

~~Original COAST TITLE~~

DOC # 2007-0635828
10/12/2007 08:00A Fee:25.00
Page 1 of 7
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

WHEN RECORDED MAIL TO:

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

Project: TM 33402

916418.

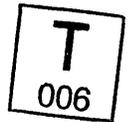


S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY
1			7						
M	A	L	465	426	PCOR	NCOR	SMF	NCHG	EXAM
									006

FOR RECORDER'S OFFICE USE ONLY

25

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 25th day of April, 2007, by **Gallery Traditions Partners II, 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 33402 ("TM 33402") more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

B. TM 33402 consists of approximately 10.9 acres which are or will be subdivided into 28 single family lots.

C. Declarant desires to improve and develop the lots contained within TM 33402. In connection with that development, Declarant has submitted to the City of Riverside ("City") certain grading plans for TM 33402, which propose that the storm flow and nuisance water (collectively "Drainage Water") shall flow across lots contained therein for the benefit of the entire project, and that all lots, where necessary, will be graded so as to establish concrete v-gutters to channel the flow of the Drainage Waters on and across certain lots onto the interior street of the project.

D. Declarant desires to create an easement across lots 13 thru 28 for the acceptance of Drainage Water, as depicted on grading permit PW06-0352, on file with City's Public Works Department.

E. As a condition for the acceptance of Declarants grading plan for TM 33402 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 16 lots within TM 33402 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 13 thru 28

CIA 1022

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 33402, and for the issuance of building and grading permits, Declarant hereby covenants 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 33402 filed with and accepted by the Public Works Department of City under grading permit PW06-0352.

3. Easement and Acceptance of Drainage Waters: Declarant, as owner and developer of all lots within TM 33402, for itself and its successors and assigns, hereby grants, conveys and accepts an easement for Drainage Waters as depicted on grading permit PW06-0352 over, along and across lots 13 thru 28 of TM 33402.

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 33402 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 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 it’s 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 it’s 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 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 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 33402 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 Traditions Partners II
a California *Limited Liability Company*

Gallery Homes, LLC
By:
Its: *managing member*

Charlene M. Kussner
By: *Charlene M. Kussner*
Its: *Agent for managing member*

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


Name: Kristi J. Smith
Deputy City Attorney


Name:
Public Works Department

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

} ss.

On 04-25-2007, before me, M.L. HUSKISON, Notary Public

personally appeared Charlene M. Kussner

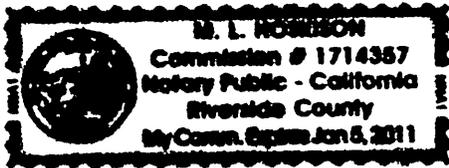
Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

Name(s) of Signer(s)

I personally known to me

I 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.

M.L. Huskison
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

CIA 1022

ORANGE COAST TITLE COMPANY

640 North Tustin Avenue, Suite 208, Santa Ana, Ca 92705
(714) 836-0349

**I CERTIFY UNDER PENALTY OF PERJURY UNDER GOVERNMENT CODE 27361.7 THAT
THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED
READS AS FOLLOWS:**

NAME OF NOTARY: M.L. Huskison

DATE COMISSION EXPIRES: 1/5/2011

COUNTY WHERE BOND IS FILED: Riverside

COMMISSION NO.: 1714357

MANUFACTURER/VENDOR NO.: NNA1

PLACE OF EXECUTION: Riverside

DATE OF EXECUTION: 10/12/07

SIGNATURE: 

C/A 1022

EXHIBIT "A"

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE AND IS DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF FRACTIONAL SECTIONS 15 AND 16, TOWNSHIP 3 SOUTH, RANGE 6 WEST, SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN BY MAP OF RANCHO LA SIERRA, ON FILE IN BOOK 6 PAGE 70 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF THAT 120 ACRE TRACT IN THE SOUTHWESTERLY PORTION OF SAID FRACTIONAL SECTION 15;

