

DOC # 2011-0489265

11/03/2011 09:52A Fee:NC

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Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



WHEN RECORDED MAIL TO:

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

Project: 3752 Lime Street
APN: 213-282-004

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Covenants						T:	CTY	UNI	57

For Recorder's Office Only

AGREEMENT AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS



(DUTY TO MAINTAIN EXTERIOR PROPERTY APPEARANCE AND FUTURE USE)

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 28th day of October, 2011, by PRESTON-RASMUSSEN MORTUARY, INC., a California corporation ("Declarant") and the City of Riverside, a California charter city and municipal corporation ("City"), with reference to the following facts:

A. Declarant is the fee owner of the real property in the City of Riverside, County of Riverside, State of California, located at 3752 Lime Street, Assessor Parcel No(s). 213-282-004 and legally described in Exhibit "A" attached hereto (the "Property").

B. City has provided Forty Three Thousand Three Hundred Ninety-Nine Dollars and Fifty Cents (\$43,399.50) in funding for parking lot improvements, including overlay of slurry seal, restriping, and installation of landscaping and wrought iron fencing, and use of parking lot in exchange for this Agreement and Declaration of Covenants, Conditions and Restrictions ("Covenant").

C. In order to maintain and enhance the appearance of commercial properties and to provide parking for patrons of adjacent businesses, the City and Declarant desire to execute and record this Covenant which places certain restrictions on the exterior property appearance and future use of the Property.

NOW, THEREFORE, Declarant hereby covenants and agrees with the City that the Property is, and shall hereafter be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, improved, used and occupied subject to the following declarations, limitations, covenants, conditions, and restrictions for any portion of the Property:

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1. Standard of Maintenance.

Declarant shall maintain the Property in "Good Repair." "Good Repair" shall mean in a clean, neat, orderly and safe condition in which the maintenance is not deferred and the overall appearance is of the highest quality, consistent and compatible with the highest standards of the City of Riverside business community, and shall include, but not be limited to, components that are visible from the public right-of-way. Declarant shall therefore, at its sole cost and expense, maintain in Good Repair the following items:

- (a) All improvements on the Property including, but not limited to, structures, fences, walls, cornices, gutters, downspouts, porches, steps, landings, fire escapes, exterior stairs, windows, shutters, doors, storefronts, signs, marquees and awnings.
- (b) All Painted surfaces and apply paint or preservatives as necessary to prevent deterioration and to remove graffiti and major areas of flaking or peeling or chipped or damaged paint that are visible from the public right-of-way.
- (c) All vegetation by preventing any overgrowth including trees, shrubbery, ground covers, landscaping, lawns and other plantings that are visible from the public right-of-way which from the overall appearance results in the diminution of the appearance of the Property.
- (d) All vegetation by removing and replacing any dead, decayed or diseased trees, shrubs, or other vegetation which is in need of landscape maintenance attention that is visible from the public right-of-way.
- (e) All lighting and light standards required for use and operation of the Property.
- (f) All off-site landscaping and irrigation facilities located within the public right-of-way.

2. Future Use

Declarant covenants and agrees that during the term of this Covenant, Declarant agrees to permit the businesses located at 3358 and 3398 Mission Inn Avenue, and 3357 and 3395 University Avenue, to use the parking lot on the Property as parking for their patrons.

3. Failure to Perform.

If Declarant fails to perform the maintenance as required hereunder, the City shall have the right but not the obligation to perform the maintenance obligations of the defaulting Declarant without order of court and on thirty (30) days written notice. In such event, Declarant shall be obligated to reimburse the City for the cost of such maintenance and repair. If Declarant is subject to such reimbursement obligation, it shall also be required to pay an additional fifteen

percent (15%) of such cost of maintenance and repair to the City to cover the City's administrative and overhead expenses. Declarant's failure to reimburse the City within thirty (30) days from the date of invoicing shall entitle the City to record a notice of lien against the Property, and to enforce the lien through an action in foreclosure. However, City shall be able to pursue any other remedy available at law or in equity.

4. Right of Entry.

Declarant hereby grants to City a right of entry and access to the Property for the purpose of securing compliance with or to perform any work of maintenance or repair required by this Covenant and Agreement. City shall give Declarant written notice of entry five (5) days prior to the date of entry.

