

RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE § 6103

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

CONFORMED COPY: This document has
not been compared with the original.
SANTA CLARA COUNTY CLERK-RECORDER

Doc#: 21466284
12/21/2011 9:41 AM

m-244

Form per Gov't Code § 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

**AGREEMENT AND COVENANT RUNNING WITH THE LAND
[DEFERMENT OF DEDICATION AND PUBLIC IMPROVEMENTS]
[Restriction on 2499 Homestead Road, Santa Clara, CA]**

This Restrictive Covenant Running with the Land ("Covenant") is made and entered into on this 6th day of December 2011 ("Effective Date"), by and PRESBYTERY OF SAN JOSE OF THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, A CORPORATION ("Owner"), and the City of Santa Clara, California, a chartered California municipal corporation ("City").

RECITALS

- a. Owner is the owner of real property located at 2499 Homestead Rd. in the City of Santa Clara, California ("Property"), and is shown on the 2011-12 Santa Clara County Property Tax Roll as Assessor's Parcel No. 290-37-058. Property is also known as a portion of 3.886 acre parcel, as shown on that Record of Survey, which map was filed for record in Book 102 of Maps, at page 33, Santa Clara County Records.
- b. Whenever the term "Owner" is used, it shall refer collectively to the owner(s) signing this Covenant, and/or Owner's assigns and successors in interest. City and Owner may be referred to herein collectively as the "Parties" or individually as a "Party".

The Parties agree as follows:

COVENANT

1. Dedication of right-of-way for bus shelter pad and sidewalk (herein "Dedication") and installation of sidewalk and widening project on San Tomas Expressway (herein "Improvements") along the frontage of Property as shown in Exhibit "A" (Tracing No. 11,877-A), attached hereto and made a part hereof by this reference, are the requirements to be satisfied in conjunction with the issuance of a Building Permit (BLD2011-25416) valued at \$200,000 or more.

2. Upon execution of this agreement by Owner and in accordance with the conditions of approval for a Use Permit (PLN2011-08551) to allow temporary portable educational classrooms use on Property, City will permit the deferment of Dedication and Improvements until so required by City.
3. Improvements shall include, but are not limited to curb and gutter, sidewalk, driveways, pavement, retaining walls and modification and/or reconstruction of existing improvements such as electrical conduits and pullboxes, landscaping, irrigation systems, utilities, poles, and signs necessary to construct the sidewalk and widen the street, and incidental work thereto. All work shall be completed in accordance with City standards in effect at the time of such installation of Improvements.
4. In the event City determines that it is most practical and beneficial for City to install Improvements, Owner agrees to pay the costs incurred by City to cause said construction, which costs may be recovered in the manner provided in Paragraph 8 of this Agreement.
5. Upon service to Owner of written notice that City requires Owner to construct Improvements, Owner shall, within 60 days of said service, provide City with plans of Improvements prepared in accordance with the requirements of and subject to the approval of City.
6. Owner shall cause construction of Improvements to commence within 60 days of City approval of said plans. Owner shall cause Improvements to be completed within a time period specified by City at time of City approval of said plans. If no time period is specified, completion shall be within 120 days of commencement of construction.
7. Prior to acceptance of Improvements by City, Owner shall provide City with one set of plans revised to show "As Built" condition prepared in accordance with City requirements.
8. If Owner fails to comply with any of the conditions set forth herein, City may cause said conditions to be satisfied. All costs, including interest at the legal rate, incurred by City to cause said conditions to be satisfied shall be recovered by any means allowed by law.
9. Each and every covenant made by Owner and/or City is made for the direct benefit of the hereinafter indicated respective lands or interests in lands held by the parties hereto, their assigns and/or successors in interest, and shall run with said respective lands or interests in lands, and if applicable, the responsibilities and burdens thereof are imposed on and shall run with said respective lands or interest in lands held by the parties hereto, their assigns and successors in interest.
10. The land of Owner burdened by this Agreement is the abovementioned Property.
11. The land of City benefited by this Agreement is San Tomas Expressway, a public street owned by County.
12. Enforcement, either to restrain violation or to recover damages, shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant created through this Agreement.
13. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of

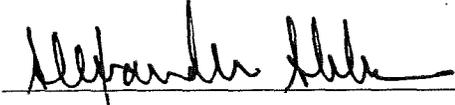
the other provisions, which shall remain in full force and effect.

14. This Agreement shall be recorded by City in the Office of the County Recorder of Santa Clara County.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date first set forth above.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:


RICHARD E. NOSKY, JR.
City Attorney


JENNIFER SPARACINO
City Manager

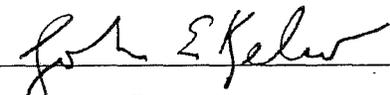
ATTEST:

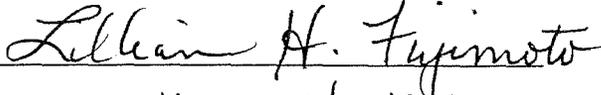

ROD DIRIDON, JR.
City Clerk

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

“City”

**PRESBYTERY OF SAN JOSE OF THE PRESBYTERIAN CHURCH
IN THE UNITED STATES OF AMERICA, A CORPORTATION**

By: 
Print Name: John E Kelso

By: 
Print Name: Lillian H. Fujimoto

Title: Acting stated clerk + secretary
of the Presbytery of San Jose
888 N. First St. Suite 320
San Jose, CA 95112

Title: Clerk of Session

Address: 2499 Homestead Santa Clara 95050
Telephone Number: (408) 984-0804 Fax Number: () -

“Owner”

IF OWNER IS A CORPORATION, THE COMPLETE LEGAL NAME AND CORPORATE SEAL OF THE CORPORATION AND CORPORATE TITLES OF THE PERSONS SIGNING FOR THE CORPORATION SHALL APPEAR ABOVE. WRITTEN EVIDENCE OF AUTHORITY OF PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE, OR ANY OTHER ORGANIZATION OTHER THAN A SOLE PROPRIETORSHIP SHALL BE ATTACHED.

ATTACH THE ALL-PURPOSE NOTARY ACKNOWLEDGMENT FORM FOR THE PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF THE OWNER.

California All-Purpose Acknowledgment

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA } ss

On December 13, 2011, before me, Liza S. Contreras, a Notary Public in and for said County and State, personally appeared Jennifer Sparacino, who 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 she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.



NOTARY PUBLIC, STATE OF CALIFORNIA

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Agreement and Covenant Running with the Land
2499 Homestead Road
Presbytery of San Jose of the Presbyterian Church in the United States of America
Document Dated: 12/6/11

EXHIBIT "A"



N 89°43'21" E 401.90'

SAN
TOMAS
EXPRESSWAY

PORTION OF 3.886 AC PARCEL
R.O.S. 102 M 33

APN
290-37-058
(2011-12)

PROPERTY SUBJECT
TO AGREEMENT

APPROX. LOCATION OF DEDICATION OF
RIGHT-OF-WAY FOR BUS SHELTER PAD AND
SIDEWALK (AREA=284 +/- SQ.FT.) BEING DEFERRED



LOCATION MAP
NTS

SIDEWALK AND STREET WIDENING
IMPROVEMENTS BEING DEFERRED

50'
45'
HOMESTEAD RD.

K:\... \AUTOCAD\LPD\HUNG\SC18509 DEF DEDICATION ROW AND DEF SIDEWALK.DWG

Revised		
Drawn By	HL	09-07-11
Checked By	<i>R. Santos</i>	09-08-11
Approved By	<i>R. Santos</i>	9-8-11
RAJEEV BATRA DIRECTOR OF PUBLIC WORKS\CITY ENGINEER		

CITY OF SANTA CLARA

AGREEMENT AND COVENANT RUNNING WITH THE LAND
(DEFER DEDICATION OF PUBLIC RIGHT-OF-WAY AND DEFER
CONSTRUCTION OF PUBLIC SIDEWALK & STREET WIDENING)
2499 HOMESTEAD ROAD

Scale 1" = 80'
Ref.
SC 18,509
Tracing No.
11,877-A

11,877-A

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

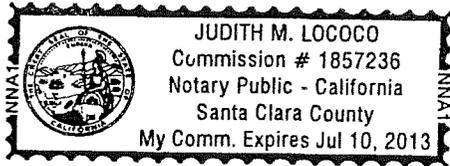
State of California

}ss.

County of Santa Clara

On November 3, 2011 before me, Judith M. Lococo, Notary Public, personally appeared John E. Kelso and Lillian H. Fujimoto

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..

