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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
ORANGE SQUARE PARKING STRUCTURE**

CIA 1093

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
ORANGE SQUARE PARKING STRUCTURE**

This Declaration is made as of this 14th day of October, 2009, by THE CITY OF RIVERSIDE, a California charter city and municipal corporation ("Declarant"). This Declaration is made with reference to the following facts:

RECITALS:

A. Declarant is the owner of that real property ("Properties") located in the City of Riverside, Riverside County, State of California, described as follows:

Units and Common Area as shown on the Orange Square Owners Association Condominium Plan ("Plan") recorded concurrently herewith in the Official Records of Riverside County, which Plan encumbers Lot 1 of Tract No. 33753, as recorded in Book 432, pages 6A - 70, inclusive of Maps, in the Office of the Riverside County Recorder.

B. Declarant intends to create a "condominium project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Properties as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the Condominiums created pursuant to the Davis-Stirling Common Interest Development Act.

C. The Properties are to be held, conveyed, encumbered, leased, used and improved subject to the limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration, all of which are in furtherance of a plan for subdividing, maintaining, improving and selling the Properties. All provisions of this Declaration are imposed as equitable servitudes on the Properties. All limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration shall run with and burden the Properties and shall be binding on and for the benefit of all of the Properties and all Persons acquiring any interest in the Properties.

D. Declarant and its successors and assigns covenant that each undivided interest in the Common Area, all easements conveyed therewith and fee title to the respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only, to the Unit. This restriction on severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Properties is suspended in accordance with Section 1359 of the California Civil Code. Any conveyance by an Owner of a Condominium, or any portion thereof, shall be presumed to convey the entire Condominium together with its proportionate interest in the Common Area.

E. The Condominiums created by this Declaration are to be used for vehicular parking and are located within a Parking Structure containing six (6) floors. The first floor of the Parking Structure will be used for offices and floors two through six will contain the Units that will be used for vehicular parking and which, together with the interest in the Common Area constitutes the Condominium. Owners of Condominiums will not have an ownership interest in the Parking Structure, but will have ownership of one or more Units and a fractional interest in the Common Area, together with easements and other rights sufficient to assure their right to use and enjoy the Condominiums for vehicular parking purposes. Declarant is the owner of the Parking Structure, including office improvements on the first floor of the Parking Structure. The right of Declarant or any future owner of the Parking Structure to create separate condominiums within the first floor of the Parking Structure is more particularly described in Section 2.6 below.

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.1. **DEFINITIONS.** Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings:

1.1.1. **Adjacent Property.** Adjacent Property means that office building property known as Regency Tower, located immediately across (to the north) Orange Street from the Parking Structure, which Adjacent Property has a current address of 3998 Orange Street, Riverside, California.

1.1.2. **Agency.** Agency means the Redevelopment Agency of the City of Riverside, a public agency. Declarant intends to initially convey some of the Condominiums to the Agency, which may thereafter convey such Condominiums to third parties.

1.1.3. **Building Owner.** Building Owner shall mean Declarant and any successor owner of fee title to the Parking Structure. The Building Owner owns the Parking Structure in which the Properties are located.

1.1.4. **City.** City means the City of Riverside, California, and its various departments, divisions, employees and representatives.

1.1.5. **Close of Escrow.** Close of Escrow means the date on which a deed is Recorded conveying a Condominium in the Properties.

1.1.6. **Common Area.** Common Area means that certain volume of airspace described in the Condominium Plan, which shall be owned by the Owners of the Units as tenants-in-common. Any references in this Declaration to Common Area are references to the Common Area as a whole and to portions thereof. The Common Area is defined as "common area" in Section 1351(f) of the California Civil Code. The undivided fee simple interest in the Common Area appurtenant to each Unit is set forth in Exhibit "A" attached hereto.

1.1.7. **Condominium.** Condominium means an estate in real property as defined in California Civil Code Section 1351(f). A Condominium consists of an undivided fee

simple ownership interest in the Common Area together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto.

1.1.8. **Condominium Plan or Plan.** Condominium Plan or Plan means the Recorded plan, as currently in effect, for all of the Properties consisting of (a) a description or survey map of the Properties which shall refer to or show monumentation on the ground, (b) a three dimensional description of the Properties, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Common Area and each Unit, and (c) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Properties or portion thereof.

1.1.9. **County.** County means the County of Riverside, California, and its various departments, divisions, employees and representatives.

1.1.10. **Declarant.** Declarant means the City of Riverside, a California charter city and municipal corporation and any successor owners of the Parking Structure.

1.1.11. **Declaration.** Declaration means this document.

1.1.12. **Improvement.** Improvement means, without limitation, any structure and any appurtenance thereto, including without limitation, lighting, interior walls, and utility improvements.

1.1.13. **Include; Including.** Whether capitalized or not, include and including mean "include without limitation" and "including without limitation," respectively.

