

RECORDING REQUESTED BY  
CITY OF YORBA LINDA

THIS AREA FOR RECORDER'S USE ONLY

When recorded, return to:

City of Yorba Linda  
Engineering Division  
4845 Casa Loma Avenue  
Yorba Linda, CA 92885

EXEMPT (FREE) RECORDING REQUESTED  
UNDER GOVERNMENT CODE 27383

**DECLARATION OF RESTRICTIVE COVENANTS**  
(ENCROACHMENT ON CITY EASEMENT)

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this May 18, 2022, by and between CITY OF YORBA LINDA ("CITY"), a public agency, and HEER PATEL ("DECLARANT"), with reference to the following:

RECITALS

- A. The DECLARANT owns real property located at 4060 Naples Court, Yorba Linda, California 92886 (APN 350-261-32) ("Subject Property"), which is more particularly described as follows:

PARCEL NO. 1, AS SHOWN ON EXHIBIT "A":

LOT 4 OF TRACT NO. 16766, AS SHOWN ON MAP FILED FOR RECORD IN BOOK 893, AT PAGES 13 THROUGH 20, INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICIAL RECORDS OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA.

EXCEPTING THEREFROM ALL OIL, PETROLEUM, ASPHALTUM, GAS AND OTHER HYDROCARBON SUBSTANCES IN OR UNDER SAID LAND WITHOUT THE RIGHT OF ENTRY ONTO THE SURFACE THEREOF OR THE UPPER 500 FEET MEASURED AT RIGHT ANGLES TO THE SURFACE OF SAID LAND, AS EXCEPTED IN THE GRANT DEED FROM GERALDINE K. ROTH AND OTHERS, RECORDED SEPTEMBER 20, 1983 AS INSTRUMENT NO. 83-412359 IN THE OFFICIAL RECORDS OF THE COUNTY OF ORANGE, CALIFORNIA.

- B. City is the owner of a 20' storm drain easement, on, over, under, and across a portion of the Owner's Property with a 36" reinforced concrete pipe approximately 8' deep and is described as follows:

PARCEL NO. 2:

NONEXCLUSIVE EASEMENTS OF ACCESS, INGRESS AND EGRESS FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, DRAINAGE, ENCROACHMENT, SUPPORT AND FOR OTHER PURPOSES, AS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR AMALFI HILLS RECORDED ON NOVEMBER 8, 2005, AS INSTRUMENT NO. 2005000895660, AS AMENDED BY THE FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR AMALFI HILLS RECORDED MARCH 7, 2006, AS INSTRUMENT NO. 2006000151082, AND THE SECOND AMENDMENT OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR AMALFI HILLS RECORDED ON JUNE 16, 2006, AS INSTRUMENT NO. 2006000406877 {COLLECTIVELY, THE "DECLARATION"}, AND THE SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AMALFI HILLS (AMALFI HILLS - POSITANO COLLECTION, PHASE 7) RECORDED ON JANUARY 24, 2013, AS INSTRUMENT NO. 2013000047919, RE-RECORDED JUNE 26, 2013, AS INSTRUMENT NO. 2013000386223 ("SUPPLEMENTAL DECLARATION"), ALL OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA

- C. The DECLARANT desires to construct improvements that include but are not limited to pavers, putting green, garden wall, electrical lines, gate and landscaping (collectively herein referred to as "Improvements") within and along the Easement area (hereinafter referred to as an "Encroachment"), as illustrated in Exhibit "A" attached hereto and incorporated by reference herein.
- D. CITY conditionally consents to the Encroachment within and along the Easement area as stipulated in this Declaration. DECLARANT is aware that the Improvements will affect the CITY's use of the Easement and DECLARANT will be liable for any costs arising out of or related to the Encroachment.

**NOW, THEREFORE**, incorporating the above recitals, CITY and DECLARANT hereby declare as follows:

1. **Covenant Running with Land.** This Declaration constitutes a covenant running with the land, as provided by California Civil Code Section 1468, and shall benefit, burden, and bind the DECLARANT and the CITY. The term "DECLARANT" shall include not only the present DECLARANT, but also the DECLARANT'S heirs, successors, executors, administrators, and assigns.
2. **Damages to City Facilities.** DECLARANT assumes full responsibility and liability and shall pay for any cost(s) or damage(s) to the City Facilities and appurtenant structures, arising from or related to the construction, existence, removal, and/or use of the Improvements. CITY shall not be responsible for any cost(s) or damage(s) to the City Facilities and appurtenant structures that arise from the Encroachment.

3. **Damages to Third Parties.** DECLARANT agrees to indemnify, defend and hold harmless CITY and its officers, directors, employees, agents, consultants, and other authorized representatives from any and all liability, claims, demands, damages (whether contract or tort, including personal injury, death, or property damage), costs, and financial loss, including all costs and expenses of litigation or arbitration, which result or are claimed to have resulted directly or indirectly from the Encroachment, including but not limited to the construction, existence and/or use of the Improvements.
4. **Notice of Intent to Remove Improvements.** DECLARANT shall notify City of its intent to remove any and all Improvement(s) in the Easement area at least fourteen days prior to removal.
5. **Damages to Improvements.** DECLARANT acknowledges that the CITY may damage or demolish the Improvements so that it can reasonably access or conduct reasonable work within and under the Easement area. CITY, its officers, directors, employees, agents, consultants, and other authorized representatives shall not be responsible for any damage(s) to or because of the Improvements which result from CITY's exercise of its rights under the Easement. DECLARANT waives all known, unknown, and future claims, liabilities, causes of action, and expenses against CITY, its officers, directors, employees, agents, consultants, and other authorized representatives for losses and damages to the Improvements and from any obligation to protect, preserve, repair, or replace the Improvements. The construction, use, protection, repair and replacement of the Improvements shall be entirely the risk and obligation of DECLARANT, even if damage is caused by CITY.
6. **Recording of Agreement.** This Declaration shall be recorded in the Office of the Recorder of the County of Orange, California, and shall constitute notice to all successors and assigns of the title to the Subject Property of the rights and obligations set forth herein.
7. **Severability.** The invalidity or unenforceability of any provision of this Declaration shall in no way affect the validity or enforceability of any provision hereof.
8. **Governing Law.** This Declaration shall be governed by, and construed in accordance with, the laws of the State of California.
9. **Attorneys' Fees.** In the event any action shall be instituted between the DECLARANT and the CITY in connection with this Declaration, the party prevailing in such action shall be entitled to recover from the other party all of its costs of action, including, without limitation, attorneys' fees and costs as fixed by the court therein.

(INTENTIONALLY BLANK)

**DECLARATION OF RESTRICTIVE COVENANTS**  
**(ENCROACHMENT ON CITY EASEMENT)**

CITY OF YORBA LINDA

DECLARANT

By: \_\_\_\_\_  
Jamie Lai  
City Engineer

By:  \_\_\_\_\_  
Heer Patel

Attest:

By: \_\_\_\_\_  
Marcia Brown  
City Clerk

Approved as to Form:  
Rutan & Tucker LLP

By: \_\_\_\_\_  
Todd Litfin  
City Attorney



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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.

State of California )  
County of Orange )  
On May 18, 2022 before me, Marcia Brown, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Heer Patel  
Name(s) of Signer(s)

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.



Signature Marcia Brown  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Encumbrance  
Title or Type of Document: Decl. Restr. Covenants Document Date: May 18, 2022  
Number of Pages: 4 Signer(s) Other Than Named Above: \_\_\_\_\_

Capacity(ies) Claimed by Signer(s)  
Signer's Name: Heer Patel  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: self

~~Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_~~