

When recorded return to:

Building Officials
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

Building Code Compliance Covenant and Easement Agreement

This agreement is made this ____ day of _____, ____ by and between _____, the owner(s) of the real property described in Exhibit A (hereinafter referred to as "Tract 1"), and _____, the owners of the real property described in Exhibit B.

Recitals

Whereas, the property described in Exhibits A and B are adjoining properties that lie within the City of Glendale, Arizona;

Whereas, the parties hereto desire to construct a single structure, or multiple structures under a single comprehensive development plan, which will be located on both of their properties (all improvements, irrespective of number, are hereinafter referred to as "Building");

Whereas, the property line dividing the properties intersects the Building or is separated from the Building with less distance than that required by the Uniform Building Code, as adopted and amended by the City of Glendale, or such other code enacted or adopted by the City of Glendale that regulates the parties' construction (hereinafter referred to as the "Building Code"), or the requirements of the Building Official; and

Whereas, the parties understand that the approval of the City of Glendale for construction of the Building is based on their representations that the parties intend for their properties to be used as if the property were in fact one single consolidated parcel and, therefore, this agreement is intended to prevent either of the parties, their successors or assigns, from undertaking any construction upon these properties that would cause the Building to fail to comply with the Building Code as it would apply to a building constructed on a single parcel of land.

Agreement

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree that the real estate described herein shall be held, sold, transferred, and otherwise conveyed subject to the following covenants and restrictions, which shall run with the land and bind all parties, their successors and assigns, and all those having any right, title, or interest therein:

1. In addition to complying with all other provisions of the Building Code or requirement of the Building Official, the area surrounding the Building shall be maintained, in accordance with the Building Code and all requirements of the Building Official, in a clear and open manner, free of any structure or building as required by the Building Code or the Building Official, for a distance of sixty feet (60'), or other such distance as required, from all exterior walls irrespective of any property lines.

2. Neither the group nor division of the occupancy type for which any portion of the Building adjacent to the property line is used shall change from the originally approved occupancy type without the further approval by the Building Official and completion by the parties of any modifications required by the Building Code or the Building Official that is necessitated by the change in occupancy type.

3. Consistent with the provisions of the Building Code related to fire protection and life-safety systems, the parties hereto will comply with all provisions of the Building Code related to such items as the construction type, allowable heights, allowable area, fire sprinkler systems, standpipes, fire alarms, smoke control systems, emergency systems, tenant separations, and exit systems and, in recognition that a portion of such systems serving the Building may be located on another party's property, the parties shall at their own expense assure the operation and proper maintenance of so much of such systems located on that party's property as is or may be necessary for the proper operation and maintenance of the entire system in compliance with the Building Code or the requirements of the Building Official.

4. In lieu of compliance with the provision of the Building Code that requires certain utility systems to be located entirely upon the property served by such utility systems, and in recognition that a portion of the utility systems serving the Building may be located on another party's property, the parties shall at their own expense assure the operation and proper maintenance of so much of the utility systems located on that party's property as is or may be necessary for the proper operation and maintenance of the entire system in compliance with the Building Code or the requirements of the Building Official.

5. The City is a beneficiary of this agreement and is granted the power to enforce this agreement as if it were a party hereto; including, but not limited to, all legal and equitable remedies, such as pre- and post-judgment temporary or permanent injunctive relief to prevent or terminate violations, levy of civil or criminal sanctions, and refusal to issue building permits for any modification, alteration, or addition to the Building as the City of Glendale, in the exercise of its sole discretion, deems necessary and appropriate to comply with the intent of the Building Code or the requirements of the Building Official.

6. For purposes related to compliance with the Building Code, the following party is hereby designated as the entity which shall act as agent for receipt of any and all notifications, claims, demands, and legal service, initiated by the City of Glendale, and the party so designated agrees to act as the agent for all parties, their successors and assigns, until such time as another responsible party is designated to act as said agent by proper modification of this document:

7. The City of Glendale is a beneficiary of this agreement and, therefore, this agreement shall not be revoked, modified, supplemented, amended, or altered in any fashion without the written consent of the City of Glendale endorsed thereupon, which shall then be recorded in the Maricopa County Recorder's Office.

8. The parties warrant their understanding that any approval by the City of Glendale with respect to the construction of the Building is contingent upon the proper execution of this document by duly authorized representatives of the parties and the recording of the document in the Maricopa County Recorder's Office with proper reference to all properties referred to herein.

[NAME OF CORPORATION]

By _____
Its _____

[NAME OF CORPORATION]

By _____
Its _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2004, by _____, the _____, of _____.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2004, by _____, the _____, of _____.

Notary Public

My Commission Expires:
