

RECORDING REQUESTED BY:

232045

WHEN RECORDED MAIL TO:

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

Project: Tract No. 24684

RECEIVED FOR RECORD
Min. Past 1 o'clock P.M.

JUN 2 2 1990
Recorded in Official Records
of Riverside County, California
William E. Shively
RECORDER
Fee \$ 25

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COVENANT AND AGREEMENT AND
DECLARATION OF RESTRICTIONS

(Private Drainage Facilities and Easements)

THIS COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 1st day of June, 1990, by CANYON HILLS, LTD., a California limited partnership, with reference to the following facts:

- A. Declarant is the owner of the real property (the "Property") in the City of Riverside, County of Riverside, State of California, described as follows:

Lots 1 and 2, Lots 19 thru 31, inclusive, and Lots 50 and 51 of Tract No. 24684, as shown by map on file in Book 219 of Maps, at Pages 71 and thru 75 thereof, Records of Riverside County, California.

- B. Declarant desires to improve and develop the Property as part of a residential subdivision including the construction of private cross-lot drainage facilities in accordance with plans on file with the City of Riverside, California, to accept surface water runoff and storm water and to carry such waters to the Box Springs Retention Basin of the Riverside County Flood Control and Water Conservation District. Declarant desires to impose upon the Property a plan for the development and maintenance of such drainage facilities and to adopt

Insurance Company of California as an agent only. It has not been examined as to its execution or as to its effect upon the title.

and establish covenants, conditions, restrictions and easements upon and with respect to the Property for such purpose, all of which is in the furtherance of a general plan for the subdivision and improvement of the Property, and for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Property, and upon and subject to which all of the Property shall be held, improved, and conveyed.

- C. The City of Riverside (the "City") as a condition to the issuance of a grading permit for the Property pursuant to the Grading Plan for Tract 24684 on file with the Public Works Department of the City of Riverside requires that a means be provided for disposing of surface runoff water and storm water on and from the Property.

NOW, THEREFORE, Declarant declares the Property is, and shall hereafter be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following covenants, conditions, restrictions and easements, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement, protection, maintenance, and sale of the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Property, and all of which are in consideration for the issuance by the City of a grading permit for the grading of the Property. All of the covenants, conditions, restrictions 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 Lot or portion thereof, and shall be binding on and inure to the benefit of each successor and assignee in interest to such party. Any conveyance, transfer, sale, assignment, lease or sublease made by Declarant of a Lot of the Property shall be and hereby is deemed to incorporate by reference all of the provisions of this Covenant and Agreement and Declaration of Restrictions, including, but not limited to all the covenants, conditions, restrictions, limitations, grants of easements, rights-of-way and equitable servitudes contained herein.

1. Definitions: In addition to the definitions hereinbefore set forth, the following words or phrases where used in this Covenant and Agreement and Declaration of Restrictions (except when the context otherwise requires) shall have the following definitions:

- a. "Declarant" shall mean CANYON HILLS, LTD., a California limited partnership, its successors and assigns.

b. "Declaration" shall mean this Covenant and Agreement and Declaration of Restrictions.

c. "Drainage Facility Easement Areas" shall be the areas on each lot of the Property described in Paragraphs 5 and 6 below in which Established Drainage Facilities are installed.

d. "Established Drainage Facilities" shall mean all improvements constructed or installed by Declarant for drainage of surface or storm waters pursuant to the Grading Plan for Tract No. 24684.

e. "Lot" or "Lots" shall mean the Lot or Lots of Tract No. 24684 hereinabove described and referred to as the Property.

f. "Owner" shall mean any person, whether an individual, corporation, association or otherwise, in which title to a Lot is vested, as shown by the Official Records of the Office of the County Recorder of Riverside County, California. Declarant shall be deemed the Owner of all unsold or retained Lots until Declarant, its successors or assigns shall have executed and caused to be recorded in the Office of the County Recorder of Riverside County, California, an instrument of conveyance conveying the respective Lot. If more than one person is owner of a Lot, then all such persons shall be jointly and severally liable for all obligations herein of the owner of a Lot.

