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RIVERSIDE COUNTY CALIFORNIA

2481165-07

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF**  
**THE PASEOS**

**ARTICLE 17 OF THIS DECLARATION CONTAINS A BINDING ARBITRATION PROVISION  
IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. YOU SHOULD CONSULT  
LEGAL COUNSEL WITH ANY QUESTIONS ON THESE OR OTHER PROVISIONS OF THIS  
DECLARATION.**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE PASEOS**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE PASEOS ("**Declaration**") is made this 7<sup>th</sup> day of June, 2011 by D.R. Horton Los Angeles Holding Company, Inc., a California corporation ("**Declarant**") with reference to the facts set forth below.

**ARTICLE 1  
RECITALS**

All initially capitalized terms used but not defined in the Recitals shall have the meanings set forth in **Article 2**.

1.1 **Property Owned by Declarant.** Declarant is the Owner of the real property situated in the unincorporated area of the County of Riverside, State of California, more particularly described on **Exhibit "A"** ("**Property**").

1.2 **Right to Annex.** Declarant may add all or any of the real property described in **Exhibit "B"** ("**Additional Property**") and may record additional Condominium Plans with respect thereto, and said Additional Property so annexed will thereupon be subject to this Declaration and become a part of and be included within the definition of the Property.

1.3 **Nature of Community.** Declarant intends to establish a plan of condominium ownership and to develop the Property, including any Additional Property which may hereafter be annexed thereto, as a condominium community within the meaning of California Business and Professions Code Section 11004.5(c) and California Civil Code Section 1351(f), to conform with the provisions of the California Subdivided Lands Law (California Business and Professions Code Section 11000, *et seq.*) and to subject the Property to certain limitations, restrictions, conditions and covenants as hereinafter set forth, in accordance with the provisions of California Civil Code Sections 1350 *et seq.* To that objective, Declarant desires and intends to impose on the Property certain mutually beneficial restrictions, limitations, easements, assessments and liens under a comprehensive plan of improvement and development for the benefit of all of the Owners, the Condominiums, Common Area and Association Property and the future Owners of said Condominiums, Common Area and Association Property.

1.4 **Description of Community.** Declarant intends to develop the Community in Phases. The first Phase is planned to consist of twelve (12) Condominiums. Declarant makes no promise that the Community will be constructed as presently proposed. Owners of a Condominium in each Phase will receive title to a Residential Unit plus an undivided fractional interest as tenant in common to the Common Area located within the Module in which the Residential Unit is located. Each Owner of a Condominium will also receive an easement for ingress, egress and recreational use over the Association Property of the Phase in which the Condominium is situated and within each other Phase, effective upon annexation and conveyance of the first Condominium in each such Phase, subject to the terms of the Governing Documents. Each Condominium shall have appurtenant to it a membership in The Paseos Association, a California nonprofit mutual benefit corporation ("**Association**").



## DECLARATION

NOW, THEREFORE, Declarant declares that the Property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, covenants, conditions, restrictions, easements, liens and charges, all of which are declared and agreed to be in furtherance of a plan of Condominium ownership as described in California Civil Code Section 1350 *et seq.* for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All of the limitations, covenants, conditions, restrictions, easements, liens and charges are equitable servitudes and shall run with the land, shall be binding on and inure to the benefit of all Owners having or acquiring any right, title or interest in the Property, shall be enforceable equitable servitudes and shall be binding on and inure to the benefit of all current and future Owners. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code Section 1354.

## ARTICLE 2 DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article shall, for all purposes of this Declaration, have the meanings herein specified.

2.1 **"Additional Charges"** means costs, fees, charges and expenditures, including without limitation, attorneys' fees, late charges, interest and recording and filing fees, actually incurred by the Association in collecting and/or enforcing payment of Assessments, and other amounts levied under this Declaration. Additional Charges include, without limitation, the following:

2.1.1 Reasonable attorneys' fees and costs incurred in the event an attorney is employed to collect any Assessment or sum due, whether by suit or otherwise;

2.1.2 A late charge in an amount to be fixed by the Association in accordance with California Civil Code Section 1366 to compensate the Association for additional collection costs incurred in the event any Assessment or other sum is not paid when due or within any "grace" period established by Applicable Laws;

2.1.3 Costs of suit and court costs incurred as are allowed by the court;

2.1.4 Interest at the Applicable Rate; and

2.1.5 Any such other additional costs that the Association may incur in the process of collecting delinquent Assessments.

2.2 **"Additional Property"** means all of the real property described on **Exhibit "B."**

2.3 **"Alleyways"** means the alleyways located within the Private Streets in the Community, and related Improvements.

2.4 **"Annexation"** means the process by which the Additional Property may be made subject to this Declaration as set forth in **Article 16**.

2.5 **"Applicable Laws"** means the entitlements for the Community and/or any law, regulation, rule, order or ordinance of any Governmental Agencies which are applicable to the Community or any portion thereof now in effect or as hereafter promulgated.

2.6 **"Applicable Rate"** means the rate of interest chargeable under this Declaration equal to the rate established by the Association from time to time, but not to exceed the maximum rate allowed by Applicable Laws.

2.7 **"Architectural Committee"** means the committee which may be appointed by the Board pursuant to **Article 9** of this Declaration.

2.8 **"Architectural Guidelines"** means the design criteria adopted by the Board pursuant to **Article 9**.

2.9 **"Articles"** means the Articles of Incorporation of the Association as they may from time to time be amended which are or shall be filed in the Office of the Secretary of State for the State of California.

2.10 **"Assessments"** means the assessments which are levied to cover the Common Expenses under **Article 6** or other Assessments permitted to be levied by the Association under this Declaration and the other Governing Documents, which include the Assessments described below.

2.11 **"Association"** means The Paseos Association, a California nonprofit mutual benefit corporation, its successors and assigns.

2.12 **"Association Maintenance Areas"** means any areas within the portions of certain Residential Units over which the Association has an easement for maintenance of certain Improvements, including but not limited to, Photocell Lighting, Driveways, and the portion of the Private Sewer System (excluding the sewer cleanouts maintained by the Owner of such Residential Unit, and the portion of the Private Sewer System maintained by a public agency or franchised utility), as described in this Declaration. Additional Association Maintenance Areas and additional maintenance obligations for such areas may be designated in a Supplementary Declaration.

2.13 **"Association Maintenance Manual"** means the manual which may be prepared by Declarant or its consultants and provided to the Association, specifying obligations for maintenance of the Association Property and other areas to be maintained by the Association, as updated and amended from time to time.

2.14 **"Association Property"** means all the real property owned from time-to-time in fee title by the Association. The Association Property in the first Phase of the Community consists of the real property identified as Association Property on **Exhibit "A."** The Association Property in subsequent Phases shall be described in a Supplementary Declaration.

2.15 **"Association Rules"** means the rules and regulations adopted by the Board from time to time.

2.16 **"Basins"** means the detention basin and catch basin(s) located within the Association Property in the Community and any improvements therein.

2.17 **"Board"** means the board of directors of the Association.

2.18 **"Budget"** means the budget for the Association which sets forth all the Common Expenses to be allocated among all the Owners.

2.19 **"Bylaws"** means the bylaws of the Association, as they may be amended from time to time, which are or shall be adopted by the Board.

2.20 **"Capital Improvement Assessments"** means the assessments which are levied pursuant to the provisions of **Section 6.5** of this Declaration.

2.21 **"Common Area"** means the area within the Modules excepting the Residential Units and Association Property, which Common Area is owned in equal undivided interests by the Owners of the Residential Units situated in the Module within which the Common Area is situated, as defined in this Declaration and as described on the Condominium Plan.

2.22 **"Common Expenses"** means the actual and estimated costs and expenses incurred or to be incurred by the Association, including without limitation the following:

2.22.1 expenses for maintenance, management, operation, repair and replacement of the Association Property (except the County Maintenance Areas to the extent maintained by the County or other Governmental Agency), Association Maintenance Areas, Offsite Maintenance Areas, and any Improvements located thereon which are required to be maintained by the Association under this Declaration or the other Governing Documents;

2.22.2 expenses incurred in performing the duties and obligations of the Association set forth in this Declaration and the other Governing Documents;

2.22.3 expenses incurred in complying with the Governmental Entitlements and Applicable Laws;

2.22.4 expenses incurred to cover due but unpaid Assessments;

2.22.5 expenses for management and administration of the Association, including, without limitation, compensation paid by the Association to managers, accountants, attorneys and architects and consultants;

2.22.6 expenses incurred in maintaining the legal status and qualifications of the Association as an entity in good standing and entitled to do business in the State of California;

2.22.7 expenses of any inspections required or deemed appropriate by the Association;

2.22.8 expenses, if any, required for the maintenance of any areas required by any Governmental Agency to be maintained by the Association;

2.22.9 expenses of any utilities, and other services benefiting the Owners and their Residential Units to the extent such services are paid for by the Association;

2.22.10 expenses of insurance and/or fidelity bonds required to be maintained by the Association;

2.22.11 reasonable reserves as deemed appropriate by the Board or otherwise required pursuant to the Governing Documents or Applicable Laws;

2.22.12 taxes and assessments paid by the Association;

2.22.13 amounts paid by the Association for the discharge of any lien or encumbrance levied against the Association Property or portions thereof;

2.22.14 expenses for the initial preparation of the Association Maintenance Manual and other costs incurred by the Association in connection with implementing and performing the maintenance, inspections and other obligations of the Association set forth in the Association Maintenance Manual;

2.22.15 expenses incurred in administering any committees formed by the Association;  
and

2.22.16 any other expenses incurred by the Association in connection with the operation and/or maintenance of the Association Property (except the County Maintenance Areas to the extent maintained by the County or other Governmental Agency), Association Maintenance Areas, Offsite Maintenance Areas, or in furtherance of the purposes or the discharge of any obligations imposed on the Association by the Governing Documents.

2.23 **"Community"** means all of the Property together with all Improvements situated thereon.

2.24 **"Community Trail Easement"** means the public trail easement located within the Association Property in the Community and any improvements therein.

2.25 **"Condominium"** means an estate as defined in California Civil Code Section 1351(f) consisting of an undivided interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in a Residential Unit and any other separate interests in the Property as are described in this Declaration, the Condominium Plan or in the deed conveying the Condominium.

2.26 **"Condominium Plan"** means (a) the condominium plan recorded pursuant to California Civil Code Section 1351, and any amendments to the plan, (b) any recorded Condominium Plan or Plans, including amendments thereto affecting any Phases which have been annexed pursuant to the provisions of this Declaration, and (c) any Supplemental Condominium Plans, recorded pursuant to the provisions of this Declaration.

2.27 **"County"** means the County of Riverside, California.

2.28 **"County Maintenance Areas"** means the portions of the Association Property located within the Private Streets in the Community, which shall be maintained by the County or other Governmental Agency. The County Maintenance Areas are described on **Exhibit "C"**.

2.29 **"Cross Unit Drainage Facilities"** means those certain subterranean or other drainage facilities installed by Declarant within Residential Units to provide for drainage between certain Residential Units. The approximate locations of the Cross Unit Drainage Facilities in the Community are described on **Exhibit "D."**

2.30 **"Customer Care Program"** means the Customer Care Program described in the Homeowners Maintenance Manual which provides certain services with respect to the Residential Units during the first year after the sale of such Residential Units from Declarant under authority of a Public Report.

2.31 **"Declarant"** means D.R. Horton Los Angeles Holding Company, Inc., a California corporation ("**Horton**") and shall include those successors and assigns of Horton who acquire or hold title to any part or all of the Property for purposes of development and are expressly named as a successor Declarant to all or a portion of Declarant's rights in an Assignment of Declarant's Rights ("**Assignment of Declarant's Rights**") executed by the Declarant, or a successor Declarant, and recorded in the Official Records assigning the rights and duties of Declarant to such successor Declarant, with such successor Declarant accepting and assuming the assignment of such rights and duties. A successor Declarant shall also mean (regardless of whether an Assignment of Declarant's Rights has been recorded) 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.

2.32 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions of The Paseos as said Declaration may from time to time be amended or supplemented.

2.33 **"DRE"** means the California Department of Real Estate.

2.34 **"Driveways"**

means the driveways located with the Residential Units in the Community, and related Improvements.

2.35 **"Eligible Holder"** means any First Mortgagee who has given written notice to the Association specifying the name and address of the Condominium subject to the Mortgage and requesting written notice of any or all of the events to which such Eligible Mortgage Holder is entitled specified in this Declaration.

2.36 **"Emergency"** means any situation, condition or event which threatens substantial imminent damage or injury to person or property.

2.37 **"Enforcement Assessments"** means the assessments which are levied pursuant to the provisions of **Section 6.7**.

2.38 **"Federal Agencies"** means collectively one or more of the following agencies and the following letter designation for such agencies shall mean and refer to, respectively, the agency specified within the parentheses following such letter designation and any successors to such agencies: FHA (Federal Housing Administration), FHLMC (Federal Home Loan Mortgage Corporation), FNMA (Federal National Mortgage Association), GNMA (Government National Mortgage Association), and VA (United States Department of Veterans' Affairs).

2.39 **"Final Map"** means the final subdivision or parcel map covering the Community and any corrections, modifications and/or lot line adjustments to such Final Map.

2.40 **"First Mortgage"** means a Mortgage that is first in priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Condominium in the Community.

2.41 **"First Mortgagee"** means the Mortgagee of a First Mortgage.

2.42 **"Fiscal Year"** means the fiscal accounting and reporting period of the Association selected by the Board.

2.43 **"Governing Documents"** means collectively this Declaration, the Articles, Bylaws, Architectural Guidelines, the Association Rules and any Supplementary Declarations.

2.44 **"Governmental Agencies"** means any federal, state, county, city, local or municipal governmental entity or quasi-governmental entity or body (or any departmental agency thereof) exercising jurisdiction over a particular subject matter for any portion of the Property.

2.45 **"Governmental Entitlements"** means any entitlements, permits and authorizations relating to the Property and any conditions imposed in connection with such entitlements, permits and authorizations issued or imposed, by any Governmental Agencies, including without limitation, the County.

2.46 **"Homeowners Maintenance Manual"** means the manual which may be prepared by Declarant or its consultants and provided to each Owner, specifying obligations for maintenance of the Condominiums and Residences by the Owners.

2.47 **"Improvements"** means: (a) all buildings and structures and appurtenances thereto of every type and kind, including, without limitation, Residences, and other buildings, utility installations, sidewalks, driveways, walkways, fences, screening walls, block walls, awnings, patio covers, trellises, landscaping irrigation systems, the exterior surfaces of any visible structure, painting, antennae, poles, signs, solar or wind powered energy systems or equipment, water softener, heater or air conditioning and heating fixtures or equipment; (b) the grading, excavation, filling or similar disturbance to the surface of the land; and (c) any change or alteration of any previously installed Improvement, including any change of exterior appearance, color or texture.

2.48 **"Institutional Mortgagee"** means (a) a First Mortgagee that is a bank, savings and loan association, insurance or mortgage company or other entity or institution chartered under Applicable Laws; (b) an insurer or governmental guarantor of a First Mortgage; (c) a First Mortgagee that is a federal or state agency; or (d) any other institution specified by the Board in a recorded instrument that is the Mortgagee of a Mortgage or the beneficiary of a deed of trust encumbering a Condominiums.

2.49 **"Invitee"** means any Person whose presence within the Community is approved by or is at the request of a particular Owner, including, without limitation, Occupants, agents, contractors, and the family, guests, employees or licensees of Owners or tenants.

2.50 **"Limited Warranty"** means the D.R. Horton 10-4-1 Limited Warranty provided by Declarant to the Association for the Association Property conveyed by Declarant and to Owners for Residential Units conveyed by Declarant and is contained in the Homeowners Maintenance Manual. The Limited Warranty warrants against certain construction defects, failures or deficiencies as specified therein.

2.51 **"Maintenance Obligations"** means the Association's obligations and each Owner's obligations to perform (a) all reasonable maintenance consistent with the terms of the Association Maintenance Manual and Homeowner Maintenance Manual, respectively, any maintenance obligations and schedules in any warranty offered by Declarant or any manufacturer, and any maintenance obligations and schedules otherwise provided to the Association or the Owners by Declarant or any manufacturer, as applicable; (b) any commonly accepted maintenance practices intended to prolong the life of the materials and construction of the Association Property and Residential Units, as applicable in the area to be maintained; and (c) any maintenance obligations and requirements set forth in this Declaration, as updated and amended from time to time.

- 2.52 **"Member"** means every Person who holds a membership in the Association.
- 2.53 **"Model Home Phase"** means the Model Home Units included in a Phase consisting solely of Model Home Units and applicable Association Property, if any, and which is covered by a separate Public Report.
- 2.54 **"Model Home Purposes"** means a Residential Unit that is used as a sales office, design center, construction office or similar purpose solely for the purposes of marketing Condominiums constructed by Declarant and such Residential Unit is not occupied or used for residential occupancy purposes.
- 2.55 **"Model Home Units"** means those Residential Units within the Community which are initially used by Declarant for Model Home Purposes.
- 2.56 **"Module"** means each module designated on the Condominium Plan. Each Module is a three-dimensional portion of the Property and has been created pursuant to California Government Code Section 66427. The lower and upper boundaries of each Module are set forth in the Condominium Plan. The lateral boundaries of each Module are vertical planes which are also described and depicted in the Condominium Plans. The Module includes all land and Improvements (whether now or hereafter located within its boundaries).
- 2.57 **"Mortgage"** means a recorded mortgage or deed of trust encumbering a Condominium in the Community.
- 2.58 **"Mortgagee"** means a mortgagee under a Mortgage as well as a beneficiary under a deed of trust.
- 2.59 **"Notice and Hearing"** means the procedure which gives an Owner notice of an alleged violation of the Governing Documents and the opportunity for a hearing before the Board.
- 2.60 **"Occupant"** means a Person that is entitled to occupy from time to time all or a portion of a Residential Unit, whether pursuant to ownership, lease, sublease, license or other similar agreement.
- 2.61 **"Official Records"** means the Official Records of the County Recorder of the County.
- 2.62 **"Offsite Maintenance Areas"** means collectively those areas located outside of the Community to be maintained by the Association as provided in this Declaration including the Parkway Maintenance Areas, and any other areas designated as Offsite Maintenance Areas in a Supplementary Declaration. The Offsite Maintenance Areas shall be designated in a Supplementary Declaration.
- 2.63 **"Owner"** means the record owner, whether one or more Persons, including Declarant, of any Condominium excluding those having such interest merely as security for the performance of an obligation, unless and until such Person acquires fee title thereto.
- 2.64 **"Parkway Maintenance Areas"** means the parkway landscaped areas within the public right-of-way which are designated on Exhibit "E". The Parkway Maintenance Area includes any irrigation and landscaping improvements located within the Parkway Maintenance Area.
- 2.65 **"Parkway Maintenance Area Agreement"** refers to the Agreement for Maintenance of Parkways (ICI) Case Number TR 34324, IP No. 070001 by and between D.R. Horton Los Angeles

Holding Company, Inc., and the County of Riverside for maintenance of the Parkway Maintenance Areas, which is on file with the County.

2.66 **"Person"** means a natural individual or any legal entity recognized under California law. When the word "person" is not capitalized, the word refers only to natural persons.

2.67 **"Phase"** means that portion of the Property which is the subject of a separate Public Report issued by the DRE and which has been made subject hereto (i.e., by annexation with respect to Phases subsequent to the first Phase).

2.68 **"Photocell Lighting"** means the photocell controlled fixtures and light bulbs installed by Declarant that are located on certain Residences.

2.69 **"Pollution Control Devices"** means the pollution control devices located within the Community installed to satisfy storm water pollution requirements.

2.70 **"Private Sewer System"** means the private sewer system including but not limited to, sewer lines and pipes, sewer cleanouts, and other installations therein in the Community servicing the Residential Units and the Community.

2.71 **"Private Streets"** means those Alleyways, streets, roads and drives and adjacent sidewalks within the Association Property, and related Improvements, private drainage, sewage and water systems and other utility installations therein that are not maintained by a public agency or franchised utility within such streets, roads or sidewalks.

2.72 **"Property"** means all of the real property described in **Exhibit "A"** of this Declaration, and such Additional Property as may hereafter be made subject to this Declaration. In the event of the de-annexation of any Property previously subject to this Declaration, the term "Property" shall not include any such de-annexed land.

2.73 **"Public Report"** means the final subdivision public report issued by the DRE for a Phase in the Community.

2.74 **"Recreational Facilities"** means any of the recreational facilities located within the Association Property intended for use by the Owners and their Occupants.

2.75 **"Regular Assessments"** means the assessments which are levied pursuant to the provisions of **Section 6.3**.

2.76 **"Residence"** means each residential dwelling situated within a Residential Unit.

2.77 **"Residential Unit"** means the three-dimensional envelope of airspace, earth and water below and above the existing ground elevation delineated on the Condominium Plan. Each Residential Unit shall be a separate freehold estate not owned in common with the other Owners of Condominiums in the Community, as separately shown, numbered and designated in the Condominium Plan. The lower and upper boundaries of each Residential Unit are set forth in the Condominium Plan. The lateral boundaries of each Residential Unit are vertical planes which are also described and depicted in the Condominium Plan. Residential Units include the above-described area and all Improvements within such area, including, without limitation, the Residence, yard, garage, Driveways, bearing walls, columns, floors, roofs, foundations, windows, central heating and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the point of connection with the main line, wherever



located within the Residential Unit. In interpreting deeds and plans, the then existing physical boundaries of a Residential Unit, whether in its original state or reconstructed in substantial conformance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the Condominium Plan or any other recorded document regardless of settling or lateral movements of the building and regarding of minor variance between boundaries shown on the Condominium Plan or any other recorded document and those of the building.

2.78 **“Side Yard Easement Areas”** means those portions of the Residential Units over which easements are reserved and/or granted as more particularly defined in this Declaration and as depicted on the Condominium Plan. The Side Yard Easement Areas may be further modified or supplemented in a Supplementary Declaration.

2.79 **“Site Plan”** means the site plan of the Community attached as **Exhibit “F”** to this Declaration.

2.80 **“Special Allocation Assessments”** means the assessments which are levied pursuant to the provisions of **Section 6.6**.

2.81 **“Special Assessments”** means the assessments which are levied pursuant to the provisions of **Section 6.4**.

2.82 **“Supplemental Condominium Plan”** means any Condominium Plan which supplements a previously recorded Condominium Plan. A Supplemental Condominium Plan shall also include a Condominium Plan which is recorded by the Declarant (a) to correct technical errors in the originally recorded Condominium Plan, or (b) after the completion of construction to show the actual “as-built” locations or dimensions of any component of the Community, which Supplemental Condominium Plan described in subsections (a) and (b) above shall not require the consent of the Owners or the Association.

2.83 **“Supplementary Declaration”** means those certain declarations of covenants, conditions and restrictions, or similar instruments, recorded by Declarant, which may do any or all of the following: (a) annex all or a portion of the Additional Property and/or designate Condominiums as a Phase, (b) prior to Annexation, delete any portion of the Additional Property from the description of the Additional Property attached to this Declaration, (c) make modifications or adjustments to the description of the Additional Property to reflect Declarant’s development plan or any lot line adjustments, parcel maps and final subdivision maps and/or conditions or requirements imposed by Governmental Agencies, (d) make such other complementary additions and/or modifications necessary to reflect the different character of the Additional Property, or impose additional covenants and restrictions on the Additional Property, (e) identify areas referenced in this Declaration to be maintained by the Association and/or make modifications or supplements to any areas designated for maintenance by the Association or any Owner, (f) conform this Declaration or any previously recorded Supplementary Declarations to Applicable Laws or any conditions of approval imposed by any Governmental Agency or Governmental Entitlements, (g) conform this Declaration and other Governing Documents to the requirements of any Federal Agencies, and/or (h) make corrections to the provisions of this Declaration or any previously recorded Supplementary Declaration(s).

2.84 **“Utility Facilities”** means all utility facilities including intake and exhaust systems, Private Sewer System, Pollution Control Devices, storm and sanitary sewer systems, drainage systems, ducting systems for ventilation and utility services, domestic water systems, natural gas systems, heating and air conditioning systems, electrical systems, fire protection water and sprinkler systems, telephone systems, cable television systems, telecommunications systems, water systems, sump pumps, pool

equipment, central utility services and all other utility systems and facilities reasonably necessary to service any Improvement situated in, on, over and under the Community.

2.85 **"Voting Power"** means to the voting power of the Association set forth in **Section 5.2**.

### **ARTICLE 3 OWNERSHIP AND EASEMENTS**

3.1 **Ownership of Condominium.** Ownership of each Condominium within the Community includes (a) fee title to a Residential Unit, (b) an undivided interest in the Common Area located within the Module in which the Residential Unit is situated, (c) a membership in the Association, and (d) subject to the terms of the Governing Documents, any exclusive or non-exclusive easement or easements appurtenant to such Condominium as described in this Declaration, the Condominium Plan, and the deed to the Condominium.

3.2 **No Separate Conveyance.** The interest of each Owner in the use and benefit of the Association Property shall be appurtenant to the Condominium owned by the Owner. No Condominium shall be conveyed by the Owner separately from the interest in the Common Area or the right to use the portions of the Association Property which are open for access by the Owners and their Invitees. Any conveyance of any Condominium shall automatically transfer the interest in the Common Area and the Owner's right to use the Association Property as provided in this Declaration without the necessity of express reference in the instrument of conveyance.

3.3 **Delegation of Use.** Any Owner entitled to the right and easement of use and enjoyment of the Association Property may delegate such Owner's rights provided in this Declaration to its Occupants who reside in such Owner's Condominium, subject to reasonable regulation by the Association. An Owner who has made such a delegation of rights shall not be entitled to use of the Association Property for so long as such delegation remains in effect, other than such access rights as are directly related to the Owner's rights and duties as landlord.

3.4 **Limitations.** All of the easements and licenses described in this **Article 3** are subject to the limitations set forth in **Section 3.11** and any other limitations and restrictions set forth in the Governing Documents.

3.5 **Commencement of Easements.** All of the easements set forth in this **Article 3** shall commence upon recordation of this Declaration and the conveyance by the Declarant of a Condominium to an Owner and shall thereafter be deemed to be covenants running with the land for the use and benefit of the Association, the Owners and the Condominiums.

3.6 **Easements in Favor of Owners.**

3.6.1 **Non-Exclusive Easements for Ingress and Egress.** Declarant hereby grants to each Owner for the benefit of such Owner and such Owner's Invitees, non-exclusive easements for ingress and egress on, over, through and across the Private Streets, alleys, walkways and pathways located within the Association Property (except any areas where access is restricted by the Association).

3.6.2 **Non-Exclusive Easement for Use and Enjoyment.** Declarant hereby grants to each Owner and such Owners Invitees non-exclusive easements for the use and enjoyment of the Recreational Facilities and other areas intended for the use and benefit of the Owners and an Owner's Invitees (except where access is restricted by the Association).

3.6.3 **Easements for HVAC Equipment.** Declarant hereby grants to each Owner for the benefit of such Owner and such Owner's Invitees, an easement for placement of such Owner's HVAC condenser within the Community in the location originally installed by Declarant.

3.6.4 **Easements for Drainage and Runoff.** Declarant hereby grants to each Owner for the benefit of such Owner and such Owner's Invitees, an easement for drainage through the established drainage pipes and facilities.

3.6.5 **Cross Unit Drainage Facilities.** There is hereby reserved and granted for the benefit of each Residential Unit upon which Cross Unit Drainage Facilities are located, if any, a nonexclusive reciprocal easement over those Residential Units that are part of the same cross unit drainage system for the purpose of (a) drainage through the Cross Unit Drainage Facilities, and (b) to the extent reasonably necessary to perform the maintenance obligations on the Residential Unit as required under **Article 8** of this Declaration.

