

EXHIBIT E: DECLARATION OF RESTRICTIVE COVENANTS AGREEMENT

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 PUBLIC RIGHT-OF-WAY)

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this _____, 2024, by and between CITY OF YORBA LINDA ("CITY"), a public agency, and LEATHER MICHELLE A TR, LEATHERS FAMILY TR ("DECLARANT"), with reference to the following:

RECITALS

- A. The DECLARANT owns real property located at 17812 CABALLO DRIVE, Yorba Linda, California 92886 (APN 343-101-02) ("Subject Property"), which is more particularly described as follows:
- LOT 1 OF TRACT 4147, IN THE CITY OF YORBA LINDA,
COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP
RECORDED IN BOOK NO.5, PAGE(S) 17 AND 18, MISCELLANEOUS
MAPS, RECORDS OF ORANGE COUNTY, STATE OF CALIFORNIA.
- B. CITY right of way, as identified on TRACT MAP NO. 4147, Official Records of Orange County, California (public right-of-way), on CABALLO DRIVE is 52 feet, with 26 feet extending each direction from the centerline of the street.
- C. The DECLARANT desires to construct a secondary 25-foot driveway approach and a curb drain (collectively herein referred to as "Improvements") within and along the public right-of-way (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 public right-of-way as stipulated in this Declaration. DECLARANT is aware that the Improvements will impact the line of sight and they will be responsible to maintain clearance at all times to meet the sight triangle per CITY's Municipal Code (§18.26.090), as shown in Exhibit "B". 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 or all Improvement(s) in the Encroachment area at least fourteen days prior to removal.
5. **Damages to Improvements.** DECLARANT acknowledges that the 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 Improvements. 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)

