

WHEN RECORDED MAIL TO:

CITY CLERK
City of Riverside
City Hall, 3900 Main Street
Riverside, California 92522

Project: Design Review Case DR-019-923

RECEIVED FOR RECORD
AT 6:00 O'CLOCK

OCT 19 1994

Recorded in Official Records
of Riverside County, California
Recorder
First

COVENANT AND AGREEMENT
FOR MAINTENANCE OF STREET TREES; AND
TERMINATION OF PRIOR COVENANT AND AGREEMENT

THIS COVENANT AND AGREEMENT is made and entered into this 7th day of October, 1994, by CHRISTI ANN KINKLE FREDRICKS, GEORGE RANDOLPH KINKLE, CARY MURRAY KINKLE, EVERETT L. SPRIGGS, WILLIAM B. RODIGER, GEORGE P. KINKLE, III and CAROLINE M. KINKLE (collectively the "Declarants"), with reference to the following facts:

A. Declarants are the fee owners of the real property (the "Property") located in the City of Riverside, County of Riverside, State of California described as follows:

PARCEL 1:

That portion of Block 13, Range 3 of the Town of Riverside, as shown by map on file in Book 7, Page 17 of Maps, records of San Bernardino County, California, described as follows:

Beginning at a point on the northerly line of 14th Street, 55 feet easterly from the southwest corner of said block;

Thence easterly on the northerly line of 14th Street, 55 feet;

Thence northerly parallel with the easterly line of Lime Street, 165 feet;

Thence westerly, parallel with the northerly line of 14th Street, 55 feet;

Thence southerly parallel with the easterly line of Lime Street, 165 feet to the point of beginning;

Excepting therefrom that portion conveyed to the City of Riverside by Deed recorded February 5, 1973 as Instrument No. 15526 of Official Records of Riverside County, California.

PARCEL 2:

That portion of Block 13, Range 3 of the Town of Riverside, as shown by map on file in Book 7, Page 17 of Maps, records of San Bernardino County, California, described as follows:

Beginning at a point on the northerly line of 14th Street, 110 feet easterly from the southwesterly corner of said Block 13;

Thence easterly on the said northerly line of 14th Street, 55 feet;

Thence at a right angle northerly and parallel with the easterly line of Lime Street, 165 feet;

Thence at a right angle westerly and parallel with the northerly line of 14th Street, 55 feet;

Thence at right angle southerly and parallel with the easterly line of Lime Street, 165 feet to the point of beginning;

Excepting therefrom the southwesterly 17 feet thereof, as conveyed to the City of Riverside by Deed recorded December 8, 1972 as Instrument No. 162881 of Official Records of Riverside County, California..

The Property is located at 3377 Fourteenth Street, Riverside, California.

B. As a condition for the development of the Property, Declarants must install street trees in the Fourteenth Street right-of-way fronting the Property in accordance with the Street Tree Policy of the City of Riverside. The Park and Recreation Department of the City of Riverside has indicated that the Street Tree Policy would require Declarants to plant Aristocrat Pear (**Pyrus calleryana** 'Aristocrat') approximately forty-five feet (45') apart on the Fourteenth Street right-of-way fronting the Property and to maintain said trees for a minimum establishment period of one year after planting.

C. Declarants have proposed that the development on the Property be enhanced by landscape features within the public right-of-way consisting of textured concrete paving, three landscape light fixtures set flush with paving, four 24" box Oleander standards (**Nerium oleander**) with raised planters, and four 24"-box Carrot Wood (**Cupaniopsis anacardioides**) with 48" square metal tree grates spaced 24 feet apart.

D. The Park and Recreation Department of the City of Riverside is willing to approve the enhanced landscaping desired by Declarants subject to Declarants

assuming, by a recorded agreement, all responsibility for the nonconforming street trees including the continued maintenance and trimming of the trees, the replacement of said trees as may be necessary, and the maintenance of the grates, the textured concrete paving, the raised planters and all landscape lighting.