3.6.6 **Side Yard Easement Area.** The following provisions shall apply to Residential Units benefitted by a Side Yard Easement Area ("**Benefitted Unit**") and/or burdened by a Side Yard Easement Area ("**Burdened Unit**").

(a) **Easement for Maintenance of Benefitted Unit.** Each Owner of a Benefitted Unit shall have an easement over the Side Yard Easement Area located in the Burdened Unit for the purpose of maintaining, repairing and replacing the Benefitted Unit's Residence, including but not limited to, the exterior of the Residence, any roof overhangs, eaves, stucco or architectural features of the Residence which may extend or encroach into the Burdened Unit, and any footings from any fencing or structures situated on the boundary between the Residential Units, and the Cross Unit Drainage Facilities.

(b) **Notice of Entry in the Burdened Unit.** The Owner of the Benefitted Unit's right of access to the Side Yard Easement Area located within the Burdened Unit, shall be exercised in a reasonable manner only and, except for emergency repairs, shall give at least twenty-four (24) hours prior notice to the Owner of the Burdened Unit of entry. Such entry shall only be at reasonable times, and shall, to the extent practicable, not interfere with, restrict, disturb or hinder the full enjoyment by the Owner of the Burdened Unit. The Owner of the Benefitted Unit shall repair, at their sole cost and expense, any damage caused by such entry into the Burdened Unit.

### 3.7 **Easements in Favor of the Association and the Owners.**

3.7.1 **Encroachment.** Declarant hereby reserves and grants to the Owners for their benefit and the benefit of their Occupants and their respective Condominiums and to the Association for its benefit and the benefit of the Association Property, over, under, across and through the Residential Units, and the Association Property for encroachment, support, maintenance, repair, occupancy and use of such portions of the Residential Units and/or Association Property as are encroached upon, used or occupied as a result of any original construction design, accretion, erosion, addition, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building, structure, or other improvements or any portion thereof, or any other cause. In the event any portion of the Community is partially or totally destroyed, the encroachment easement shall exist for any replacement structure that is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement shall exist for as long as the encroachments exists; provided, however, that no valid easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may, but need not be, cured by repair and restoration of the structure.

3.7.2 **Utilities.** There are reserved and granted to the Owners and the Association for the benefit of the Residential Units and Association Property respectively, over, under, across and through the Community, reciprocal, non-exclusive easements for the maintenance, repair and replacement of the Utility Facilities.

3.8 **Easements in Favor of the Association.**

3.8.1 **Association Easement.** Declarant hereby reserves and grants to the Association an easement for ingress and egress within the Community and Offsite Maintenance Areas by the Association and the Association's agents, employees and contractors to the extent reasonably required for performing its duties and exercising its powers described in this Declaration and the other Governing Documents including without limitation, its enforcement rights, and for performing any maintenance, repair and replacement obligations pursuant to the terms of this Declaration and the other Governing Documents. Such rights of entry shall be exercised in accordance with the provisions of **Section 4.3.5**.

3.8.2 **Association Right of Entry.** Declarant hereby reserves and grants to the Association and the Association's agents and contractors, an easement to enter the Residential Unit as set forth in **Section 4.3.5** of this Declaration.

3.8.3 **Association Obligations Pursuant to Parkway Maintenance Area Agreement.** Declarant hereby reserves and grants to the Association a license to perform the Association's obligations pursuant to the Parkway Maintenance Area Agreement.

3.9 **Easements and Rights in Favor of Declarant.**

3.9.1 **Declarant's Easements to Exercise of Rights.** Declarant hereby reserves to itself together with the right and power to grant and transfer the same, a non-exclusive easement to perform its duties and exercise its powers under this Declaration, including, without limitation, the rights and powers described in **Article 10** and any rights, powers and obligations reserved or granted to Declarant.

3.9.2 **Easements to Declarant for Additional Property.** Declarant hereby reserves to itself together with the right and power to grant and transfer the same, an easement over, upon, through and across the Property for the purpose of reasonable ingress to and egress from, over and across the Property, to the Additional Property until all of such Additional Property is annexed to the Property and made subject to this Declaration.

3.9.3 **Installation of Additional Improvements.** Declarant hereby reserves to itself together with the right and power to grant and transfer the same, the right to install and operate within the Association Property, Association Maintenance Areas, and Offsite Maintenance Areas, such landscaping, sidewalks, walkways, drainage areas, lighting, signage, monumentation, Utility Facilities, and other facilities and Improvements, as may be deemed appropriate by Declarant and/or required by the Governmental Entitlements or in connection with the issuance of any permits or approvals for the benefit of Declarant. In addition, Declarant hereby reserves to itself a non-exclusive easement over, upon and across all such Association Property, Association Maintenance Areas, and Offsite Maintenance Areas for purposes of such access as may be reasonably required in connection with such activities.

3.9.4 **Drainage Easements.** Declarant hereby reserves to itself and the City together, with the right and power to grant the same, nonexclusive easements for drainage of storm water over, across and on the Property.

3.9.5 **Utility Facilities.** Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, easements on, over, under, through and across the Property for the purpose of constructing, erecting, operating and maintaining facilities and improvements, including, without limitation, easements for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines, and drainage facilities, as may be shown on any recorded subdivision or Final Maps of the Property or as are required by any Governmental Agencies or as may be required in connection with the development of the Property.

3.9.6 **Temporary Construction, Marketing and Repair Easements.** Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, non-exclusive easements over the Property for access to, and ingress and egress over and across, any portions of the Property as is reasonable and necessary to undertake and complete the work of development, construction, marketing, conveyance and/or repair and replacement of the Improvements and the right to exercise any warranty or rights to repair granted to Declarant under this Declaration, any other warranty or Applicable Laws.

3.9.7 **Easements for Signage.** Declarant hereby reserves to itself, together with the right to grant and transfer the same, easements on, over, under, through and across the Association Property to install, maintain, repair and replace, identification, promotional, and other signage, banners, flags, and other promotional advertising materials required or deemed necessary by Declarant, including, without limitation, any signage in connection with the exercise of the activities described in Sections 3.9.6 above and Article 10 of this Declaration.

3.10 **Easements in Favor of Declarant and/or the Association.**

3.10.1 **Enforcement Easement.** Declarant hereby reserves to itself and grants to the Association for each of their benefit and the benefit of their respective agents, employees (as applicable) and contractors, a non-exclusive easement and right of access over, upon, across and through the Association Property and all other portions of the Property, for the purpose of taking such action as may be reasonably required to exercise the remedies of the Declarant or the Association (as applicable) in regard to any violation of this Declaration or any of the other Governing Documents. In the case of any such entry over, upon, across and through any portion of the Property that is not owned by the Association, (a) Declarant or the Association shall endeavor to provide reasonable prior notice to the Owner, except in the case of Emergency where no such notice shall be required, and (b) Declarant or the Association shall use commercially reasonable efforts to minimize any inconvenience to the Owner and/or Occupants.

3.11 **Limitations on Easements and License Rights.** The easement rights, and the reservations of the right and authority to grant easements, described in the foregoing provisions of this Article 3 and elsewhere in this Declaration, shall be subject to the limitations set forth below.

3.11.1 **Easements of Record.** The Property and all of the easements granted or reserved herein are subject to all covenants, conditions, restrictions, encumbrances, easements, dedications, and rights of way as shown on any Final Map and any other matters of record, including, without limitation, the Governmental Entitlements and any agreements recorded by Declarant to memorialize the easement and other rights reserved to Declarant under this Declaration. Without limiting the foregoing, the Community Trail Easement may be used by members of the public, as set forth on the Final Map.

3.11.2 **Governing Documents.** All of the easements and other rights granted herein are subject to the limitations, restrictions and easements set forth in the Governing Documents. Without

limiting the foregoing, all of such easements and rights shall be subject to the easements and other rights granted or reserved to the Declarant, the Association and their Invitees, as specified above.

3.11.3 **Restricted Access.** All of the easements and other rights granted herein, are subject to the right of Declarant or the Association to restrict access to certain areas, as may be necessary to comply with Governmental Entitlements or to perform maintenance and repair obligations under this Declaration or any warranty or other agreements entered into by Declarant or the Association or in the event of an Emergency or to exercise any other rights reserved or granted by Declarant or the Association hereunder or the other Governing Documents, so long as each Owner has at least one route of vehicular access between the Owner's Residential Unit through the Private Streets to publicly dedicated streets bordering the Community, subject to any restrictions imposed by any city, county or state and subject to any reservations in the deed, map and Governing Documents.

3.11.4 **Suspend Right to Use Association Property.** All of the easements are subject to the right of the Association, after Notice and Hearing, to temporarily suspend an Owner's rights as a Member to use the Recreational Facilities pursuant to the terms of the Governing Documents, including the right to use any recreational facilities for a period not to exceed sixty (60) days, unless such rights are suspended for failure to pay assessments.

3.11.5 **Easements and Dedication.** The Association shall have the right to dedicate, transfer or grant easements over all or any part of the Association Property or any interest therein to the City or other Person, which dedication, transfer or easements shall be subject to the provisions of this Declaration and such other conditions as the Association deems proper.

3.11.6 **Control Parking.** Subject to the provisions of this Declaration and the rights of Declarant hereunder, the Association shall have the right to control parking within the Community and to promulgate rules and regulations to control parking in a manner consistent with this Declaration.

3.11.7 **Limit Guests.** The Association shall have the right (a) to limit, on a reasonable basis, the number of guests and tenants of the Owners using the recreational and other facilities situated within the Association Property, and (b) to charge reasonable fees for special or extraordinary use of such facilities.

3.11.8 **Duration of Easement Rights.** Except for the rights of Declarant, the easement rights granted under this Declaration shall be for a term and duration coextensive with the Owner's title or interest in and to a Property. Upon conveyance of a Condominium, such rights shall pass to the successor Owner(s) of the Condominium being conveyed.

3.11.9 **Rights of Invitees.** Notwithstanding any other provisions of this Declaration or the Governing Documents, nothing contained in this Article is intended to grant any third party beneficiary rights or any other rights to a Invitee. No Invitee shall have any rights under this Article independent of the rights granted to an Owner.

3.12 **Light, Air and View.** No Owner shall have an easement for light, air or view over the Condominium of another Owner and no diminution of light, air or view by any Improvement now existing or hereafter erected shall entitle the Owner or any Invitee to claim any easement for light, air or view within the Community.

3.13 **Amendment to Eliminate Easements.** So long as Declarant owns any portion of the Property or Additional Property, this Declaration cannot be amended to modify or eliminate the

easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect.

## **ARTICLE 4 THE ASSOCIATION**

4.1 **The Organization.** The Association is a nonprofit mutual benefit corporation formed under the Nonprofit Mutual Benefit Laws of the State of California. On the conveyance of the first Condominium to an Owner under a Public Report, the Association shall be charged with the duties and given the powers set forth in the Governing Documents.

4.2 **Association Action; Board of Directors and Officers; Members' Approval.** Except as to matters requiring the approval of Members as set forth in the Governing Documents, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint. Such election or appointment shall be in accordance with the Governing Documents. Except as otherwise provided in the Governing Documents, all matters requiring the approval of Members shall be deemed approved if (a) Members holding a majority of the total Voting Power consent to them in writing as provided in the Bylaws, (b) such matters are approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws or, (c) in certain situations set forth in **Section 4.4** of this Declaration, such matters as are approved in accordance with the procedures set forth in **Section 4.4**.

4.3 **Powers of the Association.** Subject to the limitations expressly set forth in the Governing Documents, the Association shall have all the powers of a non-profit mutual benefit corporation organized under the laws of the State of California subject only to such limitations on the exercise of such powers as are set forth in the Governing Documents. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under the Governing Documents, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the powers set forth below. Notwithstanding the foregoing, the Association shall not undertake any of the activities described in **Section 4.5** below.

4.3.1 **Performance of Duties; Commencement of Association's Duties and Powers.** The Association shall have the power to undertake all of the express duties required under **Article 4** to be performed by the Association. Unless otherwise specified in a Supplementary Declaration, the duties, rights and powers of the Association as described in this Declaration shall commence from and after the date of the conveyance of fee ownership of any portion of the Property from the Declarant to an Owner under a Public Report, or such earlier date that the Declarant may elect, and the Association shall thereupon assume all such duties and such rights and powers.

4.3.2 **Assessments.** The Association shall have the power to establish, fix, and levy Assessments against the Owners and to enforce payment of such Assessments, in accordance with the provisions of the Governing Documents.

4.3.3 **Right of Enforcement.** The Association, in its own name and on its own behalf, or on behalf of any Owner who consents, shall have the power to (a) take disciplinary action and/or assess monetary fines against an Owner for violation of the Governing Documents by such Owner or their Invitees, (b) commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of the Governing Documents, (c) after Notice and Hearing, suspend the rights to use any portion of the Association Property or membership rights or privileges and/or (d) enforce by mandatory injunction, or otherwise, all of the restrictions in the Governing Documents.



4.3.4 **Delegation of Powers, Professional Management.** The Association can delegate its powers, duties, and responsibilities to committees, including a professional managing agent, subject to the requirements of **Section 4.6.**

4.3.5 **Right of Entry and Enforcement.** Except in the case of Emergencies in which case no prior notice need be given, the Association or any authorized representative thereof shall have the right, upon forty-eight (48) hours prior notice and during reasonable hours, to enter in or on to the interior of any Residential Unit for the purpose of (a) construction, maintenance or Emergency repair, (b) enforcing the provisions of this Declaration for the benefit of the Association Property, or (c) maintaining and repairing the Improvements, if any, located within said Residential Unit which are required to be maintained by the Association as provided in this Declaration. Such Persons shall not be deemed guilty of trespass by reason of such entry.

4.3.6 **Easements and Rights of Way.** The Association shall have the power to exercise any of the easement and other rights granted to the Association under **Article 3**, including, without limitation, the right to grant the easements and licenses over the Association Property, Association Maintenance Areas and Offsite Maintenance Areas. The Association may grant and convey to any third party easements and licenses for use and rights of way in, on, over or under any Association Property in accordance with the provisions of this Declaration. The affirmative vote of Members owning at least a majority of the Condominiums shall be required before the Board may grant exclusive use of any portion of the Association Property to any Member unless the grant of exclusive use is one of the exceptions to the Member approval requirement listed in California Civil Code Section 1363.07. A vote on a proposed grant of exclusive use shall be by secret ballot in accordance with the procedures set forth in California Civil Code Section 1363.03 and the rules adopted by the Association pursuant thereto.

4.3.7 **Dedication.** The Association may dedicate any of the Association Property to an appropriate public authority for public use as provided for in this Declaration.

4.3.8 **Capital Improvements.** Subject to the terms of this Declaration, the Association may approve the construction, installation or acquisition of a particular capital improvement to the Association Property and the Association Maintenance Areas.

4.3.9 **Acquire Property.** The Association shall have the power to acquire and hold real and personal property as may be necessary or convenient for the management or operation of the Association Property or other areas the Association is obligated to maintain and the administration of the affairs of the Association or for the benefit of the Members and Owners.

4.3.10 **Enter Into Agreements.** The Association shall have the power to enter into maintenance, cost sharing and/or easement agreements with owners of property adjacent or in the vicinity of the Property (including, without limitation, Governmental Agencies) or any owners associations. Unless otherwise specified in the agreement or a Supplementary Declaration, any agreements entered into by Declarant with any Governmental Agency relating to the Property shall be binding on the Association.

4.3.11 **Enter Into Maintenance and Subsidy Agreements.** Notwithstanding any other provisions of this Declaration or the Bylaws regarding the term of contracts with Declarant for providing services to the Association, Declarant may enter into one or more written maintenance or subsidy agreements with the Association under which Declarant shall pay all or any portion of the Common Expenses and perform all or any portion of the Association's maintenance responsibilities in exchange for a temporary suspension of all or a portion of the Regular Assessments. Each such maintenance or other agreement shall be for a term and shall be on such conditions as are approved by the DRE, and may require Owners to reimburse Declarant, through the Association, for a portion of the costs



expended in satisfaction of Common Expenses. The Association shall also have the power to enter into agreements with Declarant for the use of certain facilities prior to conveyance of such facilities to the Association.

4.3.12 **Contract for Goods and Services.** The Association shall have the power to contract for goods and services for the benefit of the Community that are necessary for the Association to perform its duties and obligations hereunder, subject to the limitations set forth in **Section 4.5** below.

4.3.13 **Special Allocation Assessments.** The Association shall have the power to assess a Special Allocation Assessment against some, but not all, of the Owners and their Condominiums as provided in **Article 6**.

4.3.14 **Borrow Funds.** The Association shall have the right to borrow money to improve, repair or maintain the Association Property, Association Maintenance Areas and Offsite Maintenance Areas to hypothecate any or all real or personal property owned by the Association, including pledging as collateral the assessment liens levied thereon provided that, the borrowing of any money or hypothecation of any real or personal property in excess of five percent (5%) of the budgeted gross expenses of the Association shall require the approval by written ballot of at least sixty-seven percent (67%) of each class of Members. Notwithstanding the foregoing, in no event may the Association borrow money to fund any litigation by the Association relating to the Community or the Improvements unless the consent of ninety percent (90%) of each class of Members and the consent of ninety percent (90%) of the First Mortgagees is obtained.

4.3.15 **Rights Regarding Title Policies.** If any title claims regarding the Association Property are made by any third party, the Association shall have the power to pursue such claims on any title insurance policy held by the Owners or the Association and each Owner hereby delegates, on a non-exclusive basis, and assigns to the Association any rights it may have under its title insurance policies to the extent that the title claim relates to the Association Property.

4.3.16 **Claims and Actions.** Subject to the provisions of this Declaration, the Association shall have the power, but not the duty, to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Association in matters pertaining to (a) the application or enforcement of this Declaration, (b) any and all claims, causes of action, damages and suits for defects relating in any way to the design or construction of the Association Property or any portion thereof on behalf of all Owners and (c) Limited Warranty claims that may arise with respect to the Association Property; provided, however, that no representative of Declarant on the Board shall vote on the initiation of any claim under California Civil Code Section 895 et seq., such that from and after the first election of directors in which the Class A Members of the Association participate, Declarant shall have no control over the Association's ability to decide whether to initiate a claim under such statutory provisions and in the event of such a vote, the affirmative vote of the two non-Declarant representatives on the Board shall be binding so long as a quorum of the Board is present at any meeting where such vote is taken. An Owner may only assert Limited Warranty claims pertaining to such Owner's individual Residential Unit. The Association and not the individual Members shall have the power to pursue Limited Warranty claims or any claims or other actions using the non-adversarial procedures for construction defects in Association Property pursuant to California Civil Code Section 895 et seq., and any successor statutes or laws, if applicable. Each Owner hereby agrees to designate such authority to the Association and assigns to the Association all power and authority as is necessary for any settlement or release of any such claims. Any recovery by the Association with respect to any damage to or defect in the Association Property shall be utilized solely for the purpose of paying for the costs of obtaining the recovery and, if applicable, for correcting damage or defect.

4.4 **Duties of the Association.** In addition to the powers described above, and without limiting their generality, the Association has the obligation to perform duties set forth in this Declaration and the other Governing Documents subject to and in accordance with the Governing Documents, the Governmental Entitlements and Applicable Laws.

4.4.1 **Limited Warranty.** The Association shall have the duty to execute any necessary documents to effectuate the Limited Warranty as to the Association Property and the Common Area. In addition, in the event of a claim asserted under the Limited Warranty involving the Association Property, the Association shall comply with any and all requirements set forth in the Limited Warranty including but not limited to providing written notice of any claim to the Declarant and reasonable access to the Association Property for warranty service and shall maintain a copy of the Limited Warranty in the records of the Association.

4.4.2 **Applicable Laws and Governmental Entitlements.** The Association shall comply with all Applicable Laws and the Governmental Entitlements.

4.4.3 **Obligations Under Other Governing Documents.** The Association shall perform all other duties that may be expressly imposed on the Association in any other Governing Documents.

4.4.4 **Acceptance of Association Property, Association Maintenance Areas, and Offsite Maintenance Areas.** The nature, design, quality and quantity of all Improvements to the Association Property, Association Maintenance Areas, and the Offsite Maintenance Areas shall be determined by Declarant, in its sole discretion. The Association shall accept any Association Property and Improvements situated thereon and any easements over the Association Maintenance Areas and Offsite Maintenance Areas conveyed by Declarant and/or created under this Declaration and shall maintain, repair, replace, operate, and otherwise manage all of the Improvements and facilities required to be maintained by the Association, and all personal property acquired by the Association in accordance with the terms and provisions of the Governing Documents and the Governmental Entitlements. The Board shall periodically review the nature and scope of the operations of the Association to assure such operations are in satisfactory compliance with the requirements of the Governing Documents and the Association Maintenance Manual. The Association shall comply with the requirements of any agreements entered into between Declarant and a Governmental Agency pertaining to the Association Property, Association Maintenance Areas and Offsite Maintenance Areas. In the event that a dispute arises between Declarant and the Association with respect to the nature, design, quality or quantity of such Improvements, or the acceptance of maintenance responsibilities therefore, the Association shall be obligated to accept title to the Association Property and any easements over the Association Maintenance Areas and Offsite Maintenance Areas and undertake maintenance responsibilities therefor, pending resolution of the dispute, in accordance with the provision for enforcement set forth in **Article 17** herein.

4.4.5 **Water and Other Utilities.** The Association shall have the duty to acquire, provide and pay for necessary utility and other services for the Association Property, Association Maintenance Area and Offsite Maintenance Areas to the extent necessary.

4.4.6 **Utility Suppliers.** The Association shall have the duty to permit utility suppliers and other providers of any telecommunications or other services to use portions of the Association Property reasonably necessary to the ongoing development and operation of the Community.

4.4.7 **Maintenance of Community.** The Association shall perform the maintenance, repair and replacement obligations described in **Article 8**.

4.4.8 **Management.** The Association shall have the duty to retain a professional manager or other Persons and contract with independent contractors or managing agents who have professional experience in the management of similar planned communities to perform any services required for the maintenance, protection, operation and preservation of the Property.

4.4.9 **Assessments.** The Association shall establish, determine, levy, collect and enforce payment of all Assessments and cause to be prepared all budgets and financial statements and establish and maintain a working capital and contingency fund as required by the Governing Documents.

4.4.10 **Assignment of Maintenance Responsibilities.** The Association shall have the right to relinquish or assign its maintenance responsibilities to any Governmental Agencies, including without limitation, maintenance or assessment districts, utility companies and/or school districts.

4.4.11 **Taxes and Assessments.** The Association shall have the duty to pay all real and personal property taxes levied against the Association Property, or personal property owned by the Association. Such taxes and assessments may be contested by the Association provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

4.4.12 **Liens and Charges.** The Association shall pay any amount necessary to discharge any lien or encumbrance upon the Association Property, or any other property or interest of the Association.

4.4.13 **Members' Approval of Certain Actions.** In the event that any claim or other actions brought by the Association against Declarant, including without limitation, claims brought under California Civil Code Section 895 *et seq.*, involving allegations of construction defects relating to the Association Property, Association Maintenance Areas, and/or Offsite Maintenance Areas is not resolved pursuant to the non-adversarial procedures set forth in California Civil Code Sections 910 through 938, as applicable, the Association shall not initiate a further action or arbitration proceeding under **Article 17** or the Limited Warranty, if any, without first obtaining the consent of the Owners other than Declarant constituting a majority of the Voting Power.

4.4.14 **Architectural Control.** The Association shall have the duty to promulgate architectural standards and procedures as set forth in the Architectural Guidelines and may appoint the Architectural Committee or hire a consultant in connection therewith in accordance with the provisions of **Article 9** of this Declaration.

4.4.15 **Association Rules.** The Association shall adopt and be entitled to enforce the Association Rules as it deems reasonable. The Association Rules shall govern the Community. However, the Association Rules shall not be inconsistent with or materially alter any provisions of the Governing Documents. A copy of the Association Rules shall be mailed or otherwise delivered to each Owner. In case of any conflict between any of the Association Rules and any other provisions of this Declaration, the conflicting Association Rule shall be deemed to be superseded by the provisions of the Governing Documents. Notwithstanding any provision of this Declaration to the contrary and to the extent Civil Code Section 1357.100 *et seq.* is applicable to the Association Rules, any rule which is considered to be an operating rule under Civil Code Section 1357.100 *et seq.* may not be adopted, changed or amended except by and pursuant to the procedures set forth in California Civil Code Section 1357.100, *et seq.*

4.4.16 **Insurance.** The Association shall have the duty to obtain and maintain the insurance described in **Article 11**.

4.4.17 **Notice Prior to Litigation.** The Association shall notify all Owners of any litigation filed for or on behalf of the Association. The notice shall include a proposed budget for the litigation and an explanation of the source of the funds for the litigation. Such notice shall provide an explanation of why the litigation is being initiated or defended, and shall include a budget for the litigation (including, without limitation, experts' fees and costs, consultants' fees and costs and the costs of the proceedings.) The notice must state that the members have a right to review an accounting for the litigation provided in Section 1365.5 of the California Civil Code, which will be available at the Association's office pursuant to the provisions of **Article 17** of this Declaration. Any such litigation which is filed shall also conform to the requirements set forth in **Article 17**.

4.4.18 **Financial Matters.** The Association shall have the duty to prepare annual Budgets, reports, balance sheets and operating statements for the Association as required under the Governing Documents.

4.4.19 **Use of Proceeds to Repair.** If the Association receives, on its own behalf or for the benefit of the Owners, any proceeds as a result of any construction defect or other claims or litigation brought by the Association, then the Association shall apply such proceeds first for the purpose of making the repairs or replacing reserve funds previously utilized by the Association to cause such repairs and then, to the costs of such litigation. Any excess proceeds shall be applied as determined by the Board, subject to any requirements established by the non-profit mutual benefit laws of the State of California and any other Applicable Laws.

4.4.20 **Inspections.** The Association shall perform all inspections as and when required under the Association Maintenance Manual.

4.4.21 **Warranties.** The Association shall comply with the terms of any warranty in favor of the Association for any equipment or facilities within the Association Property, Association Maintenance Areas, and/or Offsite Maintenance Areas. The Association acknowledges that certain warranties require the Association to maintain certain maintenance contracts in effect and, to the extent the Board discontinues such maintenance contracts, the effectiveness of the warranty may be impaired or eliminated.

4.4.22 **Maintenance Manuals.** The Association shall comply with provisions of the Association Maintenance Manual provided by Declarant to the Association. The Association may, from time to time, make appropriate revisions to Association Maintenance Manual based on the Board's review thereof, to update such manual to provide for maintenance according to current industry practices so long as such changes do not reduce the useful life or functionality of the items being maintained.

4.4.23 **Cooperation with City Required Action.** The Association shall cooperate in good faith to facilitate the recordation of any documents required by the City or any other Governmental Agency in connection with the development of the Community including, without limitation, additional encroachment maintenance removal agreements.

4.4.24 **Compliance with Agreements of Record.** The Association shall comply with all agreements of record.

4.4.25 **Compliance with Parkway Maintenance Area Agreement Obligations.** The Association shall comply with all requirements of the Parkway Maintenance Area Agreement, and shall assume all obligations of the Association (as defined in the Parkway Maintenance Area Agreement) thereunder.

4.5 **Limitations on Authority of Board.** The Association shall not take any of the actions listed below except with the vote or written consent of (a) a majority of the Members of each of Class A and Class B during the time the Class B voting structure set forth in **Section 5.2** of this Declaration is in effect; or (b) except with the vote at a meeting of the Association, or by written ballot without a meeting pursuant to Corporations Code Section 7513, of at least a majority of the Members of the Association including at least a majority of Association Members other than Declarant after conversion to a single Class A voting membership.

