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Project: Vacation Case VAC-8-901

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COVENANT AND AGREEMENT  
ESTABLISHING PRIVATE WATER LINE EASEMENTS

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 18th day of February, 1997, by the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public body corporate and politic ("Declarant"), with reference to the following facts:

A. Declarant is the fee owner of the following described real property ("the Property") consisting of four lots situated in the City of Riverside, County of Riverside, State of California, described in Exhibit A, attached hereto and incorporated herein by this reference. Said lots are hereinafter referred to as "Lot 1", "Lot 2", "Lot 3" and "Lot 4", respectively.

B. City of Riverside Vacation Case VAC-8-901 is the proposal of Declarant that a portion of Fairmount Boulevard, situated between Hale Street and Kirkwood Avenue, westerly of Main Street be vacated for public street and highway purposes. On October 22, 1991, the City Council of the City of Riverside adopted Resolution No. 17882 making certain findings and determinations, reserving a permanent easement and right-of-way for water line facilities and determining that the public convenience and necessity require the reservation of such easement, and making its order vacating a portion of Fairmount Boulevard situated between Hale Street and Kirkwood Avenue, westerly of Main Street. In said Resolution No. 17882, the City Council resolved that the vacation shall occur only after the applicable conditions contained in the Planning Department's report to the legislative body and on file with the City Clerk have been satisfied. One of the approved conditions for Vacation Case VAC-8-901 is that all utilities shall be

Handwritten notes: 1/A 8/16/03, sig, needs

satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies and easements for such facilities retained as necessary.

C. By a condition imposed by the City of Riverside ("City") for the approval of Vacation Case VAC-8-901, Declarant is required to provide for water line easements for water service laterals to serve the land-locked lots created by the vacation of Fairmount Boulevard.

D. Declarant intends by this document to comply with the above-noted condition imposed by City and to impose upon the Property mutually beneficial restrictions, conditions, covenants and agreements for the benefit of each lot and the future owners of each lot, and for the same purpose to reserve and grant easements over portions of the Property.

NOW, THEREFORE, incorporating the above recitals, Declarant hereby declares that the Property and each lot thereof, shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following covenants, conditions and easements which are for the purpose of complying with a condition imposed by the City of Riverside for the approval of Vacation Case VAC-8-901 and for protecting the value and desirability of all lots of the Property. All of the covenants, conditions and easements shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Property or any portion thereof, and shall be binding and inure to the benefit of each successor and assignee in interest of each such party.

1. There is hereby granted, reserved and established over, along and across the following portion of Lot 1, a nonexclusive easement for a private water service line for the use and benefit of and as an easement appurtenant to Lot 2 of the Property:

The easterly 33.00 feet of Fairmount Boulevard (vacated) lying southerly of the westerly prolongation of the northerly line of Lot 36 of Tract No. 3960 as shown by map on file in Book 64 of Maps, pages 3 and 4 thereof, records of Riverside County, California.

The nonexclusive easement herein granted shall contain all rights deemed reasonable, necessary and proper for the installation, construction, maintenance, repair, or replacement of private water service facilities for the use and benefit of and as an easement appurtenant to Lot 2 of the Property.

2. There is hereby granted, reserved and established over, along and across the following portion of Lot 3, a nonexclusive easement for a private water service line for the use and benefit of and as an easement appurtenant to Lot 4 of the Property:



The easterly 33.00 feet of Fairmount Boulevard (vacated) lying northerly of the westerly prolongation of the southerly line of Lot 39 of Tract No. 3960 as shown by map on file in Book 64 of Maps, pages 3 and 4 thereof, records of Riverside County, California.

The nonexclusive easement herein granted shall contain all rights deemed reasonable, necessary and proper for the installation, construction, maintenance, repair, or replacement of private water service facilities for the use and benefit of and as an easement appurtenant to Lot 4 of the Property.

3. The cost of the construction, reconstruction, repair and maintenance of the private water service line on Lot 1 for the use and benefit of Lot 2 shall be borne by the owner of Lot 2; provided, however, any repair or maintenance caused by the sole negligence or willful misconduct of the owner or occupants of Lot 1 shall be paid by the owner of said Lot 1. The cost of the construction, reconstruction, repair and maintenance of the private water service line on Lot 3 for the use and benefit of Lot 4 shall be borne by the owner of Lot 4; provided, however, any repair or maintenance caused by the sole negligence or willful misconduct of the owner or occupants of Lot 3 shall be paid by the owner of said Lot 3.

