

401022

RECORDING REQUESTED BY:

Mac T & D, Inc.  
4600 Arlington Avenue  
Riverside, California  
92504

WHEN RECORDED MAIL TO:

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

PROJECT:

Grading Permit for  
Zoning Case C-21-912  
7714-7718 Indiana Avenue

RECEIVED FOR RECORD  
AT 8:00 O'CLOCK

OCT 13 1993

Recorded in Official Records  
of Riverside County, California

W. J. Gularte Recorder  
Fees \$

COVENANT AND  
DECLARATION OF RESTRICTIONS

(Cross Lot Drainage and Private Drainage Facility)

This Covenant and Declaration of Restrictions is made and entered into this 7 day of October, 1993 by Mac T & D, Inc., A California Corporation, and Henry J. Gularte hereinafter collectively called the "Declarant" with reference to the following facts:

A. Mac T & D, Inc., a California Corporation, is the long term ground lessee and Henry J. Gularte is the fee simple owner of the real property (the "Property") in the City of Riverside, County of Riverside, State of California, commonly known as Assessor's parcel numbers 230-231-028-1 and 230-231-030-2 as more fully described as follows:

Lot 3 of El Grande Tract, as shown by map on file in Book 5, Page 174 of Maps, Records of Riverside County, California;

Excepting, therefrom, the Southeasterly 150 feet thereof;

Also, excepting, therefrom, the Northwesterly 4 feet thereof.

B. Declarant desires to improve and develop the Property as a commercial/industrial development including the provision for cross lot drainage and the construction of a private cross lot drainage facility in accordance with plans on file with the Public Works Department of the City of Riverside, California, in order to accept and dispose of surface water runoff and storm water and to carry such waters to a discharge point within public street right of way. Declarant desires to impose upon the Property a plan for the development and maintenance of such drainage facility and to adopt and establish covenants, conditions, and restrictions upon and with respect to the Property for such purpose.

C. The City of Riverside as a condition to the approval of the commercial/industrial development requires that a means be provided for disposing of surface runoff water and storm water onto the Property from the adjoining real property, ("Casa Blanca Property"), commonly known as Assessor's parcel number 230-231-031-3, which property is also owned in fee simple by Henry J. Gularte, as more fully described as follows:

The Southeasterly 150 feet of Lot 3 of El Grande Tract as shown by map on file in Book 5, page 174 of Maps, Records of Riverside County, California;

Excepting, therefrom, the Southeasterly 8 feet thereof.

D. Declarant is the owner of a drainage easement, ("Drainage Easement") across the Casa Blanca Property, as more fully described as follows:

The Northwesterly 3.00 Feet of the Southeasterly 150 feet of Lot 3 of El Grande Tract as shown by map on file in Book 5 Page 174 of Maps, Records of Riverside County, California.

Excepting therefrom the Southeasterly 8.00 Feet thereof.

NOW, THEREFORE, Declarant declares that the Property is, and shall hereafter be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following covenants, conditions and restrictions.

1. Construction of drainage facility:

The Declarant shall construct or cause to be constructed a drainage facility consisting of a two foot wide concrete swale ("v" ditch), approximately 250 feet in length, in the aforementioned "Drainage Easement" and a two and one half foot wide concrete drainage channel, approximately 50 feet in length, in, on or about the southwesterly two and half feet of the Property, all in accordance with the grading plan of the Property on file with the Public Works Department of the City of Riverside.

2. Acceptance of Surface Water Runoff:

The Declarant acknowledges that the natural drainage flow of offsite surface water runoff and storm water from the Casa Blanca Property is not directly to a public street or public storm drain. Therefore, the Property accepts drainage flows based on undeveloped conditions from the Casa Blanca Property. Upon development of the Casa Blanca Property, the Property will only accept flows equaling the flows generated by the Casa Blanca Property in its undeveloped condition.

3. No interference with Facility and Natural Drainage:

No structure, wall, fence, planting or other material, or other structure shall be placed or permitted to remain or other activities undertaken on the Property or the Drainage Easement which may damage or interfere with, or obstruct or retard the flow of water through the constructed drainage facility as above described.

4. Maintenance:

Declarant, its successors or assigns, at their sole cost and expense, shall continuously maintain, repair, and replace, if necessary, any and all of the constructed drainage facility as above described.

