

261254

When Recorded Mail To:

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

RECEIVED FOR RECORD
AT 8:00 O'CLOCK

JUL 24 1997

FREE RECORDING

This instrument is for the benefit of the City of Riverside and is entitled to be recorded without fee. (Government Code §6103)

Recorded in Official Records of Riverside County, California

Recorder

Fees \$

[Handwritten signature]

FOR RECORDER'S OFFICE USE ONLY

[Handwritten initials]

Project: CU-011-967

D- 111100

AVIGATION EASEMENT

WHEREAS FOODMAKER INC., A DELAWARE CORPORATION, hereinafter called the "Grantor", is the owner in fee of that certain real property situated in the City of Riverside, County of Riverside, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference, hereinafter called "the Grantor's property"; and

WHEREAS the Grantor's property is located within the Airport Influence Area for the Riverside Municipal Airport operated by the City of Riverside; and

WHEREAS the Grantor has sought approval from the City of Riverside for the development of the Grantor's property by the project above-referenced; and

WHEREAS the City of Riverside has conditioned the approval of such project by requiring the granting of an avigation easement over the Grantor's property;

NOW, THEREFORE FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, GRANTOR does hereby grant to the CITY OF RIVERSIDE, a municipal corporation of the State of California, hereinafter referred to as "Grantee", its successors and assigns, for the use and benefit of the public, a perpetual easement and right of flight

appurtenant to the Riverside Municipal Airport for the passage of aircraft by whomsoever owned and operated in the airspace above the surface of the Grantor's property as described in said Exhibit "A", together with the right to cause in said airspace such noise, sound or shock waves, vibrations, dust, smoke, odors, fumes, fuel particles and other related conditions that may be inherent in the operation of aircraft landing at, taking off from or operating at or on the Riverside Municipal Airport. "Aircraft" is defined for the purposes of this instrument as any contrivance now known or hereinafter invented, used or designed for navigation of or flight in the air.

Grantor hereby acknowledges that the Riverside Municipal Airport is an operating airport subject to increases in the intensity of use and operation, including present and future noise, sound or shock waves, vibrations, dust, smoke, odors, fumes, and fuel particles and related conditions, and Grantor hereby fully waives, remises and releases any right or cause of action which Grantor may now or in the future have against Grantee, its successors and assigns, due to such noise, sound or shock waves, vibrations, dust, smoke, odors, fumes, fuel particles and other related conditions that may be caused by the operation of aircraft landing at or taking off from, or operating at or on the Riverside Municipal Airport. Said waiver and release shall include, but not be limited to, claims known or unknown for damages for physical or emotional injuries, discomfort, inconvenience, property damage, interference with use and enjoyment of property, diminution of property values, nuisance or inverse condemnation or for injunctive or other extraordinary or equitable relief.

Grantor, on the behalf of Grantor and the successors and assigns of Grantor, agrees not to construct or permit the construction or growth of any structure, tree or other object that obstructs or interferes with the use of the rights herein granted or that creates electrical

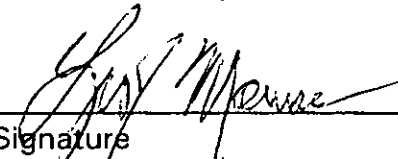
interference with radio communication between any installation at the Riverside Municipal Airport and aircraft, or to cause difficulty for pilots to distinguish between airport lights and other lights or to impair visibility in the vicinity of the Riverside Municipal Airport, or to otherwise endanger the landing, take-off, or maneuvering of aircraft on or at said Riverside Municipal Airport.

The foregoing grant of easement shall not be considered as otherwise prohibiting the use of the Grantor's property for any lawful purpose below minimum flight altitudes for aircraft presently authorized or hereafter authorized by the appropriate federal or state authority, provided all applicable federal, state and local regulations pertaining to height restrictions are adhered to.

IT IS UNDERSTOOD AND AGREED that this easement and the rights and restrictions herein created shall run with the land and shall be binding upon the Grantor and the heirs, administrators, executors, successors and assigns of Grantor.

