

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 1, 2025, by and between the CITY OF YORBA LINDA ("CITY"), a public agency, and BRANDON GILSON, MACY GILSON and MCKENNA CAPEN ("DECLARANT"), with reference to the following:

RECITALS

- A. The DECLARANT owns real property located at 5122 Richfield Road, Yorba Linda, California 92886 (APN 343-251-36) ("Subject Property"), which is more particularly described as

**EXHIBIT "A"**

(See Attached Legal Description)

- B. City is the owner of a Storm Drain Easement more specifically referenced as Document #91-609702 and as more particularly identified in **Exhibit "B"** ("Easement") across a portion of the Subject Property. Within the Easement, the City owns a 12.5 foot-wide Storm Drain Easement ("City Facility")
- C. The DECLARANT has constructed improvements that include a 6 foot tall wood fence along the west property line of the Subject Property (the "Improvement") across the Easement area (hereinafter referred to as an "Encroachment"), as illustrated in **Exhibit "C"** attached hereto and incorporated by reference herein. No other structures are allowed within the Easement area unless otherwise approved by the City.
- 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 costs to the City arising out of or related to the Encroachment's impact upon the City's use of the Easement and City Facilities.

**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 Improvement. CITY shall not be responsible for any cost(s) or damage(s) to the City Facilities that arise from the Encroachment. This paragraph does not impose liability on DECLARANT for costs or damages to the City Facilities: 1) not related to or resulting from the construction, existence, removal, and/or use of the Improvement or Encroachment; or 2) caused by City's (or its agents) own recklessness or willful misconduct that damages the City Facilities.
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 Improvement. This paragraph shall not apply to matters not related to the Improvement or Encroachment.
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 Improvement 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 Improvement 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 Improvement and from any obligation to protect, preserve, repair, or replace the Improvement. The construction, use, protection, repair and replacement of the Improvement 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.

(Signatures on Next Page)

**DECLARATION OF RESTRICTIVE COVENANTS**  
**(ENCROACHMENT ON CITY EASEMENT)**  
5122 Richfield Road, Yorba Linda, California 92886 (APN 343-251-36)

CITY OF YORBA LINDA

DECLARANT

By: \_\_\_\_\_  
Janice Lim  
Mayor

By:   
Brandon Gilson

By:   
Macy Gilson

By:   
McKenna Capen

Attest:

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

Approved as to Form:  
Rutan & Tucker LLP

By:   
Todd Litfin  
City Attorney

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 05/01/2025, before me, Y. Patel  
(insert name and title of the officer)

Notary Public, personally appeared Brandon Chase Gilson  
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.



Y. PATEL  
Commission # 2475932  
ORANGE County  
California - Notary Public  
COMM. EXP. DEC. 11, 2027

Signature Y. Patel

(Seal)

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 05/01/2025, before me, Y. Patel  
(insert name and title of the officer)

Notary Public, personally appeared Brandon Gilson, Macy Gilson and McKenna Capen  
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 Y. Patel

(Seal)



Y. PATEL  
Commission # 2475932  
ORANGE County  
California - Notary Public  
COMM. EXP. DEC. 11, 2027

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_, 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 \_\_\_\_\_

(Seal)

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Real property in the City of Yorba Linda, County of Orange, State of California, described as follows:

THAT PORTION OF LOT 1 IN BLOCK 20 OF THE YORBA LINDA TRACT, AS SHOWN ON A MAP RECORDED IN BOOKS, PAGES 17 AND 18 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

