



508B

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: TLMA - Transportation Department

SUBMITTAL DATE:
November 21, 2013

SUBJECT: Approval of Final Tract 36327 A Schedule "C" Subdivision in the Anza Area. 3rd/3rd District; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Improvement Agreements and Securities as approved by County Counsel; and
2. Approve the final map; and
3. Authorize the Chairman of the Board of Supervisors to sign the Improvement Agreements and final map for Tract Map 36327.

BACKGROUND: Tentative Tract Map 36327 was approved by the Board of Supervisors on January 31, 2012. This final map complies in all respects with the provisions of Division 3 of Title 15 of the Government Code and applicable local ordinances. All necessary conditions of approval have been satisfied and departmental clearances obtained to allow for the recordation of the final map.

The developer desires to enter into Improvement Agreements to guarantee the construction of the required improvements and has submitted Improvement Agreements and Securities, which have been approved by County Counsel. All costs for improvements will be the responsibility of the developer. Securities posted by Philadelphia Indemnity Insurance Company are as follows:

- \$503,200 for the completion of street improvements
- \$ 32,000 for the completion of the monumentation

Mojahed Salama, Deputy Director
Department of Transportation

[Handwritten signature]

Juan C. Perez
Director of Transportation and Land Management

HS:if
Submittals: Final Map
Road/Drainage Agreements
Monumentation Agreements

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: December 3, 2013
xc: Transp., COB

Kecia Harper-Ihem
Clerk of the Board
By: *[Handwritten signature]*
Deputy

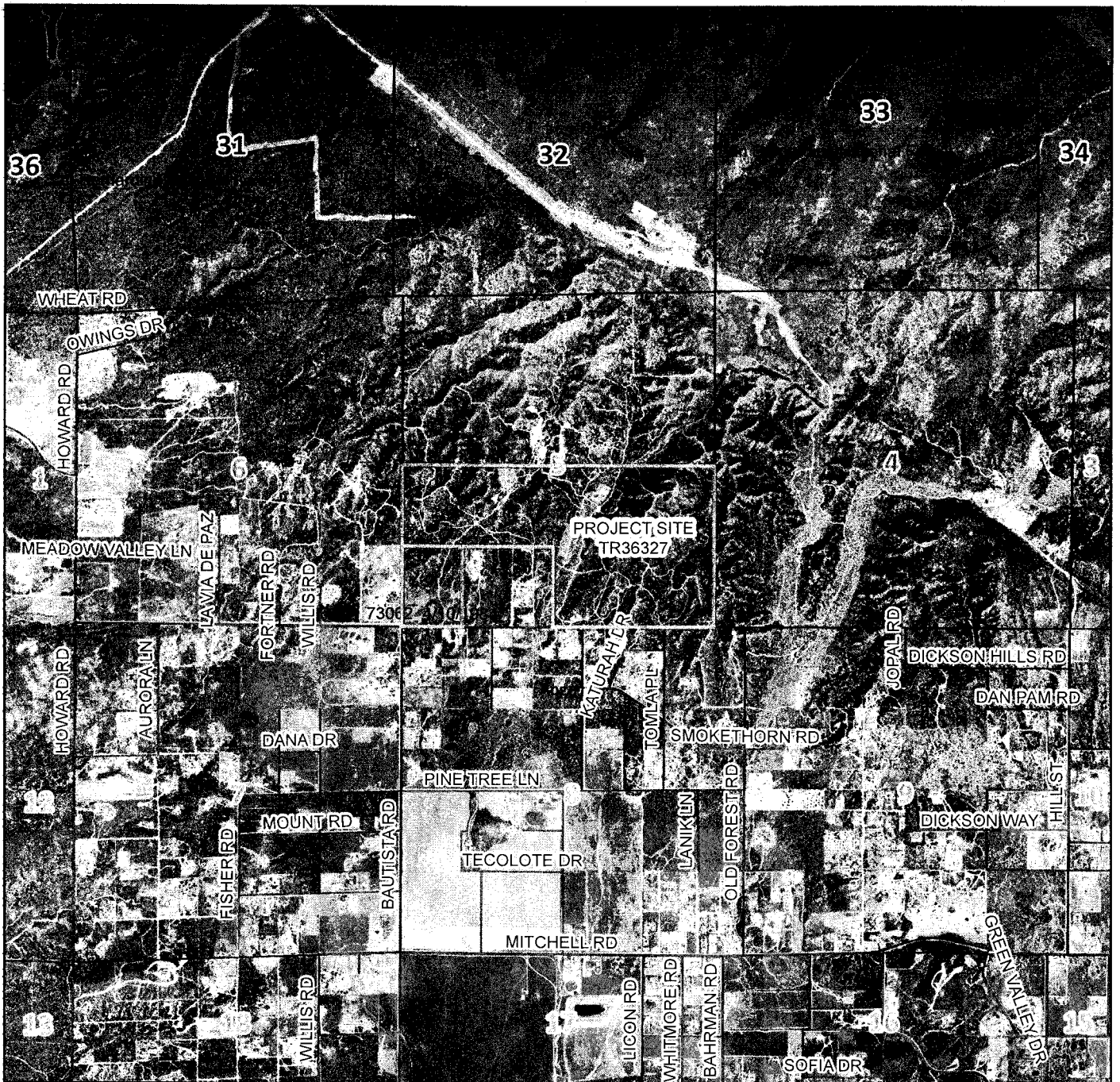
NOV 25 11 31 AM '13

REVIEWED BY EXECUTIVE OFFICE
DATE 11/25/13 PM
Department of Transportation

Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 01/31/12, Item 16-1 | District: 3/3 | Agenda Number:

2-8



VICINITY MAP

TR-36327

SEC. 5 TWP. 7S RNG. 3E

Supervisory District: Jeff Stone, District 3



**AGREEMENT
FOR THE CONSTRUCTION OF ROAD/DRAINAGE IMPROVEMENTS**

This agreement, made and entered into by and between the County of Riverside, State of California, hereinafter called County, and Greg Bumett hereinafter called Contractor.

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as Tract 36327, hereby agrees, at Contractor's own cost and expense, to furnish all labor, equipment and materials necessary to perform and complete, within 24 months from the date this agreement is executed, in a good and workmanlike manner, all road and drainage improvements in accordance with those Road Plans for said land division which have been approved by the County Director of Transportation, and are on file in the office of the Riverside County Transportation Department, and do all work incidental thereto in accordance with the standards set forth in Riverside County Ordinance No. 461, as amended, which are hereby expressly made a part of this agreement. All the above required work shall be done under the inspection of and to the satisfaction of the County Director of Transportation, and shall not be deemed complete until approved and accepted as complete by the County. Contractor further agrees to maintain the above required improvements for a period of one year following acceptance by the County, and during this one year period to repair or replace, to the satisfaction of the Director of Transportation, any defective work or labor done or defective materials furnished. Contractor further agrees that all underground improvements shall be completed prior to the paving of any roadway. The estimated cost of said work and improvements is the sum of Five hundred three thousand two hundred and no/100 Dollars (\$503,200.00).

SECOND: Contractor agrees to pay to County the actual cost of such inspections of the work and improvements as may be required by the Director of Transportation. Contractor further agrees that, if suit is brought upon this agreement or any bond guaranteeing the completion of the road and drainage improvements, all costs and reasonable expenses and fees incurred by County in successfully enforcing such obligations shall be paid by Contractor, including reasonable attorney's fees, and that, upon entry of judgment, all such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

THIRD: County shall not, nor shall any officer or employee of County, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this agreement prior to the completion and acceptance thereof, nor shall County or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Contractor, its agents or employees, in the performance of the work, and all or said liabilities are assumed by Contractor. Contractor agrees to protect, defend, and hold harmless County and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Contractor, its agents and employees, in the performance of this agreement or arising out of the use of any patent or patented article in the performance of this agreement.

FOURTH: The Contractor hereby grants to County, or any agent or employee of County, the irrevocable permission to enter upon the lands of the subject land division for the purpose of completing the improvements. This permission shall terminate in the event that Contractor has completed work within the time specified or any extension thereof granted by the County.

FIFTH: The Contractor shall provide adequate notice and warning to the traveling public of each and every hazardous or dangerous condition caused or created by the construction of the works of improvement at all times up to the completion and formal acceptance of the works of improvement. The Contractor shall protect all persons from such hazardous or dangerous conditions by use of traffic regulatory control methods, including, but not limited to, stop signs, regulatory signs or signals, barriers, or detours.

SIXTH: Contractor, its agents and employees, shall give notice to the Director of Transportation at least 48 hours before beginning any work and shall furnish said Director of Transportation all reasonable facilities for obtaining full information with respect to the progress and manner of work.

SEVENTH: If Contractor, its agents or employees, neglects, refuses, or fails to prosecute the work with such diligence as to insure its completion within the specified time, or within such extensions of time which have been granted by County, or if Contractor violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, Contractor shall be in default of this agreement and notice of such default shall be served upon Contractor. County shall have the power, on recommendation of the Director of Transportation, to terminate all rights of Contractor because of such default. The determination by the Director of Transportation of the question as to whether any of the terms of the agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon the Contractor, and any and all parties who may have any interest in the agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to County under law. The failure of the Contractor to commence construction shall not relieve the Contractor or surety from completion of the improvements required by this agreement.

EIGHTH: Contractor agrees to file with County, prior to the date this agreement is executed, a good and sufficient improvement security in an amount not less than the estimated cost of the work and improvements for the faithful performance of the terms and conditions of this agreement, and good and sufficient security for payment of labor and materials in the amount prescribed by Article XVII of Riverside County Ordinance 460 to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California. Contractor agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amount of said bonds, or both, within ten (10) days after being notified by the Director of Transportation that the sureties or amounts are insufficient. Notwithstanding any other provisions herein, if Contractor fails to take such action as is necessary to comply with said notice, Contractor shall be in default of this agreement unless all required improvements are completed within ninety (90) days of the date on which the Director of Transportation notified Contractor of the insufficiency of the security or the amount of the bonds or both.

NINTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this agreement, that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, extensions of time may be granted, from time to time, by County, either at its own option, or upon request of Contractor, and such extensions shall in no way affect the validity of this agreement or release the surety or sureties on such bonds. Contractor further agrees to maintain the aforesaid bond or bonds in full force and effect during the terms of this agreement, including any extensions of time as may be granted therein.

TENTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain that particular part, term or provision held to be invalid.

ELEVENTH: Any notice or notices required or permitted to be given pursuant to this agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

County

Contractor

Construction Engineer
Riverside County Transportation Dept.
2950 Washington Street
Riverside, CA 92504

Greg Burnett
P.O. Box 391111
Anza, CA 92539

IN WITNESS WHEREOF, Contractor has affixed his name, address and seal.

By Greg Burnett

Owner/Contractor

Title _____

By _____

Title _____

COUNTY OF RIVERSIDE

By John J. Benoit
JOHN J. BENOIT

CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

KECIA HARPER-IHEM,
Clerk of the Board

By Kecia Harper-Ihem
Deputy

APPROVED AS TO FORM

County Counsel
By [Signature]

**SIGNATURES OF CONTRACTOR MUST BE ACKNOWLEDGED BY NOTARY
AND EXECUTED IN TRIPPLICATE**

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Riverside

On 10-8-2013 before me, Robyn M. Garrison Notary Public
(Here insert name and title of the officer)

personally appeared Greg Burnett

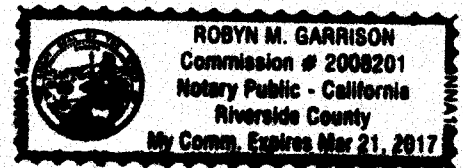
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Robyn M. Garrison
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

ROBYN M. GARRISON
Commission # 2008201
Notary Public - California
Riverside County
My Comm. Expires Mar 21, 2013



**AGREEMENT
FOR THE PLACEMENT OF SURVEY MONUMENTS**

This agreement, made and entered into by and between the County of Riverside, State of California, hereinafter called County, and Greg Burnett, hereinafter called Contractor.

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as Tract 36327, hereby agrees, at Contractor's own cost and expense, to furnish all labor, equipment and materials necessary to set, within 24 months from the date this agreement is executed, in a good and workmanlike manner, all survey monuments and tie points and to furnish to the County Surveyor tie notes for said tract in accordance with the standards set forth in Riverside County Ordinance No. 461 and Section 8771 et seq. of the Business and Professions Code of the State of California. Contractor further agrees to pay, within 30 days of presentation to contractor of the final billing of any surveyor or engineer for work performed by him as provides for in Article 9 of Chapter 4, Division 2 of Title 7 of the Government Code of the State of California (commencing with Section 66495). Contractor further agrees that if payment to the surveyor or engineer is not made within 30 days, the surveyor or engineer notifies County that he has not been paid for setting the final monuments, and the Board of Supervisors, pursuant to Section 66497 of the Government Code, after providing Contractor with an opportunity to present evidence as to whether or not the surveyor or engineer has been paid, orders that payment be made by County to the engineer or surveyor, Contractor will, upon demand, and without proof of loss by County, reimburse County for any funds so expended. Notwithstanding any other provisions herein, the determination of County as to whether the surveyor or engineer has been paid shall be conclusive on Contractor, its surety, and all parties who may have an interest in the agreement or any portion thereof.

All of the above required work shall be done under the inspection of, and to the satisfaction of, the County Surveyor, and shall not be deemed complete until approved and accepted as complete by the County. The estimated cost of said work and improvements is the sum of THIRTY TWO THOUSAND AND NO/100 (\$32,000.00)

SECOND: Contractor agrees to pay to County the actual cost of such inspections of the work and improvements as may be required by the County Surveyor. Contractor further agrees that, if suit is brought upon this agreement or any bond guaranteeing the completion of the monuments, all costs and reasonable expenses and fees incurred by County in successfully enforcing such obligations shall be paid by Contractor, including reasonable attorney's fees, and that, upon entry of judgment, all such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

THIRD: County shall not, nor shall any officer or employee of County, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this agreement prior to the completion and acceptance thereof, nor shall County or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Contractor, its agents or employees, in the performance of the work, and all or said liabilities are assumed by Contractor. Contractor agrees to protect, defend, and hold harmless County and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Contractor, its agents and employees, in the performance of this agreement or arising out of the use of any patent or patented article in the performance of this agreement.

FOURTH: The Contractor hereby grants to County, the Surety upon any bond, and to the agents, employees

and contractors of either or them, the irrevocable permission to enter upon the lands of the subject land division for the purpose of completing the monumentation. This permission shall terminate in the event that Contractor or the Surety has completed work within the time specified or any extension thereof granted by the County. It is further agreed that Contractor shall have control of the ground reserved for the installation of said work, and the streets in which they are to be placed, as is necessary to allow Contractor to carry out this agreement.

FIFTH: Contractor agrees to file with County prior to the date this contract is executed, an acceptable and sufficient improvement security in an amount not less than the estimated cost of the work, as above specified, for the faithful performance of the terms and conditions of this agreement, and for the payment of the amount of the improvement security to the County for the benefit of any surveyor or engineer who has not been paid by the Contractor, as provided for by Section 66495 et seq. of the Government Code of the State of California. Contractor agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amount of said bonds, or both, within ten (10) days after being notified by the Director of Transportation that the sureties or amounts are insufficient. Notwithstanding any other provisions herein, if Contractor fails to take such action as is necessary to comply with said notice, Contractor shall be in default of this agreement unless all required improvements are completed within ninety (90) days of the date on which the Director of Transportation notified Contractor of the insufficiency of the security or the amount of the bonds or both.

SIXTH: If contractor neglects, refuses, or fails to prosecute the work as to insure its completion within the time specifies, or within such extensions of time which have been granted by County, or if Contractor violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, Contractor shall be in default of this agreement. County shall have the power, on recommendation of the Director of Transportation, to terminate all rights of Contractor in such agreement, but said termination shall not affect or terminate any of the rights of County as against Contractor or its Surety then existing or which thereafter accrue because of such default. The determination of the County Surveyor of the question as to whether any of the terms of the agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon the Contractor, its Surety, and any and all parties who may have any interest in the agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to County under law. The failure of the Contractor to commence construction shall not relieve the Contractor or surety from completion of the improvements required by this agreement.

SEVENTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this agreement, that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, extensions of time may be granted, from time to time, by County, either at its own option, or upon request of Contractor, and such extensions shall in no way affect the validity of this agreement or release the surety or sureties on such bonds. Contractor further agrees to maintain the aforesaid bond or bonds in full force and effect during the terms of this agreement, including any extensions of time as may be granted therein.

EIGHTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain that particular part, term or provision held to be invalid.

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2950 Washington Street
Riverside, CA 92504

Greg Burnett
P.O. Box 391111
Anza, CA 92539

IN WITNESS WHEREOF, Contractor has affixed his name, address and seal.

By Greg Burnett

Title Owner/Contractor

By _____

Title _____

COUNTY OF RIVERSIDE

By John J. Benoit

JOHN J. BENOIT
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

KECIA HARPER-IHEM,
Clerk of the Board

By [Signature]
Deputy

APPROVED AS TO FORM

County Counsel
By [Signature]

SIGNATURES OF CONTRACTOR MUST BE ACKNOWLEDGED BY NOTARY
AND EXECUTED IN TRIPLICATE

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Riverside

On 10-8-2013 before me, Robyn M Garrison Notary Public
(Here insert name and title of the officer)

personally appeared Greg Burnett

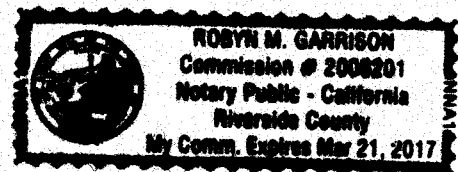
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
 Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM
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- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
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- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

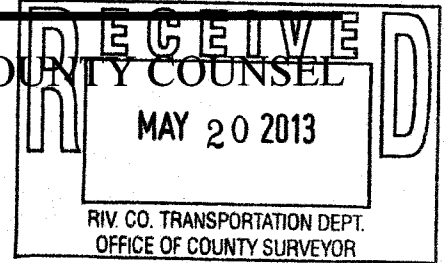
ROBYN M. GARRISON
Commission # 200801
Notary Public - California
Riverside County
My Comm. Expires May 31, 2013





MEMORANDUM

RIVERSIDE COUNTY COUNSEL



CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

DATE: May 20, 2013
TO: Wendell Bugtai
Urban Planner
FROM: Tiffany North
Deputy County Counsel
RE: Tract No. 36327
Homes by TBG

MD for TNN

- Bob Robinson

We have reviewed the Sample Grant Deed and Declaration of Covenants, Conditions and Restrictions and Grant of Easements (CC&R's) for Tract No. 36327 submitted by Tricia Napolitano. As forwarded herewith, the documents are **APPROVED** as to form.

Accordingly, the requirement for a Declaration of CC&R's for Tract No. 36327 is **SATISFIED**.

Enclosures

cc: Tricia Napolitano 951-763-2789
Dave Mares

503405 SE 01 8:51

APPROVED

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

DOCUMENTARY TRANSFER TAX \$ _____
.....Computed on the consideration or value of property conveyed; OR
.....Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **THOMAS MOUNTAIN RANCH, LLC**, a California limited liability company, hereby GRANT(S) to **JOHN DOE and JANE DOE, husband and wife, as community property**, the real property in the unincorporated territory of the County of Riverside, State of California, described as:

See Exhibit "A" attached hereto

THOMAS MOUNTAIN RANCH, LLC, a California limited liability company

Dated _____

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

}
}ss
}

By: _____

Name: _____

Title: Authorized Signatory

On _____ before me, _____ personally appeared _____ and _____

_____ who 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 s/he/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

By: _____

Name: _____

Title: Authorized Signatory

MAIL TAX STATEMENTS TO:

(This area for official notarial seal)

EXHIBIT "A"

Parcel 1:

That certain real property located in the unincorporated territory of the County of Riverside, State of California, and more particularly described as:

Lot ___ of Tract No. 36327, in the unincorporated territory of the County of Riverside, State of California, as per map recorded in Book ___, Pages ___ through ___, inclusive, of Maps, in the Office of the County Recorder of said County.

Parcel 2:

That certain real property located in the unincorporated territory of the County of Riverside, State of California, and more particularly described as:

An undivided one/forty-sixth (1/46th) fractional fee interest in Lot 47 of Tract No. 36327, in the unincorporated territory of the County of Riverside, State of California, as per map recorded in Book ___, Pages ___ through ___, inclusive, of Maps, in the Office of the County Recorder of said County.

RESERVING FROM PARCEL 1 AND PARCEL 2 unto the Grantor, all remaining oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, geothermal steam and all products derived from any of the foregoing, that may be within or under the property hereinabove described, together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said property or any other property, including the right to whipstock or directionally drill and mine from properties other than those hereinabove described, oil or gas wells, tunnels and shafts into, through or across the subsurface of the property hereinabove described, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, excepting therefrom, the right to drill, mine, store, explore, or operate through the surface or the upper 500 feet of the subsurface of the property hereinabove described.

FURTHER RESERVING FROM PARCEL 1 AND PARCEL 2 UNTO THE GRANTOR, the right to enter the "Realty" (defined below) for ten years following recordation date of this Grant Deed, to complete and repair any improvement or landscaping located thereon as determined necessary by Grantor, in its sole discretion, in order to correct any deficiencies in the construction, design, specifications, surveying, planning, associated with the Realty, and/or to comply with the requirements of applicable governmental agencies or requirements of law. The Realty is also subject to a right of entry by Grantor and its agents until the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale and/or transfer of the Realty by Grantor. Such entry by Grantor shall be preceded by reasonable notice to Grantee before such entry. If this

reservation of right of entry is not complied with by Grantee, Grantor may enforce this right of entry in a court of law. Grantee shall be responsible for all damages arising out of said breach (e.g., refusing to allow entry) including attorneys' fees, costs, and expenses.

Parcel 3.

Nonexclusive easements for use, ingress, egress, access, maintenance, repair, drainage, encroachment, or other purposes, all as described and/or depicted in the "Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Thomas Mountain Ranch" recorded on _____, as Instrument No. _____, in the Official Records of Riverside County, California, as same may be amended and/or modified from time to time ("Declaration").

(Parcels 1, 2, and 3 are collectively referred to herein as the "Realty")

SUBJECT TO: THIS DEED is made and accepted and the Realty is hereby granted subject to the following:

- (a) The covenants, conditions, restrictions, easements, reservations, rights, uses, limitations, equitable servitudes, liens, charges, and all other terms and provisions (collectively referred to as the "Protective Covenants") set forth in the Declaration, in the Articles of Incorporation and By-Laws of "TMRHOA" ("Association"), each and all of which are hereby made a part hereof and expressly imposed on the Realty by this reference with the same effect as though fully set forth herein.
- (b) All reservations, easements, covenants, conditions, restrictions, rights, rights-of-way, dedications, offers of dedications, equitable servitudes, and other property rights of record, apparent, described and/or depicted on the map, or ascertainable by inspecting the Realty.
- (c) General and special nondelinquent real property taxes (including but not limited to community facilities district taxes) for the current fiscal year, assessments and supplemental assessments and/or taxes.
- (d) The right of entry or repair by Grantor and Grantor's agent until the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale and/or transfer of the Realty by Grantor.
- (e) All zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Realty.
- (f) Any other matters created, permitted or approved by Grantee.
- (g) The following provisions (the "Right to Repair Law Provisions") pertaining to matters concerning Title 7 - Requirements for Actions for Construction Defects, of Part 2

of Division 2 of the California Civil Code (the "Right to Repair Law"):

(i) Acknowledgement of Receipt. Grantee acknowledges that Grantor has provided and Grantee has received the following, and Grantor hereby instructs Grantee to provide to any transferee of the Realty or any interest associated therewith all documents provided to Grantee in conjunction with the original transfer of the Realty by Grantor:

(1) Warranty. A one-year express written limited warranty covering the fit and finish of cabinets, mirrors, flooring, interior and exterior walls, countertops, paint finishes, and trim (the "Limited Warranty").

(2) Maintenance Obligations. All maintenance obligations and schedules provided by Grantor to Grantee (the "Maintenance Obligations") pertaining to the Realty (including, but not limited to, the residence thereon), as of the date this Grant Deed is recorded (the "Deed Recordation Date"), consumer products and consumer good manufacturer information and warranties. Notwithstanding the foregoing, Grantor may, by written notice to Grantee, supplement or amend the Maintenance Obligations from time to time. Grantee shall faithfully follow all of the Maintenance Obligations, any product manufacturer's maintenance guidelines/requirements, as well as commonly accepted maintenance practices, and Grantee shall cause any tenant of Grantee to follow them as well.

Grantee shall provide (1) all applicable express written limited warranty information received from Grantor, e.g., the Limited Warranty, to any person who purchases the Realty from Grantee, and (2) the Maintenance Obligations (including all supplements and amendments thereto), consumer products and consumer good manufacturer information, and warranties to any person who purchases the Realty from Grantee at any time and shall require any such subsequent purchaser to provide said Maintenance Obligations (including all supplements and amendments thereto) to any person or entity who purchases the Realty from such subsequent purchaser. Grantee acknowledges its obligations to follow the Maintenance Obligations provided by Grantor, as well as any product manufacturers' maintenance guidelines/requirements, and commonly accepted maintenance practices.

Grantee's Initials: _____

(ii) Right to Repair Law Procedures. Grantor advises Grantee of the existence of the non-adversarial prelitigation procedures set forth in Chapter 4 of Title 7 of Part 2 of the California Civil Code, commencing at Section 910, (the "Right to Repair Law Procedures") and that such procedures impact the legal rights of Grantee. Grantee acknowledges that Grantee has been provided a written copy of the Right to Repair Law. Grantor instructs Grantee to, and Grantee acknowledges that Grantee shall, provide such documents to any subsequent purchaser of the Realty from Grantee, and shall require any such subsequent purchaser to

provide said documents to any person or entity who purchases the Realty from such subsequent purchaser.

(iii) Agent. Grantee and Grantor acknowledge that Grantor's agent for notice of claims pursuant to the non-adversarial prelitigation procedures adopted by Grantor (notice to Grantor does not constitute notice of a claim, or any other notice, under California Civil Code Sections 895 et seq.) is the agent for service of process for Grantor set forth in the most current records of the Secretary of the State of California.

Grantee's Initials: _____ \

(iv) Grantor's Alternative Non-Adversarial Prelitigation Procedures. As authorized by Chapter 4 of the Right to Repair Law, Grantor elects to use its own alternative Non-Adversarial Prelitigation Procedures instead of the Right to Repair Procedures. Grantor's Non-Adversarial Prelitigation Procedures shall be as provided to Grantee by Grantor or as Grantor may adopt or as Grantor may set forth in the Declaration or purchase and sale contract between Grantor (i.e., the original developer of the Realty) and Grantee. Grantor and Grantee agree that any dispute which is not resolved under Grantor's Non-Adversarial Prelitigation Procedures shall be resolved by the applicable dispute resolution procedures in the Declaration, purchase and sale contract, and Limited Warranty (to the extent such dispute is governed by those documents), i.e., judicial reference, without a jury, pursuant to California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, as the same may be amended from time to time or replaced by any successor statute. Grantee agrees, understands and acknowledges that such procedures occur without a jury as authorized by statute and/or federal law. Grantee agrees, understands and acknowledges that, as authorized by statute and/or federal law, such procedures do not include a jury trial, and Grantee will not have a right to have disputes decided by a jury. Grantee also consents to the Association's agreement to Grantor's Non-Adversarial Prelitigation Procedures and other dispute resolution procedures (as set forth in the Declaration, deeds of Association Property, etc.), including without limitation, anywaiver of the Association's right to have disputes decided by a jury.

Grantee's Initials: _____ \

(v) Grantee Indemnity of Grantor. Grantee shall indemnify, defend and hold Grantor harmless from any loss, cost or damages arising from Grantee's failure to carry out Grantee's obligations under the terms of the Declaration and this Grant Deed.

(vi) Mediation. Upon their mutual agreement, Grantor and Grantee may agree to voluntary mediation of the dispute before a mutually agreeable neutral mediator, in which case, Grantor agrees to pay the mediator's fees for a one-half day mediation session. A decision to mediate or not mediate by either party is without prejudice to either party's rights.

(vii) Covenants to Run With the Land. The Realty shall be held, conveyed, encumbered and used subject to the Right to Repair Provisions. The Right to Repair Provisions (including Grantor's Non-Adversarial Prelitigation Procedures) are an integral part of a common plan of restrictions for the Thomas Mountain Ranch development ("Project") and are intended to benefit the property in the Project by providing a method for resolving disputes in a prompt and cost-effective manner. The Right to Repair Provisions are intended and shall be construed as covenants and conditions running with and binding upon the Realty and as equitable servitudes. The Right to Repair Provisions are binding on and burden all persons having or acquiring any right, title or interest in the Realty (during their ownership of such interest), or any part thereof, and their successors and assigns. The Right to Repair Provisions shall inure to the benefit of Grantor and its successors and assigns. The Right to Repair Provisions shall automatically terminate and be of no further effect upon the earlier of (a) the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale, and/or transfer of the Realty by Grantor, or (b) the date ten (10) years after the Deed Recordation Date. Grantee agrees to include the Right to Repair Provisions, and to require that any grantee of Grantee consent to the Right to Repair Provisions, in any subsequent deed of the Realty to a subsequent purchaser.

(h) Grantee shall notify Grantor's Agent in writing within ten (10) days after the close of escrow for the purchase of the Realty from Grantee of the name and address of said purchaser, and thereafter, each Owner of the Realty (for ten (10) years after the Deed Recordation Date) shall promptly notify Grantor's Agent of any changes of ownership in the Realty.

THIS DEED is made and accepted and the Realty is hereby granted subject to the easements, rights, liens, charges, covenants, restrictions, limitations, equitable servitudes, conditions, uses and other terms and provisions set forth in the aforesaid Declaration, each and all of which are hereby made a part hereof and expressly imposed on the Realty by this reference with the same effect as though fully set forth herein. This grant is expressly conditioned upon the performance of such provisions to be performed by Grantee(s) thereunder.

The conveyance of the Realty described herein is made subject to the Declaration, and any amendments thereto, and the covenants, conditions, restrictions, rights, easements, reservations, benefits and burdens contained therein, each and all of which are covenants running with the land established in accordance with Section 1468 of the California Civil Code for the benefit of and binding upon the parties hereto and each successive owner of all or any portion of the land affected thereby and are expressly incorporated herein by reference as though set out herein in full.

Each Grantee, in accepting this Deed and the conveyance hereunder, does hereby covenant and agree, jointly and severally, for the benefit of Grantor and for the benefit of the Association, and for the benefit of each and every one of the other owners of Lots bound by the Declaration, that Grantee(s) will promptly, fully, and

faithfully comply with all of the Protective Covenants in the Declaration and the By-Laws and Articles of Incorporation of the Association, and, in particular, Grantees do hereby covenant and agree, jointly and severally, to promptly pay in full when due the assessments levied in accordance with the Protective Covenants set forth in the Declaration. This grant is expressly conditioned upon the performance of such provisions to be performed by Grantee(s) thereunder, and this agreement is binding upon the Grantee(s), their successors, heirs, executors, administrators and devisees, and their grantees. In addition, Grantees do hereby irrevocably appoint Grantor as attorney-in-fact for Grantees, and each of Grantees' successors and assigns, whether voluntary or involuntary, to act as Grantees' attorney-in-fact in connection with any modification to the development plans of all or any portion of Tract No. 36327 or the "Annexation Property" described in the Declaration.

Each Grantee, by acceptance and recordation of this Grant Deed, (a) accepts and approves this Grant Deed, including the Right to Repair Provisions, and (b) accepts, covenants, and agrees to be bound by the dispute resolution procedures provided or adopted by Grantor (e.g., as set forth in the Declaration, purchase and sale contract, or the Limited Warranty, as applicable), which Grantee knowingly and voluntarily accepts as procedures which will occur without a jury trial as authorized by statute and/or federal law. Grantee agrees and acknowledges that those provisions are reasonable and incorporated in this Grant Deed by this reference.

"GRANTEE"

I/(We) hereby accept this Deed and the terms, covenants, conditions and restrictions specified herein.

Grantee

Grantee

APPROVED

Recording requested by and
when recorded return to:
GALLAGHER & MOORE
Frederick C. Moore, Esq.
2 Park Plaza, Suite 680
Irvine, California 92614

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
THOMAS MOUNTAIN RANCH
A Residential Planned Development

NOTE: AS MORE FULLY DESCRIBED IN THIS DECLARATION OR OTHERWISE PROVIDED BY DECLARANT, IN THE EVENT OF ANY DISPUTE(S) ARISING HEREUNDER, OR RELATING TO THE DESIGN AND/OR CONSTRUCTION OF THE PROJECT, SUCH DISPUTE(S) SHALL BE SUBMITTED TO A NONADVERSARIAL PRE-LITIGATION PROCEDURE AND IF NOT RESOLVED, SUBMITTED THEREAFTER TO AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE (e.g., JUDICIAL REFERENCE), AND AS A RESULT THEREOF, SUCH DISPUTE(S) WILL NOT BE LITIGATED IN A COURT OR BEFORE A JURY. ANY PERSON ACCEPTING PROPERTY IN THIS DEVELOPMENT KNOWINGLY AND VOLUNTARILY AGREES TO BE BOUND BY A PROCEDURE WHICH DOES NOT INCLUDE A RIGHT TO A JURY AND KNOWINGLY AND VOLUNTARILY CONSENTS TO THE PROJECT HOMEOWNERS ASSOCIATION'S AGREEMENT TO BE BOUND BY SUCH PROCEDURE. IF THIS PROCEDURE IS UNACCEPTABLE, AN INDIVIDUAL OR ENTITY SHOULD NOT ACQUIRE PROPERTY IN THIS PROJECT.

