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FRANK K. JOHNSON
County Recorder
RIVERSIDE COUNTY CALIFORNIA

And when recorded, mail to:

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

FOR RECORDER'S OFFICE USE ONLY

Project: Parcel Map No. 28722

**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 8 day of Dec., 1999, by KMK 1, A Limited Liability Company, (hereinafter called the "Declarant"), with reference to the following facts:

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

Parcels 1 And 2 of Parcel Map No. 28722, as shown by map on file in Book 196 of Parcel Maps, at Pages 3 through 4 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 Public Works Department of the City of Riverside, California, to accept surface water runoff and storm water and to carry such waters to a public street. Declarant desires to impose upon the Property a plan for the development and maintenance of such drainage facilities and to adopt 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,

DESCRIPTION APPROVAL 12/21/99
Walter R. Inge BY
SURVEYOR, CITY OF RIVERSIDE

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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 Parcel Map No. 28722 on file with the Public works Department of City requires that a means be provided for disposing of surface runoff water and storm water on and from the Property.

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 covenant, 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 Parcel Map No. 28722. 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 Parcel or portion thereof, and shall be binding on and inure to the benefit of each successor and assignee in interest of each such party. Any conveyance, transfer, sale, assignment, lease or sublease made by declarant of a Parcel 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 easement, rights, 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 KMK 1, A Limited Liability Company, its successor and assigns.

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

c. "Drainage Facility Easement Areas" shall mean the areas of each Lot of the Property upon which an easement is established pursuant to Paragraph 6 below.

d. "Established Drainage Facilities" shall mean all improvements constructed or installed by Declarant for drainage of surface or storm waters in the accordance with the Grading Plan for Parcel Map No. 28722 on file with the Public Works Department of City.

e. "Parcel or Parcels" shall mean the Parcel or Parcels of the Property described hereinabove.

f. "Owner" shall mean any person, whether an individual, corporation, association or otherwise, in which title to a Parcel 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 Parcel 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 Parcel. If more than one person is owner of a Parcel then all such persons shall be jointly and severally liable for all obligations herein of the owner of a Parcel.

2. Construction of Established Drainage Facilities. The Declarant shall construct or cause to be constructed Established Drainage Facilities consisting of two catch basins and an 8" ABS SCH 40 drain pipe on Parcel 1 and Parcel 2, all in accordance with the Grading Plans for Parcel Map No. 28722, on file with the Public Works Department of City. The cross-lot drainage facilities shall be constructed prior to the sale or development of any Parcel of the Property.

3. Acceptance of Surface Water Runoff. The Declarant acknowledges that the natural drainage flow of surface water runoff and storm water is not directly to a public street from each Parcel of the Property. Therefore, Parcel 1 accepts the natural drainage flow from Parcel 2.

4. Interference with Established Drainage Facilities and Natural Surface Water Drainage. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on any Parcel which may damage or interfere with, or obstruct or retard the flow of water through the Established Drainage Facilities. No wall, fence or other structure shall be placed on or near the property lines of the Parcel which would block the natural drainage flow of surface water runoff and storm water as accepted in Paragraph 3 above .

5. Maintenance of Established Drainage Facilities. The Owner of each Parcel for the benefit of every other Parcel and the owners thereof, 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 Parcel to the extent that such drainage facility is within the boundaries of such Parcel.

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SURVEYOR, CITY OF RIVERSIDE

6. Establishment of Drainage Facility Easements. Declarant hereby establishes, grants and reserves nonexclusive easements at the location and for the purposes set forth as follows:

a. A nonexclusive easement for the construction installation, maintenance, repair, replacement and use of drainage facilities or surface water runoff and storm water and for ingress and egress in connection with said facilities for the use and benefit of and an easement appurtenant to Parcel 2 of Parcel Map No. 28722 as shown by map on file in Book _____ of Parcel Maps, at Pages _____ through _____ thereof, Records of Riverside County, California, over, along and Across the Northerly 6 feet of Parcel 1 of Parcel Map No. 28722, as shown by map on file In Book _____ of Parcel Maps, at Pages _____ through _____ thereof, Records of Riverside County, California.

7. Enforcement. The provisions of the Declaration shall be enforceable at law and in equity by Declarant, each successive Owner 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 attorney's fees in addition to any other costs to which such 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 the 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 five days' written notice from the City, or, if such cure cannot be completed within such five-day period, if the Owner shall fail to commence to cure the same within such five-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 the Owner.

9. Release. Declarant and each successive Owner of a Parcel hereby releases the City of Riverside, its officers, employees and agents from any and all claims, demands, suits or actions that the Declarant or Owners or their heirs, 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 any Parcel whether due to natural surface water, storm water runoff or to the construction and maintenance of the private cross-lot drainage facilities and the diversion of water into such facilities. Declarant agrees that the matters released herein are not limited to matter which are known or disclosed, and declarant, for itself and each successive Owner, 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, unanticipated and unsuspected, and Declarant further agrees, represent 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 the water flooding, flowing over, or remaining on any Parcel whether 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. Each Owner of a Parcel hereby agrees 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 any property whether due to natural surface water or storm water runoff or to the construction and maintenance of the private cross-lot drainage facility on said Parcel and the diversion of water into such facility.

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 6 hereof, 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 Parcel as the servient tenement in favor of every other Parcel as the dominant tenement and create reciprocal right and obligations among the respective Owners of all of the Parcel and privity of contract and estate among all grantees of the Parcel , 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 parcel 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 Parcel portion thereof, their successors and assigns in interest.

13. Termination and Modification. This Covenant and Agreement shall not be terminated or modified without prior written approval of the City Council of City of Riverside. 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.

KMK 1, A LIMITED LIABILITY COMPANY

By 

Title Member

By 

Title Member

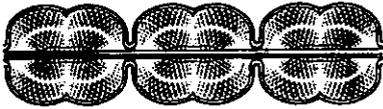
APPROVED AS TO CONTENT


CITY OF RIVERSIDE
PUBLIC WORKS DEPARTMENT

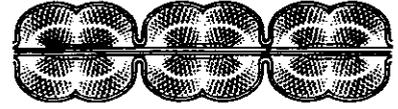
APPROVED AS TO FORM

 12/24/99
CAROLYN CONFER
ASSISTANT CITY ATTORNEY

CALIFORNIA



ALL-PURPOSE



ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

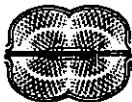
COUNTY OF Riverside)

On 12/8/99 before me, Carolyn Villines Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

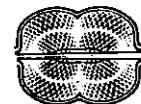
personally appeared, Michael A Conway and Kile David Bowler
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/
they executed the same in his/her/their authorized 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.

Carolyn Villines (SEAL)
NOTARY PUBLIC SIGNATURE



OPTIONAL INFORMATION



TITLE OR TYPE OF DOCUMENT _____

DATE OF DOCUMENT _____ NUMBER OF PAGES _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

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C/A 666