17812 CABALLO DRIVE

CITY OF YORBA LINDA

DECLARANT

By: _____
Tara Campbell
Mayor

By: _____
LEATHER MICHELLE A TR,
LEATHERS FAMILY TR

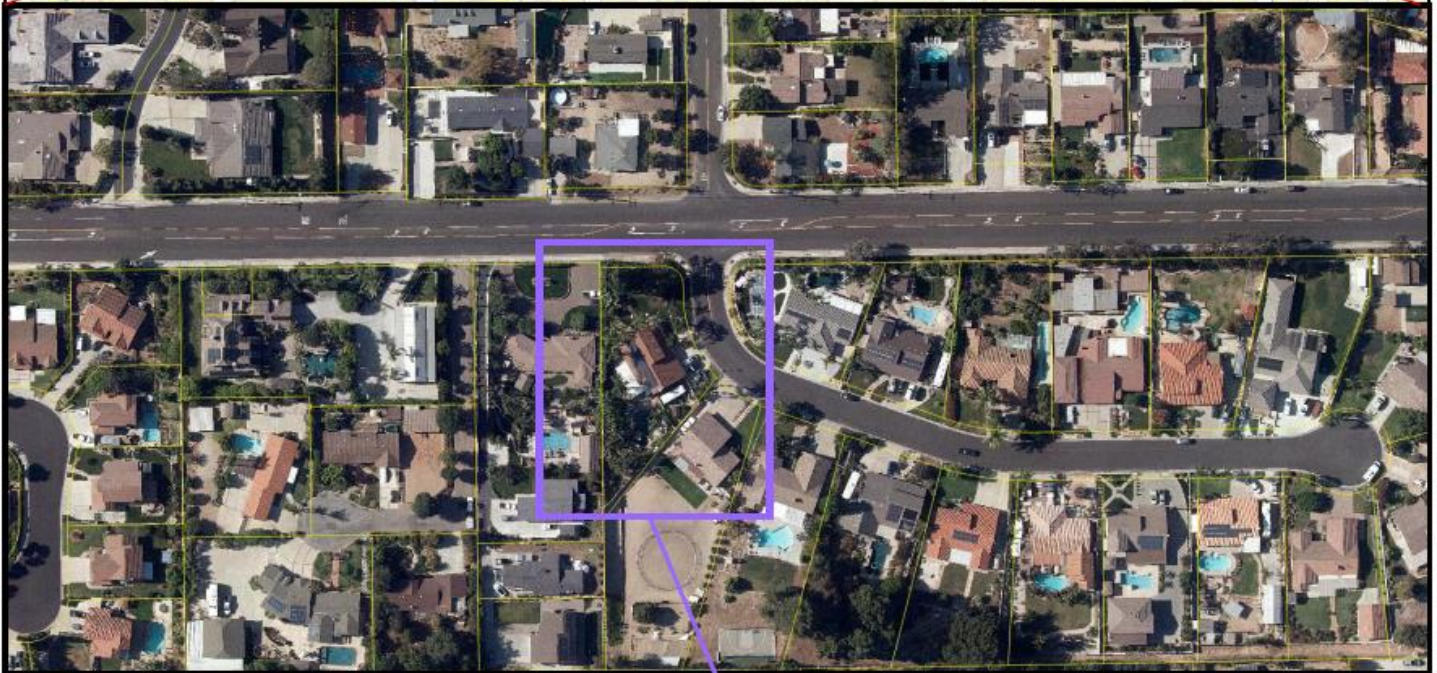
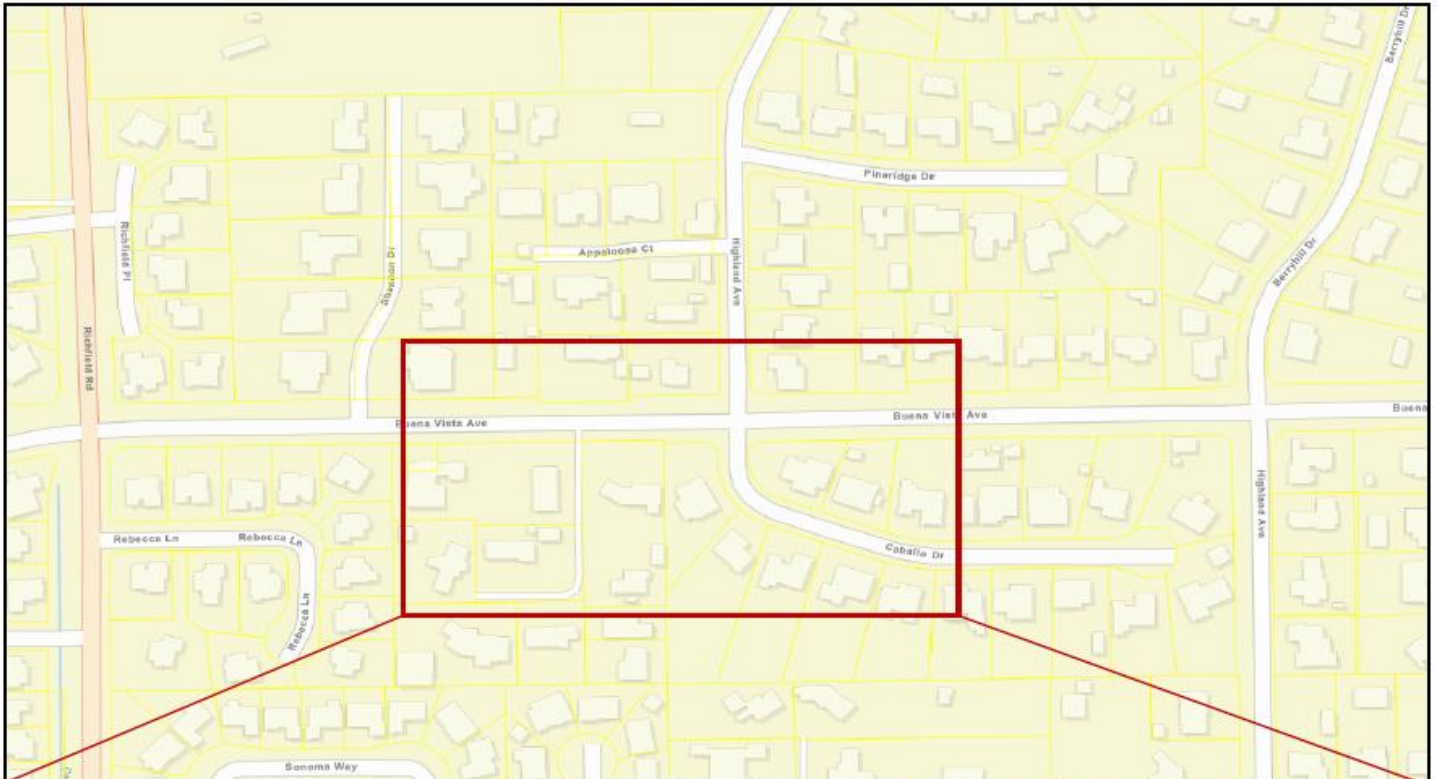
Attest:


By: _____
Marcia Brown
City Clerk

Approved as to Form:
Rutan & Tucker LLP


By: _____
Todd Litfin
City Attorney

EXHIBIT A



 **City of Yorba Linda**
Public Works
Vicinity Map

17812 Caballo Drive

Source: City of Yorba Linda, 2024  Vicinity Sites

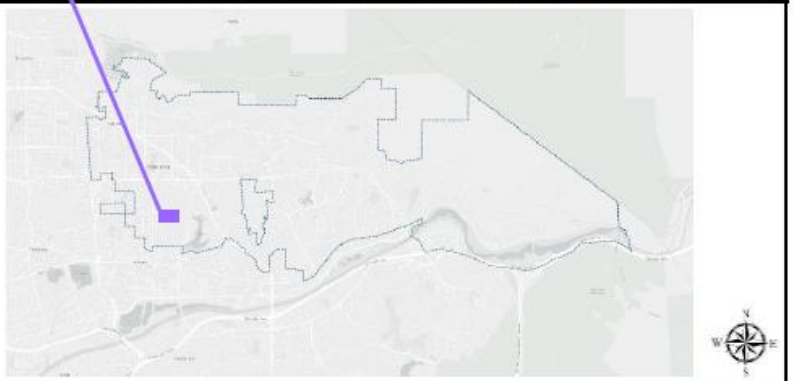


EXHIBIT B

