

REQUEST FOR COUNCIL ACTION

SUBJECT: Code Enforcement Agreement

Attached is a copy of the Code Enforcement Agreement between the City of Redlands and Gregory Walker and Anneleise Janine Walker for property located at 1146 Oxford Drive. The City Council authorized settlement of this lawsuit and the attached Agreement reflects the Council's terms and conditions for settlement. In accordance with the requirements of the Brown Act, the agreement is on your agenda to notify the public of the settlement agreement and to acknowledge that the Mayor and City Clerk have executed the Agreement. No action is necessary by the City Council.

Prepared by:


Linda Emmerson
Executive Assistant

Concurrence:


Daniel J. McHugh
City Attorney

CODE ENFORCEMENT AGREEMENT

This Code Enforcement Agreement (hereinafter “**AGREEMENT**”) is entered into by and between the **CITY OF REDLANDS** and buyers Gregory Walker and Anneleise Janine Walker (“**BUYERS**”). The previously noted parties are sometimes referred to herein as the “**PARTIES**.”

WHEREAS, on or about August 9, 2002, the **CITY OF REDLANDS** recorded a Notice of Pendency of Administrative Proceeding with the San Bernardino County Recorder regarding certain real property located at 1146 Oxford Drive, Redlands, California 92374 (the “**SUBJECT PROPERTY**”) as a result of numerous violations of the Redlands Municipal Code existing on the **SUBJECT PROPERTY**;

WHEREAS, on or about December 18, 2002, the **CITY OF REDLANDS** recorded a Notice of Pendency of Action for Case No. SCVSS 095981 with the San Bernardino County Recorder regarding the **SUBJECT PROPERTY**;

WHEREAS, BUYERS request that the **CITY OF REDLANDS** release the Notice of Pendency of Administrative Proceeding and Notice of Release of Pendency of Action from title to the **SUBJECT PROPERTY**, so that **BUYERS** can close escrow and purchase the **SUBJECT PROPERTY** free and clear of all liens and encumbrances;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

AGREEMENT OF PARTIES

1. **BUYERS** agree to repair, or cause to be repaired, each of the items listed on the City's Notice and Order to Repair, dated August 8, 2002, no later than sixty (60) days from the date of this **AGREEMENT**. The Notice and Order to Repair is attached hereto as Exhibit "A" and incorporated herein by reference.

2. **BUYERS** represent that they are in the process of purchasing the **SUBJECT PROPERTY** and escrow is currently pending. **BUYERS** agree to have all landscaping items required to bring the **SUBJECT PROPERTY** into code compliance completed by no later 21 days from the date of the close of escrow on the **SUBJECT PROPERTY**. This includes, but is not limited to, planting necessary trees and greening up the lawns.

2. **BUYERS** shall pay the **CITY OF REDLANDS** the aggregate sum of \$7,500.00. Such sum shall be payable at the close of escrow. The payment of such sum shall be complete upon the presentation of a valid check made payable to **CITY OF REDLANDS** in the amount of \$7,500.00. Funds to be deposited in escrow within one (1) day after full execution of this **AGREEMENT**. Funds to be refunded to **BUYERS** if purchase is unsuccessful.

3. **BUYERS** further agree to comply with any and all actions, recommendations and/or decisions of the **CITY OF REDLANDS** with regard to the common areas for the **SUBJECT PROPERTY**, as defined in Final Tract Map Nos. 10141 and 10142, and the conditions of approval required by the **CITY OF REDLANDS** for such maps. **BUYERS** are aware and understand that the actions, recommendations and/or decisions of the **CITY OF REDLANDS** with regard to the common areas are unknown and yet to be determined, but may include the creation of a Home Owner's Association ("HOA") to maintain the common areas.

4. **REMOVAL OF THE NOTICES:** Subsequent to, or concurrently with, (1) the recording of the necessary title documents which transfers the title of the **SUBJECT PROPERTY** to the **BUYERS**; and (2) the close of escrow for the purchase of the **SUBJECT PROPERTY** by the **BUYERS**, the **CITY OF REDLANDS** agrees to cause to be recorded a Release of the Notice of Pendency of Administrative Proceeding and a Release of the Notice of Pendency of Action with regard to the **SUBJECT PROPERTY**.

5. **LIQUIDATED DAMAGES:** The **PARTIES** agree that in the event of a breach by **BUYERS**, damages incurred by the **CITY OF REDLANDS**, as a result of such breach, would be difficult to calculate. Therefore, the **PARTIES** hereby agree that **BUYERS** shall be liable to the **CITY OF REDLANDS** in the amount of \$10,000.00, in the event **BUYERS** breach this **AGREEMENT**. This provision is in addition to the **CITY OF REDLANDS'** ability to specifically enforce this **AGREEMENT**.

6. **WAIVER OF APPEAL:** The **PARTIES** acknowledge that, by agreeing to the terms and conditions of this **AGREEMENT**, any and all rights they may have to challenge or appeal any proceeding or order of the **CITY OF REDLANDS** with regard to the items listed in the Notice and Order attached hereto as Exhibit "A" or with regard to the common areas of the development which the **SUBJECT PROPERTY** is located, is forever waived. This waiver expressly includes any right by **BUYERS** to appeal the formation of a HOA.