Judith M Lococo

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 & Covenant running with the Land

Document Date: November 3, 2011

Number of Pages: Four

Signer(s) other than named above

Capacity(ies) Claimed by Signer(s)

Signer's Name : John K. Kelso

Signer's Name: Lillian H. Fujimoto

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

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

Signer is Representing

__ Presbytery of San Jose

Signer is Representing

First Presbyterian Church of Santa Clara

RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE § 6103

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City of Santa Clara, California

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Santa Clara, CA 95050

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SANTA CLARA COUNTY CLERK-RECORDER

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Form per Gov't Code § 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

**AGREEMENT AND COVENANT RUNNING WITH THE LAND
[DEFERMENT OF PUBLIC IMPROVEMENTS]
[Restriction on 2499 Homestead Road, Santa Clara, CA]**

This Restrictive Covenant Running with the Land ("Covenant") is made and entered into on this 6th day of December, 2011 ("Effective Date"), by and PRESBYTERY OF SAN JOSE OF THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, A CORPORATION ("Owner"), and the City of Santa Clara, California, a chartered California municipal corporation ("City").

RECITALS

- a. Owner is the owner of real property located at 2499 Homestead Rd. in the City of Santa Clara, California ("Property"), and is shown on the 2011-12 Santa Clara County Property Tax Roll as Assessor's Parcel No. 290-37-058. Property is also known as a portion of 3.886 acre parcel, as shown on that Record of Survey, which map was filed for record in Book 102 of Maps, at page 33, Santa Clara County Records.
- b. Whenever the term "Owner" is used, it shall refer collectively to the owner(s) signing this Covenant, and/or Owner's assigns and successors in interest. City and Owner may be referred to herein collectively as the "Parties" or individually as a "Party".

The Parties agree as follows:

COVENANT

1. Installation of Americans with Disabilities Act ("ADA")/City standard ramps at northeast corner Homestead Road/San Tomas Expressway and City standard ST-5 driveways on Homestead Road (herein "Improvements") along the frontage of Property as shown in Exhibit "A" (Tracing No. 11,878-A), attached hereto and made a part hereof by this reference, are the requirements to be satisfied in conjunction with the issuance of a Building Permit (BLD2011-25416) valued at \$200,000 or more.

2. Upon execution of this agreement by Owner and in accordance with the conditions of approval for a Use Permit (PLN2011-08551) to allow temporary portable educational classrooms use on Property, City will permit the deferment of Improvements for two years following the issuance of occupancy permit for BLD2011-25416. Installation of Improvements shall not be required if said temporary portable educational classrooms use on Property is terminated within 2 years following the issuance of occupancy permit for BLD2011-25416 .
3. Improvements shall include, but are not limited to curb and gutter, ADA ramp, driveways, and modification and/or reconstruction of existing improvements such as electrical conduits and pullboxes, landscaping, irrigation systems, utilities, poles, and signs necessary to suit the ramp and driveway improvements, and incidental work thereto. All work shall be completed in accordance with City standards in effect at the time of such installation of Improvements.
4. In the event City determines that it is most practical and beneficial for City to install Improvements, Owner agrees to pay the costs incurred by City to cause said construction, which costs may be recovered in the manner provided in Paragraph 8 of this Agreement.
5. Upon service to Owner of written notice that City requires Owner to construct Improvements, Owner shall, within 60 days of said service, provide City with plans of Improvements prepared in accordance with the requirements of and subject to the approval of City.
6. Owner shall cause construction of Improvements to commence within 60 days of City approval of said plans. Owner shall cause Improvements to be completed within a time period specified by City at time of City approval of said plans. If no time period is specified, completion shall be within 120 days of commencement of construction.
7. Prior to acceptance of Improvements by City, Owner shall provide City with one set of plans revised to show "As Built" condition prepared in accordance with City requirements.
8. If Owner fails to comply with any of the conditions set forth herein, City may cause said conditions to be satisfied. All costs, including interest at the legal rate, incurred by City to cause said conditions to be satisfied shall be recovered by any means allowed by law.
9. Each and every covenant made by Owner and/or City is made for the direct benefit of the hereinafter indicated respective lands or interests in lands held by the parties hereto, their assigns and/or successors in interest, and shall run with said respective lands or interests in lands, and if applicable, the responsibilities and burdens thereof are imposed on and shall run with said respective lands or interest in lands held by the parties hereto, their assigns and successors in interest.
10. The land of Owner burdened by this Agreement is the abovementioned Property.
11. The land of City benefited by this Agreement is San Tomas Expressway and Homestead Road, the public streets owned by County and City, respectively.
12. Enforcement, either to restrain violation or to recover damages, shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant created through this Agreement.
13. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of

the other provisions, which shall remain in full force and effect.

