

FORM APPROVED COUNTY COUNSEL 5/28/15
DATE
BY: GREGORY P. PRIAMOS

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

203B



FROM: TLMA - Transportation Department

SUBMITTAL DATE
May 26, 2015

SUBJECT: Approval of the Final Map for Tract 30238, a Schedule "B" Subdivision in the Woodcrest Area.
1st 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 to sign the Improvement Agreements and Final Map for Tract/Parcel Map 30238.

BACKGROUND:

Summary

Tract 30238 was approved by the Board of Supervisors on July 17, 2012, as Agenda Item 1-3. Tract 30238 is a 33.01 acre subdivision that is creating 25 new residential lots in the Woodcrest area. 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 have been obtained to allow for the recordation of the Final Map.

APPROVE

BY: Tina Grande
Departmental Concurrence

Patricia Romo
Assistant Director of Transportation

Juan C. Perez
Director of Transportation and Land Management

HS:lf
Submittals: Vicinity Map
Road/Drainage Improvement Agreements
Water System Improvement Agreements
Monumentation Agreements

Dep't Recomm.: Policy Policy
Per Exec Ofc.: Consent Consent

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Washington, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: June 16, 2015
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

2-18

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Approval of the Final Map for Tract 30238, a Schedule "B" Subdivision in the Woodcrest Area. 1st
District; [\$0]
DATE: May 26, 2015
PAGE: 2 of 2

BACKGROUND:

Summary (continued)

Ponderosa Lane Estates, LLC 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.

The securities posted by Philadelphia Indemnity Insurance Company are as follows:

- \$974,000 - Bond #PB03010401632 for the completion of street improvements
- \$ 79,500 - Bond #PB03010401632 for the completion of the water system
- \$ 37,800 - Bond #PB03010401633 for the completion of the monumentation

**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 Ponderosa Lane Estates, LLC, hereinafter called Contractor, a Delaware limited liability company

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as **Tract 30238**, 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 **Nine hundred seventy-four thousand and no/100 Dollars (\$974,000.00)**.

SECOND: Contractor agrees to pay to County the actual cost of such inspections of the work and improvements as may be required by the 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
Construction Engineer
Riverside County Transportation Dept.
2950 Washington Street
Riverside, CA 92504

Contractor
Ponderosa Lane Estates, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

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

Ponderosa Lane Estates, LLC
By _____ a Delaware limited liability company
By: Diversified Pacific Communities, LLC,
~~Title~~ _____ a Delaware limited liability company
Its: Manager
By _____
Matthew A. Jordan
Title _____
Managing Member

COUNTY OF RIVERSIDE

By Marion Ashley
MARION ASHLEY

CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

KECIA HARPER-IHEM,
Clerk of the Board

By Kecia Harper-Ihem
Deputy

APPROVED AS TO FORM

County Counsel

By _____

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

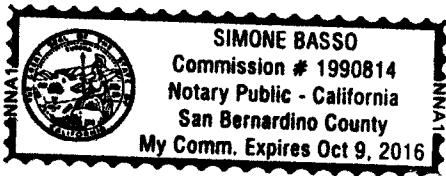
CIVIL CODE § 1189

State of California

County of San Bernardino

On October 22, 2014 before me, Simone Basso, Notary Public

personally appeared Matthew A. Jordan



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/hers/their authorized capacity(ies), and that by his/hers/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 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:

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Signer's Name:

Corporate Officer - Title(s): Corporate Officer - Title(s):

Individual Individual

Partner - Limited General Partner - Limited General

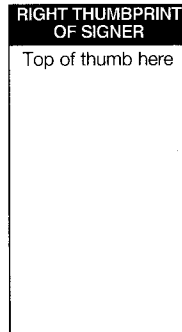
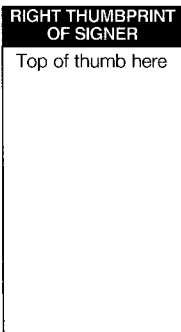
Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: Other:

Signer Is Representing: Signer Is Representing:



**AGREEMENT
FOR THE CONSTRUCTION OF WATER SYSTEM IMPROVEMENTS**

This agreement, made and entered into by and between the County of Riverside, State of California, hereinafter called County, and Ponderosa Lane Estates, LLC, hereinafter called Contractor. a Delaware limited liability company

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as **Tract 30238**, hereby agrees, at Contractor's own cost and expense, to construct or cause to have constructed, within **24** months from the date this agreement is executed, in a good and workmanlike manner, a water distribution system, complete with all necessary pipes, valves, fire hydrants, connections and appurtenances necessary to the satisfactory operation of said distribution system, and, further, to extend main or mains from the existing supply system maintained and operated by **Western Municipal Water District** to connect with the distribution system described above with all pipe laid at such a depth as to provide a full thirty-six inch (36") minimum cover from the top of the pipe to street grade, unless otherwise specified by the Director of Transportation, all in accordance with those plans and specifications which have been approved by both the County Health Director and Director of Transportation, and are on file in the office of the Riverside County Transportation Department. Said approved plans and specifications are hereby made a part of this agreement as fully as though set forth herein. All of the above required work shall be done under the inspection of, and to the satisfaction of, the County Director of Transportation and the County Health Officer, 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 **Seventy-nine thousand five hundred and no/100 Dollars (\$79,500.00)**.

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

Contractor
Ponderosa Lane Estates, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

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

Ponderosa Lane Estates, LLC
By a Delaware limited liability company
By: Diversified Pacific Communities, LLC,
~~TXK~~ a Delaware limited liability company
Its: Matthew A. Jordan
By Matthew A. Jordan
Title Managing Member

COUNTY OF RIVERSIDE

By Marion Ashley
MARION ASHLEY

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 ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Bernardino

On October 22, 2014 before me,

Simone Basso, Notary Public

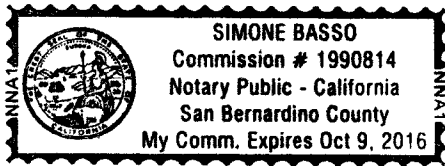
Here Insert Name and Title of the Officer

personally appeared

Matthew A. Jordan

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 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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer - Title(s):
Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer - Title(s):
Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

**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 Ponderosa Lane Estates, LLC, hereinafter called Contractor, a Delaware limited liability company

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by County of the final map of that certain land division known as **Tract 30238**, 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-seven thousand eight hundred and no/100 Dollars (\$37,800.00)**.

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.

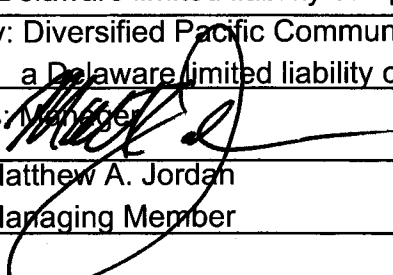
EIGHTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as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

NINTH: 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:

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

Contractor
Ponderosa Lane Estates, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

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

Ponderosa Lane Estates, LLC
By _____ a Delaware limited liability company
By: Diversified Pacific Communities, LLC,
~~THE~~ _____ a Delaware limited liability company
Its: ~~Manager~~ 
By _____
Matthew A. Jordan
Title _____
Managing Member

COUNTY OF RIVERSIDE

By 
MARION ASHLEY

CHAIRMAN, BOARD OF SUPERVISORS

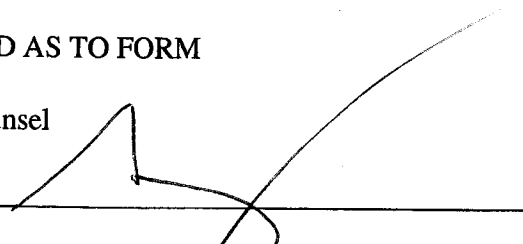
ATTEST:

KECIA HARPER-IHEM,
Clerk of the Board

By 
Deputy

APPROVED AS TO FORM

County Counsel

By 

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

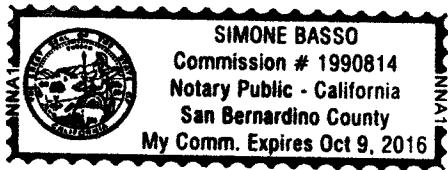
CIVIL CODE § 1189

State of California

County of San Bernardino

On October 22, 2014 before me, Simone Basso, Notary Public

personally appeared Matthew A. Jordan



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/hers/their authorized capacity(ies), and that by his/hers/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 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:

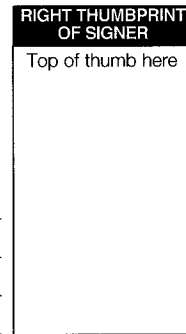
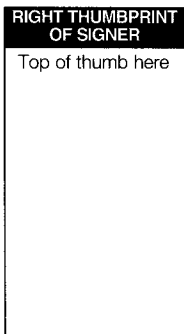
Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Signer's Name:

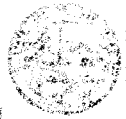
- Corporate Officer - Title(s)
Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

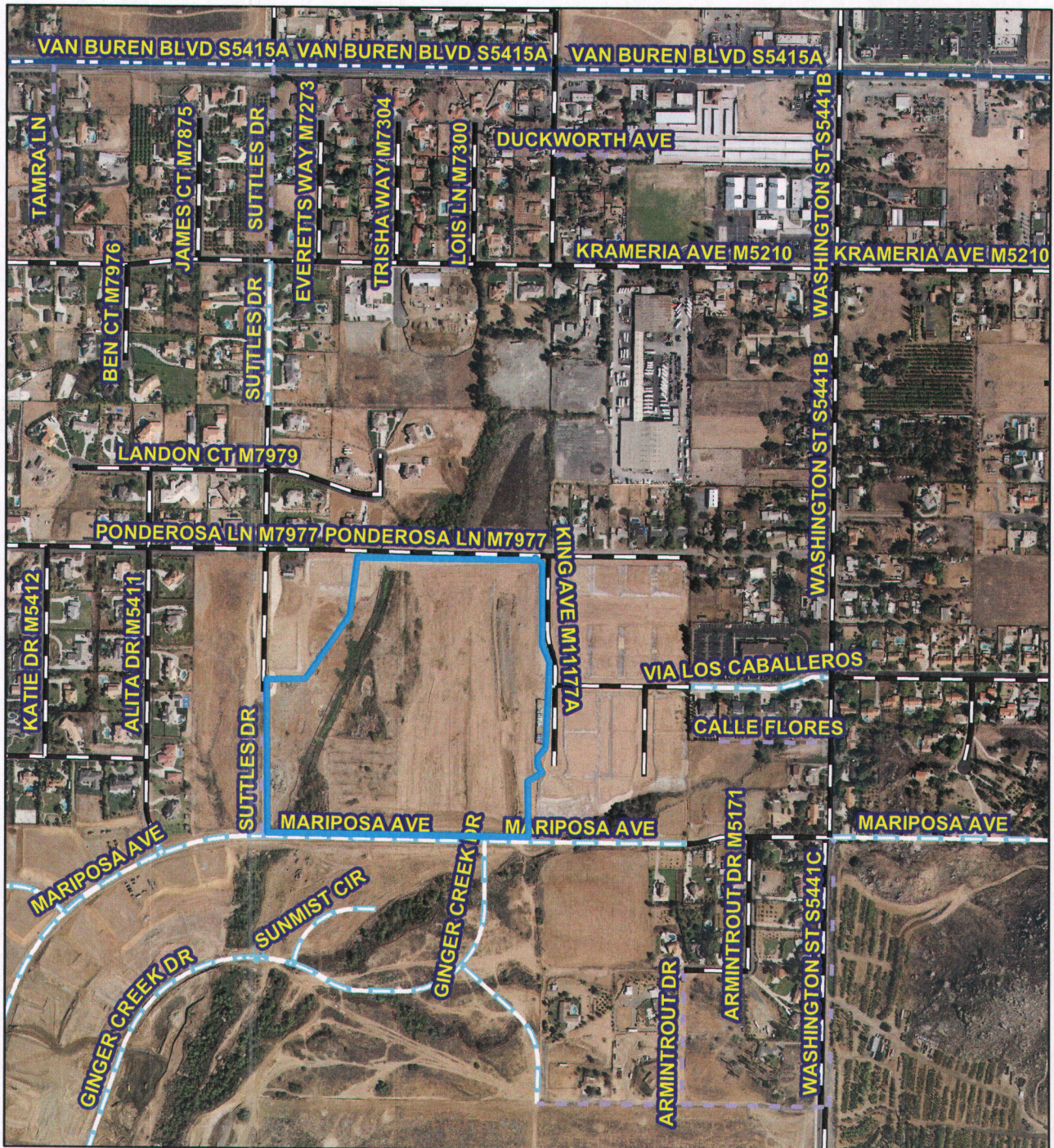


Signer Is Representing:

Signer Is Representing:

STATION 68250
Commission w 190814
WTAH 10/10/08
SAC 68250-0100
10/10/08

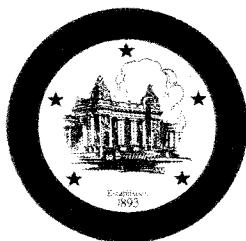




VICINITY MAP
TRACT MAP 30238
 SEC. 26, TWP. 3S., RNG. 5W.
 Supervisorial District: 1



NOT TO SCALE



MEMORANDUM

RIVERSIDE COUNTY COUNSEL

CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

DATE: December 22, 2014

TO: Wendell Bugtai
Urban Regional Planner III

FROM: Melissa R. Cushman
Deputy County Counsel

RE: Woodcrest Estates
Tract Map No. 30238

We have reviewed the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements (CC&R's) for Ponderosa Lane Estates, LLC. As forwarded herewith, the documents are **APPROVED** as to form.

Accordingly, the requirement for a Declaration of CC&R's for Tract No. 30238 is **SATISFIED**.

Enclosures

cc: Jason Holt

:sk

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
WOODCREST ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR WOODCREST ESTATES is made this ____ day of _____, 201_, by Ponderosa Lane Estates, LLC, a Delaware 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 follows:

Lots 18 through 23, inclusive, of Tract No. 30238, in the unincorporated territory of the County of Riverside, State of California, as per Map recorded in Book ___, Pages ___ to ___, inclusive, of Maps in the Office of the County Recorder of said County, State of California

(hereinafter referred to as the "Lots").

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

Nonexclusive easements in, on, over and across Lots 18 through 23, inclusive, of Tract No. 30238 for ingress, egress, access, maintenance, landscape, irrigation, repair, drainage, encroachment, support, and all other purposes reasonably necessary to allow the Association (defined below) to manage, implement, and comply with all of its obligations set forth in this Declaration as described and/or depicted in this Declaration or the recorded Map of Tract No. 30238

(hereinafter collectively referred to as the "Common Area"). (The Lots and Common Area are sometimes referred to collectively herein as "Phase 1" or the "Property").

C. Declarant also owns that certain real property located in the unincorporated territory of the County of Riverside, State of California, more particularly described in Exhibit "B" attached hereto ("Annexation Property"), which may, from time to time, be annexed to and become part of the Project (as hereinafter defined), in accordance with the Article herein entitled "Annexation of Additional Property."

D. Declarant desires to develop the Property and any of the "Annexation Property" which is subsequently annexed to Property pursuant to the Article herein entitled "Annexation of Additional 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 single-family detached homes, landscaped areas and other improvements, as more fully described below.

E. 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.

F. 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.

G. Woodcrest Estates Maintenance Corporation, a California nonprofit, mutual benefit corporation, has been or will be formed under the laws of the State of California for the purpose of exercising the aforesaid powers.

H. Declarant intends to convey the Property, and any and all real property annexed thereto, 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. "Annexation Property" shall mean and refer to that certain real property described in Exhibit "B" attached hereto (hereinafter referred to as "Annexation Property"), includ-

ing all Improvements (as defined below) constructed thereon, all or any portion of which may be annexed into the Project by Declarant, as set forth in the Article herein entitled "Annexation of Additional Property."

Section 2. "Architectural Guidelines" shall mean and refer to those certain architectural standards, landscape standards and other general policies, procedures and criteria which may be adopted by the Board pursuant to this Declaration for use by the Architectural Review Committee in reviewing plans and specifications for proposed Improvements to an Owner's Lot. The Architectural Guidelines are general guidelines and may be amended from time to time by a majority of the Board. A copy of the Architectural Guidelines may be obtained from the Architectural Review Committee.

Section 3. "Architectural Review Committee" shall mean and refer to the architectural committee created pursuant to the Article herein entitled "Architectural Review - Approval."

Section 4. "Articles" shall mean and refer to the Articles of Incorporation of the Association, 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 5. "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 Common Area 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 Common Area, of constructing or installing any capital improvements to the Common Area, or of taking any extraordinary action for the benefit of the Common Area (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 6. "Association" shall mean and refer to Woodcrest Estates Maintenance Corporation, 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 7. "Best Management Practices" or "BMPs" shall mean and refer to the criteria established by the State and the County to implement one or more Water Quality Management Plans to provide appropriate stormwater pollution control during and after construction of the Project. The Best Management Practices may include structural BMPs, treatment control BMPs, and non-structural BMPs in order to prevent all pollutants from contacting storm water and keeping all products of erosion and pollution from moving off site into receiving waters, as required by the State Water Resources Control Board (SWRCB) and the National Pollutant Discharge Elimination System (NPDES). The structural Best Management Practices may include, without limitation, landscape planting, hillside planting, roof runoff controls, efficient irrigation technology, protect slopes and channels, storm drain signage, inlet trash racks, energy dissipators, and trash storage areas and litter control constructed on the Common Area and/or portions of the Lots. As required by the County, all privately owned structural BMPs shall be inspected and, if required, cleaned no later than October 15th each year. The treatment control BMPs may include flow-based treatment control BMPs (e.g., vegetated buffer strips, vegetated swales, multiple systems, bioretentions, media filters, and hydrodynamic separator systems) and 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) constructed on the Common Area and/or portions of the Lots. The non-structural Best Management Practices generally require the Association and Owners to be aware of the sensitive natural environment surrounding the Project and to take appropriate action to control storm water runoff from the Project. The non-structural BMPs may include, without limitation, education of property owners, tenants, and other occupants, activity restrictions, spill contingency plans, employee training, education programs, sweeping of private parking areas, and Common Area catch basin inspection. The Best Management

Practices are designed and intended to control runoff and must be implemented by the Association, Owners and other residents within the Project. Best Management Practices may vary within the Project, with the result that some Owners and other residents may be subject to more stringent Best Management Practices than Owners and other residents. The Best Management Practices may be modified from time to time by the Declarant or any governmental agency having appropriate jurisdiction over the Project, in order to control storm water runoff as the Project develops and runoff conditions change. Compliance with Best Management Practices, as they may be modified from time to time, may be monitored and enforced by any governmental agency having jurisdiction over the Project, including, without limitation, the County, Regional Water Quality Control Board, and State Water Resources Board.

Section 8. "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 9. "BRE" shall mean and refer to the Bureau of Real Estate in the Department of Consumer Affairs 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 10. "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 11. "Common Area" is used herein as a generic term to mean and refer to: (a) all real and personal property, and all Improvements thereon, which are 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, benefit and enjoyment of all Owners in the Project. If the Project is completed as currently planned, the Common Area may include, without limitation, maintenance areas specified in this Declaration or a recorded Notice of Annexation (e.g., see Exhibit "A"), certain walls and/or fences or portions thereof (e.g., see Exhibit "G"), certain private utilities (e.g., see Exhibit "H"), certain private storm drainage facilities (e.g., for Phase 1, see Exhibit "I"), and other improvements originally installed by Declarant (e.g., as depicted in one or more Exhibits to this Declaration or in a recorded Notice of Annexation), common amenities, mailbox structures servicing multiple Lots, and Project signs and monumentation, and such other Improvements as may be designated, from time to time, in this Declaration (as same may be amended), by the Board, and/or set forth in one (1) or more Notices of Annexation recorded in the

Office of the County Recorder, pursuant to the Article herein entitled "Annexation of Additional Property."

