

WHEN RECORDED MAIL TO:

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

Project: Tract Map 28907-1

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COVENANT AND AGREEMENT  
FOR ACCEPTANCE OF DRAINAGE WATERS

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THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 26<sup>th</sup> day of JUNE, 2003, by CANAAN DEVELOPMENT CORPORATION, a California Corporation, ("Declarant") with reference to the following facts:

A. Declarant is the fee owner of Lot 37 of the following described real property situated in the City of Riverside, County of Riverside, State of California, hereinafter referred to as "Lot 37":

Property Description: Lot 37 of Tract 28907-1 on file in Book 330 of Maps, Pages 26 to 32, inclusive, official records of Riverside County, California

B. Declarant is the fee owner of Lot 38 of the following described real property situated in the City of Riverside, County of Riverside, State of California, hereinafter referred to as "Lot 38":

Property Description: Lot 38 of Tract 28907-1 on file in Book 330 of Maps, Pages 26 to 32, inclusive, official records of Riverside County, California

C. Lots 37 and 38 are adjoining lots with lot 37 lying North of Lot 38. Both lots are part of a residential development 28907-1

D. Declarant desires to improve and develop Lot 37 by constructing a house. In connection with such development, Declarant has submitted to the City of Riverside ("City") certain grading plans for project 28907-1, which propose that the storm flow, irrigation and nuisance drainage water ("drainage waters") from Lot 37 will flow onto Lot 38 and that both Lots will be graded so as to establish drainage swales to channel the flow of the drainage waters on both lots onto a public street.

E. As a condition for the acceptance of Declarant's grading plans for project 28907-1 and the issuance of building and grading permits, City is requiring that a covenant and agreement be executed and recorded for cross-lot drainage to provide for the acceptance of drainage waters from Lot 37 onto Lot 38 and to provide for the maintenance of the drainage swales on both lots.

DESCRIPTION APPROVAL 6/12/03  
Walter R. Ayres  
SURVEYOR, CITY OF RIVERSIDE

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F. Declarant desires to provide for the acceptance of drainage waters from Lot 37 onto Lot 38 and is willing to record this Covenant and Agreement for Acceptance of Drainage Waters ("Covenant") to put future owners and successor-in-interest on notice of such conditions and restrictions.

NOW, THEREFORE, for the purposes of complying with the conditions imposed by the City of Riverside in connection with the grading plan for Tract 28097-1 and for the issuance of building and grading permits, Declarant hereby covenants and agrees with the City that the following restrictions shall apply to the Lots 37 and 38

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 on Lot 37 and Lot 38 in accordance with the grading plans for 28907-1 filed with and accepted by the Public Works Department of City.

3. Acceptance of Drainage Waters. Declarant, for itself and its successors and assigns, hereby agrees to accept and does accept onto Lot 38 the drainage waters flowing from the adjacent Lot 37.

4. Noninterference with Cross-Lot Drainage Facilities/Swales. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on Lot 37 or Lot 38 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 for Project 28907-1 filed with and accepted by the Public Works Department of the City.

5. Maintenance of Drainage Facilities/Swales. Declarant shall continuously maintain, and repair if necessary, any and all of the cross-lot drainage facilities/swales described above; and this obligation for maintenance and repair shall be borne by the successors and assigns of Declarant as to each lot for the cross-lot drainage facilities/swales located on the respective lots.

6. Release. Declarant, for itself and its successors and assigns, hereby releases City, its officers and employees from any and all claims, demands, suits or other actions that it 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 lots, 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, for itself and its respective successors and assigns, waives any and all rights and benefits which it now has, or in the future may have, conferred upon it 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 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 lots whether



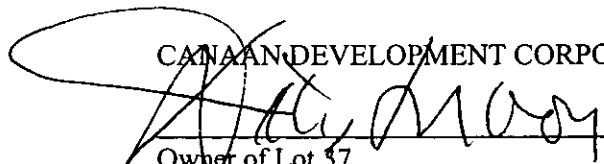
due to natural surface water or storm water runoff or the construction or maintenance of the drainage facilities/swales described above and the diversion of drainage waters into such facilities/swales.

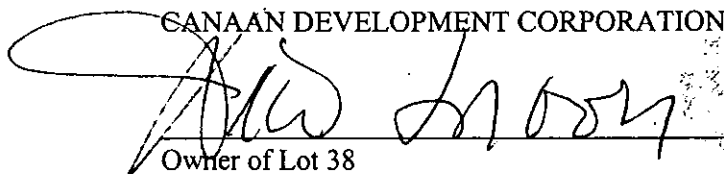
7. Enforcement. The provisions of this Covenant shall be enforceable at law or in equity by the city, its successors or assigns. Should the City bring an action to enforce the terms of the covenant, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness fees, and reasonable 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. This Covenant shall run with the land and each and all of its terms shall be binding upon Declarants, their heirs, successors and assigns, and shall continue in effect until such time as released by the Public Works Director of the City of Riverside, California, by a writing duly recorded.

FURTHER, Declarants and each of them hereby represent and warrant that they have the legal power, right and actual authority to subject their respective lots to the restrictions, terms and conditions stated herein.

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

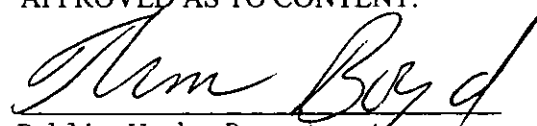
CANAAN DEVELOPMENT CORPORATION  
  
Owner of Lot 37  
Printed Name: Daniel Y. Moon  
Title: President

CANAAN DEVELOPMENT CORPORATION  
  
Owner of Lot 38  
Printed Name: Daniel Y. Moon  
Title: President

APPROVED AS TO FORM:

  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
Public Works Department

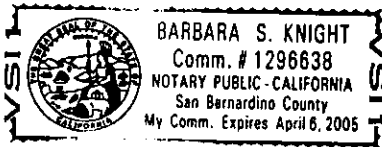


COVENANT AND AGREEMENT FOR ACCEPTANCE OF DRAINAGE WATERS

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE )

On 6-26-03, 2003, before me, Barbara S. Knight, the undersigned, a notary public in and for said State, personally appeared Daniel Yun Moon personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who name is subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Barbara S. Knight
Notary Public

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 2003, before me, \_\_\_\_\_, the undersigned, a notary public in and for said State, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who name is subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public



# ILLEGIBLE NOTARY SEAL DECLARATION

Government Code Section 27361.7

I certify under penalty of perjury that the notary seal on the document to which this statement attached reads as follows:

Name of Notary: BARBARA S. KNIGHT

Date Commission Expires: APRIL 6, 2005

Commission # 1296638

Place of Execution of this Declaration: Riverside

Date: July 10, 2003

FIRST AMERICAN TITLE INSURANCE COMPANY

*Tom Roberts*

Authorized Signatory