1.1.14. **Maintain, Maintenance.** Whether capitalized or not, maintain and maintenance mean "maintain, repair and replace" and "maintenance, repair and replacement," respectively; provided, however, that maintain or maintenance shall not include repair and replacement where the context or specific language of this Declaration provides another meaning.

1.1.15. **Maintenance Expense.** Maintenance Expense means any and all expenses incurred by Building Owner in connection with the on going maintenance, repair, replacement and management of the Parking Structure which benefits the Condominium.

1.1.16. **Major Non-City Owner.** Major Non-City Owner means any Person (a) owning more than fifty percent (50%) of the undivided interests in the Common Area as determined by ownership of Condominium Units and undivided interests in the Common Area appurtenant thereto, as described in Exhibit "A" attached hereto; and (b) which is not the City, the Agency, an affiliate (controlling, controlled by or under common control with) of either. The Major Non-City Owner will be the Person that owns the Adjacent Property.

1.1.17. **Manager.** Manager means the Person retained by the Building Owner to perform management functions of the Parking Structure.

1.1.18. **Non-Business Days.** Non-Business Days means Saturdays, Sundays, and state and federal employee holidays.

1.1.19. **Non-Business Hours.** Non-Business Hours means those hours from 6:00 p.m. through 6:00 a.m.

1.1.20. **Owner.** Owner means the Person or Persons, including Declarant, holding fee simple interest to a Condominium. The term "Owner" may be expanded in a Supplemental Declaration to include other Persons.

1.1.21. **Parking Rules and Regulations.** Parking Rules and Regulations mean those rules and regulations that may be adopted by the Building Owner for the Parking Structure.

1.1.22. **Parking Structure.** Parking Structure means that certain parking structure building constructed on the real property which contains the Properties.

1.1.23. **Permittee.** Permittee means any Person who has the right to use one or more parking stalls within a Condominium as a result of a lease, license or other right to use granted by an Owner (including any users of public parking made available by the City, the Agency or any other Owner).

1.1.24. **Person.** Person means a natural individual or any entity recognized under California law. When the word "person" is not capitalized, the word only refers to natural persons.

1.1.25. **Properties.** Properties mean all of the real property described in Paragraph A of the Recitals of this Declaration. The Properties are a "condominium project" as defined in Section 1351(f) of the California Civil Code. The Properties are a "common interest development" as defined in Section 1351(c) of the California Civil Code. Any references in this Declaration to the Properties are references to the Properties as a whole and to portions thereof.

1.1.26. **Record, Recorded, File or Filed.** Record, Recorded, File or Filed means, with respect to any document, entry of such document in official records of the Recorder for the County of Riverside, California.

1.1.27. **Supplemental Declaration.** Supplemental Declaration means an instrument executed, acknowledged and Recorded by Declarant that imposes conditions, covenants, or restrictions or reserves easements for all or a portion of the Properties in addition to the conditions, covenants, restrictions and easements established by this Declaration. Declarant may Record a Supplemental Declaration so long as Declarant owns all of the property to be encumbered by the Supplemental Declaration.

1.1.28. **Unit.** Unit means a separate interest in space as defined in Section 1351(f) of the California Civil Code. Each Unit is a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan. The boundaries of the Units are approximately depicted in the Condominium Plan. In interpreting deeds, this Declaration and the Condominium Plan, (i) the upper boundary of each Unit shall be deemed to extend to the finished surface of the bottom of the ceiling slab, (ii) the lower boundary of each Unit shall be deemed to extend to the finished surface of the top of the floor slab, and (iii) the lateral boundary of each Unit will be deemed to extend to the outer most parking stall stripes or the finished

surface of the exterior walls of the Parking Structure and each Unit will have a width and length as described in the Condominium Plan, as constructed or reconstructed in substantial accordance with the original plans for the Unit. Units shall not include (1) load bearing or utility bearing walls or girders within or adjacent to the Unit, (2) gas, water and waste pipes, ducts, chutes, conduits, wires and other utility installations that extend into the Units, or (3) elevator shafts or stairwells within or adjacent to the Unit. The foregoing interpretation shall apply notwithstanding any description expressed in the deed, the Condominium Plan or this Declaration, regardless of settling or lateral movements of Improvements, and regardless of variances between Unit boundaries shown in the Condominium Plan or the deed and those of the constructed Improvement. The Units are more particularly described in Exhibit "A" attached hereto and in the Condominium Plan.

1.2. INTERPRETATION.

1.2.1. **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for creating and operating a parking condominium development. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

1.2.2. **Articles, Sections and Exhibits.** The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. Any Improvements depicted on the Exhibits attached hereto and to any Supplemental Declaration are approximate only and the as-built location of any such Improvements shall control.

1.2.3. **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and any rules and regulations, or Condominium Plan, then the provisions of this Declaration shall prevail. If there are any conflicts or inconsistencies between this Declaration and a Supplemental Declaration, the Supplemental Declaration shall control with respect to those Condominiums encumbered by the Supplemental Declaration.