5. Release and Indemnification:

Declarant, its successors and assigns hereby release the City of Riverside, its officers, employees and agents from any and all claims, demands, suits or actions that the Declarant, 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 the Property or the Casa Blanca property whether due to natural surface water and storm water runoff or to the construction and maintenance of the private cross lot drainage facility and the diversion of water into such facility.

Declarant, for itself and its successors and assigns, waives any and all rights and benefits which 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 intend to release, discharge and acquit the City of Riverside, its officers and agents, from any such unknown claims which are in any way related to the discharge of drainage waters from the Casa Blanca Property onto the Property or into the private drainage facilities described hereinabove.

Declarant, its successors and assigns hereby agree to defend, indemnify and hold harmless the City of Riverside, its officers, employees and agents 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 the Property or the Casa Blanca property whether due to natural surface water and storm water runoff or to the construction and maintenance of the private cross lot drainage facility and the diversion of water into such facility.

6. Effect of Declaration:

Any person who now or hereafter acquires any right, title, or interest in or to any portion of the Property shall take subject to this Covenant and Agreement and Declaration of Restrictions.

All the provisions contained herein are made for the direct, mutual and reciprocal benefit of each and every portion of the Property and the Casa Blanca Property, in its unimproved condition, and create an equitable servitude upon the Property as the servient tenement in favor of the Casa Blanca Property as the dominant tenement.

7. Enforcement:

The provisions of this Declaration shall be enforceable at law and in equity by Declarant, each successive holder of fee simple title of the Casa Blanca Property, and, subject to the provisions of paragraph 8 below, the City of Riverside.

8. Notice from City:

Any remedy granted to the City pursuant to paragraph 7 hereof shall be exercisable by the City only if the Declarant or its successors or assigns shall fail to cure a violation or breach hereof after five days written notice from the City of Riverside, or, if such cure cannot be completed within such five day period, if Declarant or its successors or assigns fail to commence to cure the same within such five day period and to diligently prosecute such cure to completion. Notice shall be delivered personally or by U.S. Mail, registered or certified, return receipt requested,

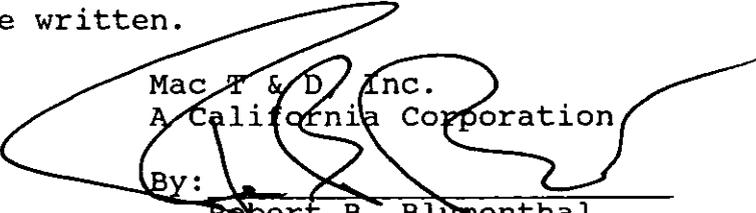
postage prepaid addressed to Declarant or its successors or assigns at the last known mailing address of the Declarant, successors or assigns.

9. Termination and Modification:

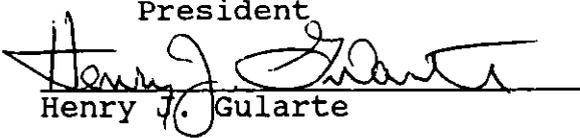
Subject to the prior written approval of the Public Works Director of the City of Riverside, this Declaration, and any provision contained herein may be terminated, modified or amended as to the Property upon written agreement of Declarant, its successors in interest and the then fee simple title owner of the Casa Blanca Property. Any modification or termination along with the approval of the Public Works Director shall be recorded in the Office of the County Recorder of Riverside County California.

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

Mac T & D, Inc.  
A California Corporation

By: 

Robert B. Blumenthal  
President

  
Henry J. Gularte

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF RIVERSIDE )

On October 7, 1993 before me Kristen K. Shrabel,  
the undersigned Notary Public, personally appeared Robert B.  
Blumenthal 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.



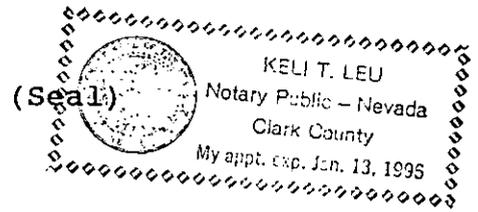
Signature Kristen K. Shrabel  
Notary Public

(Seal)

STATE OF NEVADA )  
 ) ss  
COUNTY OF CLARK )

On 9-30-93 before me KELI LEU,  
the undersigned Notary Public, personally appeared Henry J. Gularte  
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.



Signature Keli T. Leu  
Notary Public

(Seal)