

DOC # 2009-0337660

07/01/2009 08:00A Fee:NC

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Recorded in Official Records

County of Riverside

Larry W Ward

Assessor, County Clerk & Recorder

WHEN RECORDED MAIL TO:

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



Project: TM 32301
PW 07-0656

S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY
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M	A	L	465	426	PCOR	NCOR	SMF	NCHG	EXAM 27

COVENANT AND AGREEMENT AND
DECLARATION OF RESTRICTIONS FOR
ACCEPTANCE OF DRAINAGE WATERS

22



THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 23rd day of March, 2009, by **Mission Ranch Land Holdings, LLC, a California limited liability company** ("Declarant"), with reference to the following facts:

A. Declarant is the fee owner of the following described real property situated in the City of Riverside, County of Riverside, State of California, ("Parcel A") currently identified by Assessor's Parcel Number 266-140-001, and more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

B. Declarant desires to improve and develop the lots contained within TM 32301 ("Project"). In connection with that development, Declarant has submitted to the City of Riverside ("City") certain grading and storm drain improvement plans for the Project, which propose that the storm flow and nuisance water (collectively "Drainage Waters") from Lurin Avenue, a public street, shall flow onto Parcel A, and that Parcel A, where necessary, will be graded so as to establish drainage facilities/swales to channel the flow of the Drainage Waters on and across Parcel A to the location of their ultimate discharge.

C. As a condition for the acceptance of Declarant's grading and storm drain improvement plans for TM 32301 and the issuance of building and grading permits, City is requiring that an agreement be executed and recorded to provide for the acceptance of Drainage Waters from Lurin Avenue onto Parcel A and to provide for the maintenance of the drainage facilities/swales by the recording of a covenant.

D. Declarant desires to provide for the acceptance of public Drainage Waters from Lurin Avenue onto Parcel A and is willing to record this Covenant and Agreement for Acceptance of Drainage Waters ("Covenant") to put future owners and successors-in-interest on notice of such conditions and restrictions.

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NOW, THEREFORE, for the purposes of complying with the conditions imposed by the City under TM 32301, and for the issuance of building and grading permits, Declarant hereby covenants and agrees with the City that the following restrictions shall apply:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated into this Covenant by reference.

2. Construction of Drainage Swales/Facilities. Declarant shall construct or cause to be constructed the drainage facilities/swales in accordance with the grading and storm drain improvement plans for TM 32301 filed with and accepted by the Public Works Department of City under grading and storm drain improvement permits PW 07-0662 and PW 07-0656.

3. Acceptance of Drainage Waters: Declarant, as owner of Parcel A, for itself and its heirs, successors and assigns, hereby accepts public Drainage Waters from Lurin Avenue, as depicted on grading permit PW 07-0662 onto and across Parcel A.

4. Noninterference with Drainage Facilities/Swales. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken within Parcel A which may damage, interfere with, obstruct, or retard the flow of Drainage Waters through the drainage facilities/swales constructed in accordance with the grading plans filed with and accepted by the Public Works Department of City.

5. Maintenance of Drainage Facilities/Swales. Declarant shall continuously maintain, and repair if necessary, any and all of the drainage facilities/swales described above; and this obligation for maintenance and repair shall be borne by the heirs, successors and assigns of Declarant.

6. Release. Declarant and its respective heirs, successors and assigns, hereby release City, its officers and employees from any and all claims, demands, suits or other actions that they may now or in the future have arising out of or incurred as a result of the drainage waters flooding, flowing over, or remaining on the parcel, whether due to natural surface water and storm water runoff or to the construction or maintenance of the drainage facilities/swales described above and the diversion of water into such facilities/swales. Declarant and its respective heirs, successors and assigns, waives any and all rights and benefits which they now have, or in the future may have, conferred upon them 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



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now unknown to it may have given, or may hereafter give rise to claims, which are presently unknown, unanticipated and unsuspected. Declarant further agrees, represents and warrants that this release has been negotiated and agreed upon in light of such realization and that Declarant nevertheless intends to release, discharge, and acquit City from any such unknown claims which are in any way related to water flooding, flowing over, or remaining on the parcels whether due to natural surface water or storm water runoff or the construction or maintenance of the drainage facilities/swales described above and the diversion of drainage waters into such facilities/swales.

7. Enforcement. The provisions of this Covenant shall be enforceable at law or in equity by the City, its successors or assigns. Should the City bring an action to enforce the terms of the Covenant, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness fees, and reasonable costs of suit. The failure of City to enforce any provision of this Covenant shall in no event be deemed to be a waiver of the right to do so thereafter nor the right to enforce any other provision hereof.

8. Run with the Land. This Covenant shall run with the land and each and all of its terms shall be binding upon Declarant, its heirs, successors and assigns, and shall continue in effect until such time as a final tract map or other re-subdivision of the property is recorded, which will cause the Public Works Director of the City of Riverside to record a document releasing this Covenant.

FURTHER, Declarant hereby represents and warrants that it has the legal power, right and actual authority to subject its property to the restrictions, terms and conditions stated herein.

[remainder of page intentionally left blank]



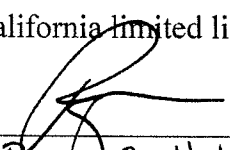
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IN WITNESS WHEREOF, Declarant has caused this Covenant to be executed as of the day and year first written above.


MISSION RANCH LAND HOLDINGS, LLC,

a California limited liability company

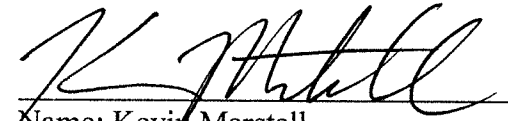

By: Roger C. Hobbs
Its: Manager

By:
Its:

APPROVED AS TO FORM:


Name: Kristi J. Smith
Supervising Deputy City Attorney

APPROVED AS TO CONTENT:


Name: Kevin Marstall
Public Works Department



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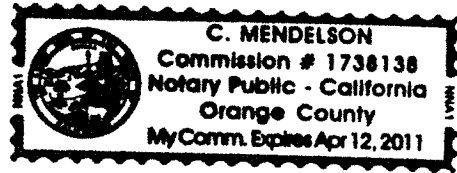
STATE OF) California
COUNTY OF Orange)

On March 23, 2009, before me, C. Mendelson, Notary Public, personally appeared Roger C. Hobbs, 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.

C. Mendelson (SEAL)
Notary Public Signature



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CONSENT AND SUBORDINATION

The undersigned, being the present owner(s) and holder(s) of that certain note and deed of trust executed by Mission Ranch Land Holding, LLC, a California limited liability company, as Trustor(s), to First American Title Company, as Trustee, said deed of trust being recorded June 21, 2007 as Instrument No. 07-407439, in the Official Records of Riverside County, hereby consents to and approves the creation of that certain Covenant and Agreement and Declaration of Restriction for Acceptance of Drainage Waters recorded _____ as Instrument No. _____, in the Official Records of Riverside County (the "Covenant") and further declares that the lien or charge of said deed of trust is hereby made subject and subordinate to the Covenant.

Dated: February 25, 2009

Sterling Savings Bank,
a Washington chartered
savings bank

Ami Luby V. Ples
Authorized Agent

Authorized Agent

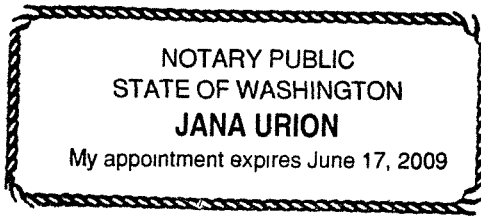
STATE OF Washington)SS
COUNTY OF Spokane)

On March 23, 2009, before me, JANA URION, Notary Public, personally appeared Bob Luby, Vice President

_____, 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~~ ^{Washington} that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jana Urion

My Commission Expires: 6-17-2009

This area for official notarial seal

Notary Name: JANA URION
Notary Registration Number: 38078

Notary Phone: 509-227-0910
County of Principal Place of Business: Spokane



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EXHIBIT "B"

LOT 9

N88°51'29"E 663.77'

LURIN AVENUE

LOT "F"

PARCEL "A"

LOT 24

M.B. 11/62

WOODCREST ACRES

APN-266-140-001

LOT 68

N00°20'00"W 662.12'

WOOD ROAD

10'

LOT "K"

N00°20'03"W 662.26' LOT 23



N88°52'14"E 663.78'

NEWSOME ROAD

PCL. 1

PCL. 2

PCL. 3

PCL. 4

PCL. MAP 10876 P.M. 56/95

SEC. 29 OF T.3S, R.4W

Pacific Coast Land Consultants, Inc.

25096 Jefferson Ave., Suite "D" Murrieta CA., 92562

CIVIL ENGINEERS

LAND SURVEYORS, PLANNERS

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT

SHEET 1 OF 1

SCALE: 1"=100' DRAWN BY: BAM DATE: 03-02-09

PARCEL "A"

S:\Land Projects 2004\J2302\DWG\EASEMENT\LOT 24 MB11-62\LOT 24 EASEMENT.dwg



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