1.2.4. **Severability.** The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

1.2.5. **Statutory References.** All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

ARTICLE II

USE RESTRICTIONS

The Properties shall be held, used and enjoyed subject to the following restrictions and further subject to the exemptions and rights of Declarant set forth in this Declaration. The

Condominiums within the Properties shall be used only for the limited commercial uses specifically set forth herein and all other commercial, residential or other uses not specifically authorized herein shall be specifically prohibited. The following restrictions may not be amended without the prior express written consent of the Building Owner.

2.1. **UNITS.** The Units shall be used solely for the parking of motorized vehicles and all other uses are strictly prohibited. In no event shall the Units be used for the parking of "Prohibited Vehicles." For purposes of this Declaration, "Prohibited Vehicles" shall be defined as (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and watercraft), (b) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, and concrete trucks), (c) buses or vans designed to accommodate more than ten (10) people, (d) vehicles having more than two (2) axles, unless such vehicles can fit in a single parking space, (e) trailers, (f) inoperable vehicles or parts of vehicles, (g) aircraft or (h) any other vehicles specifically prohibited by the Parking Rules and Regulations that may be adopted by the Building Owner from time to time for the use of the Parking Structure. Any Unit that is conveyed to the Owner of the Adjacent Property will be appurtenant to the Adjacent Property and may not be separately conveyed independent of the Adjacent Property.

2.2. **ALTERATIONS.** The Owners and their Permittees shall not make any alterations to any portion of the Parking Structure (including any utility improvements within or structural elements of the Parking Structure located adjacent to any portion of the Condominiums) nor install any additional attached improvements within any portion of the Parking Structure. Notwithstanding the above, any Major Non-City Owner may install appropriate signage and markings upon the surface of the Parking Structure identifying reserved parking spaces. However, any such signage must clearly designate reserved usage only during Non-Business Days and Non-Business Hours, and must first be approved by Building Owner.

2.3. **GENERAL RESTRICTIONS.** The Owners and their Permittees, shall not make any use of the Parking Structure or the Properties, pursuant to this Declaration or otherwise, except in strict compliance with applicable ordinances of the City and all other applicable governmental laws or regulations (including without limitation, any applicable hazardous materials laws) or otherwise permit, or cause to be permitted, any activities to be conducted within the Properties which would cause the actual or threatened cancellation of any insurance maintained by the Building Owner, or increase the premiums for such insurance over the rates which would otherwise apply.

2.4. **RULES AND REGULATIONS.** The Building Owner may adopt reasonable rules and regulations ("Parking Rules and Regulations") pertaining to the use of the Parking Structure. In addition to any Parking Rules and Regulations adopted by the Building Owner, the Owners shall have the right to tow any vehicle which (1) is not authorized to park in a parking stall within a Unit, or (2) prevents any Owner from parking in a parking stall within a Unit. The Owners shall observe and comply with any Parking Rules and Regulations that may be properly established by the Building Owner. Any lease or other agreement with Permittees will require compliance with Parking Rules and Regulations as well as applicable provisions of this Declaration.

2.5. **MECHANICS' LIENS.** No Owner may cause or permit any mechanic's lien to be filed against the Parking Structure or another Owner's Condominium for labor or materials alleged to have been furnished or delivered to the Owner. Any Owner who permits a mechanic's lien to be so filed shall cause the lien to be discharged within five (5) days after notice to the Owner. If the Owner fails to remove such mechanic's lien, the Building Owner may discharge the lien and pursue any legal action against the violating Owner's Condominium to recover the cost of discharge.

2.6. **FURTHER SUBDIVISION AND/OR CONVEYANCE.** No Owner may physically or legally subdivide a Condominium in any manner. Major Non-City Owner may not separately sell, convey or encumber any individual Unit or individual parking stall. However, the individual units and/or parking stalls may be sold, conveyed and/or encumbered as a collective group but only in conjunction with a sale, conveyance and/or encumbrance of the Adjacent Property or Agency's exercise of its Option under the Option Agreement with MS-Regency Tower, LLC. This provision does not limit the right of an Owner to rent or lease all or portions (i.e., individual parking stalls) of such Owner's Condominium by a written lease or rental agreement subject to this Declaration. Any failure by the tenant of Condominium to comply with this Declaration constitutes a default under the lease or rental agreement. Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of this Declaration, nor may Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Properties seek any such judicial partition. The provisions of this Section 2.6 will not prevent the creation by Declarant or a successor Building Owner of condominiums within the first floor of the Parking Structure.

2.7. **CONDOMINIUM WALLS.** Except as set forth in paragraph 2.2 Alterations above, Owners are prohibited from puncturing, piercing or otherwise altering load-bearing walls, exterior walls or structural walls located within or adjacent to an Owner's Condominium.