5. Enforcement.

(A) In addition to other available remedies and at the election of the City, failure to comply with this Covenant shall be deemed a violation of Riverside Municipal Code ("RMC") section 6.14.020 relating to landscaping maintenance, RMC section 13.06.090 relating to vegetation maintenance and all breaches and/or violations of this Covenant shall be deemed a nuisance subject to abatement pursuant to RMC section 6.15.010 et seq. Declarant hereby waives all protests, challenges, objections, claims and causes of action of whatever kind or nature including constitutional claims, if any, arising out of the enforcement of this Covenant by the City of Riverside and the Right of Entry granted herein. If City elects to proceed against Declarant under the provisions of the RMC, such action will also include any and all rights to impose a special assessment lien against the Property.

(B) Declarant is aware of the provisions of California Civil Code Section 1542, 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."

(C) Declarant acknowledges that Declarant may have sustained damage, loss, costs or expenses which are presently unknown and unsuspected, and such damage, loss, costs or expenses which may have been sustained, may give rise to additional damage, loss, costs or expenses in the future. Nevertheless, Declarant hereby acknowledges that this Covenant has been negotiated and agreed upon in light of that situation, and hereby expressly waives any and all rights which they may have under California Civil Code section 1542, or under any statute or common law or equitable principal of similar effect. This waiver shall not supercede any of the provisions of this Covenant or the rights of the parties hereto to enforce this Covenant in law or equity.



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C/A 116.

(D) It is agreed that the covenants, conditions, and restrictions created by this Covenant are of a special and unique kind and character in that they promote the public health, safety, welfare and morals of the community and that the rights granted to the City hereunder are of a similar special and unique kind and character so that if there is a default by the Declarant, or breach by the Declarant of any material provision of this Covenant, the City would not have an adequate remedy at law. It is expressly agreed, therefore, that the City's rights under this Covenant may be enforced by an action for the enforcement and implementation of this Covenant, specific performance and such other equitable relief as is provided by the laws of the State of California and of the City of Riverside.

6. Covenant Running with the Land.

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

7. Duration.

This Covenant shall remain in full force and effect for five (5) years from the recording date of this Covenant.

Signatures on next page.



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CIA 116

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

City:
THE CITY OF RIVERSIDE,
a California charter city and
municipal corporation

Declarant:
PRESTON-RASMUSSEN MORTUARY, a
California corporation

By: *Deanna Wilson*
City Manager

By: *William R. Campbell*
Name: William R. Campbell
Title: President/Secretary/Treasurer

Attest: *Sherry Merton*
City Clerk

Certified as to Availability of Funds:

By: *Brent A. Mason*
Finance Director
Brent A. Mason

APPROVED AS TO FORM:

Kristi J. Smith
Deputy City Attorney
Kristi J. Smith

10/27/11
CA: 11-2293



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ACKNOWLEDGMENT

State of California
County of RIVERSIDE

On OCTOBER 27, 2011, before me, SHERYN LEE SMAY, a
notary public, personally appeared WILLIAM R. CAMPBELL, 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.

Sheryn Smay (SEAL)
Signature



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CIA 1103

ACKNOWLEDGMENT

State of California
County of Riverside

On October 28, 2011, before me, Lorena Verduco, a

notary public, personally appeared Deanna Lorson and Sherry Morton, 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.

Lorena Verduco (SEAL)
Signature



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C/A 1163

EXHIBIT "A"

Legal Description

[Inserted Behind this Page]



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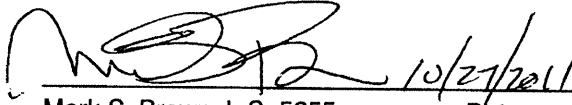
EXHIBIT A

APN 213-282-004

THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A PORTION OF BLOCK 7, RANGE 3 OF THE TOWN OF RIVERSIDE AS SHOWN BY MAP ON FILE IN MAP BOOK 7, PAGE 17, SAN BERNARDINO COUNTY RECORDS DESCRIBED AS FOLLOWS:

THAT CERTAIN PARCEL KNOWN AS RIVERSIDE COUNTY ASSESSOR PARCEL NUMBER 213-282-004 AND BEING APPROXIMATELY 70 FEET BY 165 FEET AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR MAP.