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS	2
	1. Articles	2
	2. Assessments	2
	3. Association	3
	4. Association Property	3
	5. Best Management Practices or BMPs	3
	6. Board	3
	7. By-Laws	5
	8. Common Area	5
	9. Common Expenses	5
	10. County	5
	11. Declarant	5
	12. Declaration	6
	13. Dispute	6
	14. DRE	6
	15. Entitlements From County	6
	16. FHLMC	6
	17. FNMA	6
	18. GNMA	6
	19. Improvements	6
	20. Include, Including	7
	21. Limited Warranty	7
	22. Lot	7
	23. Maintain, Maintenance	7
	24. Maintenance Guidelines; Maintenance Manual; Maintenance Recommendations	8
	25. Member	8
	26. Mortgage	8
	27. Mortgagee	8
	28. Mortgagor	8
	29. Notice and Hearing	8
	30. Notice of Annexation	8
	31. Owner	8
	32. Project	9
	33. Property	9
	34. Residence	9
	35. Rules and Regulations	9
	36. VA/FHA	9
	37. Water Quality Management Plans	9
	38. Interpretation	9
	39. Application of Definitions	10
		10
ARTICLE II	GENERAL PLAN OF DEVELOPMENT	11
	1. Introduction	11
	2. Rights and Obligations of Owners	11
	3. Description of Common Area	11
	4. Membership in the Association	11
	5. Declarant's Use of Private Roads and Utilities	12
	6. Declarant's Control of Development	12
	7. Non-Liability of Declarant	13
ARTICLE III	RESERVATION OF EASEMENTS AND OTHER PROPERTY RIGHTS IN THE COMMON AREA	14
	1. Owners' Rights of Access and Use of Common Area	14

2.	Limitations on Owners' Rights	14
3.	Easements for Common Fences	16
4.	Delegation of Common Area Use Rights	16
5.	Easements for Public Services	17
6.	Easements for Community Cable Television, Telecommunication Systems and Alarm System Cabling	17
7.	Easements for Unintentional Encroachments	17
8.	Easements for Utilities	17
9.	Easements for Placement of Common Improvements and Maintenance of the Common Area	19
10.	Easements for Clustered Mailboxes/Light Standards	20
11.	Easements for Drainage	20
12.	Easement for Area Drains	20
13.	Easements for Construction and Sales	21
14.	Other Easements to the County	21
15.	Reservation of Construction Rights by Declarant	21
16.	Title to the Common Area	22
17.	Other Easements	23

ARTICLE IV THE ASSOCIATION 23

1.	Membership	23
2.	Voting Rights	24
3.	Special Procedures For Appointment to the Board	25
4.	Vesting of Voting Rights	25
5.	Suspension of Voting Rights	25
6.	Transfer	25
7.	Record Dates	26
8.	Notices	26

ARTICLE V POWERS AND DUTIES OF THE ASSOCIATION 26

1.	Management Body	26
2.	Powers	26
3.	Duties	29
4.	Discretionary Powers	38
5.	Delegation of Duties	38
6.	Right of Entry for Emergency	39
7.	Right of Entry for Repairs	39
8.	Limitations on Board Action	39
9.	Licenses, Easements and Rights-of-Way	41
10.	New Improvements	41
11.	Association Rules and Regulations	41
12.	Nonliability and Indemnification	42
13.	Right to Repair Law and Resolution of Disputes By Judicial Reference; No Right to Jury Trial	44

ARTICLE VI ASSESSMENTS 44

1.	Creation of the Lien and Personal Obligation of Assessments	44
2.	Purpose of Regular Assessments: Levy and Collection	45
3.	Regular Assessments - Basis	45
4.	Special Assessments for Capital Improvements	47

5.	Compliance Assessments	48
6.	Special Benefit Assessments	48
7.	Date of Commencement of Regular Assessments: Due Dates	49
8.	Collection of Assessments	49
9.	Notice of Increase in Assessments	50
10.	Certification of Payment	50
11.	Delivery by Owner	50
12.	Delivery by Declarant	50
13.	Reserves	51
14.	Offsets and Waiver Prohibited	51
15.	Exempt Property	51

ARTICLE VII

EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION		51
1.	Effect of Nonpayment of Assessments: Remedies of the Association	51
2.	Notice of Delinquent Assessments	52
3.	Foreclosure Sale	52
4.	Curing of Default	53
5.	Cumulative Remedies	53
6.	Mortgagee Protection	53

ARTICLE VIII

USE RESTRICTIONS		53
1.	Private Residential Dwelling	53
2.	Common Area Use	53
3.	Conduct Affecting Insurance	54
4.	Liability for Damage	54
5.	Signs	54
6.	Maintenance of Animals	55
7.	Quiet Enjoyment	55
8.	Structural Changes	56
9.	Improvements	56
10.	Commercial Activity	56
11.	Parking	57
12.	Regulation of Parking	57
13.	Compliance With Management Documents	57
14.	Declarant's Improvements	57
15.	Solar Heating	58
16.	Antenna Restriction	59
17.	Leasing	59
18.	Drilling	59
19.	Trash	59
20.	Drainage	60
21.	Prohibition Against Further Subdivision	60
22.	Patios, Balconies, and Yards	60
23.	Exemption of Declarant	60
24.	No Easements for View Purposes; Disclaimer	61
25.	Public Right-of-Way	62
26.	Best Management Practices	62
27.	Fuel Modification Plan Requirements	62
28.	Compliance With County's Conditions of Approval	62
29.	No Warranty of Enforceability	62

ARTICLE IX

REPAIR AND MAINTENANCE		63
1.	Repair and Maintenance by Association	63

	2. Maintenance Manual	64
	3. Project Inspections	65
	4. Repair and Maintenance by Owner	66
	5. Maintenance of Public Utilities	67
	6. Damage and Destruction Affecting a Residence - Duty to Rebuild	67
	7. Owners' Cooperation for Maintenance	67
ARTICLE X	ENVIRONMENTAL AND OTHER DISCLOSURES AND REQUIREMENTS	67
	1. Environmental Requirements	67
ARTICLE XI	DAMAGE OR DESTRUCTION TO THE COMMON AREA	69
	1. Restoration of Damaged Common Area	69
	2. Election by Owners Not to Restore Damaged Common Area	70
	3. Retention of Excess Insurance Proceeds in General Fund	70
ARTICLE XII	CONDEMNATION	70
	1. Distribution of Awards - Common Area	70
	2. Board of Directors as Attorney-in-Fact	70
ARTICLE XIII	COVENANT AGAINST PARTITION	71
	1. Covenant Against Partition	71
ARTICLE XIV	INSURANCE	71
	1. Required Insurance Coverage	71
	2. Optional Insurance Coverage	72
	3. Notice of Cancellation of Insurance	73
	4. Review of Coverage	73
	5. Waiver by Owners	73
	6. Premiums, Proceeds and Settlement	73
	7. Rights and Duties of Owners to Insure	74
	8. Trustee for Policies	74
	9. Mortgage Clause	74
	10. Compliance With Requirements of FHLMC, FNMA and VA/FHA	75
	11. Required Waiver	75
	12. Annual Notification of Insurance	75
ARTICLE XV	MORTGAGEE PROTECTION	76
	1. Mortgagee Protection Provisions	76
	2. Violation of Mortgagee Protection Provisions	79
	3. Amendments to Conform With Mortgagee Requirements	80
ARTICLE XVI	ENFORCEMENT OF BONDED OBLIGATIONS	80
	1. Enforcement of Bonded Obligations	80

ARTICLE XVII	ANNEXATION OF ADDITIONAL PROPERTY	81
	1. Annexation Pursuant to Approval	81
	2. Notice of Annexation	81
ARTICLE XVIII	GENERAL PROVISIONS	82
	1. Enforcement	82
	2. Severability	84
	3. Term	84
	4. Construction	84
	5. Singular Includes Plural	84
	6. Covenants Running With the Land	84
	7. Amendments	85
	8. Encroachments	88
	9. Notices	88
	10. Attorneys' Fees	88
	11. Mergers or Consolidations	88
	12. No Representations or Warranties	89
	13. Project Disclosures	89
	14. Conflicts in Management Documents For the Project	90
	15. Davis-Stirling Act	91
	16. Exhibits	91
	17. Maintenance Standards	91
	18. Declarant's Representative	91
	19. County Requirements	92

EXHIBITS:

- Exhibit A - Association Maintained Areas
- Exhibit B - No Parking Areas
- Exhibit C - Sample Form of Limited Warranty
- Exhibit D - Storm Water Drainage Facilities
- Exhibit E - Environmental Constraint Sheet
- Exhibit F - Fuel Modification Requirements
- Exhibit G - County's Conditions of Approval
- Exhibit H - Right to Repair Law and Dispute Resolution Provisions

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
THOMAS MOUNTAIN RANCH

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR THOMAS MOUNTAIN RANCH is made this _____ day of _____, 201_ by THOMAS MOUNTAIN RANCH, LLC, a California limited liability company ("Declarant").

W I T N E S S E T H:

A. Declarant is the owner of that certain real property located in the unincorporated territory of the County of Riverside, State of California, more particularly described as:

Lots 1 through 46, inclusive, of Tract No. 36327, in the unincorporated territory of the County of Riverside, State of California, as per map recorded in Book _____, Pages __ through __, inclusive, of Maps, in the Office of the County Recorder of said County

(hereinafter referred to as the "Lots"). The Lots and the "Common Area" (defined below) are hereinafter sometimes collectively referred to as the "Property."

B. Declarant is also the owner of that certain real property located in the unincorporated territory of the County of Riverside, State of California, more particularly described as:

Lot 47 of Tract No. 36327, in the County of Riverside, State of California, as per map recorded in Book _____, Pages __ through __, inclusive, of Maps, in the Office of the County Recorder of said County

(hereinafter referred to collectively as the "Common Area").

C. Declarant desires to develop the Property as a common interest development, more particularly described in Section 1351(k) of the California Civil Code as a "planned development" (hereinafter referred to as the "Project"), consisting of vacant Lots and Common Area improvements, as more fully described below.

D. Declarant deems it desirable to impose a general plan for the development, maintenance, improvement, protection, use, occupancy, and enjoyment of the Project, and to establish, adopt, and impose covenants, conditions, and restrictions upon the Project for the purpose of enforcing, protecting, and preserving the value, desirability, and attractiveness of the Project.

E. Declarant deems it desirable for the efficient enforcement, protection and preservation of the value, desirability and attractiveness of the Project to create a corporation which shall be delegated and assigned the powers of administering and enforcing said covenants, conditions and restrictions.

F. TMRHOA, a California nonprofit, mutual benefit corporation, has been or will be incorporated under the laws of the State of California for the purpose of exercising the aforesaid powers.

G. Declarant intends to convey the Property subject to the covenants, conditions, and restrictions set forth hereinbelow.

NOW, THEREFORE, Declarant agrees and declares that it has established, and does hereby establish, a plan for the development, maintenance, protection, improvement, use, occupancy, and enjoyment of the Project, and has fixed, and does hereby fix, the covenants, conditions, restrictions, easements, reservations, equitable servitudes, liens, and charges (hereinafter collectively referred to as the "Protective Covenants") upon the Project. Each and all of the Protective Covenants shall run with the land, shall be enforceable, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns, all subsequent owners of all or any portion of the Project, together with their grantees, successors, heirs, executors, administrators, devisees, and assigns, and may be enforced by any Owner or the Association.

ARTICLE I

DEFINITIONS

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of TMRHOA, as filed in the Office of the Secretary of State of the State of California, as such Articles may be amended, from time to time.

Section 2. "Assessments" shall be used as a generic term which shall mean and refer to the following:

(a) "Regular Assessment" shall mean and refer to an annual charge against each Owner and his respective Lot representing a portion of the Common Expenses of the Association;

(b) "Compliance Assessment" shall mean and refer to the charge against an Owner representing the costs incurred by the Association in the repair of any damage to the Association Property or any Improvements which are maintained by the Association as part of a Special Benefit Area for which such Owner (or any member of his/her family, or his/her guests, invitees, tenants or lessees) was responsible, the costs incurred by the Association in bringing such Owner and his Lot

into compliance with this Declaration, or any amount due the Association based upon disciplinary proceedings against an Owner in accordance with this Declaration, and/or any amount due the Association to reimburse the Association for administrative costs attributable to an Owner as provided herein;

(c) "Special Assessment" shall mean and refer to the charge against an Owner and his respective Lot representing a portion of the cost of reconstructing any damaged or destroyed portion or portions of the Association Property, of constructing or installing any capital improvements to the Association Property, or of taking any extraordinary action for the benefit of the Association Property (e.g., including but not limited to funding the reserve accounts) or the membership of the Association pursuant to the provisions of this Declaration; and

(d) "Special Benefit Assessment" shall mean and refer to a charge levied by the Association against an Owner and his respective Lot to cover the expenses incurred by the Association in the operation, maintenance, repair and/or funding of reserves for a portion of the Project designated by Declarant or the Board as a "Special Benefit Area," which expenses are allocable only to the Owners and their Lots within such an Area.

Section 3. "Association" shall mean and refer to TMRHOA, a California nonprofit, mutual benefit corporation, in which all Owners shall have a membership interest as more particularly described hereinbelow, provided that membership shall be limited to Owners.

Section 4. "Association Property" shall mean and refer to (a) all personal property owned by the Association; and (b) all real property, and Improvements thereon, over which the Association has an easement, lease and/or which the Association is otherwise responsible pursuant to this Declaration or the Project conditions of approval imposed by the County, to manage, control and/or maintain for the common use and benefit of all Owners in the Project. If the Project is completed as proposed, the Association Property may include, without limitation, easements for the maintenance of certain Improvements or areas of the Lots and/or the maintenance of the Common Area (i.e., Lot 47 of Tract No. 36327).

Section 5. "Best Management Practices" or "BMPs" shall mean and refer to those certain structural, treatment control, and non-structural water quality management practices set forth in, or otherwise required pursuant to, the Water Quality Management Plans ("WQMP") approved for or applicable to the Project. The structural and treatment control Best Management Practices MAY include, without limitation, landscape planting, hillside planting, roof runoff controls, efficient irrigation

technology, slope and channel protection measures, storm water drainage signage, trash storage areas, litter control requirements, in-flow based treatment control BMPs (e.g., vegetated buffer strips, vegetated swales, multiple systems, bioretentions, and hydrodynamic separation systems), volume based treatment control BMPs (e.g., wet ponds, constructed wetlands, extended detention basins, water quality inlets, retention/irrigation, infiltration basins, infiltration trenches, media filters, and manufactured proprietary devices), detention basins, retention basins, debris basins, "V" ditches, bench drains, catch basins, catch basin media filters, fossil filters, inlet trash racks, drainpacs and other storm water drainage filtration devices, energy dissipaters, culverts, pipes, and related drainage and water quality facilities constructed in the Project. The non-structural Best Management Practices generally require the Association and the Owners and other residents within the Project to be aware of the sensitive natural environment surrounding the Project and to take appropriate actions to control runoff from the Project. With respect to the Association, the non-structural Best Management Practices may include: (i) providing informational materials to the Owners and other residents within the Project regarding general good house-keeping practices for protection of storm water quality; (ii) restricting certain activities addressed in the informational materials to protect the quality of water entering the storm water drainage system; (iii) managing the landscaping on the Common Area, including, without limitation, using fertilizers and pesticides in accordance with the "Management Guidelines for Use of Fertilizers and Pesticides" which is included, if applicable, in the appendix to the Water Quality Management Plans; (iv) performing on a regularly scheduled basis maintenance consisting, at a minimum, of litter control, emptying of common trash receptacles and sweeping of dumpster enclosures; (v) inspecting and cleaning any catch basins located on the Common Area; and (vi) sweeping any on-site private paved areas on a regular basis and prior to the rainy season (i.e., prior to October 15th of each year). With respect to the Owners and other residents within the Project, the non-structural Best Management Practices may include, among other things, restricting certain activities to protect the quality of storm water runoff (e.g., prohibiting the disposal of motor oil, paint products, car detergents and other pollutants in a manner that might negatively impact the quality of storm water runoff from the Project). The Best Management Practices are designed and intended to control runoff and must be implemented by the Association and the Owners and other residents within the Project. The Best Management Practices may be modified from time to time by the Declarant or any public agency having jurisdiction regarding water quality for runoff waters from the Project in order to control runoff as the Project develops and runoff conditions change. Compliance by the Association and the Owners with the Best Management Practices, as they may be modified from time to time, may be monitored and enforced by any public agency having jurisdiction regarding water quality for runoff waters from the Project,

including, without limitation, the County, Regional Water Quality Control Board, and State Water Resources Board.

Section 6. "Board" shall mean and refer to the Board of Directors of the Association, elected in accordance with the By-Laws of the Association and this Declaration.

Section 7. "By-Laws" shall mean and refer to the By-Laws of the Association which have been, or will be, adopted by the Board, as such By-Laws may be amended, from time to time.

Section 8. "Common Area" is used herein as a generic term to mean and refer to Lot 47 of Tract No. 36327 and any Improvements constructed thereon, in which all Owners shall have a one/forty-sixth (1/46th) fee simple interest as tenants in common.

Section 9. "Common Expenses" shall mean and refer to the actual and estimated costs to be paid by the Association for the following: (a) maintaining, managing, operating, painting, repairing, and replacing those portions of the Association Property described in this Declaration; (b) managing and administering the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, budget preparers, and other consultants, and any Association employees; (c) providing utilities and other services to the Association Property in accordance with this Declaration; (d) maintaining insurance coverage and fidelity bonds [and paying deductibles] as provided for herein; (e) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment; (f) paying taxes for the Association; (g) paying all reasonable out-of-pocket expenses actually incurred by the members of the Board and officers of the Association in performing their duties as provided herein [e.g., postage and photocopying]; (h) enforcing the provisions of the Declaration, Articles, Bylaws and Rules and Regulations; and (i) paying for all other goods and services designated by, or in accordance with, other expenses incurred by the Association for the benefit of all Owners, and reasonably required for the Association to perform its powers and duties as set forth in this Declaration. Additionally, the Common Expenses shall include adequate reserves, as the Board shall determine to be appropriate, for the repair and replacement of those elements of the Association Property which must be repaired or replaced on a periodic basis, rather than on a regular annual basis. The Common Expenses do not include any actual or estimated cost to be paid by the Association for those Improvements to the Association Property which constitute Special Benefit Improvements and which are allocable as Special Benefit Expenses to the Owners of Lots within a Special Benefit Area.

Section 10. "County" shall mean and refer to the County of Riverside, California, and its various departments, divisions, employees, and representatives.

Section 11. "Declarant" shall mean and refer to THOMAS MOUNTAIN RANCH, LLC, a California limited liability company, and its successors and assigns, if such successors and assigns acquire any or all of Declarant's interest in the Property for the purpose of purchase or sale, excluding any Owners, and Declarant has expressly transferred or assigned to such successors or assigns its rights and duties as Declarant to all or any portion of the Project. For any successor assignee of "Declarant" to be deemed a Declarant under the terms of this Declaration, Declarant shall record in the County a document so designating said successor or assignee as Declarant. A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of the Property, which beneficiary has acquired any such property by foreclosure, power of sale or deed in lieu of such foreclosure or sale.

Section 12. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements, and to all amendments to this Declaration as may be recorded, from time to time, in the Office of the County Recorder, in accordance with Section 1351(h) and Section 1353 of the California Civil Code.

Section 13. "Dispute" shall have the meaning set forth in Exhibit "H" attached and incorporated by reference into this Declaration.

Section 14. "DRE" shall mean and refer to the Department of Real Estate of the State of California, which administers the sale of subdivided lands pursuant to Sections 11000, et seq., of the California Business and Professions Code, or any similar California statute hereinafter enacted.

Section 15. "Entitlements From County" shall mean any and all agreements, building permits and related permits, conditions of approval, and other documents, instruments or similar writings involving the County which regulate or relate to utilization of real property in the Project.

Section 16. "FHLMC" shall mean and refer to the Federal Home Loan Mortgage Corporation (The Mortgage Corporation) created by Title III of the Emergency Home Finance Act of 1970, as amended, from time to time, including any successors thereto.

Section 17. "FNMA" shall mean and refer to the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, as amended, from time to time, including any successors thereto.

Section 18. "GNMA" shall mean and refer to the Government National Mortgage Association administered by the United

States Department of Housing and Urban Development, including any successors thereto.

Section 19. "Improvements" shall mean and refer to all structures and appurtenances thereto of every kind, including, but not limited to, Residences, street lights, buildings, awnings, shades, screens, screen doors, skylights, side yard and rear yard fencing, mail kiosks, swimming pools, spas, garages, pavement, driveways, walkways, parking areas, perimeter walls, retaining walls, street trees, private storm water drainage facilities, flood walls, flag poles, monument signs, patios, grading of a Lot or disturbing the existing grade in any manner, irrigation equipment and all related facilities, exterior air conditioning units, solar panels and related facilities, greenbelts, drainage swales, street-scapes, antennas and related facilities, exterior lighting and any landscaping which, if left in its natural state, would grow to a height in excess of the maximum height set forth in the Rules and Regulations, if any. Improvements shall also mean and refer to all additions and/or modifications to the exterior of any Residence, including, but not limited to, (a) painting the exterior of any Residence or other structure, (b) changing the roofing material on any Residence, and/or (c) building, constructing, installing, altering or planting, as the case may be, any spas, patio covers, patio slabs, balcony covers, decks, gazebos, stairs, screening walls or fences, shades, awnings, screen doors, exterior doors, skylights, solar heating panels, air conditioning and/or water softening or refining fixtures or systems.

Section 20. "Include, Including" (whether capitalized or not) shall mean "includes without limitation" and "including without limitation," respectively.

Section 21. "Limited Warranty" shall mean and refer to the express written limited warranty to be provided by Declarant to the initial Owners who acquire a Lot from the Declarant. A sample copy of the version currently available is attached hereto as Exhibit "C" and is provided for illustrative purposes only. Each Owner shall be responsible to ensure that the subsequent purchaser of such Owner's Lot is aware of the Limited Warranty and the procedures and forms which must be followed and executed to transfer such Limited Warranty, if applicable, to said subsequent purchaser.

Section 22. "Lot" shall mean and refer to a plot of land within the Project as depicted and/or described on a recorded subdivision map, tract map or parcel map (as such plot of land may be modified by a recorded lot line adjustment), and to all Improvements, including the Residence, constructed thereon. Only those plots of land which are designed and intended for the construction of a Residence and ownership by an individual Owner shall be deemed "Lots." "Lot" shall not mean or refer to any plot of land owned in fee by the Association or the Common Area.

Section 23. "Maintain, Maintenance" (whether capitalized or not) shall mean "inspect, maintain, repair and replace" and "maintenance, repair and replacement," respectively; provided, however, that "maintain" or "maintenance" shall not include inspection, repair and replace(ment) where the context or specific language of this Declaration provides another meaning.

Section 24. "Maintenance Guidelines; Maintenance Manual; Maintenance Recommendations." Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of Common Area Improvements that may be provided to the Association by Declarant, or by any governmental agency or for the maintenance of a Residence and other Improvements Declarant has constructed on or in a Lot. Maintenance Guidelines include any Maintenance Manual initially prepared at Declarant's direction, and recommended inspections and maintenance activities for components of the Common Area and any Maintenance Recommendations prepared by Declarant pertaining to a Residence or Lot.

Section 25. "Member" shall mean and refer to every person or entity who holds membership in the Association, as more particularly set forth in the Article herein entitled "The Association," and shall be synonymous with the term "Owner."

Section 26. "Mortgage" shall mean and include any mortgage or deed of trust, or other conveyance of a Lot to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance, including an installment land sales contract (as defined in Sections 2985 through 2985.6 of the California Civil Code, as same may be amended, from time to time). The term "Deed of Trust," when used herein, shall be synonymous with the term "Mortgage."

Section 27. "Mortgagee" shall mean and refer to a person or entity to whom a Mortgage is made, and shall include the beneficiary of a Deed of Trust or the vendor under an installment land sales contract, as the case may be, and the assignor of a Mortgagee, beneficiary or vendor.

Section 28. "Mortgagor" shall mean and refer to a person or entity who mortgages his or its property to another, i.e., the maker of a Mortgage, and shall include the trustor of a Deed of Trust and the vendee under an installment land sales contract.

Section 29. "Notice and Hearing" shall mean and refer to written notice and a hearing before the Board or other tribunal created by the Board in the manner provided in the By-Laws, at which the affected Owner shall have an opportunity to be heard in the manner provided herein and in the By-Laws.

Section 30. "Notice of Annexation" shall mean and refer to that certain instrument which may be recorded to annex any

property to the Project in accordance with the provisions of this Declaration, thereby subjecting said property to the provisions of this Declaration and to the jurisdiction of the Association.

Section 31. "Owner" shall mean and refer to the record Owner, or Owners if more than one (1), or the purchaser under a conditional sales contract of fee title to, or an undivided interest in, any Lot in the Project. The term "Owner" shall include the Declarant, the vendee under an installment land sales contract (as described in Sections 2985 through 2985.6 of the California Civil Code, as same may be amended, from time to time) and the holder of a leasehold estate having a term of twenty (20) or more years, including renewal periods. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

Section 32. "Project" shall mean and refer to the Property and to all Improvements, including any Residences, constructed thereon and the Common Area.

Section 33. "Property" shall mean and refer to all of that certain real property described in Paragraphs A and B of the recitals hereinabove.

Section 34. "Residence" shall mean and refer to the individual dwelling and the related Improvements which are constructed upon a separate Lot and which are designed and intended for use and occupancy as a residential residence.

Section 35. "Rules and Regulations" shall mean and refer to the Rules and Regulations adopted by the Board pursuant to the By-Laws and this Declaration, as they may be amended, from time to time.

Section 36. "VA/FHA" shall mean and refer to the United States Department of Veterans Affairs and/or Federal Housing Administration, including the department or agency of the United States government as shall succeed to the VA and/or FHA.

Section 37. "Water Quality Management Plans" shall mean and refer, collectively, to all applicable plans and requirements for the management of storm water at the Project, which MAY include, if applicable, any applicable National Pollutant Discharge Elimination System ("NPDES") permit requirements for private developments, done during construction and post construction, Storm Water Pollution Prevention Plan ("SWPPP"), Water Quality Management Plan ("WQMP"), Drainage Area Management Plan ("DAMP"), Local Implementation Plan ("LIP"), and/or other storm water quality management plan that may be approved for the Project in compliance with applicable federal, state and local laws. The Water Quality Management Plans address water runoff generated by the residential areas and other development Improvements within the Project and will be monitored by various public

agencies (e.g., the Regional Water Quality Control Board and the County). The Water Quality Management Plans contain, among other things, certain Best Management Practices that must be followed by the Association, the Owners and other residents within the Project. The Water Quality Management Plans and the related Best Management Practices may be modified at any time by the Declarant and/or the public agencies having jurisdiction over such matters.

Section 38. Interpretation.

(a) General Rules. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for subdividing, maintaining, improving and selling the Lots. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

(b) Articles, Sections and Exhibits. The Article and Section headings are inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. All exhibits attached to this Declaration are incorporated in this Declaration by this reference. The locations and dimensions of any Improvements depicted on the Exhibits attached hereto are approximate only, and the as-built location and dimension of any such Improvements shall control.

(c) Priorities and Inconsistencies. If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, or Rules and Regulations, then the provisions of this Declaration shall prevail.

(d) Severability. The provisions of this Declaration are independent and severable. A determination of invalidity, partial invalidity or unenforceability of any one (1) provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

(e) Statutory References. All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

Section 39. Application of Definitions. The aforesaid definitions shall be applicable to this Declaration and to any supplements or amendments hereto, unless the context shall prohibit such application.

ARTICLE II

GENERAL PLAN OF DEVELOPMENT

Section 1. Introduction. The Declarant has designed Thomas Mountain Ranch as a single phase residential planned development, which, if completed as proposed, may consist of forty-six (46) residential Lots, together with various Common Area improvements and related amenities. Nothing in this Declaration is intended, or shall be interpreted, to constitute an "enhanced protection agreement" as defined in Section 901 of the California Civil Code. The Project will be developed in accordance with California Civil Code, Sections 1350, et seq., and in substantial conformance with the development plan and the architectural plans and other plans submitted to and approved by the County (which plans may set forth the architectural style and the size of the Residences). The Association will maintain the Association Property, including the Common Area (except for those portions of the Common Area maintained by an assessment district or other public entity), and will be the management body for the Project, as provided herein.

Section 2. Rights and Obligations of Owners. Each Owner of a Lot in the Project shall automatically become a Member of the Association and shall be obligated for the payment of Assessments to the Association. Subject to the provisions of this Declaration which reserve rights in favor of the Declarant, each Owner, his family members, tenants and invitees will be entitled to the non-exclusive use of the Common Area of the Project, subject to the terms and provisions of this Declaration, the Bylaws, and Rules and Regulations adopted by the Board (access may be prohibited in certain circumstances).

Section 3. Description of Common Area. As noted above, each Owner shall have a one/forty-sixth (1/46th) fee simple interest, as tenant in common, in the Common Area (i.e., Lot 47 of Tract No. 36327). Each Owner of a Lot in the Project shall have the right to access, use, and enjoy the Common Area, subject to the terms and provisions of this Declaration, the Bylaws, and Rules and Regulations adopted by the Board. Subject to applicable restrictions set forth herein, the Association shall be responsible for the maintenance and operation of the Common Area.

Section 4. Membership in the Association. As more particularly set forth in this Declaration, each Owner of a Lot in the Project shall automatically become a member of the Association, and shall be obligated for the payment of Assessments to the Association. In addition, each Owner, his family, members, lessees, tenants, guests and invitees, will be entitled to the use of the Common Area within the Project, in accordance with this Declaration, the By-Laws and Rules and Regulations adopted by the Board.

Section 5. Declarant's Use of Private Roads and Utilities. For as long as Declarant owns any portion of Tract No. 36327, Declarant hereby reserves, together with the right to grant and transfer all or a portion of the same, easement rights to use any private roads and utilities within the Project for, including, but not limited to, construction, access and connection of utilities by Declarant for purposes of developing the real property comprising the Project.

Section 6. Declarant's Control of Development. In order that the Project be completed and established as a planned residential community, Declarant shall have the sole discretion and control over all aspects of construction of Residences and Improvements owned by itself, and over the selling and marketing of Lots in the Project. Further, Declarant shall have the sole discretion and control to:

(a) Install, construct, modify, alter or remove any Improvements in the Project;

(b) Redesign or otherwise alter the style (e.g., architectural), size (e.g., adding additional square footage or reducing the square footage of the Residences), color or appearance of any Improvements in any portion of the Project owned or controlled by Declarant;

(c) Construct such additional Improvements on any portion of the Project owned or controlled by Declarant;

(d) Subdivide, re-subdivide, grade or regrade any portion of the Property owned or controlled by Declarant; and/or

(e) Otherwise control all aspects of designing and constructing the Improvements in the Project, and regulating the marketing of Lots in the Project.

In furtherance thereof, Declarant hereby reserves unto itself, and its successors and assigns, a nonexclusive easement for ingress and egress on, over and across the Project as necessary to construct Improvements, and further reserves for itself the right, (a) until all Lots in Tract No. 36327 are initially sold (and escrows have closed), or (b) five (5) years from the recordation of this Declaration, whichever occurs first:

(i) A nonexclusive easement for ingress and egress in, on, over and across the Project, together with the right to prohibit Owners and other persons from using the streets (or portions thereof), as necessary to construct the Lots, Residences, and all other Improvements;

(ii) The exclusive right to maintain in the Project one (1) or more sales office(s), meeting areas in the Common

Area or any portion of a Residence, construction trailer(s), model complex(es), interior design and decorator center(s), construction parking areas, temporary utility facilities and/or lines, and parking area for employees, agents and prospective buyers;

(iii) The exclusive right to place reasonable signs, flags, banners, billboards or other forms of advertising on any portion of the Project owned or controlled by Declarant and/or Common Area (specifically including the Project entry area), as Declarant deems necessary, irrespective of size, color, shape or materials of such items, except to the extent that the exercise of said exclusive right conflicts with any provision of the County's ordinances or other applicable governmental regulations;

(iv) A nonexclusive right to utilize the Common Area and any unassigned open parking spaces in connection with its program for the sale or leasing of Lots in the Project;

(v) The right to install, place, replace, construct, reconstruct, modify or remove any Improvement from any Lot owned by Declarant, as Declarant may, in its sole discretion, deem appropriate;

(vi) The right to conduct any commercial activity upon any Lot owned or controlled by Declarant which reasonably relates to the development, marketing, leasing or sale of the Lots or other property in the Project; and

(vii) The right to utilize the Common Area in the Project and exclude Owners and their guests so long as such exclusion is not unreasonable, for marketing, sales and promotional activities which relate to the leasing or sale of the Lots or other property in the Project. The Declarant agrees to pay any and all maintenance or repair costs associated with the use of the Common Area for marketing purposes and to obtain a reasonable amount of liability insurance naming the Association or the Owners (as applicable) as additional insured(s) during such use of the Common Area.

Each Owner hereby grants, upon acceptance of his or her deed to his or her Lot, an irrevocable special power of attorney to Declarant to execute and record all documents and maps necessary to allow Declarant to exercise its rights under this Declaration.

Section 7. Non-Liability of Declarant. The purpose of this Article is merely to describe the proposed general plan of development for the Project. Without limiting the generality of the foregoing, nothing in this Section or elsewhere in this Declaration shall limit the right of Declarant to complete construction of the Project, to alter same or to construct such additional Improvements as Declarant shall deem advisable prior to the

completion and sale of all Lots in the Project. Declarant may assign any or all of its rights under this Declaration to any successor to all or any part of Declarant's interest in the Project by an express written assignment recorded in the Office of the County Recorder.

ARTICLE III

RESERVATION OF EASEMENTS AND OTHER PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Rights of Access and Use of Common Area. As noted above, each Owner shall have a one/forty-sixth (1/46th) fee simple interest, as tenant in common, in the Common Area (i.e., Lot 47 of Tract No. 36327). Each Owner shall have the nonexclusive right to access, use, and enjoy the Common Area, subject to the terms and provisions of this Declaration, the Bylaws, and Rules and Regulations adopted by the Board. Said right shall be appurtenant to and shall pass with title to every Lot, subject to the limitations set forth in Section 2 below.

