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Debbie Clauson

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Recording Requested By  
CHICAGO TITLE COMPANY

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WHEN RECORDED MAIL TO:

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

APR 25 1995

Project: Parcel Map 28060

Recorded in Official Records  
of Riverside County, California  
Recorder  
Fees \$ 21-

DECLARATION REGARDING PARKING VARIANCE  
AND GRANT OF EASEMENT AND AGREEMENT  
FOR FIRE PROTECTION WATER SERVICE

THIS DECLARATION is made and entered into this 10<sup>th</sup> day of April, 1995, by THE PRICE COMPANY, a California corporation as successor by merger to ALFRED M. LEWIS PROPERTIES, INC., a California corporation ("Declarant") with reference to the following facts:

A. Declarant is the fee owner of the real property (the "Property") consisting of two adjoining parcels located in the City of Riverside, County of Riverside, State of California, described as follows:

Parcel 1

Parcel 1 of Parcel Map 28060 as shown by map on file in Book 185 of Parcel Maps, at pages 59 and 60 thereof, records of Riverside County, California.

Parcel 2

Parcel 2 of Parcel Map 28060 as shown by map on file in Book 185 of Parcel Maps, at pages 59 and 60 thereof, records of Riverside County, California.

B. The Property consists of approximately 11.545 acres developed with two industrial buildings, situated on the north side of Third Street westerly of Franklin Avenue within the City of Riverside.

C. Application has been made to the City of Riverside ("City") to divide the Property into two parcels ("Parcel 1" and "Parcel 2", respectively) by Parcel Map 28060. Parcel 1 will have approximately 6.623 acres and is located on Third Street. Parcel 2 will have approximately 4.922 acres and has no street frontage, but will have access

through a private easement to Franklin Avenue and by way of reciprocal easements over Parcel 1.

D. As a variance was granted for Parcel 1 by City at the time of approval of the tentative map for Parcel Map 28060 from the minimum number of off-street parking spaces for Parcel 1 required by Chapter 19.74 of the Riverside Municipal Code, a condition was imposed by City requiring Declarant to record a covenant, subject to the approval of the Planning and Legal Departments of City, advising that a parking variance exists on Parcel 1, based on a maximum of 61 employees, and that any change of use or increase in the number of employees will require further review by the Planning Department and that the property owner or tenant may be required to provide additional parking to meet Zoning Code requirements or apply for a revised parking variance.

E. As the two buildings on the Property are currently being provided water for fire protection through a common fire protection water service connection located in front of Parcel 1 on Third Street, and as Declarant desires to continue to utilize the common fire protection water service connection for both Parcel 1 and Parcel 2, City is requiring Declarant to establish a private fire protection water service easement across Parcel 1 from Third Street to serve Parcel 2 and to establish one of the parcels to be responsible for the monthly payment of the fees and charges for the provision the fire protection water service.

NOW, THEREFORE, incorporating the above recitals and for the purpose of complying with certain conditions imposed by City for the approval of Parcel Map 28060 and a variance granted in connection therewith and in consideration of such approval and grant, Declarant hereby covenants and agrees with City as follows:

1. Parking Variance. City has granted a variance from the minimum number of off-street parking spaces to be maintained on the Parcel 1 in accordance with the standards of Chapter 19.74 of the Riverside Municipal Code in order to allow sixty-one (61) parking spaces where 125 parking spaces are required. Such variance was granted based on a maximum of 61 persons being employed on said Parcel 1 and upon its current use as a warehouse. To comply with a condition for the granting of such variance, Declarant, its successors, assigns and any tenant or occupant of the Parcel 1 shall not permit either more than a total of sixty-one (61) persons to be employed on Parcel 1 or a change of use of Parcel 1 from its current use as a warehouse development without first submitting the change for the review of the Planning Department of the City of Riverside, and, if so determined necessary by the Planning Department based upon a review of the proposed change and the then existing off-street parking standards, providing additional parking

in accordance with the requirements of said Chapter 19.74 or any successor ordinance establishing offstreet parking requirements or filing an application for and receiving a revised parking variance.

2. Grant of Easement. There is hereby established over, under, along and across that portion of Parcel 1 described as follows a nonexclusive easement for the installation, construction, maintenance, repair, replacement and use of private fire protection water service, for the use and benefit of and as an easement appurtenant to Parcel 2:

The southerly most 30 feet and the easterly most 35 feet of Parcel 1 of Parcel Map 28060 as shown by map on file in Book 185 of Parcel Maps, at pages 59 and 60 thereof, records of Riverside County, California.

