



WHEN RECORDED MAIL TO:

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

Project: TM 31927

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

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 22nd day of February, 2005, by GALLERY VISTAS, 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, hereinafter referred to as Tract Map 31927("TM 31927") more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

B. TM 31927 consists of approximately 10.8 acres which are or will be subdivided into 34 single family lots (7,000 square foot minimum size).

C. Declarant desires to improve and develop the lots contained within TM 31927. In connection with that development, Declarant has submitted to the City of Riverside ("City") certain grading plans for TM 31927, which propose that the storm flow, irrigation and nuisance water (collectively "Drainage Water") shall flow across several lots contained therein for the benefit of the entire project, and that all lots, where necessary, will be graded so as to establish drainage swales, and/or concrete v-gutters, to channel the flow of the Drainage Waters on and across certain lots onto the interior streets of the project.

D. Declarant desires to create an easement across lots 3-5, 7 and 15-17 for the acceptance of Drainage Water, as depicted on grading permit PW04-0244, on file with City's Public Works Department.

E. As a condition for the acceptance of Declarants grading plan for TM 31927 and the issuance of building and grading permits, City is requiring that an agreement be executed and recorded for cross-lot drainage to provide for the acceptance of Drainage Waters across several lots within TM 31927 and

to provide for the maintenance of the drainage swales by the recording of a covenant.

F. Declarant desires to provide for the acceptance of Drainage Waters across lots 3-5, 7 and 15-17 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.

NOW, THEREFORE, for the purposes of complying with the conditions imposed by the City under TM 31927, and for the issuance of building and grading permits, Declarant hereby covenant 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 swales in accordance with the grading plans for TM 31927 filed with and accepted by the Public Works Department of City under grading permit PW04-0244.

3. Easement and Acceptance of Drainage Waters: Declarant, as owner and developer of all lots within TM 31927, for itself and its successors and assigns, hereby grants, conveys and accepts an easement for Drainage Waters as depicted on grading permit PW04-0244 over, along and across lots 3-5, 7 and 15-17 of TM 31927.

4. Noninterference with Drainage Facilities/Swales or Catch Basin. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken within TM 31927 which may damage, interfere with, obstruct, or retard the flow of Drainage Waters through the drainage facilities/swales and catch basin constructed in accordance with the grading plans filed with and accepted by the Public Works Department of City.

5. Maintenance of Drainage Facilities/Swales and Catch Basin. 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.

6. Release. Declarant and its respective 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 parcels, 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 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 agree, represent and warrant 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 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 released by the Public Works Director of the City of Riverside, California, by a writing duly recorded.

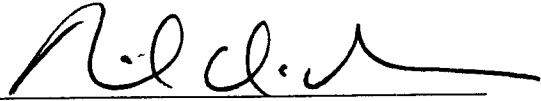
9. Non merger: This Covenant shall not be subject to the doctrine of merger, even though the underlying fee ownership of the lots in TM 31927 described herein, are vested in one party or entity.

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]

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

GALLERY VISTAS, LLC,
a California limited liability company



Name: *Richard D. Hauser*
Title: *Agent for managing member*

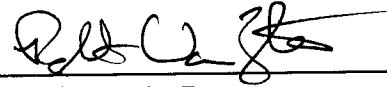
Name:
Title:

APPROVED AS TO FORM:



Deputy City Attorney

APPROVED AS TO CONTENT:

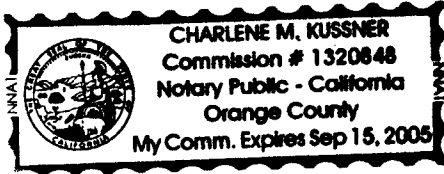


Public Works Department

STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE)

On February 2, 2005 before me, Charlene M. Kussner, the undersigned, a notary public in and for said State, personally appeared Richard D. Hauser personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged 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.

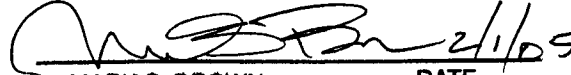


Charlene M. Kussner
Notary Public

EXHIBIT "A"

LOTS 1-34 OF TRACT 31927 AS SHOWN BY MAP ON FILE IN BOOK 396, PAGES(S)
61-66 OF MAPS, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA

DESCRIPTION APPROVAL:

 2/1/05

MARK S. BROWN
CITY SURVEYOR

DATE