Section 2. Limitations on Owners' Rights. Each Owner's rights of access, use and enjoyment of the Common Area set forth in Section 1 hereinabove shall be subject to the provisions of this Declaration, including, but not limited to, the following:

(a) The right of the Association to reasonably limit the number of guests of Owners using the Common Area;

(b) The right of the Association to establish and enforce reasonable Rules and Regulations pertaining to the use of the Common Area;

(c) The right of the Association, in accordance with its Articles, By-Laws and this Declaration, to borrow money with the assent of sixty-seven percent (67%) of the voting power of the Association, excluding Declarant, and/or to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, for the purpose of improving or repairing the Common Area and related facilities;

(d) The right of the Association to suspend the voting rights and rights of use of the Common Area of any Member, and the persons deriving such rights from any Member for any period during which any Assessment against such Member's Lot remains unpaid and delinquent (except such rights as are reasonably required to access said Member's Residence); and after Notice and Hearing, to impose monetary penalties or suspend such rights for a period not to exceed thirty (30) days for any violation of this Declaration or Rules and Regulations, it being understood that any suspension for

either nonpayment of any Assessments or breach of such restrictions shall not constitute a waiver or discharge of the Member's obligations to pay Assessments as provided herein;

(e) Subject to the terms and provisions of the Article herein entitled "Mortgagee Protection," the right of the Association to dedicate or transfer easements over all or any part of the Common Area to any public agency, authority, entity, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless: (1) an instrument approving said dedication or transfer is signed by Owners representing sixty-seven percent (67%) of the voting power of the Association, excluding Declarant, and recorded in the Office of the County Recorder, and (2) a written notice of the proposed dedication or transfer is sent to every Owner not less than fifteen (15) days nor more than thirty (30) days in advance; provided, however, for as long as the Declarant owns any portion of Tract 36327 the dedication or transfer of easements over all or any part of any Lot or Common Area for utilities or for other public purposes consistent with the intended use of the Common Area shall not require the prior approval of the Members of the Association or the Mortgagees;

(f) The right of Declarant (and its sales agents, representatives, customers and prospective purchasers) to the nonexclusive use of the Common Area without charge for sales, display access and exhibit purposes related to selling, marketing, showing and otherwise disposing of Lots in the Project, which rights Declarant hereby reserves; provided, however, such use shall cease upon the date that Declarant no longer owns any Lot in the Project. In addition, such use shall not unreasonably interfere with the rights of enjoyment of other Owners as provided herein;

(g) The right of the Association to perform and exercise its duties and powers as set forth herein;

(h) Other rights of the Association, the Board, the Owners and Declarant with respect to the Common Area as may be provided for in this Declaration;

(i) The right of Declarant to grant and transfer easements on, over and across the Project for the development, installation, construction and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities, as shown on any recorded subdivision map covering the Project and as may be reasonably necessary for the proper maintenance and/or development of the Project, or conveyance of Lots and/or Common Area;

(j) Any limitations, restrictions or conditions affecting the use or maintenance of the Common Area imposed by

Declarant or by the County, or other governmental agency having jurisdiction to impose any such limitations, restrictions or conditions, including, but not limited to, the rights of the County or such other governmental agency having jurisdiction to use their vehicles or appropriate equipment over those portions of the Common Area designed for vehicular movement to perform municipal functions or emergency or essential public services; and

(k) Any limitations or restrictions on an Owner's right to use his/her Lot so as not to interfere with any and all street light standards, mailboxes, improvement locations, and utility easements affecting such Owner's Lot and/or the exercise of the Association's maintenance obligations.

Section 3. Easements for Common Fences. There is hereby created, established and granted an easement appurtenant to the real property in the Project for the placement of all common fences, where such fences were originally installed by Declarant, regardless of whether such fences are located precisely upon the boundary separating two (2) residential Lots or separating a residential Lot and the Common Area. Those Owners who have a common fence which adjoins their Lots and effectively creates the boundary line between such Lots shall equally have the right to use such fence and each shall have the exclusive right to the use of the interior surface of the fence facing his Residence. Neither Owner shall drive nails, screws, bolts or other objects more than halfway through any common fence, interfere with the adjacent Owner's use and enjoyment of the common fence, or impair, in any way, the structural integrity of the common fence. In the event that any portion of such fence, except the interior surface of one (1) side, is damaged or injured from any cause, other than the act or negligence of either party, it shall be repaired or rebuilt at their joint expense.

Section 4. Delegation of Common Area Use Rights. Any Owner who resides within the Project may delegate, in accordance with the By-Laws, his rights of use of the Common Area to the members of his immediate family and any other persons residing within his Residence. In the event an Owner has rented or leased his Residence, his rights of use of the Common Area shall be automatically delegated to his tenants or lessees for the duration of their tenancy, and the Owner shall forfeit any rights of use of the Common Area, if applicable, for the duration of such tenancy, except those rights of ingress and egress which are reasonably necessary to carry out the appropriate duties of a landlord. All rental and lease agreements shall be in writing and a copy of which provided to the Board or the property management company as set forth in the Rules and Regulations. In the event of a conditional sales contract, the seller under the contract shall be deemed to delegate his rights of use of the Common Area to the purchaser under the contract.

Section 5. Easements for Public Services. In addition to the foregoing easements over the Common Area, there is hereby created, established and granted easements for public services, including, but not limited to, the right of police, fire, ambulance and other public services to enter upon any part of the Project for purposes of serving the health and welfare of all Owners in the Project.

Section 6. Easements for Community Cable Television, Telecommunication Systems and Alarm System Cabling. There are hereby reserved for the benefit of Declarant, and its successors and assigns, nonexclusive easements for ingress, egress and access on, over, under and across the Project for purposes of installation, operation, maintenance, repair, inspection, replacement and removal of transmission lines and other facilities and equipment for (a) a community antenna television system, (b) telecommunication and fiber optics systems, and (c) alarm system cabling. Such easements shall be freely transferable to any other person(s) or entity(ies) for the purpose of providing any or all of such services. The exercise of all rights reserved hereunder shall not unreasonably interfere with the Owners' use and enjoyment of their respective Lot.

Section 7. Easements for Unintentional Encroachments. Declarant reserves for its benefit, and the benefit of the Owners, and hereby creates, establishes and grants a nonexclusive easement appurtenant to each Lot on, over and across those portions of any adjacent Lot or Common Area, not to exceed two feet (2'), for the encroachment by any foundations and footings, and not to exceed three feet (3') for eaves or other overhangs, wing walls and/or chimneys existing as of the date that escrow is initially closed for the sale of said Lot from Declarant to an Owner. Additionally, there is hereby created, established and granted nonexclusive easements appurtenant to any Lot on, over and across those portions of any such adjacent Lot or Common Area, not to exceed two feet (2'), for the encroachment by any Improvement resulting from any subsequent settling or shifting of any Improvements. All of the aforesaid encroachments shall be measured at the point of encroachment along a line which is perpendicular to the common property line between the affected Lots. Declarant further reserves reciprocal easements for utility services and repairs, replacement, and maintenance of the same over the Lots for the benefit of the Owners. Use of the foregoing easements may not unreasonably interfere with each Owner's use and enjoyment of the Owner's respective Lot.

Section 8. Easements for Utilities. The rights and duties of the Owners of Lots within the Project with respect to sanitary sewer, storm water drainage, water, electricity, gas, television cable (or CATV service) and telephone lines, and other facilities, shall be governed by the following:

(a) Each respective utility company shall maintain all utility facilities and connections on the Project owned by such utility company; provided, however, that if any company shall fail to do so, it shall be the obligation of each Owner to maintain those facilities and connections located upon such Owner's Lot or provide service to only such Owner's Lot, and it shall be the obligation of the Association to maintain those facilities and connections located upon and which provide service to only the Common Area;

(b) Wherever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project and it becomes necessary to gain access to said connections, cables and/or lines through a Lot owned by someone other than the Owner of the Lot served by said connections, cables and/or lines, the Owner of the Lot served by said connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon such other Lot or to have the utility companies enter upon such other Lot to repair, replace and generally maintain said connections, cables and/or lines. In the event that any damage shall be proximately caused by such entry, said Owner or utility company shall repair the same at its respective expense;

(c) Whenever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Project, and said connections, cables and/or lines serve more than one (1) Lot, the Owner of each Lot served by said connections, cables and/or lines shall be entitled to the full use and enjoyment of such portions of same as service his Lot;

(d) In the event of a dispute between Owners respecting the repair or rebuilding of the aforesaid connections, cables and/or lines, or the sharing of the cost thereof, said Owner shall first contact the appropriate utility company or applicable private purveyor in an effort to resolve the dispute; provided, however, if the dispute remains unresolved, upon the written request of one (1) of such Owners addressed to the Association, the matter shall be submitted to the Board who, after Notice and Hearing in which the Owner shall have an opportunity to be heard, shall decide the dispute, and the decision of the Board shall be final and conclusive on the Owners;

(e) Easements over the Project for the installation and maintenance of electric and telephone lines, water, gas, drainage and sanitary sewer connections and facilities, and television antenna cables and facilities, parking, driveway, and landscaping, all as described and/or depicted on the recorded tract map of the Project, or otherwise of record, and/or as may be hereafter required or needed to service the

Project, are hereby reserved by Declarant, together with the right to grant and transfer the same;

(f) Each Lot granted to an Owner is subject to all easements for utility installation and maintenance, storm water drainage and other purposes, as more particularly shown on the recorded tract map(s) for the Project or otherwise of record or apparent. Any installation or construction of landscaping or structures within said easement areas may be done only in accordance with the terms, conditions and provisions of said easements. Each Owner acknowledges that such Improvements (including landscaping) may, unless otherwise prohibited, be removed by the respective utility company, private purveyor, or public agency to maintain, repair or replace any of the foregoing facilities without any liability to the Owner to repair or restore any Improvements (including landscaping); and

(g) To the extent required by the County, all utilities shall be placed underground.

Section 9. Easements for Placement of Common Improvements and Maintenance of the Common Area. There is hereby created, established, granted and reserved a nonexclusive easement in favor of each Owner and the Association a nonexclusive easement appurtenant to each Lot and the Common Area on, over and across those portions of any adjacent Lot for the encroachment of the private streets originally constructed by Declarant and for ingress, egress, and access over such private streets. In addition, there is hereby created, established, granted and reserved a nonexclusive easement in favor of the Association for ingress, egress and access on, over and across those portions of the Lots in the Project as reasonably required by the Association to perform its maintenance obligations and exercise its inspection rights and other rights for the Project and Common Area, as more particularly set forth herein (including, but not limited to, in the Articles entitled "Powers and Duties of the Association" and "Repair and Maintenance"). In the event it becomes necessary for the Association to enter upon any Lot for purposes of: (a) inspecting or maintaining the Project or the Common Area; or (b) bringing an Owner and/or his Lot into compliance with this Declaration in accordance with the provisions set forth herein, the Association, and its duly authorized agents and employees, shall have the right, after reasonable notice to the Owner and at a reasonable hour of the day, to enter upon such Owner's Lot for the performance of such work. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by such entry, the Association shall repair the same at its expense. Notwithstanding the foregoing, no advance notice of entry is required in the event of an emergency or for normal maintenance.

Section 10. Easements for Clustered Mailboxes/Light Standards. In order to comply with the various requirements of the County and the United States Postal Service, kiosk mailboxes and/or light standards may be installed on certain Lots within the Project. Easements are hereby created, granted and established on and over the affected Lots, if any, in favor of all Owners in the Project and the United States Postal Service for delivery and deposit of mail, and the utility company, if any, and the Association, for maintenance of the light standards.

Section 11. Easements for Drainage. There are hereby created, established, granted and reserved over each Lot in the Project easements for drainage according to the patterns for drainage created by the Declarant during the Project construction, the grading plans for the Project approved by the County, as well as according to the actual, natural and existing patterns for drainage; provided, however, that cross-Lot drainage is not permitted unless shown on plans submitted by Declarant and approved by the County. Each Owner covenants and agrees that he shall not obstruct or otherwise interfere with said drainage patterns of waters, or, in the alternative, that in the event it is necessary and essential to alter said drainage pattern for the protection and use of his Lot, he will make adequate provisions for proper drainage and obtain all appropriate approvals from the respective governmental authorities, as applicable. In the event any portion of the collector drainage system in the Project is damaged, destroyed or not properly maintained, any Owner affected by such drainage system may cause said repair, restoration or maintenance work to be completed and shall be entitled to recover the appropriate expenses from the Owner responsible for such damage, destruction or improper maintenance.

Section 12. Easement for Area Drains. Declarant hereby establishes, grants, and reserves nonexclusive reciprocal easements over the Lots and Common Area for drainage purposes to accommodate the drainage system, including, but not limited to area drains and pipes, originally installed by Declarant pursuant to the precise grading and construction plans or during the Project construction by Declarant. Unless maintained by an assessment district or other public entity or the Association, the Lot Owner served by said drainage system shall be responsible to maintain and preserve said system in an operating condition to ensure proper drainage on, over, under, across and through the yard area of his or her Lot in accordance with the established drainage patterns created by the Declarant during the Project construction, the grading plans for the Project, as well as according to the actual, natural, and existing patterns for drainage, and shall bear the cost of the maintenance, repair or replacement associated with the drainage system which affects his or her Lot. No Owner shall alter or remove the drainage system or modify the grade of the yard area in his or her Lot without the prior express written consent of all applicable governmental authorities exercising jurisdiction over the Lot. In the event any portion of the drainage system is

damaged, destroyed or not properly maintained, any Lot Owner affected by such drainage system may cause said repair, restoration or maintenance work to be completed and shall be entitled to recover the appropriate expenses from the Lot Owner responsible for such damage, destruction or need for maintenance. Notwithstanding the foregoing, if any portion of the drainage system is damaged or destroyed as a proximate result of any act or omission of any Owner, or any member of his family, guests, tenants, lessees and/or invitees (without regard to fault), such Owner shall immediately repair and/or rebuild such drainage system, and shall bear all of the costs thereof, including any cost and/or expense related to personal injury or property damage to any person, Residence, or Lot in the Project. No Owner shall add a curb core anywhere in the Project and shall ensure no curb core is added in connection with the drainage system associated with such Owner's Lot.

Section 13. Easements for Construction and Sales. Declarant hereby expressly reserves for itself, for the benefit of its agents, employees and contractors, and for the benefit of its successors and assigns, for a period of five (5) years from the recordation of this Declaration, or until all Lots in Tract No. 36327 are initially sold (and escrows closed), whichever occurs first, nonexclusive easements for access, ingress and egress in, on, over, and across the Project as necessary to construct the Improvements, and further reserves the exclusive right to carry on normal sales activity, including the operation of a models complex and sales office, and the display of promotional signs and exhibits in connection with the sale or lease of Lots in the Project. Furthermore, nothing in this Declaration shall limit the right of Declarant to establish additional licenses, easements, and rights-of-way in favor of Declarant, utility companies or others as may, from time to time, be reasonably necessary for the development of the Project. The foregoing rights established and reserved by Declarant shall be subject only to the applicable regulations and requirements of the County. The foregoing rights of Declarant may be assigned to any successor to all or part of Declarant's interest in the Project by an express assignment recorded in the Office of the County Recorder.

Section 14. Other Easements to the County. In addition to the easements set forth above, there is hereby created, established, reserved, and granted to Declarant, together with the right to grant and transfer same to the County, easements for ingress and egress over the Project for the purpose of permitting the County to perform various obligations and responsibilities within or adjacent to the Project, including, without limitation, ingress and egress easements for emergency and public security vehicle purposes.

Section 15. Reservation of Construction Rights by Declarant. In order that the Project be completed and established as a planned residential community, nothing in this Declaration shall limit the right of Declarant to: (a) complete construction of any

Improvements in the Project; (b) redesign or otherwise modify the Improvements owned by Declarant; (c) construct such additional Improvements on any portion of the Project owned by Declarant; or (d) otherwise control all aspects of constructing the Project or selling or leasing of Lots in the Project. Furthermore, nothing in this Declaration shall limit the right of Declarant to establish additional licenses, easements and rights-of-way in favor of Declarant, utility companies or others, or to make offers of dedication to the County or other public agencies, as may, from time to time, be reasonably necessary for the development of the Project. The foregoing rights established and reserved by Declarant shall be subject only to the applicable regulations and requirements of the County and the DRE. The foregoing rights of Declarant may be assigned to any successor to all or part of Declarant's interest in the Property by an express assignment recorded with the County Recorder.

Section 16. Title to the Common Area.

(a) Transfer of Title to Common Area. Declarant hereby covenants, for itself and its successors and assigns, to convey to the Association a nonexclusive easement over the Common Area prior to or concurrent with a first close of escrow for the sale of a Lot, subject to the Protective Covenants set forth in this Declaration or which are of record at the time of the conveyance.

(b) Completion of Common Area. In the event that Improvements proposed to be constructed on any portion of the Common Area have not been completed prior to the first close of escrow for a Lot, as evidenced by a "Notice of Completion" recorded in the Office of the County Recorder, then the completion of such Improvements shall be assured in accordance with Section 11018.5 of the California Business and Professions Code, or any similar statute hereafter enacted.

(c) Commencement of Association Responsibilities. Except as otherwise provided herein and/or in an easement deed of the Association Property, the Association's responsibility to maintain the Association Property shall commence concurrently with the levy of assessments by the Association for maintenance of such Association Property. The Association shall not interfere with the performance of any warranty or other contractual maintenance obligations which the contractor or subcontractors of Declarant may be bound to perform. Notwithstanding the foregoing, maintenance performed by such contractors and subcontractors of Declarant shall not serve to postpone the commencement of Regular Assessments pursuant to this Declaration, nor entitle an Owner to claim any offset or reduction in the amount of such Regular Assessments. Notwithstanding anything to the contrary herein or in the By-laws for the Board, commencing on the date of the first annual meeting of the Owners, Declarant shall relinquish control over the

Association's ability to decide whether to initiate a construction defect claim under Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code. Therefore, the Declarant, current employees and agents of Declarant, Board members who are appointed by Declarant, Board members elected by a majority of votes cast by Declarant, and all other Persons whose vote or written consent is inconsistent with the intent of the preceding sentence, are prohibited from participating and voting in any decision of the Association or Owners to initiate a defect claim as noted above.

(d) Character of Improvements to Common Area. The nature, design, quality and quantity of all Improvements to the Common Area shall be determined by Declarant, in its sole discretion. The Association shall be obligated to accept an easement for the maintenance of the Common Area in the Project, as well as any additional Association Property identified herein, and undertake all maintenance responsibilities for the Common Area and the Association Property as provided herein.

(e) Disputes. In the event that a Dispute arises between Declarant and the Association with respect to the nature, design, quality or quantity of the Improvements, or the acceptance of maintenance responsibilities therefor, the Dispute shall be resolved in the manner specified in Exhibit "H" to this Declaration.

(h) Dissolution of the Association. In the event the Association is ever dissolved, then (i) the Association's nonexclusive easement over the Common Area shall be deemed released; and (ii) the obligations of the Association under this Declaration shall become the joint and several obligations of the Owners of the Lots in the Project.

Section 17. Other Easements. In addition to the foregoing easements, the Project is encumbered by all easements set forth on the final map of Tract No. 36327 and recorded in the Office of the County Recorder for the County.

ARTICLE IV

THE ASSOCIATION

Section 1. Membership. Every person or entity who or which is an Owner as defined hereinabove shall be a Member of the Association. The foregoing, however, is not intended to include persons or entities who hold an interest in a Lot in the Project merely as security for the performance of an obligation. All memberships in the Association shall be appurtenant to the Lot owned by each Member, and memberships in the Association shall not be assignable, except to the person or entity to whom the title to

the Lot has been transferred, as provided in Section 6 hereinbelow. Ownership of such Lot shall be the sole qualification for membership in the Association. The memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of title to said Lot, and then only to the purchaser or Mortgagee of such Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected in the books of the Association.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership, as follows:

(a) Class A. Class A Members shall be all Owners, with the exception of the Declarant until such time as the Class B Membership terminates, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot. The Association shall recognize the vote cast by a Co-Owner, unless another Co-Owner shall cast a conflicting vote, in which case, both votes shall be null and void, and not recognized by the Association. The non-voting Co-Owner or Co-Owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot.

(b) Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned in the Project upon which Declarant is then paying the appropriate monthly Assessments provided for hereinbelow. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs earliest:

(1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(2) The second anniversary of the first close of escrow for the sale of a Lot in the Project.

Any action by the Association which must have the approval of the membership of the Association before being undertaken, shall require the vote or written assent of both a majority of the Class B membership as well as a majority of the Class A membership, so long as there are two (2) outstanding classes of membership, unless a specific provision of this Declaration or the By-Laws or Articles of the Association requires (i) the approval of a greater percentage of the voting membership, or (ii) a vote by Members other than Declarant, or (iii) a specific approval percentage of all the Members. Notwithstanding the foregoing, any action by the Association pursuant to the Article contained herein

entitled "Enforcement of Bonded Obligations" shall only require a majority of the voting power of the Owners, other than Declarant.

Section 3. Special Procedures For Appointment to the Board. The Declarant shall be entitled to solely appoint a majority of the members of the Board until the first to occur of the following events:

(a) The election of the Board immediately following the close of escrow by Declarant of at least thirty-four (34) Lots in the Project; or

(b) December 31, 2016.

In the event Declarant shall not have sold and closed escrows for at least thirty-four (34) Lots by December 31, 2016, Declarant's right to elect a majority of the members of the Board shall be automatically extended until the aforesaid number of Lots have been sold, but in no event later than December 31, 2017.

Notwithstanding the foregoing, the Class A Members shall be entitled to elect at least one of the members of the Board, so long as there are two (2) classes of membership outstanding in the Association, and all members of the Board (including those appointed by Declarant) shall be subject to removal, with or without cause, as provided in the By-Laws and California law. The requirements of this Section 3, as well as Section 2 above, are intended and shall be construed to comply with the time frame and other requirements set forth in California law and the regulations of the California Commissioner of Real Estate (e.g., DRE Regulation 2792.18, 2792.19, etc.) regarding the transfer of control of the Association from the Declarant to the Members.

Section 4. Vesting of Voting Rights. The voting rights attributable to any given Lot in the Project as provided for herein shall not vest until the Assessments provided for hereinbelow have been levied by the Association against said Lot.

Section 5. Suspension of Voting Rights. The Board shall have the authority to suspend the voting rights of any Member to vote at any meeting of the Members for any period during which such Owner is delinquent in the payment of any Assessment, regardless of type, it being understood that any suspension for nonpayment of any Assessment shall not constitute a waiver or discharge of the Member's obligation to pay the Assessments provided for in this Declaration.

Section 6. Transfer. The Association membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except as incidental to the sale of such Lot, and the membership shall be automatically transferred upon the sale of such Lot. In the event of such sale, the Association membership may only be transferred, pledged or alienated to the bona fide

purchaser or purchasers of the Lot, or to the Mortgagee (or third party purchaser) of such Lot upon a foreclosure sale, deed in lieu or other remedy set forth in the mortgage. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association may levy a reasonable transfer fee against new Owners and their Lots (which fee shall be a Compliance Assessment chargeable to such new Owner) to reimburse the Association for the actual administrative cost of transferring the memberships to the new Owners on the records of the Association.

Section 7. Record Dates. For the purposes of determining Members entitled to notice of any meeting, to vote or to exercise any other rights with respect to any lawful action, the Board may fix in advance record dates as provided in the By-Laws.

Section 8. Notices. All notices and demands shall be given in writing by personal delivery, express mail, or by certified mail, postage prepaid, and return receipt requested. Notices shall be considered given on the earlier of (a) receipt, if personally delivered or express mailed to the addressee, or to a partner or an officer of the addressee if the addressee is a partnership or corporation, or (b) forty-eight (48) hours following deposit in the United States mail, or (c) verified delivery by facsimile, provided any such "fax" or facsimile is followed by delivery in accordance with (a) or (b) herein. Notices to the Association shall be addressed as determined by the Board.

ARTICLE V

POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Management Body. The Association is hereby designated as the management body of the Project. The Members of the Association shall be the Owners in the Project, as provided herein, and the affairs of the Association shall be managed by a Board of Directors, as more particularly set forth in the By-Laws. The initial Directors shall be appointed by the Declarant. Thereafter, the Board shall be elected as provided in said By-Laws.

Section 2. Powers. The Board, for and on behalf of the Association, shall have the right and power to do all things necessary to conduct, manage and control the affairs and business of the Association. Subject to the provisions of the Articles, the By-Laws and this Declaration, the Board shall have all general powers authorized under the California Corporations Code for non-profit, mutual benefit corporations, and shall have, but not be limited to, the following specific powers:

- (a) Enforce the provisions of this Declaration (including but not limited to the ability to record a notice of noncompliance or violation as allowed by law), including

any amendments thereto, and all contracts or any agreements to which the Association is a party;

(b) Acquire an easement over or title to, manage, maintain, repair and replace all Association Property and Improvements located thereon, including all personal property, in a neat, clean, safe and attractive condition at all times, and pay all utilities, gardening and other necessary services for the Association Property, all as more specifically set forth herein, including but not limited to, the Article herein entitled "Repair and Maintenance";

(c) Maintain fire, casualty, liability and worker's compensation coverage, fidelity bond coverage and other insurance coverage pursuant to the terms of that Article herein entitled "Insurance";

(d) Obtain, for the benefit of the Association Property, all commonly metered water, gas and electric services, and provide for refuse collection and cable (or CATV) television service;

(e) Grant easements or licenses, where necessary, for utilities, storm water drainage, and sewer facilities over, on and across the Association Property to serve the Project;

(f) Pay all taxes and special assessments which would be a lien upon the entire Project or the Association Property, and discharge any lien or encumbrance levied against the entire Project or the Association Property;

(g) Levy and collect Assessments on the Owners of all Lots in the Project in which Assessments have commenced, and enforce payment of such Assessments in accordance with the terms and provisions set forth in the Article herein entitled "Effect of Nonpayment of Assessments: Remedies of the Association";

(h) Pay for reconstruction of any portion of the Association Property damaged or destroyed;

(i) Employ and retain a professional manager and/or management company to perform all or any portion of the duties and responsibilities of the Board and engage such other personnel (including attorneys, budget preparers, and accountants) as necessary for the operation of the Project and administration of the Association;

(j) Enter into any Lot when necessary in connection with maintenance or construction for which the Association is responsible;

(k) Subject to notification to the DRE, contract with Declarant, its successors or assigns, for the purpose of entry into a maintenance and/or subsidy agreement, made by and between Declarant and the Association, for the purpose of temporarily reducing and/or abating the financial obligations of Owners in the Project;

(l) Purchase such other labor, services, materials, supplies and the like, as needed for the proper maintenance of the Association Property and/or proper operation of the Association;

(m) Adopt reasonable Rules and Regulations concerning the maintenance, improvement, use and/or occupancy of any portion of the Project and election procedures in compliance with California Civil Code Section 1363.03;

(n) Execute lot line adjustments (and corresponding deeds), enter into a maintenance and/or other agreement with Declarant or a third party, subject to Civil Code Section 1363.07, if applicable, grant fee title to or easements over the Association Property to Declarant or a third party, and/or receive fee title to or an easement over real property owned by Declarant or a third party as reasonably necessary due to those conditions in the field where it is not readily apparent where Lot lines are located and the respective party's maintenance responsibilities commence and end, and such adjustments, deeds and/or agreements will promote a clearly defined and uniform maintenance plan by the respective parties;

(o) Grant easements or licenses to any public agency, governmental entity or utility, where necessary, for utilities, storm water drainage, sidewalks, and sewer facilities on, over and across the Association Property to serve the Project for purposes consistent with the use of the Common Area or the Project for residential purposes;

(p) Subject to compliance with Section 1369.510 et seq. of the California Civil Code, as same may be amended from time to time, institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to (i) enforcement of the Declaration, Rules and Regulations and By-Laws; (ii) damage to the Association Property; (iii) damage to the Lots which arises out of, or is integrally related to, damage to the Association Property that the Association is obligated to maintain or repair;

(q) Perform any and all other acts and things that a nonprofit, mutual benefit corporation organized under the laws of the State of California is empowered to do, which may

be necessary, convenient or appropriate in the administration of its affairs for the specific purposes of meeting its duties as set forth in this Declaration;

(r) Authorize an agent, management company representative, or bookkeeper to appear and participate in a small claims court action on behalf of the Association in accordance with California Code of Civil Procedure Section 116.540(i), (j); and

(s) Without any limitation of the foregoing powers, (1) operate, maintain, and inspect the Association Property and its various components in conformance with any Maintenance Guidelines and any Maintenance Manual, and (2) review any Maintenance Manual for necessary or appropriate revisions as deemed necessary by the Board (e.g., at least an annual review).

Section 3. Duties. Notwithstanding the Association's obligations, as more specifically set forth in the Article herein entitled "Repair and Maintenance," the Board shall perform and execute the following duties for and on behalf of the Association:

(a) Maintain and operate the Association Property (including the Common Area), for the common use and benefit of all Owners in the Project;

(b) Provide water, sewer, gas, electricity, garbage and trash collection, and other necessary utility services for the Association Property (only if applicable - It is currently anticipated that sewer, gas, and garbage and trash collection services will not be provided for the Association Property) and, if not separately metered or provided, for the Lots;

(c) Provide insurance for the Association and its Members in accordance with the provisions of the Article hereinbelow entitled "Insurance" and distribute any notices thereof required by law, as same may be amended, from time to time;

(d) Accept, as part of the Project, all property included in the Project, in accordance with the terms and provisions of this Declaration, and accept all Owners as Members of the Association. In addition, the Association shall accept all Association Property (including an easement for the maintenance of the Common Area) conveyed, leased or otherwise transferred to it, if any, by Declarant, its successors or assigns, or appropriate governmental agency;

(e) Maintain and repair all portions of the Association Property (including the Common Area) in a neat, clean, safe, attractive, sanitary and orderly condition at all times and paint, maintain, repair and replace all of the

Association Property Improvements so as to keep same in a neat, clean, safe, attractive, sanitary and orderly condition at all times. In the event any maintenance or repairs to the Association Property are required due to the willful or negligent acts or omissions of an Owner or Owners, the Association shall levy the cost of such maintenance and repair as a Compliance Assessment against the responsible Owner(s);

(f) Comply with all Best Management Practices applicable to the Project;

(g) Pay all real and personal property taxes and Assessments which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law, unless separately assessed to Owners; provided, however, that it shall be the obligation of each Owner to pay his respective share of the tax assessment levied on the Project prior to separate assessments by the Tax Assessor pursuant to the applicable provisions of the California Revenue and Taxation Code;

(h) Contract for any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations and insurance which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law;

(i) Except as required by law, cause financial statements and a reserve funding plan (e.g., consistent with the requirements of California Civil Code Section 1365.5 and FHLMC, FNMA, GNMA and VA/FHA) for the Association to be regularly prepared and copies distributed to each Member of the Association, regardless of the number of Members or the amount of assets of the Association:

(1) A pro forma operating statement (budget) for the immediately preceding fiscal year shall be distributed within the time period specified by statute prior to the beginning of the fiscal year (e.g., not less than 30 days nor more than 90 days prior to the beginning of the fiscal year), and shall contain the following information:

i) An itemized estimate of the Association's revenue and expenses (including, without limitation, adequate funding for insurance coverage and deductibles), determined on an accrual basis;

ii) A summary, printed in bold type, of the current status of the Association's reserves, based upon the most recent review or study conducted pursuant to California Civil Code Section 1365.5

("Study"), as may be amended, from time to time, and prepared in accordance with all requirements of law (e.g., Civil Code Section 1365, 1365.2.5);

iii) A statement prepared in accordance with all requirements of law (e.g., Civil Code Section 1365, 1365.2) as to all of the following:

a) Whether the Board has determined to defer or not undertake repairs or replacement of any major component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.

b) Whether the Board, consistent with the reserve funding plan adopted pursuant to subdivision (e) of Section 1365.5, has determined or anticipates that the levy of one (1) or more Special Assessments will be required to repair, replace or restore any major component (e.g., Improvement to the Association Property) or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the Special Assessments; and

c) The mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement of repairs, or alternative mechanisms.

d) Whether the Association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

iv) A general statement prepared in accordance with all requirements of law (e.g., Civil Code Section 1365, 1365.2) setting forth the procedures utilized by the Association to calculate and establish reserves to defray the costs of future repairs, replacements or additions to the Association Property Improvements;

v) A statement as to whether the Board has determined or anticipates that the levy of one (1) or more Special Assessments will be required to

repair, replace or restore any major Improvements to the Association Property, or to provide adequate reserves therefor; and

vi) A summary of the reserve funding plan adopted by the Board in accordance with Civil Code Section 1365.5. The summary shall include notice to the Owners that the full reserve study plan is available upon request, and the Association shall provide the full reserve study plan to any Owner upon request.

Notwithstanding the foregoing, in lieu of distributing the pro forma budget required hereinabove, the Board may elect to distribute a summary of the pro forma budget to all Members with a written notice, in at least 10-point bold type on the front page, that the pro forma budget is available at the business office of the Association, or at another suitable location within the Project, and that copies will be provided upon request and at the expense of the Association. If any Member requests that a copy of the pro forma budget required herein be mailed to said Member, the Association shall provide the copy to the Member by first-class mail at the expense of the Association, and mailed within five (5) days of the receipt of said request;

(2) A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing for the first sale of a Lot, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date;

(3) An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year:

i) A balance sheet as of the last day of the Association's fiscal year;

ii) An operating (income) statement for the fiscal year;

iii) A statement of changes in financial position for the fiscal year; and

iv) Information, if any, required to be reported pursuant to Sections 8322 and 1365 of the California Corporations and Civil Codes, respectively, as same may be amended from time to time.

This annual report shall ordinarily be prepared by a licensee of the California Board of Accountancy, in accordance with generally accepted accounting principles, for any fiscal year in which the gross income of the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00). However, if for any reason the report is not prepared by a licensee of the California Board of Accountancy, said report shall be accompanied by a certificate from an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association;

(4) A statement of the Association's policies and practices in enforcing its remedies against Members for nonpayment of Assessments, as set forth in the Article herein entitled "Effect of Nonpayment of Assessments: Remedies of the Association," which shall be distributed within the time period required by statute prior to the beginning of the fiscal year (e.g., not less than 30 days nor more than 90 days prior to the beginning of the fiscal year); and

(5) A summary of the Association's general liability insurance policy, earthquake and flood insurance policy, if one or more have been obtained, and liability coverage policy for the Board, which includes statements and information required under California Civil Code Section 1365(e), as same may be amended from time to time. Currently, such items of disclosure include the following: (1) the name of the insurer; (2) the type of insurance; (3) the policy limits of the insurance; and (4) the insurance deductibles.

The Association shall, as soon as reasonably practical, notify its Members by first-class mail if any of the policies described in Subparagraph (i) above have lapsed, been canceled, and are not immediately renewed, restored or replaced, or if there is a significant change, such as a reduction in coverage or limits, or an increase in the deductible for any of those policies. If the Association receives any notice of nonrenewal of a policy described in the subparagraph above, the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse. To the extent the information noted above is described within the respective insurance policies, the Association may distribute such information to the Members and be in compliance with the disclosure requirements of the referenced Civil Code Section. Notification regarding cancellation or policy renewals must comply with Civil Code Section 1365(e)(2), as same may be amended from time to time. Currently, the summary distributed pursuant to Subparagraph (i) shall contain,

in at least 10-point boldface type, the following statement: "This summary of the Association's policies of insurance provides only certain information, as required by Subdivision (e) of Section 1365 of the California Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult with their individual insurance broker or agent for appropriate additional coverage."

(j) The Board shall review on a quarterly basis, the following:

i) A current reconciliation of the Association's operating accounts;

ii) A current reconciliation of amounts collected as reserves;

iii) The current year's actual amounts collected as reserves and expenses compared to the current year's budget;

iv) An income and expense statement for the Association's operating and reserve accounts; and

v) The most current account statements prepared by the financial institutions where the Association maintains its operating and reserve accounts.