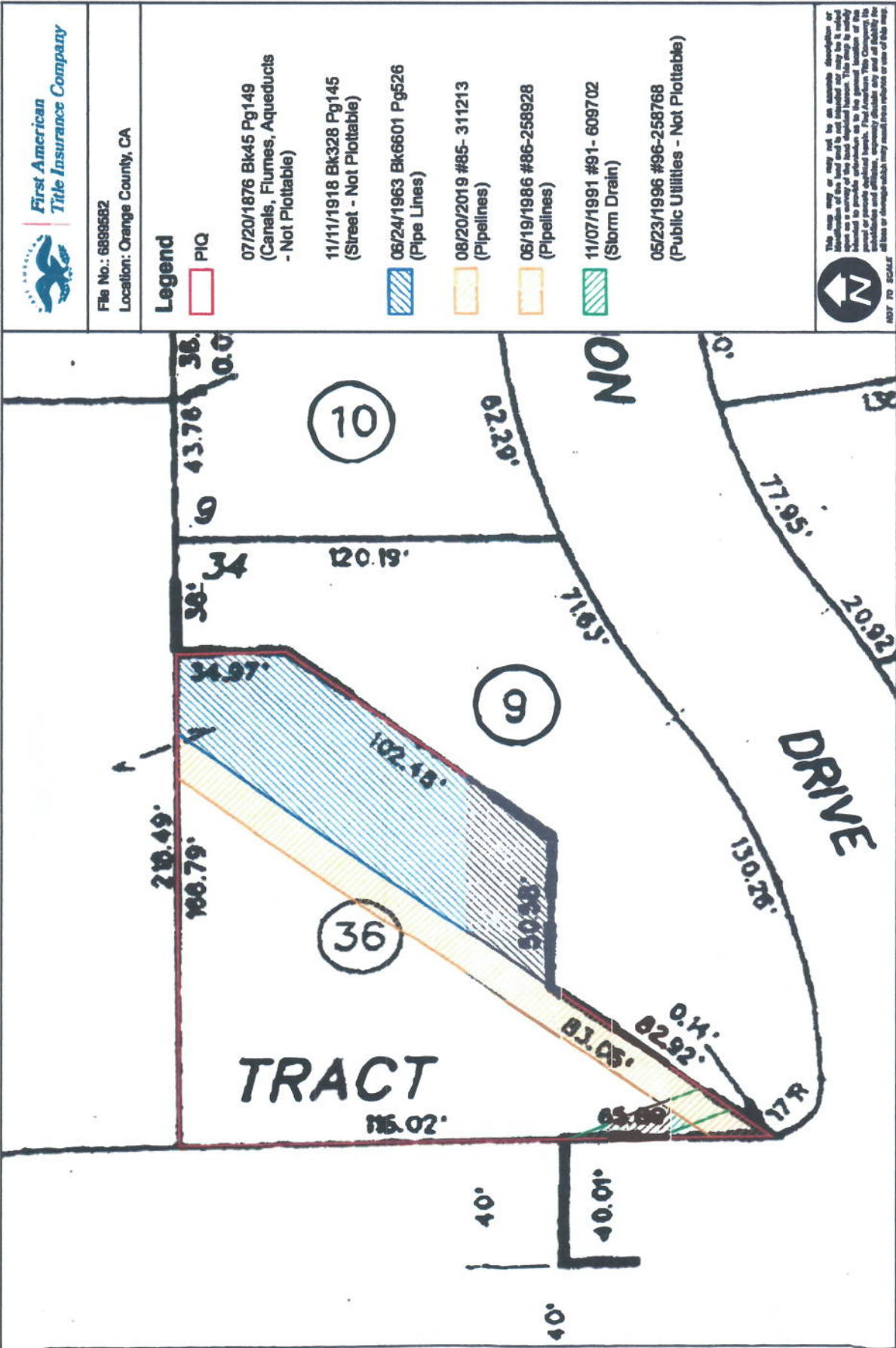
BEGINNING AT THE MOST NORTHWESTERLY CORNER OF TRACT NO. 4498, AS SHOWN ON A MAP RECORDED IN BOOK 166, PAGES 24 AND 25 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT NO. 4498, THE FOLLOWING BEARINGS AND DISTANCES: NORTH 89° 29' 26" EAST 40.01 FEET; THENCE SOUTH 1° 30' 45" EAST 65.60 FEET; THENCE NORTH 37° 14' 00" EAST 83.08 FEET; THENCE NORTH 89° 29' 26" EAST 50.58 FEET; THENCE NORTH 37° 14' 00" EAST 102.48 FEET; THENCE NORTH 1° 30' 45" WEST 34.38 FEET TO ITS INTERSECTION WITH A LINE PARALLEL WITH AND DISTANT NORTHERLY 446.29 FEET MEASURED AT RIGHT ANGLES FROM THE SOUTHERLY LINE OF SAID LOT 1; THENCE SOUTH 89° 29' 26" WEST ALONG SAID PARALLEL LINE TO ITS INTERSECTION WITH THE CENTER LINE OF RICHFIELD ROAD, AS SHOWN ON SAID MAP OF TRACT NO. 4498 (SAID CENTER LINE OF RICHFIELD ROAD BEING THE WESTERLY LINE OF SAID LOT 1); THENCE ALONG SAID CENTERLINE OF RICHFIELD ROAD, SOUTH 1° 30' 45" EAST 115.42 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE CITY OF YORBA LINDA RECORDED OCTOBER 29, 1890 AS INSTRUMENT NO. 90-571385 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO, EXCEPT THEREFROM AN UNDIVIDED 103.370/103.80 INTEREST IN, AND TO THE OIL, GAS, ASPHALTUM AND OTHER HYDROCARBON SUBSTANCES IN, ON AND UNDER SAID LAND.  
APN: 343-251-36

Document Number: 2023000046966

# EXHIBIT "B"





# EXHIBIT "C"

THICK BLUE LINE  
REPRESENTS THE LOCATION  
OF ALL 6' WOOD FENCE ON 5122 RICHFIELD

