

RECORDING REQUESTED BY:

THE MAGNON COMPANIES
1650 Spruce Street
Suite 400
Riverside, CA 92507

422113

RECEIVED FOR RECORD
AT 8:00AM

SEP 30 1998

WHEN RECORDED MAIL TO:

City Clerk
City of Riverside
City Hall
3900 Main Street
Riverside, CA 92502

Recorded In Official Records
of Riverside County, California

Recorder 36
Fees \$ _____

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**AGREEMENT REGARDING COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PARKING EASEMENTS**

THIS AGREEMENT, regarding Covenants, Conditions and Restrictions for Parking Easements ("Agreement") is made as of this 15TH day of September, 1998, by RIVERSIDE LIMITED PARTNERSHIP, a California limited partnership ("Riverside") and PARK ATLANTA WEST, a California limited partnership ("Park Atlanta West"), with reference to the following:

RECITALS

A. RIVERSIDE and PARK ATLANTA are the fee owners of four (4) parcels of real property in the City of Riverside, County of Riverside, State of California, more particularly described in Exhibits "A" and "B" attached hereto and made a part hereof. Throughout this Agreement, any individual parcel shall be referred to as a "Parcel" and together as the "Parcels" or the "Property." The owners of fee title to one or more Parcels or any portion thereof are referred to herein individually as an "Owner" or collectively as the "Owners."

B. Owners have developed the Property as an industrial office park, and in connection therewith intend to provide for the establishment of certain private, non-exclusive easements for parking purposes (the "Easements"), over a portion of each parcel (the "Easement Area") for the use and benefit of the other Parcels. The Easement Area is depicted in Exhibit 'C' attached hereto and by this reference made a part hereof.

NOW, THEREFORE, in consideration of the premises, and in order to accomplish the intent of Owners expressed herein and to meet certain conditions imposed by the CITY OF RIVERSIDE for construction of the Property, the Owners hereby declare, covenant and agree as follows:

1. **Agreement.** Owners hereby declare that each Parcel is and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the covenants, conditions, restrictions, reservations, easements, rights, servitudes, liens and charges set forth in this Agreement, all of which are declared and agreed to be for the purpose of protecting the value of the Parcels. The provisions set forth in this Agreement are imposed upon the Owners for the benefit of all Parcels and all Owners thereof. The provisions set forth in this Agreement shall be a burden upon and a benefit to the respective Parcels, the Owners thereof and their respective successors and assigns. All covenants set forth in this Agreement are intended as and are declared to be covenants running with the land as well as equitable servitudes upon the land.

2. **Grant of Easements.** Each Owner hereby reserves and grants to each other Owner, and their respective successor and assigns, non-exclusive easements for parking purposes, over, upon and across the Easement Area, each as more particularly described herein, lying within each Parcel, which Easements are hereby declared to be for the use and benefit of and appurtenant to the other Parcel. Each Owner further reserves a temporary easement over all Parcels as may reasonably be required to facilitate construction or maintenance of parking facilities within the Easement Area, and to facilitate construction of buildings and improvements upon the remainder of each Parcel.

3. **Effect of Parking Easements.** By the Easements reserved and granted herein, each Owner shall have a non-exclusive, reciprocal easement appurtenant to their respective Parcels, and a non-exclusive, reciprocal easement burdening their respective Parcels for the benefit of the other Parcel, for the installation, maintenance, repair and use of parking facilities within the Easement Area, and for parking of vehicles within the Easement Area. No Owner shall use any easement herein in a manner which unreasonably interferes with another Owners' use or enjoyment of its Parcel.

4. **Easements Appurtenant to Parcels:** The Easements provided for herein shall pass with the title to each Parcel. Every conveyance of an interest in any Parcel shall be deemed to have been made with reference to this Agreement, and shall be deemed to include the conveyance of an easement appurtenant to the Parcel being conveyed over the Easement Areas, and the reservation of an easement over the Easement Area for the benefit of an appurtenant to the other Parcel.

5. **Restrictions on Barriers.** No Walls, fences or barriers of any sort or kind shall be construction or maintained in the Easement Area or any portion thereof which shall prevent or impair the use or exercise of any of the easements described herein.

6. **Acceptance of Vehicle and Pedestrian Traffic.** Vehicle and pedestrian traffic from the Parcels are hereby accepted onto the Easement Area and into the privately owned and maintained parking facilities located within the Easement Area. No structures, obstacles or other impediments shall be placed, maintained, or allowed to remain which would impair or impede the vehicle and pedestrian traffic from entering the private parking facilities located within the Easement Area and being discharged onto the other Parcel(s).