ARTICLE III

DISCLOSURES

No Person should rely on the ongoing accuracy or completeness of the information discussed in this Article because many of the matters discussed below are outside the control of Declarant. Accordingly, Declarant makes no guarantee as to the accuracy or completeness of the matters disclosed below. Furthermore, Declarant is under no obligation to update or revise any matter disclosed in this Article. This Article is intended to provide Owners with information known or provided to Declarant as of the date this Declaration was Recorded, to be used as a starting point for further independent investigation.

3.1. **NO REPRESENTATIONS OR WARRANTIES.** No representations or warranties, express or implied, have been given or made by Declarant or its agents in connection with the Properties, their physical condition, zoning, compliance with laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a condominium project, except as expressly provided in this Declaration, or as provided by Declarant in writing to the first Owner of each Condominium.

3.2. **ACCESS FACILITIES; SECURITY AND PRIVACY DISCLAIMER.** The entrance to the Parking Structure may be equipped with controlled access facilities (“Access Facilities”).

3.2.1. **Attendants.** Access Facilities and any staffing provided by Building Owner are not intended to provide security for Owners of Condominiums or Permittees.

3.2.2. **Security.** Neither Declarant nor the Building Owner has any obligation to provide security or safety for the Properties, nor do they make any representations or warranties that any feature of the Properties will improve security or safety. Neither the Building Owner nor Declarant shall be liable for (i) any unauthorized or criminal entry by third parties into the Properties, or any Unit in the Properties or any Improvements within the Properties, (ii) any damage or injury to Persons, or (iii) any loss of property in and about the Properties, any Unit within the Properties or any Improvements within the Properties, by or from any unauthorized or criminal acts of third parties, regardless of any action, inaction, failure, breakdown, malfunction or insufficiency of security services and improvements provided by the Building Owner or Declarant.

3.3. **PROPERTY LINES.** Subject to Section 1.1.28, the boundaries of each Condominium within the Properties are delineated on the Condominium Plan, which is a public record and is available at the office of the County Recorder.

3.4. **ADDITIONAL PROVISIONS.** There may be provisions of various laws, including the Davis-Stirling Common Interest Development Act codified at Sections 1350, et seq. of the California Civil Code which may supplement or override this Declaration. Furthermore, legislative action or court decisions may supplement, amend or repeal laws in effect at the time this Declaration is Recorded. Changes to existing laws may affect the interpretation or enforceability of this Declaration. Declarant makes no representations or warranties regarding the future enforceability of any portion of this Declaration.

3.5. **CREATION OF FIRST FLOOR CONDOMINIUMS.** Pursuant to Section 2.6 above, Declarant has hereby retained in favor of itself and any successor to Declarant as Building Owner the right to create and convey condominiums within the first floor of the Parking Structure.

ARTICLE IV

PROPERTY EASEMENTS AND RIGHTS

4.1. EASEMENTS.

4.1.1. **Utility Easements.** Declarant reserves the right to grant additional easements and rights-of-way over the Properties to utility companies and public agencies, as necessary, for the proper development and use of the Properties.

4.1.2. **Encroachments.** Declarant reserves, for its benefit and the benefit of the Owners, a reciprocal easement appurtenant to each Condominium over the other Units to accommodate (a) any existing encroachment of any wall or any other authorized Improvement,

(b) authorized construction or repair, and (c) shifting, movement or natural settling of the Units or other Improvements. Use of the foregoing easements may not unreasonably interfere with each Owner's use and enjoyment of the burdened Units.

4.1.3. **Completion of Improvements.** Declarant reserves the right and easement to enter the Properties to complete any Improvement that Declarant considers desirable to implement Declarant's development plan.

4.1.4. **Easements for the Benefit of the Properties.** The Owners and their Permittees shall benefit from, and there is hereby established and granted for the benefit of the Association, the Owners and their Permittees, the following easements appurtenant to the Properties.

(a) **Access Easements over Parking Structure and Adjacent Accessways.** Nonexclusive easements for access purposes over the Parking Structure and all pedestrian walkways, elevators and vehicular drives within or adjacent to the Parking Structure (including, without limitation, any driveways, walkways or accessways leading to and from the Parking Structure and adjacent public streets and pedestrian areas) as reasonably necessary for pedestrian and vehicular access to and from the Properties. This easement includes the right for pedestrians and vehicles to use drive aisles and similar facilities located within one or more Condominiums for access to other Condominiums.

(b) **Maintenance Easements.** Nonexclusive easements for maintenance purposes over those portions of the Parking Structure as reasonably necessary for the performance of the maintenance obligations, if any, of the Owners as set forth herein.

4.1.5. **Easements for the Benefit of the Building Owner.**

(a) **Maintenance Easements.** The Building Owner shall benefit from, and there is hereby established and reserved for the benefit of the Building Owner nonexclusive easements for ingress and egress in, through, on and over those portions of the Properties reasonably necessary for the purpose of performing the Building Owner's maintenance obligations as set forth herein.

(b) **Right of Entry.** The foregoing maintenance easement shall include the right to enter into any Condominium as necessary to perform the Building Owner's maintenance obligations as set forth herein.

