

WHEN RECORDED MAIL TO:

City Clerk  
 City of Riverside  
 City Hall, 3900 Main Street  
 Riverside, California 92522

Project: PM 35404



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COVENANT AND AGREEMENT AND  
 DECLARATION OF RESTRICTIONS FOR  
 ACCEPTANCE OF DRAINAGE WATERS AND EASEMENT



THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 5 day of MAY, 2009, by **Timothy D. Edmond and Lisette S. Edmond, husband and wife as joint tenants** ("Declarants"), with reference to the following facts:

A. Declarants are the fee owners of the following described real property situated in the City of Riverside, County of Riverside, State of California, hereinafter referred to as Parcel Map 35404 ("PM 35404") more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

B. PM 35404 consists of approximately 2.23 acres which are or will be subdivided into 2 parcels.

C. Declarants desire to improve and develop the parcels contained within PM 35404. In connection with that development, Declarants will submit to the City of Riverside ("City") certain grading plans for PM 35404, which propose that the storm flow and nuisance water (collectively "Drainage Water") shall flow across parcels contained therein for the benefit of the entire project, and that all parcels, where necessary, will be graded so as to establish drainage facilities/swales to channel the flow of the Drainage Waters on and across certain parcels to the location of their ultimate discharge.

D. Declarants desire to create an easement across parcels 1 and 2 for the acceptance of Drainage Water.

E. As a condition for the acceptance of Declarants' final parcel map for PM 35404 and the issuance of future building and grading permits, City is requiring that an agreement be executed and recorded for cross-lot drainage to provide for the acceptance of Drainage Waters across 2 parcels within PM 35404 and to provide for the maintenance of the drainage facilities/swales by the recording of a covenant.

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F. Declarants desire to provide for the acceptance of Drainage Waters across parcels 1 and 2 and are willing to record this Covenant and Agreement for Acceptance of Drainage Waters ("Covenant") to put future owners and successors-in-interest on notice of such conditions and restrictions.

NOW, THEREFORE, for the purposes of complying with the conditions imposed by the City under PM 35404, and for the issuance of future building and grading permits, Declarants hereby covenant and agree with the City that the following restrictions shall apply:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated into this Covenant by reference.

2. Construction of Drainage Swales/Facilities. Declarants shall construct or cause to be constructed the drainage facilities/swales to channel the flow of the Drainage Waters on and across certain parcels to the location of their ultimate discharge.

3. Easement and Acceptance of Drainage Waters: Declarants, as owners of all parcels within PM 35404, for themselves and their heirs, successors and assigns, hereby grant, convey and accept an easement for Drainage Waters over, along and across parcels 1 and 2 of PM 35404.

4. Noninterference with Drainage Facilities/Swales. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken within PM 35404 which may damage, interfere with, obstruct, or retard the flow of Drainage Waters through the drainage facilities/swales constructed to channel the flow of the Drainage Waters on and across certain parcels to the location of their ultimate discharge.

5. Maintenance of Drainage Facilities/Swales. Declarants shall continuously maintain, and repair if necessary, any and all of the cross-lot drainage facilities/swales described above; and this obligation for maintenance and repair shall be borne by the heirs, successors and assigns of Declarants.

6. Release. Declarants and their respective heirs, successors and assigns, hereby release City, its officers and employees from any and all claims, demands, suits or other actions that they may now or in the future have arising out of or incurred as a result of the drainage waters flooding, flowing over, or remaining on the parcels, whether due to natural surface water and storm water runoff or to the construction or maintenance of the drainage facilities/swales described above and the diversion of water into such facilities/swales. Declarants and their respective heirs, successors and assigns, waive any and all rights and benefits which they now have, or in the future may have, conferred upon them by virtue of the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.



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In this connection, Declarants agree, represent and warrant that they are familiar with, have read, and understand Civil Code Section 1542, and Declarants realize and acknowledge that factual matters now unknown to them may have given, or may hereafter give rise to claims, which are presently unknown, unanticipated and unsuspected. Declarants further agree, represent and warrant that this release has been negotiated and agreed upon in light of such realization and that Declarants nevertheless intend to release, discharge, and acquit City from any such unknown claims which are in any way related to water flooding, flowing over, or remaining on the parcels whether due to natural surface water or storm water runoff or the construction or maintenance of the drainage facilities/swales described above and the diversion of drainage waters into such facilities/swales.

7. Enforcement. The provisions of this Covenant shall be enforceable at law or in equity by the City, its successors or assigns. Should the City bring an action to enforce the terms of the Covenant, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness fees, and reasonable costs of suit. The failure of City to enforce any provision of this Covenant shall in no event be deemed to be a waiver of the right to do so thereafter nor the right to enforce any other provision hereof.

8. Run with the Land. This Covenant shall run with the land and each and all of its terms shall be binding upon Declarants, their heirs, successors and assigns, and shall continue in effect until such time as released by the Public Works Director of the City of Riverside, California, by a writing duly recorded.

9. Non merger: This Covenant shall not be subject to the doctrine of merger, even though the underlying fee ownership of the parcels in PM 35404 described herein, are vested in one party or entity.

FURTHER, Declarants hereby represent and warrant that they have the legal power, right and actual authority to subject their property to the restrictions, terms and conditions stated herein.

*[remainder of page intentionally left blank]*



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IN WITNESS WHEREOF, Declarants have caused this Covenant to be executed as of the day and year first written above.

Timothy D. Edmond  
By: Timothy D. Edmond

Lisette S. Edmond  
By: Lisette S. Edmond

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Rina M. Gonzales  
Name: Rina M. Gonzales  
Deputy City Attorney

Kevin Marstall  
Name: Kevin Marstall  
Public Works Department

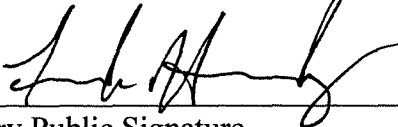


STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )

On 5/6/09, before me, Fredo Hernandez, Notary Public, personally appeared Timothy & Lisette Edmond, 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.

  
\_\_\_\_\_  
Notary Public Signature (SEAL)



STATE OF )  
COUNTY OF )

On \_\_\_\_\_, before me, \_\_\_\_\_, 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 \_\_\_\_\_ that the foregoing paragraph is true and correct.

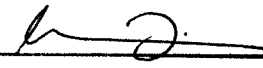
WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public Signature (SEAL)

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

Parcel 1 of Parcel Map 8414, City of Riverside, County of Riverside, State of California, as per map recorded in Book 31, Pages 58-59 of Parcel Maps, in the office of the County Recorder of said County.

DESCRIPTION APPROVAL:

BY  3/23/09  
DATE

FOR MARK S. BROWN  
CITY SURVEYOR



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