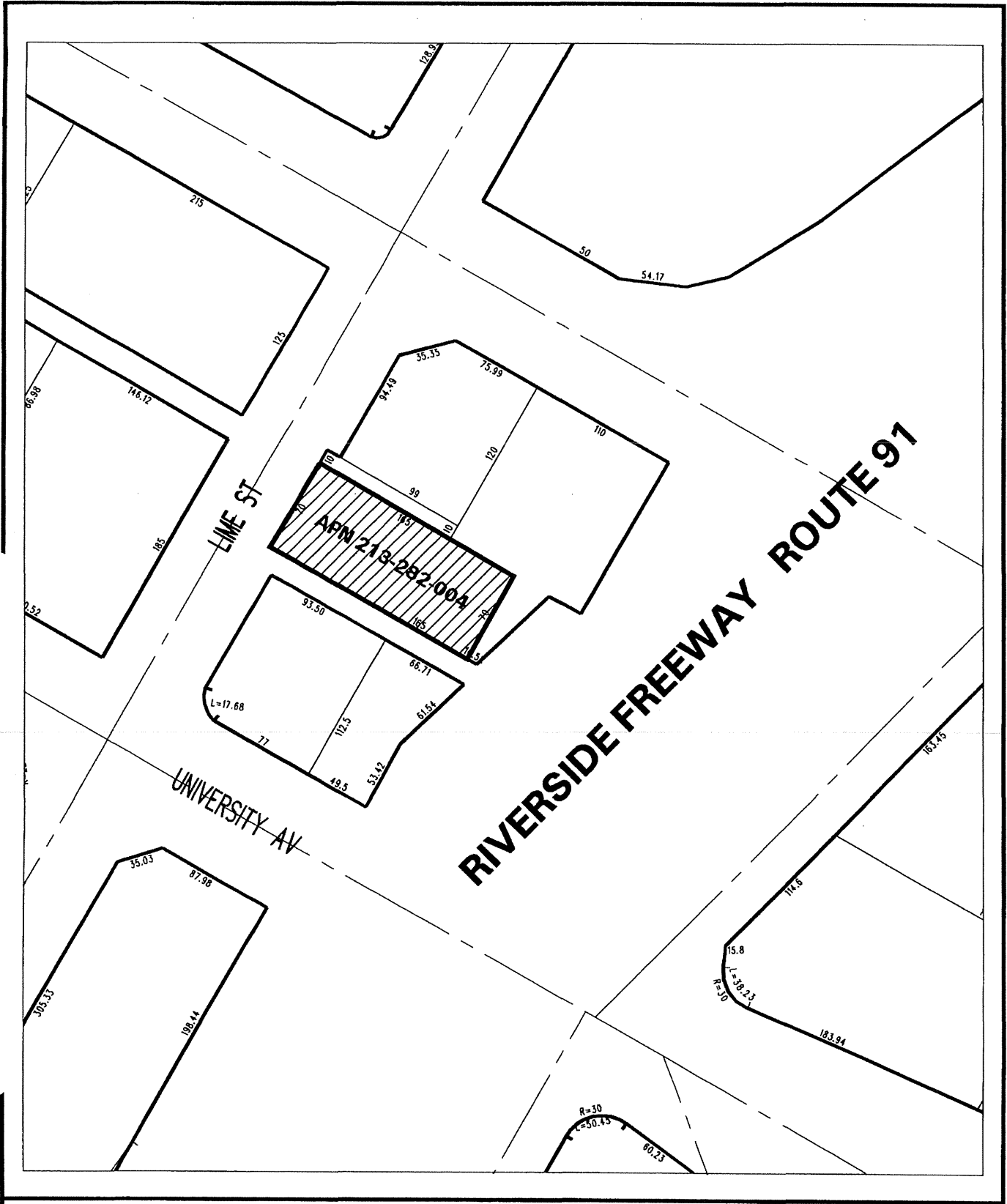
This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 10/27/11 Prep. _____
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/13



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◆ CITY OF RIVERSIDE, CALIFORNIA ◆

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

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Scale: 1" = 100'

Drawn by: bmark

Date: 10/27/11

Subject: Covenant and Agreement

CIA 1103