W/ ORANGE PLASTIC CAP STIMMED 7"HS 4"132"
5. 0 = FOUND CORNER PER SHORT PLAT NO. 1580.
6. (C) = COMPUTED (D) = RECORD PER SHORT PLAT NO. 1580 (M) = MEASURED
7. THE LEGAL DESCRIPTION FOR THE GAS EASEMENT RECORDED UNDER AUDITOR'S FILE NO. 1580, THE EASEMENT LOCATION PER SHORT PLAT 1580 IS AS SHOWN ON THE CORRECT POSITION.

IRRIGATION DISTRICT NOTES

NO OWNERS WILL BE AFFRONTED BY ANY PERMANENT STRUCTURE BUILT WITHIN THE BOUNDS OF RECLAMATION RIGHT OF WAY. RECLAMATION RIGHT OF WAY WILL BE MAINTAINED AND THE BOUNDS OF RECLAMATION RIGHT OF WAY WILL BE MAINTAINED AND THE BOUNDS OF RECLAMATION RIGHT OF WAY WILL BE MAINTAINED.

APPROVALS

THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY APPROVED BY THE UTILITIES OF WASHINGTON.
BENTON COUNTY FILE NO. 1 _____ TITLE _____ DATE _____
CASCADIA NATURAL GAS CORP. _____ TITLE _____ DATE _____
CHARTER COMMUNICATIONS _____ TITLE _____ DATE _____

IRRIGATION APPROVAL

I HEREBY CERTIFY THAT THE IRRIGATION ASSIGNMENTS ON THE LAND DESCRIBED HEREON ARE PAID TO AND RECEIVED BY THE CITY OF KENNEWICK. THE COMPLETED IRRIGATION WATER SYSTEM HAS BEEN INSTALLED OR PROGRAM MADE FOR ITS INSTALLATION.



SURVEYOR'S CERTIFICATION

I, DAVID P. BALKMAN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF WASHINGTON, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY OF THE LAND DESCRIBED HEREON AND THAT THE DISTANCES, COORDINATES AND ANGLES ARE SHOWN TRUE AND CORRECT AND THAT THE LOTS CORRECTLY SITUATED ON THE GROUND AS SHOWN ON THE PLAT.

DAVID P. BALKMAN
DATE _____