4. In the event Declarant shall sell, convey, lease or otherwise change the ownership of any of the lots of the Property, as such lot is conveyed, Declarant shall grant or reserve the easement as above described in Paragraphs 1 or 2 as is appropriate to insure that Lots 2 and 4 have the use and benefit of private water service facilities connected to the water main located in vacated Fairmount Boulevard.

5. This Covenant and Agreement is made and entered into for the purpose of complying with a condition imposed by the City for the vacation of a portion of Fairmount Boulevard situated between Hale Street and Kirkwood Avenue, westerly of Main Street in Vacation Case VAC-8-901, and it shall not be extinguished, terminated, modified, amended, or altered in any way except with the prior written and recorded consent of the Public Utilities Director of the City of Riverside.

6. This Covenant and Agreement shall not be subject to the doctrine of merger even though the underlying fee ownership of the lots of the Property is vested in the same party.

7. The terms of this Covenant and Agreement and Declaration of Restrictions may be enforced by an owner, lessee or tenant of Lots 2 and 4 of the Property and the City. Should any owner, lessee, tenant of Lots 2 or 4 or the City bring any legal or equitable proceeding for the enforcement of, or to restrain the violation of, this Covenant and Agreement or any provision hereof, the prevailing party shall be entitled to court costs, including reasonable attorneys'



fees.

8. Any person who now or hereafter owns or acquires any right, title or interest to any lot 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 been granted or be subject to the easements described in Paragraph 1 and 2 above as may be appropriate whether any reference to this Covenant and Agreement is contained in the instrument by which such person acquired an interest in such lot.

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

HOUSING AUTHORITY OF THE  
COUNTY OF RIVERSIDE, a public  
body corporate and politic

By Gabriel G. Rodriguez  
Gabriel G. Rodriguez  
Title Executive Director

By \_\_\_\_\_  
\_\_\_\_\_  
Title \_\_\_\_\_

Approved as to Content:  
[Signature]  
Public Utilities Department

FORM APPROVED  
COUNTY COUNSEL  
JAN 30 1997  
BY [Signature]  
ASSISTANT COUNTY COUNSEL

Approved as to Form:  
[Signature]  
Assistant City Attorney



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California  
County of Riverside

On 2-18-97 before me, Sontina Faye Adams, Notary Public  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Gabriel O. Rodriguez  
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.

Sontina Faye Adams  
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL  
 CORPORATE OFFICER  
Exec. Director  
TITLE(S)

PARTNER(S)  LIMITED  
 GENERAL

ATTORNEY-IN-FACT  
 TRUSTEE(S)  
 GUARDIAN/CONSERVATOR  
 OTHER: \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

Private Water line easement  
Covenant & Agreement  
TITLE OR TYPE OF DOCUMENT

6  
NUMBER OF PAGES

2-18-97  
DATE OF DOCUMENT

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)  
Housing Authority of  
the County of Riverside

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE



"Exhibit A"

Lot 1

Lot 36 of Tract No. 3960 as shown by map on file in Book 64 of Maps, pages 3 and 4 thereof, records of Riverside County, California together with the easterly 33.00 feet of Fairmount Boulevard lying southerly of the westerly prolongation of the northerly line of said Lot 36, as vacated by Resolution No. 17882 of the City Council of the City of Riverside recorded on 2/25/2003 as Instrument No. 129900 of Official Records of Riverside County, California.

Lot 2

Lot 37 of said Tract No. 3960, together with the easterly 33.00 feet of said Fairmount Boulevard, vacated, lying between the westerly prolongation of the northerly and southerly lines of said Lot 37.

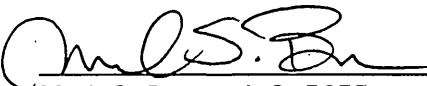
Lot 3

Lot 39 of said Tract No. 3960, together with the easterly 33.00 feet of said Fairmount Boulevard, vacated, lying northerly of the westerly prolongation of the southerly line of said Lot 39.