Withdrawal of funds from the Association's reserve account shall require the signature of either: (i) two (2) members of the Board; or (ii) one (1) member of the Board and an officer of the Association who is not also a member of its Board. As used in this Section, "reserve account" means moneys that the Board has identified from its annual budget for use to defray the future repair or replacement of, or additions to, those major components of the Common Area which the Asso-

ciation is obligated to repair or replace on a periodic basis, rather than on a regular annual basis. Except as may otherwise be allowed pursuant to Civil Code Section 1365.5(c), the Board shall not use any funds collected and budgeted as "reserve" moneys for any costs and/or expenses that are not related to repair and/or replacement costs for those elements of the Common Area that must be repaired and/or replaced on a periodic basis. The Board may transfer any interest earned in all reserve accounts into the Association's general operating account in order to satisfy all or a portion of the income tax liability based on such interest income. Notwithstanding the foregoing, temporary transfer of funds may occur in compliance with Civil Code Section 1365.5, as same may be amended from time to time. In the event reserve funds are temporarily transferred to pay for litigation, the Board shall comply with the disclosure and notification requirements of Civil Code Section 1365.5(d), as same may be amended from time to time.

(k) At least once every three (3) years, cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half (1/2) of the gross Association budget for any fiscal year of the Association. In connection with such study, the Board shall cause to be conducted, if required by law, a visual inspection of the accessible areas of the major components of the Common Area which the Association is obligated to repair, replace, restore, or maintain. The Board shall consider and implement, as the Board determines appropriate, any necessary adjustments to the Board's analysis of the reserve account requirements as a result of such review. The reserve study shall consider and include, at a minimum, the requirements set forth in Section 1365.5(e) of the California Civil Code, as the same shall be amended, from time to time;

(l) Assume and pay out of the Assessments provided for hereinbelow all costs and expenses incurred by the Association in connection with the performance and execution of all of the aforesaid powers and duties, and any other powers and duties the Association may assume as provided for in Section 4 hereinbelow;

(m) Formulate, adopt and enforce such Rules and Regulations as it may deem proper for the operation of the Common Area and as necessary to establish election procedures in compliance with California Civil Code Section 1363.03, as more particularly described herein. Notice of adoption of any such Rules and Regulations and of any change, amendment or repeal thereof, shall be given in writing to each Member and shall be on file in the principal office of the Association. In the event of any conflict between such Rules and

Regulations and this Declaration, this Declaration shall prevail;

(n) Enforce and abide by all applicable provisions of this Declaration, the Articles, By-Laws, the Limited Warranty, all such Rules and Regulations of the Association, and all other documents pertaining to the ownership, use, management and control of the Project;

(o) Give notices in writing to FHLMC, FNMA, GNMA and VA/FHA, and other lenders and investors participating in the financing of the sale of Lots in the Project, as required herein;

(p) Within ten (10) days of the mailing or delivery of a written request from an Owner, provide said Owner with a copy of this Declaration and the By-Laws and the Articles for the Association, together with the pro forma budget, an insurance policy summary, a true statement in writing as to the amount of any delinquent Assessments, penalties, attorneys' fees and other charges therein as provided by this Declaration or other management documents of the Board as of the date of such request, the most recent financial statement, the Association's current Regular and Special Assessments, and any change in the Association's current Assessments and fees which have been approved by the Board but have not become due and payable as of the date the disclosure is provided pursuant to this Section. The Board may impose a fee for providing the foregoing, but in no event shall the fee exceed the actual cost to prepare and reproduce the requested documents. In addition, the Board shall make available, as required by law, during normal working business hours, upon request under reasonable circumstance, to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee and the holder(s), insurer(s) and guarantor(s) of a first Mortgage of any Lot, current copies of this Declaration, the Articles, the By-Laws, the Rules and Regulations governing the Lot, a true statement, in writing, setting forth the amount of the Association's current regular and special assessments and fees, any assessments, monetary fines and/or penalties levied upon the Member's interest in the Project that are unpaid on the date of the statement, and information on late charges, interest and costs of collection which, as of the date of the statement, are or may be made a lien upon the Member's interest in the Project, and all of the books, the membership register, including mailing addresses and telephone numbers, records and financing statements of the Association;

(q) Elect the officers of the Association and fill any vacancies on the Board, except if such vacancy is created by the removal of a Director;

(r) Appoint the Members to the various Committees formed by the Board [e.g., the Nominating Committee, etc.] as more particularly set forth herein or in the By-Laws;

(s) Cause a summary of the provisions of Section 1369.590 of the California Civil Code, as same may be amended from time to time, regarding alternative dispute resolution pre-filing requirements and which specifically reference Section 1369.510 et seq. of the Civil Code, to be prepared and distributed (as required by law, if at all) to each Member of the Association. The summary shall be provided either at the time the pro forma operating budget is distributed herein or in the manner specified in Section 5016 of the California Corporations Code, as same may be amended from time to time. The summary shall include a description of the Association's internal dispute resolution process, as required by Section 1363.850 of the Civil Code;

(t) Adopt and provide a fair, reasonable and expeditious procedure for resolving disputes between the Association and Members that complies with applicable law (e.g., Civil Code Section 1363.810 et seq.), which, if the Board so decides, may be the procedure set forth in Civil Code Section 1363.840;

(u) Comply with the provisions of California Civil Code Section 1375, as same may be amended from time to time, as provided hereinbelow;

(v) Cause a notice regarding "Assessments And Foreclosure" to be prepared and annually distributed to each Member of the Association in accordance with California Civil Code Section 1365.1, as the same may be amended from time to time. Except as otherwise provided in California Civil Code Section 1365.1, as the same may be amended from time to time, the notice shall be printed in 12-point type and shall be distributed during the sixty (60) day period immediately preceding the beginning of the Association's fiscal year;

(w) As required by applicable law [e.g., California Civil Code Section 1378(c), as the same may be amended from time to time, or any successor statute], cause a notice of any requirements for Association approval of physical changes to Lots or Common Area to be prepared and annually distributed to Members. The notice shall describe the types of changes that require Association approval and shall include a copy of the procedure used to review and approve or disapprove a proposed change; and

(x) As required by the County, comply with and perform all obligations for the inspection, maintenance, and repair of stormwater facilities set forth in the Water Quality Management Plan (including, without limitation, inspecting all

stormwater facilities after all major storms and at the minimum frequencies set forth in such Water Quality Management Plan, submitting a stormwater inspection report to the County once a year, etc.).

Section 4. Discretionary Powers. The Board, at its option, may assume, perform and execute the following powers and duties for and on behalf of the Association:

(a) Retain the services of a manager for the Project and provide such other personnel as the Association deems necessary and proper to assist in the operation of the Association and/or management of the Association Property (including the Common Area) regardless of whether such other personnel are employed directly by the Association or otherwise;

(b) Remove or replace any Improvement that extends into the Common Area under authority of an easement when access to a utility line underneath such Improvement is requested by any utility company; provided, however, that the cost shall be assessed against the Owner of the Lot involved as a Compliance Assessment if said Owner caused the Improvement to be so placed in the Common Area without legal right to do so;

(c) Incur any liability or pay any costs or expenses for a single Lot or Owner thereof to keep such Lot and/or Owner in compliance with this Declaration; provided, however, that in the event the Association does incur any such liability or pay any such costs or expenses, the amount thereof shall be specially assessed to the Owner of such Lot as a Compliance Assessment; provided further, however, that nothing herein shall permit the Association to assess the Owners for any new Improvements to the Common Area, except as otherwise provided in this Declaration;

(d) Subject to the limitations set forth in this Article, contract for any other material, furniture, labor, services, maintenance, repairs, structural alterations or insurance, or pay any taxes or Assessments which, in the opinion of the Board, shall be necessary or proper for the operation of the Common Area, for the benefit of the Owners or for the enforcement of this Declaration; and

(e) Enter into a maintenance or subsidy agreement with Declarant, at Declarant's sole discretion, to temporarily reduce the financial obligations of the Owners for Assessments.

Section 5. Delegation of Duties. In the event that the Association shall delegate any or all of its duties, powers or functions to any person, corporation or firm to act as manager,

neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

Section 6. Right of Entry for Emergency. The Board, any person authorized by the Board, Declarant (so long as it owns an interest in the Project), or any Owner may enter any Lot in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association and/or Owner shall repair the same at its expense.

Section 7. Right of Entry for Repairs. Except as otherwise provided herein, the Board, or any person authorized by the Board, shall have the right to enter, upon reasonable notice, any Lot to effect necessary repairs which the Owner has failed to perform or which are necessary in connection with the repairs to the Common Area or an adjoining Lot. Such entry shall be made with as little inconvenience to the Owner as is practicable, and in the event that any damage shall be proximately caused by or result from said entry, the Association shall repair the same at its expense.

Section 8. Limitations on Board Action. The Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association and a majority of the votes residing in Members, other than the Declarant:

(a) Entering into a contract with a third person, wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:

(1) A management contract, the terms of which have been approved by the Department of Veterans Affairs and the Federal Housing Administration (hereinafter referred to as the "VA/FHA") and are consistent with provisions herein;

(2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the policy permits for short-rate cancellation by the insured;

(4) Agreements for cable television services and equipment or satellite dish equipment and services of not to exceed five (5) years duration, provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect interest of ten percent (10%) or more; and

(5) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(d) Paying compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Association;

(e) Filling a vacancy on the Board created by the removal of a Director;

(f) Except as otherwise allowed under Section 1375 of the California Civil Code, as same may be amended from time to time, incurring dispute resolution expenses, including without limitation attorneys' fees, where the Association initiates dispute resolution proceedings or is joined as a plaintiff in dispute resolution proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (i) enforce the use restrictions contained herein, or (ii) collect any unpaid assessments levied pursuant to this Declaration;

(g) Amending or limiting the Association's duties and obligations (and benefits), if any, with respect to the Limited Warranty; or

(h) Except as otherwise allowed under Section 1375 of the California Civil Code, as same may be amended from time to time, incurring litigation expenses, including without limitation attorneys' fees, where the Association initiates legal proceedings or is joined as a plaintiff in legal

proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (i) enforce the use restrictions contained herein; or (ii) collect any unpaid assessments levied pursuant to this Declaration.

Section 9. Licenses, Easements and Rights-of-Way. The Board, for and on behalf of the Association, is authorized and empowered to grant such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm water drainage and other public utility purposes over those portions of the Association Property upon which no building or other structure has been erected as may be necessary and appropriate for the orderly maintenance, and preservation of the Association Property or for the preservation of the health, safety, convenience and welfare of the Owners. Such licenses, easements and rights-of-way may be granted at any time prior to twenty-one (21) years after the death of the individuals who have signed this Declaration and their issue who are in being as of the date hereof, and the right to grant such licenses, easements and rights-of-way is hereby expressly reserved.

Section 10. New Improvements. Except as otherwise provided in this Declaration, the Association may construct new Improvements or additions to the Association Property or demolish existing Improvements, provided that in the case of any Improvement, addition or demolition involving a total expenditure in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the written consent or vote of the Owners in the Project as to the maximum total cost therefor shall first be obtained in accordance with the appropriate provisions herein, and provided that no Lot shall be altered or damaged by any such demolition or construction without the consent of the Owner thereof. The Board shall levy a Special Assessment on all Owners in the Project for the cost of such work. Notwithstanding the foregoing, if the new Improvements or the demolition of existing Improvements relates to Special Benefit Improvements, only the vote or written consent of Owners representing a majority of Lots within such Special Benefit Area need to be obtained, and the Board shall levy a Special Assessment solely on the Owners in the respective Special Benefit Area for the cost of such work.

Section 11. Association Rules and Regulations. The Board shall also have the power to adopt, amend and repeal Rules and Regulations, as it deems reasonable, which may include the establishment of a system of fines and penalties enforceable as Compliance Assessments. The Rules and Regulations shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area, signs, trash collection, minimum standards for maintenance of Lots consistent with such standards as may be set forth in this Declaration, election procedures in compliance with California Civil Code Section 1363.03, and any other matter which is within the jurisdiction of the Association; provided, however, that the

Rules and Regulations may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or By-Laws. A copy of the Rules and Regulations as they may, from time to time, be adopted, amended or repealed, or a notice setting forth the adoption, amendment or repeal of specific portions of the Rules and Regulations, shall be delivered to each Owner. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration, and shall be binding on the Owners and their successors in interest, whether or not actually received thereby. The Rules and Regulations, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner upon request. In the event of any conflict between any such Rules and Regulations and any other provisions of this Declaration, or the Articles or By-Laws, the provisions of the Rules and Regulations shall be deemed to be superseded. The Association shall adopt rules and regulations ("Rules and Regulations") that are not inconsistent with the provisions of this Declaration and that are subject to Civil Code Sections 1357.100 et seq. regarding "operating rules." The Rules and Regulations shall include but not be limited to the use of the Common Area and of the Project.

Section 12. Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in this Declaration, or as required by law, no right, power or responsibility conferred on the Board by this Declaration, the Articles or the By-Laws, shall be construed as a duty or obligation charged upon the Board, any member of the Board, or any other officer, employee or agent of the Association. No such person shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such person's acts or omissions within what such person reasonably believed to be the scope of his Association duties ("Official Acts"), except to the extent that such injuries or damage result from such person's willful or malicious misconduct. No such person shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such person's Official Acts, except to the extent that such injuries or damage result from such person's negligence or willful or malicious misconduct;

(b) Personal Liability Limitation. No person who suffers injury, including, but not limited to, bodily injury (including, without limitation, emotional distress or wrongful death) or property damage or loss as a result of the tortious act or omission of a volunteer Board member or volunteer Association officer shall recover damages from such Board member or officer if all the following conditions are satisfied:

(1) At the time the act or omission occurred, the Board member or officer resided in the Project as either a tenant or an Owner of two (2) or fewer Lots;

(2) The act or omission was performed within the scope of the Board member's or officer's Association duties;

(3) The act or omission was performed in good faith;

(4) The act or omission was not willful, wanton or grossly negligent; and

(5) The Association maintained and had in effect at the time the act or omission occurred, and at the time a claim was made, one (1) or more policies of insurance which included coverage for (i) general liability for the Association and (ii) individual liability of officers and Directors of the Association for negligent acts or omissions in such capacity, and both types of coverage were in the amount of at least Five Hundred Thousand Dollars (\$500,000.00).

(c) Indemnification. The Association shall pay all expenses incurred by, and satisfy any judgment or fine levied against, any person as a result of any action or threatened action against such person to impose liability on such person for his Official Acts, provided that:

(1) The Board determines that such person acted in good faith and in the manner such person reasonably believed to be in the best interests of the Association; and

(2) In the case of an action or threatened action by or in the name of the Association, the Board determines that such person acted with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances.

Any determination of the Board required under this Section must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote or written consent of a majority of a quorum of the Members of the Association, provided that the person to be indemnified shall not be entitled to vote. The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor,

administrator, heirs or devisees of any person entitled to such indemnification.

Section 13. Right to Repair Law and Resolution of Disputes By Judicial Reference; No Right to Jury Trial. Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) agree: (a) to comply with the provisions pertaining to the construction dispute reform bill known as Senate Bill No. 800, which added section 43.99 and Title 7 (commencing with section 895) to Part 2 of Division 2 of the California Civil Code ("Right to Repair Law"); and (b) to resolve all Disputes in the manner specified in Exhibit "H" attached hereto and incorporated by this reference (i.e., according to the procedures specified in the Limited Warranty, if applicable, or according to the non-adversarial pre-litigation procedures and thereafter, if necessary, the judicial reference procedures set forth in California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, as specified in Exhibit "H"). Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) each acknowledge and agree that, as a result of such Dispute resolution procedures, that shall have no right to have any Dispute resolved by a jury trial.

ARTICLE VI

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Project, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Regular Assessments; (b) Special Assessments for capital improvements and such other purposes set forth herein; (c) Compliance Assessments, including, but not limited to, costs incurred by the Association in the repair of damage to the Association Property for which such Owner was responsible and costs incurred by the Association in bringing such Owner and his Lot into compliance with this Declaration; (d) Special Benefit Assessments; and (e) such other assessments as the Association may periodically establish. Except as otherwise provided by law, the Regular, Special and Special Benefit Assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Regular Assessment, Special Assessment and Special Benefit Assessment, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall also be the personal obligation of the Owner of such property at the time when the Assessment fell due. Each Compliance Assessment levied against an Owner, together with interest, costs and reasonable attorneys' fees for the collec-

tion thereof, shall be the personal obligation of the Owner of the property at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Regular Assessments: Levy and Collection. The Regular Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of all Owners in the Project, and to maintain and improve the Common Area. The Association, by and through the Board, shall levy and collect Assessments from the Owner of each Lot in the Project in an amount sufficient to cover all of the Common Expenses incurred by the Association in connection with the performance and execution of its powers and duties set forth in this Declaration, the By-Laws and the Articles. In connection therewith, the Association shall not impose or collect Assessments, penalties or fees that exceed the amount reasonably necessary for the purpose or purposes for which they were levied. Regular Assessments may be collected on a monthly installment basis.

Section 3. Regular Assessments - Basis. Regular Assessments payable to the Association shall be assessed equally against all Owners of Lots. Each Owner's proportionate share of the Common Expenses of the Association for any fiscal year shall be a fraction, the numerator of which shall be the number of Lots owned by such Owner, and the denominator of which shall be the total number of Lots in the Project which are subject to assessment. Until the first day of the fiscal year immediately following the close of escrow for the sale of the first Lot in the Project to an Owner, the maximum Regular Assessment shall be as set forth in the budget reviewed by the DRE. Notwithstanding the commencement for payment of Regular Assessments, or any other provisions of this Declaration, Declarant and any other Owner of a Lot which does not include a structural Improvement for human occupancy shall be exempt from the payment of that portion of any Assessment (e.g., Regular Assessment) which is for the purpose of defraying operating expenses and reserves directly attributable to the existence and/or use of such structural Improvements. This exemption shall include, but shall not necessarily be limited to, that portion of any Assessment attributable to roof replacement, exterior maintenance, exterior walkway and carport lighting, refuse disposal, cable television and domestic water supplied to Residences. This exemption shall be in effect only until the earliest to occur of: (a) the recordation of a notice of completion for the structural Improvements; (b) the occupation or use of the Residence; or (c) the completion of all elements of the Lot which the Association is obligated to maintain as applicable. Declarant and any Owner shall also be exempted from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of any Common Area facilities that are not complete at the time Assessments commence. This latter exemption shall only be in effect as to a particular Common Area facility until the earlier of: (a) the recordation of

a notice of completion for such Common Area facility; or (b) the placement into use of the particular Common Area facility. Subject to the limitations of California Civil Code Section 1366, as same may be amended, from time to time, from and after the first day of the fiscal year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Assessment may be increased subject to the following limitations:

(a) Increases in Regular Assessments for any fiscal year which are less than or equal to twenty percent (20%) above the maximum Regular Assessment for the immediately preceding fiscal year may be approved by the Board, provided that the Board shall: (1) comply with the provisions set forth in Section 1365(a) of the California Civil Code with respect to the distribution of the pro forma operating budget of the Association for the forthcoming fiscal year; or (2) obtain the approval of Owners, constituting a quorum and casting a majority of affirmative votes at a meeting or an election of the Association conducted in accordance with California Corporations Code Sections 7510, et seq., and Sections 7613, et seq. For purposes of this entire Section 3, a quorum means Owners representing more than fifty percent (50%) of the of the total voting power of the Association;

(b) Increases in Regular Assessments for any fiscal year which are greater than twenty percent (20%) above Regular Assessments for the immediately preceding fiscal year may be approved by the Board only after the Board obtains the approval of Owners, constituting a quorum and casting a majority of affirmative votes at a meeting or election of the Association, conducted in accordance with Sections 7510, et seq., and Section 7613 of the Corporations Code; and

(c) The Assessment increases limitation set forth in Subsection (b) above does not apply to increases in Assessments related to emergency situations, which shall be deemed to include the following:

(1) Extraordinary expenses required by an order by a court of competent jurisdiction;

(2) Extraordinary expenses for the maintenance or repair of Association Property that is necessary to remedy any dangerous condition in the Project that represents a threat of damage or injury to any person or property; and

(3) Extraordinary expenses necessary to repair or maintain the Association Property that could not have been reasonably anticipated by the Board at the time the most recent Association budget was prepared. Notwithstanding the foregoing, in the event that the Board increases the Regular Assessment above twenty percent

(20%) pursuant to this Subparagraph (3), the Board shall distribute written notice concerning such increase to all Owners and a copy of a resolution adopted by the Board setting forth: (i) the necessity of the extraordinary expenses; and (ii) the justification why said expenses were not reasonably foreseeable at the time the most recent budget was prepared. For the purpose of calculating whether an increase to Regular Assessments exceeds twenty percent (20%), the term "Regular Assessments" shall be deemed to include the amount assessed against each Lot by the Association as a Regular Assessment, plus any amount paid by the Declarant as a subsidy or pursuant to any subsidy or maintenance agreements, to the extent such subsidy payments offset an amount which would otherwise be paid by Owners as Regular Assessments.

The Board may fix the Regular Assessment at an amount not in excess of the maximum Regular Assessment. So long as Declarant is offering Lots for sale pursuant to a Final Subdivision Public Report, the Regular Assessment may not be decreased by ten percent (10%) or more without the express prior written consent of the Declarant and the DRE. The Association may, upon ratification by a majority of the Board, enter into an agreement with Declarant, its successors or assigns, to reduce or abate Assessments, upon such terms and conditions as may be agreed to by the parties.

Section 4. Special Assessments for Capital Improvements. In addition to the Regular Assessments authorized above, the Board may not, subject to the limitations of California Civil Code Section 1366, without the vote or written approval of Members constituting a quorum (which shall mean more than fifty percent [50%] of Owners of the Association) casting a majority of affirmative votes at a meeting or election of the Association, conducted in accordance with Sections 7510, et seq., and 7613 of the Corporations Code, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The five percent (5%) limitation shall not apply to increases in Special Assessments related to an emergency situation which shall be deemed to include the following:

(a) Extraordinary expenses required by an order by a court of competent jurisdiction;

(b) Extraordinary expenses for the maintenance or repair of Common Area that is necessary to remedy any dangerous condition in the Project that represents a threat of damage or injury to any person or property; and

(c) Extraordinary expenses necessary to repair or maintain the Common Area that could not have been reasonably anticipated by the Board at the time the most recent Associ-

ation budget was prepared. Notwithstanding the foregoing, in the event the Board levies any Special Assessment that exceeds the five percent (5%) limitation pursuant to this Section, the Board shall distribute written notice concerning said Special Assessment to all Owners and a copy of a resolution adopted by the Board setting forth: (1) the necessity of said Special Assessment; and (2) the justification why said Special Assessment was not reasonably foreseeable at the time the most recent budget was prepared.

Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments.

Section 5. Compliance Assessments. A Compliance Assessment may not be characterized nor treated as an assessment which may become a lien against the Owner's Lot enforceable by a sale in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code; provided, however, at such time as sales of Lots in the Project are no longer governed by regulations adopted by the DRE, the foregoing shall not apply to any Compliance Assessment imposed against an Owner consisting of a reasonable late payment penalty for delinquent Assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments or imposed for costs incurred by the Association in the repair of damage to Common Area and facilities for which the Member or the Member's guests or tenants were responsible.

Section 6. Special Benefit Assessments. Special Benefit Assessments shall mean and refer to a charge levied by the Association against an Owner and his respective Lot to cover the expenses incurred by the Association in the operation, maintenance, repair, and/or funding of reserves as to a portion of the Project designated herein, or by the Board, as a "Special Benefit Area" or which is identified or referred to as an area or facility benefitting primarily the Owners within such an Area. These expenses shall be chargeable only to Owners in a Special Benefit Area, and may include, without limitation, the following:

(a) Maintenance, management, operation, repair and replacement of particular Improvements within the Special Benefit Area;

(b) Utilities or services for the benefit of Owners within the Special Benefit Area;

(c) Reasonable reserves, as deemed appropriate by the Board, for repair and replacement of any Improvements maintained by the Association within a Special Benefit Area; and

(d) Unpaid Special Benefit Assessments.

The Association shall distribute to Owners within any Special Benefit Area a pro forma operating statement and budget for the upcoming fiscal year which shall estimate the expenses attributable to the Special Benefit Area, and shall set forth the amount and payment schedule of the Special Benefit Assessments. Increases in Special Benefit Area Assessments for any fiscal year which are less than or equal to twenty percent (20%) above the maximum Special Benefit Area Assessment for the immediately preceding fiscal year may be approved by the Board, provided that the Board shall obtain the approval of Owners constituting a quorum and casting a majority of affirmative votes at a meeting or election conducted in accordance with Section 7510 et seq., and Section 7613 of the Corporations Code. For purposes of this Section, a quorum means Owners representing more than fifty percent (50%) of the voting power of the Members of Lots affected by the Special Benefit Area Assessment. The Assessment increase limitation set forth hereinabove does not apply to increases in Special Benefit Area Assessments related to emergency situations that could not have been reasonably anticipated by the Board at the time the most recent Association budget was prepared which determined the amount of the Special Benefit Area Assessments.

Section 7. Date of Commencement of Regular Assessments: Due Dates. Subject to the terms of any maintenance and/or subsidy agreement entered into by the Association and Declarant, the Regular Assessments provided for herein shall commence on the first day of the first month following the first close of escrow for the sale of a Lot, or on the first day of the first month following the first occupancy of a Lot pursuant to a rental or lease agreement with Declarant, or its authorized agents, whichever occurs first. Except as otherwise provided in this Article, the first Regular Assessments shall be adjusted according to the number of months remaining in the fiscal year as set forth in the By-Laws. The Board shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each Regular Assessment period. Written notice of the Regular Assessment shall be sent to every Owner subject thereto at least thirty (30) days in advance of each Assessment period. The due dates shall be established by the Board. Notwithstanding any other provisions of this Declaration, until the earlier to occur of: (a) the recordation of a Notice of Completion of an Improvement to the Common Area; or (b) the placement into use of the Common Area, each Owner (including Declarant) may be declared by the Board to be exempt from paying that portion of the Regular Assessment which is directly attributable to expenses and reserves to be incurred by the Association in the maintenance, operation and repair of such Common Area.

Section 8. Collection of Assessments. Except as otherwise provided above, Regular and Special Assessments shall be levied at a uniform rate for all Lots and may be collected on a monthly basis. If any installment of a Regular Assessment is less than the amount assessed and the payment does not specify the

Association funds or fund into which it should be deposited, the receipt by the Association from that Member shall be credited in order of priority first to the operating fund, until that portion of the Regular Assessment has been satisfied, and second to the reserve fund. Compliance Assessments and Special Benefit Assessments shall be due thirty (30) days after such Assessment has been levied unless otherwise determined by the Board in a manner consistent with Civil Code Section 1366, as may be amended from time to time.

Section 9. Notice of Increase in Assessments. The Board shall provide to the Owners, by first class mail to the address on file with the Association, notice of any increase in Regular, Special, and/or Special Benefit Assessments not less than thirty (30) nor more than sixty (60) days prior to such increase becoming due.

Section 10. Certification of Payment. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Lot have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 11. Delivery by Owner. Each Owner of a Lot shall, as soon as practicable prior to the transfer of title to the Lot or the execution of a real property sales contract, as defined in California Civil Code, Section 2985, or as may be amended, from time to time, give to the prospective purchaser a copy of this Declaration and copies of the By-Laws and Articles of the Association, and a true statement, in writing, from the Board as to the amount of the Association's current Regular and Special Assessments and fees, as well as any delinquent Assessments and information relating to penalties, attorneys' fees and other charges authorized by this Declaration on the Lot as of the date the statement is issued, and any change in the Association's current Assessments and fees which have been approved by the Board but have not become due and payable as of the date disclosure is provided pursuant to this Section.

Section 12. Delivery by Declarant. Within ninety (90) days following the first close of escrow for the sale of a Lot in the Project, or as soon as reasonably obtainable, the Declarant shall provide the Association with copies of the (1) recorded tract map for the Project; (2) Common Area easement and/or grant deeds; (3) this Declaration; (4) filed Articles of Incorporation; (5) the Association's By-Laws; (6) Rules and Regulations adopted by the Association, if any; (7) notice of completion certificates for Common Area, if any; (8) completion bond(s) naming the Association as a beneficiary, if any; (9) warranties for Common Area equipment or fixtures, if any; (10) insurance policies obtained for the Association; and (11) membership register, to the extent it is available and if required by law.

Section 13. Reserves. The Regular Assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and replacement of all or a portion of the Common Area or any such other purpose determined by the Board. All amounts collected as reserves shall be deposited by the Board in a separate bank account for the purposes for which they were collected, and are to be segregated from and not commingled with any other funds of the Association. The expenditure of such funds shall be limited to the repair and replacement of those elements of the Common Area which must be repaired or replaced according to a reserve study as permitted by Section 1365.5 of the California Civil Code, as same may be amended from time to time.

Section 14. Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Common Area or abandonment of his Lot or combining his Lot with another residential Lot, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Association.

Section 15. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

- (a) All property dedicated to and accepted by any public authority;
- (b) All property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California. However, no land or Improvements devoted to dwelling use shall be exempt from said Assessment; and
- (c) The Common Area.

ARTICLE VII

EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION

Section 1. Effect of Nonpayment of Assessments: Remedies of the Association. Any installment of a Regular, Special, Special Benefit, or Compliance Assessment not paid within fifteen (15) days after it is due and payable, shall be deemed delinquent and the Owner shall be required to pay: (a) reasonable costs of collection, including reasonable attorneys' fees; (b) a reasonable late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater, or as may, from time to time, be established by the Board in accordance

with California law; and (c) interest on all sums imposed under this Section at an annual percentage rate not to exceed twelve percent (12%), commencing thirty (30) days after the Assessment was due. The Association need not accept any tender of a partial payment of an assessment installment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender does not waive the Association's right to demand and receive full payments thereafter. Payments for Assessments shall first be applied to the principal owed for the Assessments and only after such principal amount is paid in full, shall such payments be applied to interest or collection expenses for such Assessments. If requested by an Owner, the Association shall provide the Owner with a receipt of payment of Assessments, indicating the date of the Owner's payment of Assessments and the person who received such payment on behalf of the Association. The Association shall establish a mailing address for the overnight payment of Assessments. The Board, for and on behalf of the Association, may commence legal action against the Owner personally obligated to pay the same, or, in the case of a Regular, Special or Special Benefit Assessment, may foreclose the lien against his Lot. Such lien may also be foreclosed by a power of sale or other nonjudicial procedure provided for by the laws of the State of California. In furtherance thereof, each Owner hereby vests in the Association, its successors or assigns, the right and power to bring all actions at law or to pursue lien foreclosure against any Owner for purposes of collecting such Delinquent Assessments. To the extent permitted by law, each Owner waives, with respect to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption laws of California in effect at the time any Assessment, or installment thereof becomes delinquent or any lien is imposed.

Section 2. Notice of Delinquent Assessments. No action shall be brought to foreclose a lien for delinquent Assessments, or to proceed under the power of sale herein, unless the Association complies with all applicable provisions of law (e.g., California Civil Code Section 1367.1(a), as the same may be amended from time to time, and provisions of California Civil Code Section 2924, 2924(b), and 2924(c), as may be amended from time to time).

Section 3. Foreclosure Sale. Any foreclosure sale provided for above is to be conducted by the Board, its attorney or other persons authorized by the Board in accordance with the provisions of Sections 2924, 2924a, 2924b and 2924c of the California Civil Code, as same may be amended, from time to time, applicable to the exercise of powers of sale in Mortgages and deeds of trust, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Lot at a foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Any Owner, by acceptance of a deed for his Lot, hereby expressly waives any objection to the enforcement and foreclosure of the lien in this manner.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Delinquent Assessments or lien was filed by the Association, the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such Notice upon payment by the defaulting Owner of a reasonable fee to be determined by the Association to cover the costs of preparing and filing or recording such release.

Section 5. Cumulative Remedies. The Association's remedies for nonpayment of Assessments, including, but not limited to, an action to recover a money judgment, Assessment lien and right of foreclosure and sale, are cumulative and in addition to and not in substitution of any other rights and remedies which the Association and its assigns may have hereunder or at law.

Section 6. Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created hereunder, nor any breach of the terms and provisions of this Declaration, nor the enforcement of any term or provision hereof, shall defeat or render invalid the rights of any Mortgagee under any recorded Mortgage or deed of trust upon a Lot made in good faith and for value; provided, that after such Mortgagee or other person or entity obtains title to such Lot by judicial or nonjudicial foreclosure, such Lot shall remain subject to this Declaration and the payment of Assessments which fall due subsequent to the date of taking title.

ARTICLE VIII

USE RESTRICTIONS

The Lots and Common Area shall be occupied and used only as set forth below.

Section 1. Private Residential Dwelling. Except as otherwise provided in this Declaration, each Lot shall be used for residential purposes (i.e., single family dwelling purposes only and second dwellings as allowed by County Ordinance 348, Section 18.28, as the same may be amended from time to time), except such temporary uses as shall be permitted by Declarant while the Project is being developed and Lots are being sold by Declarant; provided, however, that Declarant reserves unto itself, and its successors and assigns, together with the right to grant and transfer all or a portion of the same, for so long as Declarant owns any interest in Tract No. 36327, the right to carry on normal sales activity on the Project, including the operation of models, sales office, design center and parking area, provided Declarant shall not unreasonably interfere with any other Owner's use of the Common Area.

Section 2. Common Area Use. Use of the Common Area shall be subject to the provisions of this Declaration, the Rules

and Regulations and to any additional limitations imposed by any of the other Association management documents, and to any additional limitations imposed by the Association or Board.

Section 3. Conduct Affecting Insurance. Nothing shall be done or kept in any Lot or in the Common Area which will increase the rate of insurance on the Common Area without the approval of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which will result in the cancellation of insurance on the Common Area or which would be in violation of any law. If, by reason of the occupancy or use of said premises by the Owner, the rate of insurance to the Common Area shall be increased, the Owner shall become personally liable for the additional insurance premiums.

Section 4. Liability for Damage. Each Owner shall be liable to the Association, pursuant to the laws of the State of California, for any and all costs and expenses which may be incurred by the Association to repair any damage to the Common Area which be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, lessees or contract purchasers, or their respective guests or invitees, whether minor or adult. After approval by a majority of the Board, any such costs and expenses shall be levied by the Board as a Compliance Assessment against such Owner's Lot.