2. Construction of Established Drainage Facilities.

The Declarant shall construct or cause to be constructed the private cross-lot drainage facilities consisting of a 3-foot-wide concrete gutter drain on and along the westerly 10 feet of Lots 1 and 2, a 3-foot-wide concrete gutter on and along the easterly and southeasterly 10 feet of Lot 19, and a 3-foot-wide concrete gutter on and along the easterly 10-feet of Lots 20 through 31 and Lots 50 and 51, together with block walls and/or fences with openings, all in accordance with and as shown by the Grading Plan for Tract 24684 filed with the City's Public Works Department. The cross-lot drainage facilities shall be constructed prior to the sale or development of any Lot of the Property.

3. Interference with Established Drainage Facilities.

No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on any Lot which may damage or interfere with, or obstruct or retard the flow of water through the Established Drainage Facilities.

4. Maintenance of Established Drainage Facilities. The Owner of each Lot, for the benefit of every other Lot and the

owners thereof and any affected adjoining properties shall continuously maintain, repair and replace, if necessary, any and all Established Drainage Facilities, and this obligation for maintenance, repair and replacement of such Established Drainage Facilities shall be borne by each Owner of a Lot to the extent that such drainage facility is within the boundaries of such Lot.

5. Establishment of Drainage Facility Easements.

Declarant hereby establishes, grants and reserves nonexclusive easements at the locations and for the purposes set forth as follows:

a. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lot 1 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California, over, along and across the westerly 10 feet of Lot 2 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 and thru 75 thereof, records of Riverside County, California:

b. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lot 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California, over, along and across the easterly 10 feet of Lot 50 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California.

c. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California, over, along and across the easterly 10 feet of Lot 31 of Tract No. 24684 as shown by map on file in

Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California.

d. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 31, 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 30 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

e. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 30, 31, 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 29 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

f. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 29 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 28 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

g. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff

water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 28 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 27 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

h. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 27 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 26 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

i. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 26 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 25 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

j. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 25 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and

across the easterly 10 feet of Lot 24 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

k. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 24 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 23 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

l. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 23 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 22 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

m. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 22 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 21 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

n. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement

and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 21 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly 10 feet of Lot 20 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

o. A 10-foot wide nonexclusive easement for the construction, maintenance, repair, replacement and use of drainage facilities for surface runoff water and storm water and for ingress and egress in connection with said facilities in favor of and as an easement appurtenant to Lots 20 through 31, inclusive, and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, records of Riverside County, California, over, along and across the easterly and southeasterly 10 feet of Lot 19 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at Pages 71 through 75 thereof, Records of Riverside County, California.

6. Acceptance of Surface Water Runoff Into Established Drainage Facilities. Declarant hereby agrees to accept and does hereby accept into the Established Drainage Facilities located on the easterly and southeasterly 10 feet of Lot 19 and on the easterly 10 feet of Lots 20 thru 31 and Lots 50 and 51 of Tract No. 24684 as shown by map on file in Book 219 of Maps, at pages 71 through 75 thereof, Records of Riverside County, California, the surface storm flow and nuisance drainage waters from the properties lying easterly thereof.

7. Enforcement. The provisions of this Declaration shall be enforceable at law and in equity by Declarant, each successive owner including the owners of properties lying easterly of Lots 19 through 31 and Lots 50 and 51 and, subject to the provisions of Paragraph 8 below, the City. In the event of any legal or equitable proceeding for the enforcement of or to restrain the violation of this Declaration or any provision hereof, the prevailing party therein shall be entitled to reasonable attorneys' fees in addition to any other costs to which said party is entitled therein. The failure of Declarant, any owner or the City to enforce any provision of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other provision hereof.

8. Notice from City. Any remedy granted to the City pursuant to Paragraph 7 hereof shall be exercisable by the City only if the Owner shall fail to cure a violation or breach hereof after ten days' written notice from the City, or, if such cure cannot be completed within such ten-day period, if the Owner shall fail to commence to cure the same within such ten-day period and to diligently prosecute such cure to completion. Any notice given by the City pursuant to this paragraph shall be delivered to the Owner in person, or sent by U. S. mail, registered or certified, return receipt requested, postage prepaid, addressed to the Owner at the last known mailing address of Owner.

9. Release. Declarant, and each successive Owner of each Lot of the Property, hereby release the City, its officers, employees and agents from any and all claims, demands, suits or actions that the Declarant and its successors or assigns may now or in the future have arising out of or incurred as a result of water flooding, flowing over, or remaining on said Lot whether due to the natural surface water and storm water runoff from the adjoining Lot or Lots or properties or to the construction and maintenance of the private cross-lot drainage facilities and the diversion of water into said facilities. Declarant agrees that the matters released herein are not limited to matters which are known or disclosed, and Declarant, for itself and each successive Owner of a Lot of the Property, waives any and all rights and benefits 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 it 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, and Declarant further agrees, represents and warrants that this Release has been negotiated and agreed upon in light of that realization and that Declarant nevertheless intends to release, discharge, and acquit the City from any such unknown claims, which are in any way related to water flooding, flowing over, or remaining upon any Lot of the Property due to natural surface water and storm water runoff or to the construction and maintenance of the private cross-lot drainage facilities and the diversion of water into such facilities.

10. Indemnification. Declarant and each successive Owner of a Lot hereby agree to defend, indemnify and hold harmless the City of Riverside, its officers, employees and agent from any and all liabilities, expenses, claims or causes of action arising out of or alleged to be caused by or resulting from water flooding, flowing over, or remaining on any property due to the construction or maintenance of the private cross-lot drainage facilities as hereinabove described on said Lot or the diversion of water into such facilities.

11. Effect of Declaration. Any person who now or hereafter owns or acquires any right, title or interest in or to any portion 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 and be subject to each applicable easement described in Paragraph 5 hereof or the acceptance of surface water runoff as described in Paragraph 6 thereof, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property.

12. Mutuality, Reciprocity, Run with Land. All of the provisions contained herein are made for the direct, mutual and reciprocal benefit of each and every portion of the Property and create mutual, equitable servitudes upon each Lot as the servient tenement in favor of every other Lot as the dominant tenement and create reciprocal rights and obligations among the respective owners of all of the Lots, and privity of contract and estate among all grantees of the Lots, their successors and assigns in interest. In addition, each of the provisions hereof shall operate as covenants running with the land for the benefit of the Property and each Lot, and shall inure to the benefit of all owners thereof, their successors and assigns in interest, and shall apply to and bind each successive Owner of each Lot or portion thereof, their successors and assigns in interest.

13. Termination and Modification. Subject to the prior written approval of the City Council of the City of Riverside, this Declaration, and any provision contained herein, may be terminated, modified or amended as to all of the Property or any portion thereof, upon the written consent of the Owners of 75% of the total number of square feet of land area contained in the Property; provided, however, that as long as Declarant owns at least 25% of the total square feet contained in the Property, no such termination, modification or amendment shall be effective without the prior written approval of Declarant. No such termination, modification or amendment shall be effective until there shall have been executed, acknowledged and recorded in the office of the Recorder of Riverside County, California, an appropriate instrument evidencing the same including the consent thereto by the City.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

CANYON HILLS, LTD., a California limited partnership

By: CONCORDIA HOMES, INC., a corporation, its general partner

By [Signature] President

By [Signature] Secretary

232045

STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO ss.

On JUNE 1, 1990 before me, the undersigned, a Notary Public in and for said State, personally appeared O. R. HALL and JERI A. SMITH

personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as [Signature] President and [Signature] Secretary, on behalf of CONCORDIA HOMES INC.

the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors, said corporation being

known to me to be the general partner of CANYON HILLS, LTD.

the limited partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal. Signature [Signature]



(This area for official notarial seal)

3000 (10/82) - (Corporation as a Partner of a Limited Partnership) First American Title Company

DESCRIPTION APPROVAL 6/14/90
Walter R. Jure by DA
SURVEYOR, CITY OF RIVERSIDE

BP/2444A/jm
5/10/90

APPROVED AS TO FORM
[Signature]
ASST. CITY ATTORNEY