Section 12. "Common Expenses" shall mean and refer to the actual and estimated costs to be paid by the Association for the following: (a) owning, maintaining, managing, operating, painting, repairing, and replacing the Common Area; (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) all general office and administrative expenses incurred by the Architectural Review Committee; (d) providing utilities and other services to the Common Area; (e) maintaining insurance coverage and fidelity bonds [and paying deductibles] as provided for herein; (f) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment; (g) paying taxes for the Association; (h) 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]; (i) enforcing the provisions of the Declaration, Articles, Bylaws and Rules and Regulations; and (j) 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 Common Area 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 Common Area which constitute Special Benefit Improvements and which are allocable as Special Benefit Expenses to the Owners of Lots within a Special Benefit Area.

Section 13. "County" shall mean and refer to the County of Riverside, California, and its various departments, divisions, employees, and representatives.

Section 14. "Declarant" shall mean and refer to Ponderosa Lane Estates, LLC, a Delaware 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 15. "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 16. "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 17. "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 18. "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 19. "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 20. "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, security doors, 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 drains, 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, streetscapes, antennas and related facilities, exterior lighting and any landscaping which, if left in its natural state, would grow to a height in excess of twenty-five feet (25'). 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 21. "Include, Including" (whether capitalized or not) shall mean "includes without limitation" and "including without limitation," respectively.

Section 22. "Limited Warranty" shall mean and refer to the express written limited warranty to be provided to the initial Owners who acquire a Lot from a Declarant, and, if applicable, to the Association. If applicable, a sample copy of the version(s) of the Limited Warranty currently available is attached hereto as Exhibit "C" and 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, if applicable, and the procedures and forms which must be followed and executed to transfer such Limited Warranty, if applicable, to said subsequent purchaser. Each Declarant shall have the right to provide its own Limited Warranty, rather than the form of Limited Warranty set forth in Exhibit "C" hereto (if any), with respect to any Lots or Common Area sold or conveyed by such Declarant.

Section 23. "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." As used herein, the term "Lot" (when used alone) shall not mean or refer to any plot of land owned in fee by the Association as Common Area.

Section 24. "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 25. "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 26. "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 27. "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 28. "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 29. "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 30. "Notice of Annexation" shall mean and refer to that certain document recorded for the purpose of annexing all or a portion of the Annexation Property into the Project, in accordance with the provisions of this Declaration, thereby subjecting said subsequent Phase to the provisions of this Declaration and to the jurisdiction of the Association.

Section 31. "Notice and Hearing" shall mean and refer to written notice and a hearing before the Board or the Architectural Review Committee of the Association, 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 32. "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 33. "Phase" shall mean and refer to a Lot, or Lots or portions thereof, or other Improvements which is (are) annexed into the Project in accordance with this Declaration, and which is (are) subject to a separate Final Subdivision Public Report issued by the BRE.

Section 34. "Project" shall mean and refer to the Property and to all Improvements, including the Residences constructed thereon and the Common Area, together with all portions of the Annexation Property which are annexed to the Property in accordance with the applicable provisions of this Declaration.

Section 35. "Property" shall mean and refer to all of that certain real property described in Paragraphs A and B of the recitals hereinabove.

Section 36. "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 37. "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 38. "VA/FHA" shall mean and refer to the United States Veterans Administration 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 39. "Water Quality Management Plans" shall mean and refer, collectively, to all applicable plans and requirements for the management of storm water at the Project, including, without limitation, any applicable National Pollutant Discharge Elimination System ("NPDES") permit requirements, during construction and post construction, Standard Urban Storm Water Mitigation Plan ("SUSMP"), 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 40. 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 and to any Notice of Annexation 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 41. Application of Definitions. The aforesaid definitions shall be applicable to this Declaration, and to any supplements or amendments hereto filed or recorded pursuant to the provisions of this Declaration, and to any Notice of Annexation for a subsequent Phase, unless otherwise indicated or the context shall prohibit such application.

ARTICLE II

GENERAL PLAN OF DEVELOPMENT

Section 1. Introduction. Declarant plans to develop Tract No. 30238 as a multi-phase planned residential community, which, if completed as proposed, may consist of Lots improved with Residences and other Improvements, together with various Common Area improvements and related amenities. 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. The Association will maintain the Common Area (except for those portions, if any, 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. 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.

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 and establish other restrictions, each Owner, his family members, tenants and invitees will be entitled to the use and enjoyment of the Common Area of the Project (access may be prohibited).

Section 3. Description of Common Area. Each Owner of a Lot in the Project shall have a nonexclusive easement appurtenant to his/her Lot for use and enjoyment of all Common Area within the Project, 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, except for those portions, if any, of the Common Area maintained by an assessment district or other public entity, the Association shall be responsible for the ownership, maintenance, and operation of all Common Area within the Project.

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 and enjoyment 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. Annexation of Subsequent Phases Into the Association. At such time as subsequent Phases are developed, if ever, Declarant shall annex such Phases to the Project in

accordance with the provisions of the Article herein entitled "Annexation of Additional Property."

Section 6. Declarant's Use of Private Utilities. For as long as Declarant owns a Lot in Tract No. 30238, Declarant hereby reserves, together with the right to grant and transfer all or a portion of the same, easement rights to use any private utilities within the Project for, including, but not limited to, construction and connection of utilities by Declarant for purposes of developing the real property comprising the Project, including the Annexation Property.

Section 7. 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. Subject to applicable provisions of the County's Ordinances, 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. 30238 are initially sold (and escrows have closed), or (b) five (5) years from the recordation of this Declaration, whichever occurs last:

(i) A nonexclusive easement for ingress and egress on, over and across the Project as necessary to construct the Lots, Residences, and all other Improvements;

(ii) The exclusive right to maintain one (1) or more sales office(s), 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 as an additional insured 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 8. 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, including the Annexation Property. 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.

Section 9. Reservation of Easements Over Common Area For Subsequent Phases. Declarant hereby reserves the right to grant nonexclusive easements over the Common Area in the Property in favor of each Owner of a Lot in a subsequent Phase at such time as the annexation of such Phase becomes effective, and the Owners of the Lots described in this Declaration shall automatically obtain nonexclusive easements over all Common Area which is a part of such subsequent Phase, except any portions of the Common Area subject to rights reserved by Declarant.

ARTICLE III

RESERVATION OF EASEMENTS AND OTHER PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Easements. Every Owner shall have a nonexclusive right and easement of access and use in and to the Common Area. Said right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the restrictions and limitations set forth in Section 2 below and elsewhere in this Declaration.

Section 2. Limitations on Owners' Easement Rights. The rights and easements of access, use and enjoyment 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 Declarant to designate additional Common Area by recordation of one (1) or more Notices of Annexation, pursuant to the provisions of the Article herein entitled "Annexation of Additional Property";

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

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

(d) 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;

(e) The right of the Association to suspend the voting rights and rights and easements of use and enjoyment of the Common Area of any Member, and the persons deriving such rights and easements 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 use rights and easements 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;

(f) 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, that the dedication or transfer of easements 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;

(g) 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, including the Annexation Property. In addition, such use shall not unreasonably interfere with the rights of enjoyment of other Owners as provided herein;

(h) The right of the Association, acting by and through its Architectural Review Committee, to enact uniform and reasonable architectural standards;

(i) The right of Declarant to designate additional Common Area, pursuant to terms of the Article herein entitled "Annexation of Additional Property";

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

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

(l) 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 (if any - the current plan is for the Lots to have septic systems) 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;

(m) Any limitations, restrictions or conditions affecting the use, enjoyment 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

(n) 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.

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 a residential Lot and Common Area. Those Owners who have a common fence which adjoins their Lots and effectively creates the boundary line between such Lots (including the Association and its Common Area) 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 or Common Area. 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. Each Owner is responsible for the maintenance of the side of the fence facing his Lot; provided, however, that Owners who share a common fence shall share the cost of maintaining the structural integrity of the fence. Notwithstanding the foregoing, 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 and enjoyment to 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 and enjoyment to 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 and enjoyment to the Common Area 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. In the event of a conditional sales contract, the seller under the contract shall be deemed to delegate his rights of use and enjoyment to 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) telecommunications 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 the Project.

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 (whether a residential Lot or a Common Area Lot), not

to exceed one foot (1'), 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 (whether a residential Lot or a Common Area Lot), not to exceed one foot (1'), 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 (if any - current plans contemplate that the Lots will have septic systems), storm drain, 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 (if any), 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 (if any), 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 (if any) 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 drains 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. Notwithstanding that an Owner may install Improvements (including landscaping) within a utility easement area subsequent to receipt of prior written approval of the Architectural Review Committee, 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, if at all, all electrical power, telephone, communication, street lighting, and cable television lines shall be placed and maintained underground.

Section 9. Easements for Maintenance of the Common Area. 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 inspection and maintenance obligations for the Project and Common Area, as more particularly set forth herein (e.g., 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) 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. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or portion of a Lot which is required to be maintained by the Owner of such Lot.

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 Over Sidewalks. Declarant hereby covenants for itself, its successors and assigns, that each and every Owner, his tenants and invitees shall have appurtenant nonexclusive reciprocal easements on, over and across all sidewalks located on portions of Lots, if any, immediately adjacent to the streets within the Project for pedestrian access, use and enjoyment.

Section 12. 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 (including, but not limited to, easements to accommodate any "cross-lot drainage," whereby water runoff from one [1] or more contiguous Lots [or Common Area] drains across another Owner's Lot). Each Owner covenants and agrees that he shall not obstruct or otherwise interfere with said drainage patterns of waters from

adjacent Lots in the Project over his Lot, 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, and the Architectural Review Committee. Except as specified in the Article of this Declaration entitled "Repair and Maintenance, each Owner shall be responsible for cleaning, maintaining, and repairing any drainage swales or other facilities constructed by Declarant, if any, on such Owner's Lot and keeping such swales or facilities free of debris and any other obstructions to ensure proper drainage in, on, over, under, across and through such swales or facilities in a manner consistent with the established drainage patterns created by the precise grading plans for the Project or as otherwise approved by the Architectural Review Committee. As required by the County, all drainage easements depicted on the map of Tract No. 30238 shall be kept free of buildings and obstructions and encroachments by landfill.

Section 13. 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. Except to the extent (if at all) maintained by 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 all Best Management Practices applicable to the Project, 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 the Architectural Review Committee. 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.

Section 14. 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. 30238 are initially sold (and escrows closed), whichever occurs last, 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 15. Easements to the County. 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 16. 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 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 BRE. 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 17. 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 fee simple title to, or a nonexclusive easement in, as appropriate, the Common Area, free and clear of all liens and encumbrances (i.e., if the Common Area title being conveyed is fee simple), prior to or concurrent with a first close of escrow for the sale of a Lot in the Project, 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 the grant deed conveying Common Area, the Association's responsibility to maintain the Common Area conveyed to the Association shall commence concurrently with the levy of assessments by the Association for maintenance of such Common Area. 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 title to all Common Area in the Project conveyed by Declarant, and undertake all maintenance responsibilities for the Common Area 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, resolution of the dispute, unless otherwise provided herein [e.g., in the Limited Warranty (if any), or Exhibits "D" through "F" attached hereto] may, by the mutual consent of the parties, be submitted to arbitration and conducted in accordance with the then existing rules for commercial arbitration of the American Arbitration Association or as may be otherwise provided in this Declaration or in a recorded Notice of Annexation. In the event of a demand for arbitration, Declarant shall remit any fee required to initiate the arbitration. However, the costs of arbitration, including attorneys' fees of the prevailing party, shall be borne in such proportions as the arbitration panel shall determine.

(f) Formation of Landscape Maintenance District. Notwithstanding any provision contained herein to the contrary, the Board shall have the power and authority to convey the Common Area, or any portion thereof, to the County upon request of the County to include the Common Area, or any such portion, in a landscape maintenance district and/or delegate its maintenance obligations to the County or to such landscape maintenance district. Each Owner of a Lot shall pay all assessments, special taxes and other charges levied against such Lot in connection with any such landscape maintenance district. Each Owner of a Lot in the Project, by acceptance of a deed from Declarant for such Lot, agrees to refrain from taking any action which would in any way interfere with the formation of or annexation into a landscape maintenance district, or other special district or community facilities district, the operation of either district, or decisions made or actions taken by the County with respect to such districts, including, without limitation, the timing of commencement, amount, spreading or use of the assessments, special taxes or other charges collected by such districts.

(g) 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, resolution of the dispute shall be submitted to resolved in accordance with the applicable provisions set forth in this

Declaration (e.g., in Exhibits "D" through "F" attached hereto) or provided by the Declarant.

(h) Dissolution of the Association. In the event that the Association is ever dissolved, then (i) the fee simple title to, or nonexclusive easement in, as appropriate, the Common Area automatically shall transfer to the Owners of the Lots in the Project as tenants-in-common or such other form of ownership acceptable to the County, with each Owner holding an interest equal to the percentage derived from dividing 1 into the total number of Lots in the Project at the time of the dissolution of the Association and multiplying that quotient by 100; 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 18. Reservation of Common Area Easements. Declarant does hereby reserve the right to grant nonexclusive easements over the Common Area in favor of Owners of any Annexation Property which is annexed to the Project pursuant to this Declaration, and, upon the recordation of a Notice of Annexation affecting the Annexation Property, the Owners described in this Declaration shall automatically obtain nonexclusive easements over all Common Area which is a part of said Annexation Property subject to all applicable restrictions set forth herein and in the Notice of Annexation.

Section 19. Other Easements. In addition to the foregoing easements, the Project is encumbered by all easements set forth on the final recorded map of Tract No. 30238 and other documents 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 member-

ship 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) The second anniversary of the first close of escrow for the sale of a Lot pursuant to the original issuance by the BRE of the most recently issued Final Subdivision Public Report for a Phase of the Project;

(2) The fourth anniversary of the first close of an escrow for the sale of a Lot pursuant to the original issuance by the BRE of a Final Subdivision Public Report for Phase 1.

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 eighteen (18) Lots in the Project; or

(b) December 31, 2017.

In the event Declarant shall not have sold and closed escrows for at least eighteen (18) Lots by December 31, 2017, 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, 2018.

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., BRE Regulation 2792.18, 2792.19, etc.) regarding the transfer of control of the Association from the Declarant to the Members.

Notwithstanding the foregoing or any provision in this Declaration, transfer of control of the Association shall pass to the Owners no later than the latest of the following: (a) one hundred twenty (120) days after the date by which seventy-five percent (75%) of the Lots in the Project have been conveyed by the Declarant to the Owners; (b) three (3) years after completion of the Project, as evidenced by the first conveyance of a Lot by Declarant to an Owner; or (c) the time frame established under state or local laws if specific provisions regarding the transfer of control exist.

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. Adjustment of Voting Rights. The voting rights in the Association shall be adjusted on the first day of the month immediately following the first close of an escrow for the sale of a Lot in a subsequent Phase of the Project.

Section 6. 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 7. 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 8. 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 9. 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 title, manage, maintain, repair and replace all Common Area 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 Common Area, 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 Common Area, all commonly metered water, gas and electric services, and may provide for refuse collection and cable (or CATV) television service;

(e) Grant easements or licenses, where necessary, for utilities, storm drain, and sewer facilities over, on and across the Common Area to serve the Project;

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

(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 Common Area 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 BRE, 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 Common Area 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) Grant exclusive easements to Owners over portions of the Common Area in accordance with California Civil Code Section 1363.07, as same may be amended from time to time, and with the assent of sixty-seven percent (67%) of the voting power of the Association;

(o) 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 Common Area 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;

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

(q) Subject to compliance with Section 1369.510 et seq. of the California Civil Code and Exhibits "C" through "F" attached hereto, 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 Common Area; (iii) damage to the Lots which arises out of, or is integrally related to, damage to the Common Area that the Association is obligated to maintain or repair;

(r) Execute all necessary documents in order to effectuate the Limited Warranty (if applicable);

(s) Negotiate and enter into agreements for telecommunication services, with terms not in excess of ten (10) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or equipment equal to or greater than ten percent (10%);

(t) 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;

(u) 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);

(v) Without any limitation of the foregoing powers, (1) operate, maintain, and inspect the Common Area 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) Own, maintain and operate the Common Area, for the common use and benefit of all Owners in the Project;

(b) Provide, water, sewer (if applicable - as currently planned, the Lots will have septic systems), gas, electricity, garbage and trash collection, and other necessary

utility services for the Common Area 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 or annexed to 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 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 Common Area in a neat, clean, safe, attractive, sanitary and orderly condition at all times and paint, maintain, repair and replace all of the Common Area Improvements so as to keep same in a neat, clean, safe, attractive, sanitary and orderly condition at all times. Without limiting the generality of the foregoing, if the Project is completed as proposed, the Association shall be responsible for maintaining, without limitation, certain maintenance areas (e.g., for Phase 1, see Exhibit "A"), certain walls and fences (e.g., for Phase 1, see Exhibit "G"), certain private utilities (e.g., for Phase 1, see Exhibit "H"), certain private storm drainage facilities (e.g., for Phase 1, see Exhibit "I"), and other improvements originally installed by Declarant (e.g., as depicted in one or more Exhibits to this Declaration or in a recorded Notice of Annexation), common amenities, mailbox structures servicing multiple Lots, and Project signs and monumentation, and such other Improvements as may be designated, from time to time, in this Declaration (as same may be amended), by the Board, and/or set forth in one (1) or more Notices of Annexation recorded in the Office of the County Recorder, pursuant to the Article herein entitled "Annexation of Additional Property." In the event any maintenance or repairs to the Common Area 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) In addition to all other provisions set forth herein respecting the maintenance of the Common Area, maintain any Common Area lighting facilities in a condition comparable to the condition initially approved by the County;

(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) Unless otherwise provided in the By-Laws for the Association, cause financial statements 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, as follows:

(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, 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 both of the following:

a) 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 component (e.g., Improvement to the Common Area) or to provide adequate reserves therefor; and

b) The mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assess-

ments, borrowing, use of other assets, deferral of selected replacement of repairs, or alternative mechanisms.

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 Common Area Improvements.

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 Architectural Review Committee, 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, the Architectural Review 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) To the extent 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 Plans (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 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; and

(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. Right to Repair Law Provisions. The notices and elections of the Declarant under Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code

("Right to Repair Law") are set forth in Exhibit "E" attached hereto and incorporated by this reference. Any Declarant shall have the right to specify different notices and elections under the Right to Repair Law with respect to any Lots or Common Area owned by such Declarant.

Section 6. Alternative Dispute Resolution Provisions. Declarant, the Association (by acceptance of a deed to the Common Area), and each Owner (by acceptance of a deed to a Lot) agree to the alternative dispute resolution provisions set forth in Exhibit "F" attached hereto and incorporated by this reference. Any Declarant shall have the right to specify different alternative dispute resolution provisions with respect to any Lots or Common Area owned by such Declarant.

Section 7. Notification by Association of Defects . The Board agrees that in the event of any alleged defect in any improved Common Area for which the Association believes the Declarant may be responsible, the Board will provide Declarant with written notice of such defect in accordance with Civil Code Section 1375, as the same may be amended. Declarant shall have a reasonable opportunity to inspect such alleged defect, and if Declarant agrees with the Board (or otherwise elects to perform the work) to repair, replace or otherwise cure any defect in workmanship and/or material. The Association acknowledges and agrees that Declarant, (or its authorized agents), shall be entitled at its sole discretion to determine the material and methods to be used in affecting such repair, replacement or cure.

Section 8. Awards Rendered in Construction Defects Disputes. Any recovery by the Association or any Owner for any damage, to or defect in, the Common Area shall be utilized solely for the purpose of correcting such damage or defect.

Section 9. Special Meeting of the Association for Construction Defect Disputes. In the event the Board decides to commence any alternative dispute resolution proceedings (e.g., arbitration, judicial reference, etc.) or other legal proceedings against any of the Declarant Parties (as set forth in Exhibit "F" of this Declaration, entitled "Alternative Dispute Resolution Provisions") relating to construction defect Disputes, the Secretary shall call a special meeting of the Association. In addition to the information required by Section 1375 to be specified in the notice of such meeting, the notice shall also specify the following: (a) the estimated costs to repair the defects; (b) how the necessary repairs will be funded; (c) the name of the attorney whom the Association is contemplating retaining and an estimate of the attorney's fees, consultant's fees and any other costs to be incurred to prosecute such proceedings; (d) how such fees and costs will be funded; (e) each Member's duty to disclose to prospective purchasers the alleged defects; and (f) the potential impact the proceedings may have on the marketability and availability of financing for Lots in the

Project. Such notice shall be sent to all Members of the Association. The decision of the Board to commence any other legal proceedings against any of the Declarant parties relating to a construction defect Dispute must be approved by not less than fifty-one percent (51%) of the voting power of the Association residing in Members other than the Declarant.

Section 10. 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 11. 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 12. 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 13. 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, (ii) enforce the architectural control provisions contained herein; or (iii) collect any unpaid assessments levied pursuant to this Declaration;

(g) Amending or limiting the Association's duties and obligations (and benefits) 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, (ii) enforce the architectural control provisions contained herein; or (iii) collect any unpaid assessments levied pursuant to this Declaration.

Section 14. 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 drains and other public utility purposes over those portions of the Common Area upon which no building or other structure has been erected as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area 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. In addition, the Board, for and on behalf of the Association, may grant exclusive easements to Owners for use and enjoyment over portions of the Common Area, as the Board determines is reasonable.

Section 15. New Improvements. Except as otherwise provided in this Declaration, and subject to the Article herein entitled "Architectural Review - Approval," the Association may construct new Improvements or additions to the Common Area 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 con-

sent 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 16. 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 or adopted by the Architectural Review Committee, 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." Notice of any proposed change to or reversal of the Rules and Regulations shall be given within the time periods specified in Civil Code Sections 1357.130 and 1357.40, as the same may be amended from time to time.

Section 17. 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 or the Architectural Review Committee by this Declaration, the

Articles or the By-Laws, shall be construed as a duty or obligation charged upon the Board, the Architectural Review Committee, any member of the Board or the Architectural Review Committee, 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 general liability for the Association and 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 required by California Civil Code Section 1365.7, as the same may be amended or replaced by a successor statute (currently, the statute requires coverage in the amount of at least

Five Hundred Thousand Dollars if a common interest development consists of 100 or fewer separate interests, and at least One Million Dollars if a common interest development consists of more than 100 separate interests).

(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.

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 Common Area 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 collection 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. The Assessments levied by the Association shall be adjusted at such time as the annexation of an additional Phase becomes effective. 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 Phase 1 budget reviewed by the BRE. 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, if any. 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 BRE and/or 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 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

(3) 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 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 BRE. Notwithstanding the foregoing, following the annexation of a subsequent Phase of the Project, pursuant to the provisions set forth in this Declaration, the maximum Regular Assessment may be automatically increased (or decreased) for all Lots in the Project on the first day of the month following the first close of an escrow for the sale of a Lot in said Phase without any approval of the Members of the Association to the amount recommended by the BRE in connection with its review and processing of the Association budget for such Phase. 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 Association 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 BRE, 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 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 in each Phase on the first day of the first month following the first close of escrow for the sale of a Lot in such Phase, or on the first day of the first month following the first occupancy of a Lot in such Phase 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. Date of Commencement of Regular Assessments for Models. Conveyance of a Lot which is being used by Declarant for model home, sales office, design center, construction office or similar purposes (any of which uses are referred to in this Section as "**Model Home**") shall not commence the regular assessments against such Lot or other Lots within the Phase until the earlier to occur of:

- (a) discontinuance of use of such Lot as a Model Home;
- or
- (b) conveyance of any non-Model Home Lot in the Phase.

During the period of time commencing on the first day of the first month after conveyance of a Lot being used by Declarant as a Model Home and ending on the date Regular Assessments commence against such Lot, Declarant shall be solely responsible to maintain all portions of the Phase in which a Lot is being used as Model Home. The Board shall have the right to inspect the areas being maintained by Declarant pursuant to this Section to determine that such maintenance meets reasonable standards.

Section 9. Collection of Assessments. Except as otherwise provided above or in any subsequent Notice of Annexation, 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 10. 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 11. 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 12. 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 13. 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 or Architectural Guidelines 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 14. 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 15. 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, 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 16. 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 non-profit 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) All Common Area owned in fee by the Association.

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. Each Lot shall be used as a private residential dwelling and for no other purpose, 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 the right, for a period of five (5) years from recordation of this Declaration, or until all Lots in Tract No. 30238 are sold (and escrows closed), whichever shall last occur, to carry on normal sales activity on the Project, including the operation of models and sales offices, 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 the Association.

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 the provisions of California 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 of any kind shall be displayed to the public view on or from any Lot or the Common Area without the approval of the Association, except such signs as may be used by Declarant for a period of five (5) years from recordation of this Declaration or until all Lots in Tract No. 30238 are sold (and escrows closed), whichever is last to occur, in connection with the development of the Project and sale of Lots, and except one (1) "for sale," "for lease" or "for exchange" sign of reasonable size (but not exceeding six [6] square feet) on any Lot. The foregoing restrictions shall not apply to any sign of customary and reasonable dimensions displayed on the Owner's Lot (or

another Owner's Lot with consent) which states that the Residence is for sale, lease or exchange, or advertising directions to the Residence by the Owner or his or her agent, and which is reasonably located in plain view of the public, so long as it is consistent with any standards promulgated by the Architectural Review Committee. All signs permitted under this Section shall conform with the County's sign ordinance, if any, and with all applicable governmental regulations.

Section 6. Maintenance of Animals. No animals of any kind shall be raised, bred or kept in any Lot or in the Common Area, except that common domesticated dogs, cats, birds or other household pets (other than small household pets such as fish), may be kept in each Lot in reasonable numbers; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose and shall not exceed any weight limitations, if any, established by the Board. As used in this Declaration, "reasonable numbers" shall ordinarily mean more than two (2) total pets (excluding small household pets such as fish) per Lot; however, the Board may determine that a reasonable number in any instance may be more or less than two (2). Each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition caused by his or her animals in the Project. 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 on a leash 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 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, however, each Owner acknowledges this 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, weeds, 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 approved by the Architectural Review Committee provided for hereinbelow.

Section 8. Structural Changes. There shall be no exterior structural alteration, construction or removal of any Residence, fence, wall, or other structure whatsoever in the Project without the prior written approval of the Board or its designated Architectural Review Committee (including any necessary County approval), as required herein, except such works of construction by Declarant during the development of 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). As required by the County, driveways exceeding 150' in length, but less than 800' in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800', turnouts shall be provided no more than 400' apart. Turnouts shall be a minimum of 10' wide and 30' in length, with a minimum 25' taper on each end. An approved turnaround shall be provided at all building sites on driveways over 150 feet in length, and shall be within 50' of the building.

Section 9. Improvements. There shall be no exterior construction, alteration or removal of any Improvement in the Project, including any change to the original paint color (other than those repairs or rebuilding permitted under the Article entitled "Damage or Destruction to the Common Area") without the approval of the Architectural Review Committee, as set forth hereinbelow, and, if necessary, the County. 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. No fence or wall may be erected, altered or maintained on any Lot except with the Architectural Review Committee's prior approval. No fencing or walls may be installed within the front yards of the Lots, except fencing or walls originally installed by the Declarant (if any). No projections of any type may be placed or permitted to remain above the roof of any Residence within the Project, except one (1) or more chimneys and vents originally installed, if at all, by Declarant. No basketball backboard or other fixed sports apparatus may be constructed or maintained in the Project without the Architectural Review Committee's prior written approval. No patio cover, wiring or air conditioning fixture, water softeners or other devices may be installed on the exterior of the Residence, on a Lot, or be allowed to protrude through the walls or roof of the Residence (with the exception of those items installed during the original construction of the Residence by Declarant) unless the Architectural Review Committee's prior written approval is obtained. Notwithstanding the foregoing, each Owner shall have the right, without obtaining

the approval of the Architectural Review Committee, to repaint the exterior of his home with the same color paint originally selected by the Declarant.

Section 10. Post Tension Slabs. Each Owner hereby acknowledges that the concrete slab for Owner's Residence may be reinforced with a grid of steel cables which would be installed in the concrete and then tightened to create very high tension. This type of slab is commonly known as a "Post Tension Slab." Each Owner further acknowledges cutting into a Post Tension Slab for any reason (e.g., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residence and/or personal injury. By accepting a grant deed to the Lot, and subject to confirmation by the Owner that his/her Residence was constructed with a post tension slab, each such Owner hereby specifically covenants and agrees that:

(a) He/she shall not cut into or otherwise tamper with the Post Tension Slab;

(b) He/she shall not knowingly permit any other person to cut into or tamper with the Post Tension Slab so long as Owner owns any interest in the Lot;

(c) He/she shall disclose the existence of the Post Tension Slab to any tenant, lessee, or grantee of the Residence; and

(d) He/she shall indemnify and hold Declarant, and its respective officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses, or other liability (including attorneys' fees) arising from any breach of this Section.

Section 11. Windows. No window in any Residence shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, tint or any other material reasonably deemed inappropriate for such use by the Association; provided, however, an Owner may use plain white sheets to cover windows for a period not to exceed two (2) weeks after the close of escrow pending the installation of drapes, curtains, shutters or other appropriate interior window coverings.

Section 12. 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. 30238 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 13. Parking. All vehicles in the Project shall be parked in accordance with the following:

(a) Authorized Vehicles. The following vehicles are "Authorized Vehicles": standard passenger vehicles including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles (provided they are operated at levels not exceeding 45 decibels), and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less; provided, however, the dimensions of each of such foregoing vehicles may not exceed the following:

- (1) seven feet (7.0') in width from farthest point to point, including mirrors and tires;
- (2) eighteen feet (18') in length, including bumper attachments and hitches; and
- (3) six feet, four inches (6'4") in height, including roof racks or other projections.

The Association has the power to identify additional vehicles as Authorized Vehicles in the Rules and Regulations and to adapt this restriction to other types of vehicles.

(b) Restricted Vehicles. The following vehicles are "Restricted Vehicles:" recreational vehicles, motor homes, travel trailers, camper vans, boats and the like. If a vehicle qualifies as both an Authorized Vehicle and a Restricted Vehicle, then the vehicle is presumed to be a Restricted Vehicle, unless the vehicle is expressly authorized in writing by the Association. The Association has the power to identify additional vehicles as Restricted Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles that are not listed above. Except for Temporary Parking purposes, Restricted

Vehicles shall be parked in an Owner's garage with the garage door shut (except when the vehicles are entering or exiting the garage), where the garage contains sufficient room for such Restricted Vehicles as well as the Owner's Authorized Vehicles.

(c) Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": (a) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines), (b) buses or vans designed to accommodate more than ten (10) people, (c) vehicles having more than two (2) axles, (d) trailers (except travel trailers constituting Restricted Vehicles), (e) inoperable vehicles or parts of vehicles, (f) aircraft, (g) any vehicle or vehicular equipment deemed a nuisance by the Board, and (h) any other vehicle not classified as an Authorized Vehicle or Restricted Vehicle. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle, unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board. The Association has the power to identify additional vehicles as Prohibited Vehicles in the Rules and Regulations to adapt this restriction to other types of vehicles that are not listed above. Prohibited Vehicles may not be parked in the Project.

(d) Temporary Parking. "Temporary Parking" shall mean the parking of: (a) such vehicles belonging to Owners and/or their invitees or guests for purposes of loading and unloading only, or (2) delivery trucks, service vehicles and other commercial vehicles for purposes relating to the furnishing of services to the Association, an Owner or tenant, and/or for loading and unloading only; provided, further, that no such temporarily parked vehicle may remain within the Project overnight.

(e) Parking in Project. The streets within the Project are public and subject to all applicable laws, ordinances and regulations of all governmental agencies having jurisdiction over the Project. Except for Temporary Parking, Authorized Vehicles shall be parked in an Owner's garage or on an Owner's driveway; however, no Owner may park a vehicle in a manner which restricts the passage of pedestrians or vehicles over the streets within the Project, the driveways for the Residences within the Project, or any sidewalks in the Project or extends beyond the limits of the space where the vehicle is parked, and Authorized Vehicles shall not be used for residential purposes. There shall be no parking of any vehicles on unpaved surfaces, such as lawns or dirt surfaces. No vehicle shall block or impede access of fire fighting equipment to or through the private streets or fire hydrants in the Project or extend over the sidewalks. The Board may, from time to time, establishing

such Rules and Regulations for the operating and parking of vehicles in the Project (excluding public streets).

(f) No Parking Areas. Except as may be otherwise expressly permitted by the Association pursuant to duly adopted Rules and Regulations, or approved by a governmental agency exercising appropriate jurisdiction, parking in or obstructing any fire lanes within the Project or in any Common Area, other than in designated parking areas, **is strictly prohibited**.

(g) Reporting of Parking Violations. Parking violations on the public streets should be reported to the governmental entity exercising jurisdiction over the public streets. Parking violations in the Common Area should be reported to the Association's Board of Directors. Any enforcement action taken by the Association to correct violations of the parking rules and regulations shall be in accordance with the provisions set forth herein.

(h) Parking Availability in Garage. Each Owner shall keep his garage readily available for parking of his respective vehicle(s), and shall not store any goods or materials therein, nor use any portion thereof for a workshop or other use, if such storage or use would prevent, prohibit, and/or impede said Owner from parking the number of four wheel vehicles therein for which said garage was originally designed and constructed by Declarant to accommodate. Each Owner shall ensure that all parking spaces in the garage are at all times available for parking and shall use such space for parking his or her vehicles therein when said vehicles are in the Project; tandem parking within the garage may be required. Garage doors shall remain closed at all times, except as reasonably required for entry to and exit from the garage. Each Owner shall ensure that his garage door opener is in proper working order at all times and that the garage is a roll-up type door.

(i) Vehicle Repair and Maintenance. No Owner shall conduct any repairs to any motor vehicle of any kind whatsoever in or upon any portion of the Project, except for emergency repairs thereto and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility. In addition, no garage shall be used for any purpose other than parking of an Owner's vehicle and storage (only so long as such storage does not interfere with the parking of Owner's vehicles therein). **NO WASHING OR POLISHING OF ANY VEHICLE IN THE PROJECT IS PERMITTED, UNLESS EXPRESSLY AUTHORIZED BY THE BOARD IN WRITING OR IN THE RULES AND REGULATIONS.**

(j) Use of Power Tools in Garages. Unless expressly authorized by the Board in writing, in the Rules

and Regulations or in the event of an emergency, no power equipment (other than hand-held power tools) or other similar apparatus may be used in the garages or Project.

(k) Assignment of Parking Spaces. No Owner may lease, sub-lease, sell or give any parking space(s) within his garage to any individual who is not a resident within the Project.

Section 14. Regulation of Parking. Subject to the rights of the Association, through its officers, committees and agents, the Board is hereby empowered to establish "no parking" areas within the Common Area (excluding public streets), 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. 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 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 Lot who is responsible for or associated with the violation of such restrictions, and such assessment may be enforced as a Compliance Assessment.

Section 15. 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 and Architectural Review Committee. No Owner shall transfer any membership or interest in the Association, except upon the transfer of the Lot to which it is appurtenant.

Section 16. 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 owned by Declarant, or to alter the foregoing or to construct such additional Improvements as Declarant deems advisable prior to completion and sale of the entire Project. 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.

Section 17. Solar Heating. No solar heating panels or other solar energy collection equipment shall be installed on any portion of any Lot or Common Area, or any Improvement thereon, unless such equipment is installed in such location and in such manner as to be obscured from the view of other persons in the Project to the greatest degree practicable without

significantly decreasing its efficiency. No person shall install any such panels or equipment without the prior written consent of the County, if necessary, and the Architectural Review Committee, which shall have the right to reasonably restrict and determine the size, shape, color, style, materials or location of any such panels or equipment within the Project, subject to the provisions of California Civil Code Section 714, as same may be amended, from time to time. 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. Any Owner submitting an application to the Architectural Review Committee for the construction or installation of landscaping or other Improvements on his Lot shall address in such application the impact of such landscaping and Improvements on existing solar collectors in the Project (including, without limitation, the height at maturity of all trees, shrubs and other landscaping and the location and the height of all Improvements installed on the respective properties). However, the Owner shall be solely responsible for complying with the Solar Shade Control Act, and neither the Board or the Architectural Review Committee shall 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 the future planting of any trees, the planting of medium or large trees, or the installation of other Improvements on the Owner's Lot.

Section 18. Antennas. No radio station or shortwave operators of any kind shall operate from any location in the Project. Except as otherwise provided by law, no Owner shall install, or cause to be installed, or maintain any television, radio, "Citizens Band" (C.B.) antenna, satellite dish or other similar electronic receiving or broadcasting device (including those devices having a diameter or diagonal measurement of one

meter or less) in the Project in such a manner as to be visible from the Common Area, unless (1) approved by the Architectural Review Committee (which approval for a video or television antenna, including a satellite dish, shall not be unreasonably withheld or delayed but may include restrictions which do not significantly increase the cost of the installation, maintenance or use of the device or significantly decrease its efficiency or performance or preclude reception of an acceptable quality signal) and (2) in compliance with all applicable ordinances of the County, California Statutes (including, but not limited to, Civil Code Section 1376), and Federal Regulations, as each may be amended or revised.

Section 19. Leasing. 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 shall provide that the terms of such agreement shall be subject in all respects to the provisions of this Declaration, 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 20. 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 21. 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 and located in garages, or appropriate paved areas screened and concealed from view by a fence, wall or other screen approved by the Architectural Review Committee, 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. In the event trash is collected from each individual Lot, appropriate sanitary containers may be exposed to the view of neighboring Residences only when set out on the sidewalks or streets no earlier than 5:00 p.m. the night prior to the trash pick-up day and removed from the sidewalk or street within twelve (12) hours after pickup, unless otherwise modified by the Board.

Section 22. 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 and is approved in writing by the Architectural Review Committee. 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 Architectural Review Committee. Each Owner further 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 approved grading plan) to flow into said drainage swales. Except as may be otherwise maintained by the Association, the County, or a maintenance district, each Owner of a Lot shall, at his sole cost and expense, maintain that portion of any drainage swale or other drainage devices located on his respective Lot.

Section 23. 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 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 24. Yards, Patios, and Balconies.

Yards, patios and balconies, 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 wall, fence, 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. Except as otherwise permitted in the Rules and Regulations, yards, patios, and balconies shall not be used for storage of any items deemed inappropriate by the Architectural Review Committee.

Section 25. 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 any property which may be annexed thereto pursuant to the provisions of this Declaration), 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 (other than the Open Space Easements) 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 conduct any commercial activity upon any Lot owned or controlled by Declarant or upon any Common Area (except the Open Space Easements) which reasonably relates to the development, marketing, leasing or sales of the Lots in the Project; and

(e) The right to park vehicles upon any Lot owned or controlled by Declarant or upon any Common Area (except the Open Space Easements).

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, including the Annexation Property, by an express written assignment recorded in the Office of the County Recorder.

Section 26. No Easements for View Purposes; Disclaimer. The Article herein entitled "Architectural Review - Approval," sets forth procedures for the approval of Improvements which may be constructed upon Lots in the Project which are consistent with the architectural standards adopted, from time to time, pursuant to said Article. The architectural standards may have some effect on views and the passage of light and air to

individual Lots. However, by promulgation and enforcement of the architectural standards, or otherwise, neither Declarant, the Board nor the Architectural Review Committee, 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. 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 may impair the view from such Owner's Lot, and each Owner hereby expressly consents to any such impairment. The County makes no claim, warranty, or guarantee that views from any Lot will be preserved as development of surrounding properties occurs.

Section 27. 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 28. Best Management Practices. All Owners and the Association shall comply with the Best Management Practices set forth in the Water Quality Management Plans approved for the Project. Failure to comply with such Best Management Practices may result in severe civil and criminal penalties.

Section 29. Landscaping. As required by the County, water-intensive landscaping in the Project is prohibited. The Association and all Owners shall comply with the requirements of County Ordinance No. 859, as the same may be amended from time to time.

Section 30. Environmental Constraint Areas. As required by the County, no disturbances may occur within the boundaries of the constraint areas delineated on the map of Tract No. 30238 (e.g., riparian/riverine areas). Brush management to reduce fuel loads to protect urban uses (fuel modification zones) shall not encroach into the constraint areas. Night lighting shall be directed away from the constraint areas, and shielding shall be incorporated in Project designs to ensure ambient lighting in the constraint areas is not increased. The constraint areas shall be permanently fenced for protection as open space. The fencing shall provide a physical barrier to minimize unauthorized public access, domestic animal predation, illegal trespass or dumping. The fence shall have a minimum height of three feet at its shortest point. Fence posts shall be no more than five feet apart. The fence design shall be such that a sphere with a diameter of three inches cannot pass through the plane of the fence at any point below the minimum height.

Section 31. 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

ARCHITECTURAL REVIEW - APPROVAL

Section 1. Exemptions From Architectural Review. Declarant shall be exempt from compliance with any of the provisions of this Article as they may relate to the original construction and development of the Project by Declarant in accordance with the plans approved by the County; provided, however, if Declarant shall desire to construct any Improvements to the exterior of a Residence after such Residence has been completed and approved by the County, Declarant shall obtain approval for such Improvements from the County; and, provided further, if Declarant shall retain a Residence for personal use, any Improvements to the exterior of such Residence shall be subject to architectural approval pursuant to this Article. The provisions of this Article may not be amended without the express written consent of Declarant so long as Declarant is offering any Lots for sale or lease.

Section 2. Architectural Review. Except for the purposes of proper maintenance and repair, or re-painting of a Residence in the original color provided by Declarant, and except as may otherwise be permitted hereunder, no person shall install any Improvement, including, without limitation, solar heating panels, lighting, shades, screens, awnings, patio covers, decorations, fences, screen doors, aerials, antennas, radio or television broadcasting or receiving devices, air conditioning units, or change or otherwise alter the exterior of any Residence or appurtenant Improvement unless same is approved by the Architectural Review Committee. For the purposes of this Section, the term "exterior" shall mean any outside wall, outside surface, roof, outside door, patio, balcony, deck, garage or other outside structure of said Residence which is visible to others in the Project and/or to the public.

Section 3. Architectural Review Committee. The Architectural Review Committee is hereby authorized with the rights and powers set forth in this Article. Said Committee shall consist of not less than three (3) members, nor more than five (5) members. In the event of the failure or inability of any member of the Architectural Review Committee to act, the remaining members shall designate a successor who shall serve for the remainder of the term of the member he replaces. The Declarant shall appoint all of the original members of the Architectural Review Committee, and replacements thereto. Further, Declarant reserves the power to appoint a majority of the members of the Architectural Review Committee until the fifth (5th) anniversary of the first Close of Escrow for the sale of a Lot pursuant to a final subdivision public report issued by the BRE for the project. After one (1) year from the date of such first Close of Escrow, the Board shall have the power to appoint one (1) member to the Architectural Review Committee until ninety percent (90%) of the Lots in the Project and the Annexation Property have been sold, or until the fifth anniversary date of the first Close of Escrow for the sale of a Lot pursuant to a Final Subdivision Public Report for the Project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Review Committee. All members appointed to the Architectural Review Committee by the Board shall be from the membership of the Association. Members appointed to the Architectural Review Committee by the Declarant, however, need not be members of the Association. No member of the Architectural Review Committee shall be liable to any person for his decisions or failure to act in making decisions as a member of the Architectural Review Committee. Declarant may, in its discretion and at any time, assign to the Association by written assignment its powers of removal and appointment with respect to the Architectural Review Committee, subject to such terms and conditions regarding the exercise thereof as Declarant may impose.

Section 4. Meetings of the Architectural Review Committee. The Architectural Review Committee shall meet, from time to time, as necessary to perform its duties hereunder. The Architectural Review Committee may, by a majority vote of the members thereof, delegate any of its rights and responsibilities hereunder (except the right to approve any Improvement or architectural submittal required by this Declaration) to one (1) or more duly licensed architects, who shall have full authority to act on behalf of the Architectural Review Committee on all matters so delegated.

Section 5. Architectural Standards/Guidelines. The Board (or Architectural Review Committee if authorized by a majority of the Board) may, from time to time, adopt architectural standards/guidelines to be administered through the Architectural Review Committee for use by said Committee in reviewing plans and specifications for proposed Improvements to

an Owner's Lot. The architectural standards/guidelines may include, without limitation, those guidelines, procedures, limitations and restrictions upon Owners set forth below:

(a) The placement, reconstruction, addition, change or alteration of any Improvement on a Lot or the exterior of a Residence, including the nature, kind, shape, materials, exterior color, location, and height of any Improvement, including landscaping;

(b) A description of the type of such construction, additions, changes or alterations which, if completed in conformity with the architectural standards, do not require approval of the Architectural Review Committee;

(c) Conformity of completed Improvements to plans and specifications approved by the Architectural Review Committee;

(d) Time limitations for the completion of the Improvements for which approval is required pursuant to the architectural standards;

(e) Procedures for submission of plans and specifications submitted for Architectural Review Committee review, including, without limitation, floor plans, site plans, drainage plans, elevation drawings, landscape plans and a description or samples of exterior colors and materials;

(f) Restrictions controlling the species and placement of any trees, plants, shrubbery, ground cover, etc., to be placed, planted, irrigated and maintained in the Project (i.e., approved landscape palettes);

(g) Restrictions controlling the placement of any trees, plants, shrubbery, ground cover, etc., to be placed planted, irrigated and maintained in the Project (including requirements regarding the use of root barriers and/or other similar devices to prevent damage to Residences, hardscape and other Improvements); and

(h) A reasonable schedule of fees for submission of plans and specifications or bonds (or cash deposits) to ensure proper completion and clean up of the anticipated work and compliance with the approved plans.

The architectural standards may be periodically updated or revised by the Board, as the Board, in its reasonable discretion, may deem appropriate. The Architectural Review Committee shall maintain a copy of the then current architectural standards on file at all times, and shall provide each Owner with a copy of the architectural standards upon written request. The Board shall

establish a reasonable fee for copies of the architectural standards, and other related materials, to cover costs of reproduction, administration and handling.

Section 6. Architectural Approval - Review of Plans and Specifications. The Architectural Review Committee shall comply with the Architectural guidelines/standards adopted by the Board (including any supplementary Rules and Regulations thereto adopted by the Board) to examine any request made pursuant to this Article, in order to ensure that the proposed plans are in conformance with and are harmonious to the exterior design and existing materials of the buildings in the Project. The Architectural Review Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration, and perform such other duties as, from time to time, shall be assigned to it by the Board, including the inspection of construction and progress to ensure its conformance with the plans approved by the Architectural Review Committee. No construction, alteration, grading, addition, excavation, demolition, modification, decoration, redecoration or reconstruction of an Improvement shall be commenced or maintained by any Owner until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Architectural Review Committee and approved in writing by the Architectural Review Committee. The address for submission of such plans and specifications, shall be provided to the Owners by the Board.

The Architectural Review Committee shall approve the plans and specifications submitted for its approval only if it deems that: (a) the construction, alterations or additions contemplated thereby and the locations indicated will not be detrimental to the appearance of the surrounding area of the Project as a whole; (b) the appearance of any structure affected thereby will be in harmony with surrounding structures; (c) the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Area, or the enjoyment thereof by the Owners; (d) the upkeep and maintenance thereof will not become a burden on the Association; and (e) the plans and specifications substantially comply with the Architectural standards/guidelines. The Architectural Review Committee may condition its approval of proposals or plans and specifications for any Improvement: (i) on such changes therein as it deems appropriate, (ii) upon the agreement by the person submitting the same to grant appropriate easements to the Association for the maintenance of the Improvement, or (iii) upon the agreement of the person submitting the same to reimburse the Association for the cost of such maintenance, or all of the above, and may require submission of additional plans and specifications or other information prior to approving or disapproving the submission.

The Architectural Review Committee may also issue rules or guidelines setting forth procedures for submission of plans

for approval, requiring a payment of a fee to the Association to accompany each submission of plans and specifications, or additional factors which it will take into consideration in reviewing submissions which are consistent with the Architectural standards/guidelines.

The Architectural Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings, landscape plans and description or samples of exterior material and colors.

No approval by the Board of the Architectural Review Committee of any proposed plans and specifications shall be deemed to constitute a warranty or representation of any kind that such plans and specifications will be approved by the County or other governmental entity or agency having jurisdiction over the Improvement. If the Board approves any plans and specifications for an Improvement and the County or other governmental entity or agency subsequently requires any significant changes or revisions to such plans and specifications, the Owner must resubmit the revised plans and specifications to the Architectural Review Committee in accordance with the terms of this Section for review and approval.

Section 7. Decisions of the Architectural Review Committee. Until receipt by the Architectural Review Committee of any required plans and specifications, and such other information as may be required in Section 6 above, the Architectural Review Committee may postpone review of any plans submitted for approval. Decisions of the Architectural Review Committee and the reasons therefor should be transmitted by the Architectural Review Committee to the applicant, at the address set forth in the application for approval, within forty-five (45) days after receipt by the Architectural Review Committee of all plans, specifications and materials required. Any application submitted pursuant to the provisions of Section 6 above shall be deemed approved, unless written disapproval or a request for additional information or materials by the Architectural Review Committee shall have been transmitted to the applicant within forty-five (45) days after the receipt by the Architectural Review Committee of all required materials.

Section 8. Submittal to County - Right of Architectural Review Committee to Review. Upon obtaining the written approval of the Architectural Review Committee, the Owner shall thereafter submit plans and specifications to the County. In the event that all necessary approvals of the County for the issuance of a building permit or other permits required to commence the work contemplated in the plans and specifications are not obtained within six (6) months from the date of approval by the Architectural Review Committee, the Architectural Review Com-

mittee shall have the right, but not the obligation, to re-review all previously approved plans and specifications. In addition, in the event that the County requires modifications to the plans and specifications previously approved by the Architectural Review Committee, the Owner shall submit to the Architectural Review Committee all modifications to the plans and specifications previously approved by the Architectural Review Committee. In the event the Owner is obligated to resubmit plans and specifications to the Architectural Review Committee to reflect the modifications required by the County, said Committee shall have the right to review and to impose further conditions on any such modifications.