7. **Installation of Improvements.**

a. **General.** Installation of improvements within the Easement Area shall be in conformity with all applicable local laws, ordinances, regulations, permits and approvals. To the maximum extent possible, the respective Owners shall consult with one another and coordinate their respective installation plan so as to provide the installation will not unreasonably interfere the use or enjoyment of the other parcel. Each Owner installing, repairing, or maintaining such improvements shall do so with minimum disruption of the use of the Easement Area, and shall give as much prior written notice to the other Owners as reasonably as possible of the commencement and completion of such work.

b. **Restrictions.** In no event shall access over or to an Owner's Parcel be curtailed for any such work for more than seventy-two (72) hours without the permission of all other Owners. The Owner, on whose behalf the work is being conducted shall cause all utilities and improvements to be repaired and restored to their former condition upon completion of such work.

c. **Insurance.** The Owner, on whose behalf the work is being conducted, shall obtain at said Owner's own expense, or cause a contractor to obtain, public liability insurance from an insurer in good standing and licensed to do business in California with a financial rating in the most recent edition of Best's of at least A:XI to cover any and all claims or liability for accidents, injury, death, loss, or damage to any person or the property of any person, occurring on or about any Parcel and arising out of the course of installation and construction of the improvements, which insurance shall name all other Owners as additional insureds and shall have coverage limits of not less than \$1,000,000.00 for each individual and \$2,000,000.00 for each occurrence. Notwithstanding the foregoing, all of the Owners may approve any other insurance company in writing executed before the installation, repair or maintenance begins.

d. **Hold Harmless from Liens.** If any mechanic's or materialmen's lien is filed against any Parcel in connection with the installation, maintenance or repair of the improvement within the Easement Area, the Owner, on whose behalf such installation, maintenance or repair is being conducted shall cause such lien to be paid and discharged of record, or take such actions as may be necessary to bond over and remove such lien prior to commencement of any action to foreclose such lien.

e. **Indemnification.** In addition to the foregoing obligations to obtain insurance coverage and keep the Parcels free from liens, each Owner, on whose behalf the installation, maintenance or repair of improvements is being conducted, shall indemnify, defend and hold harmless from and against any loss, claim, liability or damage whatsoever arising out of such installation, maintenance or repair.

8. **Maintenance of Easement Area.** The Easement Area shall be maintained by the Owners in good condition and repair so all Owners may enjoy the benefits of the Easements described in this Agreement.

a. Maintenance By Owners. Any Owner, for the benefit of itself and other Owners, may undertake to cause any necessary and proper maintenance, repair, reconstruction and replacement of the Easement Area and such Owner shall be entitled to reimbursement from the other Owners for such Owner's out-of-pocket costs as provided in Paragraph 9 below.

b. Conduct of Repairs and Maintenance. Each Owner undertaking to repair or replace any of the Easement Area improvements shall coordinate such work with the other Owners to provide for a minimum disruption of the use of the Easement Area and shall cause such work to be completed in a good and workman-like manner, shall comply with all applicable laws, ordinances, regulations, permits and approvals, and shall obtain such public liability insurance and hold the other Owners harmless from mechanic's liens in the same manner as required in Paragraph 7 hereof.

9. Reimbursement of Owners.

a. Right of Reimbursement. Each Owner undertaking to repair or replace any of the Easement Area pursuant to Paragraph 8 above, shall be entitled to be reimbursed for actual out-of-pocket costs properly, repairing, reconstructing and replacing the Easement Area from the other Owners. Such Owner shall not be entitled to reimbursement for any general overhead or administrative expenses.

b. Allocation of Reimbursement Costs. Liability for reimbursement of such expenses shall be allocated between the Owners of the Parcels in proportion to current land area for each Parcel. The Owner undertaking to repair or replace any of the Easement Area improvements may bill the other Owners according to their allocation for reimbursement as the expenses are incurred (but not more than once per calendar month nor less than once per calendar year), and shall provide such invoices, receipts, or other documentation of such expenses as may reasonably be requested. Such bill shall be due and payable within fifteen (15) days of receipt, and if not paid within thirty (30) days of receipt, shall bear interest from the date at the maximum rate allowable by law.

c. Enforcement of Reimbursement. Any Owner entitled to reimbursement to this paragraph, shall have the right to enforce the provisions thereof for reimbursement by any and all remedies available at law or in equity, including filing suit, obtaining a judgment in court and enforcing collection thereof in any manner provided by law, including obtaining a judgment lien against the property of the Owner in default and foreclosing on such judgment lien. Alternatively, any such claim for reimbursement which is delinquent, along with interest due thereon, may become a secured right without first obtaining a judgment, and a lien therefore may attach to the Parcel owned by the defaulting Owner, upon recording a notice of default and claim of lien in the recorder's office of Riverside County in the State of California, signed and certified, stating the amount due, the name of the initial Owner and the legal description of the Parcel owned by such defaulting Owner.

d. Priority of Enforcement Lien. Priority of any liens imposed pursuant to subdivision (c) of this section shall be determined in accordance with applicable law. However,

the priority of any liens obtained pursuant to subdivision (c) of this section, shall be subordinate to any and all mortgages or deeds of trust now or hereafter covering any Parcel or portion thereof. Any purchasers at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free and clear from any such then existing lien, but otherwise it is subject to the provisions of this Agreement.

e. Waiver of Liability. Each Owner forever releases any other Owner undertaking to repair or replace any of the Easement Area improvements from any loss, costs, claim, or liability resulting in any manner from such Owner acting pursuant to Paragraph 7, 8 or 9 herein, except where solely caused by the gross negligence or willful misconduct of such Owner, or its agent(s) or employees.

f. Surcharge. Each Owner shall reimburse the Managing Owner or otherwise pay for all costs of repair for any damage to the Easement Area, other than normal wear and tear caused by the negligence or willful misuse of the Easement Area by such Owner or its customers, invitees, licensees, or tenants, or by the customers, invitees or licensees of its tenants.

10. Insurance for Easement Area. Throughout the term of this Agreement, each Owner shall provide and maintain at its own cost and expense, public liability insurance against any and all claims or liability for personal injury, death or property damage occurring upon or arising out of the use, operation, maintenance or condition of the Easement Area located within the boundaries of its respective Parcels. The limits of liability coverage of such insurance shall not be less than \$1,000,000.00 for each individual and \$2,000,000.00 for each occurrence, and each policy shall name the other Owners as additional insureds. Such liability insurance shall be written by an insurer in good standing and licensed to do business in California with a financial rating in the most recent edition of Best's of at least A:XI or such other insurance company as is approved by both Owners. All such insurance policies shall expressly waive any right of subrogation which the insurer of a party may acquire against the other party by virtue of the payment of any loss covered by such insurance, to the extent such waiver clause or endorsement is available. Each Owner shall provide the other owners, upon request, with copies of a certificate or other evidence of such insurance before the expiration of any existing coverage which shall provide that the insurance shall not be canceled, modified or non-renewed except upon at least ten (10) days prior written notice to the other Owners. Each Owner shall also provide the other Owners with copies of any notice of cancellation of such insurance.

11. Building Upkeep and Maintenance. Each Owner shall, at its own cost and expense, provide for appropriate and timely repair, reconstruction, upkeep and maintenance of the exterior of the buildings, driveways, landscaping and other improvements located on such Owners' Parcel and outside of the Easement Area, to assure that the remainder of the Parcel (outside of the Easement Ara) is also maintained in good condition and repair and retains at all times the appearance of first-class industrial park.

12. Taxes and Assessments. Each Owner shall pay before delinquent all real estate taxes, assessments, and other charges which may be levied, assessed, or charged against its parcel

or any party thereof, including all portions of such Parcel within the Easement Area and which are subject to the easements described herein.

13. **Rights and Obligations Run with the Land.** The rights and obligations set forth in this Agreement shall run with the land and shall be binding upon and inure to the benefit of Owners and its successors and assigns with respect to each Parcel or portion thereof, and every conveyance of an interest in any Parcel shall be deemed to have been made subject to and incorporating the terms of this Agreement, provided, however, no Owner of a Parcel or portion thereof shall be liable or responsible for any obligation under this Agreement, accruing after the conveyance or transfer of their ownership of such Parcel or portion thereof, except for such obligations arising before such conveyance or transfer of ownership.

14. **Additional Documents.** To further implement this Agreement, each Owner agrees to and shall execute and deliver such deeds and other instruments as may be necessary or proper to grant or otherwise establish or confirm the easements described in this Agreement and provisions hereof.

15. **Attorney's Fees.** The prevailing party in any action to enforce or interpret the terms of this Agreement, or any portion thereof, shall be entitled to an award of reasonable attorneys' fees and legal costs incurred in such action, in addition to all other remedies to which such party may be entitled. In the event that the party entitled to the award of such attorney's fees and legal costs has successfully obtained a judgment of the nonpayment of Easement Area maintenance and repair expenses, then such judgment shall include the reasonable attorneys' fees and legal costs awarded in such action.

