

94714

WHEN RECORDED MAIL TO:

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

RECEIVED FOR RECORD  
AT 1:00 O'CLOCK

MAR 15 1993

Recorded in Official Records  
of Riverside County, California

Recorder  
Fees \$

FOR RECORDER'S OFFICE USE ONLY

Project: Future Magnolia Avenue  
Median Construction  
6085 Magnolia Avenue  
A.P.N. 225-051-034 & 225-042-024

COVENANT AND AGREEMENT  
AND DECLARATION OF RESTRICTIONS

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 1<sup>st</sup> day of March, 1993, by MAGNOLIA TOWN CENTER ASSOCIATES, a California general partnership, (the "Declarant") with reference to the following facts:

- A. Declarant is the owner of that certain real property located in the City of Riverside, County of Riverside, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property").
- B. Declarant is building a commercial shopping center on the Property to be known as "Magnolia Town Center". The Property is located on Magnolia Avenue at its intersection with Jurupa Avenue. Magnolia Avenue adjacent to the Property is designated a 100 foot arterial scenic boulevard.
- C. As one of the conditions for the development of the Property, Declarant was required to pay to the City of Riverside (the "City") funds (the "Median Fee") for the construction of its proportionate share of the median in Magnolia Avenue adjacent to the Property. Declarant has requested that the City return to Declarant the Median Fee previously paid to City and in exchange, Declarant will record a document providing for payment to the City of Declarant's proportionate share at the time the median is constructed.
- D. The City has determined that the construction of the median in Magnolia Avenue adjacent to the Property is not required until such time as the property across Magnolia Avenue from the subject

Property is redeveloped in its entirety thereby eliminating the many driveway openings which currently exist. By action duly taken on February 2, 1993, the City Council of City has authorized the return of the Median Fee to Declarant subject to Declarant executing and recording an agreement to pay an in lieu fee for such median construction at such time as the City determines the construction is so required.

NOW, THEREFORE, for the purpose of complying with a condition imposed by the City for the issuance of building permits for the Property and the return of the Median Fee previously paid by Declarant, Declarant hereby covenants and agrees with the City that the Property shall be held, conveyed, transferred, mortgaged, encumbered, sold and improved subject to the following covenants, conditions and restrictions:

1. Declarant shall pay to City upon demand the then current Median Fee which will be one-third of the estimated construction cost for the median construction in Magnolia Avenue adjacent to the Property according to the specifications of the Public Works Department of City. Said estimated construction costs will be at the rates then in effect at the time of payment of the Median Fee.
2. Declarant or the successors or assigns of Declarant shall pay the Median Fee to City within ninety (90) days of written notification from City that the median in Magnolia Avenue adjacent to the Property is needed in the determination of the Public Works Director of the City. Said notice from the City shall also contain the estimated construction cost and the amount of the Median Fee to be paid by Declarant or the successor or assigns of Declarant.
3. The terms of this Covenant and Agreement and Declaration of Restrictions may be enforced by the City, its successors and assigns. Should the City bring an action to enforce any terms of this Covenant and Agreement and Declaration of Restrictions, the prevailing party shall be entitled to court costs, including reasonable attorneys' fees.
4. This Covenant and Agreement and Declaration of Restrictions shall run with the land and each and all of its terms shall be binding upon Declarant and the successors and assigns of Declarant and shall continue in effect until the Median Fee is paid or until released by action of the City Council of the City of Riverside.

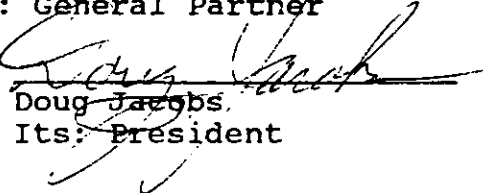
IN WITNESS WHEREOF, Declarant has caused this Covenant and Agreement and Declaration of Restrictions to be executed the day and year first above written.