E. Certain of the Declarants by that Covenant and Agreement for Maintenance of Street Trees dated February 22, 1994, and recorded February 22, 1994, as Instrument No. 073840, Official Records of Riverside County, California, attempted to comply with the condition; however, not all of the fees owners of the Property were shown on or signed the Covenant and Agreement for Maintenance of Street Trees dated February 22, 1994. Declarants desire to correct the vesting as shown on the earlier recorded Covenant and Agreement for Maintenance of Street Trees dated February 22, 1994, and to have all of the owners of the Property agree to the provisions therein contained.

NOW, THEREFORE, incorporating the above recitals and in consideration of the Park and Recreation Department of the City of Riverside concurring in the planting of the additional street trees and other enhanced landscaping and improvements, and to include all of the fee owners of the Property, Declarants hereby covenant and agree with the City of Riverside as follows:

1. Declarants shall at Declarants' sole cost and expense plant or cause to be planted four 24" box Oleander standards (**Nerium oleander**) with raised planters and four 24" -box Carrot Wood (**Cupaniopsis anacardioides**) with 48" square metal tree grates, spaced twenty-four feet apart in the public right-of-way of Fourteenth Street adjacent to the Property in accordance with the plans on file with, and approved by, the Park and Recreation Department. In addition, Declarants shall install in the parkway of the Fourteenth Street public right-of-way adjacent to the Property, textured concrete paving and three landscape light fixtures set flush with paving and an automatic irrigation system to appropriately water the trees in accordance with the aforementioned plans and subject to the specifications of the Park and Recreation Department of the City of Riverside.

2. The street trees above listed in paragraph 1 shall be planted by Declarants prior to occupancy of the Property.

3. Following the planting of the street trees as above identified, Declarants at Declarants' sole cost and expense shall maintain the street trees according to recognized horticultural standards and to the reasonable satisfaction of the Park and Recreation Department. In meeting Declarants' obligations hereunder, Declarants shall be responsible for the payment of all

water used, the installation, repair and maintenance of the irrigation system, the application of fertilizer, periodic trimming of the trees in accordance with the reasonable policies of the Park and Recreation Department, and the immediate replacement of any dead trees.

4. Declarants shall be solely responsible for the maintenance, repair and replacement of the grates, the textured concrete paving, the raised planters and all landscape lighting placed in the public right-of-way of Fourteenth Street adjacent to the Property pursuant to the aforementioned plans approved by the Park and Recreation Department of City, and keep same in an attractive and safe condition at all times.

5. Declarants acknowledge and agree that all work to be performed within the public right-of-way to carry out Declarants' obligations under this Covenant and Agreement shall be conducted by an appropriately licensed contractor.

6. Declarants hereby agree to and shall defend, indemnify and hold harmless the City of Riverside, its officers and employees from any and all liabilities, expenses, claims or causes of action arising out of or alleged to be caused by or resulting from the planting, care, maintenance, condition or existence of the street trees as planted by Declarants or the grates, planters and textured concrete paving installed or maintained by Declarants in the public right-of-way of Fourteenth Street adjacent to the Property; provided, however, the City of Riverside shall promptly give notice of any such claim or lawsuit.

7. The responsibilities and related costs as set forth hereinabove shall be a burden on and appurtenant to the Property as hereinabove described. In the event the Property is divided in any manner, the responsibilities and costs shall be appurtenant to and be borne on the basis of front footage by the owners of the parcels comprising the Property.

8. The terms of this Covenant and Agreement may be enforced by the City of Riverside, its successors and assigns. Should the City of Riverside bring an action to enforce any of the terms hereof, the prevailing party shall be entitled to costs of suit, including reasonable attorneys' fees.

9. This Covenant and Agreement shall run with the land and each and all of the terms shall be binding upon Declarants, the heirs, successors and assigns of Declarants, and shall not be modified, amended or terminated without the prior written consent of the Park and Recreation Director of the City of Riverside duly recorded.

10. That certain Covenant and Agreement for Maintenance of Street Trees executed on February 22, 1994, and recorded on February 22, 1994, as Instrument No. 073840, Official Records of Riverside County, California, is hereby terminated and superseded by this Covenant and Agreement upon its recordation.

IN WITNESS WHEREOF, Declarants have caused this Covenant and Agreement to be duly executed the day and year first above written.