4.2 RIGHT OF ENTRY. The Building Owner has the right to enter the Condominium (i) to inspect the Properties, (ii) to complete and repair any Improvements it determines necessary or proper, in its sole discretion, and (iii) to comply with requirements of applicable governmental agencies.

4.3 DISABLED PERSON PARKING. A total of eleven (11) parking spaces for use by disabled persons are located throughout the Parking Structure, in approximately equal or proportionate numbers within the Units. Regardless of the ownership of the Unit within which disabled person parking spaces are located, all such spaces throughout the Parking Structure will be available for use by any disabled persons using the Parking Structure.

ARTICLE V

MAINTENANCE OBLIGATIONS AND EXPENSES

5.1. **MAINTENANCE OBLIGATIONS OF BUILDING OWNER.** The Building Owner shall be responsible for repair and maintenance of the stairwells and elevators within the Parking Structure, including any easement areas (such as drive aisles) within the Parking Structure not included within the Condominiums. Such obligation to repair and maintain will include keeping all of the Condominiums, drive aisles, stairwells and elevators free from trash or debris, keeping drive aisles appropriately striped, with necessary signage, and keeping elevators in a safe and operable condition. The Building Owner will also be responsible for repair and maintenance of light fixtures and building systems (if any) serving only the second, third, fourth, fifth and sixth floors of the Parking Structure. If Building Owner determines that its obligations pursuant to this paragraph may disrupt regular access and use of the Condominiums or some portion thereof for a period exceeding twenty-four (24) hours, the Building Owner shall adopt a plan to investigate the need for such structural repair or reinforcement. The Building Owner will make good faith efforts to locate and make available to the Owners alternative parking, it being understood that the Building Owner cannot guaranty the availability of such alternative parking.

5.2. **MAINTENANCE OBLIGATIONS OF OWNER.** Owners shall be responsible for keeping the parking stalls and drive aisle in their Units free from trash and debris. Any signs installed by Owner shall also be Owner's sole maintenance responsibility.

5.3. MAINTENANCE EXPENSES.

5.3.1 **Direct Expenses.** Any expenses incurred by the Building Owner in performing any portion of the Maintenance Obligations which solely benefit the Condominiums and not any other portion of the Parking Structure shall be reimbursed in their entirety by the Owners pursuant to this Declaration. Any expenses reimbursable by the Owners shall be defined collectively herein as "Direct Expenses."

5.3.2 **Allocated Expenses.** The Owner's shall further be responsible for reimbursing the Building Owner for its Proportionate Share (as defined below) of all other expenses incurred by the Building Owner in performing Maintenance Obligations relating to the Parking Structure that benefit both the Condominiums and the Parking Structure (collectively, the "**Shared Expenses**"). The Shared Expenses are described on **Exhibit "B"**. Shared Expenses will not include any expenses incurred by the Building Owner solely with respect to Improvements located within the first floor of the Parking Structure.

5.3.3 **Annual Budget.** The Direct Expenses and the Shared Expenses are collectively defined herein as the "**Reimbursable Expenses.**" No later than October 1 of each calendar year, the Building Owner shall prepare and deliver to the Owners, a budget showing the projected amount of Reimbursable Expenses the Building Owner expects to incur in performing the Maintenance Obligations for the following calendar year. Upon approval of the budget by Building Owner for each calendar year (as applicable), the Owners shall reimburse the Building Owner for the Reimbursable Expenses set forth therein in twelve (12) equal monthly payments, commencing on January 1 of each year. If the Building Owner at any time, because of

unanticipated expenses, reasonably determines that the budgeted expenses set forth in an approved budget will not be adequate to pay the actual expenses which the Building Owner expects to incur for a calendar year, the Building Owner will deliver a revised budget to the Owners which shall be the basis for the Reimbursable Expenses to be paid by the Owners for the remainder of the calendar year. On or before the end of each calendar year, the Building Owner shall make an accounting of the Reimbursable Expenses actually and reasonably incurred for the previous calendar year and shall credit against subsequent payments of Owners any amounts delivered by the Owners in excess of the Reimbursable Expenses actually and reasonably.

5.3.4 Proportionate Share. The Maintenance Expenses shall be allocated among the Owners and their Condominiums in accordance with the percentages described in Exhibit "A" attached hereto.

5.3.5 Payment of Maintenance Expenses. Each Owner shall pay the Maintenance Expenses in equal monthly installments, due on the first of each month.

5.4. WAIVER OF USE. No Owner may exempt itself from liability for Maintenance Expenses incurred by the Building Owner, nor release such Owner's Condominium from any liens and charges thereof, by waiving use and enjoyment of the Properties or by abandoning such Owner's Condominium.

ARTICLE VI

INSURANCE

6.1. GENERAL INSURANCE. Building Owner and Condominium Owners shall maintain sufficient property and general commercial liability insurance over the ownership of their various property interests.