## SIGNATURE PAGE

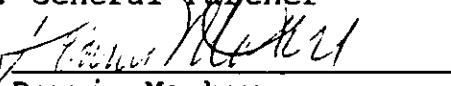
MAGNOLIA TOWN CENTER ASSOCIATES,  
a California general partnership

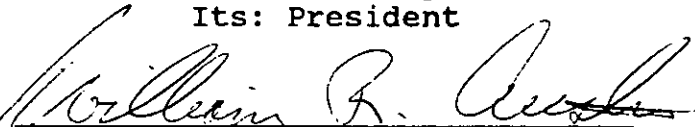
By: Jacobs Development Company, Ltd.  
a California limited partnership

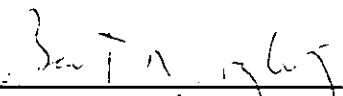
By: Jacobs Development Company,  
a California corporation  
Its: General Partner

By:   
Doug Jacobs  
Its: President

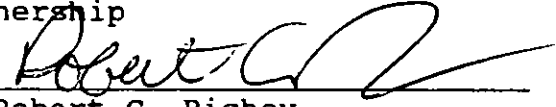
And: Mackey Development, Inc.  
a California corporation  
Its: General Partner

By:   
Dennis Mackey  
Its: President

And:   
William R. Austin, Trustee under  
the Declaration of Trust of  
William R. Austin dated  
October 27, 1983

And:   
Bart R. Singletary

And: CR Leasing, a California general  
partnership

By:   
Robert C. Richey  
Its: General Partner

APPROVED AS TO CONTENT:

  
Public Works Department

APPROVED AS TO FORM:

  
Assistant City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

94714

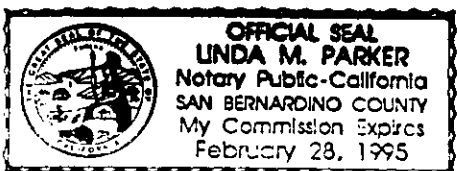
No. 5193

State of CALIFORNIA
County of RIVERSIDE

On 2-26-93 before me, LINDA M. PARKER
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared DENNIS MACKAY
NAME(S) OF SIGNER(S)

[X] 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.

[Signature of Linda M. Parker]
SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- [ ] INDIVIDUAL
[ ] CORPORATE OFFICER(S)

- [X] PARTNER(S) [ ] LIMITED
[ ] GENERAL

- [ ] ATTORNEY-IN-FACT
[ ] TRUSTEE(S)
[ ] GUARDIAN/CONSERVATOR
[ ] OTHER:

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES DATE OF DOCUMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

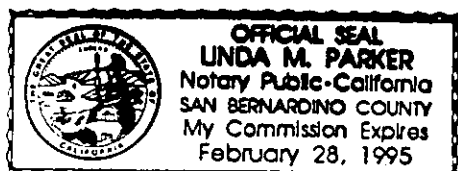
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State of CALIFORNIA
County of RIVERSIDE

On 2-26-93 before me, LINDA M. PARKER
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared DOUG JACOBS
NAME(S) OF SIGNER(S)

[X] 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.

[Signature of Linda M. Parker]
SIGNATURE OF NOTARY

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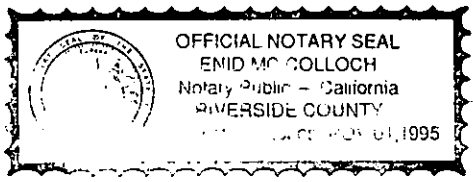
No. 5193

State of CALIFORNIA }
County of RIVERSIDE }

On 3-1-93 before me, ENID MC COLLOCH
NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared WILLIAM R. AUSTIN
NAME(S) OF SIGNER(S)

[X] 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.

Enid Mc Colloch
SIGNATURE OF NOTARY

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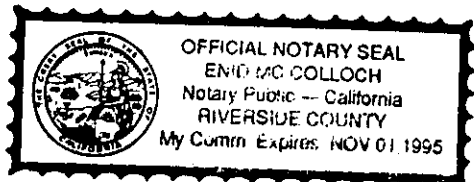
No. 5193

State of CALIFORNIA }
County of RIVERSIDE }

On 3-3-93 before me, ENID MC COLLOCH
NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared BART R. SINGLETARY
NAME(S) OF SIGNER(S)

[X] 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.

Enid Mc Colloch
SIGNATURE OF NOTARY

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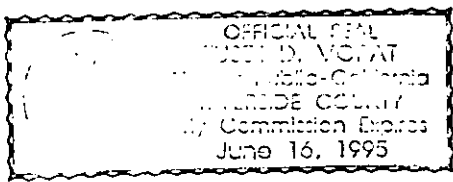
No. 5193

State of CALIFORNIA
County of RIVERSIDE

On 3-4-93 before me, TUSDI D VOPAT, Notary Public

personally appeared ROBERT C. RICHEV

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.

Signature of Notary: TUSDI D VOPAT

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PARTNER(S) LIMITED GENERAL
ATTORNEY-IN-FACT
TRUSTEE(S)
GUARDIAN/CONSERVATOR
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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5193

State of
County of

On before me, NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared NAME(S) OF SIGNER(S)

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.

SIGNATURE OF NOTARY

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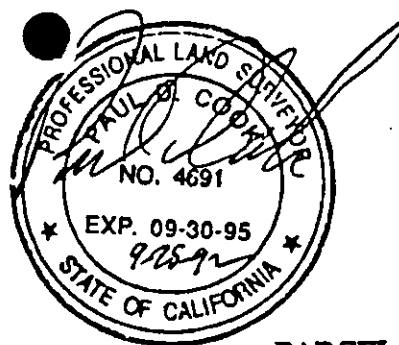
NUMBER OF PAGES DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

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DESCRIPTION APPROVAL 9/28/92  
George P. Hutchinson by WF  
SURVEYOR, CITY OF RIVERSIDE

EXHIBIT "A"



94714

**LEGAL DESCRIPTION**

**PARCEL "A"**

BEING LOTS 18, 20, 22, 24, 26, 28 AND A PORTION OF LOTS 12, 14, AND 16 OF THE NOGALES TRACT AS SHOWN BY MAP ON FILE IN BOOK 9 OF MAPS AT PAGE 7, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, TOGETHER WITH PORTIONS OF GOVERNMENT LOT 2 AND GOVERNMENT LOT 3 OF FRACTIONAL SECTION 34, TOWNSHIP 2 SOUTH, RANGE 5 WEST, SAN BERNARDINO MERIDIAN, TOGETHER WITH THAT PORTION OF LOT 249 OF THE LANDS OF THE S.C.C.A. AS SHOWN BY MAP ON FILE, IN BOOK 7 OF MAPS AT PAGE 3, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 28, SAID CORNER BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF NOGALES STREET, 52 FEET WIDE;

THENCE NORTH  $00^{\circ} 01' 37''$  WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF NOGALES STREET, A DISTANCE OF 360.07 FEET TO THE NORTHWEST CORNER OF SAID LOT 18, SAID NORTHWEST CORNER BEING ALSO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO THE CITY OF RIVERSIDE RECORDED SEPTEMBER 23, 1966, AS INSTRUMENT NUMBER 95114, RECORDS OF SAID COUNTY;

THENCE NORTH  $89^{\circ} 14' 24''$  EAST ALONG THE SOUTHERLY LINE OF SAID CERTAIN PARCEL OF LAND, A DISTANCE OF 4.00 FEET TO THE SOUTHEAST CORNER THEREOF, SAID SOUTHEAST CORNER BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF NOGALES STREET, 60 FEET WIDE;

THENCE NORTH  $00^{\circ} 01' 37''$  WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 180.03 FEET TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO THE CITY OF RIVERSIDE RECORDED SEPTEMBER 23, 1966, AS INSTRUMENT NUMBER 95116, RECORDS OF SAID COUNTY, AND THE NORTHERLY LINE OF SAID LOT 12 OF THE NOGALES TRACT;

THENCE NORTH  $89^{\circ} 14' 04''$  EAST ALONG SAID NORTHERLY LINE A DISTANCE OF 126.47 FEET TO THE NORTHEAST CORNER OF SAID LOT 12 AND THE EASTERLY LINE OF SAID NOGALES TRACT;

THENCE NORTH  $00^{\circ} 01' 17''$  WEST ALONG SAID EASTERLY LINE A DISTANCE OF 319.08 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO THE CITY OF RIVERSIDE RECORDED DECEMBER 10, 1965, AS INSTRUMENT NUMBER 139091, RECORDS OF SAID COUNTY, SAID CORNER BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF JURUPA AVENUE, 88 FEET WIDE;

THENCE NORTH  $89^{\circ} 13' 28''$  EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 229.99 FEET;