Section 5. Signs. Subject to Civil Code Sections 712, 713, 1353.5 and 1353.6, and California Government Code Section 434.5, as same may be amended from time to time, no sign, advertising device or other display of any kind shall be displayed in the Project or on any public street in or abutting the Project except for the following signs:

(a) entry monuments, community identification signs, and traffic or parking control signs maintained by the Association;

(b) for each Lot, one (1) nameplate or similar Owner name or address identification sign;

(c) for each Lot, one (1) sign advising of the existence of security services protecting a Lot;

(d) for each Lot, one (1) sign advertising the Lot for sale or lease that complies with the following requirements:

(1) the sign is not larger than such signs commonly utilized for similar purposes by a real estate company licensed to conduct business in the State of California;

(2) the sign is attached to the ground by a conventional, single vertical stake which does not exceed normal size standards for signs commonly utilized for similar purposes by a real estate company licensed to conduct business in the State of California;

(3) the top of the sign is not taller than such signs commonly utilized for similar purposes by a real estate company licensed to conduct business in the State of California; and

(4) other signs or displays authorized by the County.

Section 6. Maintenance of Animals. Animals may be raised, bred, or kept in any Lot only if authorized by, and subject to the conditions specified in, the applicable ordinances of the County which limit, restrict, and/or govern the type and amount of animals allowed. Each owner of an animal shall be responsible for cleaning up any excrement or other unclean or unsanitary condition in the Project caused by the owner's animal. While walking or exercising an animal in the Project, the owner thereof shall, at all times, have readily available means to cleanup any excrement or other unclean or unsanitary conditions caused by said animal. The Association, upon the approval of two-thirds (2/3) of the Board, shall have the right to prohibit maintenance of any animal within the Project which constitutes a private nuisance to any other person. Every person bringing an animal upon or keeping an animal in the Project shall be liable pursuant to the laws of the State of California to each and all persons for any injury or damage to persons or property caused by such animal. All pets belonging to Owners, tenants, lessees or guests must be kept within an enclosed area or stable or on a leash or tether being held by a person capable of controlling the animal.

Section 7. Quiet Enjoyment. No Owner shall permit or suffer anything to be done or kept upon such Owner's Lot which will obstruct or interfere with the rights of quiet enjoyment of the other occupants, or annoy them by unreasonable noises (e.g., inappropriate use of horns) or otherwise, nor will any Owner commit or permit any nuisance on the premises or commit or suffer any immoral or illegal act to be committed thereon. Notwithstanding the foregoing, for as long as Declarant owns an interest in the Project, the Declarant's efforts in selling the Lots may interfere with the Owners' quiet enjoyment of the Lots. Each Owner acknowledges the foregoing and waives any claims against the Declarant for nuisance due to any activity related to constructing, selling or marketing the Lots. Each Owner shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to said premises, and shall remove all rubbish, trash and garbage from his Lot. All clotheslines, refuse containers, woodpiles, storage boxes, tools and equipment

shall be prohibited from any Lot unless obscured from view by a fence or appropriate screen.

Section 8. Structural Changes. Each Owner shall obtain all necessary permits and approvals from the County and other governmental entities exercising jurisdiction over the Project before undertaking any exterior structural alteration, construction or removal of any Residence, fence, wall, or other structure whatsoever in the Project. Nothing in this Declaration or the Rules and Regulations shall require the installation of an Improvement in any manner which violates Civil Code Section 1353.7 (relating to the installation and repair of a roof).

Section 9. Improvements. Each Owner shall obtain all necessary permits and approvals from the County and other governmental entities exercising jurisdiction over the Project before undertaking any exterior construction, alteration or removal of any Improvement in the Project (other than those repairs or rebuilding permitted under the Article entitled "Damage or Destruction to the Common Area"). No Improvement shall be constructed upon any portion of any Common Area, other than such Improvements as shall be constructed: (a) by the Declarant (or a person or entity to whom Declarant assigns its rights as developer), or (b) by the Association as provided herein.

Section 10. Commercial Activity. No business, commercial, manufacturing, mercantile, storage, vending or industrial operations of any kind shall be conducted in or upon any Lot or the Common Area, except such temporary uses as shall be permitted by Declarant. Notwithstanding the foregoing, this Section shall not preclude an Owner from maintaining a home-office and conducting business activities therefrom on the following conditions: (a) there is no external evidence of such activity; (b) such activities are conducted in conformance with all applicable government laws (e.g., all necessary permits and/or licenses are obtained); (c) the patrons or clientele of such activities do not visit the Residence or park automobiles or other vehicles within the Project; (d) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Residence or Lot; (e) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (f) such activities are consistent with the residential character of the Project and conform with the provisions of this Declaration. Until such time as Declarant no longer has an ownership interest in Tract No. 36327, no Owner or the Association shall use a Residence as an office for the rental, resale or leasing of Lots without the prior written consent of Declarant.

Section 11. Parking. All vehicles in the Project shall be parked in accordance with the following:

(a) Parking in Project. The streets within the Project are private and subject to the Protective Covenants of this Declaration (including the Rules and Regulations), as well as all applicable laws, ordinances and regulations of all governmental agencies having jurisdiction over the Project. The Board may, from time to time, establish Rules and Regulations governing and imposing restrictions on the type of vehicles permitted in the Project (including, among other things, restrictions on where commercial and recreational vehicles may be stored and parked), and the operation, parking, storage, maintenance (including washing and polishing), and repair of vehicles in the Project. All Owners must comply with the Rules and Regulations. Except as permitted in the Rules and Regulations, no parking is permitted on the streets in the Project or in those areas, if any, depicted on Exhibit "B" attached hereto and incorporated by this reference. No vehicle shall block or impede access of fire fighting equipment to or through the private streets or fire hydrants in the Project.

Section 12. Regulation of Parking. Subject to the rights of the Association, through its officers, committees and agents, the Board is hereby empowered to establish "parking" and "no parking" areas within the Common Area, in accordance with Section 22658.2 of the California Vehicle Code, or any similar statute hereafter enacted, as well as to enforce these parking limitations by all means lawful for such enforcement, including, but not limited to, the levying of fines and the citing and towing of vehicles. Parking is limited in accordance with signs installed by Declarant or authorized by the County. The Board shall have the authority to tow away and store any vehicle or similar equipment parked in violation of the above limitations whether the same shall belong to any Owner or a member of his/her family or to any tenant, lessee, guest or invitee of any Owner. Charges for such towing and storing shall be assessed against the Owner of the Residence which is responsible for the violation of such restrictions, and such assessment may be enforced as a Compliance Assessment.

Section 13. Compliance With Management Documents. All Owners shall be Members of the Association and shall comply with the terms and conditions as set forth herein and in the Articles and the By-Laws, and all Rules and Regulations of the Association. No Owner shall transfer any membership or interest in the Association, except upon the transfer of the Lot to which it is appurtenant.

Section 14. Declarant's Improvements. Nothing in this Article or elsewhere in this Declaration shall limit the right of Declarant to complete construction of any Improvements to the Common Area and/or to any Lot, or to alter the foregoing or to

construct such additional Improvements to the Common Area and/or any Lot as Declarant deems advisable prior to completion and sale of all Lots in Tract No. 36327 (i.e., there is no need for the Declarant to apply for or obtain any approvals from the Board for such construction). For example, the Declarant may install Improvements in the yard of a Lot following the close of escrow of such Lot to an Owner. The rights of Declarant under this Declaration may be assigned by Declarant to any successor to all or any part of Declarant's interest in the Project, as developer, by an express assignment incorporated in a recorded deed transferring such interest to such successor. Any Improvements constructed by Declarant will be approved for that property, but may not necessarily be allowed by the Board for other property in the Project which is not subject to the Declarant exemption.

Section 15. Solar Heating. Each Owner shall have the right to place and maintain equipment and facilities related to the installation and maintenance of individual solar heating systems within his Lot. The installation and maintenance of any solar system by an individual Owner shall be subject to all applicable zoning regulations, the Uniform Building Code and County associated ordinances. At a minimum, any solar panels are to be integrated with the roof design with the panels and frame colored to match the roof or bronze anodized. By acceptance of a deed to a Lot in the Project, each Owner acknowledges that the Solar Shade Control Act, codified at California Public Resources Code Sections 25980 et seq., as the same may be amended from time to time, may impact the landscaping improvements that an Owner may maintain on his or her Lot. Currently, under the Solar Shade Control Act, an Owner may not allow a tree or shrub to be placed, or if placed, to grown on the Owner's Lot so as to cast a shadow that is greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time; provided, however, that the foregoing restriction applies only to a tree or shrub planted after the installation of a solar collector and does not apply to a tree or shrub planted prior to the installation of a solar collector. Prior to making any Improvements on a Lot, an Owner shall consider whether the proposed Improvements will shade the absorption area of a solar collector that has been installed on another Lot. Each Owner shall be solely responsible for complying with the Solar Shade Control Act. The Board shall not be responsible for enforcing any Owner's compliance with the Solar Shade Control Act or resolving any disputes between Owners which may arise under the Solar Shade Control Act. By acceptance of a deed to a Lot, each Owner also acknowledges and agrees that, if a solar collector is installed on another Lot, the Solar Shade Control Act, as amended, may preclude (a) the future planting of any trees or the planting of medium or large trees on the Owner's Lot, (b) the installation of any upper-floor additions, roof-top structures or other tall Improvements on the Owner's Lot, and (c) the growth of tree and shrubs to mature heights on the Owner's Lot.

Section 16. Antenna Restriction. Unless otherwise required by law, no Person may install any antenna or over-the-air receiving device except for an "Authorized Antenna" as defined in this Section. An Authorized Antenna is (i) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, or (ii) an antenna designed to receive video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement, (iii) an antenna designed to receive television broadcast signals, or (iv) an antenna used to receive and transmit fixed wireless signals. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to local governmental agency permitting requirements for safety purposes.

Section 17. Leasing. Unless otherwise prohibited by FNMA, GNMA, FHLMC, or VA/FHA, no Owner shall be permitted to rent or lease his Lot for transient or hotel purposes or for a period of less than thirty (30) days. All rental and lease agreements shall be in writing and the Owner shall provide a copy of such to the Board or the property management company as set forth in the Rules and Regulations and shall provide that the terms of such agreement shall be subject in all respects to the provisions of this Declaration, Rules and Regulations, By-Laws and Articles, and that any failure by the tenant or lessee to comply with the terms of such documents shall constitute a default under such agreement.

Section 18. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Project, nor shall oil wells, tanks, tunnels or mineral excavations be permitted upon or in the Project. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted in the Project.

Section 19. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in covered sanitary containers approved by the County located in garages, or appropriate paved areas screened and concealed from view by a fence, wall or other screen, or in such portions of the Project, if any, improved with trash receptacles provided for the use of all Owners, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. All such refuse which is put out for pickup, shall be in conformance with all appropriate standards established by the County or governing agency. If trash will be collected from each individual Lot, appropriate sanitary containers may be exposed to the view of neighboring Residences only when set out on the street no earlier than 5:00 p.m. the night prior to the trash pick-up day and removed

from the street within twelve (12) hours after pickup, unless otherwise modified in writing by the Board.

Section 20. Drainage. There shall be no interference with the established drainage pattern over any Lot within the Project as to affect any other Lot or the Common Area, unless adequate alternative provision is made for proper drainage. For purposes hereof, "established" drainage is defined as the drainage which exists at the time such Lot is conveyed to a purchaser from Declarant, or later grading changes that are shown on plans approved in writing by the County. The Association is responsible for maintaining any drainage facilities described and depicted on an Exhibit to this Declaration (e.g., see Exhibit "D" attached hereto); each Owner is responsible for maintaining the natural drainage system on his Lot. Each Owner agrees not to obstruct, retard or otherwise interfere with, in any manner whatsoever, any drainage swales, or to perform any grading or construction on his Lot which may result in creating an excessive amount of surface water runoff (i.e., an amount of water beyond the flow originally intended and provided for by the County approved grading plan for the Project) to flow into any drainage facilities. No Owner shall interfere with any drainage facilities or the maintenance, repair, or replacement of any drainage facilities maintained by the Association.

Section 21. Prohibition Against Further Subdivision. No Owner shall make any conveyance, execute any document or map, or enter into any contract which shall purport to further subdivide or combine any Lot in any manner whatsoever, including, without limitation, subdividing such Lot into additional lots, condominiums, stock cooperatives or timeshare uses, whether by map, deed or contract. Any such conveyance, document, map or contract shall be void and of no force or effect whatsoever.

Section 22. Patios, Balconies, and Yards. Patios, balconies, and yards, and all furniture, plants and other improvements situated therein, shall be kept at all times in a neat, clean, safe and attractive condition. Clothes, towels, blankets, laundry, or clotheslines shall not be placed on or hung from any patio or balcony, or any portion of the Common Area, where doing so would be visible from any other Lot, the Common Area or the public. Patios, balconies, and yards shall not be used for storage of any items.

Section 23. Exemption of Declarant. Nothing in this Article or elsewhere in this Declaration shall limit, restrict, abridge or control, in any manner whatsoever, the rights of Declarant to complete the planning, development, grading, construction, advertising, marketing, leasing and sales of the Lots, and all other property within the Project, including, without limitation, the following specific rights, which may be exercised by Declarant, or by its agents and employees, in conjunction with such development and marketing of the Lots in the Project:

(a) The right to maintain and operate one (1) or more advertising, sales or leasing office(s), and construction trailer(s), construction parking areas, temporary utility facilities and/or lines, and parking area for employees located upon any Lot(s) owned by Declarant or upon any Common Area without payment of rent or approval of the Association;

(b) The right to post and display from any Lot(s) owned or controlled by Declarant or from any Common Area any sign, flag, banner, billboard or other advertising which Declarant may, in its sole discretion, deem appropriate, irrespective of size, color, shape or materials of such items, except to the extent that the exercise of said right conflicts with any provisions of the County's ordinances or other applicable governmental regulations;

(c) The right to install, place, replace, construct, reconstruct, modify or remove any Improvement from any Lot owned or controlled by Declarant, from any Common Area, as Declarant may, in its sole discretion, deem appropriate; provided that in the event Declarant removes any Association owned Improvement from any Common Area without the express prior written consent of the Board, Declarant shall replace such Improvement with an Improvement of substantially similar value, appearance and utility within a reasonable period following completion of any work necessitating the removal of the Improvement;

(d) The right to install landscaping, irrigation and other Improvements for Owners of Lots as long as Declarant owns any property in Tract No. 36327;

(e) The right to conduct any commercial activity upon any Lot owned or controlled by Declarant or upon any Common Area which reasonably relates to the development, marketing, leasing or sales of the Lots in the Project; and

(f) The right to park vehicles upon any Lot owned or controlled by Declarant or upon any Common Area.

All or any portion of the rights of Declarant herein and elsewhere in this Declaration may be assigned by Declarant to any successor-in-interest in the Project by an express written assignment recorded in the Office of the County Recorder.

Section 24. No Easements for View Purposes; Disclaimer. Neither Declarant, the Board, or the members, employees or consultants of any of the foregoing, have made any representations whatsoever concerning the view, if any, that a particular Lot or other Improvement thereon will enjoy. Notwithstanding anything herein to the contrary, including exhibits attached hereto, there are no express or implied easements or rights whatsoever appurtenant to any Lot for view purposes, or for the passage of

light and air. Each Owner, by accepting a deed to a Lot, hereby expressly acknowledges and agrees that further construction within the Project or outside the boundaries of Tract No. 36327, may impair the view, if any, from such Owner's Lot, and each Owner hereby expressly consents to any such impairment and understands that no Owner has any right to a view and Improvements in the Project will impair any view. Neither the Declarant nor the County make any claim, warranty, or guarantee that views from any Lot will be preserved as development of surrounding properties occurs.

Section 25. Public Right-of-Way. No Owner shall construct any Improvement in the public right-of-way or public utility easement adjacent to or within the Project, if applicable, unless the Owner obtains all necessary permits from the County, public utility company, and approval from the Board, as necessary.

Section 26. Best Management Practices. All Owners and the Association must comply with the Best Management Practices set forth in the Water Quality Management Plans approved for the Project. Failure to follow such Best Management Practices may result in severe civil and criminal penalties. As required by the County, all BMPs shall be inspected and, if required, cleaned no later than October 15th of each year.

Section 27. Fuel Modification Plan Requirements. Any fuel modification or management areas, as depicted on a fuel modification plan approved by the County fire authority, shall be maintained by the Association or Owners, as applicable, as originally approved by the County. The Association shall retain a copy of all fuel modification plans approved by the County. Each Owner shall disclose the location and any fuel modification and management zone requirements applicable to his Lot to any subsequent purchaser of the Lot from such Owner. All landscaping professionals shall be required to convey ongoing maintenance requirements to the representatives of the Association. Any changes to plant materials located within fuel modification or management zones must be approved by the County and must be consistent with applicable County fire authority requirements. See Exhibit "F" for the general depiction of the Fuel Modifications and Fuel Management areas which the Association must maintain (i.e., within and adjacent to the Project).

Section 28. Compliance With County's Conditions of Approval. All Owners shall comply with the County's conditions of approval for the map of Tract No. 36327, including, without limitation, all requirements set forth on Exhibit "G" attached and incorporated by reference into this Declaration.

Section 29. No Warranty of Enforceability. While Declarant has no reason to believe that any of the Protective Covenants contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the

present or future validity or enforceability of any such Protective Covenants. Any Owner acquiring a Lot in the Project in reliance on one or more of such Protective Covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE IX

REPAIR AND MAINTENANCE

Section 1. Repair and Maintenance by Association.

Without limiting the generality of the provisions herein, including the Article entitled "Powers and Duties of the Association," the Association shall have the duty to maintain, in a neat, clean, safe, sanitary, attractive and orderly condition at all times, the Association Property designated by the Board, Declarant, in this Declaration, as generally indicated hereinbelow; provided, however, that the Declarant shall be responsible for such maintenance until the Declarant transfers, in writing, such maintenance obligation to the Association:

(a) Unless maintained by an assessment district or other public entity, the Association Property (and all Improvements thereon) to be maintained, irrigated, landscaped, repaired, improved, restored and replaced in a neat, clean, safe, attractive and orderly condition at all times shall include, but not be limited to, the following:

(1) The Improvements described and/or depicted on an Exhibit to this Declaration (e.g., see Exhibit "A" attached hereto and incorporated by this reference), if any. As required by the County, all fuel modification and management areas located within the Common Area (see Exhibit "F" attached hereto and incorporated by this reference) shall be maintained in compliance with the fuel modification plan approved by the County fire authority;

(2) If applicable, the storm water pollution control facilities and drainage facilities (e.g., any BMPs, sand filters, fossil filters, on-site basins, or other devices originally required by the County for the Project) originally installed by Declarant in those locations described and depicted on an Exhibit to this Declaration (e.g., see Exhibit "D" attached hereto and incorporated by this reference). As required by the County, all BMPs shall be inspected and, if required, cleaned no later than October 15th of each year;

(3) All common amenities, common retaining walls (if any), mailbox structures servicing multiple

Lots (if any), and Project signs and monumentation (if any);

(4) Maintaining all other areas, facilities, equipment, services, aesthetic components or other improvements of whatever nature as may, from time to time, be set forth in any budget reviewed by the DRE or as approved by the Board or Declarant;

(5) Maintaining everything that the Association is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current budget of the Association, and in conformance with any Maintenance Guidelines. Unless specifically provided in any Maintenance Guidelines or product manufacturers' maintenance recommendations or guidelines, or as commonly accepted maintenance practices may govern, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property (including the Common Area) and Improvements thereon (as set forth below, each Owner shall maintain everything that Owner is obligated to maintain in a clean, sanitary and attractive condition and in conformance with any Maintenance Guidelines and Maintenance Recommendations and product manufacturers' maintenance recommendations and guidelines, as well as commonly accepted maintenance practices); and

(6) Performing all necessary tasks required to conform with applicable County and/or State regulations.

(b) Maintain all other areas, facilities, furniture, equipment, services or aesthetic components of whatsoever nature as may, from time to time, be requested by the vote or written consent of three-fourths (3/4) of the voting power of the Members or designated by the Board; and

(c) Except as otherwise herein specified as being paid by individual Owners, the costs of maintenance, repair, restoration and replacement as provided in this Article shall be Common Expenses and shall be paid out of the general fund of the Association.

Section 2. Maintenance Manual. The Declarant may deliver to the Board a "Maintenance Manual" which sets forth the Declarant's and its consultants' recommended frequency of inspections and maintenance of various components of the Association Property (including the Common Area). The Board shall, during its meetings, determine whether the recommended inspections and maintenance activities have been followed, and, if any such recommendations have not been followed, what corrective steps, if any, need to be taken to assure proper inspection and maintenance

of the Association Property. The Board shall keep a record of such determinations in the Board's minutes. The Board shall, from time to time, make appropriate revisions to the Maintenance Manual. The Board shall review the Maintenance Manual for appropriate revisions at least on an annual basis after the Board has prepared the annual pro forma budget and reserve study required by the By-Laws.

In addition to any obligations set forth in a Maintenance Manual, the Board may have the Association Property inspected at least once every three (3) years to (a) determine whether the Association Property is being maintained adequately in accordance with applicable standards of maintenance, (b) identify the condition of the Association Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement or repair, and (c) recommend preventative actions which may be taken to reduce potential maintenance costs to be incurred in the future. The Board may employ such experts and consultants as are necessary to perform such inspection. The Board may have a report of the results of the inspection prepared. If determined appropriate by the Board, the report shall be furnished to Owners within the time set forth for furnishing Owners with the budget. The report should include at least the following:

(a) A description of the condition of the Association Property, including a list of items inspected and the status of maintenance, repair and need for replacement of all such items;

(b) A description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the budget;

(c) If any maintenance, repair or replacement is to be deferred, the reason for such deferral;

(d) A summary of all reports of inspections performed by any expert or consultant employed by the Board to perform inspections;

(e) A report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for preceding years; and

(f) Such other matters as the Board deems appropriate.

Section 3. Project Inspections. The Board shall require strict compliance with all provisions of this Declaration and shall periodically cause inspections of the Project to be conducted to report any violations thereof. The Board shall also cause inspections of the Association Property and all Improvements thereon to be conducted in conformance with the applicable

Maintenance Guidelines, and in the absence of inspection frequency recommendations in any applicable Maintenance Guidelines, at least once every three (3) years, in conjunction with the inspection required for the reserve study to be conducted as required herein, in the By-Laws or by State law, to (a) determine whether the Association Property is being maintained adequately in accordance with applicable standards of maintenance, (b) identify the condition of the Association Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (c) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future. The Board shall during its meetings, regularly determine whether the recommended inspections and maintenance activities set forth in any applicable Maintenance Guidelines have been followed and, if not followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Association Property and all Improvements thereon. The Board shall keep a record of such determinations in the Board's minutes. Until otherwise notified by the Declarant, the Board shall keep Declarant fully informed of the Board's activities under this Section. The Board shall employ, consistent with reasonable cost management, such experts, contractors and consultants as are necessary to perform the inspections and make the reports required by this Declaration, including this Section.

The Board shall prepare a report of the results of each of the inspections required by this Section, which shall comply with Section 2 above, including: For a period of ten (10) years after the date of the last close of escrow for a Lot in the Project, the Board shall also furnish to Declarant (a) the report of each inspection performed for the Board, whenever such inspection is performed and for whatever portion of the Common Area that is inspected, within thirty (30) days after the completion of such inspection, and (b) the most recent inspection report prepared for any portion of the Association Property, within ten (10) days after the Association's receipt of a written request therefor from Declarant.

Section 4. Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in this Declaration (including Section 1 above), each Owner shall maintain his Lot and any Residence and all other Improvements located on or servicing such Owner's Lot in a neat, clean, safe and attractive condition at all times, and make all repairs as they may be required. Each Owner shall maintain everything that the Owner is obligated to maintain in a clean, sanitary and attractive condition and in conformance with any Maintenance Guidelines and Maintenance Recommendations and product manufacturers' recommendations and guidelines, as well as commonly accepted maintenance practices.

Section 5. Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore the underground facilities or public utilities which are located within easements in the Common Area owned by such public utilities. However, the Association shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 6. Damage and Destruction Affecting a Residence - Duty to Rebuild. In the event any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Residence to repair or reconstruct said Residence in a manner which will restore it to its condition and appearance immediately prior in time to such damage or destruction. The affected Owner shall be obligated to proceed, with all due diligence hereunder, and shall be responsible for commencing reconstruction within three (3) months after the damage occurs, and completing such reconstruction as soon as reasonably possible thereafter.

Section 7. Owners' Cooperation for Maintenance. The Owners of Residences which are located on adjacent Lots shall cooperate with each other as is reasonably necessary to enable each Owner to properly maintain and repair his respective Residence and/or to mitigate any damage to his Residence.

ARTICLE X

ENVIRONMENTAL AND OTHER DISCLOSURES AND REQUIREMENTS

Section 1. Environmental Requirements.

(a) Duties and Obligations of the Owners. To reduce and/or eliminate negative effects on the environment within the Project, all Owners and/or tenants, as applicable, shall:

(1) Not discharge toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservatives, and other such fluids are discharged to the public right-of-way, public or private, or into any storm water drainage or conveyance systems. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers and other such chemical treatments shall be in accordance with the recommended County guidelines on Best Management Practices as prescribed in their respective containers.

(2) Use Best Management Practices, as described in Water Quality Management Plans applicable to

the Project to eliminate or reduce surface pollutants when planning any changes to the landscaping and surface improvements to the Project when conducting any activities that may impact water quality (i.e., paint brush washing, lettering, etc.).

(b) Duties and Obligations of the Association. Notwithstanding anything to the contrary set forth herein, the Association shall:

(1) Contract with a contractor to perform all activities required to comply with all Best Management Practices applicable to the Project, including, without limitation, the following:

- i) If applicable, maintain any storm water drainage facilities described and depicted on Exhibit "D" attached hereto;
- ii) Provide efficient irrigation systems on all landscaped areas in the Association Property (e.g., if and as depicted on Exhibit "A" attached hereto);
- iii) Minimize irrigation runoff by using controllers to provide several short watering cycles;
- iv) Immediately correct any irrigation design or maintenance deficiencies which cause excessive runoff;
- v) Prohibit application of fertilizers within three (3) days prior to an anticipated rain;
- vi) Follow all fertilizer applications with light irrigation to permit fertilizer to soak into the landscaped area;
- vii) Dispose of waste properly;
- viii) Periodically provide, and maintain appropriate records of, educational programs to Lot Owners and other residents within the Project on good housekeeping, the use of pesticides, herbicides, fertilizers, proper disposal of wastes, and other storm water pollution prevention measures in accordance with the Water Quality Management Plans or annually if not specified;
- ix) Comply with and perform all obligations pertaining to any stormwater facilities

set forth in the Water Quality Management Plans applicable to the Project (including, without limitation, inspecting all stormwater facilities after all major storms and at the minimum frequencies set forth in such Water Quality Management Plans, submitting a stormwater inspection report to the County once a year, etc.).

ARTICLE XI

DAMAGE OR DESTRUCTION TO THE COMMON AREA

Section 1. Restoration of Damaged Common Area. Except as otherwise provided in Section 2 hereinbelow, damage to or destruction of all or any portion of the Common Area shall be handled in the following manner:

(a) In the event of damage to or destruction of the Common Area, and the insurance proceeds are sufficient to effect total restoration, the Association shall, as promptly as is practical, cause the Common Area to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.

(b) If the insurance proceeds available are at least ninety percent (90%) of the estimated cost of total repair and reconstruction to the Common Area, the Association shall, as promptly as practical, cause such Common Area to be repaired and reconstructed in a good workmanlike manner to its condition prior to the damage or destruction, and the difference between the insurance proceeds and the actual cost shall be levied by the Association as a Special Assessment against each of the Lots on an equal basis.

(c) If the insurance proceeds available are less than ninety percent (90%) of the estimated cost of total repair and reconstruction to the Common Area, the Owners shall, by the written consent or vote of a majority of the Owners, determine whether:

(1) To restore the Common Area as promptly as practical to its condition prior to the damage or destruction, and to raise the necessary funds over and above the insurance proceeds available by levying Assessments against each of the Lots on an equal basis; or

(2) To restore the Common Area in a way which utilizes all available proceeds and an additional amount not in excess of ten percent (10%) of the estimated cost of total reconstruction and repair to the Common Area, and which is assessable as provided above to all Lots,

but which is less expensive than restoring the Common Area to its condition prior to the damage or destruction.

Section 2. Election by Owners Not to Restore Damaged Common Area.

(a) Notwithstanding the provisions set forth in Section 1 hereinabove, in the event sixty-seven percent (67%) of the Owners, other than Declarant, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, the Owners may not elect to rebuild or restore the Common Area and to disburse the available insurance proceeds to the general fund of the Association.

(b) In the event the Owners shall have so voted not to rebuild the Common Area, the Common Area shall be cleared and landscaped and the cost thereof shall be paid for out of the available insurance proceeds prior to their distribution to the general fund of the Association.

(c) In the event the Owners shall have so voted not to rebuild the Common Area, unless the County shall agree to the contrary, it shall be the obligation of the Association and each of the Owners to rebuild the utilities and open spaces, at least to the extent said utilities and open spaces were accepted initially by the County in lieu of payment of fees due pursuant to law.

Section 3. Retention of Excess Insurance Proceeds in General Fund. In the event any excess insurance proceeds remain after restoring the destroyed Common Area pursuant to this Article, the Board shall retain such sums in the general fund of the Association.

ARTICLE XII

CONDEMNATION

Section 1. Distribution of Awards - Common Area. A condemnation award affecting all or any portion of the Common Area shall be remitted to the general fund of the Association.

Section 2. Board of Directors as Attorney-in-Fact. All Owners hereby appoint the Board as their special attorney-in-fact to handle the negotiations, settlements and agreements pertaining to any condemnation affecting only the Common Area.

ARTICLE XIII

COVENANT AGAINST PARTITION

Section 1. Covenant Against Partition. By acceptance of his deed, each Owner shall be deemed to covenant for himself, and for his heirs, representatives, successors and assigns, that he will not institute legal proceedings to effect judicial partition of his interest in the Project, unless the Project: (a) has been in existence in excess of fifty (50) years, (b) is obsolete and uneconomical, and (c) the Owners of fifty percent (50%) of the total of all Lots in the Project join in such action for partition.

ARTICLE XIV

INSURANCE

Section 1. Required Insurance Coverage. The Association, acting by and through the Board, shall obtain for the Association and shall maintain and pay the premiums for the following insurance coverage:

(a) Casualty and Fire Insurance. A policy or policies of casualty and fire insurance with extended coverage endorsement in an amount equal to one hundred percent (100%) of the current replacement cost (without deduction for depreciation or co-insurance) of the Common Area, together with all Improvements located thereon. Said policies shall be primary and shall be maintained for the benefit of the Association and Owners. The coverage does not need to include land, foundations, excavations or other items normally excluded from such coverage. Such policy or policies must contain, if required and if obtainable:

- (1) An Agreed Amount and Inflation Guard Endorsement;
- (2) Construction Code Endorsements (such as Demolition Cost Endorsement);
- (3) A Contingent Liability from Operation of Building Laws Endorsement; and
- (4) An Increased Cost of Construction Endorsement, if there is a construction code provision which would become operative and require changes to undamaged portions of any Improvements or the Common Area.

(b) Public Liability Insurance. A policy or policies of full coverage public liability insurance (with cross-liability endorsement, if obtainable) insuring the Associ-

ation, the Board, the Owners, the Declarant, and the agents and employees of each of the foregoing against any liability to the public or to any Owner, his family, invitees and/or tenants, arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area. The limits of liability under this Section shall be set by the Board and shall be reviewed at least annually by the Board and increased or decreased at the discretion of the Board; provided, however, that said limits shall not be less than Three Million Dollars (\$3,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence if required by applicable law (e.g., Civil Code 1365.9, etc.); provided further, if FHLMC, FNMA, and/or VA/FHA participate in the financing of Lots in the Project, said limits shall not be less than the minimum limits required under the then current FHLMC, FNMA, VA/FHA regulations.

(c) Fidelity Bonds. Officers' and Directors' errors and omissions insurance, and fidelity bonds naming all persons signing checks or otherwise possessing fiscal responsibilities on behalf of the Association, including, but not limited to, officers, Directors, trustees and employees of the Association, and officers, employees and agents of any management company employed by the Association who handle or are responsible for the administration of Association funds. Such coverage shall be in an amount deemed reasonably appropriate by the Association, but shall not be less than the estimated maximum funds, in the custody of the Association, or twenty-five percent (25%) of the estimated annual operating expenses of the Project, plus reserves, whichever is greater. In addition, if the Association enters into an agreement for professional management of the Project, the Association shall require such company to submit evidence of its fidelity bond coverage to the same extent as the Association's coverage. The Association shall be named as an additional obligee in the management agent's bond.

(d) Liability. If the Board determines the coverage is necessary and reasonably cost effective, it may obtain coverage necessary to comply with Civil Code Section 1365.7, e.g., one (1) or more policies of insurance which include coverage of at least One Million Dollars (\$1,000,000.00) for (i) general liability for the Association and (ii) individual liability of officers and Directors of the Association for negligent acts or omissions in such capacity.

Section 2. Optional Insurance Coverage. The Association, acting at its option and by and through the Board, may purchase such additional coverage or other insurance as it may deem necessary or appropriate, or otherwise financially beneficial for the Owners, including, but not limited to, earthquake insurance, automobile liability insurance, flood insurance, Workers' Compensation Insurance and plate glass insurance.

Section 3. Notice of Cancellation of Insurance. All policies of insurance maintained by the Association pursuant to this Article shall contain a provision that coverage under said policies may not be canceled, terminated, allowed to expire by their own terms, or be substantially modified by any party without at least thirty (30) days' prior written notice to the Board, to each Owner and to such first Mortgagees who have filed written requests with the Association for such notice. A list of the Owners and such first Mortgagees shall be made available by the Association to the insurance carrier upon request.

Section 4. Review of Coverage. The Board shall annually determine whether the amounts and types of insurance coverage that it has obtained pursuant to this Article shall provide adequate coverage for the Project, based upon the then current construction costs, insurance practices in the area in which the Project is located and all other factors which may indicate that either additional insurance coverage or increased coverage under the existing policies is necessary or desirable to protect the interests of the Association, the Owners and their respective Mortgagees. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain same.

Section 5. Waiver by Owners. As to all policies of insurance maintained by the Association which will not be voided or impaired thereby, each Owner hereby waives and releases all claims against the Association, the Board, the Declarant and the agents and employees of each of the foregoing, and all other Owners, with respect to any loss covered by such insurance, whether or not caused by the negligence of, or breach of, any agreement by said persons, but only to the extent of the insurance proceeds received in compensation for such loss.