6.2. AUTOMOBILE INSURANCE. Each Owner will use commercially reasonable efforts to assure that any motor vehicle brought onto the Properties by such Owner or a Permittee is subject to automotive liability insurance coverage in customary amounts not less than \$25,000 per vehicle. The preceding sentence does not obligate any Owner to obtain coverage on behalf of Permittees, but only to use commercially reasonable efforts to assure that such Permittees carry the described coverage, including the requirement that leases or other documentation with Permittees require that they maintain such coverage. To the extent that Condominiums owned by the City, the Agency or other public entity ("Public Owner") are utilized for public parking purposes, neither such Public Owner nor any other Person will be liable for the failure of a member of the general public to maintain such coverage.

ARTICLE VII

DESTRUCTION/DAMAGE OF IMPROVEMENTS

7.1. BUILDING OWNER OBLIGATIONS. In the event of damage to or destruction of any portion of the Parking Structure which materially interferes with the use of any of the Condominiums for their intended purpose or any damage to the nonexclusive easements which materially and adversely impairs access to the Condominiums, the Building

Owner shall promptly and diligently repair the Parking Structure and/or easements as necessary to restore such areas to their condition prior to the damage (collectively, the “**Restoration Work**”). During any period in which the Parking Structure has been damaged to such an extent that it is unavailable for use by some or all Owners, the Building Owner will make good faith efforts to locate and make available to the Owners alternative parking, it being understood that the Building Owner cannot guaranty the availability of such alternative parking.

7.2. **OWNERS’ OBLIGATIONS.** The Owners shall reimburse the Building Owner for a Proportionate Share of the costs to complete the required Restoration Work (the “**Restoration Costs**”). The obligation of the Owners to pay their Proportionate Share of such Restoration Costs (the “**Parking Restoration Obligation**”) shall be deemed a joint and several obligations of the Owners of the Condominiums. Such Parking Restoration Obligation shall, to the extent permitted by applicable law, be enforceable by a lien against the Owner’s Condominium.

7.3 **DAMAGE BY OWNERS.** Each Owner is liable to the Building Owner for any expense incurred by the Building Owner for damage to the Parking Structure if the damage is sustained due to the act of an Owner, his guests, tenants or invitees, Permittees, or any other Persons deriving their right to use the Parking Structure from the Owner, or such Owner’s tenants and guests.

ARTICLE VIII

ENFORCEMENT AND DEFAULT

8.1 **ENFORCEMENT** Failure to comply with any of the terms of this Declaration by any Person is grounds for relief which may include an action to recover damages, injunctive relief, foreclosure of any lien, or any combination thereof.

8.2 **NO WAIVER.** Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

8.3 **NONPAYMENT OF MAINTENANCE EXPENSES.** Maintenance Expenses are delinquent if not paid within fifteen (15) days after the due date established by the Building Owner or this Declaration. Maintenance Expenses not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys’ fees) and late charges bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. The Building Owner may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 1366(e)(2). The Building Owner need not accept any tender of a partial payment of a Maintenance Expense and all costs and attorneys’ fees attributable thereto. Acceptance of any such tender does not waive the Building Owner’s right to demand and receive full payment.

8.4 **DEFAULTS.** If any Party defaults in the performance of any obligation under this Declaration, and if such default remains uncured thirty (30) days after written notice from the other Party (the “**Nondefaulting Party**”), stating with particularity the nature and extent of the default, then the Nondefaulting Party shall have the right to (1) perform such obligation on

behalf of such defaulting Party and (2) be reimbursed by the defaulting Party, within thirty (30) days of written demand, for the cost thereof together with interest at the rate of ten percent (10%) per annum. The failure of the Nondefaulting Party to insist, in any one or more cases, upon the strict performance of any provision of this Declaration shall not be construed as a waiver of the future breach of such provision or any other provision of this Declaration.

ARTICLE IX

DURATION AND AMENDMENT

9.1. **DURATION.** This Declaration shall continue in full force unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in this Article is Recorded.

9.2. **TERMINATION AND AMENDMENT.**

9.2.1 **Amendment Approval.** This Declaration may be amended upon the written approval of a majority of the Owners. However, so long as Declarant and/or Agency own any portion of the Properties, their written consent must be obtained on any amendment.

9.2.2 **Unilateral Amendment by Declarant.** Notwithstanding any other provisions of this Section, Declarant (for so long as Declarant owns any portion of the Properties) may unilaterally amend this Declaration or a Supplemental Declaration by Recording a written instrument signed by Declarant in order to (i) amend Article III, (ii) comply with any City, County, State or Federal laws or regulations, and (iii) correct any typographical errors.

9.2.3 **Termination Approval.** Termination of this Declaration requires the approval described in Section 9.2.1 above.

ARTICLE X

GENERAL PROVISIONS

10.1. **NO PUBLIC RIGHT OR DEDICATION.** Nothing in this Declaration is a gift or dedication of all or any part of the Properties to the public, or for any public use.