16. **Waiver.** The waiver of, or failure to enforce, any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of the right to enforce, or be deemed to be a waiver of the right to enforce any subsequent breach or violation of such provisions.

17. **Severability.** Invalidation of any one of the provisions of this Agreement, or any part or parts thereof, shall not affect any of the other provisions of this Agreement, or any party or parts thereof, which shall remain in full force and effect to the greatest extent possible.

18. **Amendments.** This Agreement may be amended or modified at any time by recording in the Official Records of the County where the property described herein is situated, an instrument in writing reciting such amendment or modification, and bearing the acknowledged signatures of the Owners representing eighty-five percent (85%) or more of the land area of the Property described herein, provided, however, no amendment or modification shall be effective without the prior written consent of the Public Works Director of the City of Riverside.

19. **No Dedication.** The provisions hereof are not intended to and shall not constitute a dedication for public use, and the rights and easements herein created are private and for the benefit only of the parties hereto and their successors and assigns.

21. **Captions.** The captions used herein at the beginning of paragraphs are for convenience only, and shall not be used to interpret nor substitute for the texts of this Agreement.

22. **Mortgages.** Nothing herein shall impose any liability or obligation upon the holder of any mortgage or deed of trust now or hereafter encumbering any Parcel, or any part thereof, which was made in good faith and for value, provided, however, the provisions hereof shall apply to and be binding upon any such holder which acquires ownership of any such property whether by foreclosure or deed in lieu of foreclosure. No breach or violation of any provision hereof shall defeat or render invalid the lien or any mortgage or deed of trust now or hereafter encumbering any Parcel, or any part thereof, which was made in good faith and for value.

IN WITNESS WHEREOF, THE Owners have executed this Agreement as of the day and year first written above.

OWNERS:

RIVERSIDE LIMITED PARTNERSHIP,
a California limited partnership

BY: Raymond Magnon
Raymond Magnon,
General Partner

PARK ATLANTA WEST, a California
limited partnership

BY: Raymond Magnon
Raymond Magnon,
General Partner

APPROVED AS TO FORM
Kathleen M. Gonzal
ASST. CITY ATTORNEY

EXHIBIT A

PARCEL 1

LOT 1 OF TRACT 3238 AS SHOWN BY MAP ON FILE IN MAP BOOK 53 PAGE 80 AND 81 THEREOF, RECORDS OF RIVERSIDE COUNTY CALIFORNIA

PARCEL 2


LOT 2 OF TRACT 3238 AS SHOWN BY MAP ON FILE IN MAP BOOK 53 PAGE 80 AND 81 THEREOF, RECORDS OF RIVERSIDE COUNTY CALIFORNIA