Section 6. Premiums, Proceeds and Settlement. Insurance premiums for all blanket insurance coverage and any other insurance coverage which the Board has determined is necessary to protect the interests of the Association, the Owners and their respective Mortgagees, shall be a Common Expense to be included in the Regular Assessments levied by the Association. All insurance proceeds paid to the Association shall be disbursed as follows: (a) in the event of any damage or destruction to the Common Area, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage or Destruction to the Common Area"; and (b) in the event of any other loss, the proceeds shall be disbursed as the Board shall deem appropriate, subject to the limitations set forth in the Article herein entitled "Mortgagee Protection." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) Directors may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and its Members.

Section 7. Rights and Duties of Owners to Insure.

Nothing herein shall preclude any Owner from carrying any casualty and fire insurance for his Residence and all personal property within his Residence, and/or public liability insurance as he may deem desirable to cover his individual liability for damage to person or property occurring inside his individual Lot or elsewhere upon the Project. Each Owner hereby acknowledges and agrees that the Association does not maintain any property or liability insurance for an Owner's Lot. If obtainable, any liability insurance coverage carried by an Owner shall contain a waiver of subrogation of claims against the Declarant, the Association, the Board, their agents and employees, and all other Owners. Such other policies shall not adversely affect or diminish any liability under insurance obtained by the Association. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction for application by the Board to the same purposes as the reduced proceeds are to be applied.

Section 8. Trustee for Policies.

The Association is hereby appointed and shall be deemed trustee for the interests of all insureds under the policies of insurance maintained by the Association. All insurance proceeds under such policies shall be paid to the Board, as trustees, and the Board shall have full power to receive such funds on behalf of the Association, the Owners and their respective Mortgagees, and to deal therewith as provided for in this Declaration.

Section 9. Mortgage Clause.

All insurance policies should have the "standard mortgage clause," or equivalent endorsement, providing that coverage of a Mortgagee under the insurance policy will not be adversely affected or diminished by an act or neglect of the Mortgagor, which is commonly accepted by private institutional mortgage investors in the area in which the Project is located, unless such coverage is prohibited by applicable law. Mortgages owned by FNMA must name as a Mortgagee either FNMA or the servicers for the Mortgages held by FNMA encumbering the Residences. When a servicer is named as the Mortgagee, its name should be followed by the phrase "its successors and assigns." If the Mortgage is owned in whole by FHLMC, the name of the servicer of the Mortgage followed by the phrase "its successors and assigns, beneficiary" should be named as Mortgagee instead of FHLMC. The mortgage clause should be endorsed to fully protect FHLMC's interests or the interest of FHLMC and the servicer where applicable. If FHLMC must be named as Mortgagee, the endorsement should show the servicer's address in lieu of FHLMC's address. A mortgage clause in favor of Mortgagees holding Mortgages on Residences is not required on a policy insuring the Common Area.

Section 10. Compliance With Requirements of FHLMC, FNMA and VA/FHA. Notwithstanding the provisions of this Article, the Association shall obtain and maintain in effect such policies of insurance meeting all requirements of FHLMC, FNMA, and VA/FHA established by those entities for planned development projects for so long as any of such agencies continue to be a Mortgagee, Owner, insurer or guarantor of a Mortgage in the Project, except to the extent such coverage is not available or has been waived, in writing, by such agencies.

Section 11. Required Waiver. All policies of hazard and physical damage insurance may provide, only if available at a reasonable cost to the Association as determined by the Board, in its sole discretion, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

- (a) Any defense based on co-insurance;
- (b) Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (c) Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect or omission of any named insured, or the respective agents, contractors and employees of any insured;
- (d) If applicable, any right of the insurer to repair, rebuild or replace, and, in the event the Residence is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the improvements insured or the fair market value thereof;
- (e) If applicable, notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; and
- (f) Any right to require any assignment of any Mortgage to the insurer.

Section 12. Annual Notification of Insurance. The Association shall, upon issuance or renewal of insurance, but not less than annually, notify its Members as to the amount and type of insurance carried by the Association, and it shall accompany this notification with statements to the effect that the Association is or is not insured to the levels specified by this Article, and that if not so insured, Owners may be individually liable for the entire amount of a judgment, and if the Association is insured to the levels specified in Section 1 above, then Owners may be individual-

ly liable only for their proportional share of Assessments levied to pay the amount of any judgment which exceeds the limits of the Association's insurance. The Association shall further prepare and distribute to all its Members a summary of the Association's insurance coverage pursuant to Section 1365 of the California Civil Code, as same may be amended from time to time.

ARTICLE XV

MORTGAGEE PROTECTION

Section 1. Mortgagee Protection Provisions. Notwithstanding any other provisions in this Declaration to the contrary, in order to induce FHLMC, FNMA, and VA/FHA and other lenders and investors, to participate in the financing of the sale of Lots in the Project, the following provisions contained within this Article are added hereto, and to the extent these added provisions conflict with any other provisions in this Declaration, these added provisions shall control. This Declaration, the Articles and the By-Laws for the Association are hereinafter collectively referred to in this Article as the "constituent documents."

(a) The right of an Owner to sell, transfer or otherwise convey his or her Lot shall not be subject to any right of first refusal or any similar restriction in favor of the Association;

(b) The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter recorded upon any Lot. The sale or transfer of any Lot shall not affect the Assessment lien; however, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage or pursuant to any remedies provided for in the Mortgage shall extinguish the lien of such Assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Lot from liability for Assessments due thereafter. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or any purchaser at a foreclosure sale of a first Mortgage will not be liable for unpaid Assessments or charges which accrue prior to the acquisition of title to such Lot by the Mortgagee (except for claims for a share of such Assessments or charges resulting from a reallocation of such Assessments or charges to all Lots, including the mortgaged Lot);

(c) Except as provided by statute in case of condemnation or substantial loss to the Lots and/or Common Area, unless sixty-seven percent (67%) of the, Owners other than Declarant, or sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each Lot encumbered by said Mortgagee's first Mortgage) have given their prior written

approval, neither the Association nor the Owners shall be entitled to:

(1) Change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner's Lot;

(2) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the Common Area. The granting of easements for public utilities or for other purposes consistent with the intended uses of the Common Area or the residential nature of the Project, shall not be deemed a transfer within the meaning of this clause;

(3) Use hazard insurance proceeds for losses to the Common Area for other than repair, replacement or reconstruction;

(4) Effect any decision of the Association to terminate professional management and assume self-management of the Project, where such professional management was previously a requirement by a holder, insurer or guarantor of any first Mortgage;

(5) By act or omission, change, waive or abandon any provisions of this Declaration, or enforcement thereof, pertaining to architectural design of the Residences situated on a Lot or the maintenance and operation of the Common Area within the Project, including, without limitation, fences and landscaping within the Project;

(6) Fail to maintain fire and extended coverage on the insurable Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value thereof; and

(7) Abandon or terminate the Association, except for abandonment, partition or termination as may be provided by law.

(d) All taxes, Assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to individual Lots, and not to the Project as a whole;

(e) No provision of the constituent documents shall be interpreted to give any Owner or any other party priority over any rights of the first Mortgagee in the case of a distribution to such Owner of insurance proceeds or condemna-

tion awards for losses to or a taking of all or any portion of the Common Area or such Owner's Lot;

(f) The Assessments provided for in the constituent documents shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis, and shall be payable in regular installments, rather than by Special Assessments;

(g) Each holder, insurer or guarantor of a first Mortgage who has filed with the Association a written request for notice shall be entitled to timely written notice of:

(1) Any condemnation or eminent domain proceeding, and any loss or taking resulting from such proceeding which affects the Project, or any portion thereof;

(2) Any substantial damage or destruction to the Project, or any portion thereof, when such loss exceeds Ten Thousand Dollars (\$10,000.00);

(3) Any default in the performance by an individual Owner of any obligation under the constituent documents which is not cured within sixty (60) days after the Association learns of such default, which notice shall state the length of time which such Owner has been delinquent;

(4) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(5) Any abandonment or termination of the Project; and

(6) Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

(h) Any agreement for professional management of the Project, or any contract providing for services of the Declarant, may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Any such agreement must provide for termination by either party with or without cause and without payment of a termination fee on at least thirty (30) days' written notice, but not more than ninety (90) days;

(i) First Mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may have become a lien on the Common Area, and may pay overdue premiums on hazard insurance policies or secure new

hazard insurance coverage on the lapse of a policy for the Common Area, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Upon demand by any first Mortgagee, the Board shall execute, on behalf of the Association, an agreement establishing the right of all first Mortgagees to such reimbursement;

(j) A first Mortgagee of a Lot in the Project will, upon request, be entitled to:

(1) Examine the books and records of the Association during normal business hours;

(2) An audited financial statement from the Association for the previous fiscal year (without expense to the holder, insurer or guarantor requesting said statement); however, if an audited financial statement is not available and until such time as the Project contains fifty (50) Lots, any Mortgage holder may be allowed to have an audited financial statement prepared, at its own expense; and

(3) Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

(k) Each Owner shall notify the Association in writing within ten (10) days after the close of escrow for the purchase of his Lot of the name and address of his first Mortgagee, and thereafter, each Owner shall promptly notify the Association of any changes of name or address for his first Mortgagee;

(l) If any Lot (or portion thereof) or the Common Area (or portion thereof) is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any first Mortgage on such Lot will be entitled to timely written notice of any such proceeding or proposed acquisition; and

(m) Subject to the provisions set forth herein, in the event any portion of the Common Area encroaches upon any Lot or any Lot encroaches upon the Common Area as a result of the construction and/or reconstruction or repair by Declarant, shifting, settlement or movement of any portion of the Project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

Section 2. Violation of Mortgagee Protection Provisions. No breach of any of the foregoing Protective Covenants shall cause any forfeiture of title or reversion or bestow any right of

re-entry whatsoever, but in the event that any one or more of these Protective Covenants shall be violated, the Declarant, its successors and assigns, the Association, or any Owner in the Project may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation and/or to recover damages; provided, however, that any such violation shall not defeat or render invalid the lien of any Mortgage or deed of trust made in good faith and for value. Said Protective Covenants shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee sale or otherwise.

Section 3. Amendments to Conform With Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and By-Laws of the Association, and the Project in general, meet all requirements necessary to purchase, guarantee, insure or subsidize any Mortgage of a Lot in the Project by the FHLMC, FNMA, and the VA/FHA. In furtherance of said intent, Declarant may amend this Declaration without the consent of the Members at any time after the close of escrow for the first sale of a Lot in the Project by recording a written instrument setting forth the amendment, provided that the amendment is necessary to cause this Declaration to comply with the requirements of the DRE, FHLMC, FNMA, GNMA and/or VA/FHA; provided, however, that any such amendment shall be effective only if Declarant mails (by certified or registered mail with a "return receipt" requested) a copy of the amendment to all of the foregoing entities which are, or have agreed to be, a holder, insurer or guarantor of a first Mortgage, and does not, within sixty (60) days thereafter, receive a notice of disapproval from any such entity. Said amendments shall not be recorded by Declarant until after the expiration of such sixty (60) day period.

ARTICLE XVI

ENFORCEMENT OF BONDED OBLIGATIONS

Section 1. Enforcement of Bonded Obligations. In the event that the improvements of the Common Area have not been completed prior to the first close of escrow for a Lot following the issuance of a Final Subdivision Public Report by the DRE, and the Association is obliged under a bond or other arrangement (hereinafter referred to as the "Bond") to secure performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing

for the completion of any Common Area improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the By-Laws dealing with meetings of the Members, but in any event, such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners, other than Declarant. A vote at such meeting of a majority of the voting power of such Members, other than the Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XVII

ANNEXATION OF ADDITIONAL PROPERTY

Additional property may be annexed to and become subject to this Declaration as set forth in this Article.

Section 1. Annexation Pursuant to Approval. Upon obtaining the approval in writing of the Association pursuant to the vote or written assent of sixty-seven percent (67%) of the total voting power of Association Members, the owner of any property who desires to annex said property to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Notice of Annexation, as described in Section 2 of this Article.

Section 2. Notice of Annexation. The annexation of additional property authorized under this Article shall be made in filing of record a Notice of Annexation, or similar instrument, covering said additional property, and the Notice of Annexation shall expressly provide that the scheme of this Declaration shall extend to such additional property. The Notice of Annexation may contain such complementary additions to and modifications of the Protective Covenants set forth in this Declaration which are necessary to reflect the different character, if any, of the annexed

property, including, but not limited to, marketing and selling vacant Lots, the architectural guidelines for any construction thereon, maintenance responsibilities between the Association and the Owners in this annexed property and payment of Assessments, and which are fair, reasonable, and appropriate, and are not inconsistent with the general scheme of this Declaration. Except as set forth in this Section, no Notice of Annexation shall add, delete, revoke, modify or otherwise alter the Protective Covenants set forth in this Declaration. A notice of annexation may annex solely Common Area so long as such annexation would not violate the provisions in this Declaration regarding increases in Regular Assessments and is approved by the DRE.

ARTICLE XVIII

GENERAL PROVISIONS

Section 1. Enforcement.

(a) Enforcement Rights. The County, Association, and/or the Owner of any Lot in the Project, including the Declarant, shall have the right, but not the obligation, to enforce, by proceedings at law or in equity, any or all of the covenants imposed by this Declaration, as well as the Water Quality Management Plans, including, without limitation, the right to prosecute a proceeding, at law or in equity, against the person or persons who have violated, or are attempting to violate, any of said covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation. In accordance with any applicable ordinance of the County, the County may be allowed to maintain the Lots and place a special assessment on the tax bills of the individual Lot Owners in the event said Owners fail to maintain said Lots in accordance with the provisions of this Declaration.

(b) Violation of Covenant Deemed Nuisance. The result of every act or omission whereby any of the covenants contained in this Declaration are violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by the County or by any Owner, including the Declarant, or by such Owner's successors in interest.

(c) Remedies Are Cumulative. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) Failure to Enforce Covenants. The failure of the County, Association, or any Owner, including the Declarant, to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

(e) Effect of Breach on Mortgagees. A breach of the covenants contained in this Declaration shall not affect or impair the lien or charge of any bona fide mortgage or deed of trust made in good faith and for value on any Lot; provided, however, that any subsequent Owner of such Lot shall be bound by said covenants, whether or not such Owner's title was acquired by foreclosure, a trustee's sale or otherwise.

(f) Fines. Each Owner agrees, by the acceptance of his deed, that recovery of damages at law for any breach of the provisions of this Declaration would not be an adequate remedy. In order to encourage compliance, deter noncompliance, and enable the effective enforcement of this Declaration, the Declarant (so long as Declarant owns any Lot within the Project) and/or the Association is authorized to establish and collect fines and penalties, in addition to any fines and penalties which may be imposed by the County pursuant to the appropriate authority of applicable municipal codes, for the breach of any provision of this Declaration which is not cured or which reoccurs after the violating Owner has received written notification of said violation. The fines and penalties shall be determined by taking into account the: (1) violation, (2) desirability of deterring future violations, (3) the expense related to alternative legal action, and (4) all other reasonable related factors.

(g) Prefiling Requirements. Prior to filing a civil action by an Owner solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim related to the enforcement of this Declaration, the parties may be required to comply with Civil Code Section 1369.510 et seq., if applicable. Failure to comply with the prefiling requirements of Section 1369.510 et seq. of the Civil Code may result in the loss of the right to sue regarding enforcement of the applicable management documents. Upon motion by any party for attorneys' fees and costs as the prevailing party, the court, in determining the amount of the award, may consider a party's refusal to participate in alternative dispute resolution prior to the filing of the action.

(h) Penalties. The Board, for and on behalf of the Association, may assess monetary penalties against an Owner as a Compliance Assessment and/or temporarily suspend said Owner's voting rights for the period during which any Assessment against said Owner's Lot remains unpaid; provided, however, the requirements for Notice and Hearing set forth in the By-

Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

(i) Suspension. The Board, for and on behalf of the Association, may, after Notice and Hearing, temporarily suspend an Owner's voting rights for a period not to exceed thirty (30) days for any infraction of the Association's published Rules and Regulations; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

Section 2. Severability. Invalidation of any one of these Protective Covenants by judgment or court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

Section 3. Term. The Protective Covenants set forth in this Declaration shall run with and bind the Project, and shall inure to the benefit of the Association and be enforceable by the Board or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said Protective Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners agreeing to terminate said Protective Covenants, in whole or in part, has been recorded within one (1) year prior to the termination of the initial sixty (60) year term, or within one (1) year prior to the termination of any successive ten (10) year period.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance of the Project. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 5. Singular Includes Plural. Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 6. Covenants Running With the Land. Each of the Covenants provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and superior to all other encumbrances applied against or in favor of any portion of the Project which are the subject of this Declaration. In furtherance of the easements provided for in this Declaration, the individual grant deeds to the Lots may, but shall not be required to, set forth said easements.

Section 7. Amendments.

(a) Amendments by Declarant. Prior to the close of escrow for the sale of a Lot to a member of the public, in accordance with a Final Subdivision Public Report issued by the DRE, this Declaration may be amended, restated or terminated by an instrument executed by Declarant. Notwithstanding any other provisions of this Declaration, for so long as Declarant owns any portion of Tract No. 36327, Declarant may unilaterally amend this Declaration to (i) conform this Declaration to the requirements of VA/FHA, DRE, FNMA, FHLMC, GNMA, the County, State or Federal laws or regulations or any other governmental agency or entity then in effect, (ii) correct typographical or inadvertent errors in the Declaration and/or Exhibits attached thereto, (iii) record any maintenance standards and/or obligations of the Association and Owners, and (iv) supplement this Declaration with provisions which pertain to rights and obligations of Declarant, the Association or Owners arising under Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code.

(b) Amendments by Association. Except as otherwise provided herein (e.g., Section [a] above), and all applicable provisions of law (e.g., the provisions of California Civil Code Section 1363.03 regarding secret ballots), this Declaration may be amended only by an affirmative vote of Owners representing not less than sixty-seven percent (67%) of the Class A voting power and the Class B voting power of the Association. At such time when the Class B membership shall cease and be converted to Class A membership, any and all amendments to this Declaration shall be enacted by requiring the vote or written assent of Owners representing both: (a) sixty-seven percent (67%) of the total voting power of the Association, and (b) sixty-seven percent (67%) of the votes of Members, other than the Declarant; provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision, and no amendment of a provision of this Declaration which requires the approval or consent of Declarant may be made without the written approval of Declarant (e.g., provisions pertaining to the resolution of Disputes, Maintenance Guidelines, Maintenance Manual, Maintenance Recommendations, etc.). Any Owner or the Association may petition the Superior Court of the County for an order reducing the necessary percentage required under this Section to amend this Declaration; provided, however, that under no circumstances shall any provision requiring the consent of the Declarant be amended without such consent. The procedure for effecting this petition is set forth in Section 1356 of the California Civil Code, as the same may be amended, from time to time.

(c) Approval of Mortgagees. In addition to the rights of first Mortgagees, as set forth in the Article herein entitled "Mortgagee Protection," in the event that FNMA or VA/FHA participates in the financing of Lots in the Project, the written consent of not less than fifty-one percent (51%) of the first Mortgagees shall be required for any amendment of a "material" nature. An amendment which affects or purports to affect any of the following is considered material:

- (1) The legal status of the Project as a planned development;
- (2) Voting rights;
- (3) Increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of assessment liens, including the levy and collection thereof, enforcement provisions for nonpayment and subordination of liens for nonpayment;
- (4) Reduction in reserves for maintenance, repair and replacement of Common Area;
- (5) Responsibility for Common Area maintenance and repair;
- (6) Reallocation of interests in the Common Area or rights to use the Common Area;
- (7) Boundaries of any Lot;
- (8) Convertibility of Common Area into Lots or Lots into Common Area;
- (9) Expansion or contraction of the Project, or addition, annexation or de-annexation of additional property to or from the Project;
- (10) Increasing insurance or fidelity bonds requirements;
- (11) Restrictions on the leasing of Lots;
- (12) Restrictions on alienation, including, but not limited to, rights of first refusal;
- (13) Any decision by the Association to establish self-management, if professional management was previously required by an eligible first Mortgagee or legal documents governing the Project;

(14) Restoration or repair of the Project in a manner other than as specified in this Declaration;

(15) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; and

(16) Mortgagee protection provisions as set forth in that Article hereinabove entitled "Mortgagee Protection," and such other provisions in this Declaration for which the consent of Mortgagees shall be required or which are expressly for the benefit of Mortgagees, insurers or guarantors of Mortgages.

An addition or amendment to this Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. In the event the Association is considering termination of the legal status of the Project for reasons other than the substantial destruction or condemnation of the Project, then sixty-seven percent (67%) of the first Mortgagees must agree to said termination. Notwithstanding the foregoing, in the event any first Mortgagee receives a written request, delivered by certified or registered mail with return receipt requested, from the Board to approve any amendment to this Declaration, and such first Mortgagee does not deliver a negative response in writing to the Board within sixty (60) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved such proposed amendment.

(d) Approval by County. Notwithstanding any other provisions of this Article, no amendment or modification of a provision affecting the rights of the County and no action by Declarant or the Association terminating this Declaration shall be effective without the prior written consent of the County, which consent shall be recorded in the Official Records of the County. The Declarant or the Association shall forward, or cause to be forwarded, to the County a written notice of any such proposed amendment or termination. Notwithstanding the foregoing, in the event the County receives a written request, delivered by certified or registered mail with return receipt requested, from the Board to approve any proposed amendment to this Declaration, and the County does not deliver a negative response in writing to the Board within sixty (60) days of the mailing of such request by the Board, the County shall be deemed to have approved such proposed amendment. The Declarant or the Association shall transmit a copy of the final approved amendment to the County within thirty (30) days after the final approved amendment becomes effective.

(e) Recordation of Amendments. An amendment made in accordance with the provisions set forth hereinabove, except

any amendment pursuant to paragraph (a), shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment has been approved by the membership and, where appropriate, by the first Mortgages, in the percentages set forth hereinabove, and recorded in the Office of the County Recorder. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagee consented to such amendment.

Section 8. Encroachments. None of the rights and obligations of the Owners created herein or by the deed shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

Section 9. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by first-class, registered or certified mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Lot of such person if no address has been given to the Association. If such notice is not sent by first-class, registered or certified mail, it shall be deemed to have been delivered when received. Such address may be changed, from time to time, by notice in writing to the Association.

Section 10. Attorneys' Fees. Except as otherwise provided in this Declaration or the Limited Warranty, in the event the Board, Association, or any Owner of a Lot shall commence legal proceedings against the Owner of any other Lot to enforce the covenants of this Declaration, or to declare rights hereunder as the result of any breach, or claim of breach, of said covenants, the prevailing party shall recover the cost of the suit, arbitration, or alternative dispute resolution, in addition to its costs of suit, including reasonable attorneys' fees, as may be fixed by the court. In addition, if any Owner defaults in making a payment of Assessments, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorneys' fees, regardless of whether dispute resolution proceedings are instituted.

Section 11. Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated

association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the Protective Covenants established by this Declaration governing the Project, together with the covenants and restrictions established upon any other property as one plan.

Section 12. No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with the Project, or any portion thereof, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a planned development, except as specifically and expressly set forth in this Declaration, and except as may be filed by Declarant, from time to time, with the DRE.

Section 13. Project Disclosures. The following disclosures are made to facilitate each Owner's investigation of the Project prior to purchasing a Lot in the Project. The disclosures are not exhaustive, and no warranty or representation of any kind or nature is made in connection with the disclosures. The information set forth in the disclosures may change over time. By acceptance of a deed to a Lot in the Project, each Owner acknowledges and agrees that such Owner is responsible for investigating all matters of interest to such Owner prior to completing the purchase of a Lot in the Project.

(a) Conditions of Approval. The Project is subject to all terms and conditions set forth in the County's conditions for the approval of the tentative map of Tract No. 36327 and the development of the Project. Neither this Declaration nor any contract of sale, lease, or other written document or any means or method shall be established, or shall attempt to establish, any requirement, restriction, or limitation on the Declarant, or any person, individual or entity, which would operate, directly or indirectly, to prevent or preclude any other developers of the Property or Project, or any person, individual, or entity, in complying with all applicable conditions for the approval of the tentative map and development of the Project and other County ordinances, rules, policies, or regulations.

(b) Watercourses. As noted in the County's conditions of approval for the tentative map of Tract No. 36327, two major watersheds impact the Project site. The flood sensitivity areas are delineated on the Environmental Constraint Sheet attached as Exhibit "E" hereto and incorporated by this reference. As a consequence of such flood sensitivity areas, construction is prohibited in certain

areas, and special construction standards apply in other areas of the Project. Driveways for Lots 15, 16, 17, 18, 32, 33, and 34 of Tract No. 36327 may need to cross certain flood sensitivity areas. In the event of a storm, it is possible that driveways, streets, and other areas may experience flooding.

(c) Active Fault Zones. As noted in the County's conditions of approval for the tentative map of Tract No. 36327, two known active fault zones traverse through portions of the Project site. The fault zones and hazard areas are depicted on the Environmental Constraint Sheet attached as Exhibit "E" hereto and incorporated by this reference. As a consequent of the fault zones, construction is prohibited within certain areas, and special construction standards apply to other areas of the Project.

(d) Hazardous Fire Area. As noted in the County's conditions of approval for the tentative map of Tract No. 36327, the Project is currently located within a "Hazardous Fire Area" as shown on a map on file with the Clerk of the County's Board of Supervisors. Any building constructed on Lots within the Project must comply with the special construction provisions contained in County Ordinance No. 787.2.

(e) Power Poles and Lines. Underground and overhead electric transmission and distribution lines and transformers are located in and around the Project. Power lines and transformers produce low-frequency electromagnetic fields ("ELF-EMF") when operating. Declarant makes no warranties or representations regarding any powers poles or lines, including, without limitation, any warranties or representations regarding the operation, maintenance, or safety of, or the risks or hazards associated with, such power poles and lines. Each Owner is responsible for investigating this matter to the Owner's satisfaction prior to completing the purchase of a Lot in the Project.

(f) Waiver. Each Owner, for and on behalf of himself and the members of his family, his tenants, lessees, guests and invitees, expressly approve all of the foregoing conditions and risks, and waives all causes of action and covenants not to sue the County, the Declarant, and their respective directors, officers, members, employees, agents and consultants for any damages or injuries which may arise from or relate to any of such conditions and/or risks.

Section 14. Conflicts in Management Documents For the Project. In the event of any conflict between and/or among the provisions of any of the management documents for the Project, the Declaration shall be deemed to supersede the provisions of any conflicting management documents, including, without limitation,

the By-Laws, architectural standards, if any, and the Rules and Regulations, if any.

Section 15. Davis-Stirling Act. Notwithstanding the provisions set forth in this Declaration, various laws (including, but not limited to, the Davis-Stirling Common Interest Development Act, Sections 1350, et seq., of the California Civil Code, and the Federal Fair Housing Act, Title 42 United States Code, Sections 3601, et seq., as such laws may be amended, from time to time), may supplement or override the provisions of this Declaration. This Declaration shall be interpreted and construed to be consistent with such applicable laws, as same may be amended, from time to time, and, accordingly, in addition to the provisions set forth above, Declarant makes no representations or warranties regarding the future enforceability of the provisions of this Declaration.

Section 16. Exhibits. Except for the sample form of Limited Warranty attached as Exhibit "C" which is merely provided for illustrative purposes only, each and every other Exhibit referenced herein and attached to this Declaration is incorporated herein by this reference as if set forth herein in full. All depictions in such Exhibits are for illustrative purposes only and the "as-built" condition by Declarant shall be controlling.

Section 17. Maintenance Standards. The Association and each Owner shall maintain everything he/she/it/they is/are obligated to maintain in a manner consistent with the provisions herein and in the Declaration and in conformance with any "Maintenance Recommendations/Schedules" (i.e., procedures, standards, and/or schedules for the maintenance and operation which may be provided to said Owner and/or the Association by Declarant, as such procedures, standards, and/or schedules may be updated and revised as appropriate), product manufacturers' recommendations and guidelines, and commonly accepted maintenance standards. Unless otherwise provided in such Maintenance Recommendations/Schedules, product manufacturers' recommendations and guidelines, or in this Declaration, each Owner and the Association, as applicable, shall determine the level and frequency of maintenance. The Board shall provide to Declarant, for a period of ten (10) years following the last close of escrow for a Lot, and within thirty (30) days after the Association's receipt of a written request therefor from the Declarant, the report noted in the Declaration (if such report is prepared).

Section 18. Declarant's Representative. Commencing on the date on which Declarant no longer has an elected representative on the Board, and continuing until the date that is ten (10) years after the date of the last close of escrow in the Project, the Declarant shall be entitled to access (in real time) any website maintained by the Association or its property manager for the Project and to view all documents posted on the website, shall be entitled to inspect and copy the Association's books and records, including, without limitation, maintenance records, on the same

terms and conditions as a Member (i.e., as set forth in Article XIII, Section 1, of the By-Laws), and shall be entitled to have a representative ("Declarant's Representative") present at all meetings of the Members and the Board. For so long as Declarant's Representative is entitled to attend such meetings, the Association and/or Members, as appropriate, shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner/Member, and the Association shall provide Declarant's Representative with the proposed minutes and approved minutes of the meetings of Owners, the Board and committees. The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board or any liability as a Board member. However, the Declarant's Representative shall have the right to speak at all meetings, and the Secretary shall accurately note any statements made by the Declarant in the minutes of the meetings. This Section may not be amended without the prior written approval of the Declarant, which approval may be withheld in Declarant's sole and absolute discretion.

Section 19. County Requirements. The County has required the following provisions to be included in this Declaration:

"Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

The property owners' association established herein shall manage and continuously maintain the "Common Area" and improvements described on Exhibit "A" attached hereto and incorporated by this reference, and the Owners shall not sell or transfer the "Common Area" or any part thereof, absent the prior written consent of the Planning Department of the County of Riverside or the County's successor-in-interest.

The property owners' association shall have the right to assess the Owners of each individual Lot for the reasonable cost of maintaining such "Common Area", and shall have the right to lien the property of any such Owner who defaults in the payment of a maintenance assessment. An assessment lien, once created, shall be prior to all other liens recorded subsequent to the notice of assessment or other document creating the assessment lien.

This Declaration shall not be terminated, 'substantially' amended, or property deannexed therefrom absent the prior written consent of the Planning Director of the County of Riverside or the County's successor-in-interest. A proposed amendment shall be considered 'substantial' if it affects the extent, usage or maintenance of the "Common Area" established pursuant to the Declaration.

In the event of any conflict between this Declaration and the Articles of Incorporation, the Bylaws, or the property owners' association Rules and Regulations, if any, this Declaration shall control."

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

"DECLARANT"

THOMAS MOUNTAIN RANCH, LLC, a California limited liability company

BY:

Gregory V. Burnett

Name: Gregory V. Burnett

Title: Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

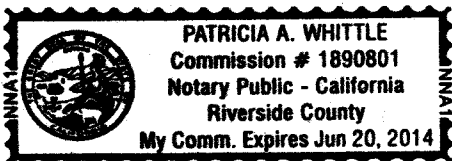
State of California

County of RIVERSIDE

On APRIL 4 2013 before me, PATRICIA A. WHITTLE NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared GREGORY V. BURNETT
Name(s) of Signer(s)

who 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.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Declaration of Covenants, Conditions & Restrictions, and Easements & Servitudes for Thomas Mt. Land
 Document Date: _____ Number of Pages: 110

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Corporate Officer — Title(s): _____
<input type="checkbox"/> Individual
<input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General
<input type="checkbox"/> Attorney in Fact
<input type="checkbox"/> Trustee
<input type="checkbox"/> Guardian or Conservator
<input type="checkbox"/> Other: _____ | RIGHT THUMBPRINT OF SIGNER
Top of thumb here | <input type="checkbox"/> Corporate Officer — Title(s): _____
<input type="checkbox"/> Individual
<input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General
<input type="checkbox"/> Attorney in Fact
<input type="checkbox"/> Trustee
<input type="checkbox"/> Guardian or Conservator
<input type="checkbox"/> Other: _____ | RIGHT THUMBPRINT OF SIGNER
Top of thumb here |
|---|---|---|---|

Signer Is Representing: _____

Signer Is Representing: _____

EXHIBIT "A"

ASSOCIATION MAINTAINED AREAS AND IMPROVEMENTS

(to be attached)

Thomas Mountain Ranch

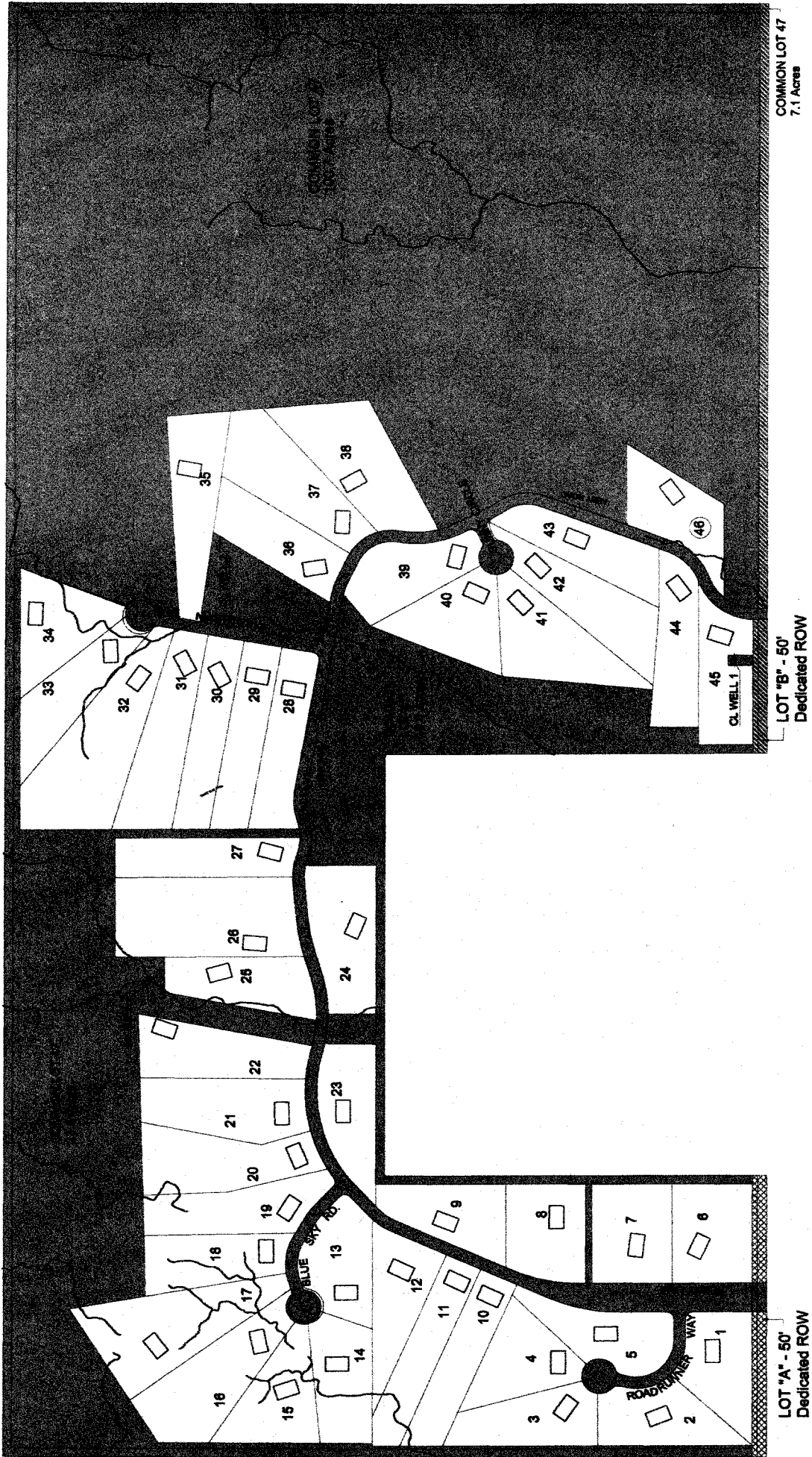


EXHIBIT "B"

NO PARKING AREAS

None

EXHIBIT "C"

SAMPLE FORM OF LIMITED WARRANTY

(see attached)

EXHIBIT "C"

SAMPLE DRAFT FORM

FIT AND FINISH WARRANTY

Subject to the exclusions and limitations listed below, Seller provides the following fit and finish warranty on the home you are purchasing (this "Warranty").

