

RECORDING REQUESTED BY:

DOC # 2002-346854

06/25/2002 08:00A Fee:22.00

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Recorded in Official Records
County of Riverside

Gary L. Orso

Assessor, County Clerk & Recorder

WHEN RECORDED MAIL TO:

CITY CLERK

City of Riverside

City Hall, 3900 Main Street

Riverside, California 92522

8148 Lincoln Avenue

Project: 8188 Lincoln Avenue

Building "A", "B" and "C"



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FOR RECORDER'S USE ONLY

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COVENANT AND AGREEMENT
ESTABLISHING COMMON FIRE PROTECTION WATER SERVICES

THIS COVENANT AND AGREEMENT is made and entered into this 14th day of June, 2002, by JOHN L. GINGER and TONI S. GINGER, as Co-Trustees of the GINGER FAMILY TRUST dated August 22, 1990, (hereinafter collectively referred to as "Declarant") with reference to the following facts:

RECITALS:

A. Declarant is the fee owner of certain real property consisting of three (3) lots (hereinafter collectively referred to as the "Property") located in the City of Riverside, County of Riverside, and described on Exhibit "A" attached hereto and by this reference incorporated herein.

B. The development plans submitted to the City of Riverside, California (hereinafter referred to as the "City") by Declarant propose that Lots 1, 6, and combined Lots 2 and 5 will each share a common fire protection water service connection.

C. As a condition for the issuance of a Certificate of Occupancy for the building being constructed on combined Lots 2 and 5, the City is requiring the Declarant to designate that Lot 1 shall be responsible for the monthly payment of the fees and charges for the provision of the fire protection water service connection, as well as, to establish the easements for the fire protection water service line across Lot 1 for the benefit of Lot 6, and combined Lots 2 and 5.

NOW, THEREFORE, in order to comply with the condition imposed by the City, Declarant hereby declares that the Property is, and shall hereafter be, held, transferred, sold, conveyed,

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hypothecated, encumbered, leased, rented, used and occupied subject to the following covenants, conditions, restrictions and easements, all of which are declared and agreed to be for the purpose of maintaining and protecting the Property, and all of which are in consideration for the issuance by the City of Certificates of Occupancy for the buildings located on combined Lots 2 and 5.

1. Master Fire Protection Water Service Agreement. Lots 1, 6, and combined Lots 2 and 5 of the Property will each be served water for fire protection service by City through a Master Fire Protection Water Service connection installed on Lincoln Avenue to Lot 1. The billing from City for the fire protection water service through this connection shall be sent to and be the responsibility of the owner of Lot 1, and shall be promptly paid by said owner, provided, however, the owner of Lot 1 may bill the owner of Lot 6, and combined Lots 2 and 5 in an amount not to exceed one-third the amount billed by City. The owner of Lot 6, and combined Lots 2 and 5 shall reimburse the owner of Lot 1 any amount so billed as provided above within fifteen (15) days following receipt of a statement evidencing payment of such charges to the City by such owner. Any such amount which is not paid within such fifteen (15) day period will thereafter bear interest at the highest rate allowed under California law, and if not satisfied within thirty (30) days following such written request, the owner of Lot 1 may (a) initiate appropriate legal action in any court having jurisdiction for collection of such delinquent amount; and (b) take such other action permitted by law.

2. Grant of Easement for Fire Protection Water Service Line. Declarant hereby establishes, grants and reserves a 5-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of an underground fire protection water service line and for ingress and egress in connection with said facility for the use and benefit of and an easement appurtenant to Lots 6, and combined Lots 2 and 5 of the Property along and across that portion of Lot 1 of the Property described on Exhibit "B" attached hereto and by this reference incorporated herein.

3. Maintenance of Common Fire Protection Water Service Facilities. The owner of Lot 1 of the Property shall be responsible for the routine maintenance and timely repair of the common fire protection water facilities including that portion of such line lying within the easement area above-described. As part of any maintenance, repair, or replacement of any fire protection water service line which requires the disturbance of the surface of the easement area, the owner performing such work shall cause the surface to be restored to reasonably the same condition existed prior to such work being done. The owner of Lot 1 may bill each owner of Lot 6, and combined Lots 2 and 5 in an amount not to exceed one-third the cost of said maintenance, repair or replacement of said common fire protection facilities.