7. **DISCOVERY OF ADDITIONAL FACTS:** The **PARTIES** to this **AGREEMENT**, and each of them acknowledge that they may hereinafter discover facts different from, or in addition to, those which they now know to be true with respect to the subject matter of this **AGREEMENT**, and agree that this **AGREEMENT** shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof.

8. **REPRESENTATION AND WARRANTIES:** The **PARTIES** to this **AGREEMENT**, and each of them, warrant and represent to each other that they have not transferred, assigned or hypothecated, or purported to transfer, assign or hypothecate, any of the claims being released hereunder.

9. **NO RELIANCE ON OTHERS:** The **PARTIES** to this **AGREEMENT**, and each of them, acknowledge that in entering into this **AGREEMENT** they have not relied upon any statement of any other party or any **PARTIES'** attorneys, and should any party be mistaken in the **PARTIES'** belief with regard to some issue of fact or law regarding the matters herein, this

AGREEMENT shall nonetheless remain in full force and effect and be binding as to each and all of the parties.

10. **CONSTRUCTION OF AGREEMENT:** The language in all parts of this **AGREEMENT** shall be in all cases construed as a whole according to its fair meaning and not strictly for or against any party hereto.

11. **SUCCESSORS:** This **AGREEMENT** shall be binding upon and inure to the benefit of each party and parties' respective successors, heirs and assigns. The **CITY OF REDLANDS** reserves the right to record this **AGREEMENT** with the County Recorder's office once **BUYERS** close escrow on the **SUBJECT PROPERTY**.

12. **COUNTERPARTS:** This Release may be executed in one or more counterparts, (including via original or electronic facsimile or telecopier transmission, which shall be conclusively deemed an original signature or signatures) each of which shall be deemed an original but all of which rather shall constitute one and the same instrument.

13. **ACTION FOR ENFORCEMENT OF AGREEMENT:** If any party hereto brings an action or other proceeding to interpret or enforce any of the terms of this **AGREEMENT**, or arising out of a breach of contract or otherwise related to this **AGREEMENT**, then the prevailing party therein shall be entitled to recover costs and expenses, including reasonable attorneys' fees, in such amounts as may be determined by the Court, having jurisdiction thereof, in addition to any

other relief awarded.

14. **ENTIRE AGREEMENT:** This **AGREEMENT** constitutes the entire Agreement and understanding among the **PARTIES** concerning the subject matter of the **AGREEMENT**, and supercedes all prior and contemporaneous agreements, statements, understandings, terms, conditions, negotiations, representations and warranties, whether oral or written, made by any of the parties or their attorneys concerning the matters covered by this **AGREEMENT**.

15. **ADVICE OF COUNSEL:** Each of the **PARTIES** to this **AGREEMENT** has had the opportunity to obtain the advice of legal counsel of their or its choice with respect to this **AGREEMENT**.

16. **GOVERNING LAW:** This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of California. It is also expressly agreed and understood by the parties that the language of this **AGREEMENT** shall not be presumptively construed against any of the parties.

17. **AUTHORITY TO SIGN:** All individuals signing below on behalf of any entity hereby warrant and represent that they have full authority to execute this **AGREEMENT** on behalf of the entities for which they have signed.

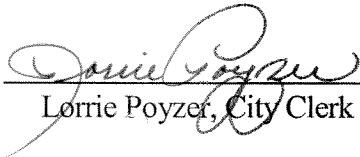
IN WITNESS WHEREFORE , the parties hereto have executed or caused this
AGREEMENT to be executed by their duly authorized representatives.

CITY OF REDLANDS

DATED: August 11, 2003.

By: 
Karl N. Haws, Mayor

ATTEST:

By: 
Lorrie Poyzer, City Clerk

DATED: _____, 2003.

BUYER Gregory Walker

By: _____
Gregory Walker

DATED: _____, 2003.

BUYER Anneleise Janine Walker

By: _____
Anneleise Janine Walker

07-31-03 09:32am From-BB&K

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IN WITNESS WHEREFORE, the parties hereto have executed or caused this
AGREEMENT to be executed by their duly authorized representatives.

CITY OF REDLANDS

DATED: _____, 2003.

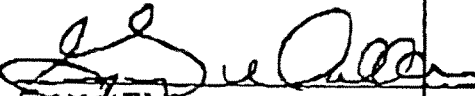
By: _____
Karl N. Haws, Mayor

ATTEST:

By: _____
Lornie Poyzer, City Clerk

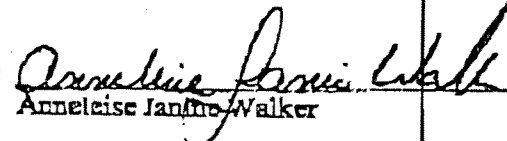
DATED: 7-31-03, 2003.

BUYER Gregory Walker

By: 
Gregory Walker

DATED: 7/31/03, 2003.

BUYER Anneleise Janine Walker

By: 
Anneleise Janine Walker

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