Dated July 1, 1997


FOODMAKER, INC.,
a Delaware Corporation,



Signature

Leo J. Momsen Vice President

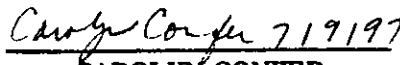
Name Title



Signature

Shirley K. Heller Assistant Secretary

Name Title

APPROVED AS TO FORM

Carolyn Confer 7/19/97
CAROLYN CONFER
ASSISTANT CITY ATTORNEY

GENERAL ACKNOWLEDGEMENT

State of California
County of San Diego } ss

On _____, before me _____
(date) (name)

a Notary Public in and for said state, personally appeared

Name(s) of Signer(s)

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

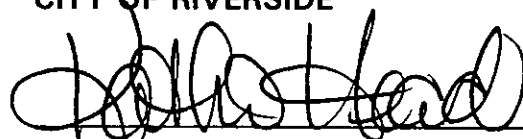
- Attorney-in-fact
- Corporate Officer(s)
Title _____
Title _____
- Guardian/Conservator
- Individual(s)
- Trustee(s)
- Other

- Partner(s)
 General
 Limited

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

THIS IS TO CERTIFY that the interest in real property conveyed by the within instrument to the City of Riverside, California, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City Council of said City pursuant to authority conferred by Resolution No. 18233 of said City Council adopted May 11, 1993, and the grantee consents to recordation thereof by its duly authorized officer.

Dated 7/11/97

CITY OF RIVERSIDE

Real Property Services Manager
of the City of Riverside

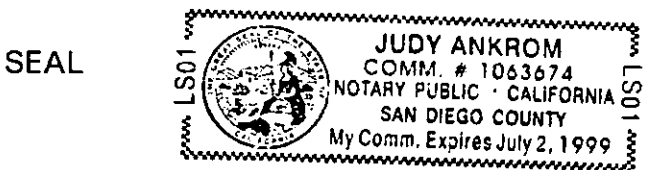
CU-011-967.AVG

State of California)
County of San Diego) ss
)

On July 1, 1997 before me, **JUDY ANKROM**, Notary Public, personally appeared Leo J. Momsen and Shirley K. Heller, 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.

Judy Ankrom
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) Vice President and Assistant Secretary
Title(s)
- Partner(s) Limited General
- Trustee(s)
- Other

Signer is Representing: Foodmaker, Inc.
Name of Entity(ies)

Title or Type of Document: Avigation Easement

Number of Pages: 6 Date of Document: July 1, 1997



May 30, 1997

W.O. 1013-001

EXHIBIT "A"

**Avigation Easement
CU-011-967 -SIU Architects**

That portion of Lot 13 in Bock 9 of the Riverside Land and Irrigating Company, in the City of Riverside, County of Riverside, State of California, as shown by map on file in Book 1, Page 70 of Maps, Records of San Bernardino County, California, described as follows:

Commencing at a point on the Southwesterly line of said Lot 13, which bears N.34°16'00"W., a distance of 154.00 feet from the most Southerly corner of said Lot 13;

Thence N.55°47'00"E, along a line which is parallel with the Southeasterly line of said Lot 13, a distance of 15.00 feet to the point of beginning of the parcel of land to be described;

Thence S.34°16'00"E. along the Northeasterly line of Van Buren Boulevard, a distance of 140.00 feet;

Thence S.69°47'14"E, continuing along the Northeasterly line of said Van Buren Boulevard, a distance of 12.30 feet to the Northwesterly line of California Avenue;

Thence N.55°47'40"E. along the Northwesterly line of said California Avenue, a distance of 127.86 feet;

Thence N.34°16'00"W. along a line which is parallel with the Southwesterly line of said Lot 13, a distance of 150.00 feet;

Thence S.55°47'40"W. along a line which is parallel with the Southwesterly line of said Lot 13, a distance of 135.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within Van Buren Boulevard and California Avenue.

MWC:bes
legal:

DESCRIPTION APPROVAL

Amel S. Ben 4.4.97
SURVEYOR, CITY OF RIVERSIDE

BOULEVARD

VAN BUREN

R. L. & J. CO.
M.B. 1/70 S.B. Co.

BLK. 9

135.00'

3

60'

130.00'

PAR. 1
R. S. 45/99

150.00'

12.30'

127.86'

44'

CALIFORNIA

AVENUE

• CITY OF RIVERSIDE, CALIFORNIA •

65-4

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

W.O. 1013-001(P)

SCALE 1" = 40'

DRAWN BY M.C. DATE 5/30/97

SUBJECT AVIGATION EASEMENT CU-011-967