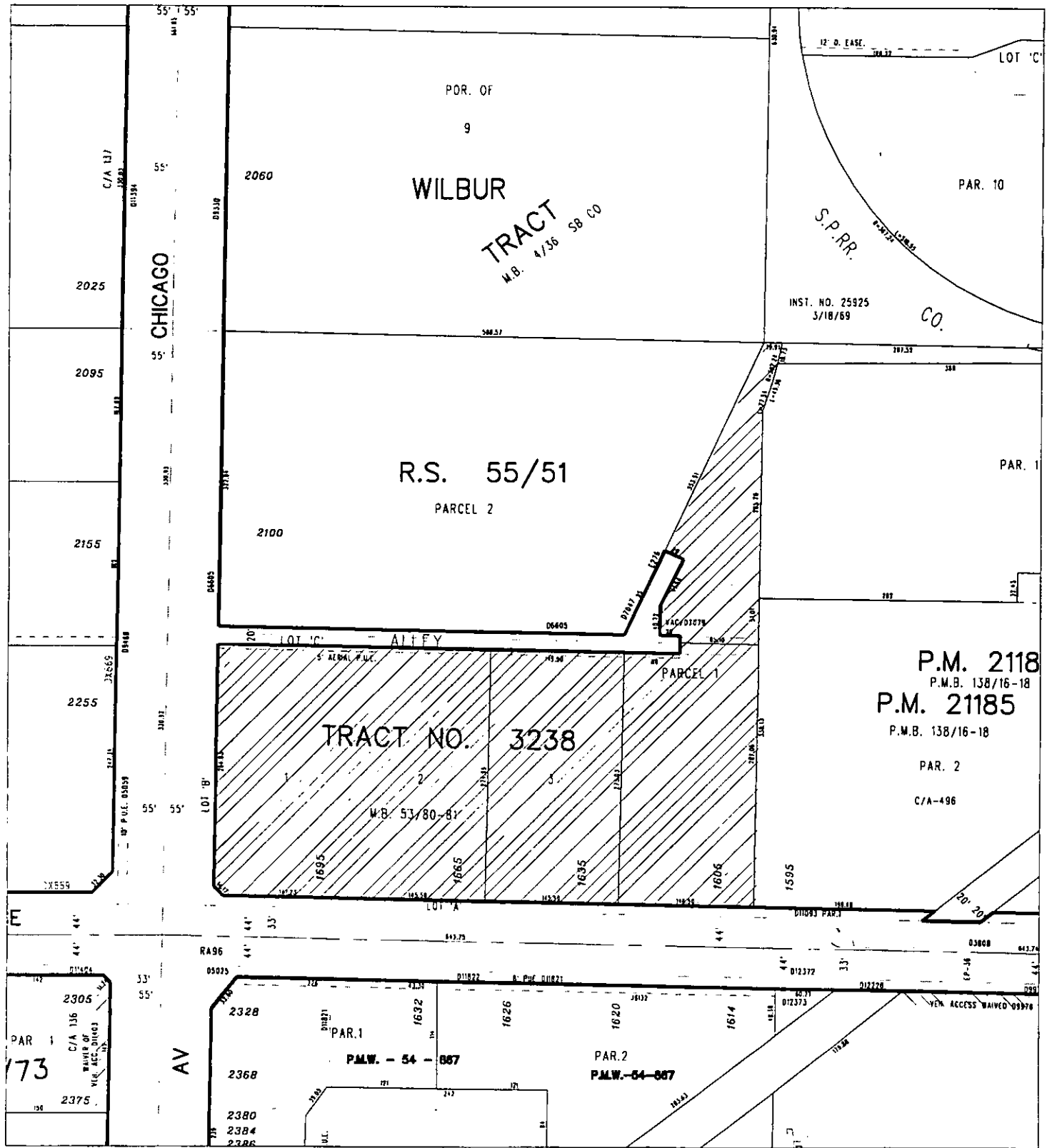
PARCEL 3

LOT 3 OF TRACT 3238 AS SHOWN BY MAP ON FILE IN MAP BOOK 53 PAGE 80 AND 81 THEREOF, RECORDS OF RIVERSIDE COUNTY CALIFORNIA

PARCEL 4

PARCEL 1 AS SHOWN BY A RECORD OF SURVEY ON FILE IN RECORD OF SURVEY BOOK 55, PAGE 51 THEREOF, RECORDS OF RIVERSIDE COUNTY CALIFORNIA.

DESCRIPTION APPROVAL 9/14/98

SURVEYOR CITY OF RIVERSIDE



◆ 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.

Sheet 1 of 1



Scale: 1" = 100'

Drawn by: bmark

Date: 09/14/98

Subject: EXHIBIT "B"

C/A 624

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

422113

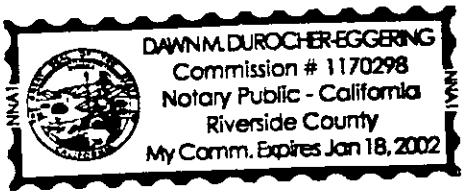
State of California

County of Riverside

On Sept. 30, 1998 before me, DAWN M. DUROCHER-EGGERING, NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared RAYMOND MAGNON
Name(s) of Signer(s)

personally known to me - OR - 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.



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Agreement Regarding Covenants, Conditions and Restrictions for Parking Easements

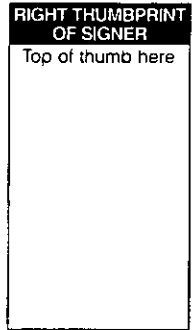
Document Date: Sept. 1, 1998 Number of Pages: 9

Signer(s) Other Than Named Above: none

Capacity(ies) Claimed by Signer(s)

Signer's Name: Raymond Magnon

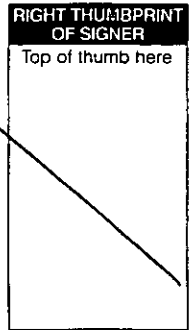
- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:
Park Atlanta
West

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

C/A 624

State of California

County of Riverside

On Sept. 30, 1998 before me, DAWN M. DUROCHER-EGGERING,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared RAYMOND MAGNON
Name(s) of Signer(s)

personally known to me - OR - 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.



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Signature of Notary Public

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Signer's Name: Raymond Magnon

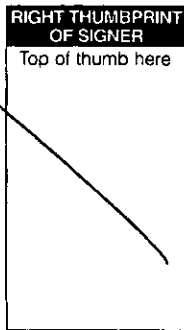
- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:
Riverside Limited Partnership

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

C/A 624