As used in this Warranty, the following terms shall have the meanings described below.

1.1 Close of Escrow: "Close of Escrow" means the date of recordation of the grant deed conveying the Residence by Seller to Owner.

1.2 Components: "Components" means cabinets, mirrors, flooring, interior and exterior walls, wall coverings, countertops, paint finishes and trim.

1.3 Deficiency: "Deficiency" means the Fit and Finish of a Component does not meet standards of quality as measured by acceptable trade practices or applicable industry standards, subject to the terms, conditions and exclusions of this Warranty.

1.4 Fit and Finish: "Fit and Finish" means the non-structural, cosmetic appearance or alignment of the Components, subject to the terms, conditions and exclusions of this Warranty.

1.5 Maintenance Manual: "Maintenance Manual" means the maintenance manual provided by Seller, if any, to Owner which sets forth the obligations of the Owner for maintenance of the Residence and a schedule for such required maintenance.

1.6 Owner: "Owner" means the purchaser or owner of the Residence.

1.7 Owner Orientation: "Owner Orientation" means the walk-through inspection of your Residence, with a Seller representative, prior to Close of Escrow for the purpose of familiarizing you with the features and appliances in your home and during which the Fit and Finish of Components will be inspected and if any Deficiencies are discovered, they must be identified and reported to the Seller representative. If such Deficiencies are not reported at the time of the Owner Orientation, they may be excluded from coverage under this Warranty, as items of damage caused by Buyer or a third party.

1.8 Purchase Agreement: "Purchase Agreement" means the Contract for Purchase and Sale and Escrow Instructions by and between Seller and Owner for the purchase of the Residence.

1.9 Residence: "Residence" means the single family home which has been acquired by Owner.

1.10 Seller: "Seller" means Washington Park Classics, LLC, a California limited liability company.

1.11 Unforeseen Acts of Nature: "Unforeseen Acts of Nature" means a weather condition, earthquake, or manmade event such as war, terrorism, or vandalism, in excess of the design criteria expressed by the applicable building codes, regulations, and ordinances in effect at the time of original construction.

2.1 Seller warrants the Fit and Finish of the Components to be free from Deficiencies for one year from the close of escrow, subject to the exclusions set forth herein.

3.1 Seller's Performance. During the "Warranty Period" (defined below), Seller will, within a reasonable amount of time, if repair or replacement is appropriate under this Warranty, repair or replace the affected Components at no charge to Owner. The decision whether to repair or replace the Components shall be within the sole discretion of Seller.

3.2 Owner's Responsibility. It is the Owner's responsibility to properly maintain the Components, to notify Seller as soon as reasonably possible after Owner becomes aware of a Deficiency and to provide Seller with the opportunity to investigate the Deficiency and/or repair or replace the Component, as appropriate. Owner's failure to fulfill these obligations may void this Warranty in accordance with the exclusions set forth herein.

3.3 Repair Materials/Subcontractors. All repairs or replacements will be made with materials or components identical to, or of an equal or better grade or quality than the materials or components used in the original construction of the Residence. Seller has the right to choose the specific materials and components and the subcontractors used for repair or replacement work in accordance with industry standards. There could be color or texture variations with the new materials.

3.4 Assignment of Other Warranties. In the event Seller repairs, replaces or pays the cost of repairing or replacing any Deficiency covered by this Warranty for which Owner is covered by any other warranty, Owner hereby assigns to Seller all rights, proceeds or payments under such other warranty to the extent of the actual cost of repair or replacement incurred by Seller, and hereby authorizes Seller to file a claim against any warranty on Owner's behalf. Owner shall cooperate with Seller, at no out-of-pocket cost to Owner, with respect to such claim.

3.5 **DISCLAIMER OF IMPLIED WARRANTIES. EXCEPT FOR THIS WARRANTY, SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR**

IMPLIED, INCLUDING BUT NOT LIMITED TO, THAT THE HOME WAS DESIGNED AND CONSTRUCTED IN A REASONABLY WORKMANLIKE MANNER, FITNESS FOR A PARTICULAR PURPOSE, AND MERCHANTABILITY.

3.6 LIMITATION OF AVAILABLE REMEDIES. OWNER AGREES THAT THE SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE TO REPAIR OR REPLACE THE COMPONENT. BY INITIALING BELOW, OWNER REPRESENTS THAT OWNER UNDERSTANDS THAT REPAIR OR REPLACEMENT UNDER THIS WARRANTY ARE EXPRESSLY CONDITIONED UPON SELLER OR ITS AUTHORIZED AGENT, BEING GRANTED A REASONABLE OPPORTUNITY TO REPAIR OR REPLACE SUCH COMPONENT. OWNER AGREES THAT SELLER, OR ITS AUTHORIZED AGENTS, AND NOT OWNER, SHALL DETERMINE THE MATERIAL AND METHODS TO BE USED IN EFFECTING SUCH REPAIR.

The following are not covered by this Warranty:

4.1 Wear and Tear. Damage to the Components due to ordinary wear and tear.

4.2 Owner's Failure to Properly Maintain. Any Deficiency, loss or damage caused by lack of reasonable care and maintenance, failure to follow a manufacturer's maintenance recommendations or schedule, Seller's maintenance requirements or schedule, or commonly accepted Owner maintenance obligations. Seller has provided a description and list of suggested Owner's care and maintenance items and procedures in the Maintenance Manual, including schedules. From time to time, Seller may perform a maintenance task for the benefit of Owner at no charge; however, performing a task does not imply or require that Seller will perform a similar task at a later date, nor shall such performance extend the Warranty Period.

4.3 Casualties or Unforeseen Acts of Nature. Any Deficiency, loss or damage caused by Unforeseen Acts of Nature. casualties normally covered by homeowner's insurance, or any other cause not under the control of Seller. Damage of this sort may be covered by your homeowner's insurance. You should contact your insurance carrier for any such damage.

4.4 Abuse of Residence. Damage caused either by the misuse, abuse, neglect or the use of the Residence in a manner which was not intended.

4.5 Work or Materials Furnished by Owner. Any work done by or at the request of Owner or including any work done by anyone other than Seller or the employees, agents or subcontractors expressly selected by Seller. Any Deficiency caused by material furnished by or at the request of Owner.

4.6 Variations in Natural Materials. Variations in natural materials, such as stone, marble, wood grain and color of stained wood used in cabinets, paneling, siding, doors and wood trim. These

variations are inherent characteristics of natural materials and are not a Deficiency.

4.7 Failure to Give Timely Notice. Any Deficiency, loss or damage caused or made worse by Owner's failure to timely notify Seller of any Deficiency.

4.8 Failure to Mitigate Damages. Any Deficiency, loss or damage caused or made worse by Owner's failure to minimize or prevent damages in a timely manner.

4.9 Refusal to Allow Repair. Any Deficiency, loss or damage caused by the Owner's failure to allow reasonable and timely access for inspections and repairs.

4.10 Owner or Third-Party Negligence. Any Deficiency, loss or damage caused or made worse by the negligence of Owner (or Owner's agent, employee, subcontractor, independent contractor, or consultant) or a third party.

4.11 Successful Repair. Any Deficiency, to the extent that such Deficiency has been successfully repaired or corrected.

4.12 Released Violation. Any Deficiency, for which liability has been released by Owner pursuant to a release agreement with Seller, a manufacturer or any other third party.

4.13 Warranty Period. One year following the close of escrow for the property.

4.14 Statutory Claims. Any claims for Deficiencies, loss or damage governed by California Civil Code Sections 895 through 897 and Sections 910 through 938, as may be hereafter amended.

5.1 How to Request Warranty Service. To assure quality, and to allow Seller to maintain a complete file on your home, all requests for warranty service under this Warranty must be submitted in writing to Seller. Please use a copy of the Warranty Service Request form which is attached to this Warranty. Please complete the form fully and describe the location and nature of your problem in as much detail as possible.

ALL SERVICE REQUESTS MUST BE SUBMITTED WITHIN 30 DAYS AFTER THE DISCOVERY OF A DEFICIENCY, BUT IN NO EVENT LATER THAN THE EXPIRATION OF THE WARRANTY PERIOD.

5.2 Warranty Service Schedule. Upon receipt of your request, Seller will schedule an appointment to have one of its Customer Service Representatives inspect the problem and determine whether the item is covered by this Warranty. In most cases, Warranty inspection appointments will be scheduled to take place at your home within thirty (30) days of the receipt of the request.

If it is determined that the problem is covered by this Warranty, Seller will attempt to schedule the repair work within thirty (30) days, unless the nature of the work is such that a longer time is needed. If Seller anticipates that the work cannot be scheduled in thirty (30) days, the Seller shall provide written notice to Buyer of when it anticipates that the work can be completed. Repair work is generally done Monday through Friday from 8:00 a.m. to 4:30 p.m.

5.3 Time for Corrective Work. Seller intends to fulfill its obligations for a particular service request within (30) days of its receipt of a written request so long as Seller is given reasonable cooperation by Owner. However, Owner recognizes that a thirty (30) day period for certain covered repairs or replacements may be insufficient and it may be necessary to extend that thirty (30) day period.

5.4 Service Requests Not Covered by Warranty. If Seller determines that a particular service request is not covered by this Warranty, Seller will provide Owner with a notification describing why the Owner's service request is not covered. Failure to send such a notice shall not be deemed evidence that a service request is a covered Deficiency. If a service request is governed by California Civil Code, Section 895, et seq.

6.1 Applicable Law. This Warranty is made in the State of California and is to be interpreted and constructed in accordance with the cases and laws of California.

6.2 Interpretation. Whenever the context requires, the use herein of one gender includes both genders and the singular number includes the plural number.

6.3 Modification. No modification or change of this Warranty is valid unless it is in writing and signed by Owner and Seller.

6.4 Captions. Captions are inserted for convenience of reference only and do not define, describe or limit the scope or intent of this Warranty or any provisions hereof.

6.5 Time of the Essence. Time is of the essence on all matters of any nature arising under this Warranty.

6.6 Severability. Should any provision or portion of this Warranty be declared invalid or in conflict with any law of the jurisdiction where your Residence is situated, the validity of all other provisions and portions shall remain unaffected and in full force and effect. This Warranty is intended to be a Fit and Finish Warranty under California Civil Code Section 900.

EXHIBIT "D"

STORM WATER DRAINAGE FACILITIES

None.

EXHIBIT "E"

ENVIRONMENTAL CONSTRAINT SHEET

(see attached)

ENVIRONMENTAL CONSTRAINT SHEET

IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT MAP 36327

A SUBDIVISION OF A PORTION OF THE SOUTH 1/2 OF SECTION 5, T.7S., R.3E., S.B.M.
MAY, 2012

SHEET 1 OF 1 SHEET

ENVIRONMENTAL CONSTRAINT NOTES

1) THE FLOOD PLAN MUST BE KEPT FREE OF ALL BUILDINGS AND STRUCTURES. ANY STRUCTURES OR UTILITIES LOCATED WITHIN THE FLOOD PLAN SHALL BE OF A TANK TYPE. CHIMNEY STACKS SHALL NOT BE ALLOWED. NON-HABITABLE STRUCTURES (E.G., AGRICULTURAL, STORAGE, ETC.) ARE PERMITTED PROVIDED THAT THEY DO NOT OBSTRUCT FLOOD PLANS.

2) THE LAND DESIGN IS LOCATED IN THE "HAZARDOUS WASTE AREA" OF RIVERSIDE COUNTY AS SHOWN ON A MAP ON FILE WITH THE COUNTY OF RIVERSIDE. ANY BUILDING CONSTRUCTED ON THIS SITE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIAL CONSTRUCTION PROVISIONS CONTAINED IN RIVERSIDE COUNTY ORDINANCE 7872.

3) ALL BUILDINGS SHALL BE CONSTRUCTED WITH CLASS B MATERIAL AS PER THE CALIFORNIA BUILDING CODE.

4) DRIVEWAYS EXCEEDING 150' IN LENGTH, BUT LESS THAN 300' IN LENGTH, SHALL PROVIDE A TURNOUT NEAR THE MIDPOINT. TURNOUTS SHALL BE PROVIDED TO BE AT LEAST 10' WIDE AND 30' IN LENGTH. TURNOUTS SHALL BE PROVIDED AT ALL BUILDING SITES. TURNOUTS SHALL BE PROVIDED AT ALL BUILDING SITES ON DRIVEWAYS OVER A 150' FEET IN LENGTH, AND SHALL BE WITHIN 50' OF THE BUILDING.

5) ACCESS SHALL NOT HAVE AN UP OR DOWNSLOPE OF MORE THAN 15%. ACCESS SHALL NOT BE LESS THAN 30 FEET IN WIDTH AND SHALL BE AT LEAST 10 FEET FROM THE ADJACENT PROPERTY LINE. DRIVEWAYS OVER TWO AXLES, ACCESS SHALL HAVE A TURNING RADIUS OF 38 FEET CAPABLE OF ACCOMMODATING FIRE APPARATUS.

6) GATE ENTRANCES SHALL BE AT LEAST TWO FEET WIDER THAN THE DRIVEWAY AND SHALL BE AT LEAST TWO FEET WIDER THAN THE DRIVEWAY ACCESS FROM A ROAD TO A DRIVEWAY. GATES SHALL BE LOCATED AT LEAST 35 FEET BACK FROM THE ROADWAY AND SHALL OPEN TO ALLOW A VEHICLE TO STOP WITHOUT OBSTRUCTING THE DRIVEWAY. GATES SHALL BE OPEN TO A SINGLE TRAFFIC LANE PROVIDING ACCESS TO A GATE ENTRANCE. A 38 FEET TURNING RADIUS SHALL BE USED.

7) GATES SHALL BE AUTOMATIC MINIMUM 20 FEET IN WIDTH. GATE ACCESS SHALL BE EQUIPPED WITH A RAPID ENTRY SYSTEM. PLANS SHALL BE SUBMITTED TO THE COUNTY OF RIVERSIDE FOR REVIEW PRIOR TO INSTALLATION. AUTOMATIC GATE OPS SHALL BE RATED WITH SHEAR PIN FORCE, NOT TO EXCEED 30' POUNDS. GATES SHALL BE EQUIPPED WITH A RAPID ENTRY SYSTEM. BACKUP POWER GATES ACTIVATED BY THE RAPID ENTRY SYSTEM SHALL REMAIN OPEN UNTIL CLOSED BY THE RAPID ENTRY SYSTEM.

8) THIS SITE, AS DELINEATED ON THIS EGS MAP AND AS INDICATED IN THE COUNTY ARCHAEOLOGICAL REPORT NO. 2224-100-100A, HAS A POTENTIAL FOR ARCHAEOLOGICAL RESOURCES. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY.

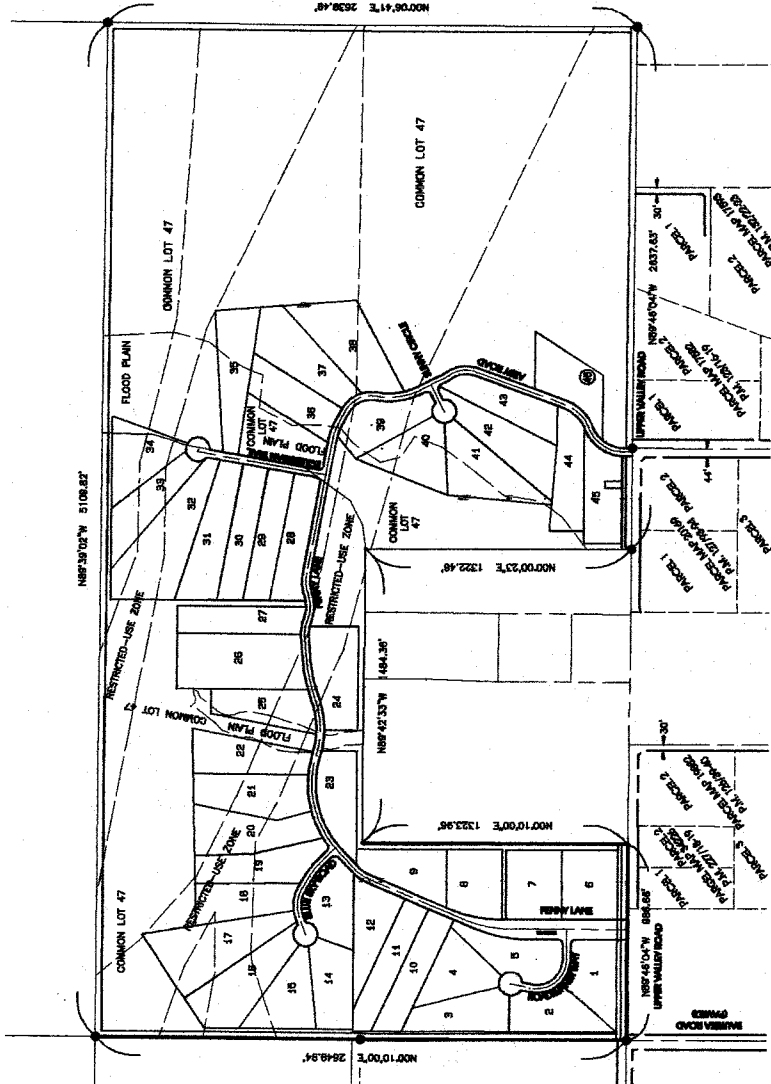
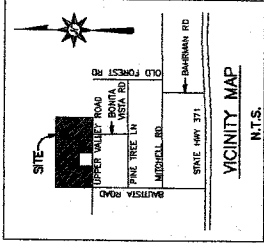
9) COUNTY ARCHAEOLOGICAL REPORT NO. 2224-100-100A WAS PREPARED FOR THIS PROPERTY IN 2011, BY ARCHAEOLOGICAL ASSOCIATES AND IS ON FILE AT THE COUNTY OF RIVERSIDE, PLANNING DEPARTMENT. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY.

10) THIS PROPERTY IS SUBJECT TO LIGHTING RESTRICTIONS AS DESCRIBED IN THE COUNTY ARCHAEOLOGICAL REPORT NO. 2224-100-100A. TO PROTECT THE EXTENTS OF NIGHT LIGHTING ON THE MOUNT PALOMAR OBSERVATORY, ALL PROPOSED OUTDOOR LIGHTING SYSTEM SHALL BE IN CONFORMANCE WITH COUNTY ORDINANCE NO. 858.

11) COUNTY GEOLOGICAL REPORT (GEO) NO. 2224 WAS PREPARED FOR THIS PROPERTY IN 2011, BY ARCHAEOLOGICAL ASSOCIATES AND IS ON FILE AT THE COUNTY OF RIVERSIDE, PLANNING DEPARTMENT. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY.

12) ANY HOUSE LARGER THAN 10,000 S.F. WILL REQUIRE ADDITIONAL INSURANCE.

13) THE ENVIRONMENTAL CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING AND IS NOT INTENDED TO AFFECT RECORD TITLE OR TO BE USED AS A BASIS FOR ANY LEGAL ACTION. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY. THE COUNTY ARCHAEOLOGICAL RESOURCES HAVE BEEN DETERMINED TO BE OF SIGNIFICANT VALUE TO THE COUNTY.



SURVEYORS NOTES

- INDICATES FOUND MONUMENT AS NOTED.
- INDICATES SET 1" DP M/ PLASTIC CAP LS 8136 FL.
- () INDICATES RECORD DATA PER P.M. 13/75
- () INDICATES RECORD DATA PER P.M. 189/18-19
- < > INDICATES RECORD DATA PER U.S.G.L.O. FIELD NOTES RIV. CO. SURV. 878 44/84
- ||||| INDICATES RESTRICTED ACCESS.

TOTAL GROSS ACRES = 285.17 AC.
A 1" DP M/ P.P. LS BE SET UP 0.1' WAS SET AT ALL LOT CORNERS. POSITIONED 7TH SIDE OF REAR LOT LINES. SHAPE POINTS IN ACCORDANCE WITH THE 1982 & 1985 P.C.C.'S. OUTRIGS AND ANGLE POINTS OF THE RIGHT OF WAY.
ALL MONUMENTS WERE SET IN ACCORDANCE WITH COUNTY ORDINANCE 461.21
S.C.C. S.R. '89 RECORDED 24-24-100X AS INST. NO. 2413-000000X.

THE EXISTING WELLS CAN ONLY BE USED FOR AGRICULTURE AND/OR COMMON AREA MAINTENANCE. THE EXISTING WELLS CANNOT BE USED FOR DOMESTIC PURPOSES.

NO WATER SYSTEM IS PROVIDED FOR THIS LAND DIVISION AS OF THE DATE OF RECORDATION OF THIS MAP



TENTATIVE TRACT MAP: 36327

Parcel 1 (30 acres): Parcel Map 19882, in the County of Riverside, State of California, as recorded in book 126 Pages 39 and 40 of Records Maps, in the Office of the County Recorder of said County. Parcel 2 (235 acres): COC 8946 Recorder April 13, 2005 per Instrument 2005 - 0342077 of May 11, 2005 as recorded in the Office of the County Recorder of Riverside County, State of California lying in Section 6, T.7S.R. 3E., S.B.8.M

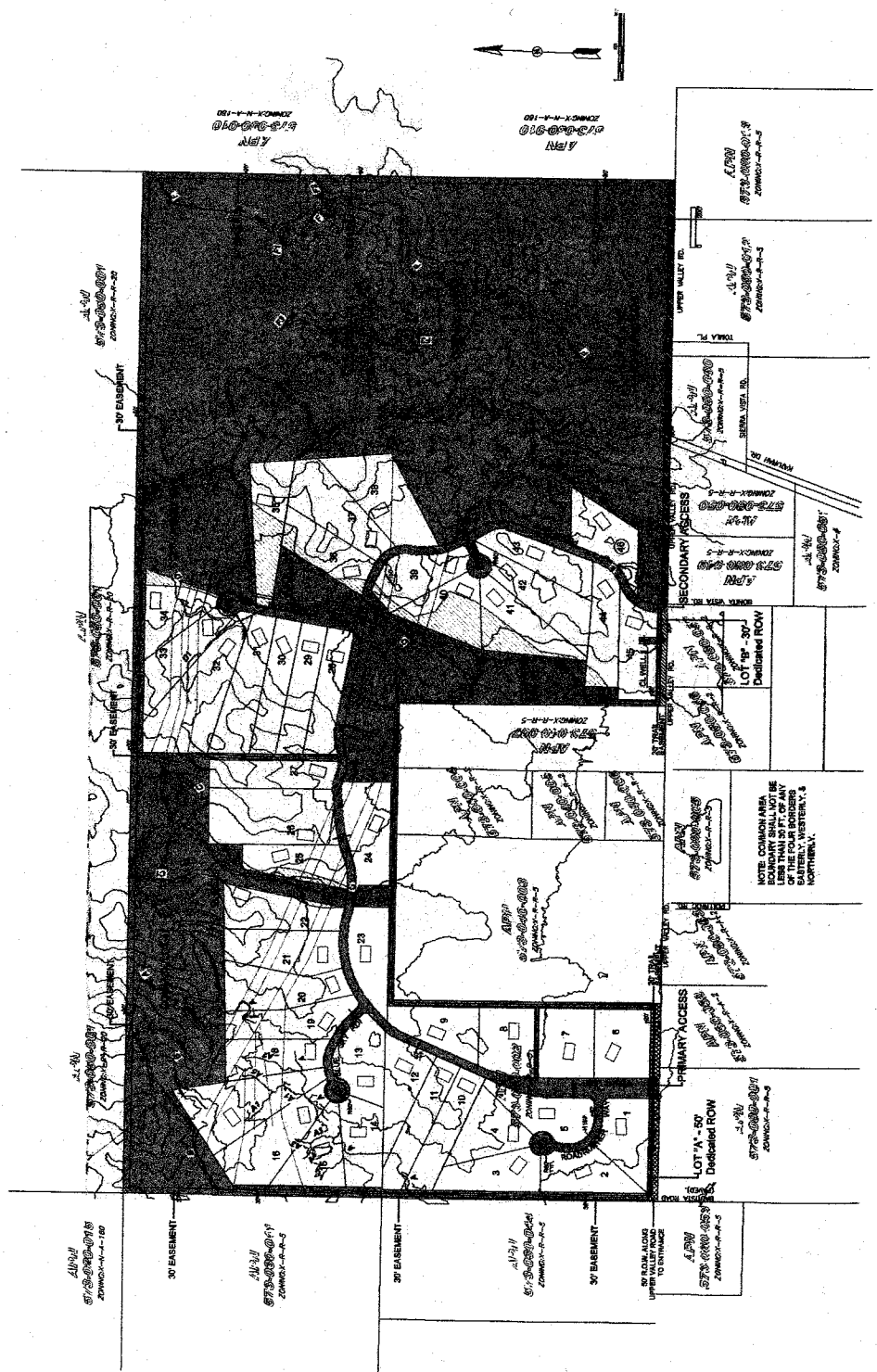
REVISIONS
 Original 1/11/01
 Modified 1/11/01
 Checked 1/11/01
 Drawn 1/11/01

ALEANDRO ALATORRE PE
 CIVIL & SURVEYING ENGINEERING
 1500 W. VALLEY ROAD, SUITE 100
 RIVERSIDE, CALIFORNIA 92507
 PHONE: (951) 510-1860

DRAINAGE MAP

TENTATIVE TRACT MAP NO. 36327:
 THOMAS MOUNTAIN RANCH,
 ANZA, CALIFORNIA

DATE: 01/11/01
 JOB NO. 01/01/01
 DRAWN BY: A.V.
 SHEET
C



UPPER VALLEY RD.
 575-000-0115
 ZONING-R-1-10

30' EASEMENT

30' EASEMENT

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30' EASEMENT

UPPER VALLEY ROAD TO ENTRANCE
 575-000-0115
 ZONING-R-1-10

30' EASEMENT

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30' EASEMENT

LOT 'A' - 50' Dedicated ROW
 575-000-0115
 ZONING-R-1-10

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SECONDRARY ACCESS
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30' EASEMENT

NOTE: COMMON AREA BOUNDARY SHALL NOT BE THE CENTERLINE OF THE FOUR BORDERS OF EASTERN, WESTERN, & NORTHERN.

EXHIBIT "F"

FUEL MODIFICATION REQUIREMENTS

(see attached)

100' DEFENSIBLE SPACE Make Your Home FIRE SAFE

Why 100 Feet?

Following these simple steps can dramatically increase the chance of your home surviving a wildfire!

A Defensible Space of 100 feet around your home is required by law. The goal is to protect your home while providing a safe area for firefighters.

1. Lean, Clean and Green Zone

– Clearing an area of 30 feet immediately surrounding your home is critical. This area requires the greatest reduction in flammable vegetation.

2. Reduced Fuel Zone

– The fuel reduction zone in the remaining 70 feet (or to property line) will depend on the steepness of your property and the vegetation.

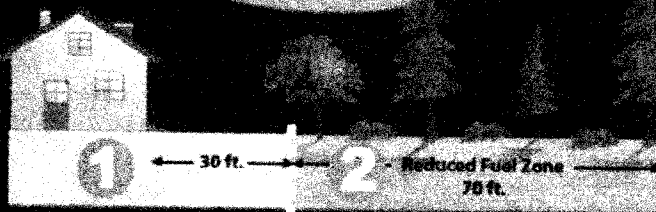
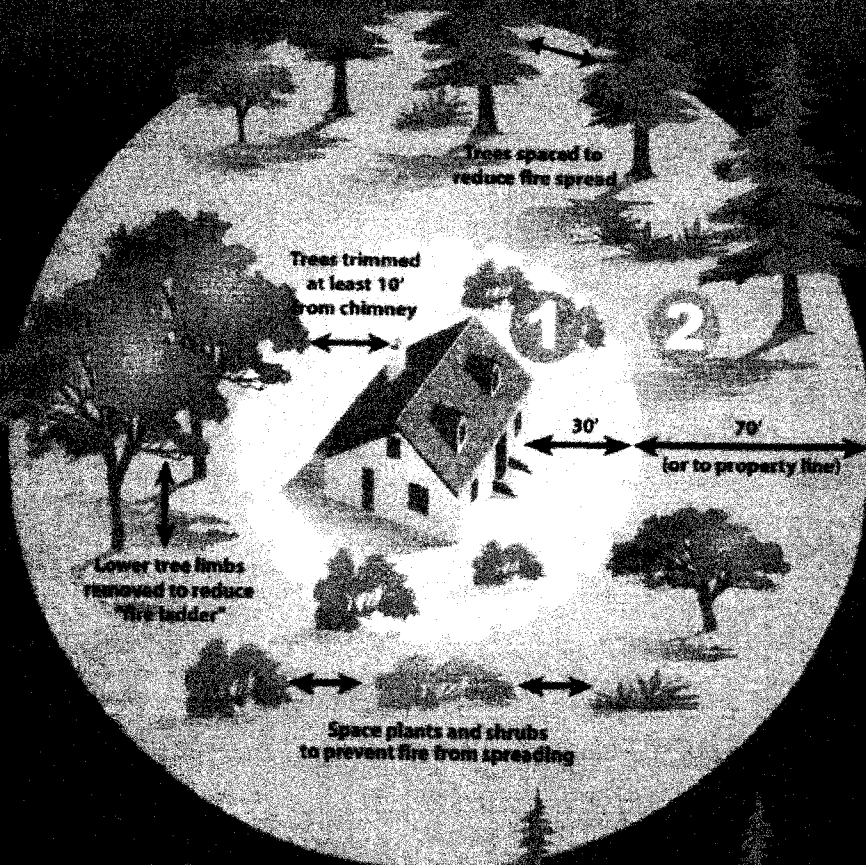
Spacing between plants improves the chance of stopping a wildfire before it destroys your home. You have two options in this area:

- 1. Create horizontal and vertical spacing between plants. The amount of space will depend on how steep the slope is and the size of the plants.
- 2. Large trees do not have to be cut and removed as long as all of the plants beneath them are removed. This eliminates a vertical "fire ladder."

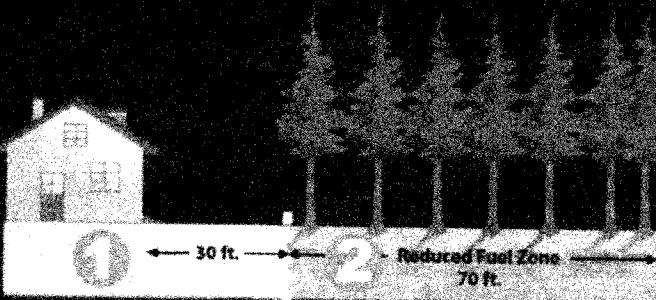
When clearing vegetation, use care when operating equipment such as lawnmowers. One small spark may start a fire; a string trimmer is much safer.

Remove all build-up of needles and leaves from your roof and gutters. Keep tree limbs trimmed at least 10 feet from any chimneys and remove dead limbs that hang over your home or garage. The law also requires a screen over your chimney outlet of not more than 1/2 inch mesh.

1. These regulations affect most of the grass, brush, and timber-covered private lands in the State. Some fire department jurisdictions may have additional requirements. Some activities may require permits for tree removal. Also, some activities may require special procedures for: 1) threatened and endangered species; 2) avoiding erosion; and 3) protection of water quality. Check with local officials if in doubt. Current regulations allow an insurance company to require additional clearance. The area to be treated does not extend beyond your property. The State Board of Forestry and Fire Protection has approved Guidelines to assist you in complying with the new law. Contact your local CAL FIRE office for more details.



or



Contact your local CAL FIRE office, fire department, or Fire Safe Council for tips and assistance.

www.fire.ca.gov



July 2007

EXHIBIT "G"

COUNTY'S CONDITIONS OF APPROVAL

As previously stated, all Owners shall comply with the County's conditions of approval for the map of Tract No. 36327, including, without limitation, including, without limitation, the following requirements:

- (a) Prior to issuance of any building permit on any Lot located within a "Fault Hazard Zone" and its included setback area, the Owner shall have a licensed professional, qualified to do so, clearly delineate in the field the portions of the Lot which are located within the "Fault Hazard Zone." No structures shall be located within any portion of a "Fault Hazard Zone."
- (b) Lots whose access is or will be affected by natural or constructed drainage facilities shall provide drive way drainage facilities which are adequate to allow access from the street to the house during 100 year storms;
- (c) Separate permits shall be obtained for all retaining walls to be installed on a Lot;
- (d) All manufactured slopes equal to or greater than three (3) feet in vertical height shall be planted with drought tolerant grass or ground cover; slopes 15 feet or greater in vertical height shall also be planted with drought tolerant shrubs or trees in accordance with the requirements of County Ordinance 457;
- (e) An Environmental Constraint Sheet for the Project is attached as Exhibit "E" hereto and incorporated by this reference. As set forth on the Environmental Constraint Sheet, certain areas must be kept free of all buildings and obstructions, including fill and block walls. Any fencing shall be of a "rail" type. Chain-link fencing shall not be allowed. Non-habitable structures (e.g., agricultural buildings, pole barns) are permissible provided that they do not obstruct flood flows."
- (f) For Lots 28 through 31 of Tract No. 36327, if a Residence is located within 200 feet of Equestrian Trail, the finished floor of the Residence shall be elevated 18 inches above the highest adjacent ground, and any mobile home or premanufactured building on such Lots shall be placed on a permanent foundation.
- (g) All Lots shall conform to the design standards of the Rural Residential - 4 Acre Minimum (R-R-4), Rural Residential - 2 Acre Minimum (R-R-2) and Open Space Combining

Zone - Residential Developments (R-5) zones, respectively. All Lots shall comply with the setback and building height requirements for such zone. Residential driveway approaches shall be a minimum of 12 feet and a maximum of 30 feet in width, and there shall be 20 feet of full height curb between driveways within any one property frontage, in accordance with County Ordinance No. 461, Standard No. 207. Except as allowed by County Ordinance No. 348 and the Countywide Design Standards and Guidelines, there shall be no encroachment into any setback.