THENCE SOUTH 00° 00' 06" WEST A DISTANCE OF 149.01 FEET TO A LINE PARALLEL WITH SAID SOUTHERLY RIGHT-OF-WAY LINE OF JURUPA AVENUE, THIS COURSE HEREIN AFTER REFERRED TO AS COURSE "A";

THENCE NORTH 89° 13' 28" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 75.01 FEET TO A LINE PARALLEL WITH SAID COURSE "A";

THENCE NORTH 00° 00' 06" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 160.01 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID JURUPA AVENUE, 66 FEET WIDE;

THE PREVIOUS FOUR COURSES BEING ALONG THE LINES AS SHOWN BY RECORD OF SURVEY RECORDED IN BOOK 73 OF RECORDS OF SURVEY AT PAGE 15, RECORDS OF RIVERSIDE COUNTY;

THENCE NORTH 89° 13' 28" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 173.97 FEET TO THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO THE CITY OF RIVERSIDE RECORDED APRIL 29, 1960, IN BOOK 2684, PAGE 588, RECORDS OF SAID COUNTY;

THENCE SOUTH 00° 46' 32" EAST ALONG THE WESTERLY LINE OF SAID CERTAIN PARCEL OF LAND A DISTANCE OF 11.00 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE NORTH 89° 13' 28" EAST ALONG THE SOUTHERLY LINE OF SAID CERTAIN PARCEL OF LAND A DISTANCE OF 80.00 FEET TO THE SOUTHEAST CORNER THEREOF;

THENCE NORTH 00° 46' 32" WEST ALONG THE EASTERLY LINE OF SAID CERTAIN PARCEL OF LAND A DISTANCE OF 11.00 FEET TO THE NORTHEAST CORNER THEREOF, SAID CORNER BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID JURUPA AVENUE, 66 FEET WIDE;

THENCE NORTH 89° 13' 28" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 54.74 FEET TO A LINE PARALLEL WITH AND 20.00 FEET WESTERLY, MEASURED AT RIGHT ANGLES, FROM THE EASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED OCTOBER 8, 1952, IN BOOK 1406, PAGE 356, RECORDS OF SAID COUNTY;

THENCE SOUTH 00° 01' 58" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 72.19 FEET TO A LINE PARALLEL WITH AND 0.67 FEET SOUTHWESTERLY FROM, MEASURED AT RIGHT ANGLES, THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN GRANT DEED RECORDED DECEMBER 12, 1941, IN BOOK 525, PAGE 326, RECORDS OF SAID COUNTY;

THENCE SOUTH 62° 19' 53" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 22.58 FEET TO THE EASTERLY LINE OF SAID CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED IN BOOK 1406, PAGE 356;

THENCE NORTH 00° 01' 58" EAST ALONG SAID EASTERLY LINE A DISTANCE OF 0.76 FEET TO SAID NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED IN BOOK 525, PAGE 326;

THENCE SOUTH 62° 19' 53" EAST ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE A DISTANCE OF 65.61 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MAGNOLIA AVENUE, 100 FEET WIDE;

THENCE SOUTH 27° 40' 07" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 990.19 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO PAUL D'ARCA, JR. AND EMILY D'ARCA RECORDED MAY 18, 1989, AS INSTRUMENT NUMBER 161206, RECORDS OF SAID COUNTY;

THENCE NORTH 62° 19' 53" WEST ALONG THE SOUTHWESTERLY LINE OF SAID CERTAIN PARCEL OF LAND A DISTANCE OF 261.51 FEET TO THE SOUTHWEST CORNER THEREOF AND THE EASTERLY LINE OF SAID NOGALES TRACT;

THENCE SOUTH 00° 01' 17" EAST ALONG SAID EASTERLY LINE A DISTANCE OF 10.62 FEET TO THE SOUTHEAST CORNER OF SAID LOT 28 OF THE NOGALES TRACT;

THENCE SOUTH 89° 15' 01" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 28 A DISTANCE OF 130.41 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THOSE CERTAIN PARCELS OF LAND DESCRIBED BY GRANT DEED RECORDED JUNE 6, 1991 AS INSTRUMENT NUMBER 190353, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THE PURPOSE OF THIS LEGAL DESCRIPTION IS TO CORRECT THE ERRORS IN THE LEGAL DESCRIPTION WITHIN THE DOCUMENT RECORDED JULY 12, 1990 AS INSTRUMENT NUMBER 257636.