THENCE SOUTH 00° 20' 00" EAST, ALONG THE EASTERLY LINE OF SAID 120 ACRE TRACT, A DISTANCE OF 1602.30 FEET;

THENCE SOUTH 89° 40' 00" WEST, A DISTANCE OF 969.37 FEET (FORMERLY RECORDED 971 FEET) TO A POINT ON THE WESTERLY LINE OF 25 FOOT RIGHT-OF-WAY DESCRIBED IN DEED TO RIVERSIDE GROVES & WATER COMPANY, RECORDED OCTOBER 27, 1909 IN BOOK 291 PAGE 218 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 01° 00' 00" WEST, A DISTANCE OF 183.23 FEET TO A POINT ON SAID WESTERLY LINE OF THE 25 FOOT RIGHT-OF-WAY AND THE POINT OF BEGINNING OF LAND HEREIN DESCRIBED:

SAID POINT BEING THE INTERSECTION OF THE WESTERLY LINE OF SAID 25 FOOT RIGHT-OF-WAY WITH THE NORTHEASTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED TO WILLIS E. FORD AND RHODA FORD, HUSBAND AND WIFE, BY DEED RECORDED JUNE 12, 1930 IN BOOK 866 PAGE 160 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 69° 51' 00" WEST, ALONG SAID NORTHEASTERLY EXTENSION AND THE SOUTHEASTERLY LINE OF SAID PARCEL, A DISTANCE OF 273.67 FEET, MORE OR LESS, TO THE MOST EASTERLY CORNER OF THE 6.98 ACRE TRACT OF LAND CONVEYED TO KENNETH KNOEFLER AND WANDA L. KNOEFLER, BY DEED RECORDED MAY 2, 1945 IN BOOK 669 PAGE 394 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 69° 36' 00" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL, A DISTANCE OF 220.46 FEET;

THENCE SOUTH 52° 39' 00" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL, A DISTANCE OF 531.21 FEET TO THE MOST SOUTHERLY CORNER THEREOF;

THENCE SOUTH 25° 43' 30" EAST, A DISTANCE OF 226.82 FEET, THE SOUTHEASTERLY 201.40 FEET OF SAID COURSE BEING ALONG THE NORTHEASTERLY LINE OF THAT PARCEL OF LAND CONVEYED TO MATHIAS A. EMDE, ET UX, BY DEED RECORDED OCTOBER 8, 1946 IN BOOK 797 PAGE 138 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 53° 09' 30" EAST, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL OF LAND, A DISTANCE OF 270.44 FEET;

THENCE NORTH 33° 53' 00" EAST, A DISTANCE OF 185.65 FEET;

THENCE NORTH 66° 34' 00" EAST, A DISTANCE OF 290.85 FEET;

THENCE NORTH 77° 33' 00" EAST, A DISTANCE OF 394.70 FEET TO A POINT ON THE WESTERLY LINE OF BLOCK D OF BONNIE BANKS TRACT, AS SHOWN BY MAP ON FILE IN BOOK 11 PAGE 55 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DISTANT THEREON NORTH 14° 47' 00" WEST, A DISTANCE OF 88.16 FEET FROM THE SOUTHWESTERLY CORNER OF SAID BLOCK D;

THENCE NORTH 14° 47' 00" WEST, ALONG SAID WESTERLY LINE AND THE NORTHWESTERLY EXTENSION THEREOF, A DISTANCE OF 338.93 FEET, TO THE WESTERLY LINE OF SAID 25 FOOT RIGHT-OF-WAY DEEDED TO RIVERSIDE GROVE & WATER COMPANY;

THENCE NORTHWESTERLY ALONG SAID WESTERLY LINE OF SAID 25 FOOT RIGHT-OF-WAY, A DISTANCE OF 202.53 FEET TO THE POINT OF BEGINNING.

DESCRIPTION APPROVAL

MARK S. BROWN
CITY SURVEYOR

DATE

78-3
CIA 1022