

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

CITY OF AGOURA HILLS
CITY CLERK
30001 LADYFACE COURT
AGOURA HILLS, CA 91301

The undersigned declares that this instrument is recorded at the request and for the benefit of the CITY OF AGOURA HILLS, and is therefore exempt from payment of recording fees pursuant to Government Code Sec. 6103.

(Space Above for Recorder's Use)

COVENANT FOR THE PAYMENT OF ARTERIAL STREET SYSTEM DEVELOPMENT FEES

ADDRESS:

This COVENANT FOR THE PAYMENT OF ARTERIAL STREET SYSTEM DEVELOPMENT FEES ("Covenant") is entered into as of _____ ("Effective Date"), by and between _____ ("Owner") a California corporation, and the CITY OF AGOURA HILLS ("City"), a municipal corporation, organized and existing under the laws of the State of California. Owner and City are sometimes collectively referred to herein as the "parties." This Covenant burdens the property commonly known as _____, of Agoura Hills, County of Los Angeles, State of California, per map recorded in Book _____ inclusive of Maps, in the Office of the County Recorder of said County (the "Property").

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Purpose. This Agreement shall ensure that both City and Owner receive the benefits and uphold the obligations imposed under the City's Arterial Street System Development Fee Program [Agoura Hills Municipal Code Sections 8504-8509, inclusive].
2. Fee Payments and Credits.
 - a. Fee Payments. Owner and City agree that Arterial Street System Development Fees in the total amount of \$ _____ ("Total Fee") are currently due and payable for the Property under the terms and requirements of City's Municipal Code. Owner hereby agrees to pay the Total Fee on an installment basis by participating in the City's Alternate Payment Method Program pursuant to City's Municipal Code Section 8506. Owner shall pay not less than twenty-percent (20%) of the Total Fee to City concurrently with the execution of this Covenant. Thereafter, the remaining balance of the Total Fee shall be paid in four (4) equal, annual, and consecutive installments, with each installment due on the subsequent anniversary of the Execution Date. The Total Fee shall be paid in full on or before _____. Owner may prepay the amounts due without penalty. No interest on any installment shall be charged prior to the date on which that installment is due. However, in the event that any installment amount remains unpaid after date due, interest shall be charged on any unpaid amount at ten percent (10%) per annum calculated from the Effective Date, and the remaining balance of the Total Fee plus interest shall become immediately due and payable. Owner and the Property shall not be credited with full payment of the Total Fee until the entire amount due hereunder has been paid in full. Once all fees required under this Covenant have been received by City, City shall record a document indicating that the terms of this Covenant have been satisfied, and the Property will be irrevocably credited with full payment of the Total Fee.

- b. Credits. Owner's land use entitlement applicable to the Property requires Owner to construct certain off-site street improvements. Upon completion of said improvements and acceptance thereof by the City, Owner shall be entitled to a credit against the Total Fee in an amount not to exceed \$ _____ or Owner's actual cost of constructing said improvements ("Credit Amount"), as verified by the City Engineer. On or before the date specified in Section 2(a), above, for payment of any annual installment, Owner may apply in writing to the City Engineer for a credit against said installment amount. In the event that the Credit Amount exceeds the annual installment payment due, the Credit Amount in excess shall be applied to Owner's next installment payment.
3. Note and Deed of Trust. Owner's obligations hereunder shall be evidenced and secured by a Promissory Note and Deed of Trust, which shall be executed concurrently herewith and recorded against the title to the Property. This Covenant, the Promissory Note and Deed of Trust shall not be subordinated to any other subsequent lien applicable to the Property, except upon the specific written consent of the City Manager and City Attorney. City shall, at its option, secure the services of a qualified Trustee. Concurrent with the execution of this Covenant, the Promissory Note and Deed of Trust, Owner shall deposit with City the cash sum of \$ _____ representing City's estimate of the Trustee's fees for the term of this Covenant. Owner shall be entitled to receive a refund of any funds so-deposited that remain unspent as of the satisfaction of this Covenant.
4. Due on Sale or Transfer. In the event title to the Property is sold or otherwise transferred to any person or entity not a party to this Agreement, any fees due hereunder shall be due and payable to City upon the close of escrow. Upon such payment, City shall record a covenant of satisfaction. Upon the written request of Owner, and at City's sole discretion, City may waive the "due on sale" requirements of this Section 3, provided that the prospective purchaser or transferee of the Property executes and delivers to City a new Covenant, Note and Deed of Trust to be recorded concurrently with the close of escrow.
5. Event of Default by the Owner. As a condition on the continuing validity of the land use entitlements permitting development on the Property, Owner agrees to comply with the terms of this Covenant. If City determines that the Owner has not complied in good faith with the terms and conditions of this Covenant, City shall provide written notice to Owner identifying how Owner has failed to comply with this Covenant and the steps which Owner must take, if any, to come into compliance with this Covenant. Owner may also receive notice that the land use entitlements applicable to the Property will be subject to revocation by the City Council in sixty (60) days from issuance of the notice, if Owner does not come into compliance. If, within sixty (60) days after the effective date of notice from City, Owner does not commence all steps reasonably necessary to come into compliance with the Covenant and thereafter diligently pursue such steps to completion, Owner shall be deemed to be in default under the terms of this Covenant and the land use entitlements applicable to the Property may be revoked by City. City may, then, terminate this Covenant, revoke any applicable land use entitlements, and invoke any other remedies available at law or equity.
6. Recording of Covenant. Once executed, City shall cause this covenant to be recorded on the title of the property in the office of the Los Angeles County Recorder. Copies of the recorded Covenant shall be provided to Owner and maintained in the office of the City Clerk.
7. Severability of Terms. If any term, provision or condition of this Covenant shall be determined invalid, void or unenforceable, the remainder of this Covenant shall not be affected thereby to the extent such remaining provisions are not rendered impractical to enforce.
8. Interpretation and Governing Law. This Covenant and any dispute arising hereunder shall be governed and interpreted in accordance with the local laws of the State of California.
9. Entire Agreement. This Covenant represents the entire integrated agreement between Owner and City, and supersedes all prior negotiations, representations or agreements regarding the payment of the Total Fees, whether written or oral. This Covenant may be amended only by a written instrument signed by both Owner and the City.
10. Litigation Costs. Should any dispute under this Covenant lead to litigation, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs for the prosecution of the action.

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