Section 9. Approval of County. Each Owner is solely responsible for ensuring that all plans and specifications submitted by such Owner to the Architectural Review Committee comply with, and do not violate, any applicable provision of law, including, without limitation, the Fair Employment and Housing Act (California Government Code Section 12900 et seq.), the County's Ordinances, all applicable building and construction codes, and all other applicable laws, regulations, and ordinances governing land use and public safety. Approval of any proposed or existing Improvement, or completion of an Improvement, by the Architectural Review Committee or the Board shall not be construed to warrant or represent in any way that the Improvement was approved by or complies with the minimum standards of the County or any other applicable provisions of law. Similarly, approval of any proposed or existing Improvement by the County shall not be construed to constitute approval of such Improvement by the Architectural Review Committee or the Board.

Section 10. Conflicts Between County and Architectural Review Committee. In the event of any conflict in the conditions of approval of any proposed Improvements imposed by the County and the Architectural Review Committee, the more restrictive of such conditions shall be controlling. Further, nothing herein shall limit the Architectural Review Committee from imposing conditions of approval of any proposed Improvements which are more restrictive than conditions as may be imposed by the County.

Section 11. No Waiver of Future Approvals. The approval of the Architectural Review Committee to any submissions for any work done, or proposed to be done, or in connection with any other matter requiring the approval or consent of the Architectural Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent of any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

Section 12. Compensation of Members. The members of the Architectural Review Committee shall receive no compensation for services rendered, other than reimbursement by the Associ-

ation for expenses incurred in the performance of such members' duties hereunder. The Association may compensate any duly licensed Architect who has been delegated rights and duties as provided in this Article.

Section 13. Variances. Where circumstances such as topography, location of buildings, location of landscaping or other matters require, the Architectural Review Committee, by the vote or written assent of a majority of the members thereof, may allow reasonable variances as to any of the Protective Covenants contained in this Declaration or provisions under the rules and regulations promulgated by the Architectural Review Committee, on such terms and conditions as it shall require. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose, except as to the particular Lot and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of his Lot, including, but not limited to, zoning ordinances, Lot setback lines or requirements imposed by the County or other governmental authority.

Section 14. Inspection of Work. Upon consent of the Owner, which consent shall not be unreasonably withheld, any member or authorized representative of the Architectural Review Committee may, at any reasonable hour and upon reasonable notice, enter and inspect any Lot which has been the subject matter of an approval of a submission for an Improvement to his Lot. Such entry shall be made with as little inconvenience to the Owner as reasonably possible, and any damage caused thereby shall be repaired by the Association. If the Architectural Review Committee finds that such work was not done in substantial compliance with the approved plans and specifications, it shall notify the Owner in writing of such noncompliance, specifying the particulars of noncompliance and shall require the Owner to remedy the same within thirty (30) days from the date of notification of such noncompliance. If a noncompliance exists, the Board, after Notice and Hearing, may levy a Compliance Assessment against such Owner for the costs of removing or remedying such noncompliance.

Section 15. Non-Liability of Architectural Review Committee Members. Neither Declarant, the Association, the Board or the Architectural Review Committee, or the members or designated representatives thereof, shall be liable for damages to any Owner submitting plans or specifications to them for approval, or to any Owner in the Project affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance, unless due to willful misconduct or bad faith of the Architectural Review Committee. The Architectural Review Committee's approval or disapproval of a submission shall be based solely on the considerations set forth in this Article, and in such rules and regulations as may be promulgated by the Architectural Review Committee, and the Architectural Review Committee shall not be respon-

sible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plans or design from the standpoint of structural safety and conformance with building or other codes.

Section 16. Appeal. In the event plans and specifications submitted to the Architectural Review Committee are disapproved, the party making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Review Committee. The Board shall submit such request to the Architectural Review Committee for review, and the written recommendations of the Architectural Review Committee will be submitted to the Board. Within sixty (60) days following receipt of the request for appeal, the Board shall consider the appeal at an open meeting and render its written decision. The failure by the Board to render a decision within said sixty (60) day period shall be deemed a decision in favor of the party making such submission.

Section 17. Grading/Irrigation. No Owner shall permit any act to be performed on such Owner's Lot which would result in erosion of the Common Area, including, but not limited to, changing the grading of his Lot or over-irrigating same. If the Owner permits any such act resulting in erosion of or other damage to the Common Area, said Lot Owner will be personally liable to the Association for such damage and a Special Assessment shall be levied against such Lot Owner's Lot to recover all costs and expenses incurred to repair or reconstruct that portion of the Common Area damaged by such Lot Owner.

Section 18. Public Right-of-Way. No Owner shall construct any Improvement in the public right-of-way adjacent to the Project, if applicable, unless the Owner obtains all necessary permits from the County and approval from the Board.

ARTICLE X

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 Common Area designated by the Board, the Declarant, in this Declaration, or in any subsequent Notice(s) of Annexation, as generally indicated hereinbelow:

- (a) Unless maintained by an assessment district or other public entity, the Common Area (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) Maintaining, in a water-efficient manner in accordance with County Ordinance No. 859 and the County of Riverside Guide to California Friendly Landscaping, as either or both may be amended from time to time, the landscaping, irrigation system, and other Improvements on the Common Area and other property (if any) described and/or depicted on Exhibit "A" attached hereto and incorporated by this reference and on any recorded Notice of Annexation;

(2) Maintaining those portions of the walls, fences, and pilasters originally installed by Declarant in those locations described and/or depicted on an Exhibit "G" attached hereto and incorporated by this reference and on any recorded Notice of Annexation;

(3) Maintaining those portions of any private utilities (excluding those private utilities, if any, that exclusively serve only one Lot) described and/or depicted on Exhibit "H" attached hereto and incorporated by this reference and on any recorded Notice of Annexation, in substantially the same condition as originally approved by the County;

(4) Maintaining the detention basin located on Lot 26 of Tract No. 30238 (only if such basin is not maintained by an assessment district or other governmental entity) and those portions of the private storm drainage facilities in the Project described and/or depicted on Exhibit "I" attached hereto and incorporated by this reference and on any recorded Notice of Annexation;

(5) Maintaining all common amenities, any mailbox structures servicing multiple Lots (excluding individual mailboxes, which shall be maintained by each Owner), and Project signs and monumentation.

(6) 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 approved by the BRE, or as approved by the Board or Declarant.

(7) 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 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).

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

(9) Maintaining 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.

(10) 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 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 Common Area. 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 Common Area inspected at least once every three (3) years to (a) determine whether the Common Area is being maintained adequately in accordance with applicable standards of maintenance, (b) identify the condition of the Common Area 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 Common Area, 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 a compliance inspection of the Project to be conducted by the Architectural Review Committee to report any violations thereof. The Board shall also cause inspections of the Common Area 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 Common Area is being maintained adequately in accordance with applicable standards of maintenance, (b) identify the condition of the Common Area 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 Common Area 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 Common Area, 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):

(a) Each Owner shall maintain his Lot and the Residence located thereon, including, without limitation, all walls and fences (subject to the provisions for the maintenance of common fences set forth in this Declaration), storm drainage facilities, roofs, patios, patio covers, decks, deck covers, balconies, windows, window frames, screens, locks and doors of his Residence, landscaping and irrigation improvements, slopes (including those portions of any slopes located outside of the Owner's fenced yard areas), irrigation lines, sewer laterals (if any - as currently planned, each Lot will have a septic system), fire sprinklers, if any, hot water recirculation systems, if any, 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.

(b) Each Owner shall, within six (6) months after the close of escrow for the original sale of a Lot to Owner from Declarant (i.e., the date of recordation of the grant deed conveying the Lot from the Declarant to the Owner), install the landscaping in the yard areas of Owner's Lot where landscaping has not been installed by Declarant or which is not the maintenance responsibility of the Association. Thereafter, each Owner shall maintain his or her Lot in a neat and attractive condition, including all necessary landscaping and gardening, to properly maintain and periodically replace, when necessary, the trees, plants, grass and other vegetation originally placed on such Lot by Declarant, if any. The Board may adopt Rules and Regulations proposed by the Architectural Review Committee to regulate landscaping permitted within the Project. In the event that any Owner shall fail to install and maintain landscaping, including all slope areas within the Lot, if any, in conformance with the Rules and Regulations, or shall allow his landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the Board, after Notice and Hearing, may enter such Owner's property for the purpose of remedying the condition, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost may be levied by the Board as a Compliance Assessment. The Common Area may not be altered without the Board's prior written approval, which approval may be withheld in its sole and absolute discretion.

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, or as otherwise approved by the Architectural Review Committee. The Architectural Review Committee shall not approve such variance if the finished Residence would be inharmonious or out of keeping with the overall architectural theme of the Project, or with the exterior design of any adjacent Residences. 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 XI

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 storm drain or storm water conveyance systems. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers and other such chemical treatments 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 the Water Quality Management Plans.

(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 minimize the pollution of storm drain water and to comply with all Best Management Practices applicable to the Project, which may include the following:

i) If applicable, maintain stenciling on all on-site storm drain inlets, "NO DUMPING, DRAINS TO OCEAN/BAY/RIVER/CREEK, as applicable";

ii) Minimize irrigation runoff by using controllers to provide several short watering cycles;

iii) Immediately correct any irrigation design or maintenance deficiencies which cause excessive runoff;

iv) Prohibit application of fertilizers within three (3) days prior to an anticipated rain;

v) Follow all fertilizer applications with light irrigation to permit fertilizer to soak into the landscaped area;

vi) Dispose of waste properly; and

vii) Otherwise comply with the Water Quality Management Plans for the Project.

ARTICLE XII

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 private streets, private utilities and open spaces, at least to the extent said streets, 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 XIII

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 XIV

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 sixty (60) 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 XV

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 Association, 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, 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.

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, 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