

EXHIBIT C: DECLARATION OF RESTRICTIVE COVENANTS AGREEMENT

RECORDING REQUESTED BY
CITY OF YORBA LINDA

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

THIS AREA FOR RECORDER'S USE ONLY

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder



NO FEE

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2021000587295 8:59 am 09/22/21

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DECLARATION OF RESTRICTIVE COVENANTS
(ENCROACHMENT ON CITY EASEMENT)

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this September 14, 2021, 2021, by and between CITY OF YORBA LINDA ("CITY"), a public agency, and ANTHONY BARBER and KIMBERLEE HOERTZ ("DECLARANTS"), with reference to the following:

RECITALS

- A. The DECLARANT own real property located at 17966 Anna Marie, Yorba Linda, California 92886 (APN 343-111-30) ("Subject Property"), which is more particularly described as follows:

PARCEL A, AS SHOWN ON EXHIBIT "A" ATTACHED TO LOT LINE ADJUSTMENT MAP NO. 2013-06 RECORDED MARCH 20, 2014 AS INSTRUMENT NO. 2014000106482, AND RECORDED MAY 23, 2018 AS INSTRUMENT NO. 2018000187344, OF OFFICIAL RECORDS, ALSO DESCRIBED AS FOLLOWS: PARCEL 2 TOGETHER WITH PARCEL 3 OF PARCEL MAP 2009-118, IN THE CITY OF YORBA LINDA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 375, PAGES 44 THROUGH 48, INCLUSIVE, OF PARCEL MAPS, RECORDS OF SAID COUNTY.

- B. CITY right of way, as identified as instrument number 84-279202 recorded July 18, 1984, of Official Records of Orange County, California ("Easement"), across a portion of the Subject Property. Within the Easement, CITY owns a double 5-ft x 3-ft reinforce concrete box ("City Facility").
- C. The DECLARANT desires to construct improvements that include but are not limited to 6-inch thick PCC paving over 4" AB reinforce with #4 rebar at 18" O.C both ways, ½ inch domestic water service line, 4-inch PVC, SDR 35 sewer lateral, and a recreation room (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.

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CITY OF YORBA LINDA

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Engineering Division
4845 Casa Loma Avenue
Yorba Linda, CA 92885

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- C. The DECLARANT desires to construct improvements that include but are not limited to 6-inch thick PCC paving over 4" AB reinforce with #4 rebar at 18" O.C both ways, ½ inch domestic water service line, 4-inch PVC, SDR 35 sewer lateral, and a recreation room (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)
17966 Anna Marie Road

CITY OF YORBA LINDA

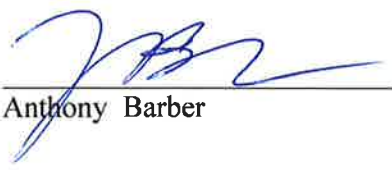
DECLARANT

By:



Jamie Lai
City Engineer

By:



Anthony Barber

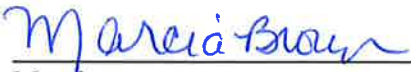
Attest:

By:



Kimberlee Hoertz


By:



Marcia Brown
City Clerk

Approved as to Form:
Rutan & Tucker LLP

By:



Todd Litfin
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

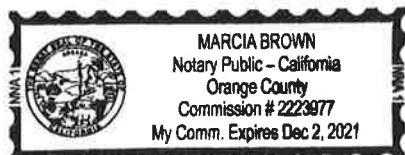
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Orange)
 On Sept. 14, 2021 before me, Marcia Brown, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared Anthony Barber and Kimberlee Hertz
 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

Title or Type of Document: Declaration Restrictive Cove. Document Date: Sept. 14, 2021
 Number of Pages: 5 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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

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

EXHIBIT "A"