4. Enforcement. The provisions of this Declaration shall be enforceable at law and in equity by Declarant, each successive owner of any parcel of the Property, and the City. In the event of any legal or equitable proceeding for the enforcement of or to restrain the violation of this Declaration or any provision thereof, the prevailing party therein shall be entitled to reasonable attorneys' fees in addition to any other cost to which said party may be entitled. The failure of Declarant, any owner, or the City to enforce any provisions of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other provision.



5. Release. Declarant and each successive owner of the Property or any portion thereof hereby release the City, its officers, employees and agents from any and all claims, demands, suits or actions that Declarant or owners and their heirs, successors or assigns may now or in the future have arising out of or incurred as a result of the fire loss due to the installation or use of a common fire protection water service or the improper maintenance of the on-site fire protection water service system. Declarant agrees that the matters released herein are not limited to matters which are now known or disclosed, and Declarant for itself and such successive owner, waive 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 Declarant is familiar with, has read, and understands Civil Code Section 1542, and Declarant realizes and acknowledges that factual matters now unknown to them may have given, or may hereafter give rise to claims, which are presently known, unanticipated and that this Release has been negotiated and agreed upon in light of that realization and that Declarant nevertheless intends to release, discharge and acquit the City from any such unknown claims arising from the installation or use of a common fire protection water service or the improper maintenance of the on-site fire protection water service system.

6. Effect of Declaration. Any person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property shall be deemed (a) to have consented and agreed to every covenant, condition, restriction and easement contained herein; and (b) to have granted or be subject to, may be appropriate, the easement described in Paragraph 2 hereof whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property.

7. Covenant Running with Land. This Covenant and Agreement shall run with the land and shall be binding upon Declarant and Declarant's heirs, successors and assigns, and shall continue in effect until such time released by the City Council of the City by notice duly recorded.

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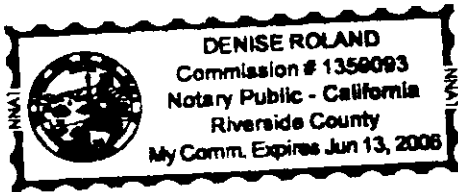
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State of California)
County of Riverside)ss

On 6-19-02, 1998, before me, the undersigned, a notary public in and for said State personally appeared John L. Ginger and Toni S. Ginger

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.

Denise Roland
Signature

CAPACITY CLAIMED BY SIGNER

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

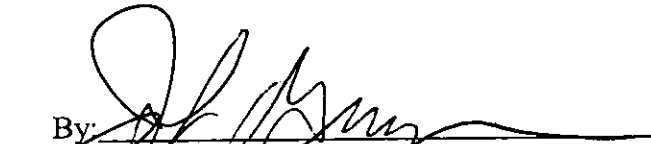
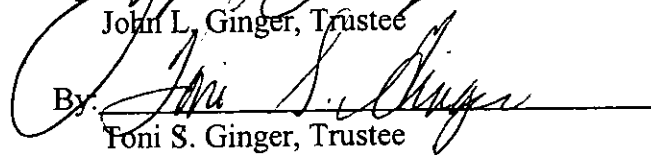
The party(ies) executing this document is/are representing:

The Ginger Family Trust



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

The Ginger Family Trust dated August 22, 1990

By: 
John L. Ginger, Trustee
By: 
Toni S. Ginger, Trustee

APPROVED AS TO CONTENT:

Public Utilities Department

APPROVED AS TO FORM:

Deputy City Attorney

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CA# 01-2773
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EXHIBIT "A"

Real property in the City of Riverside, County of Riverside, State of California described as:

Lots 2 and 5 of Tract 13550, in the County of Riverside, State of California, as shown by Map on file in Book 116, Pages 71 and 72 of Maps, in the office of the County Recorder of said County.

Lots 1 and 6 of Tract 13550, as shown by Map on file in Book 116, pages 71 and 72 of Maps, Records of Riverside County, California..



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