10.2. **NOTICES.** Except as otherwise provided in this Declaration, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more Co-owners, or any general partner of a partnership owning a Condominium, constitutes delivery to all Owners. Personal delivery of such notice to any officer or agent for the service of process on a corporation or limited liability company constitutes delivery to the corporation or limited liability company. Such notice may also be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Building Owner. Such notice is deemed delivered three (3) business days after the time of such mailing.

10.3. **CONSTRUCTIVE NOTICE AND ACCEPTANCE.** Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Properties does consent and agree, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such person acquired an interest in the Properties.

10.4. **FIXED AMOUNTS.** Any references in this Declaration to the payment of fixed dollar amounts will be subject to adjustment in accordance with adjustments in the Consumer Price Index, All Urban Consumers, All Items, for the Los Angeles – Riverside – Orange County area published by the Bureau of Labor Statistics (“**Index**”), comparing such Index for the month and year in which this Declaration is recorded with the same Index most recently available at the time such adjustment is made.

10.5. **UNSEGREGATED REAL PROPERTY TAXES.** The Building Owner will use commercially reasonable efforts to assure that Condominiums are individually assessed and taxed (if appropriate and/or applicable) to the Owner(s) thereof. If Condominiums are taxed under a tax bill covering all of the Properties, then each Owner of a Condominium in the Properties shall pay its share of any installment due under the tax bill to the Building Owner at least ten (10) days before the delinquency date. The Building Owner shall allocate taxes among the Owners and their Condominiums in the Properties in a percentage based on their undivided interest. Notwithstanding anything to the contrary contained in this Section or elsewhere in this Declaration, to the extent that Condominiums owned by the City or the Agency, or any other such public entity are exempt from real property taxes, the provisions of this Section (and any similar provisions) will be applicable only to those Condominiums for which a real property tax liability exists.

10.6 **INDEMNITY.**

10.6.1 **Indemnity.** Each Owner shall protect, indemnify, defend, and hold the Building Owner harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including without limitation any actions or proceedings in connection therewith and reasonable attorneys’ fees, incurred in connection with, arising from, due to or as a result of the death of or any accident, injury, loss, or damage, however caused, to any person or loss or damage arising as a result of activities conducted within the Condominiums by such Owner or its Permittees.

10.6.2 **General Provisions.** Notwithstanding anything to the contrary in this Section, the Building Owner shall not be entitled to indemnification for any damage caused by or arising from its gross negligence or willful misconduct. In addition, no Owner shall be obligated to indemnify Building Owner hereunder for any claim or damage that has been finally determined by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of Building Owner, and Building Owner shall reimburse or hold the indemnifying Member harmless, as appropriate, in proportion to Building Owner’s liability. The Owner’s duty to defend hereunder is wholly independent of and separate from any limitations in this Section on its duty to indemnify, and such duty to defend exists regardless of any ultimate liability of Building Owner, unless Building Owner was grossly negligent. For purposes of this

Declaration, "grossly negligent" means the breach of a duty or standard of care that evidences neglectful conduct exceeding ordinary negligence so as to demonstrate a wanton and reckless disregard of a known duty in conscious disregard of foreseeable adverse consequences and damage.

10.7 **INTERPRETATION.** This Declaration is not intended to create, nor shall it be construed to create, a joint venture, a partnership, or any other similar relationship among any of the parties. The captions of the various provisions of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents thereof. This Declaration shall be construed in accordance with the laws of the State of California. Time is of the essence in this Declaration.

10.8 **ENTIRE AGREEMENT.** This Declaration supersedes all prior written or verbal representations or declarations of the parties concerning the subject matter hereof.

10.9 **REMEDIES CUMULATIVE.** All remedies provided in this Declaration are cumulative. Therefore, notwithstanding the exercise by a party of any remedy hereunder, such party shall have recourse to all other remedies as may be available at law or in equity. The failure of a party to insist upon strict performance of any provision of this Declaration shall not be deemed a waiver of any rights or remedies that such party may have and shall not be deemed a waiver of any subsequent breach or default of any provision hereof by the same or any other party.

10.10 **COVENANTS RUNNING WITH LAND.** The covenants contained in this Declaration shall constitute covenants running with the land, shall be binding upon, and shall inure to the benefit of, the Condominiums and any portion thereof, and shall be binding upon, and shall inure to the benefit of the Building Owner, Declarant and Owners and their successive owners and assigns.

10.11 **SEVERABILITY.** If any clause, sentence, or other portion of this Declaration becomes illegal, null, or void for any reason, or is held by any court of competent jurisdiction to be so, the remaining portions thereof shall remain in full force and effect.

10.12 **ATTORNEYS' FEES; VENUE.** If any action or proceeding is instituted to enforce or interpret any of the provisions of this Declaration or for damages on account of the breach of this Declaration, the prevailing party in any such action or proceeding shall be entitled to recover from the other party its reasonable attorneys' fees and costs and expenses of litigation incurred in such action or proceeding. Any action at law or in equity brought by any party hereto for the purpose of enforcing a right or rights provided for by this Declaration shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county

10.13 **FORCE MAJEURE.** If any party or any other person shall be delayed or hindered in or prevented from the performance of any act required to be performed by such person under this Declaration by reason of acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections,

terrorist attacks, adverse weather conditions preventing the performance of work as certified to by the licensed architect, engineer, or other individual overseeing the performance of the relevant work, war or other reason beyond such party's control, then the time for performance of such act shall be extended for a period equal to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such party.

ARTICLE XI

DECLARANT'S RIGHTS AND RESERVATIONS

If there is a conflict between any other portion of this Declaration and this Article, this Article shall control.

11.1. **CONSTRUCTION RIGHTS.** So long as the exercise of such right does not materially interfere with or adversely affect the use of Condominiums not owned by Declarant, Declarant has the right to (a) subdivide or resubdivide the Properties, (b) complete or modify Improvements to and on any portion of the Properties, owned or leased solely or partially by Declarant, (c) alter Improvements and Declarant's construction plans and designs, (d) modify Declarant's development plan for the Properties, and (e) construct such additional Improvements as Declarant considers advisable in the course of development of the Properties so long as any Condominium in the Properties remains unsold. In connection therewith, Declarant may execute and record amendments to the Condominium Plan which do not impact the size or configuration of any Units for which the Close of Escrow has occurred prior to the Recordation of such amendment.

11.2. **ASSIGNMENT OF RIGHTS.** Declarant may assign all or any portion of its rights under this Declaration, by a Recorded written assignment, (a) to any affiliate of Declarant or (b) to any successor in interest to any portion of Declarant's interest in the Properties.

11.3. **AMENDMENTS.** No amendment may be made to this Article or to the Declaration as a whole, without the prior written approval of Declarant.

11.4. **POWER OF ATTORNEY.** Each Owner, by accepting and recording a Grant Deed to a Condominium in the Properties, is deemed to constitute and irrevocably appoint Declarant, for so long as Declarant owns all or any portion of the Properties as Owner's Attorney-in-Fact, for Owner and for each of Owner's mortgagees, optionees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and each Owner is deemed thereby to have conveyed to Declarant a special power of attorney coupled with an interest authorizing Declarant to act as each Owner's attorney in fact to prepare, execute, acknowledge and record any amendment to or restatement of a Condominium Plan, as contemplated in Section 11.1 above or as Declarant otherwise deems to be reasonably necessary in order to correct errors, to conform to as-built conditions, or to bring the Plan into compliance with any City, County, State or Federal laws or regulations; provided, however, that the exercise of this right may not materially interfere with or adversely affect the use of Condominiums not

owned by Declarant. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

This Declaration is dated for identification purposes as of October 14, 2009.

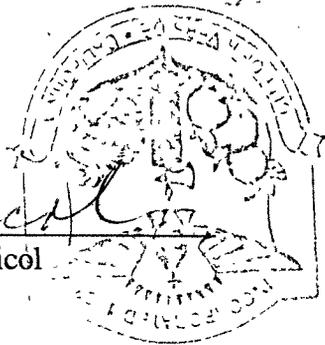
DECLARANT:

CITY OF RIVERSIDE

By: Belinda J. Graham
Name: Belinda J. Graham
Its: Assistant City Manager

Attested to:

By: Colleen J. Nicol
Colleen J. Nicol
City Clerk



Approved as to form:

By: Kristi J. Smith
Kristi J. Smith
Supervising Deputy City Attorney

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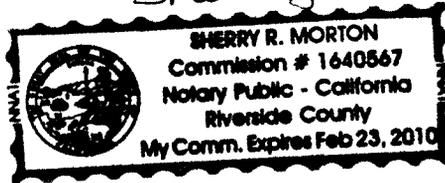
STATE OF CALIFORNIA)
)ss
COUNTY OF RIVERSIDE)

On October 14, 2009, before me, Sherry R Morton, Notary Public, personally appeared Belinda J. Graham and Colleen J. Nicol 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.

Sherry R. Morton
Notary Signature



1640567

exp. 2-23-10

EXHIBIT "A"

DESCRIPTION OF UNITS

**INCLUDING
ALLOCATION OF UNDIVIDED INTERESTS**

As set forth below, the second, fourth, fifth and sixth floors of the Parking Structure will each constitute a separate Unit, with a Unit Number corresponding to the Floor Number within the Parking Structure. The third floor includes two (2) Units, designated as Unit 3A and Unit 3B.

Unit No.	Undivided Interest In Common Area
2	20%
3A	9%
3B	11%
4	20%
5	20%
6	20%

EXHIBIT B
SHARED EXPENSES

Shared Expenses including the following:

Insurance

Custodial and supplies

Building reserve study

Lighting maintenance

Building engineer services

(Annual parking garage power scrubbing)

Fire suppression system

Miscellaneous administrative costs

Property Management Services