3. Master Fire Protection Water Service Agreement. Parcel 1 and Parcel 2 will each be served water for fire protection service by City through a master fire service water connection installed on Third Street at Parcel 1. The owners of Parcel 1 and of Parcel 2 shall be jointly and severally liable for the payment of any charges for such service from City. The billing from City for the fire protection water service through this connection shall be sent to the owner of Parcel 1 and shall be promptly paid by said owner, provided, however, the owner of Parcel 1 may bill the owner of Parcel 2 for said parcel's proportionate share of the costs not to exceed the total of the billing from the City.

4. Maintenance of Fire Protection Water Service Line. The owner of each parcel of the Property shall be responsible for the routine maintenance and timely repair of the fire protection water service line serving such parcel including that portion of the water line lying within the easement area above-described. As part of any maintenance, repair, or replacement of the fire protection water service line which requires the disturbance of the surface of the easement area above-described, the owner performing such work shall cause the surface to be restored to reasonably the same condition as existed prior to such work being done.

5. Release. Declarant on its own behalf and on behalf of each successive owner, tenant or occupant of either of the parcels of the Property hereby release City, its officers and employees from any and all claims, demands, suits or other actions that Declarant or owner, tenant or occupant and their heirs, successors or assigns may now or in the future have arising out of or incurred as a result of any fire loss due to the installation or use of a common fire protection water service or the improper maintenance of the on-site fire protection water service system. Declarant agrees that the matters released herein are not limited to matters which are known or disclosed, and Declarant for itself and each successive owner, tenant or occupant of a parcel, waives any and all rights and benefits which it now has, or in the future may

have, conferred upon it 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.

In this connection, Declarant agrees, represents and warrants that it is familiar with, has read, and understands Civil Code Section 1542, and Declarant realizes and acknowledges that factual matters now unknown to it may have given, or may hereafter give rise to claims, which are presently unknown, unanticipated and unsuspected, and Declarant further agrees, represents and warrants that this release has been negotiated and agreed upon in light of that realization and that Declarant nevertheless intends to release, discharge, and acquit City and its officers and employees from any such unknown claims which are in any way related to the installation or use of a common fire protection water service or the improper maintenance of the on-site fire protection water service system.

6. Enforcement. The provisions of this Declaration shall be enforceable at law or in equity by Declarant, and each successive owner, lessee or occupant of either parcel of the Property and by City. In the event of any legal or equitable proceeding for the enforcement of, or to restrain any violation of, this Declaration, the prevailing party shall be entitled to court costs, including reasonable attorneys' fees. The failure of Declarant, any owner, lessee or occupant of either parcel of the Property or City to enforce any provision of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other provision thereof.

7. Merger. The easement herein established shall not be subject to the doctrine of merger, even though the underlying fee ownership of the two parcels described herein and upon which or for which the easements are established is vested in one party or entity.

8. Effect of Declaration. Any person who now or hereafter owns or acquires any right, title or interest in or to either parcel shall be deemed (a) to have considered and agreed to every covenant, condition, restriction and easement contained herein; and (b) to have been granted or be subject to the easement established in Paragraph 2 above, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in such parcel.

9. Termination and Modification. This Declaration shall run with the land and shall be binding upon Declarant and Declarant's successors and assigns, and shall not be amended, modified or terminated without the written consent of all of the owners of both parcels and of the Planning Director of the City duly recorded, provided, however, any amendment, modification or termination of the provisions relating to the master fire service water service connection must also have the consent of the Public Utilities Director of City.

IN WITNESS WHEREOF Declarant has caused this Declaration to be executed the day and year first above written.

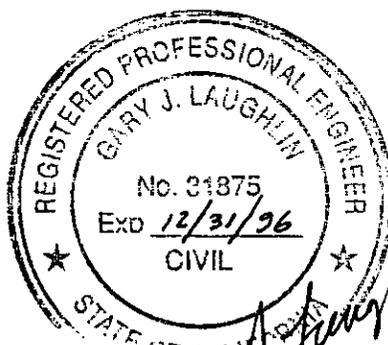
**THE PRICE COMPANY**, a California corporation, as successor by merger to **ALFRED M. LEWIS PROPERTIES, INC.**, a California corporation

By Robert D. Hicok  
Robert D. Hicok

Title Executive Vice President

~~By \_\_\_\_\_~~

~~Title \_\_\_\_\_~~



Approved as to Content:

Dieter P. Witzfeld  
Public Utilities Department *DS*

Approved as to Content:

[Signature]  
Planning Department  
SENIOR PLANNING

Approved as to Form:

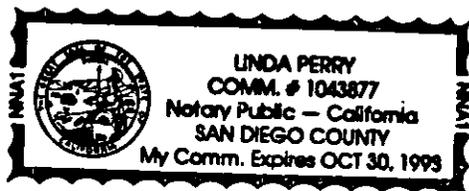
[Signature]  
Assistant City Attorney

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On April 10, 1995, before me, Linda Perry, Notary Public, personally appeared Robert D. Hicok, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the persons or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*Linda Perry*