Lot 4

Lot 38 of said Tract No. 3960, together with the easterly 33.00 feet of said Fairmount Boulevard, vacated, lying between the westerly prolongation of the northerly and southerly lines of said Lot 38.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 2/11/99 Prep. \_\_\_\_\_  
Mark S. Brown, L.S. 5655 Date  
License Expires 9/30/99

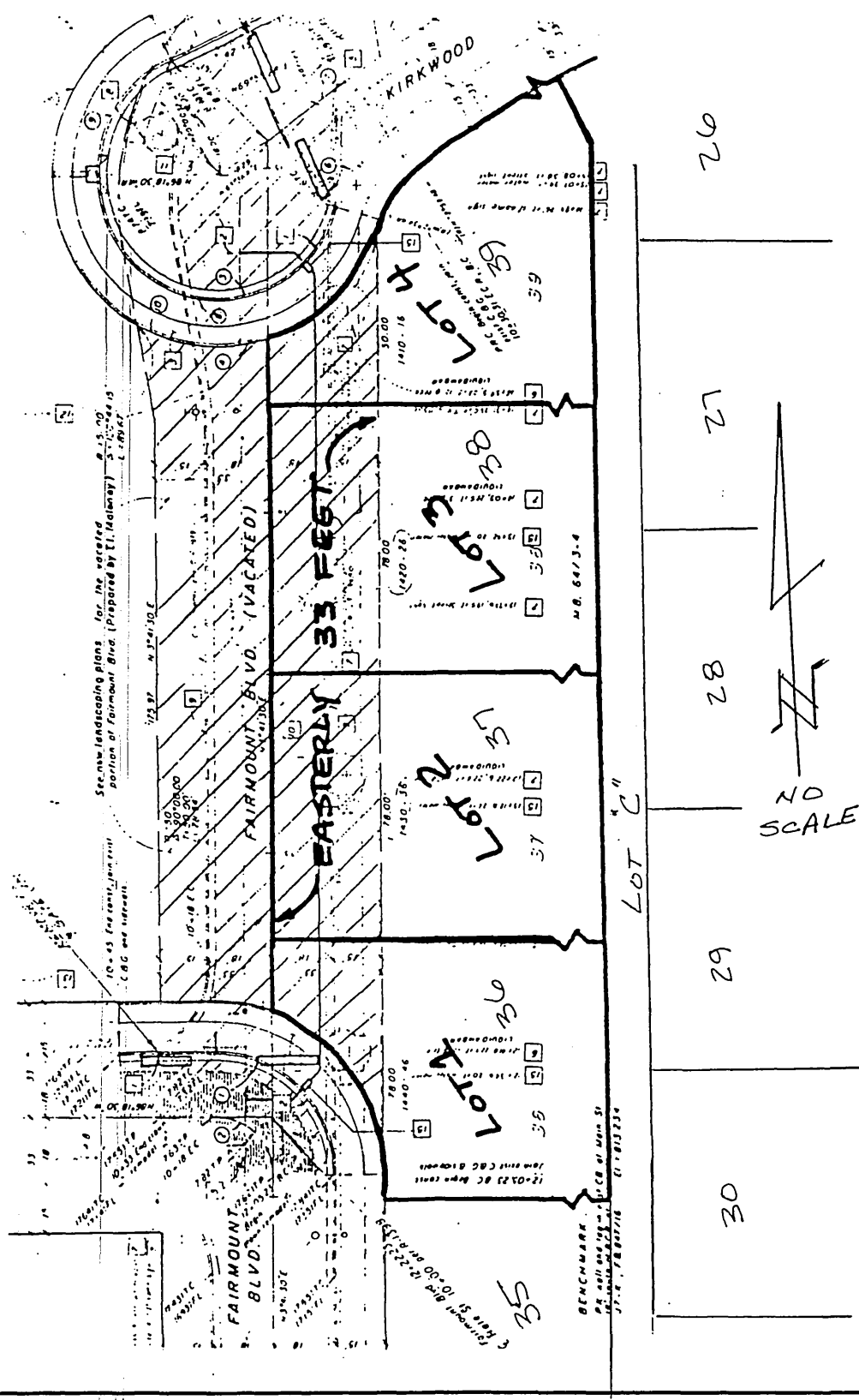


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6 of 7

CIA 816



TRACT 3960  
MB 64/3-4

• CITY OF RIVERSIDE, CALIFORNIA •

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

SHEET 1 OF 1

10-7

SCALE: 1" = N/A

DRAWN BY MSB DATE 2/12/97

SUBJECT BREEZEWOOD PARK APTS VC-8-901