Christi Ann Kinkle Fredricks

George Randolph Kinkle

Cary Murray Kinkle

Everett L. Spriggs

William B. Rodiger

George P. Kinkle, III

Caroline M. Kinkle

CONSENT OF PARK AND RECREATION DIRECTOR

In accordance with the provisions of Paragraph 9 of that certain Covenant and Agreement for Maintenance of Street Trees dated February 22, 1994, the Acting Park and Recreation Director of the City of Riverside hereby consents to the termination of that certain Covenant and Agreement for Maintenance of Street Trees dated February 22, 1994, and recorded on February 22, 1994, as Instrument No. 073840, Official Records of Riverside County, California, upon the recordation of the above Covenant and Agreement for Maintenance of Street Trees signed by all of the owners of the Property.

Tony M. Nelson
Acting Park and Recreation Director

Approved as to Form:

Carolyn Cooper 10/17/94
Assistant City Attorney

State of California)
) ss
County of Riverside)

On October 17, 1994, before me, a notary public in
and for said State, personally appeared _____ *mi*
Terry G. Nielsen

~~personally known to me~~ (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the
within instrument and acknowledged to me that he/~~she/they~~ executed
the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by
his/~~her/their~~ signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.



Margaret I. Archambault
Signature

CAPACITY CLAIMED BY SIGNER

- () Attorney-in-fact
- () Corporate Officer(s)
Title _____ Title _____
- () Guardian /Conservator
- (x) Individual (s)
- () Partner(s)
() General () Limited
- () Trustee(s)
- () Other _____

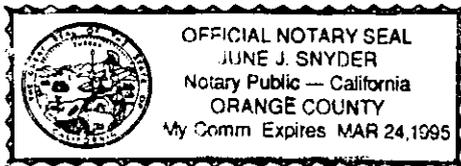
The party(ies) executing this document is/are representing:

State of California)
) ss
County of Orange)

On October 5, 1994, before me, a notary public
in and for said State, personally appeared _____

WILLIAM B. RODIGER

personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.



WITNESS my hand and official seal.

June J. Snyder

Signature

CAPACITY CLAIMED BY SIGNER

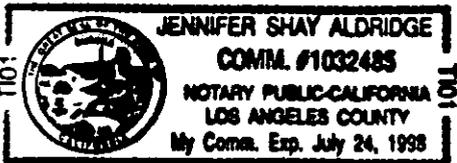
- () Attorney-in-fact
- () Corporate Officer(s)
Title _____ Title _____
- () Guardian /Conservator
- (x) Individual(s)
- () Partner(s)
() General () Limited
- () Trustee(s)
- () Other _____

The party(ies) executing this document is/are representing:

State of California)
County of Los Angeles)^{ss}

On October 7 1994, before me, a notary public
in and for said State, personally appeared Caroline Moore
Kinkle and George Phillip Kinkle II

personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) ~~is~~ are
subscribed to the within instrument and acknowledged to me that
~~he~~ she ~~they~~ executed the same in ~~his~~ her ~~their~~ authorized
capacity(ies), and that by ~~his~~ her ~~their~~ signature(s) on the
instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Jennifer Shay Aldridge
Signature

CAPACITY CLAIMED BY SIGNER

- Attorney-in-fact
- Corporate Officer(s)
Title _____ Title _____
- Guardian /Conservator
- Individual(s)
- Partner(s)
() General () Limited
- Trustee(s)
- Other _____

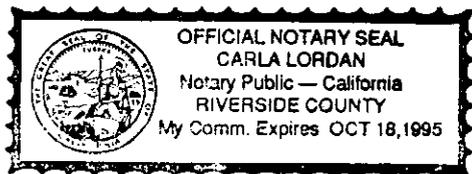
The party(ies) executing this document is/are representing:

State of California)
County of Riverside) ss

On October 10, 1994, before me, a notary public in
and for said State, personally appeared Everett L. Spriggs

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.



Carla Lordan
Signature

CAPACITY CLAIMED BY SIGNER

- () Attorney-in-fact
- () Corporate Officer(s)
Title _____ Title _____
- () Guardian /Conservator
- () Individual(s)
- () Partner(s)
() General () Limited
- () Trustee(s)
- () Other _____

The party(ies) executing this document is/are representing:
