

WHEN RECORDED MAIL TO:

CITY CLERK
City of Riverside
City Hall, 3900 Main Street
Riverside, California 92522

Project: Environmental Protection
Commission Case EPC-2-890

RECEIVED FOR RECORD
AT 8:30 O'CLOCK A.M.

JAN 18 1991

Recorded in Official Records
of Riverside County, California

Recorder
Fees \$ *11*

21150

COVENANT AND AGREEMENT AND
ESTABLISHING EASEMENTS FOR COMMON DRIVEWAY

THIS COVENANT AND AGREEMENT is made and entered into this 17th day of January, 1991, by AWARE DEVELOPMENT COMPANY, INC., a California corporation, hereinafter referred to as "Declarant", with reference to the following facts:

A. Declarant is the owner in fee of the two adjoining parcels of real property located on Equestrian Drive within the City of Riverside, County of Riverside, State of California, described as follows:

Lots 5 and 6 of Tract No. 18212 as shown by map on file in Book 132 of Maps, at pages 36 to 38, inclusive, records of Riverside County, California.

Lots 5 and 6 of Tract No. 18212 are part of a residential subdivision being developed by Declarant.

B. As a condition of approval of Environmental Protection Commission Case EPC-2-890 for a grading permit for a portion of Tract No. 18212, Declarant is to record a joint access agreement for Lots 5 and 6 to the satisfaction of the Planning, Public Works and Legal Departments.

C. Declarant has previously executed a Grant of Easement dated September 17, 1990 and recorded September 26, 1990 as Instrument No. 356874, Official Records of Riverside County, California, to grant such easements. By the Grant of Easement dated November 12, 1990 and recorded December 18, 1990 as Instrument No. 456822, Declarant sought to amend and replace the previous grant of easement dated September 17, 1990 and grant a new easement to the public consisting of an easement for driveway ingress and egress and public utilities in favor of said Lots 5 and 6 of Tract No. 18212.

D. Declarant desires to terminate and replace the Grant of Easement dated November 12, 1990 and recorded December 18, 1990 as Instrument No. 456822, Official Records of Riverside County, California, and establish easements for a common driveway twenty feet in width extending from Equestrian Drive in conformance with the above-noted condition in EPC-2-890.

NOW, THEREFORE, in order to meet a condition of approval imposed by the City of Riverside for the granting of a grading permit under Environmental Protection Commission Case EPC-2-890, and to clarify that the Declarant wished to establish a private access easement to meet said condition by its Grant of Easement dated November 12, 1990, Declarant hereby covenants and agrees with the City of Riverside as follows:

1. In order to establish a private driveway twenty feet in width on the common property line of Lots 5 and 6 of Tract No. 18212 for the use and benefit of each lot, there is hereby granted and established an easement for common private driveway ingress and egress and private utilities over, along and across the following portions of said lots:

Those portions of Lots 5 and 6 of Tract No. 18212 as shown by map on file in Book 132 of Maps, at pages 36 to 38, inclusive, records of Riverside County, California, described as follows:

A 20.00 foot wide strip of land, the centerline of said strip being the North line of said Lot 6 and shown as bearing North 88° 15' 17" West 335.91 feet.

The side lines of said 20.00-foot-wide strip to be shortened or lengthened to terminate on the Northwest line and its Northeasterly prolongation of said Lot 6 and on the Westerly line of Equestrian Drive (Lot "A") as shown on said tract map.

2. In the event either Lot 5 or Lot 6 of Tract No. 18212 is sold or conveyed, or the ownership is otherwise changed, Declarant shall also grant to the grantee of the lot conveyed an easement for and the right of joint use of the portion of the common private driveway easement above described located on the lot which is retained in ownership; and Declarant shall reserve for itself and its successors and assigns as to the lot retained, an easement for and the right of joint use of that portion of the common private driveway easement above described which is located upon the lot so conveyed.

3. The cost of the construction, reasonable repair and maintenance of the common driveway shall be borne equally by the owners of each lot.

4. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the common driveway easement to the

general public or for the general public, or for any public purposes whatsoever, it being the intention of Declarant that this document shall be strictly limited to and for the purposes herein expressed.

5. This Covenant and Agreement shall not be subject to the doctrine of merger, even though the underlying fee ownership of the two lots described herein is vested in one party or entity.

6. Any person who now or hereafter owns or acquires any right, title or interest in or to either lot shall be deemed (a) to have considered and agreed to every covenant, condition, restriction and easement contained herein; and (b) to have been granted and be subject to the easement established in paragraph 1 above, whether or not any reference to this Covenant and Agreement is contained in the instrument by which such person acquired an interest in such lot.

7. This Covenant and Agreement shall run with the land and shall be binding upon Declarant, its successor and assigns, and shall not be amended, modified or terminated without the written consent of the City of Riverside duly recorded.

8. The Grant of Easement dated November 12, 1990 and recorded December 18, 1990 as Instrument No. 456822, Official Records of Riverside County, California, is hereby terminated and replaced in its entirety by this Covenant and Agreement.

IN WITNESS WHEREOF Declarant has caused this Covenant and Agreement to be duly executed the day and year first above written.

AWARE DEVELOPMENT COMPANY, INC.,
a California corporation

APPROVED AS TO FORM
N.Y. Heuring
CHIEF ASSISTANT CITY ATTORNEY

By Charles W. Ware
Charles W. Ware, as President
and Secretary

DESCRIPTION APPROVAL 1, 17, 91
George P. Hutchison
SURVEYOR, CITY OF RIVERSIDE

BP/2929A/jm
1/17/91