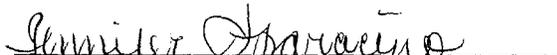
14. This Agreement shall be recorded by City in the Office of the County Recorder of Santa Clara County.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date first set forth above.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:


RICHARD E. NOSKY, JR.
City Attorney


JENNIFER SPARACINO
City Manager

ATTEST:

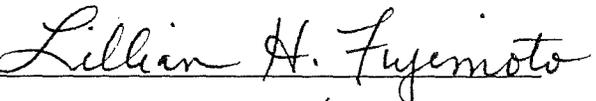

ROD DIRIDON, JR.
City Clerk

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

"City"

**PRESBYTERY OF SAN JOSE OF THE PRESBYTERIAN CHURCH
IN THE UNITED STATES OF AMERICA, A CORPORATION**

By: 

By: 

Print Name: John E. Kelso

Print Name: Lillian H. Fujimoto

Title: Acting Stated Clerk + Secretary

Title: Clerk of Session

85 SAN JOSE Presbytery
888 N. First St, #320
San Jose, CA 95112

Address: 2499 Homestead Santa Clara 95050

Telephone Number: (408) 984-0804 Fax Number: () -

"Owner"

IF OWNER IS A CORPORATION, THE COMPLETE LEGAL NAME AND CORPORATE SEAL OF THE CORPORATION AND CORPORATE TITLES OF THE PERSONS SIGNING FOR THE CORPORATION SHALL APPEAR ABOVE. WRITTEN EVIDENCE OF AUTHORITY OF PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE, OR ANY OTHER ORGANIZATION OTHER THAN A SOLE PROPRIETORSHIP SHALL BE ATTACHED. ATTACH THE ALL-PURPOSE NOTARY ACKNOWLEDGMENT FORM FOR THE PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF THE OWNER.

California All-Purpose Acknowledgment

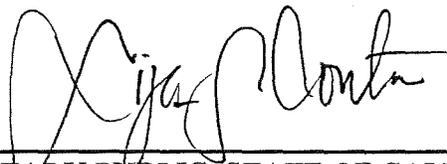
STATE OF CALIFORNIA
COUNTY OF SANTA CLARA } SS

On December 13, 2011, before me, Liza S. Contreras, a Notary Public in and for said County and State, personally appeared Jennifer Sparacino, who 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 she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.



NOTARY PUBLIC, STATE OF CALIFORNIA

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Agreement and Covenant Running with the Land – Deferment of Public Improvements
2499 Homestead Road
Presbytery of San Jose of the Presbyterian Church in the United States of America
Document Dated: 12/6/11

EXHIBIT "A"



N 89°43'21" E 401.90'

SAN
TOMAS
EXPRESSWAY

PORTION OF 3.886 AC PARCEL
R.O.S. 102 M 33

APN
290-37-058
(2011-12)

PROPERTY SUBJECT
TO AGREEMENT

APPROX. LOCATION OF
HANDICAP RAMP BEING
DEFERRED

APPROX. LOCATIONS OF
DRIVEWAY BEING DEFERRED



LOCATION MAP
NTS

50'
45'
HOMESTEAD RD.

K:\...\AUTOCAD\LPD\HUNG\SC18510 DEF ST IMP CURB RAMP-STD DW.DWG

Revised		
Drawn By	HL	09-07-11
Checked By	<i>[Signature]</i>	09-07-11
Approved By	<i>[Signature]</i>	9-8-11
RAJEEV BATRA		
DIRECTOR OF PUBLIC WORKS\CITY ENGINEER		

CITY OF SANTA CLARA
AGREEMENT AND COVENANT RUNNING WITH THE LAND
 (DEFER CONSTRUCTION OF PUBLIC IMPROVEMENTS)
 2499 HOMESTEAD ROAD

Scale	1" = 80'
Ref.	SC 18,510
Tracing No.	11,878-A

11,878-A

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

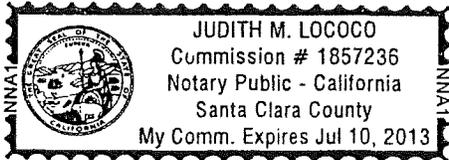
State of California

}ss.

County of Santa Clara

On November 3, 2011 before me, Judith M. Lococo, Notary Public, personally appeared John E. Kelso and Lillian H. Fujimoto

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..

Handwritten signature of Judith M. Lococo

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 & Covenant running with the Land

Document Date: November 3, 2011

Number of Pages: Four

Signer(s) other than named above

Capacity(ies) Claimed by Signer(s)

Signer's Name : John K. Kelso

Signer's Name: Lillian H. Fujimoto

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

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

Signer is Representing

Presbytery of San Jose

Signer is Representing

First Presbyterian Church of Santa Clara