(h) Any building constructed on the Lots shall comply with the special construction provisions contained in County Ordinance No. 787.2.

(i) Prior to the installation of any wastewater treatment system on a Lot, detailed plans for the system must be submitted to and approved by the County's Department of Environmental Health.

(j) As required by the County, any water wells existing at the Project site at the time of the recordation of this Declaration may be used only for agricultural purposes and/or Common Area maintenance and may not be used for domestic purposes.

(k) As required by the County, all proposed outdoor lighting systems shall comply with County Ordinance No. 655.

EXHIBIT "H"

RIGHT TO REPAIR LAW AND DISPUTE RESOLUTION PROVISIONS

Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property), agree to be bound by the provisions set forth in this Exhibit and that such provisions constitute equitable servitudes and shall run with their respective property interests in the Project and be binding upon, and enforceable by, their respective successors and assigns.

Section A. Right to Repair Law.

1. Notice of Procedures. On September 20, 2002, the Governor of the State of California signed into law the construction dispute reform bill known as Senate Bill No. 800, which added section 43.99 and Title 7 (commencing with section 895) to Part 2 of Division 2 of the California Civil Code ("Right to Repair Law"). The Right to Repair Law contains various procedures which may impact an Owner's legal rights as a homeowner. Each Owner may wish to consult with an attorney or other legal advisor to ascertain the requirements of the Right to Repair Law and its impact upon his legal rights.

2. No Enhanced Protection Agreement. As noted earlier, no provisions in this Declaration, and no representations or warranties, expressed or implied, by Declarant, constitute, or shall be interpreted to constitute, an "enhanced protection agreement," as defined in Section 901 of the California Civil Code.

3. DECLARANT'S ELECTION NOT TO USE THE PRE-LITIGATION PROCEDURES SET FORTH IN RIGHT TO REPAIR LAW. BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER ACKNOWLEDGES THAT DECLARANT HAS ELECTED NOT TO USE THE "STATUTORY PRE-LITIGATION PROCEDURES" FOR THE RESOLUTION OF CONSTRUCTION DEFECT CLAIMS SET FORTH IN SECTIONS 910 THROUGH 938 OF THE CALIFORNIA CIVIL CODE. INSTEAD, DECLARANT, EACH OWNER, AND THE ASSOCIATION AGREE TO FOLLOW THE PRE-LITIGATION PROCEDURES SET FORTH IN SECTION B, BELOW, OF THIS EXHIBIT (ENTITLED "JUDICIAL REFERENCE OF DISPUTES"). NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION SHALL BE DEEMED TO CONSTITUTE A WAIVER OF DECLARANT'S RIGHTS, IF ANY, TO REQUIRE AN OWNER OR THE ASSOCIATION TO COMPLY WITH THE PROCEDURES OF THE LIMITED WARRANTY OR THE CALDERON ACT (SET FORTH AT CIVIL CODE SECTION 1375) OR TO ENFORCE ANY PROVISION OF LAW RELATING TO THE RESOLUTION OF DISPUTES OTHER THAN SECTIONS 910 THROUGH 938 OF THE CALIFORNIA CIVIL CODE. EACH OWNER, ON BEHALF OF ITSELF AND ITS SUCCESSORS IN INTEREST, SHALL PROVIDE COPIES OF ALL DOCUMENTS PROVIDED BY DECLARANT TO SUCH OWNER TO ANY SUBSEQUENT PURCHASER OF SAID OWNER'S LOT.

4. Agent for Notice for Declarant. Notice of disputes shall be given to the agent for service of process for Declarant set forth in the most current records of the Secretary of State of California.

5. Association Property Claims. Notwithstanding any provision to the contrary in this Declaration regarding the resolution of disputes regarding the Association Property or Common Area, at such time as an Owner is elected or appointed to the Board, the Declarant shall be deemed to have relinquished control over the Association's ability to initiate claims regarding the Association Property.

Section B. Judicial Reference of Disputes. All Disputes (defined below) shall be resolved as set forth in this Section.

1. Definition of Dispute. The term "Dispute" shall mean and refer to any and all claims, controversies, breaches or disputes (each a "Dispute") between or among the Declarant, or any director, officer, partner, attorney, member, employee or agent of Declarant, or any contractor, subcontractor, design professional, engineer or supplier who provided labor, services or materials to the Project (collectively, the "Declarant Parties"), the Association, and/or any Owner, relating to or arising out of the Project, this Declaration or any other agreements between the Declarant Parties, the Association, and/or an Owner, whether such Dispute is based on contract, tort, or statute, including, without limitation, any Dispute over (1) breach of contract, (2) negligent or intentional misrepresentation or fraud, (3) nondisclosure, (4) breach of any alleged duty of good faith and fair dealing, (5) allegations of latent or patent construction defects, or (6) any other matter arising from or related to the interpretation of any term or provision of this Declaration, or any defense going to the validity of this Declaration, or any provision of this Declaration.

2. Disputes Subject To Or Covered By Limited Warranty. Any and all Disputes subject to or covered by the Limited Warranty provided by Declarant to the original Owners and, if applicable, the Association (a sample form of which is set forth in Exhibit "C" to this Declaration) shall be resolved in the manner set forth in the Limited Warranty. Notwithstanding the foregoing sentence, if the Limited Warranty does not contain any provisions for the resolutions of Disputes, all Disputes subject to or covered by the Limited Warranty shall be resolved in the manner specified in subsection B.3, below, of this Exhibit.

3. Disputes Not Subject To Or Covered By Limited Warranty. Except as expressly provided in subsection B.2 above, all Disputes shall be resolved as follows: (a) the

parties to the Dispute shall attempt to resolve the Dispute through the pre-litigation procedures set forth in subsection B.4 below; and (b) if the parties to the Dispute are unable to resolve the Dispute through the pre-litigation procedures set forth in subsection B.4, below, of this Exhibit, the Dispute shall be resolved by general judicial reference, without a jury, pursuant to California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, in accordance with subsection B.5, below, of this Exhibit.

4. Pre-Litigation Procedures.

(i) Notice. Any person with a claim regarding a Dispute shall notify the Declarant in writing of the claim, which writing (i.e., by personal or mail service as authorized by Code of Civil Procedure Sections 415.10, 415.20, 415.21, 415.30 or 415.40 to the party to whom the Dispute is directed) shall describe the nature of the claim and any proposed remedy (the "Claim Notice").

(ii) Right to Inspect and Right to Corrective Action. Commencing on the date the Claim Notice is delivered and continuing until the Dispute is resolved, the Declarant and its representatives shall have the right to (i) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (ii) enter the Project to inspect any areas that are subject to the Dispute, and (iii) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Declarant. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, the Declarant and the claimant shall meet at a mutually acceptable place within or near the Project to discuss the Dispute. At such meeting or at such other mutually agreeable time, the Declarant and the Declarant's representatives, as noted above, shall have full access to the property that is subject to the Dispute claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing of the same in a manner deemed appropriate by Declarant, which rights shall continue until such time as the Dispute is resolved as set forth herein. The parties to the Dispute shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Project to take and complete corrective action. Nothing set forth in this Exhibit imposes any obligation on Declarant to inspect, repair or replace any items or alleged defects for which Declarant is not otherwise obligated under applicable State and federal law or the Limited Warranty in connection with the sale of the Lots.

5. Judicial Reference Procedures.

(a) Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) agree that, except as expressly provided in subparagraphs B.2 and B.3, above, of this Exhibit, any Dispute which is not resolved through the pre-litigation procedures set forth in subparagraph B.4, above, of this Exhibit shall be resolved in a lawsuit before a judge in a court of competent jurisdiction; provided that such lawsuit must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, and as modified by this subsection B.5 (including all subsections thereto). Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) acknowledge, understand and agree that the judicial reference procedures involve a process whereby resolution of the Dispute does not involve a jury trial and specifically excludes a jury from any involvement in resolution of the Dispute. The parties to the Dispute shall cooperate in the judicial reference proceeding. Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) grant the general referee authority to decide all issues, whether of fact or law, including without limitation, the validity, scope and enforceability of this dispute resolution provision, and to report a statement of decision to the court. All parties shall use the procedures adopted by any entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties, provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise in writing:

(i) The general referee must be a neutral and impartial retired judge with substantial experience in real estate development and residential construction matters. Any dispute regarding the selection of the referee shall be resolved by the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction.

(ii) The general reference proceeding shall proceed without a jury. Declarant, each Owner (by acceptance of a deed to a Lot), and the Association (by acceptance of a deed to the Association Property) each hereby acknowledge, understand, and agree that this procedure does not involve a jury trial and that this procedure and the lack of a jury trial shall be binding upon their respective successors and assigns and upon all persons and entities

asserting rights or claims or otherwise acting on behalf of them or their successors and assigns.

(iii) The parties shall be entitled to conduct all discovery as otherwise provided in the California Code of Civil Procedure, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and/or enforce subpoenas, protective orders or other limitations on discovery available under California law. In the context of construction defect disputes, all parties shall be entitled to reasonable site inspections, visual inspections, destructive testing, and other discovery mechanisms commonly employed in such disputes.

(iv) The reference proceeding shall be conducted in accordance with California law (including the rules of evidence), and in all regards the general referee shall follow California law as applicable at the time of the general reference proceeding. The general referee may issue any remedy or relief which the courts of the State of California could issue if presented the same circumstances, and the general referee shall follow and otherwise employ the standards for issuing such relief as defined by California law. The general referee may require one or more pre-hearing conferences. A stenographic record of the trial shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals. The general referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable. The general referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge. The statement of decision of the general referee upon all of the issues considered by the general referee shall be binding upon the parties, and upon filing the statement of decision with the clerk of any court of the State of California having jurisdiction thereof, or with the judge if there is no clerk, judgment may be entered thereon. The judgment and decision of the general referee shall be appealable in the same manner and subject to the same rules as if rendered by the court.

(v) Any dispute involving third parties (i.e., a person or entity other than Declarant, or Owner or the Association) shall be included in the general reference procedure prescribed herein to the extent permitted by law. All parties shall cooperate in

good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding.

(vi) The exclusive venue for all general reference proceedings shall be in the County where the Project is located;

(vii) Except where attorneys' fees are awarded as an element of sanctions, the parties shall bear their own attorneys' fees in any proceeding conducted under this paragraph. Declarant shall initially advance all fees and costs necessary to initiate the general reference proceeding; however, the general referee may, in his or her discretion, reallocate such fees and costs among the parties as the interests of justice dictate. The general referee may award litigation costs to the prevailing party. This provision does not modify any provision of a contract between Declarant and any other entity other than an Owner requiring indemnification or establishing a different allocation of costs between Declarant and such entity.

(viii) If any provision of this paragraph shall be determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

(b) NO RIGHT TO JURY TRIAL. Declarant, the Association, and each Owner are giving up their respective judicial rights to discovery and appeal, except as expressly stated in this Exhibit. If Declarant, the Association or any Owner refuses to submit to judicial reference, such Owner, the Association or Declarant may be compelled to do so in accordance with California law.

(c) Inspection Easements. The Declarant reserves easements to enter any Lot, including the interior of the Residence and yard area, to inspect those areas and to conduct destructive testing referred to in California Civil Code § 1375(d). However, the Declarant shall notify the Owner of the Lot of at least three (3) alternative dates and times when such inspection can take place (the earliest of which shall not be less than ten (10) days after the notification is given) and the Declarant shall give the Owner the opportunity to specify which date and time is acceptable to the Owner. Should the Owner not respond affirmatively with respect to one of the dates and times within five (5) days, then the Declarant may decide which of the dates and times the inspection and testing shall take place and so notify the Owner. Alternatively, the Declarant may seek a judicial order allowing such

inspection and testing to take place. Declarant shall be entitled to its reasonably incurred attorneys' fees and be deemed the "prevailing party" should such a court order be sought and obtained. Declarant shall be obligated to fully repair any damage caused by any such destructive testing.

(d) Miscellaneous. Any and all communications by and between the parties, whether written or oral, which are delivered by the parties or their attorneys or other representatives in an effort to settle the matter shall be considered communications undertaken in the course of effecting a settlement or compromise, as such shall not be admissible as an admission on the part of any party or any representative or agent of that party to be utilized for any such purpose in any action or proceeding.

Nothing herein shall be considered to reduce or extend any applicable statute of limitation. If at any time an action would be barred by a statute of limitation if not filed within sixty (60) days, then such action may be filed notwithstanding any other provision of this Exhibit.

(e) Manufactured Products Maintenance and Limited Warranty Information. Each Owner, as to his respective Lot, and the Association, as to the Association Property, acknowledge that Declarant has provided such Owner and the Association with manufactured product maintenance, preventative maintenance and limited warranty information pertaining to such Owner's Lot (if applicable) and to the Common Area. Declarant reserves the right, by written notice to each Owner and/or to the Association, to supplement and/or amend such manufactured product maintenance, preventative maintenance and limited warranty information from time to time. Each Owner and the Association also acknowledge that by law, such Owner and such Association are obligated to follow all reasonable maintenance and preventative maintenance schedules and obligations communicated in writing from Declarant as well as commonly accepted maintenance practices. Each Owner and the Association covenant to faithfully follow all such maintenance and preventative maintenance schedules and obligations contained in all such manufactured product maintenance, preventative maintenance and limited warranty information (and each Owner shall require and cause any tenant or lessee of such Owner's Lot to follow all such schedules and obligations).

(f) Indemnification. Each Owner of a Lot in the Project and the Association covenant to indemnify, defend and hold Declarant harmless from any loss, costs or damages arising from such Owner's or such Association's failure or refusal to perform its respective obligations.

DECLARANT, THE ASSOCIATION AND EACH OWNER SHALL USE THE PROCEDURES ESTABLISHED IN THIS EXHIBIT TO RESOLVE ALL DISPUTES AND SHALL BE DEEMED TO WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. PURSUANT TO THIS SECTION, DECLARANT, THE ASSOCIATION (BY ACCEPTANCE OF A DEED TO THE ASSOCIATION PROPERTY), AND EACH OWNER (BY ACCEPTANCE OF A DEED TO A LOT) ACKNOWLEDGE, UNDERSTAND, AND AGREE THAT THEY SHALL HAVE NO RIGHT TO HAVE ANY DISPUTE TRIED BEFORE A JURY.

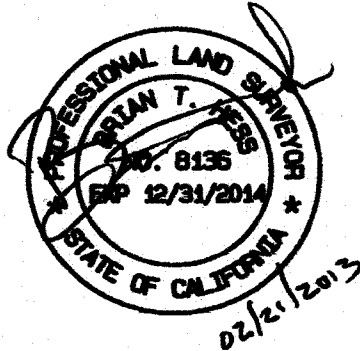
THIS EXHIBIT MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT, WHICH CONSENT MAY BE WITHELD IN DECLARANT'S SOLE AND ABSOLUTE DISCRETION.

TRACT MAP 36327

LEGAL DESCRIPTION

IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

GOVERNMENT LOT 9 IN THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 5, THE
NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 5;
THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 5, AND THE WEST 30 ACRES OF
GOVERNMENT LOT 10 IN FRACTIONAL SECTION 5, ALL IN TOWNSHIP 7 SOUTH, RANGE
3 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT
THEREOF.



HESS
DEVELOPMENT
I NC.

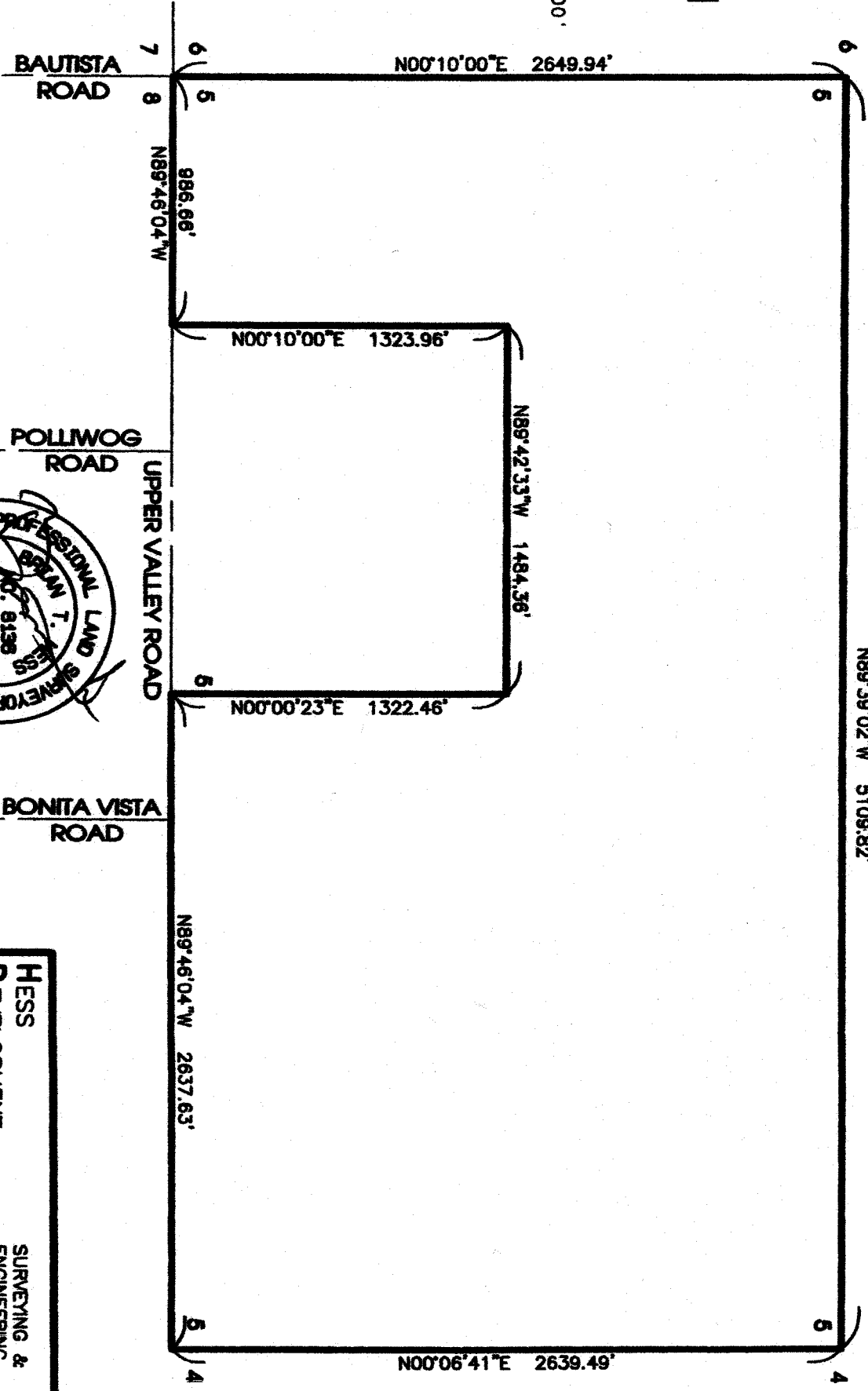
**SURVEYING &
ENGINEERING
SERVICES**

28039 SCOTT RD, STE D387, MURRIETA, CA 92563
PH: 951-325-2200 FAX: 951-639-9661

TRACT MAP 36327

N89°39'02"W 5109.82'

1"=600'



HESSE
DEVELOPMENT
 I NC.
 SURVEYING &
 ENGINEERING
 SERVICES

28039 SCOTT RD, STE 0387, MURRIETA, CA 92563
 PH: 951-325-2200 FAX: 951-639-9661

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

DOCUMENTARY TRANSFER TAX \$ _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

.....Computed on the consideration or value of property conveyed; OR
.....Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

Signature of Declarant or Agent determining tax - Firm Name

NOTE: This tax parcel has no separate value and should not be
assessed a separate amount, as provided in Section 2188.5 of the
California Revenue and Taxation Code.

EASEMENT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **Thomas Mountain Ranch, LLC, a California limited liability company**, hereby GRANT(S) to **TMRHOA, a California nonprofit mutual benefit corporation**, a non-exclusive easement over the real property in the unincorporated territory of the County of Riverside, State of California, as follows:

Exhibit "A" attached hereto

THOMAS MOUNTAIN RANCH, LLC, a California limited liability company

Dated _____

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

}
}ss
}

By: _____

Name: _____

Title: Authorized Signatory

By: _____

Name: _____

Title: Authorized Signatory

On _____ before me, _____,
notary public, personally appeared _____

and _____ who proved to me on the basis of
satisfactory evidence to be the persons whose names are subscribed to
the within instrument and acknowledged to me that they executed the
same in their authorized capacities, and that by their signatures on the
instrument the person or the entity upon behalf of which the persons
acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State
of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

MAIL TAX STATEMENTS TO:

(This area for official notarial seal)

EXHIBIT "A"

Easement Deed to TMRHÖA

Parcel 1:

Non-exclusive easements in, on, over, under, across and through Lot 47 of Tract No. 36327 in the unincorporated territory of the County of Riverside, State of California, as per map recorded in Book _____, Pages _____ through _____, inclusive, of Maps, in the Office of the County Recorder of said County, for purposes of vehicular and pedestrian ingress, egress, and access, the installation, maintenance, repair, and replacement of a private street and related improvements, drainage, utilities, encroachment, support, landscaping, irrigation, and all other purposes set forth in the Declaration (defined below).

Parcel 2:

Nonexclusive easements in, on, over, under, across and through the Lots depicted on the Map of Tract No. 36327 for ingress, egress, access, maintenance, repair, drainage, encroachment, support, and for all other purposes reasonably necessary to allow the Association to manage, implement and comply with all its obligations set forth in the Declaration and to enforce the terms and provisions of the Declaration, as described in the Declaration and/or Tract No. 36327.

[Parcels 1 and 2 are collectively referred to herein as the "Easements"]

RESERVING THEREFROM UNTO THE GRANTOR, the right to enter the Easements for ten years following recordation date of this Easement Deed, to complete and repair any improvement or landscaping located therein as determined necessary by Grantor, in its sole discretion, in order to correct any deficiencies in the construction, design, specifications, surveying, planning, associated with the improvements located in the Easements, and/or to comply with the requirements of applicable governmental agencies or requirements of law. **The Easements are also subject to a right of entry by Grantor and its agents until the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale and/or transfer of the Easements by Grantor.** Such entry by Grantor shall be preceded by reasonable notice to Grantee before such entry. If this reservation of right of entry is not complied with by Grantee, Grantor may enforce this right of entry in a court of law. Grantee shall be responsible for all damages arising out of said breach (e.g., refusing to allow entry) including attorneys' fees, costs, and expenses.

THIS EASEMENT DEED is made and accepted and the Easements are hereby granted subject to the following:

- (a) The covenants, conditions, restrictions, easements, reservations, rights, uses, limitations, liens, charges, and all other terms and provisions (hereinafter collectively referred to as the "Protective Covenants") set forth in that certain "Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Thomas Mountain Ranch" recorded on _____, 2013, as Instrument No. _____ in the Records of Riverside County, California, as may be subsequently amended, modified, or re-recorded, from time to time (collectively referred to as the "Declaration").
- (b) All other matters set forth in the Declaration, and all reservations, covenants, conditions, restrictions, rights, rights-of-way, dedications, offers of dedications, easements, equitable servitudes, and other property rights of record, apparent, or ascertainable by inspecting the Easements.
- (c) General and special real property taxes (including, but not limited to community facility district taxes) for the current fiscal year, assessments and supplemental assessments, and/or taxes.
- (d) The right of entry or repair until the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale, and/or transfer of the Easements by Grantor.
- (e) All zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Easements.
- (f) Any other matters created, permitted or approved by Grantee.
- (g) Pursuant to California Civil Code Section 912(h), Grantor hereby instructs Grantee to provide to any transferee of the Easements or any interest thereon all documents provided to Grantee in conjunction with the original transfer of the Easements.
- (h) Grantee and Grantor acknowledge that the following individual ("Agent") is currently Grantor's agent for notice of claims pursuant to the Alternative Non-Adversarial Prolitigation Procedures adopted by Grantor (notice to Grantor does not constitute notice of a claim, or any other notice, under California Civil Code Sections 895 et seq.): the individual listed as the agent for service of process on Grantor listed in the California Secretary of State's records.

Grantee's Initials: _____ \ _____

- (i) Grantee acknowledges its obligations to follow the maintenance and preventive maintenance obligations and schedules provided by Grantor that apply to Grantee's maintenance obligations, as well as any product manufacturer's maintenance

guidelines/requirements, and commonly accepted maintenance practices.

Grantee's Initials: _____ \ _____

(j) Grantor advises Grantee of the existence of the prelitigation procedures set forth in Chapter 4 of the Right to Repair Law (e.g., Division 2, Part 2, Title 7 [commencing with Section 895] of the California Civil Code) (the "Right to Repair Law Procedures") and that such procedures impact the legal rights of Grantee.

(k) Grantor hereby notifies Grantee that, as authorized by California Civil Code Section 914, Grantor elects to use its own Alternative Non-Adversarial Prelitigation Procedures instead of the Right to Repair Law Procedures. Grantor's Non-Adversarial Prelitigation Procedures shall be as provided to Grantee by Grantor or as Grantor may adopt or as Grantor may set forth in the Declaration or purchase and sale contract between Grantor and Grantee. Grantor and Grantee agree that any dispute which is not resolved under Grantor's Non-Adversarial Prelitigation Procedures shall be resolved by the applicable dispute resolution procedures in the Declaration, purchase and sale contract, or express limited warranty provided by Grantor to the Grantee or the original purchasers from Grantor of the Lots in Tract No. 36327 ("Limited Warranty"), to the extent such dispute is governed by those documents, i.e., judicial reference, without a jury, pursuant to California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, as the same may be amended from time to time or replaced by any successor statute. Grantee agrees, understands and acknowledges that such procedures occur without a jury as authorized by statute and/or federal law. Grantee agrees, understands and acknowledges that, as authorized by statute and/or federal law, such procedures do not include a jury trial, and Grantee will not have a right to have disputes decided by a jury.

Grantee's Initials: _____ \ _____

(l) The Easements shall be held, conveyed, encumbered and used subject to the Right to Repair Law provisions set forth in this Easement Deed (collectively, "Right to Repair Law Provisions"). The Right to Repair Law Provisions (including Grantor's Alternative Non-Adversarial Prelitigation Procedures) are an integral part of a common plan of restrictions for the Thomas Mountain Ranch project in which the Easements are located (hereinafter, the "Project") and are intended to benefit the Lots in the Project by providing a method for resolving disputes in a prompt and cost-effective manner. The Right to Repair Law Provisions are intended and shall be construed as covenants and conditions running with and binding the Easements and as equitable servitudes. The Right to Repair Law Provisions are binding on and burden all persons having or acquiring any right, title or interest in the Easements (during their ownership of such interest), or any part thereof, and their successors and assigns. The Right

to Repair Law Provisions shall inure to the benefit of Grantor and its successors and assigns. The Right to Repair Law Provisions shall automatically terminate and be of no further effect upon the earlier of (a) the expiration of all applicable statutes of limitations for the filing of a complaint or suit or other legal remedies against Grantor in any way relating to or arising out of the development, construction, sale, and/or transfer of the Easements by Grantor, or (b) the date ten (10) years after the recordation of this Easement Deed.

The Easements are for the use and benefit of those members of that certain community known as "Thomas Mountain Ranch," their tenants, guests, and invitees, subject to the terms and provisions of the Declaration.

Grantee, by acceptance and recordation of this Easement Deed, expressly accepts, covenants, and agrees to be bound by and to assume performance of all of the provisions and requirements as set forth in the Declaration (including, but not limited to, the maintenance obligations for the Easements), and the dispute resolution procedures provided by Grantor (e.g., in the Declaration, Limited Warranty, etc.), which Grantee knowingly and voluntarily accepts (e.g., procedures which do not include a jury trial), agrees, and acknowledges are provisions and requirements that are reasonable and incorporated herein by this reference thereto. This Easement Deed is subject to and expressly conditioned upon the performance of such provisions and requirements to be performed by Grantee thereunder.

ACCEPTED AND AGREED on

_____, 2013.

TMRHOA, a California nonprofit,
mutual benefit corporation

By: _____,
_____, President

By: _____,
_____, Secretary

IRREVOCABLE ESCROW INSTRUCTIONS
THOMAS MOUNTAIN RANCH

TO:

Attention: _____

FROM:

THOMAS MOUNTAIN RANCH, LLC, a California limited liability company

1. Upon execution of these Instructions, THOMAS MOUNTAIN RANCH, LLC, a California limited liability company (hereinafter referred to as "Grantor"), will hand to _____ ("Escrow Holder"), an Easement Deed (hereinafter referred to as the "Deed") conveying the following easements to TMRHOA, a California nonprofit, mutual benefit corporation (hereinafter referred to as the "Association"):

Parcel 1:

Permanent, non-exclusive easements in, on, over, under, across and through Lot 47 of Tract No. 36327 in the unincorporated territory of the County of Riverside, State of California, as per map recorded in Book ____, Pages __ through __, inclusive, of Maps, in the Office of the County Recorder of said County, for purposes of vehicular and pedestrian ingress, egress, and access, the installation, maintenance, repair, and replacement of a private street and related improvements, drainage, utilities, encroachment, support, and for all other purposes reasonably necessary to allow the Association (defined below) to manage, implement, and comply with all of its obligations set forth in the Declaration (defined below) as described and/or depicted in the Declaration or the recorded Map of Tract No. 36327 (collectively, the "Easements").

Parcel 2:

Nonexclusive easements in, on, over, under, across and through the Lots depicted on the Map of Tract No. 36327 for ingress, egress, access, maintenance, repair, drainage, encroachment, support, and for all other purposes reasonably necessary to allow the Association to manage, implement and comply with all its obligations set forth in the Declaration and to enforce the terms and provisions of the Declaration, as described in the Declaration and/or Tract No. 36327.

No Documentary Transfer Tax is to be placed on the Deed, as there is none, as said conveyance is for consideration of less than \$100.00. You are instructed to insert verbiage on the Deed to record. The Deed is to be held, unrecorded, by you, as Escrow Holder, until such time as all of the following conditions have been satisfied:

- (a) You are to record the Deed as handed to you prior to or concurrently with the first close of an escrow for the sale of a Lot in Thomas Mountain Ranch, after all Improvements to the Easements have been completed, as evidenced by the recordation of a valid Notice of Completion, as defined in California Civil Code Section 8182, and the statutory period for all mechanics' liens has expired, or if such lien period has not expired, you

have received written advice from a title insurance company authorized to do business in the State of California that Grantor will cause such company to issue a policy of title insurance to the Association with an endorsement insuring against any unrecorded mechanics' liens. In the event the Improvements to the Easements have not been completed prior to the first close of an escrow, Grantor shall deposit with you: (i) the original bond, letter of credit or other security satisfactory to the California Department of Real Estate ("DRE") assuring that all such Improvements will be completed free of all liens and encumbrances in accordance with a construction schedule acceptable to the DRE, and (ii) supplemental instructions consistent with DRE form "RE Form 621-A" executed by Grantor and countersigned by a DRE Real Estate Specialist or Manager, pursuant to California Business and Professions Code Section 11018.5.

(b) You are to record the Deed, subject to the following conditions:

- (1) All general and special nondelinquent real property taxes (including, but not limited to community facility district taxes) for the current fiscal year, assessments and supplemental assessments, and/or taxes;
- (2) All reservations, covenants, conditions, restrictions, rights, rights-of-way, dedications, offers of dedications, easements, equitable servitudes, and other property rights of record, apparent, or ascertainable by inspecting the Easements; and
- (3) All zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Easements.

(c) You are to cause all tax bills to be sent to the Association at the address set forth on the Deed.

2. Grantor will assume payment of costs and fees incurred as instructed herein.

3. JUDICIAL REFERENCE OF DISPUTES: Except as may otherwise be required by the Declaration or Grantor's Limited Warranty (if applicable) for disputes subject to the procedures therein, in the event of a dispute between Grantor and the Association with respect to the Easements, including, without limitation, any claim arising out of an alleged latent or patent construction defect, the conveyance of, or physical condition of such property, the issue shall be resolved in accordance with the Alternative Non-Adversarial Prelitigation Procedures and dispute resolution procedures (i.e., judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645, or any successor statutes thereto, as the same may be amended from time to time or replaced by any successor statute without the involvement of a jury, etc.) set forth in the Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Thomas Mountain Ranch recorded or to be recorded in the County Recorder's Office.

JUDICIAL REFERENCE NOTICE: BY INITIALLING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS "JUDICIAL REFERENCE OF DISPUTES" PARAGRAPH 3 DECIDED BY JUDICIAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 AND 641 THROUGH 645, OR ANY SUCCESSOR STATUTES THERETO, AS THE SAME MAY BE AMENDED FROM TIME TO TIME OR REPLACED BY ANY SUCCESSOR STATUTE, AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALLING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS "JUDICIAL REFERENCE OF DISPUTES" PARAGRAPH. IF YOU REFUSE TO SUBMIT TO JUDICIAL REFERENCE AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO SUBMIT TO JUDICIAL REFERENCE. YOUR AGREEMENT TO THIS JUDICIAL REFERENCE PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS "JUDICIAL REFERENCE OF DISPUTES" PROVISION TO JUDICIAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 AND 641 THROUGH 645, OR ANY SUCCESSOR STATUTES THERETO, AS THE SAME MAY BE AMENDED FROM TIME TO TIME OR REPLACED BY ANY SUCCESSOR STATUTE.

GRANTOR

ASSOCIATION

ASSOCIATION

Signatures to Follow

"GRANTOR"

"ASSOCIATION"

THOMAS MOUNTAIN RANCH, LLC, TMRHOA, a California nonprofit,
a California limited liability company mutual
benefit corporation

By: _____

By: _____, President

Name: _____

Title: Authorized Signatory

By: _____, Secretary

By: _____

Name: _____

Title: Authorized Signatory

Escrow Holder acknowledges receipt of an executed copy of the
above Instructions, and agrees to carry out the terms hereof.

Dated: _____, 2013

BY: _____, Escrow Officer