4.5.1 **Limit on Capital Improvements.** The Association shall not, without obtaining the consent of the Members as set forth above, incur aggregate expenditures for capital improvements to the Association Property, Offsite Maintenance Areas and/or the other Association Maintenance Areas, in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

4.5.2 **Limit on Sales of Association Property.** The Association shall not, without obtaining the consent of the Members as set forth above, sell 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.

4.5.3 **Limit on Compensation.** The Association shall not, without obtaining the consent of the Members as set forth above, pay compensation to members of the Association for services performed in the conduct of the Association's business. However, the Board may cause a member of the Board to be reimbursed for expenses incurred in carrying on the business of the Association.

4.5.4 **Limit on Third Person Contracts.** The Association shall not, without obtaining the consent of the Members as set forth above, enter into a contract with a third person wherein the third person will furnish goods or services for the Association Property, Association Maintenance Areas, and/or Offsite Maintenance Areas for a term longer than one (1) year with the following exceptions:

(a) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration;

(b) 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;

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

(d) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty or other obligations upon ninety (90) days written notice of termination to the other party;

(e) A contract which has been submitted to the DRE in connection with an application for a Public Report; and

(f) Any maintenance agreement for the maintenance of any portion of the Association Property, Association Maintenance Areas, and/or Offsite Maintenance Areas which is required as a condition to the effectiveness of any warranty in favor of the Association.

4.5.5 **Property Manager.** The Association manager shall at all times be a professional manager operating as an independent contractor. The Association shall have the right to designate a portion of the Association Property for use as an on-site manager's office.

4.6 **Contracts.** Any agreement for professional management of the Community or any employment contract or lease of recreational or parking areas or facilities, or any agreement providing for services of the Declarant or any contract or lease, including franchises and licenses to which Declarant is a party, shall be for a term not to exceed one (1) year without the consent of a majority of each class of Members; provided, however, that in no event shall such an agreement exceed a term of three (3) years. Any such agreement shall provide that the agreement may be terminated by either party without cause and without payment of a termination fee upon not more than ninety (90) days written notice. In addition to the foregoing, in no event shall the Association enter into a professional management agreement that obligates payment of a transfer or initial set-up fee to the professional management company.

4.7 **Personal Liability.** No volunteer officer or volunteer director of the Board, or of any committee of the Association (each a "Management Party"), shall be personally liable to any Owner or to any other party, including the Association, for any act or omission of any Management Party if such Person has, on the basis of such information as was actually possessed by him or her, acted in good faith without willful, wanton or gross misconduct when performing an act within the scope of the Person's duties (collectively, an "Official Act"). The Association has the power and duty to indemnify, defend, protect and hold harmless each Management Party for all damages, and expenses incurred (including, without limitation, reasonable attorneys' fees and costs), and satisfy any judgment or fine levied as a result of any action or threatened action brought because of an act or omission which such Person reasonably believed was an Official Act. Management Parties are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any Person entitled to such indemnification. The Association has the power, but not the duty, to indemnify any other person acting as an agent of the Association for damages incurred, pay expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act. The Association also has the power, but not the duty, to contract with any person to provide indemnification in addition to any indemnification authorized by Applicable Laws on such terms and subject to such conditions as the Association may impose.

4.8 **Additional Provisions.** Notwithstanding the provisions of this Declaration, by accepting a deed for a portion of the Property, the Association and the Owners acknowledge and agree that there may be Applicable Laws that may be applicable to the operation of the Association and the Property by the Association, including, without limitation, the Davis-Stirling Common Interest Development Act of Section 1350, *et seq.* of the California Civil Code and the Association and Owners shall comply with such provisions to the extent required by such Applicable Laws.

## ARTICLE 5 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

### 5.1 **Membership.**

5.1.1 **Qualifications.** Each Owner of a Condominium which is subject to assessment, including Declarant, shall be a Member of the Association. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until such Owner's ownership interest in the Condominiums in the Community ceases at which time such Owner's membership in the Association shall automatically cease.

5.1.2 **Members' Rights and Duties.** Each Member shall have the rights, duties, and obligations set forth in the Governing Documents, as the same may from time to time be amended.

5.1.3 **Transfer of Membership.** The Association membership of each Person who owns, or owns an interest in, one or more Residential Units shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership right in the Association to the new Owner.

5.1.4 **Commencement of Voting Rights.** An Owner's right to vote, including Declarant's right to vote, shall not vest until Regular Assessments have been levied upon such Owner's Condominium as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided for herein and in the other Governing Documents. Declarant's obligation or subsidy for such Regular Assessments may be reduced in accordance with the terms of any maintenance or subsidy agreement executed by Declarant and the Association.

5.2 **Class of Voting Membership.** The Association shall have two (2) classes of voting membership as described below. The voting rights described in **Sections 5.2.1** and **5.2.2** below shall constitute the Voting Power of the Association:

5.2.1 **Class A Members.** Class A Members shall be all Owners, with the exception of Declarant (until the conversion of Declarant's Class B membership to a Class A membership as provided in **Section 5.2.2** below), and shall be entitled to one (1) vote for each Condominium owned. When more than one (1) Person holds an interest in any Condominium, all such Persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

5.2.2 **Class B Members.** Class B Member(s) shall be the Declarant who shall be entitled to three (3) votes for each Condominium. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following to occur:

(a) On the second anniversary of the first close of escrow of a Condominium in a Phase covered by the most recently issued Public Report for any Phase of the Community; or

(b) The fourth anniversary of the first conveyance of a Condominium covered by the original Public Report for the first Phase of the Community; provided however if as of such fourth anniversary the Close of Escrow under a Public Report for at least seventy-five percent (75%) of the Condominiums planned to be developed in the Community has not occurred, then such date shall be extended to the sixth (6<sup>th</sup>) anniversary of the first conveyance of a Condominium covered by the original Public Report for the first Phase of the Community.

As long as Class B membership exists, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the Members unless approved by the appropriate percentage of Class A and Class B Members, except as set forth in **Section 4.4.13** of this Declaration. Upon conversion to a single Class A voting membership, any action by the Association that must have the prior approval of the Members will require approval by at least a majority of the Members of the Association including at least a majority of Members other than Declarant.



5.3 **Declarant's Right to Select Director.** In any election of Directors after the Class B membership has been terminated, so long as Declarant owns any of the Property or the Additional Property, the Board shall adopt special procedures to ensure that at least one (1) Director is selected by Declarant. A representative to the Board selected by Declarant pursuant to the provisions of this Section may be removed prior to the expiration of his or her term of office only with the consent of Declarant.

5.4 **Joint Owner Votes.** The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) Person exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

5.5 **Commencement of Voting Rights.** An Owner's right to vote, including Declarant, shall not vest until Assessments have been levied upon such Owner's Condominium as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided for herein and in the Governing Documents.

## **ARTICLE 6 ASSESSMENTS**

6.1 **Creation of Lien and Personal Obligation for Assessments.** Declarant, for each Condominium owned within the Property, hereby covenants, and each Owner of a Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association all assessments levied pursuant to the provisions of this Declaration. All assessments levied hereunder, together with interest, costs and reasonable attorneys' fees assessed hereunder, shall be a charge on the land and shall be a continuing lien upon the Condominium against which each such assessment is made, the lien to be effective upon recordation of a notice of delinquent assessments. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the assessment fell due and shall bind its heirs, devisees, personal representatives and assigns. Unlike the lien for non-delinquent assessments, the personal obligation for delinquent assessments shall not pass to successive Owners, unless expressly assumed by such successive Owner. No such assumption of personal liability by a successive Owner (including a contract purchaser under an installment land contract) shall relieve any Owner against whose Condominium the lien was levied from personal liability for delinquent assessments. If more than one Person was the Owner of a Condominium, the personal obligation to pay such assessment or installment respecting such Condominium shall be both joint and several.

6.2 **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to perform the obligations and duties of the Association, including, without limitation, the improvement and maintenance of the Association Property, Association Maintenance Areas, Offsite Maintenance Areas, and for any other maintenance responsibilities of the Association, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Governing Documents. The Association shall not impose or collect any assessment, penalty or fee that exceeds the amount necessary for the purpose or purposes for which it is levied. If the Association decides to use or transfer reserve funds to pay for litigation, the Association must notify its Members of the decision at the next available meeting. Such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the reserve funds will be replaced, and a



proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation as provided in Section 1365.5 of the California Civil Code which will be available at the Association's office. The accounting shall be updated monthly.

### 6.3 **Regular Assessments.**

6.3.1 **Payment of Regular Assessments.** Regular Assessments for each Fiscal Year shall be established when the Board approves the Budget for that Fiscal Year, which Budget shall be prepared in accordance with the provisions of this Declaration and the Governing Documents. Regular Assessments shall be levied on a Fiscal Year basis. Unless otherwise specified by the Board, Regular Assessments shall be due and payable in monthly installments on the first day of each month during the term of this Declaration.

6.3.2 **Budgeting.** Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a Budget as described in the Article of the Bylaws entitled "Budget and Financial Statements," not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the Fiscal Year or as otherwise required by Applicable Laws.

6.3.3 **Restrictions for Tax Exemption.** As long as the Association seeks to qualify and be considered as an organization exempt from federal and state income taxes pursuant to Internal Revenue Code Section 528 and California Revenue and Taxation Code Section 23701t and any amendments thereto, then the Board shall prepare its annual Budget and otherwise conduct the business of the Association in such a manner consistent with federal and state requirements to qualify for such status.

### 6.3.4 **Assessments After Annexation.**

(a) **Reallocation of Assessments.** After conveyance of the first Condominium in a Phase, the assessments in the Budget shall be reallocated among all Condominiums in the Community, including those in the annexed Additional Property, in the same manner as described above provided, however, that Regular Assessments shall be levied against the Model Home Units in accordance with the provisions of **Section 6.10** below.

(b) **Revision of Budget.** Notice of the new Regular Assessment to be levied against each Condominium in the Community shall be delivered by the Association to the Owners and Declarant within sixty (60) days after the close of escrow for the first Condominium sold in the new Phase.

6.3.5 **Non-Waiver of Assessments.** If before the expiration of any Fiscal Year the Association fails to fix Regular Assessments for the next Fiscal Year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed.

6.4 **Special Assessments.** If the Association determines that the estimated total amount of funds necessary to defray the Common Expenses of the Association for a given Fiscal Year is or will become inadequate to meet expenses for any reason, including, without limitation, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on, damage and destruction or condemnation of, the Association Property, Association Maintenance Areas, Offsite Maintenance Areas, the Board may levy a special assessment ("**Special Assessment**"). Special Assessments shall be subject to the limitations set forth in **Section 6.8** below; provided, however, that such limitation shall not apply to Special Assessments levied by the Association to replenish the Association's reserve account as provided in the Section of the Bylaws titled "Reserves." The Board

may, in its discretion, prorate such Special Assessment over the remaining months of the Fiscal Year or levy the assessment immediately against each Condominium. Unless exempt from federal or state income taxation, all proceeds from any Special Assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by Applicable Laws of the Internal Revenue Service or the California Franchise Tax Board in order to avoid, if possible, its taxation as income of the Association.

6.5 **Capital Improvement Assessment.** In addition to any other assessments provided for hereunder, the Association may levy a capital improvement assessment ("**Capital Improvement Assessment**") for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a capital improvement in accordance with the provisions of **Section 4.3.8**. Capital Improvement Assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate. Capital Improvement Assessments shall be subject to the limitations set forth in **Section 6.8** below.

6.6 **Special Allocation Assessment.** The Board may establish a special allocation assessment ("**Special Allocation Assessment**") for special services or maintenance, or any other cost or expense which will benefit less than all of the Owners. Such a Special Allocation Assessment may be imposed only by a vote of a majority of the Owners of the Residential Units benefited by the Special Allocation Assessment.

6.7 **Enforcement Assessments.** The Association may levy an enforcement assessment ("**Enforcement Assessment**") against any Owner for bringing an Owner or his or her Condominium into compliance with the provisions of the Governing Documents, and/or any other charge designated an Enforcement Assessment in the Governing Documents, together with any Additional Charges related thereto as provided in this Declaration. If the Association undertakes to provide materials or services which benefit individual Owners, then such Owners in accepting such materials or services agree that the costs thereof shall be an Enforcement Assessment. The Association shall have the authority to adopt a reasonable schedule of Enforcement Assessments for any violation of the Governing Documents. If, after Notice and Hearing as required by the Governing Documents and which satisfies Section 7341 of the California Corporations Code and Section 1363 of the California Civil Code, the Owner fails to cure or continues such violation, the Association may impose an additional fine each time the violation is repeated, and may assess such Owner and enforce the Enforcement Assessment as herein provided for nonpayment of an assessment. A hearing committee may be established by the Association to administer the foregoing. Notwithstanding any other provision in this Declaration to the contrary, except as provided in **Section 6.13.1** of this Declaration, Enforcement Assessments are assessments but they may not become a lien against the Owner's Condominium that is enforceable by a power of sale under California Civil Code Sections 2924, 2924b and 2924c. This restriction on enforcement is not applicable to late payment charges for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent assessments.

6.8 **Changes to Assessments.**

6.8.1 **Limitation on Assessments.** From and after January 1st of the year immediately following the conveyance of the first Condominium to an Owner, other than Declarant, the maximum annual Regular Assessment may not, except in the case of an Emergency (as hereinafter defined), be increased by an amount greater than twenty percent (20%) of the Regular Assessments for the preceding Fiscal Year and Special Assessments and Capital Improvement Assessments shall not be imposed that in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, without the consent of the Members, constituting a quorum and casting a majority of

the votes at a meeting or election of the Association conducted in accordance with the provisions of (i) California Civil Code Section 1363.03 and the rules adopted by the Board pursuant thereto and (ii) California Corporations Code Sections 7510 *et seq.* and 7613. The Board may not increase the Regular Assessments for any Fiscal Year unless it has complied with California Civil Code Section 1366. For the purpose of this Section, a quorum shall mean a majority of the Owners of the Association and an Emergency shall mean any one of the following:

- (a) an extraordinary expense required by an order of a court;
- (b) an extraordinary expense necessary to repair or maintain the Association Property, Association Maintenance Areas, Offsite Maintenance Areas, or any part of the Community which is the responsibility of the Association to maintain where a threat to personal safety on the Community is discovered; or
- (c) an extraordinary expense necessary to repair or maintain the Association Property, Association Maintenance Areas, Offsite Maintenance Areas, or any part of the Community for which the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the Budget required under this Declaration and the Bylaws and California Civil Code Section 1365; provided, however, that prior to the imposition or collection of a Regular Assessment under this Section, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense which is involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of Regular Assessment. 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 Condominium by the Association as a Regular Assessment plus any amount paid by the Declarant as a subsidy pursuant to any subsidy agreements, to the extent such subsidy payments offset any amount which would otherwise be paid by Owners as Regular Assessments. Any increases authorized under this Section shall not be imposed unless the Board has complied with the budgetary requirements set forth in the Bylaws with respect to the Fiscal Year for which an assessment is being levied.

6.8.2 **DRE Approved Budget Increases.** Notwithstanding the above stated limitation against increases in Regular Assessments, to the extent allowed by Applicable Laws, the Board may increase Regular Assessments more than twenty percent (20%) if such increase was shown on a Budget approved by the DRE.

6.9 **Uniform Rate of Assessment.** Regular Assessments, Special Assessments and Capital Improvement Assessments shall be fixed at a uniform rate for all Condominiums and may be collected on a monthly basis and shall be determined by dividing the amount of the assessment by the total number of Condominiums then within the Community and subject to assessment. Enforcement Assessments shall be levied directly to the individual Condominiums. Special Allocation Assessments shall be levied on a uniform basis against the Owners receiving the benefit of the services or maintenance covered by the Special Allocation Assessments, unless another formula for allocation is established at the time of the imposition of the Special Allocation Assessments. Notwithstanding the foregoing, Declarant's obligation or subsidy for such Regular Assessments may be reduced in accordance with the terms of any maintenance or subsidy agreement executed by Declarant and the Association.

6.10 **Date of Commencement of Regular Assessments; Due Dates.** Except for Model Home Units in a Model Home Phase, the Regular Assessments provided for herein shall commence as to all Condominiums in a Phase subject to this Declaration on the first day of the month following the conveyance of the first Condominium within such Phase to an Owner under authority of a Public Report.

As to any Additional Property which is thereafter annexed into the Community pursuant to a Supplementary Declaration, the Regular Assessments shall commence as to all of the Condominiums within such Phase upon the first day of the first month following conveyance of the first Condominium in such Phase under a Public Report or such earlier date as may be selected by Declarant for the commencement of assessments in such Phase. In no event shall any sale or leaseback to Declarant of any Condominium in the Community being used as a model home, sales office, design center, construction office or similar purpose (collectively, a "**Model Home**") and which are not occupied by a homeowner cause the commencement of Assessments in a Phase for which assessments have not otherwise commenced through a sale of a Condominium in such a Phase to an Owner who will occupy such Condominium. Notwithstanding the foregoing, Declarant may elect to commence to pay Regular Assessments on a Phase prior to the conveyance in such Phase to an Owner under a Public Report and, in such case, Declarant shall have the voting rights as to the Condominiums in such Phase pursuant to **Section 5.2**.

6.10.1 **Model Home Units.** For any Model Home Phase, Assessments shall commence against the Model Home Units on the first day of the first month following the conveyance of the first Condominium to an Owner under authority of a Public Report in the last Phase of the Community shown in the Budget submitted to and reviewed by the DRE; provided, however, if at any time prior to such conveyance, a Model Home Unit is no longer used for Model Home Purposes, then assessments, including Regular Assessments, shall commence against all the Model Home Units in a Model Home Phase on the first day of the first month following the date that a Model Home Unit is no longer used for Model Home Purposes. If the Model Home Unit ceases to be used for Model Home Purposes prior to the conveyance of the first Condominium in the last Phase of the Community, then Declarant shall provide notice to the Association and the Association shall make appropriate adjustments to the Budget for the Community which is submitted to and reviewed by the DRE as may be required to reflect the commencement of assessments for the Model Home Units. Declarant reserves the right to maintain any or all portions of the Model Home Units and Association Property located therein at any time until such time as the Model Home Unit is no longer used for Model Home Purposes.

6.11 **Notice and Assessment Installment Due Dates.** The Association shall provide notice by first-class mail to each Owner of any increase in the Regular Assessment, and notice of any Special Assessment, Capital Improvement Assessment, Enforcement Assessment or Special Allocation Assessments not less than thirty (30) days nor more than sixty (60) days prior to the increased Regular Assessment or the Special Assessment, Capital Improvement Assessment, Enforcement Assessment or Special Allocation Assessments becoming due. The due dates for the payment of Regular Assessments normally shall be payable the first day of each month unless some other due date is established by the Association. The due date for Special Assessment, Capital Improvement Assessment, Enforcement Assessment or Special Allocation Assessments shall be specified in the notice provided by the Association. If such Special Assessment, Capital Improvement Assessment, Enforcement Assessment or Special Allocation Assessments are payable in installments, such installments normally shall be the first day of each month unless some other due date is established by the Association. Each installment of Assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge, an interest charge at the Applicable Rate and reasonable costs of collection, including attorneys' fees and costs, but which shall not in any event exceed the maximum rates permitted under California Civil Code Section 1366.

6.12 **Estoppel Certificate.** The Association on not less than ten (10) days prior written request shall execute, acknowledge and deliver to the party making such request a statement in writing stating: (a) whether or not to the knowledge of the Association, a particular Owner is in default in connection with the payment of Assessments as to such Owner's Condominium under the provisions of this Declaration; and (b) the dates to which installments of Assessments have been paid as to such Condominium. Any

such statement may be relied on by any prospective purchaser or Mortgagee of the Condominium, but reliance on such statement may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

#### 6.13 **Collection of Assessments, Liens.**

6.13.1 **Right to Enforce.** The right to collect and enforce assessments is vested in the Board acting for and on behalf of the Association. The Board can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to **Section 6.13.6** enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other Additional Charges described in **Section 6.14** shall be maintainable without foreclosing or waiving the lien rights. Notwithstanding anything else to the contrary herein a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Association Property and facilities for which the Member was allegedly responsible or in bringing the Member and its Residential Unit into compliance with the Governing Documents of the Association may not be characterized nor treated as an assessment which may become a lien against the Member's Condominium enforceable by a sale of the interest hereunder. The limitation in the preceding sentence however, does not apply to any Additional Charges.

6.13.2 **Notice of Assessments and Foreclosure.** The Association shall distribute a written notice regarding assessments and foreclosure as set forth in California Civil Code Section 1365.1 during the sixty (60) day period immediately preceding the beginning of the Association's Fiscal Year.

6.13.3 **Delinquent Assessments.** In collecting delinquent assessments, the Association shall comply with the requirements of California law, including without limitation, California Civil Code Section 1367.1. As of the date of this Declaration, such laws require that, among other things, before the Association records a lien against the Owner's Condominium, the Association shall: (a) notify the delinquent Owner of certain matters, and (b) offer and, if requested by the Owner, participate in, dispute resolution procedures pursuant to the Association's "meet and confer" program required in California Civil Code Sections 1363.810 through 1363.850.

6.13.4 **Creation of Lien.** If there is a delinquency in the payment of any Assessment (other than an Enforcement Assessment), any amounts that are delinquent, together with any Additional Charges, shall be a lien against each applicable defaulting Owner's Condominium upon the recordation in the Official Records of a notice of delinquent assessment ("**Notice of Delinquent Assessment**") as provided in California Civil Code Section 1367. After its recordation, the Notice of Delinquent Assessment shall be mailed to all Owners of record for the applicable Condominium for which the lien is being filed as provided in California Civil Code Section 1367.

6.13.5 **Assignment.** The Association may not voluntarily assign or pledge the Association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party except where provided under California Civil Code Section 1367.1(g).

6.13.6 **Notice of Default; Foreclosure.** The Association can record a notice of default and, subject to the requirements and limitations of California Civil Code Section 1367.4, can cause the Condominium with respect to which a notice of default has been recorded to be sold either in the same manner as a sale is conducted under California Civil Code Sections 2924, 2924b and 2924c or through judicial foreclosure and as provided in California Civil Code Section 1367.1. However, as a condition precedent to the holding of any such sale under Section 2924c, appropriate publication shall be made. In

connection with any such sale, the Board is authorized to appoint a trustee for purposes of conducting the sale. If a delinquency is cured before sale of the Condominium or before completing a judicial foreclosure, or if it is determined that a lien previously recorded against a Condominium was recorded in error, the Board shall apply payments and follow the procedures set forth in California Civil Code Section 1367.1. On becoming delinquent in the payment of any assessments, each delinquent Owner shall be deemed to have absolutely assigned all rent, issues and profits of its Condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the Owners, shall have the power to bid upon the Condominium at foreclosure sale and to acquire, hold, lease, mortgage and convey the Condominium and vote as an Owner of the Condominium.

6.13.7 **Payment of Assessments.** Any payments of sums due under this Article shall first be applied to assessments owed, and only after assessments owed have been paid in full shall the payments be applied to the Additional Charges. If any Owner requests a receipt after payment of a delinquent assessment, the Association shall provide a receipt which sets forth the date of payment and the individual who received such payment.

6.14 **Additional Charges.** In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay Additional Charges incurred or levied by the Association including such additional costs, fees, charges and expenditures as the Association may incur or levy in the process of collecting from that Owner monies due and delinquent, subject to California Civil Code Section 1366.

6.15 **Waiver of Exemptions.** Each Owner, to the extent permitted by Applicable Law, waives, to the extent of any liens created pursuant to this Article, the benefit of any homesteads or exemption laws of California in effect at the time any assessment, or installment, becomes delinquent or any lien is imposed.

6.16 **Subordination of Lien to First Mortgages.** When a Notice of Delinquent Assessment has been recorded, such assessment shall constitute a lien on such delinquent Owner's Condominium prior and superior to all other liens, except, (a) all taxes, (b) bonds, assessments and other levies which, by law, would be superior thereto, and (c) any First Mortgage now or hereafter placed upon any Condominium subject to assessment. The sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure (excluding a transfer by a deed in lieu of foreclosure) of a First Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from any assessments thereafter becoming due or from the lien of any subsequent assessment. Where the Mortgagee of a First Mortgage or other purchaser of a Condominium obtains title to the same as a result of foreclosure (excluding a transfer by a deed in lieu of foreclosure), such acquiror of title, and his or her successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Condominium that became due prior to the acquisition of title to such Condominium by such acquiror, except for a share of such charges or assessments resulting from a reallocation of such charges or assessments which are made against all Condominiums.

6.17 **No Offsets.** All assessments shall be payable in the amounts specified by the particular assessment and no offsets against such amounts shall be permitted for any reasons, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance, operation or enforcement.



6.18 **Personal Liability of Owner.** No Owner may exempt himself or herself from personal liability for assessments, nor any part thereof, levied by the Association, nor release the Condominium owned by him or her from the liens and charges hereof by waiver of the use and enjoyment of the Association Property and facilities thereof, or by abandonment of such Owner's Condominium.

6.19 **Transfer of Property.** After transfer or sale of property within the Community, the selling Owner or Owners shall not be liable for any assessment levied on such Owner or Owner's Condominium after the date of such transfer of ownership and written notice of such transfer is delivered to the Association. The selling Owner shall still be responsible for all assessments and charges levied on his or her Condominium prior to any such transfer.

6.20 **Failure to Fix Assessments.** The omission by the Board to fix the assessments hereunder before the expiration of any year, for that or the next year, shall not be deemed either a waiver or modification in any respect of the provisions of this Declaration or a release of the Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

6.21 **Property Exempt from Assessments.** The Association Property shall be exempt from the assessments, charges and liens created herein. Although no land or improvements devoted to dwelling use in the Community shall be exempt from assessments by the Association, Declarant and the Owners shall be exempt from paying any portion of Regular Assessments which is for the purpose of defraying expenses and reserves directly attributable to the existence of any Improvements on the Association Property which are not complete at the time assessments commence, which exemption shall be in effect only until the earlier to occur of the following: (a) a notice of completion for the subject Association Property has been recorded, or (b) the Association Property has been placed into use.

6.22 **Association Property Improvements.** If the Improvements to be installed by Declarant on the Association Property in a Phase have not been completed prior to the issuance by the DRE of a Public Report covering the applicable Phase, and in the further event that the Association is the obligee under a bond to secure performance by the Declarant to complete such Improvements, then if such Improvements have not been completed and a notice of completion filed within sixty (60) days after the completion date specified in the planned construction statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such Improvement, then the Board shall consider and vote on said question if such Improvements have not been completed and a notice of completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either such event, upon petition signed by Members representing five percent (5%) or more of the Voting Power of the Association, excluding the Voting Power of Declarant, the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. Said meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At said meeting a vote of a majority of the Voting Power of Members of the Association, excluding the vote of Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

## ARTICLE 7 USE RESTRICTIONS

7.1 **Residential Use.** Except as expressly provided in **Article 10** with respect to Declarant and as further provided below, each Condominium shall be used for residential purposes exclusively and no part of the Community shall be used or caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose, without the prior written consent of the Board. In deciding whether to permit an otherwise nonconforming use hereunder, the Board shall consider the potential effect upon traffic in the Community and interference with or annoyance of neighbors; provided, however, a nonconforming use shall not be permitted unless such use is incidental to the residential use of the Condominium and is permitted by Applicable Laws. Any Owner seeking Board approval of the operation of an in-home business shall provide such information as may be reasonable for the Board to evaluate the potential effects of the business upon the residential character of the Community. Notwithstanding any provision of this Declaration, state law may expressly authorize the operation of in-home businesses of certain categories that meet specific criteria ("**State-Authorized Businesses**"). Any State-Authorized Business in the Community shall be operated within the guidelines of the Applicable Laws. Any Owner that intends to operate a State-Authorized Business within the Owner's Residential Unit, or to permit the operation of a State-Authorized Business within the Owner's Residential Unit, shall notify the Board in writing at least forty-five (45) days prior to commencement of such business within such Owner's Residential Unit. Such written notice to the Board shall include such information as may be reasonable for the Board to evaluate the potential effects of the business upon the residential character of the Community, and the Owner shall promptly provide additional information in writing as may be requested by the Board in connection with its evaluation of the effects of the State-Authorized Business on the Community. Each Owner shall obtain and maintain business-interruption insurance, liability insurance and other insurance prudent in connection with the operation of any in-home business contemplated in this Section.

7.2 **Commercial Use.** Except as otherwise provided in this Declaration, including without limitation **Section 7.1** above, no part of the Community shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

7.3 **Rental of Condominiums.** An Owner shall be entitled to rent the Owner's Condominium subject to the restrictions contained in the Governing Documents, any contractual agreement between Declarant and each original Owner for such Owner's Condominium as to such parties, any other restrictions of record applicable to such Owner's Condominium and all Applicable Laws. The Owners shall, at all times, be responsible for their tenant's or lessee's compliance with all of the provisions of this Declaration pursuant to the occupancy and use of the Condominium. A lessee shall have no obligation to the Association to pay assessments imposed by the Association nor shall any lessee have any voting rights in the Association.

7.4 **Time Sharing.** A Condominium may not be divided or conveyed on a time increment basis (commonly referred to as "time sharing") of measurable chronological periods. The term "time sharing" as used herein shall be defined to include, but shall not be limited to, any agreement, plan, program or arrangement under which the right to use, occupy or possess the Condominium, or any portion thereof in the Community rotates among various persons, either corporate partnership, individual or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floating interval or period of time sixty (60) consecutive calendar days or less.



7.5 **Animals.** Only domestic animals that are kept as household pets and are not kept, bred or raised for commercial purposes are permitted to be maintained within the Community. No Owner shall keep more than a total of two (2) domestic dogs or two (2) domestic cats, or a combination thereof (but not to exceed two (2) total) within such Owner's Condominium. Domestic reptiles, birds, rodents and fish shall be permitted so long as such animals are kept in the interior of a Residence. No animal shall be permitted to be maintained, at any time, within any recreational areas situated within the Community. Notwithstanding the foregoing, the Association Rules may further limit or restrict the keeping of pets and the Board shall have the power to prohibit the keeping or maintenance of any animal, which, in the opinion of the Board, after Notice and Hearing, is deemed by the Board to constitute a nuisance to any other Owner or which constitutes a threat to the personal safety of any Owner in the sole and absolute opinion of the Board. Each person bringing or keeping a pet within the Community shall be absolutely liable to other Owners and their Invitees for any damage to persons or property caused by any pet brought upon or kept upon the Community by such person or any Invitee of such person. Each Owner shall clean up after such animals that have deposited droppings or otherwise used any portion of the Community. Animals belonging to Owners or Invitees of any Owner must be kept within an enclosure or on a leash held by a person capable of controlling the animal. Nothing contained herein shall constitute a restriction on seeing eye dogs.

7.6 **Antenna Restrictions.** No Owner shall install any antenna, satellite dish, or other over-the-air receiving device ("**Antenna**") (a) on any real property which such Owner is not entitled to exclusively use or control, as provided in Title 47 U.S.C. §§ 1 *et seq.*, 47 CFR § 1.4000 and any other Applicable Laws, rules and decisions promulgated thereunder (collectively "**Antenna Laws**"), (b) in a particular location if, in the Board's opinion, the installation, location or maintenance of such Antenna unreasonably affects the safety of the Owners or any other Person, or for any other safety-related reason established by the Board, or (c) that is of a size larger than is permitted under the Antenna Laws. If an Owner is entitled to install an Antenna under the foregoing requirements, such Owner shall provide the Board with written notice that such Owner has installed or is about to install the Antenna. If an Owner desires to install an Antenna, other than as described in (a) through (c) above, such Owner may do so only upon the prior approval pursuant to **Article 9** of this Declaration. The Association shall not impose or enforce any restrictions upon Antennae that are inconsistent with the Antenna Laws. Notwithstanding any provision hereof, this Section shall be interpreted to comply with state and federal laws applicable to antennas in effect at the time of enforcement of this Section. In that regard, this Section shall not be interpreted or enforced in a manner which would (i) unreasonably delay or prevent installation, maintenance or use of such Authorized Antenna, (ii) unreasonably increase the cost of installation, maintenance or use, or (iii) preclude reception of an acceptable quality signal.

7.7 **Roof Mounted Equipment.** Roof-mounted equipment shall not be permitted within the Community. However, solar equipment or any other energy saving devices shall be permitted with approval of the Planning and Building and Safety Department of the County and the approvals, if any, required under **Article 9**. Any solar equipment or any other energy saving devices installed by Declarant are also permitted.

7.8 **Signs and Displays.** No sign, advertising device or other display of any kind shall be displayed in the Community, except for the following:

7.8.1 entry monuments and community identification signs subject to compliance with City signage criteria;

7.8.2 for each Condominium, one (1) nameplate or similar Owner name or address identification which complies with the Architectural Guidelines;

7.8.3 for each Condominium, one (1) sign advertising the Condominium for sale or lease that complies with the following requirements, subject to California Civil Code Sections 712 and 713:

(a) the sign is a reasonable size; and

(b) the sign is in compliance with the Architectural Guidelines or is otherwise authorized pursuant to **Article 9**;

7.8.4 noncommercial signs permitted by California Civil Code Section 1353.6; and

7.8.5 such other signs or displays authorized pursuant to **Article 9**.

In addition to the foregoing, all signs must comply with all Applicable Laws. Notwithstanding the foregoing, Declarant shall have the right to display signs as set forth in **Article 10**.

**7.9 Parking and Vehicular Restriction.**

7.9.1 **Authorized Vehicles.** The following vehicles are "Authorized Vehicles": standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pickup trucks having a manufacturer's rating or payload capacity of one (1) ton or less and vehicles which are the principal source of transportation for an Owner. Authorized Vehicles may be parked in any portion of the Community intended for parking of motorized vehicles subject to this **Section 7.9**; provided, however, no Owner may park an Authorized Vehicle in a manner which the Association determines either restricts the passage of pedestrians or vehicles over streets, driveways, or sidewalks in the Community or extends beyond the limits of the space where the Authorized Vehicle is parked. The Association has the power to identify additional vehicles as Authorized Vehicles in the Association Rules to adapt this restriction to other types of vehicles.

7.9.2 **Prohibited Vehicles.** The following vehicles are "Prohibited Vehicles": (a) recreational vehicles (e.g., motorhomes, travel trailers, camper vans and boats), (b) commercial-type vehicles (e.g., tank trucks, dump trucks, step vans, concrete trucks and limousines unless otherwise authorized by the Board), (c) buses or vans designed to accommodate more than ten (10) people, (d) vehicles having more than two (2) axles, (e) trailers, (f) inoperable vehicles or parts of vehicles, (g) aircraft, (h) boats, (i) any vehicles or vehicular equipment deemed a nuisance by the Board, and (j) any other vehicles not classified as an Authorized Vehicle. Prohibited Vehicles may not be parked, stored or kept within the Property or any Private Street within the Community except for brief periods for loading, unloading, making deliveries or emergency repairs. 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 Association.

7.9.3 **General Restrictions.** Subject to the restriction on Prohibited Vehicles, all vehicles owned or operated by or under the control of an Owner or an Occupant of an Owner's Residential Unit and kept in the Residential Unit must be parked in the Owner's garage, subject to **Section 7.9.5** below. There shall be no parking in the Community that obstructs free traffic flow, constitutes a nuisance, violates the Association Rules, or otherwise creates a safety hazard. All residents must park all vehicles inside their garages subject to **Section 7.9.5** below, and all guest parking within the Private Streets (excluding the Alleyways) shall be limited to seventy-two (72) continuous hours. All residents and guests are prohibited from parking within the Alleyways. The Association Rules may further limit such guest parking. The parking areas in the Property shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational or business purposes. No

maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property. There is no guarantee, representation or assurance that vehicles will fit into the garages. Notwithstanding the forgoing, no storage is allowed in any garage which interferes with the parking of functional, operating, registered street legal vehicles.

7.9.4 **Parking Regulations.** The Association may establish additional regulations regarding parking areas, including designating "parking," "guest parking," and "no parking" areas. Any vehicle parked within a fire lane may be towed without prior notice. The Board may take all actions necessary to enforce all parking and vehicle use regulations for the Property, including removing violating vehicles from the Community pursuant to California Vehicle Code Section 22658.2 or other Applicable Laws. As required by the City, each of the exterior parking spaces initially installed by Declarant shall be permanently maintained as parking spaces and shall not be used for any other purposes at any time.

7.9.5 **Driveway Use.** Parking in the Driveways is permitted provided that the Owner has parked the number of vehicles in the garage that the garage was designed for; parking in any other driveway area is strictly prohibited. The Driveway shall not be converted for living, recreational activities, business or storage that would prevent the ability of an Owner or Occupant vehicular access to and from the garage. Notwithstanding the forgoing, no parking is allowed in any Driveway that does not accommodate at least the size of Authorized Vehicles or as originally constructed by Declarant.

7.10 **Off-road Vehicles.** The County requires that the following restrictions shall apply:

7.10.1 Trail bikes, dune buggies, off-road vehicles and other similar powered apparatus shall not be operated within the Community for purposes such as, but not limited to, hill climbing, trail riding, scrambling, racing and riding exhibitions.

7.11 **Mechanic's Liens.** No Owner may cause or permit any mechanic's lien to be filed against the Community for labor or materials alleged to have been furnished or delivered to the Community or any Residential Unit for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner an Enforcement Assessment for such cost of discharge.

7.12 **Installations.**

7.12.1 **Generally.** This Section does not apply to Improvements installed by Declarant.

7.12.2 **Outside Installations.** Unless installed by Declarant or approved by the City, if required, and the Association pursuant to **Article 9** the following items are prohibited: (a) outside installations, including patio covers, wiring, air conditioning equipment, water softeners, other machines and other Improvements, (b) Improvements to patio railings, and (c) other exterior additions or alterations to any Condominium.

7.12.3 **Inside Installations.** Nothing may be done in any Condominium or in, on or to the Association Property which may impair the structural integrity of any Building or which structurally alters any such building except as otherwise expressly provided in this Declaration.

7.12.4 **Outside Drying and Laundering.** No exterior clothesline shall be erected or maintained or hung on railings within the Community and there shall be no exterior drying or laundering of clothes or any other items on any patios.

7.12.5 **Basketball Standards.** No basketball standards or fixed sports apparatus shall be attached to any Condominium or placed anywhere within the Association Property.

7.12.6 **Exterior Lighting.** Any exterior electrical, gas or other artificial lighting installed on any Residence shall be positioned, screened, or otherwise directed or situated and of such controlled focus and intensity so as not to unreasonably disturb the residents of any other Condominiums and so as to fall on the same property on which such lighting is located in accordance with applicable regulations in the Riverside Municipal Code and subject to the restrictions set forth in **Section 7.26** below. Some of the exterior lighting on Residences and garages provide light to certain exterior portions of the Community and contain a Photocell Lighting which will automatically control their operation. Such exterior lighting shall not be manually turned off and the Photocell Lighting shall not be altered in any way by the Owners so that the lights remain on from dusk until dawn. As provided in **Section 8.3.7** the Association shall maintain the Photocell Lighting but the electricity supplied to them shall be metered and paid for by individual Owners. Holiday lighting shall be in conformance with the Association Rules and Architectural Guidelines.

7.12.7 **Window Coverings.** Temporary window coverings (“**Temporary Window Coverings**”) in a design and color that does not conflict with the surrounding Improvements (but excluding aluminum foil, newspapers, or any other contrasting material) shall be permitted for a maximum period of sixty (60) days from the date that a Condominium is conveyed to an Owner by Declarant. Except as specifically provided above, no Temporary Window Coverings shall be used to cover any door or window of any Residence.

7.12.8 **Fences, Etc.** No fences, awnings, ornamental screens, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Community except those that are installed in accordance with the original construction of the Community or as are authorized and approved in accordance with **Article 9**. In no event shall any fences, gates or walls installed by Declarant be altered in any way unless such alteration has been approved in accordance with the provisions set forth in **Article 9** below.

7.12.9 **Painting.** No Owner shall paint the exterior of the Owner’s Residence or any other exterior improvements within a Residential Unit without prior approval in accordance with **Article 9** of this Declaration, except that no consent shall be required if an Owner repaints the exterior with the same color.

7.13 **Mineral Exploration.** No Property within the Community shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind. No well for the production of, or from which there is produced, water, oil or gas shall be operated within the Community, nor shall any machinery, appliance or structure be placed, operated or maintained thereon for use in connection with any trading, manufacturing or repairing business. No slant drilling shall be permitted.

7.14 **Nuisances.** Nothing shall be done on or within the Community that may be or may become a nuisance to the residents of the Community. Unless otherwise permitted by the Association Rules, no Owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner’s Residential Unit.

7.15 **View Impairment.** There is no representation that any view exists from any Residential Unit. Each Owner, by accepting a deed to a Residential Unit, acknowledges that grading of, construction on or installation of Improvements, including landscaping, on other Residential Unit within the Property and on surrounding real property may impair whatever view may exist from the Owner's Condominium and each Owner consents to such impairment and waives any claim for view impairment. Each Owner and the Association, by accepting a deed to a Residential Unit or any Association Property, acknowledges that any construction or installation by Declarant or by others Owners as provided in **Article 9** hereof, may impair the view of such Owner. Each Owner and the Association on behalf of the Members hereby consent to such view impairment. By accepting a deed to a Residential Unit, each Owner acknowledges that: (a) there are no protected views, and no Residential Unit is assured of the existence, quality or unobstructed continuation of any particular view and Declarant makes no representation or warranty that there are now, or will be in the future, any such views or that any view will impact the view or desirability of any Residential Unit, (b) any view from the Residential Unit is not intended as part of the value of the Condominium and is not guaranteed; and (c) any future development, construction, landscaping, growth of trees, or other installation of Improvements by Declarant or other Owners in the Community or of properties surrounding the Community may impair the view from any Residential Unit and/or may allow other Persons to have a line of sight into Owner's Residential Unit or yard, which may affect Owner's use and enjoyment of Owner's Residential Unit, including an Owner's privacy. There are no express or implied easements appurtenant to any Condominium for view purposes or for the passage of light and air over another Residential Unit, or any other property whatsoever.

7.16 **Side Yard Easement Areas.** Any landscaping or other Improvements which are installed within the Side Yard Easement Areas located within the Burdened Unit shall be of a type and shall be so located and installed that it does not damage the Residence or any other Improvements of the Benefitted Unit or unreasonably interferes with the right of access by the Benefitted Unit. No concrete or any other Improvements which may impair the structural integrity of the Residence of the Benefitted Unit shall be installed within the Side Yard Easement Area or attached or affixed to the Benefitted Unit. No Owner shall cause any balls or other equipment to be placed or bounced against the Residence of the Benefitted Unit.

7.17 **Parkway Maintenance Area.** Any landscaping within the Parkway Maintenance Area must be performed in accordance with all County requirements. If an Owner or the Association violates the requirements of this Section, such Owner or the Association shall indemnify, protect, defend and hold Declarant and Declarant's officers, directors, successors and assigns entirely free and harmless from and against any liabilities, penalties, costs, expenses and actions, including, without limitation, attorneys' fees and costs arising from or attributed to a violation of the provisions of this Section and shall, within fifteen (15) days after written request from Declarant or the Association, as applicable, reimburse Declarant or the Association, as applicable, for any costs and expenses incurred by Declarant or the Association in correcting any violation by any Owner of this Section.

7.18 **Cross Unit Drainage Facilities.** The Owners of Residential Units upon which Cross Unit Drainage Facilities are located shall not damage, alter, modify or interfere with any Cross Unit Drainage Facilities, and shall not erect, place or construct any building, obstruction or other structure within the area where the Cross Unit Drainage Facilities are located and shall plant any trees within that portion of the Residential Unit upon which the Cross Unit Drainage Facilities are located. An Owner shall not cause any obstructions to the Cross Unit Drainage Facilities.

7.19 **Drainage and Erosion Control.** There shall be no interference with the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Association. For the purpose hereof, "established" drainage is

defined as the drainage that exists at the time of conveyance of the Residential Unit to an Owner by which is shown on any plans approved by the Board.

7.20 **Compliance with Requirements Regarding Community Storm Water Pollution.** Each Owner acknowledges that water that enters a storm drain flows to waterways, creeks, streams, rivers, lakes and/or oceans. Accordingly, the National Pollutant Discharge Elimination System ("NPDES"), the Federal Clean Water Act, and the policies and ordinances of the City prohibit discharging anything other than natural rain water into storm drainage systems, including gutters and streets which drain into storm drains. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservatives, fertilizers, lawn clippings, yard waste, detergents, pet waste, paints and other such materials and pollutants shall not be discharged into any street, public or private, gutters, or into storm drains or storm water conveyance systems. The disposal of such pollutants and materials into a storm drain system may result in significant penalties and fines and that such Owner may be responsible for any activities by Owner's contractors (e.g., painters, landscapers, etc.) who dispose of such pollutants from an Owner's Residential Unit into a storm drain system. All Owners within the Community and the Association are required to comply with such Applicable Laws. Owners are encouraged to consult with the City, and other Governmental Agencies, concerning the proper disposal of any toxic or hazardous materials.

7.20.1 **Storm Water Pollution Prevention Best Management Practices.** To comply with the requirements of the City in connection with the storm water pollution prevention best management practices, each Owner and the Association agrees that it will, at all times, maintain all Improvements located within a Residential Unit, or in the case of the Association, within the Association Property including the Pollution Control Devices, in a clean, safe and attractive condition, free and clear of any and all debris and in accordance with any Best Management Practice Agreements that are recorded or may be recorded against the Community. All landscaping shall be maintained by an Owner in a manner that will prevent soil erosion and minimize sediment transport. To the extent that the Declarant has installed any erosion protection devices (e.g., sandbags) an Owner shall not remove such devices unless and until all landscaping has been installed, and has been sufficiently grown so soil erosion and transport of any sediment. All trash receptacles within an Owner's Residential Unit shall be covered and closed at all times except when disposing of trash. The Association and the Owners shall comply with all applicable Best Management Practices ("BMP") and perform all maintenance that may be imposed by any water quality management plan that may affect the Property. The costs of the Association's portion of such maintenance, if any, shall be treated as Common Expenses.

7.20.2 **Liability to Declarant.** So long as Declarant owns any Condominium, if an Owner or the Association is not in compliance with the provisions of this Section and, as a result, Declarant may incur any liability, Declarant shall have the right but not the obligation to enter upon the Residential Unit to correct such violation. Any Owner who violates the requirements of this Section and the Association shall indemnify, protect, defend and hold Declarant and Declarant's officers, directors, successors and assigns entirely free and harmless from and against any liabilities, penalties, costs, expenses and actions, including, without limitation, attorneys' fees and costs arising from or attributed to a violation of the provisions of this Section and shall within fifteen (15) days after request from Declarant, reimburse Declarant for any costs and expenses incurred by Declarant in correcting any violation by any Owner of this Section.

7.21 **Trash.** Trash, garbage or other waste shall be kept only in sanitary containers. No Owner shall permit or cause any trash or refuse to be kept on any portion of the Community other than in the receptacles customarily used for it, which shall be stored within fenced side yards or garages except on the scheduled day for trash pickup. All trash containers shall be maintained such that the lids

remained closed to prevent excessive odor from emanating therefrom. Owners shall comply with the Association Rules regarding trash disposal and recycling.

7.22 **Landscaping.** Each Owner shall landscape the portion of the Residential Unit that are not landscaped by Declarant as part of the initial conveyance by Declarant. The plans for such landscaping shall be submitted and approved pursuant to **Article 9** no later than six (6) months after the conveyance of the Residential Unit to an Owner and Application shall be approved by the date which is no later than twelve (12) months after the conveyance of the Condominium by Declarant to an Owner. Prior to installing any landscaping on an Owner's Residential Unit, the Owner shall be responsible for ensuring that there is no runoff from the Owner's Residential Unit and the Owner shall be required to take such action as may be reasonably necessary to prevent any runoff, including, if necessary, installing landscaping in advance of such twelve (12) month date. During landscaping of an Owner's Residential Unit, landscaping and construction materials must be stored only upon the Owner's Residential Unit. Such materials must be properly contained to prevent spillover into the Association Property. Should spillover occur, spilled material must be swept and containerized. Spilled materials shall not be washed into the storm water curb drain inlets. Temporary erosion or sediment control devices may have been installed by Declarant during construction of the Community. Owners shall not remove any temporary erosion or sediment control devices installed by Declarant until Owner's Residential Unit is landscaped and the plantings are established. Owner is responsible for preventing sediment leaving Owner's Residential Unit. Each Owner shall be liable to Declarant for any damage resulting from failure to prevent sediment from leaving the Owner's Residential Unit, shall indemnify, protect, defend and hold Declarant entirely free and harmless from any and all liability, actions, penalties or damages arising from or attributable to any such runoff.

7.23 **No Increases in Insurance.** Nothing shall be done or kept in any Residential Unit or in the Association Property that might increase the rate of, or cause the cancellation of insurance for any portion of the Community.

7.24 **Compliance with Applicable Laws.** No Owner or the Association shall permit anything to be done or kept in his or her Residential Unit or the Association Property that violates any Applicable Laws, including any Applicable Laws pertaining to the use or storage of any hazardous, contaminated or toxic materials.

7.25 **Exemption of Declarant.** The restrictions set forth in this Article shall not apply to Declarant so long as Declarant, so long as Declarant is exercising any of its rights under **Article 10** or any other rights or powers or easements reserved to Declarant under this Declaration.

7.26 **Notice of Airport in Vicinity.** The Property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner should consider what airport annoyances, if any, are associated with the Property before such Owners completes its purchase and determine whether such annoyance are acceptable to such Owner.

7.27 **Prohibited Uses Regarding Vicinity of Airport.** Due to the close proximity of an airport to the Community, the County requires that the following restrictions shall apply. Accordingly, the following uses are prohibited within the Property if such uses will adversely affect safer area navigation within the areas:

7.27.1 Any use which would direct a steady light or flashing light of red, white, green or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb



following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator;

7.27.2 Any use which would cause sunlight to be reflected towards an airport engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport;

7.27.3 Any use which would generate smoke or water vapor or which would attract large concentrations of birds, and which may otherwise affect safe air navigation within the area;

7.27.4 Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation; and

7.27.5 The above ground storage of flammable materials shall be prohibited.

## **ARTICLE 8 MAINTENANCE RESPONSIBILITIES**

8.1 **Maintenance.** Unless the context otherwise requires, as used in this **Article 8**, “maintenance”, “maintain” or “maintaining” means the operation, inspection, maintenance, repair, restoration and replacement of the areas and facilities designated for maintenance by the Association or Owner. To the extent repair, restoration and replacement is required as a result of damage or destruction under **Article 13**, then the repair and replacement shall be governed by the provisions of **Article 13**.

### **8.2 Maintenance Obligations of Owners.**

8.2.1 **Maintenance of Residential Units.** Subject to any provisions of the Governing Documents, each Owner shall be responsible for the maintenance, replacement and repair of the Owner’s Residence and all Improvements situated within the Residential Unit in a good condition of maintenance and any yard and patio areas within the Residential Unit, except for the Association Maintenance Areas and those areas which are to be maintained by the Association as described in **Sections 8.3 and 8.4**, and any and all Utility Facilities which exclusively service the Residential Unit which are located within the Residential Unit and irrigation systems and drainage located within any Residential Unit. Each Owner acknowledges that although the Residential Unit is a Condominium, the Residential Unit includes all of the Improvements within the Residential Unit and that therefore each Owner has the maintenance obligations set forth in this Declaration.

(a) **Driveway.** Each Owner shall be responsible to clean and maintain the Driveway located within such Owner’s Residential Unit.

(b) **Private Sewer Systems.** Each Owner shall be responsible to clean, maintain, repair and replace that certain portion of the Private Sewer System described as the sewer cleanout located within the garage of such Owner’s Residential Unit, or after the completion of construction the actual “as-built” locations of such sewer cleanout.

(c) **Cross Unit Drainage Facilities.** Each Owner shall be responsible to clean, maintain, repair and replace any Cross Unit Drainage Facilities located within such Owner’s Residential Unit.



(d) **Side Yard Easement Area located within the Burdened Unit.** The Owner of the Burdened Unit shall maintain such Side Yard Easement Area located thereon in a good condition of maintenance and repair.

(e) **Water Lines.** Each Owner shall be responsible to maintain any water lines servicing Owner's Residential Unit that are not maintained by a public agency or franchised utility, and shall prevent any obstructions which will block the flow of water from or through such Owner's Residential Unit.

(f) **Quality of Maintenance.** All such maintenance shall be performed in such a manner as shall be deemed necessary in the judgment of the Association to preserve the attractive appearance thereof, protect the value thereof in compliance with all requirements of the Homeowner Maintenance Manual and the Maintenance Obligations. Any such maintenance of any of the foregoing which is visible from outside of a Residential Unit shall be consistent with the existing design, aesthetics and architecture of the Community.

(g) **Maintenance Manual.** Each Owner is obligated to provide a copy of all documents describing Maintenance Obligations to any successor purchaser of such Owner's Condominium.

8.2.2 **Compliance with Maintenance Obligations.** Each Owner is required to comply with all of the Maintenance Obligations and schedules set forth in the Homeowner Maintenance Manual and each Owner is further obligated to provide a copy of all documents describing Maintenance Obligations to any successor purchaser of such Owner's Condominium.

8.2.3 **Owner's Failure to Maintain.** If an Owner fails to maintain the areas and items as provided above or make repairs thereto as required under the Declaration or the other Governing Documents, the Association shall give written notice to such Owner, stating with particularity the work or maintenance or repair which the Board finds to be required and requesting that the same be carried out within a period of thirty (30) days from the giving of such notice. In the event the Owner fails to carry out such maintenance or repair within the period specified by the notice, the Association shall cause such work to be completed and shall assess the cost thereof to such Owner as an Enforcement Assessment in accordance with the procedures set forth in this Declaration.

### 8.3 **Maintenance Obligations of Association.**

8.3.1 **Association Property, Association Maintenance Areas, and Offsite Maintenance Areas.** The Association shall maintain all other portions of the Association Property (except the County Maintenance Areas to the extent maintained by the County or other Governmental Agency), Association Maintenance Areas, Offsite Maintenance Areas, and Improvements located thereon in a first rate condition of maintenance and repair, including without limitation any and all slopes, landscaped areas and irrigation systems within the Association Property.

8.3.2 **Basins.** The Association shall maintain the Basins in the Community, in accordance with the Maintenance Obligations.

8.3.3 **Cluster Mailboxes.** The Association shall maintain the cluster mailboxes, including the locks to the individual mailboxes.

8.3.4 **Community Trail Easement.** The Association shall maintain the Community Trail Easement in the Community, in accordance with the Maintenance Obligations.

8.3.5 **County Maintenance Areas.** If the County Maintenance Areas are not maintained by the County or other applicable Governmental Agency, the Association shall maintain such areas in the same condition as the balance of the Association Property.

8.3.6 **Cross Unit Drainage Facilities.** The Association shall clean, maintain, repair and replace any Cross Unit Drainage Facilities located within the Association Property in the Community, in accordance with the Maintenance Obligations.

8.3.7 **Fences and Walls.** The Association shall maintain, repair and replace all fences and walls to the extent provided under **Section 8.4** below.

8.3.8 **Parkway Maintenance Areas.** The Association shall maintain the landscaping and irrigate the Parkway Maintenance Areas in accordance with the Parkway Maintenance Area Agreement and all County requirements.

8.3.9 **Photocell Lighting.** The Association shall maintain, repair, and replace, the photocell controlled fixtures installed by Declarant that are located on certain Residences, including the garages, in working condition and will replace as needed.

8.3.10 **Pollution Control Devices.** The Association shall maintain the Pollution Control Devices located in the Community in a good condition of maintenance and repair, in accordance with the Maintenance Obligations and BMP described in **Section 7.19.1.**

8.3.11 **Driveway.** The Association shall repair and replace the Driveways within the Residential Units in accordance with the Maintenance Obligations.

8.3.12 **Private Sewer System.** The Association shall maintain the Private Sewer System located within the Alleyways (excluding the portion of the Private Sewer System maintained by a public agency or franchised utility), and located within the Residential Units (excluding the sewer cleanouts maintained by the Owner of such Residential Unit), in accordance with the Maintenance Obligations.

8.3.13 **Private Streets and Alleyways.** The Association shall maintain all Private Streets and Alleyways within the Association Property in a good condition of maintenance and repair (except the County Maintenance Areas to the extent maintained by the County or other Governmental Agency).

8.3.14 **Recreational Facilities.** The Association shall maintain all of the Recreational Facilities in a first class condition of maintenance and repair.

8.3.15 **Landscaping.** The Association shall maintain all slopes, landscaping and irrigation situated within the Association Property in a disease, weed and litter free condition. The Association shall treat or replace any diseased or dead plant material in a timely fashion, but in no event later than thirty (30) days after written notification of such condition.

8.3.16 **Additional Items.** The Association shall also be responsible for maintaining any Improvements designated in a Supplementary Declaration and/or that a majority of the Board or a majority of the Voting Power of the Association designates for maintenance by the Association.

8.3.17 **Association's Compliance with Maintenance Obligations.** The Association will comply with the Maintenance Obligations for the Association Property (except the County

Maintenance Areas to the extent maintained by the County or other Governmental Agency), Association Maintenance Area, and the Offsite Maintenance Areas, and any other areas to be maintained by the Association in accordance with the requirements of the Association Maintenance Manual. The Association's obligations to perform such maintenance in any Phase shall commence on the date Regular Assessments commence on Condominiums in such Phase. Until commencement of Regular Assessments on Condominiums in any Phase, the Association Property and other areas to be maintained by the Association in such Phase shall be maintained by Declarant. Notwithstanding the foregoing, the contractors or subcontractors of Declarant may be contractually obligated to maintain the landscaping or other Improvements on the Association Property, Association Maintenance Areas, and Offsite Maintenance Areas pursuant to warranties or other existing contractual obligations to Declarant. The Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. Maintenance performed by such contractors or 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.

8.4 **Maintenance of Fences and Walls.** Unless otherwise specified in a Supplementary Declaration, the fences and walls in the Community shall be maintained in accordance with the Maintenance Obligations and requirements set forth below.

8.4.1 **Fencing and Walls Located on Association Property.** The Association shall maintain, in a good condition of maintenance and repair, the fencing, walls and gates, situated within Association Property, subject to maintenance requirements of **Section 8.4.4 and 8.4.5** below.

8.4.2 **Fencing Located on Owner's Residential Unit.** Each Owner shall maintain, in a good condition of maintenance and repair, the fencing and walls situated on an Owner's Residential Unit, subject to maintenance requirements of **Section 8.4.4 and 8.4.5** below.

8.4.3 **Interior Fencing or Walls Between Two Residential Units.** For any fencing or walls which separates two (2) Residential Units, each Owner shall have the obligation to maintain the interior of the fence or wall and the Owners shall share, on an equitable basis, the cost of replacing such fencing or wall. The Owner of each affected portion of the Property upon which a party fence or wall is located shall have a reciprocal non-exclusive easement to the Property immediately adjacent to the interior fence for the limited purpose of maintaining the party wall or fence.

8.4.4 **Fencing or Walls Between Residential Units and Association Property.** If any interior fencing separates a Residential Unit from Association Property, the Owner shall maintain the interior portion of the fencing or wall facing the Owner's Residential Unit, and the Association shall maintain the exterior portion of the fencing or wall facing the Owner's Residential Unit and repair and replace the wall or fence.

8.4.5 **Fencing or Walls Between Association Property and Bordering Offsite Areas.** The Association shall maintain the interior and exterior, repair and replace the fencing or wall between the Basin located on Lot 3 of the Final Map and the adjacent offsite area.

8.4.6 **Liability for Damage.** Notwithstanding any other provision of this **Section 8.4**, an Owner who by its negligent or willful act causes a wall or fence within the Community to be damaged shall bear the whole cost of repairing such damage.

8.5 **Future Construction.** Nothing in this Declaration shall limit the right of Declarant to complete construction of Improvements to the Association Property and to Condominiums owned by

Declarant or to alter them or to construct additional Improvements as Declarant deems advisable before completion and sale of the entire Community.

8.6 **Inspection of the Community.** The Association shall regularly inspect the Association Property, Association Maintenance Areas, Offsite Maintenance Areas and other areas maintained by the Association pursuant to this Declaration, including without limitation, the landscaping, drainage and irrigation systems serving or within such areas. The Association shall also comply with the requirements, including the inspection requirements set forth in the Association Maintenance Manual and the requirements imposed under any Governmental Entitlements. The Association shall employ the services of such experts and consultants as are necessary to assist the Association in performing such inspections and follow any recommendations contained in the Association Maintenance Manual. The Association may, from time to time, make appropriate revisions to the Maintenance Manual, if any, based upon the Board's review of the Maintenance Manual, to update such Maintenance Manual to provide for maintenance according to current industry practices so long as such changes do not reduce the useful life or functionality of the items being maintained. The inspections required to be conducted by the Association under this Article shall take place as required under the Association Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association and, if requested by Declarant, to Declarant promptly following completion thereof. If requested by Declarant, Declarant shall be invited to attend any such inspections. The written reports shall identify any items of maintenance or repair which either require current action by the Association or will need further review and analysis. Such written reports shall specifically include a review of all irrigation and drainage systems located within the Association Property. The Association shall report the contents of such written reports to Declarant (if not already provided by the inspector directly) so requested by Declarant and to the Members of the Association at the next meeting of the Members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association meeting. The Association shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors and shall keep a record of all such matters in the Board's minutes. Any damage to any structure, landscaping or other improvements caused by the Association, or any of its officers, agents, employees or independent contractors, while performing such maintenance, repair or replacement work shall be repaired by the Association at its sole cost and expense.

## **ARTICLE 9 ARCHITECTURAL REVIEW**

9.1 **Non-Applicability To Declarant.** The provisions of this Article shall not apply to any Improvements installed or repaired or replaced by the Declarant and the Architectural Committee shall not have any rights of review or approval with respect thereto.

9.2 **Scope of Architectural Review.** No Improvements of any kind whatsoever shall be commenced, erected, placed or altered upon or around any Residential Unit until the Owner has submitted complete plans and specifications showing the nature, kind, shape, height and materials, including the color and any other requirements set forth in the Architectural Guidelines ("**Plans and Specifications**"), have been submitted to and approved in writing. In addition, the grade, level or drainage characteristics of the Condominium or any portion thereof shall not be altered without the prior written consent of the Board. An Owner shall also be obligated to obtain any approvals required by the City or other Governmental Agencies.

9.3 **Architectural Guidelines.** The Association may, from time to time and in accordance with California Civil Code Section 1357.120, *et seq.*, adopt, amend and repeal, by unanimous vote, rules and regulations to be known as "Architectural Guidelines." The Architectural Guidelines shall interpret

and implement the provisions hereof by setting forth the standards and procedures for Board review and guidelines for architectural design of Improvements, placement of Improvements, color schemes, exterior finishes and materials and similar features which are recommended for use in the Community; provided, however, that said Architectural Guidelines shall not be in derogation of the standards required by this Declaration.

9.4 **Approval.** Prior to the installation of any Improvements, the applicant shall submit a complete set of Plans and Specifications including evidence satisfactory to the Board that the proposed Improvements are acceptable under the terms of this Declaration and the Architectural Guidelines, and comply with all Applicable Laws ("**Application**").

9.4.1 **Time Periods for Review.** Within thirty (30) days after an Owner's submittal of the Application for approval, the Board shall consider and act upon such request. In the event the Board fails to approve or disapprove of the Application within thirty (30) days after all documents and information requested by the Board have been received by it, the Owner requesting said approval may submit a written notice to the Board advising the same of its failure to act. If the Board fails to approve or disapprove any such Application within fifteen (15) days after receipt of such reminder notice, said Application shall be deemed approved, provided that any Improvements conform to all conditions and restrictions contained in this Article and are in harmony with similar structures erected within the Community. In granting or denying approval, the Board may give the Owner such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the Owner.

9.4.2 **Effectiveness of Final Approval.** The approval shall be effective for twelve (12) months from the date of issuance. In the event construction does not commence within such twelve (12) month period, the approval shall be deemed to have expired and a new approval pursuant to the provisions of this **Article 9** must be obtained.

9.4.3 **Approval of Solar Energy Systems.** Any Owner proposing to install or use a solar energy system, as defined in California Civil Code Section 801.5 shall be subject to the same review and approval process as any Owner proposing to construct any Improvements or other actions requiring the approval of the Board pursuant to this Declaration. However, only reasonable restrictions on the installation and use of a solar energy system shall be permitted. Reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its sufficiency or specified performance, or which allow for an alternative system of comparable costs, efficiency, and energy conservation benefits.

9.5 **Compliance With California Civil Code Section 1378.** In approving Plans and Specifications submitted to it pursuant to this **Article 9**, the Association shall comply with the requirements of California Civil Code Section 1378.

9.6 **Inspection and Correction of Work.** Inspection of work and correction of deficiencies therein shall proceed as set forth below.

9.6.1 **Right of Inspection During Course of Construction.** The Association or any of its duly authorized representatives may enter into any Residential Unit, from time to time, as provided below during the course of construction or installation of any Improvements for the purpose of inspecting such construction and/or installation. If the Board determines that such construction and/or installation is not being done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner of such non-compliance. The Board may not enter into a Residential Unit without obtaining the prior permission of the Owner or Occupant of such Residential Unit; provided, however, that such

permission shall not be unreasonably withheld and shall be given for entry by the Architectural Committee during daylight hours within forty-eight (48) hours of the request for entry.

9.6.2 **Notice of Completion.** Upon the completion of any construction or reconstruction or the alteration or refinishing of any Improvements, or upon the completion of any other work for which approved Plans and Specifications are required under this Article, the Owner shall give written notice of completion thereof to the Association.

9.6.3 **Inspection.** Within thirty (30) days after receiving notice of completion, the Board, or its duly authorized representative, shall have the right to enter into the Residential Unit, as provided in **Section 9.6.1** above, to inspect such Improvements to determine whether it was constructed, reconstructed or installed in substantial compliance with the approved Plans and Specifications. If the Board finds that such construction or installation, was not done in substantial compliance with the approved Plans and Specifications, it shall notify the Owner in writing of such non-compliance within such thirty (30) day period, specifying particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

9.6.4 **Non-Compliance.** If, upon the expiration of thirty (30) days from the date of notification of non-compliance, the Owner shall have failed to remedy such non-compliance, the Board, after affording such Owner Notice and Hearing, shall determine whether there is a non-compliance, and if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than thirty (30) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying Improvement or remedy the non-compliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an Enforcement Assessment against such Owner for reimbursement.

9.6.5 **Failure to Notify.** If for any reason the Architectural Committee fails to notify the Owner of any non-compliance within sixty (60) days after receipt of the notice of completion from the Owner, the Improvements shall be deemed to be in accordance with said approved Plans and Specifications.

9.7 **Government Regulations.** If there is any conflict between the requirements or actions of the Board and the Applicable Laws relating to the Property to the extent that such Applicable Laws are more restrictive, shall control, and the Board shall modify its requirements or actions to conform to the government regulations, ordinances or rules; provided, however, that if the Applicable Laws are less restrictive, the provisions of this Declaration shall nonetheless apply. The application to and the review and approval by the Board of any Plans and Specifications or other submittals by an Owner shall in no way be deemed to be satisfaction or compliance with any building permit process or other Applicable Laws or public utility requirements (hereinafter collectively referred to as “**Additional Requirements**”) the responsibility for which shall lie solely with the Owner; provided, however, if the Additional Requirements are less restrictive than the provisions of this Declaration, and the other Governing Documents shall nonetheless apply.

9.8 **Diligence in Construction.** Upon final approval by the Association of any Plans and Specifications, the Owner shall promptly commence construction of the Improvements and diligently pursue the same to completion.

9.9 **Fee for Review.** The Board shall have the right to establish a fee for the review and approval of Plans and Specifications that must be submitted to the Board pursuant to the provisions of this Article. The Board shall have the right to hire an engineer or other consultant, the opinion of which the Board deems necessary in connection with its review of any plans submitted by any Owner and such Owner shall be liable for payment of such engineer's and/or consultant's fee.

9.10 **Interpretation.** All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Board, and its decision shall be final, binding and conclusive on all of the parties affected. Notwithstanding the foregoing, in the event an Architectural Committee is appointed and the Architectural Committee disapproves any Plans and Specifications submitted by an Owner pursuant to this Article, the party or parties making such submission may appeal in writing to the Board. The Board must receive the written request for approval not more than thirty (30) days following the final decision of the Architectural Committee. Within thirty (30) days following receipt of the written request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within the thirty (30) day period shall be deemed a decision against the Owner.

9.11 **Waiver.** The approval by the Association of any Plans and Specifications for any work done or proposed, or for any other matter requiring the approval of the Board under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar Plans and Specifications or matter subsequently submitted for approval.

9.12 **Estoppel Certificate.** Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Board shall issue an estoppel certificate, executed by a majority of its members, stating (with respect to any Residential Unit of said Owner) that as of the date thereof, either: (a) all Improvements made and other work completed comply with this Declaration, or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the non-complying Improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in said Residential Unit through the Owner, shall be entitled to rely on said estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant and all Owners and such Persons deriving any interest through them.

9.13 **Liability.** Neither the Board, nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any Plans and Specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved Plans and Specifications; (c) damage to the Community of any property within the Community; or (d) the execution and filing of an estoppel certificate pursuant to **Section 9.12**, whether or not the facts therein are correct, provided, however, that such Board member has acted in good faith on the basis of such information as may be possessed by him or her. Without in any way limiting the generality of the foregoing, the Board, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any Plans and Specifications or any other proposal submitted to the Board.

9.14 **Variances.** The Association may authorize variances from compliance with any of the architectural provisions of this Declaration. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Board and shall become effective upon execution. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. 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 Residential Unit and the particular provision hereof covered by the



variance, nor shall it affect in anyway the Owner's obligation to comply with all governmental laws and regulations affecting its use of the Residential Unit, including, without limitation, zoning ordinances or other requirements imposed by the City or any other governmental authority.

9.15 **Appointment of Architectural Committee.** The Board shall have the right to delegate its review and approval rights under this **Article 9** to an Architectural Committee. If the Board so elects, the Architectural Committee shall consist of three (3) members, one (1) of which may be a design professional engaged by the Board to serve on the Architectural Committee or a single architectural designee who reports to the Board of Directors. One (1) alternate member may be designated by the Board to act as a substitute on the Architectural Committee in the event of absence or disability of any member. In the event the Board appoints an Architectural Committee, all rights hereunder shall apply to the Architectural Committee and all references to the Board shall be deemed to refer to the Architectural Committee. In addition to the foregoing, the Board and/or the Architectural Committee shall have the right, but not the obligation, to assign a professional within the architecture field to work in conjunction with the Architectural Committee and/or Board in the approval of Plans and Specifications.

9.16 **Compensation.** The members of any Architectural Committee appointed by the Board shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder, unless the Association retains a professional architect, engineer or designer as a member of the Architectural Committee for the purpose of providing professional services, in which event reasonable compensation for such member shall be approved by the Board.

9.17 **Non-Applicability to Declarant.** The provisions of this Article shall not apply to any Improvements installed by the Declarant and neither the Board nor the Architectural Committee shall have any rights of review or approval with respect thereto.

9.18 **Amendments.** Notwithstanding the Article of this Declaration entitled "Amendments," no amendment, verification or rescission of this Article may be made, nor shall Declarant, or any successor thereof, be prohibited from completing the construction of the Community prior to the conveyance by Declarant, or its successor, of the last Condominium without the (a) written consent of Declarant, and the (b) recording of such consent in the Office of the County Recorder.

## **ARTICLE 10 DEVELOPMENT RIGHTS**

10.1 **Limitations of Restrictions.** Declarant is undertaking the work of developing Condominiums and other Improvements within the Community. The completion of the development work and the marketing and sale, rental and other disposition of the Condominiums are essential to the establishment and welfare of the Property and the Additional Property as a first-class condominium community. In order that the work may be completed and the Community be established as a fully occupied condominium community as rapidly as possible, nothing in this Declaration shall be interpreted to deny Declarant or to the extent provided below, the rights set forth in this Article.

10.1.1 **Access.** Declarant, its contractors and subcontractors shall have the right to obtain reasonable access over and across the Association Property of the Community or do within any Residential Unit owned by it whatever is reasonably necessary or advisable in connection with the completion of the Community and the marketing and maintenance thereof, and Declarant and its contractors and subcontractors shall have such rights of access over and across the Association Property for purposes of satisfying any obligation of Declarant that Declarant has secured by a bond in favor of the



City or other Governmental Agency. Declarant shall have the right to keep any gate to the Community open during the construction, sale, and marketing of the Community.

10.1.2 **Construct Improvements.** Declarant, its contractors and subcontractors shall have the right to erect, construct and maintain on the Association Property or within any Condominium owned by it such structures or Improvements, including, without limitation, sales offices and signs, as may be reasonably necessary for the conduct of its business to complete the work, establish the Community as a residential community and dispose of the Community or other community or project owned by Declarant by sale, lease or otherwise, as determined by Declarant in its sole discretion and to perform or complete any work to improvements required for Declarant to obtain a release of any bonds posted by Declarant with the City.

10.1.3 **Grant Easements.** Declarant, its contractors and subcontractors shall have the right to establish and/or grant over and across the Association Property such easements and rights of way on, over, under or across all or any part thereof to or for the benefit of the State of California, the City, the County or any other political subdivision or public organization, or any public utility entity or cable television provider, for the purpose of constructing, erecting, operating and maintaining Improvements thereon, therein or thereunder at that time or at any time in the future, including: (a) roads, streets, walks, driveways, trails, parkways and park areas; (b) poles, wires and conduits for transmission of electricity, providing telephone service and cable television service to the Community and for the necessary attachments in connection therewith; and (c) public and private sewers, sewage disposal systems, storm water drains, land drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any and all equipment in connection therewith. The Association Property shall be subject to any dedication stated in the Condominium Plan for the Community of an easement for public use for installation, maintenance and operation of facilities for public utilities over all of the Association Property. Said public utilities easement shall inure and run to all franchised utility companies and to the City, the County and the State and shall include the right of ingress and egress over the Association Property by vehicles of the City, the County and the State and such utility companies to properly install, maintain, repair, replace and otherwise service such utility facilities. The grant of said public utility easement shall not be interpreted to imply any obligation or responsibility of any such utility company or the City, the County or the State for maintenance or operation of any of the Association Property or the facilities located thereon or the repair, replacement or reconstruction thereof except for those Improvements owned by the utility companies, the City, the County, or the State, and except as occasioned by the negligence or willful misconduct of the utility companies, the City, the County, or the State. Except for lawful and proper fences, structures and facilities placed upon the Association Property by utility companies, the Association Property subject to the public utility easement shall be kept open and free from buildings and structures. The City and County furthermore is granted an easement across the Association Property for ingress and egress for use by emergency vehicles of the City or County.

10.1.4 **Use of Recreational Facilities.** Declarant shall have the right to reasonably use the Recreational Facilities, and any recreational and other facilities within the Association Property for promotional and other marketing activities and Declarant shall have the right to reasonably display or show any Recreational Facilities to prospective purchasers.

10.2 **Size and Appearance of Community.** Declarant shall not be prevented from increasing or decreasing the number of Residential Units that may be annexed to the Community or from changing the exterior appearance of Association Property structures, the landscaping or any other matter directly or indirectly connected with the Community in any manner deemed desirable by Declarant, if Declarant obtains governmental consents required by law. The nature, design, quality and quantity of all Improvements to the Association Property, Association Maintenance Areas, and Offsite Maintenance Areas shall be determined by Declarant, in its sole discretion.

### 10.3 **Marketing Rights.**

10.3.1 **General Rights.** Subject to the limitations of this Declaration, Declarant shall have the right to: (a) maintain model homes, sales offices, storage areas and related facilities in any unsold Condominiums and Association Property within the Community as are necessary or reasonable, in the opinion of Declarant, for the sale or disposition of the Condominiums or for the sale or disposition of the residences in any other communities or projects developed by Declarant; (b) make reasonable use of the Association Property and facilities for the sale of Condominiums; (c) post signs, flags and banners, billboards, balloons and other advertising and promotional devices which Declarant may, in its sole discretion, deem appropriate in connection with its marketing and/or development of any portions of the Community or any other project or community which is being developed by Declarant; and (d) conduct its business of disposing of Condominiums or other communities or projects owned by Declarant by sale, lease or otherwise.

10.3.2 **Agreement for Extended Use.** If following the fifth (5th) anniversary of the original issuance of a Public Report for the most recent Phase, Declarant requires exclusive use of any portion of the Association Property in that Phase for marketing purposes, Declarant may use the Association Property only if an agreement is entered into between Declarant and the Association. The agreement must specifically provide for a limited duration for such use and must provide for a specific reasonable rate of compensation to the Association by Declarant. Compensation shall be commensurate with the nature, extent and duration of the use proposed by Declarant. In no event, however, shall Declarant be denied the rights to use the Association Property and any Condominiums owned by Declarant as an Owner.

10.4 **Alterations to Map.** At any time within three (3) years from the date that the first Condominium in a Phase is conveyed to an Owner other than Declarant, the boundaries of any Condominium in that Phase may be altered by a lot line adjustment or other change reflected on a subsequently recorded Record of Survey, parcel map, final map or amended final map, provided that the altered boundaries are approved by Declarant and all owners of the Property involved in the boundary adjustment (the Board, with respect to property owned by the Association). Any alteration approved by Declarant may make minor changes to the number of Condominiums in the Community. An alteration shall be effective upon recordation of the Record of Survey or map and, upon such recordation, the boundaries of the altered Association Property shall be altered for purposes of this Declaration to conform to the boundaries as shown on the Record of Survey or map.

10.5 **Title Rights.** This Declaration shall not be construed to constitute a limitation on Declarant's title rights to the Additional Property prior to its Annexation, nor shall it impose any obligation on Declarant or any other Person to improve, develop or annex any portion of the Additional Property. The rights of Declarant under this Declaration may be assigned to any successor(s) by an express assignment in a recorded instrument, including without limitation, a deed, option or lease. This Declaration shall not be construed to limit the right of Declarant at any time prior to such an assignment to establish additional licenses, reservations and rights-of-way to itself, to utility companies, to the City, to the County, to the State, or to others as may be reasonably necessary to the proper development and disposal of property owned by Declarant.

10.6 **Power of Attorney.** Each Owner of a Condominium in the Community, by accepting a deed to a Condominium, shall be deemed to have (a) agreed and acknowledged that the Owners own no interest in the Additional Property which may be developed, if at all, by Declarant in its sole and absolute discretion, and (b) irrevocably appointed Declarant, for so long as Declarant owns all or any portion of the Additional Property, as its Attorney-in-Fact, for itself and each of its Mortgagees, optionees, grantees, licensees, trustees, receivers, lessee, tenants, judgment creditors, heirs, legatees, devisees, administrators,

executors, legal representatives, successors and assigns, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to Declarant as its Attorney-in-Fact to prepare, execute, acknowledge and record any Condominium Plan for all or any portion of the Property or Additional Property regardless of whether Declarant owns any interest in the property which is the subject of such Condominium Plan. However, nothing herein shall be deemed or construed as an agreement by Declarant that any Owner shall be entitled to any participation in or discretion over the preparation and recordation of a Condominium Plan for all or any portion of the Property or Additional Property. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

10.7 **Amendment.** The provisions of this Article may not be amended without the consent of Declarant until all of the Additional Property has been annexed to the Community and all of the Condominiums in the Community owned by Declarant have been conveyed.

10.8 **Supplemental Condominium Plans and Supplementary Declarations.** So long as Declarant owns any portion of the Property or Additional Property, Supplementary Declarations and Supplemental Condominium Plans may be recorded by Declarant, without the consent of any Owner, for any of the purposes for which a Supplemental Condominium Plan or a Supplementary Declaration may be recorded and thereafter Declarant no longer owns any portion of the Property or Additional Property, Supplementary Declarations and Supplemental Condominium Plans may be recorded by the Association for any of the purposes for which report which a Supplemental Condominium Plan or a Supplementary Declaration may be recorded.

## **ARTICLE 11 INSURANCE**

### **11.1 Association's Insurance Obligations.**

11.1.1 **Liability Insurance.** The Association shall obtain and maintain liability insurance providing coverage at least as broad as a current Insurance Services Office, Inc. ("ISO") commercial general liability insurance form or its equivalent (including coverage for medical payments and coverage for owned and non-owned automobiles, if applicable), insuring the Association, the Declarant (as long as Declarant is the Owner of any Property or the Additional Property and/or has any rights under **Article 10** of this Declaration) and the Owners (as their interests may appear and as a group and not individually) against liability arising from the ownership, operation, maintenance and use of the Association Property by the Association and the performance by the Association of its duties under this Declaration. Coverage for such matters shall be primary to any coverage provided by any other liability insurance policy maintained by such insureds. The limits of such insurance shall not be less than Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate and shall at all times meet or exceed the minimum requirements of Section 1365.9 of the California Civil Code. Such insurance shall include a broad form named insured endorsement, if reasonably available as determined by the Board, and may include coverage against any other liability customarily covered with respect to properties similar in construction, location and use, all as may be determined by the Board. Such policy shall include, if reasonably available as determined by the Board, a cross-liability or severability or interest endorsement insuring each insured against liability to each other insured.

11.1.2 **Property Insurance.** The Association shall obtain and maintain property insurance for the risks covered by, and providing coverage at least as broad as, a current ISO "special form" policy or its equivalent, insuring: (a) all Improvements upon, within or comprising the Association Property, and (b) all personal property owned or maintained by the Association (collectively, the

**"Association Insured Property").** Such insurance shall be maintained in the amount of the maximum insurable replacement value of the property to be insured thereunder, as determined annually by the Board. Such coverage may exclude land, foundations, excavations, and other items typically excluded from property insurance coverage on properties similar in construction, location and use.

(a) **Course of Construction.** Whenever any Improvements or alterations to the Association Insured Property are in the course of construction, the insurance required under this Section, to the extent appropriate, as determined by the Association, shall be carried by the Association in builder's risk form written on a completed value basis, insuring against loss to the extent of at least the full replacement value of the Association Insured Property (excluding foundations and footings, except for earthquake coverage) of that which is being covered.

(b) **Payment of Insurance Proceeds.** Subject to the rights of Mortgagees, the proceeds from such property insurance shall be payable to the Association or an insurance trustee ("Trustee") to be held and expended for the benefit of the Association and the Owners, Mortgagees and others, as their respective interests shall appear. The Trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Community is located that agrees in writing to accept such trust. If restoration is authorized, the Association will have the duty to contract for such work as provided in this Declaration.

(c) **Primary.** With respect to Association Insured Property, the property insurance maintained by the Association shall be primary and noncontributing with any other property insurance maintained by an Owner covering the same loss.

(d) **Endorsements.** The property insurance policy shall contain, to the extent available on commercially reasonable terms as may be determined by the Board, the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable), inflation guard, ordinance or law, replacement cost, and such other endorsements as may customarily be obtained with respect to properties similar in construction, location and use, as may be determined by the Board.

(e) **Adjustment of Losses.** The Association shall timely file, pursue and complete the adjustment of all claims arising under the property insurance policies carried by the Association. The Board is appointed attorney-in-fact by each Owner (except for the Secretary, U.S. Department of Veterans Affairs), to negotiate and agree on the value and extent of any property damage under any policy carried by the Association. The Board is granted full right and authority to compromise and settle any property damage claim under any policy of property insurance carried by the Association or enforce any such claim by legal action or otherwise and to execute releases in favor of any insurer with respect to any such claim.

(f) **Waiver of Claims and Subrogation.** The Association waives all claims against the Owners for any damage to the Association Insured Property (including without limitation, any loss of use of such property), except that the Association may claim against an Owner for property damage caused by that Owner to the extent that either (i) the peril causing such damage is not covered by the property insurance required by this Declaration to be maintained by the Association or the property insurance actually maintained by the Association (whichever is greater), provided that such Owner's liability for such uninsured damage is limited to the amount of liability insurance required to be maintained by such Owner pursuant to this Declaration; (ii) the peril causing such damage is covered by the Association's property insurance, but the damage is within the amount of the deductible or self-insured retention, provided that such Owner's liability for such damage is limited to the amount of liability insurance required to be maintained by such Owner pursuant to this Declaration; or (iii) such

damage is caused by the gross negligence or willful misconduct of that Owner. Any property insurance policy obtained by the Association must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of the Association to obtain such a waiver from an insurer shall not defeat or impair the waivers between the Association and the Owners as set forth herein. If an Owner is liable for damage under this Section, the Association may, after Notice and Hearing, levy an Enforcement Assessment equal to the cost of repairing the damage or any insurance deductible paid under the Association's insurance policy, as applicable, and the increase, if any, in insurance premiums directly attributable to such damage. The waivers of claims and subrogation set forth in this subsection apply only in favor of the Owners and do not limit or waive, release or discharge any claims that the Association (or its insurers) may have against any third party, including without limitation any contractor, service provider, agent, or Invitee, provided that such waivers shall also apply in favor of an Owner's tenant occupying a Condominium under a written lease agreement if and to the extent that the Owner has similarly agreed in such lease agreement to a waiver of claims and subrogation against such tenant.

11.1.3 **Fidelity Bond.** The Association shall maintain within a commercial crime policy or a fidelity bond in an amount equal to the greater of (a) the estimated maximum amount of funds, including reserves, expected to be regularly held by or on behalf of the Association or a managing agent at any given time during the term of the fidelity bond; and (b) three (3) months' aggregate of the Regular Assessments on all Residential Units plus any reserve funds. If the Association maintains a bond, the bond shall name the Association as obligee and if the Association maintains insurance, the policy shall name the Association as the insured and shall insure against loss by reason of the acts of the employees of the Association, and any managing agent and its employees, whether or not such persons are compensated for their services.

11.1.4 **Worker's Compensation Insurance.** The Association shall maintain worker's compensation insurance to the extent necessary to comply with all applicable laws.

11.1.5 **Directors and Officers Insurance.** The Association shall maintain a policy insuring the Association's officers and directors against liability for their acts or omissions while acting in their capacity as officers and directors of the Association. The limits of such insurance shall be not less than Two Million Dollars (\$2,000,000) and shall at all times meet or exceed the minimum requirements of Section 1365.7 of the California Civil Code.

11.1.6 **General Policy Requirements.** All insurance policies the Association is required to obtain pursuant to this Article shall be placed and maintained with companies rated at least "A-/VII" by A.M. Best Insurance Service and otherwise reasonably satisfactory to the Association. If an A.M. Best Insurance Service rating is not available, a comparable rating service may be used. Such insurance policies may have reasonable deductible amounts comparable to those customarily maintained with respect to properties similar in construction, location and use, as may be determined by the Board. The coverage amounts required for such insurance policies may be satisfied by any combination of primary and excess policies that collectively serve to satisfy the requirements of this Article.

11.1.7 **Copies of Policies.** Copies of all insurance policies of the Association shall be retained by the Association and available for inspection by Owners at reasonable times. All such insurance policies shall provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days prior notice in writing to the Owners and Eligible Holders, except that ten (10) days prior written notice shall be required if the cancellation is for non-payment of premiums. In addition to the foregoing, the Association shall provide to the Owners such information regarding the insurance of the Association as may be required by Applicable Law or under the Bylaws.

11.1.8 **Compliance With Federal Regulations.** Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such insurance and a fidelity bond meeting the minimum insurance and fidelity bond requirements for condominium projects established by the Federal Agencies, or any successor to the Federal Agencies, so long as any of the above is a Mortgagee or an Owner of a Condominium, except to the extent such coverage is not available or has been waived in writing by the FNMA, GNMA, FHA, and FHLMC, as applicable. If the requirements of any Federal Agencies conflict, the more stringent requirements shall be met.

11.2 **Owners' Insurance Obligations.** Each Owner is strongly advised to seek the advice of a qualified insurance consultant regarding (i) the amount of property insurance the Owner should procure for casualty losses to property not covered under the Association's property insurance policy; and (ii) the amount of personal liability insurance coverage the Owner should maintain. Each Owner acknowledges that the condominium Owner is purchasing a detached condominium and it is the Owner's responsibility to provide the necessary property insurance. Owners insurance consultants should be advised of this.

11.2.1 **Property Insurance**

(a) **Residential Units.** Owners shall maintain property insurance for the risks covered by, and providing coverage at least as broad as, a current ISO "special form" policy or its equivalent, insuring the Residence and all Improvements ("**Owner Insured Property**"). Such insurance shall be maintained in the amount of the maximum insurable replacement value of the property to be insured, as may be required by the Owner's lenders. Such coverage may exclude land, foundations, excavations, and other items typically excluded from property insurance coverage on properties similar in construction, location and use. The Association is not including the Residence or any other portions of the Residential Unit in its property insurance. Owners are hereby advised that the Association is not obligated to maintain property insurance on the Residence or any other portions of the Owner's Residential Unit, including without limitation: (i) any property of others under the care, custody, or control of Owner, except the Association Insured Property, (ii) or on any upgrades or Improvements which are not Association Insured Property and which are located within the Residential Unit (including landscaping Improvements).

(b) **Waiver of Claims and Subrogation.** Each Owner waives all claims against the Association for any damage to the real and personal property that such Owner is obligated under this Declaration to insure (including without limitation any loss of use of such property), except that an Owner may claim against the Association for property damage to the extent that the damage is caused by the gross negligence or willful misconduct of the Association or its managing agent. Any property insurance policy obtained by an Owner must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of an Owner to obtain such a waiver from an insurer shall not defeat or impair the waivers between the Owners and the Association set forth herein.

The waivers of claims and subrogation set forth in this **Section 11.2.1(b)** shall apply only in favor of the Association and do not limit or waive, release or discharge any claims that an Owner (or its insurers) may have against any third party, including without limitation any contractor, service provider, agent, other Owner, or Invitee; provided, that such waivers shall also apply in favor of the Association's managing agent if and to the extent that the Association has similarly agreed in a written management agreement to a waiver of claims and subrogation against such managing agent.

11.2.2 **Liability Insurance.** Each Owner shall, at such Owner's sole cost and expense maintain liability insurance providing coverage at least as broad as the current ISO commercial general liability insurance form or its equivalent (including coverage for medical payments), insuring the Owner



against liability arising from the ownership, operation, maintenance and use of the Owner's Residential Unit by such Owner.

11.2.3 **Copies of Policies.** The Association shall have the right but not the obligation to request copies of any insurance policy a certificate of such insurance which an Owner is required to maintain pursuant to this Declaration, and in such case the Owner shall deliver a copy to the Association within fifteen (15) days upon request. All policies shall indicate they may not be canceled or modified without thirty (30) days prior written notice to the Association, except that ten (10) days prior written notice shall be required if the cancellation is for non-payment of premiums. The acceptance of a copy of an insurance policy by the Association from an Owner shall not constitute a waiver of any of the insurance requirements set forth herein and the election by the Association to obtain a copy of any insurance policy shall not release any Owner from its obligations or liabilities.

11.3 **Review of Insurance.** The Board shall review the adequacy of all insurance required by this Declaration to be maintained by the Association and by the Owners at least once every year. The review shall include a reasonable determination of the replacement cost of all Association Insured Property without respect to depreciation.

11.4 **Board's Authority to Revise Insurance Requirements.** Subject to any statutory insurance requirements, the Board shall have the power and right to adjust and modify the insurance requirements for Owners and the Association set forth herein to require coverage and protection that is customarily carried by and reasonably available to prudent owners and associations of projects similar in construction, location and use. If the Board elects to materially reduce the coverage required to be maintained by the Association from the coverage required in this Article, the Board shall make all reasonable efforts to notify the Owners and Mortgagees of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. The Association and its directors and officers, and the Owners shall have no liability to each other or to any Mortgagee and shall not be in breach of their obligations hereunder, if after a good faith effort, the Association or Owner is unable to obtain one or more of the insurance coverages required hereunder to the extent the insurance is no longer available, or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or in the case of insurance required to be maintained by the Association, if the Owners fail to approve any assessment increase needed to fund the insurance premiums.

## ARTICLE 12 DESTRUCTION OF IMPROVEMENTS AND CONDEMNATION

12.1 **Restoration Defined.** As used in this Article 12, the term "restore" or "restoration" shall mean repairing, rebuilding or reconstructing damaged Improvements to substantially the same condition and appearance in which they existed prior to fire or other casualty damage.

12.2 **Restoration Proceeds for Association Property.** The costs of restoration of the damaged Improvement shall be paid first from any insurance proceeds paid to the Association under existing insurance policies. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be paid into reserves and held for the benefit of the Association. If the insurance proceeds are insufficient to restore the damaged Improvement, the Board shall then add to the insurance proceeds all reserve account funds designated for the repair or replacement of the damaged Improvement. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to pay the total costs of restoration, a Special Assessment against all Owners shall be levied by the Board up

to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in this Declaration and by Applicable Laws. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored.

12.3 **Private Streets.** The Board shall have the duty to restore all Private Streets within the Community. In the event the proceeds of insurance are not sufficient to cause such restoration, the Board shall levy a Special Assessment to provide the necessary funds for such restoration.

12.4 **Rebuilding Contract.** The Board or its authorized representative shall obtain bids from at least two (2) licensed and reputable contractors and shall accept the restoration work from whomever the Board determines to be in the best interests of the Members. The Board shall have the authority to enter into a written contract with the contractor for such restoration, and the insurance proceeds shall be disbursed to the contractor according to the terms of the contract. The Board shall take all steps necessary to assure the commencement and completion of authorized restoration at the earliest possible date. Such restoration shall be commenced no later than one hundred eighty (180) days after the event requiring restoration and shall thereafter be diligently prosecuted to completion. Such restoration shall return the damaged Improvements to substantially the same condition and appearance in which it existed prior to the damage or destruction.

12.5 **Minor Repair and Reconstruction.** The Board shall have the duty to repair and reconstruct Improvements, without the consent of Members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Ten Thousand Dollars (\$10,000.00). The Board is expressly empowered to levy a Special Assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable and determine whether to levy an Enforcement Assessment against any Owner who caused the damage pursuant to **Section 11.1.2(f)**, such assessment to be levied as described above (but without the consent or approval of Members, despite any contrary provisions in this Declaration).

12.6 **Damage to Residential Units.** Restoration of any damage to or destruction of the Residential Units shall be made by and at the individual expense of the Owner of the Residential Units so damaged or destroyed. In the event an Owner (and with the consent of the Owner's Mortgagees) elects not to rebuild the Condominium, the Owner shall landscape and maintain the Owner's Residential Unit in an attractive and well-kept condition. All restoration which is commenced by an Owner shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Board as provided in **Article 9**.

12.7 **Condemnation of Association Property.** If any portion of the Association Property is taken by condemnation, eminent domain or any proceeding in lieu thereof, then the Owners of the Association Property, and their Mortgagees as their respective interests then appear, shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds would be distributed pursuant to the provisions above; provided, however, that should it be determined to repair or rebuild any portion of the Association Property, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the same terms, conditions and limitations as are set forth above in this Article for repairing damaged or destroyed portions of the Association Property. A decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in this Article for determining whether to rebuild or repair following damage or destruction.

12.8 **Condemnation of a Residential Unit.** In the event of any taking of a Condominium, the Owner (and such Owner's Mortgagees as their interests may appear) of the Condominium shall be entitled to receive the award for such taking and after acceptance thereof such Owner and such Owner's



Mortgagee shall be divested of all further interest in the Condominium and membership in the Association if such Owner shall vacate such Owner's Residential Unit as a result of such taking. In such event said Owner shall grant its remaining interest in the Common Area appurtenant to the Residential Unit so taken, if any, to the other Owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each.

### **ARTICLE 13 PARTITION AND SEVERABILITY OF INTERESTS**

13.1 **Suspension.** The right of partition is suspended pursuant to California Civil Code Section 1359 as to the Community. Nothing in this Section shall be deemed to prohibit partition of a co-tenancy in a Condominium.

13.2 **Partition.** Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of the Community, nor shall Declarant, any Owner or any other person acquiring any interest in any Condominium in the Community seek any such judicial partition. The undivided interest in the Common Area described above may not be altered or changed as long as the prohibition against severability of interests in a Condominium remains in effect as provided in this Declaration. Notwithstanding the foregoing, judicial partition shall be permitted as follows:

13.2.1 With the approval, after substantial destruction or condemnation of the Community occurs, of at least sixty-seven percent (67%) of the total Voting Power of the Association and approval by Eligible Holders who represent fifty-one percent (51%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

13.2.2 With the approval, for reasons other than substantial destruction or condemnation of the Community, of at least sixty-seven percent (67%) of the total Voting Power of the Association and approval by Eligible Holders who represent at least sixty-seven percent (67%) of the Condominiums that are subject to Mortgages held by Eligible Holders; or

13.2.3 As allowed by California law, including California Civil Code Section 1359, as the same may be amended from time to time.

An Eligible Holder who receives a written request to give such approvals who does not deliver or mail the requesting party a negative response within sixty (60) days shall be deemed to have given such approval provided such written request was delivered by certified mail or registered mail with "return receipt" requested. For so long as is required by FNMA's legal requirements for project acceptance, all references to "Eligible Holder" in this **Section 13.2** shall be deemed to include all First Mortgagees.

13.3 **Distribution of Proceeds.** Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as specified or apportioned in the judgment of partition, or if not so specified, as their interests appear in proportion to the fair market value of the Condominiums at the date of the sale as determined by an independent appraisal conducted by a member of the American Institute of Real Estate Appraisers with the designation of a Member Appraisal Institute (M.A.I.) or if such institute no longer exists, an appraiser of comparable experience.

13.4 **Power of Attorney.** Each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Community, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Community may be had under California Civil Code Section 1359. The power of attorney shall:

13.4.1 Be binding on all Owners, whether they assume the obligations under this Declaration or not;

13.4.2 Be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of at least seventy-five percent (75%) of the Owners and at least seventy-five percent (75%) of all Institutional Mortgagees; and

13.4.3 Be exercisable only after recordation with the County Recorder of a certificate executed by those who have power to exercise the power of attorney that the power of attorney is properly exercisable under the authority of this Declaration. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith; provided, however, that said power of attorney shall not apply to the Administrator of Veterans Affairs, an Officer of the United States of America.

**13.5 Prohibition Against Severance.** An Owner shall not be entitled to sever such Owner's Residential Unit from its membership in the Association, and shall not be entitled to sever such Owner's Residential Unit and such Owner's membership from such Owner's undivided interest in the Common Area for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to such Owner's Residential Unit over the Association Property from such Owner's Condominium, and any attempt to do so shall be void. It is intended hereby to restrict severability pursuant to California Civil Code Section 1358. Notwithstanding the foregoing, the suspension of such right of severability contained herein shall not extend beyond the period set forth in **Section 13.2** in which the right to partition the Community is suspended thereunder.

**13.6 Conveyances.** After the initial sales of the Condominiums, any conveyance of a Condominium by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this Section shall preclude the Owner of any Condominium from creating an estate for life or years, co-tenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

## **ARTICLE 14 RIGHTS OF MORTGAGEES**

**14.1 Conflict.** Notwithstanding any contrary provision contained elsewhere in the Governing Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees as specified herein.

**14.2 Liability for Unpaid Assessments.** Any Institutional Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the First Mortgage (except upon a voluntary conveyance to the Institutional Mortgagee) or by foreclosure of the First Mortgage shall take the property free of any claims for unpaid assessments or charges against the Condominium which accrue prior to the acquisition of title to the Condominium by the Institutional Mortgagee.

**14.3 Payment of Taxes and Insurance.** All taxes, assessments and charges that may become a lien prior to the lien of any First Mortgagee shall be levied only to the individual condominium and not the Community as a whole. Institutional Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against any Association Property or Improvements situated thereon and may pay overdue premiums on property insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Association Property. Institutional Mortgagees making such payments shall be owed immediate reimbursement for such expenditures from

the Association and, on demand, the Association shall execute an agreement in favor of all Institutional Mortgagees reflecting entitlement to reimbursement.

14.4 **Notice to Mortgagees.** An Eligible Holder is entitled to timely written notice of the following events:

14.4.1 **Condemnation.** Any condemnation loss or casualty loss that affects either a material portion of the Community or the Residential Unit on which the Eligible Holder holds a First Mortgage;

14.4.2 **Delinquency.** Any delinquency in the payment of assessments or charges owed by the Owner of a Condominium that is subject to a First Mortgage held by the Eligible Holder if the delinquency is not cured within sixty (60) days after its due date;

14.4.3 **Lapse in Insurance.** Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

14.4.4 **Actions Relating to Damage and/or Condition.** Any proposal to take any action specified in this **Article 14** or in the **Article 12**;

14.4.5 **Defaults.** Any default by the Owner-Mortgagor of a Condominium that is subject to a First Mortgage held by an Eligible Holder in the performance of its obligations under this Declaration or the Bylaws which is not cured within sixty (60) days; or

14.4.6 **Actions Requiring Consent of Mortgagees.** Any proposed action that requires the consent of a specified percentage of Mortgagees.

For so long as is required by FNMA's legal requirements for project acceptance, all references to "Eligible Holder" in this **Section 14.4** shall be deemed to include all First Mortgagees and all guarantors of First Mortgages.

14.5 **Reserve Fund.** The Association shall maintain as a reserve fund a reserve account fund sufficient to pay for maintenance, repair and periodic replacement of the Association Property and other Improvements that the Association is obligated to maintain. This reserve fund shall be funded by Regular Assessments of Owners that are payable in installments rather than by Special Assessment; provided, however, that this provision shall not be deemed to limit the power of the Association to levy any other type of assessment or charge authorized by this Declaration.

14.6 **Inspection of Books and Records.** Upon request, any Owner or First Mortgagee shall be entitled to inspect the books, records and financial statements of the Association, the Governing Documents and any amendments thereto during normal business hours or under other reasonable circumstances.

14.7 **Financial Statements.** The Association, at its expense, shall prepare an audited financial statement for the immediately preceding Fiscal Year and make the same available within one hundred twenty (120) days after the Association's Fiscal Year-end to any Institutional Mortgagee/Eligible Holder that has submitted a written request for it.

14.8 **Actions Requiring Eligible Holder Approval.** Unless at least sixty-seven percent (67%) of the Eligible Holders (based on one vote for each First Mortgage owned) and at least sixty-seven

percent (67%) of the Owners other than Declarant have given their prior written approval, the Association shall not be entitled to:

14.8.1 By act or omission, seek to abandon or terminate the Community;

14.8.2 By act or omission abandon, partition, subdivide, encumber, sell or transfer any property or improvements owned, directly or indirectly, by the Association for the benefit of the Condominiums and the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Community by the Association and Owners shall not be deemed a transfer within the meaning of this Section);

14.8.3 By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Residential Units, the exterior maintenance of Residential Units, or the upkeep of lawns, plantings or other landscaping in the Community;

14.8.4 By act or omission change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner;

14.8.5 Partition or subdivide a Condominium;

14.8.6 Fail to maintain fire and extended coverage insurance on insurable portions of the Association Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost; and

14.8.7 Use hazard insurance proceeds for losses to any property or Improvements owned by the Association other than for the repair, replacement or reconstruction of such property and Improvements.

**14.9 Votes for Termination of Community.** Any election to terminate the legal status of the Community as a condominium community shall require:

14.9.1 The approval of Eligible Holders that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages held by Eligible Holders and at least sixty-seven percent (67%) of the total Voting Power of the Association if the election to terminate the legal status is a result of substantial destruction or a substantial taking in condemnation of the property within the Community; or

14.9.2 The approval of at least sixty-seven percent (67%) of the total Voting Power of the Association and Eligible Holders that represent at least sixty-seven percent (67%) of the votes of Condominiums that are subject to Mortgages held by Eligible Holders, if **Section 14.9.1** is not applicable.

For so long as is required by FNMA's legal requirements for Community acceptance, all references to "Eligible Holder" in this **Section 14.9** shall be deemed to include all First Mortgages.

**14.10 Condemnation or Destruction.** In the event a portion of the Community is either condemned or destroyed or damaged by a hazard that is insured against, restoration or repair shall be performed substantially in accordance with the provisions of this Declaration and the original plans and specifications for the Community unless Eligible Holders representing at least fifty-one percent (51%) of the votes of Condominiums subject to Mortgages held by Eligible Holders approve the taking of other action by the Association.

14.11 **Self-Management.** The vote or approval by written ballot of at least sixty-seven percent (67%) of the total Voting Power of the Association, at least sixty-seven (67%) of the voting power other than Declarant, and Eligible Holders that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages held by Eligible Holders shall be required to assume self-management of the Community if professional management of the Community has been required by an Eligible Holder at any time.

14.12 **Mortgagee Protection.** A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any First Mortgage made in good faith and for value as to any Condominium in the Community; provided, however, that the conditions contained in this Declaration shall be binding upon and effective against any Owner of a Condominium if the Condominium is acquired by foreclosure, trustee's sale or otherwise.

14.13 **Distribution of Insurance and Condemnation Proceeds.** No Owner, or any other party, shall have priority over any right of Institutional Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominiums or Association Property. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Community is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Institutional Mortgagees naming the Mortgagees, as their interests may appear.

14.14 **Voting Rights on Default.** In case of default by any Owner in any payment due under the terms of any Institutional Mortgage encumbering such Owner's Condominium, or the promissory note secured by the Mortgage, the Mortgagee or its representative, on giving written notice to such defaulting Owner or Owners, and placing of record a notice of default, is hereby granted a proxy and can exercise the voting rights of such defaulting Owner attributable to such Condominium at any regular or special meeting of the Members held during such time as such default may continue.

14.15 **Foreclosure.** If any Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not affect or impair the lien of the First Mortgage. On foreclosure of the Mortgage, the lien for assessments, or installments, that has accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments, including Additional Charges, that herein accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently accrued assessments or other charges may include previously unpaid assessments provided all Owners, including the foreclosure-purchaser, and its successors and assigns are required to pay their proportionate share as provided in this Section.

14.16 **Non-Curable Breach.** Any Mortgagee who acquires title to a Condominium by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or that is not practical or feasible to cure.

14.17 **Loan to Facilitate.** Any Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

14.18 **Appearance at Meetings.** Because of its financial interest in the Community, any Mortgagee may appear (but cannot vote except as may be provided for herein) at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or assessments.

14.19 **Right to Furnish Information.** Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

14.20 **Inapplicability of Right of First Refusal to Mortgagee.** No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium shall be granted to the Association without the written consent of any Mortgagee of the Condominium. Any right of first refusal or option to purchase a Condominium that may be granted to the Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such Condominium, whether voluntary or involuntary, to a Mortgagee that acquires title to or ownership of the Condominium pursuant to the remedies provided in its Mortgage or by reason of foreclosure of the Mortgage or deed or assignment in lieu of foreclosure.

14.21 **Written Notification to Mortgagees or Guarantors of First Mortgages.** If a Mortgagee or guarantor of a First Mortgage is not also an Eligible Holder, any written notice or proposal required or permitted by this Declaration to be given to such Mortgagee or guarantor shall be deemed properly given if deposited in the United States mail, postage prepaid, and addressed to the Mortgagee or guarantor at its address appearing of record in the First Mortgage (or assignment thereof, if applicable).

## **ARTICLE 15 AMENDMENTS**

Except as otherwise set forth in this Declaration, this Article shall not be amended, modified or rescinded until Declarant has conveyed the last Condominium within the Community, including any Phase which may be annexed to and made a part of the Community pursuant to the Article, without (i) the prior written consent of Declarant and (ii) the recording of said written consent in the Office of the County Recorder.

15.1 **Amendment Before the Close of First Sale.** Before the conveyance of the first Condominium to an Owner under a Public Report, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking this Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder.

15.2 **Amendments After the Close of First Sale.** Except as may otherwise be stated in this Declaration, after the conveyance of the first Condominium to an Owner under a Public Report and during the period of time prior to conversion of the Class B membership in the Association to Class A membership, this Declaration may be amended at any time and from time to time provided that the vote or approval by written ballot of a majority of the Voting Power of each class of Members of the Association has been obtained. After conversion of the Class B membership in the Association to Class A membership, this Declaration may be amended at any time and from time to time, provided that the vote or approval by written ballot of (a) at least a majority of the total Voting Power of the Association and (b) at least a majority of the voting power of the Members of the Association other than Declarant has been obtained. The vote on a proposed amendment to the Declaration shall be held by secret written ballot in accordance with the procedures set forth in California Civil Code Section 1363.03 and the rules adopted by the Board pursuant thereto. Such amendment shall become effective upon the recording of a

Certificate of Amendment signed and acknowledged by the President or Vice President of the Association and the Secretary or Assistant Secretary of the Association certifying that such votes or approval by written ballot have been obtained. For the purposes of recording the Certificate of Amendment, the President or Vice-President and Secretary or Assistant Secretary of the Association are hereby granted an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying and executing and recording with the Office of the County Recorder. In addition to the foregoing, in the case of any Material Amendment, as defined below, the vote of Eligible Holders that represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages held by Eligible Holders and at least sixty-seven percent (67%) of the Voting Power of each class of Members (or, after conversion of the Class B membership to Class A, at least sixty-seven percent (67%) of the total Voting Power of the Association and at least sixty-seven percent (67%) of the voting power of Members of the Association other than Declarant) shall also be required. "Material Amendment" shall mean, for the purposes of this **Section 15.2**, any amendments to provisions of this Declaration governing any of the following subjects:

15.2.1 The fundamental purpose for which the Community was created (such as a change from residential use to a different use);

15.2.2 Assessments, collection of assessments, assessment liens and subordination thereof;

15.2.3 The reserve for repair and replacement of the Association Property;

15.2.4 Property maintenance obligations;

15.2.5 Casualty and liability, or hazard insurance or fidelity bond requirements;

15.2.6 Reconstruction in the event of damage or destruction;

15.2.7 Rights to use the Association Property;

15.2.8 Reallocation or conveyance of any interests in the Common Area;

15.2.9 Voting;

15.2.10 Any provision that, by its terms, is specifically for the benefit of Eligible Holders, or specifically confers rights on Eligible Holders;

15.2.11 Expansion or contraction of the Community or the addition, annexation or withdrawal of property to or from the Community, other than the addition or deletion of the Additional Property, the redefinition of Residential Unit boundaries or the conversion of a Residential Unit or Residential Units into Association Property;

15.2.12 Imposition of any restriction on any Owner's right to lease, sell or transfer its Residential Unit; and

15.2.13 Merger or consolidation of the Association.

Any Eligible Holder who receives written request to consent to additions or amendments requiring consent under this provision who does not deliver to the requesting party a negative response within sixty (60) days after receipt of a notice delivered by certified or registered mail, return receipt requested, shall be deemed to have consented to such request. For so long as is required by FNMA's legal requirements



for project acceptance, all references to "Eligible Holder" in this **Section 15.2** shall be deemed to include all First Mortgagees. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Official Records.

**15.3 Further Approvals Regarding Amendments.** Notwithstanding anything to the contrary contained in this Declaration, **Sections 2.12, 2.13, 2.50, 4.3.16, 4.4.13, 4.4.17, 4.4.21, 8.2.3, 8.3.17,** and **Article 17** of this Declaration shall not be amended without the vote or approval by written ballot of (a) at least ninety percent (90%) of the voting power of the Members of the Association other than Declarant, and (b) at least ninety percent (90%) of the Mortgagees.

**15.4 Conflict with Article 14 or Other Provisions of this Declaration.** To the extent any provisions of this Article conflict with the provisions of **Article 14** or any other provision of this Declaration except those contained in **Section 15.2**, the provisions of **Article 14** or the other provisions shall control.

**15.5 Business and Professions Code Section 11018.7.** All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code Section 11018.7 to the extent such section is applicable.

**15.6 Reliance on Amendments.** Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## **ARTICLE 16**

### **ANNEXATION OF ADDITIONAL PROPERTY**

**16.1 Annexation.** Any of the Additional Property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter in this Article. Declarant intends to sequentially develop the Additional Property on a phased basis. However, Declarant may elect not to develop all or any part of such real property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order or develop such real property as a separate community. Although Declarant shall have the ability to annex the Additional Property as provided in this Article, Declarant shall not be obligated to annex all or any portion of the Additional Property, and the Additional Property shall not become subject to this Declaration unless and until a Supplementary Declaration covering it has been recorded.

**16.2 Annexation Without Approval.** All or any part of the Additional Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that:

**16.2.1** The proposed Annexation will not result in a substantial and material overburdening of the common interests of the then existing Owners;



16.2.2 The proposed Annexation will not cause a substantial increase in assessments against existing Owners that was not disclosed in the Public Reports under which pre-existing Owners purchased their interests;

16.2.3 For each Residential Unit in the Community to be annexed for which a rental program has been in effect by the Owner for a period of at least one (1) year as of the date of the conveyance of the first Residential Unit to an Owner under a Public Report in the annexed Phase, the Owner shall pay to the Association, before or concurrently with the first close of escrow for the sale of a Residential Unit within the annexed Phase, an amount for each month or portion thereof during which the Residential Unit was occupied under such rental program that shall be established by the Board for reserves for replacement or deferred maintenance of Association Property Improvements necessitated by or arising out of the use and occupancy of the Residential Units under the rental program;

16.2.4 Before Annexation pursuant to this Section of any of the Additional Property that is being developed as a phased FHA and/or VA Community, plans for the development of the Additional Property must be submitted to FHA and/or the VA as applicable, and FHA and/or VA as applicable, must determine that such plans are in accordance with the previously approved general plan and so advise Declarant; and

16.2.5 Each Declaration effecting the Annexation contemplated under this Section must be executed by Declarant.

For purposes of this Section, the issuance of a Public Report by the DRE shall conclusively be deemed to be satisfaction of the criteria set forth above.

16.3 **Covenants Running With the Land.** Declarant may transfer all or any portion of the Property or the Additional Property to a builder under a grant deed wherein Declarant reserves the right to annex such property and subject it to this Declaration. The restriction on the Additional Property wherein it may be made subject to this Declaration upon the recordation of a Supplementary Declaration is hereby declared to be an equitable servitude upon the Additional Property in favor of the subject Property and any other real property owned by Declarant in the vicinity of the Community and shall run with the land and be binding on and inure to the benefit of all parties having or acquiring any right, title or interest, in such real property.

16.4 **Supplementary Declarations.** The Annexation authorized under the foregoing Sections shall be made by filing of record by Declarant, of a Supplementary Declaration, with respect to the Additional Property which shall extend the plan of this Declaration to such property.

16.5 **Additional Property Not Subject to Declaration.** The Additional Property shall not be subject to any of the rights granted under this Declaration, including but not limited to, easement rights, the rights of use and enjoyment by Owners and the right to enforce this Declaration against such Additional Property, until the conveyance of the first Residential Unit in a Phase of the Additional Property. After such conveyance, the rights granted in this Declaration shall apply only to such Additional Property annexed. Notwithstanding the foregoing, Declarant may elect to commence to pay Regular Assessments on a Phase of Additional Property prior to the conveyance in such Phase to an Owner under a Public Report and, in such case, Declarant shall have the voting rights as to the Condominiums in such Phase pursuant to **Section 5.2** of this Declaration.

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

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

16.7 **De-Annexation.** Declarant may delete all or any portion of the annexed land from the coverage of this Declaration and rescind any Supplementary Declaration, provided that (a) Declarant is the sole Owner of all of the real property described in the Supplementary Declaration to be rescinded or obtains the consent of the fee title Owner of the real property to be de-annexed, (b) Declarant has not exercised any Association vote as an Owner of any portion of the real property to be de-annexed, and (c) assessments have not commenced with respect to any portion of the real property to be de-annexed. Such deletion shall be effective upon the recordation of a written instrument signed by Declarant, in the same manner as the Supplementary Declaration to be rescinded was recorded.

## **ARTICLE 17 TERM AND ENFORCEMENT**

17.1 **Term.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Member, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by at least sixty-seven percent (67%) of the then Members has been recorded, at least one (1) year prior to the end of any such period in the manner required for a conveyance of real property, in which it is agreed that this Declaration shall terminate at the end of the then applicable term.

### **17.2 Enforcement and Nonwaiver.**

17.2.1 **Rights of Enforcement of Governing Documents.** The Association or any Owner shall have a right of action against any Owner, and any Owner shall have a right of action against the Association, to enforce by proceedings at law or in equity, all covenants, conditions, and restrictions, now or hereafter imposed by the provisions of the Governing Documents or any amendment thereto, including the right to prevent the violation of such covenants, conditions and restrictions and the right to recover damages or other dues for such violation except that Owners shall not have any right of enforcement concerning assessment liens. The Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Association Rules, unless the Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Association, Declarant or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

17.2.2 **Procedure for Enforcement.** Notwithstanding anything to the contrary set forth in **Section 17.2.1**, in enforcing any action under the Governing Documents for injunctive relief, declaratory relief and/or monetary damages (excluding actions in Small Claims Court), the parties shall comply with the applicable notice and delivery requirements and other provisions of California Civil Code Section 1350 *et seq.* relating to such enforcement action.

17.3 **Notice of Actions Against Declarant.** To the extent applicable, the Association and each Owner shall comply with the provisions of California Civil Code Section 1368.4, California Civil Code Sections 910 through 938, and any successor statutes or laws, prior to the filing of any civil action

by the Association against the Declarant or other developer of the Community for either alleged damage to the Association Property or other property within the Community that the Association is obligated to maintain or repair, or alleged damage to any other portion of the Community that arises out of, or is integrally related to, such damage to the Association Property or other property within the Community that the Association is obligated to maintain or repair. Such notice shall specify all of the matters set forth in Section 1368.4 and/or California Civil Code Sections 910 through 938, as applicable, and any successor statutes or laws subject to the provisions of **Section 17.4** below.

**17.4 Alternative Dispute Resolution.** The purpose of this **Section 17.4** is to provide an expedited means of resolving any claims, disputes and disagreements which may arise between an Owner or the Association and Declarant or among (i) the Declarant (including any affiliated general contractor of Declarant as defined in California Civil Code Section 911), and (ii) the Association and/or any Owner, after the close of escrow or other conveyance of any portion of the Property by Declarant concerning the Property, Limited Warranty and/or the Customer Care Program that are not resolved pursuant to any applicable statutory dispute resolution procedures (individually referenced to herein as "Dispute" and collectively as "Disputes"). Initially, Declarant will attempt to resolve any Dispute asserted by an Owner or the Association of which it is given notice. If the Dispute cannot be resolved between the parties in this manner, the parties will proceed to mediation, according to the procedures set forth below. If the matter is not resolved by the mediation process, it will be decided through the arbitration procedure as set forth below. Alternatively, Declarant, an Owner or the Association may elect to resolve such Disputes through a small claims court proceeding. **THIS PROCESS INVOLVES WAIVER OF THE RIGHT TO A JURY TRIAL. BY EXECUTING THIS DECLARATION AND BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, RESPECTIVELY, DECLARANT, EACH OWNER AND THE ASSOCIATION, AGREE TO BE BOUND BY THE PROVISIONS OF THIS SECTION 17.4.**

**17.4.1 Mediation.** Subject to the provisions of **Section 17.4.2.(h)(v)** below, and except for actions in small claims court or Disputes that have already been mediated, Owner, the Association and Declarant agree to submit any and all Disputes to mediation before commencing any arbitration. The cost of mediation shall be paid by Declarant. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

**17.4.2 Arbitration.**

(a) **Agreement to Arbitrate.** If a dispute is not resolved through mediation, the Association, each Owner and Declarant shall resolve such Dispute exclusively through binding arbitration in the county in which the Property is located. This arbitration provision shall apply to Disputes of any kind or nature regardless of the nature of the relief sought.

(b) **Waiver of Trial by Judge or Jury.** By agreeing to resolve all Disputes through binding arbitration, the Association, each Owner and Declarant each give up the right to have their respective claims and defenses decided by a judge or a jury. All claims and defenses shall instead be decided by the arbitrator, or by the appeal arbitrators if applicable.

(c) **Rules Applicable to All Cases.** The arbitration will be conducted by Judicial Arbitration and Mediation Services ("JAMS") in accordance with the JAMS rules ("JAMS Rules") then applicable to the claims presented, as supplemented by this **Section 17.4**. The following supplemental rules shall apply to all arbitration proceedings and shall govern in the event of a conflict between the rules set forth below and the rules of JAMS Rules.

(i) **Qualifications of Arbitrators.** The arbitrator shall be neutral and impartial and either a retired judge or a member or former member of the California State Bar with at least 15 years experience as a practicing lawyer.

(ii) **Appointment of Arbitrator.** The arbitrator to preside over the Dispute shall be selected in accordance with the JAMS Rules, but no later than sixty (60) days after a notice of claim is filed.

(iii) **Expenses.** All fees charged by JAMS and the arbitrator shall be advanced by the Declarant. If the Declarant is the prevailing party in the arbitration, the arbitrator may, in his or her discretion and only to the extent permitted by law and the JAMS Minimum Standards of Procedural Fairness, direct the Owner or the Association, as applicable, to reimburse the Declarant for the Owner's or Association's, as applicable, pro rata share of the JAMS fee and arbitrator's fee advanced by the Declarant.

(iv) **Venue.** The venue of the arbitration shall be in the County where the Community is located unless the parties agree in writing to another location.

(v) **Preliminary Procedures.** If state or federal law requires the Association or an Owner or Declarant to take steps or procedures before commencing an action in court, then the Owner or Declarant must take such steps or follow such procedures, as the case may be, before commencing the arbitration. For example, any claims or Disputes pursuant to California Civil Code Section 895 et. seq. as hereafter amended may be subject to the non-adversarial procedures set forth in California Civil Code Section 910 through 938, prior to the initiation of any arbitration or small claims court proceeding against Declarant. In addition, nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Sections 1368.4, 1375, 1375.05 or 1375.1.

(vi) **Participation by Other Parties.** The Association, an Owner and Declarant, to the extent any such party is defending a claim in the arbitration, may, if it chooses, have all necessary and appropriate parties included as parties to the arbitration.

(vii) **Rules of Law.** The arbitrator must follow California substantive law (including statutes of limitations) but strict conformity with the rules of evidence is not required, except that the arbitrator shall apply applicable law relating to privilege and work product. The arbitrator shall be authorized to provide all recognized remedies available at law or equity for any cause of action.

(viii) **Attorneys' Fees and Costs.** Each party shall bear its own attorneys fees and costs (including expert witness costs) in the arbitration.

**17.4.3 Additional Rules Applicable To Certain Cases.** In any arbitration in which a claim of Owner, the Association or Declarant exceeds Two Hundred Fifty Thousand Dollars (\$250,000) in value, the following additional rules will supplement the JAMS Rules and govern in the event of a conflict between the following rules and the rules set forth above, the JAMS Rules, or both.

(a) **Qualifications of Arbitrator.** In addition to the requirements of **Section 17.4.2(c)(i)** above, the arbitrator shall be a retired judge of the California Superior Court, a California Court of Appeal, or the California Supreme Court.

(b) **Rules of Law.** The California Evidence Code shall apply.

(c) **Written Decision.** Within thirty (30) days after the hearing is closed, the arbitrator must issue a written decision. If an Owner, the Declarant or the Association requests it, the arbitrator must issue a reasoned award.

17.4.4 **Procedure for Appeal of Certain Cases.** In any arbitration in which a claim or arbitration award of Owner, the Association or Declarant exceeds Five Hundred Thousand Dollars (\$500,000) in value, Owner, the Association and Declarant hereby adopt and agree to the JAMS Optional Appeal Procedure. The following additional rules will supplement the JAMS Optional Appeal Procedure and govern in the event of a conflict between the following rules and the JAMS Optional Appeal Procedure.

(a) **Right of Appeal.** There shall be no right to appeal unless the oral evidence received by the arbitrator was preserved in a manner such that it can be converted to an accurate and reliable written transcript.

(b) **Appellate Panel.** An appeal shall be decided by one (1) neutral appeal arbitrator unless either party, within the time permitted for the appointment of the appeal arbitrator, elects to have the appeal decided by a panel of three (3) appeal arbitrators. Any party who elects to have an appeal decided by a panel of three (3) appeal arbitrators agrees to be solely responsible for the cost of having two (2) additional appeal arbitrators. The sole appeal arbitrator, or at least one member of any panel of three (3) arbitrators, shall have prior experience as a member of an appellate panel of the California Court of Appeal.

(c) **Issues on Appeal.** The only issues that may be considered on appeal are: (1) the award of money was excessive; (2) the award of money was insufficient; (3) the arbitrator awarded non-monetary relief that was inappropriate; (4) a party who received non-monetary relief should have received other or additional relief. A majority of the appeal arbitrators may affirm the arbitration award or make any alternative award they find to be just, but they must not reject the arbitrator's decisions (a) that a particular party is entitled to relief of some nature or amount, or (b) that a particular party is responsible to provide relief of some nature or amount.

(d) **Expenses and Costs on Appeal.** The fees charged by JAMS and the appeal arbitrator(s) shall be advanced by the Declarant, except as provided in **Section 17.4.4(b)** above. The party who files the appeal must, at its sole expense, provide JAMS and all non-appealing parties with a certified copy of the hearing transcript, and must provide JAMS with copies of all documentary evidence and all other tangible evidence received by the arbitrator. If more than one party appeals, the appealing parties must share equally the cost of the transcript and copies of all other documentary and tangible evidence received by the arbitrator. The appeal arbitrators may, within thirty (30) days of the decision, award costs of the nature provided in the Federal Rules of Appellate Procedure. If the Declarant is the prevailing party on appeal, the appeal arbitrator(s) may, in his, her or their discretion and only to the extent permitted by law and JAMS Minimum Standards Of Procedural Fairness, include the non-prevailing party(ies) pro rata share of the JAMS fee and arbitrator's fee advanced by the Declarant in the award of costs on appeal.

(e) **New Evidence.** The appeal arbitrators must not receive new evidence. The appeal arbitrators must make their decision based only on the evidence that was presented to the arbitrator, except that the appeal arbitrators may visit any site involved in the Dispute.

17.4.5 **Federal Arbitration Act.** Because many of the materials and products incorporated into the home are manufactured in other states, the development and conveyance of the Property evidences a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C.

§1, et seq.) now in effect and as it may be hereafter amended will govern the interpretation and enforcement of the arbitration provisions set forth herein.

17.4.6 **ARBITRATION OF DISPUTES.** BY EXECUTING THIS DECLARATION, DECLARANT AND BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, EACH OWNER AND THE ASSOCIATION AGREE TO HAVE ANY DISPUTE DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND EACH OWNER, THE ASSOCIATION AND DECLARANT ARE GIVING UP ANY RIGHTS DECLARANT, EACH OWNER AND THE ASSOCIATION MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. DECLARANT, EACH OWNER AND THE ASSOCIATION ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS SECTION 17.4. IF DECLARANT, ANY OWNER OR THE ASSOCIATION REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT.

17.4.7 **Final and Binding Award.** The decision of the arbitrator or, if an appeal is heard, the decision of the appeal arbitrators, shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction in the county in which the Property is located, but the award may be vacated, modified or corrected only as permitted by the Federal Arbitration Act.

17.4.8 **Severability.** In addition to and without limiting the effect of any general severability provisions of this Declaration, if the arbitrator or any court determines that any provision of this Section 17.4 is unenforceable for any reason, that provision shall be severed, and proceedings agreed to in this Section 17.4 shall be conducted under the remaining enforceable terms of this Section 17.4.

17.4.9 **Application of Award.** Any proceeds awarded to the Association arising from any Dispute by settlement, award or otherwise shall be applied in accordance with the provisions of this Section of this Declaration.

## ARTICLE 18 GENERAL PROVISIONS

18.1 **Headings.** The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

18.2 **Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions of it shall not invalidate any other provisions. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Declaration shall become illegal, null, void, against public policy or otherwise unenforceable, for any reason, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

18.3 **Cumulative Remedies.** Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver.

18.4 **Violations as Nuisance.** Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, the manager, or the Association.

18.5 **No Racial Restriction.** No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of its Residential Unit on the basis of race, sex, color or creed.

18.6 **Access to Books.** Declarant may, at any reasonable time and upon reasonable notice to the Board or manager, cause an audit or inspection to be made of the books and financial records of the Association.

18.7 **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

18.8 **Notification of Sale of Condominium.** Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and its Mortgagee and transferor, the common address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to its transferor if the Board has received no notice of transfer as above provided, by certified mail return receipt requested, at the mailing address above specified. Notices shall also be deemed received on the next business day after being sent by overnight courier or upon delivery if delivered personally to any occupant of a Condominium over the age of twelve (12) years.

18.9 **Number, Gender.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

18.10 **Exhibits.** All exhibits referred to in this Declaration are attached to this Declaration and incorporated by reference. The exhibits are depictions for illustrative purposes only. All dimensions are approximate only, "as-built" location and nature of improvement as installed shall control.

18.11 **Binding Effect.** This Declaration shall inure to the benefit of and be binding on the successors and assigns of Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

18.12 **Easements Reserved And Granted.** Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in the first deed by Declarant to any Condominium.



18.13 **Statutory References.** All references in this Declaration to various statutes, codes, regulations, ordinances and other laws shall be deemed to include those laws in effect as of the date of this Declaration and any successor laws as may be amended from time to time.

18.14 **U.S. Department of Veteran Affairs Approval.** So long as there is a Class B membership, the following action shall require the prior approval of the VA and the FHA: any reorganization, merger, dissolution, or consolidation of the Association, and any amendment to this Declaration, a draft of which shall be submitted to and approved by the VA prior to recordation.

18.15 **Applicability of FHA/VA Regulations.** For so long as FHA and/or VA blanket loan approvals are in effect for the Community and while any FHA/VA loan encumbers any Condominium in the Community, the FHA and VA guidelines and regulations shall apply to the Community to the extent that FHA or VA, respectively, asserts application of such guidelines and regulations and those guidelines and regulations are not in conflict with California law or with the requirements of the DRE. At such time as the blanket loan approvals are no longer in effect and no FHA or VA loans encumber any Residential Unit in the Community, the FHA and VA guidelines and regulations shall have no further applicability with respect to the Community.

18.16 **County Requirements.** Notwithstanding any provision in this Declaration to the contrary, the following provisions shall apply:

18.16.1 The Association established herein shall manage and continuously maintain the Association Property, and shall not sell or transfer the Association Property, or any part thereof, absent the prior written consent of the Planning Department of the County or the County's successor-in-interest.

18.16.2 The Association shall have the right to assess the Owners of each individual Residential Unit for the reasonable cost of maintaining such Association Property, and shall have the right to lien the Condominium of any such Owner who defaults in the payment of a maintenance assessment. An assessment lien, once created, shall be prior to all other liens recorded subsequent to the notice of assessment or other document creating the assessment lien.

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

18.16.4 In the event of any conflict between this Declaration and the Articles, Bylaws, Association Rules, and Architectural Guidelines, this Declaration shall control.

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IN WITNESS WHEREOF, Declarant has executed this instrument as of the date set forth above.

DECLARANT:

D.R. Horton Los Angeles Holding Company, Inc.,  
a California corporation

By: Barbara M. Murakami  
Name: Barbara M. Murakami  
Title: Asst. Vice President

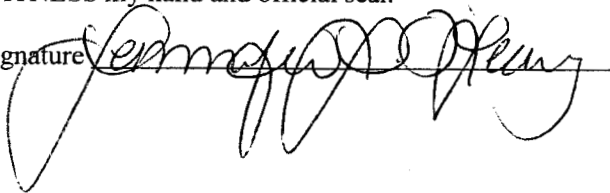
State of California  
County of Riverside }

On May 27, 2011, before me, Jennifer L O'Leary, Notary Public,  
personally appeared Barbara M. Murakami  
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



(Seal)



**LIST OF EXHIBITS**

EXHIBIT "A" .....LEGAL DESCRIPTION OF PROPERTY  
EXHIBIT "B" .....LEGAL DESCRIPTION OF ADDITIONAL PROPERTY  
EXHIBIT "C" .....CROSS UNIT DRAINAGE FACILITIES  
EXHIBIT "D" .....COUNTY MAINTENANCE AREAS  
EXHIBIT "E" .....PARKWAY MAINTENANCE AREAS  
EXHIBIT "F" .....SITE PLAN

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

**PROPERTY:**

LOT 2, OF TRACT NO. 34324, IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER THAT TRACT MAP RECORDED ON June 3, 2011, IN BOOK 434, PAGES 6 THROUGH 9, INCLUSIVE, OF MAPS, IN THE OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA ("MAP"), EXCEPTING THEREFROM THE REMAINDER MODULE AND ROADWAY MODULE A-2, AS SHOWN ON THAT CERTAIN CONDOMINIUM PLAN FOR THE PASEOS PHASE 1, RECORDED IN THE OFFICIAL RECORDS OF RIVERSIDE COUNTY ON JUNE 15, 2011 AS DOCUMENT NO. 2011-0264647 ("CONDOMINIUM PLAN").

**ASSOCIATION PROPERTY:**

LOT 2 OF THE MAP REFERENCED ABOVE, EXCEPTING THEREFROM THE REMAINDER MODULE AND ROADWAY MODULE A-2, AND THE RESIDENTIAL UNITS AND COMMON AREA LOCATED WITHIN THE RESIDENTIAL MODULE A, AS SHOWN ON THE CONDOMINIUM PLAN REFERENCED ABOVE.

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF ADDITIONAL PROPERTY**

**PARCEL 1:**

REMAINDER MODULE AND ROADWAY MODULE A-2, AS SHOWN ON THE CONDOMINIUM PLAN FOR THE PASEOS PHASE 1, RECORDED IN THE OFFICIAL RECORDS OF RIVERSIDE COUNTY ON JUNE 15, 2011 AS DOCUMENT NO. 2011-0264647, WHICH IS SITUATED WITHIN LOT 2, OF TRACT NO. 34324, IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER THAT TRACT MAP RECORDED ON JUNE 3, 2011, IN BOOK 434, PAGES 6 THROUGH 9, INCLUSIVE, OF MAPS, IN THE OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA ("MAP").

**PARCEL 2:**

LOTS 1, 3, A THROUGH I, INCLUSIVE, OF THE MAP REFERENCED ABOVE.

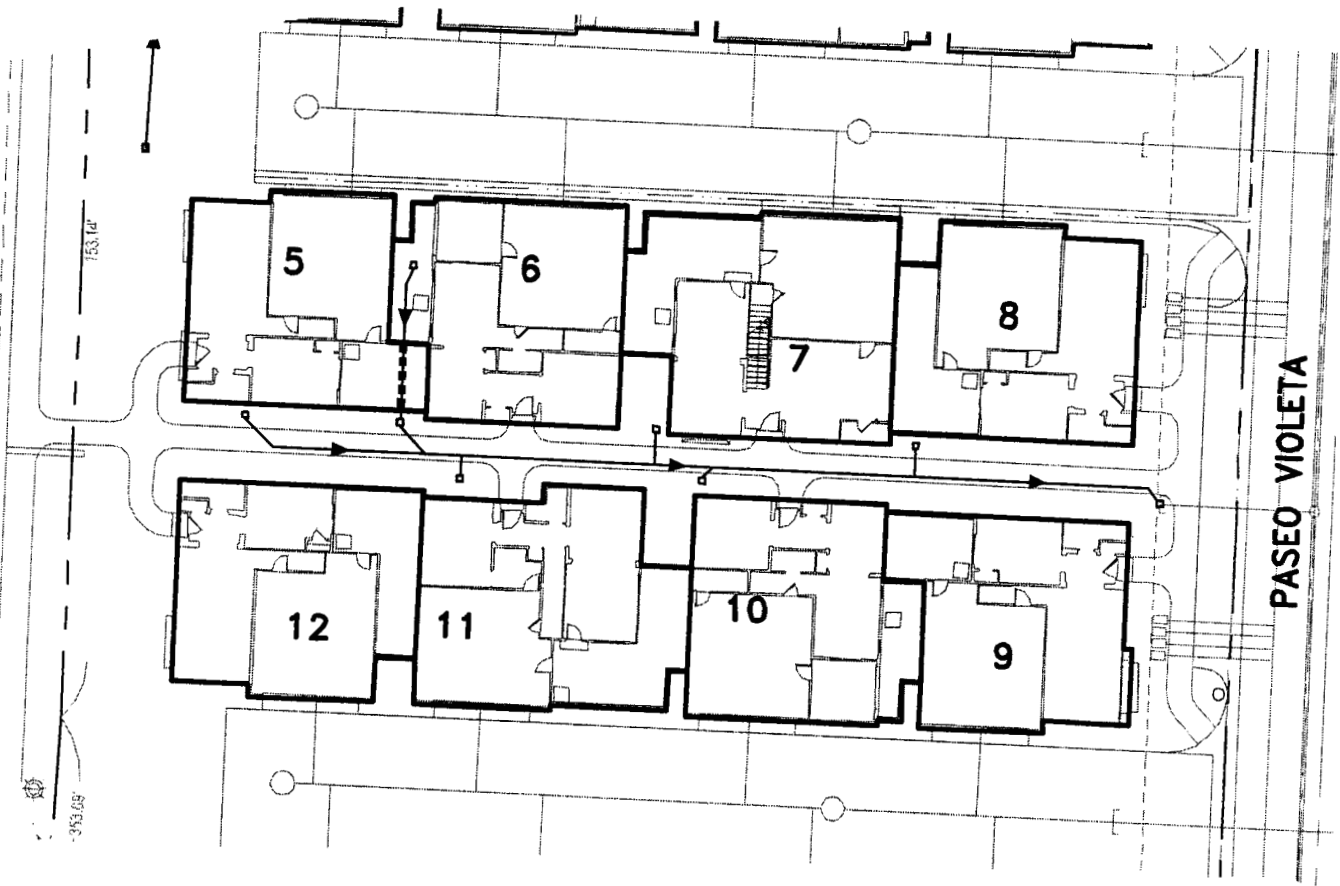
**EXHIBIT "C"**  
**CROSS UNIT DRAINAGE FACILITIES**  
**[Attached Hereto]**

# EXHIBIT CUD

## TRACT 34324

### THE PASEOS

#### CROSS UNIT DRAINAGE EXHIBIT



### LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
PAD=50.0  
F.F.=50.67

BUILDING PLAN NUMBER  
BUILDING ELEVATION
- BUILDING PAD
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'

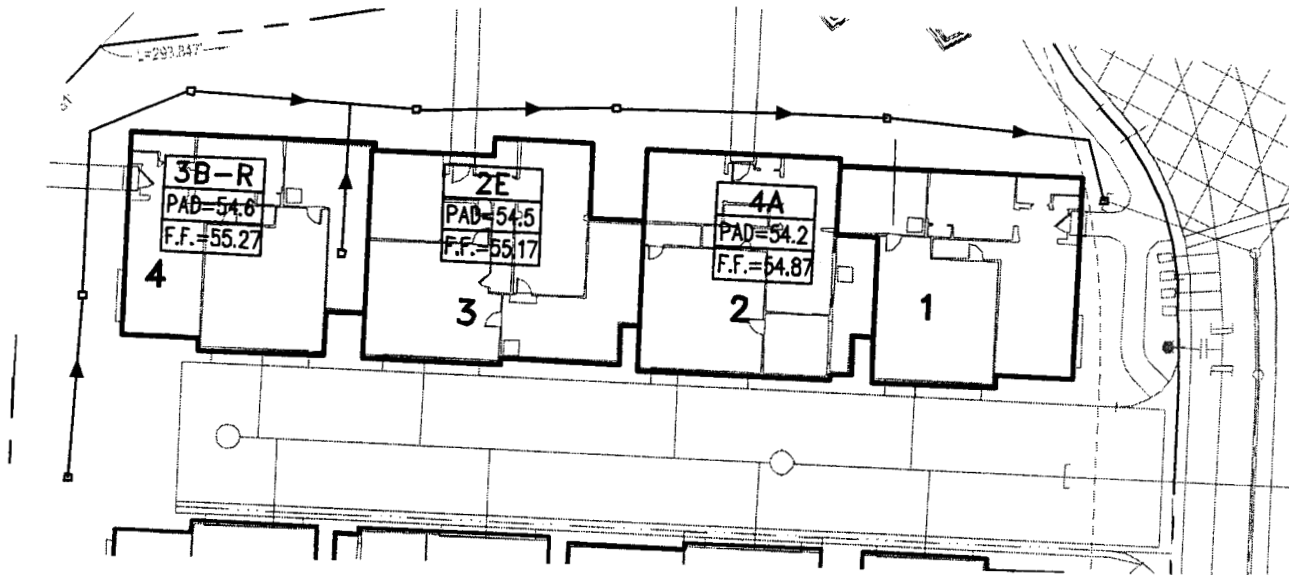


# EXHIBIT CUD

## TRACT 34324

### THE PASEOS

#### CROSS UNIT DRAINAGE EXHIBIT



### LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- BUILDING PLAN NUMBER

BUILDING ELEVATION

2B

PAD=50.0

F.F.=50.67

- BUILDING PAD

- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- - PVC DRAIN PIPE
- ◻ - 12"x12" AREA DRAIN
- BUILDING PLAN NUMBER  
BUILDING ELEVATION

- BUILDING PAD  
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



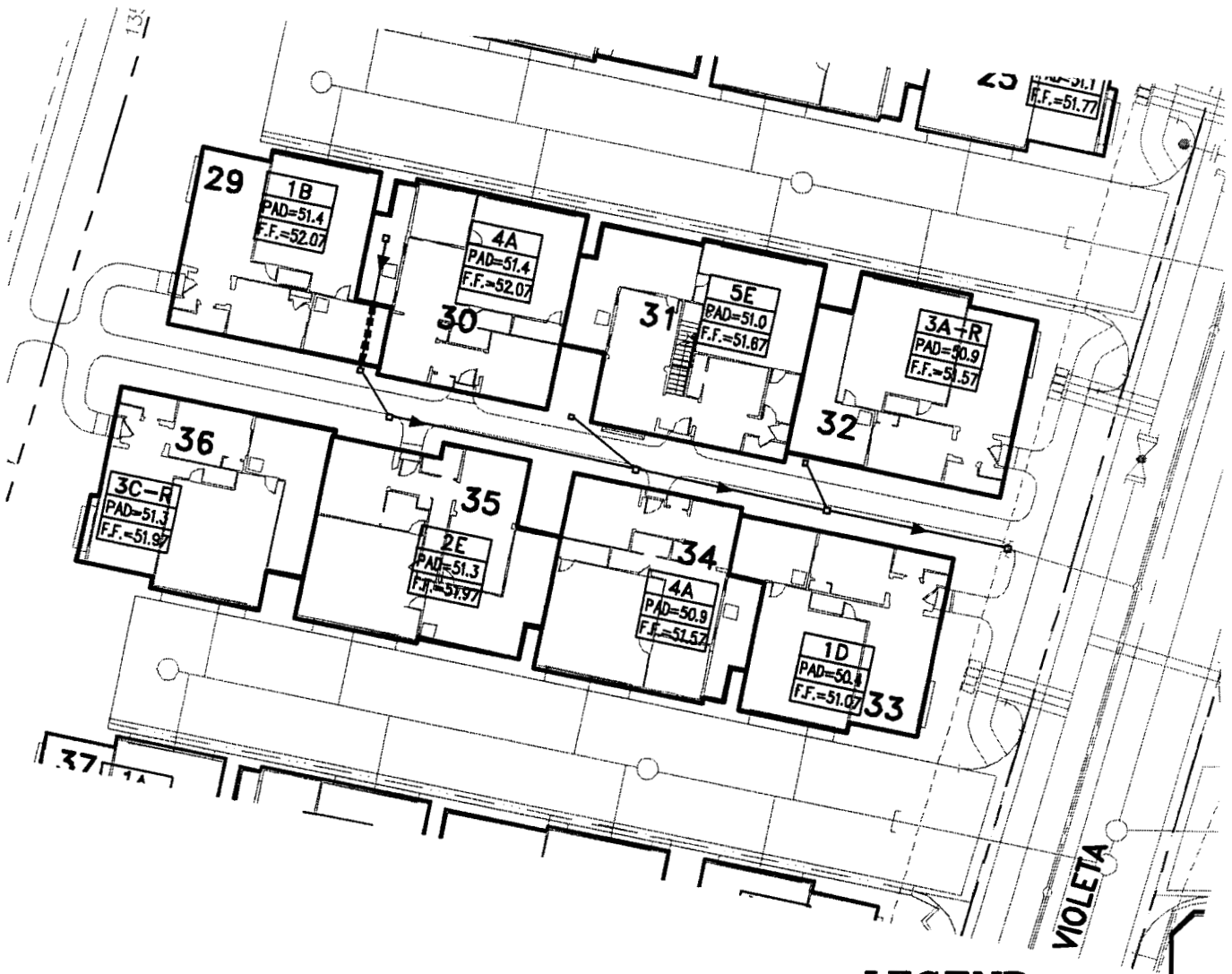
## LEGEND:

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- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- BUILDING PLAN NUMBER
  - BUILDING ELEVATION
- 28  
PAD=50.6  
F.F.=50.67

  - BUILDING PAD
  - BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
PAD=50.0  
F.F.=50.67

BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67

- BUILDING PAD  
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

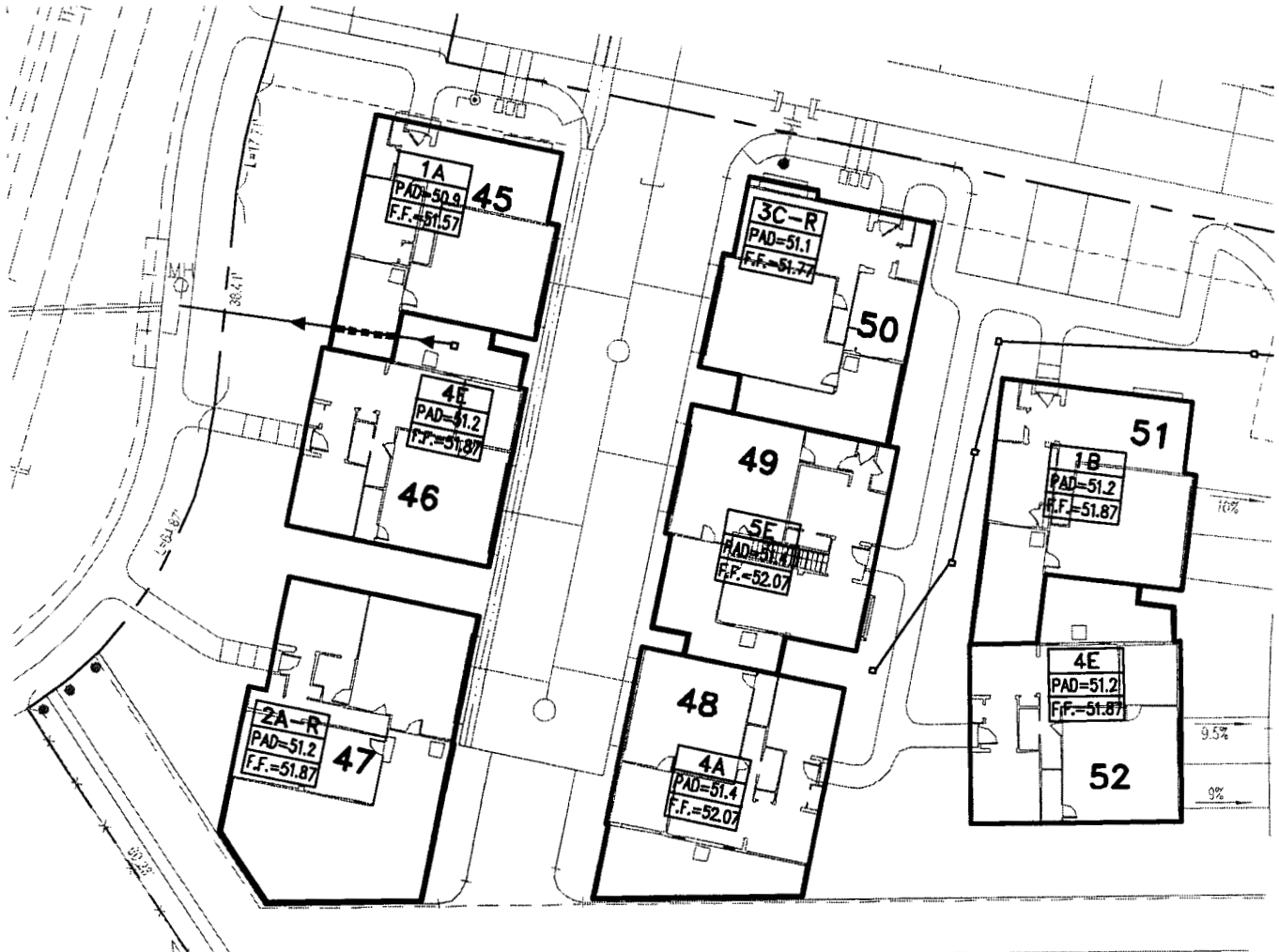
- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
PAD=50.0  
F.F.=50.67

BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67

- BUILDING PAD  
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67
- BUILDING PAD
- BUILDING FINISHED FLOOR

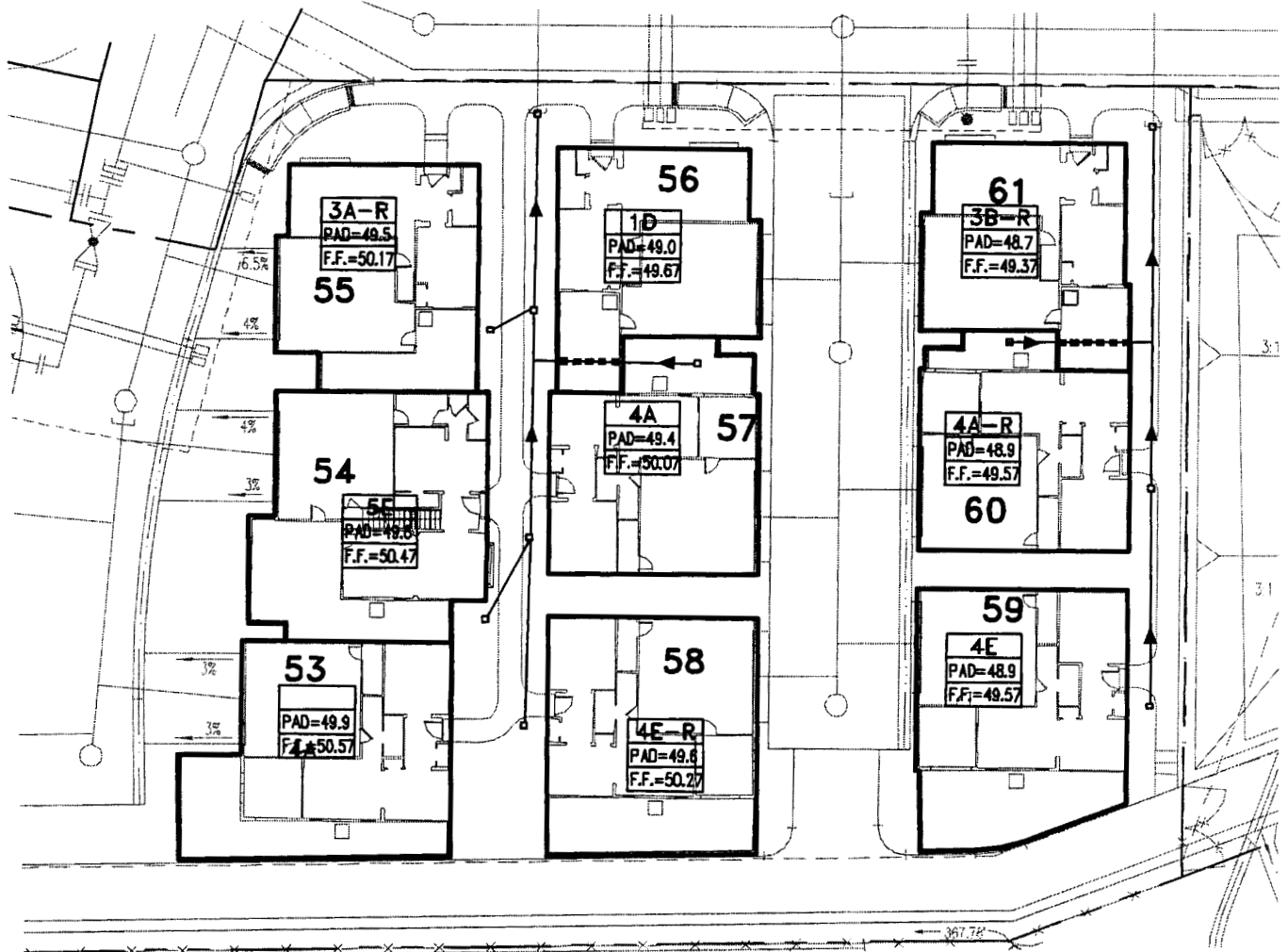
- 8 - BUILDING NUMBER

- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

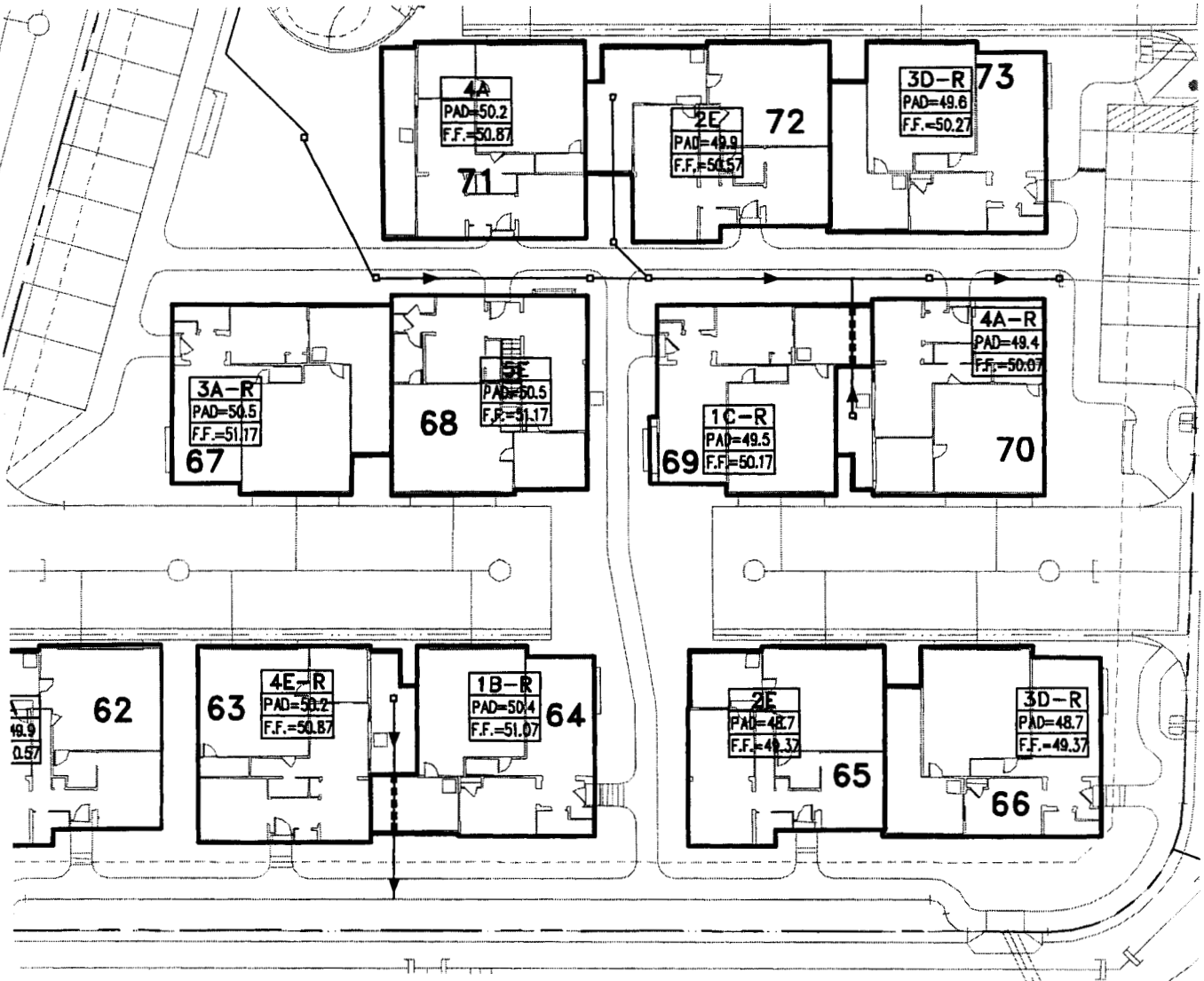
- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
 PAD=50.0  
 F.F.=50.67

BUILDING PLAN NUMBER  
 BUILDING ELEVATION
- BUILDING PAD
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'



# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

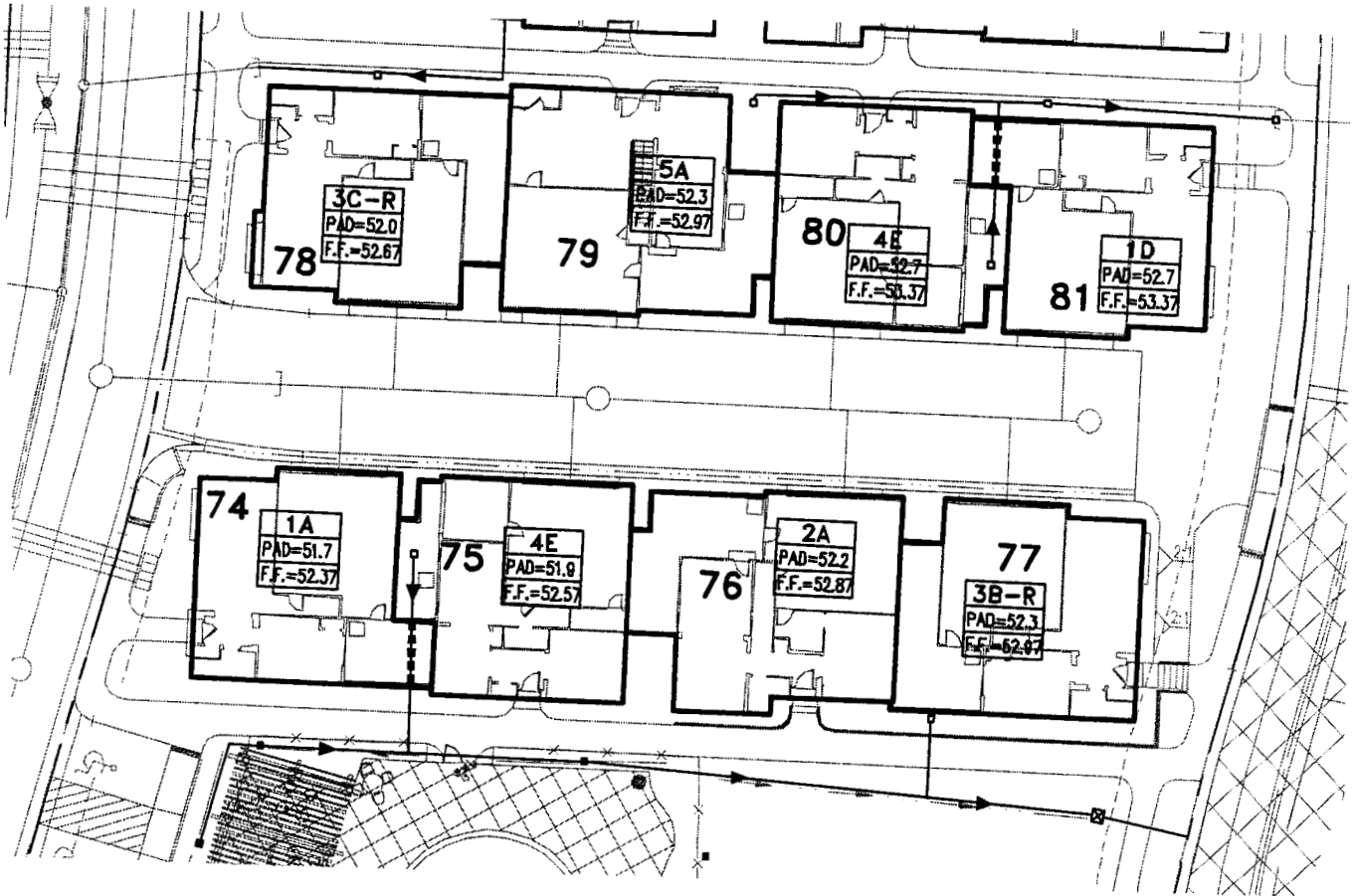
- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.87
- BUILDING PAD
- BUILDING FINISHED FLOOR

- 8 - BUILDING NUMBER
- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- >——— - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67
- BUILDING PAD
- BUILDING FINISHED FLOOR

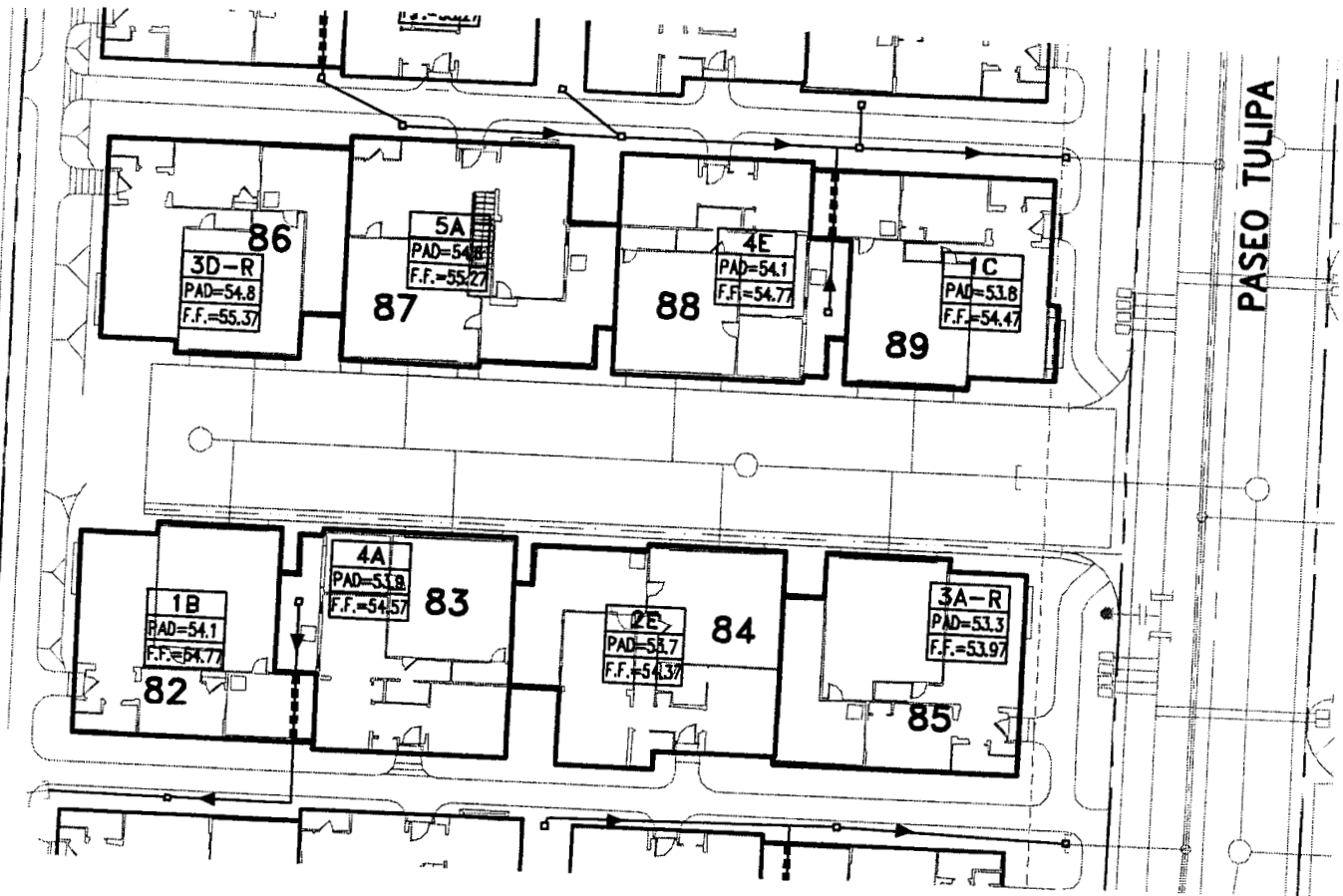
8 - BUILDING NUMBER

————— - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



PASEO TULIPA

## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67
- BUILDING PAD
- BUILDING FINISHED FLOOR

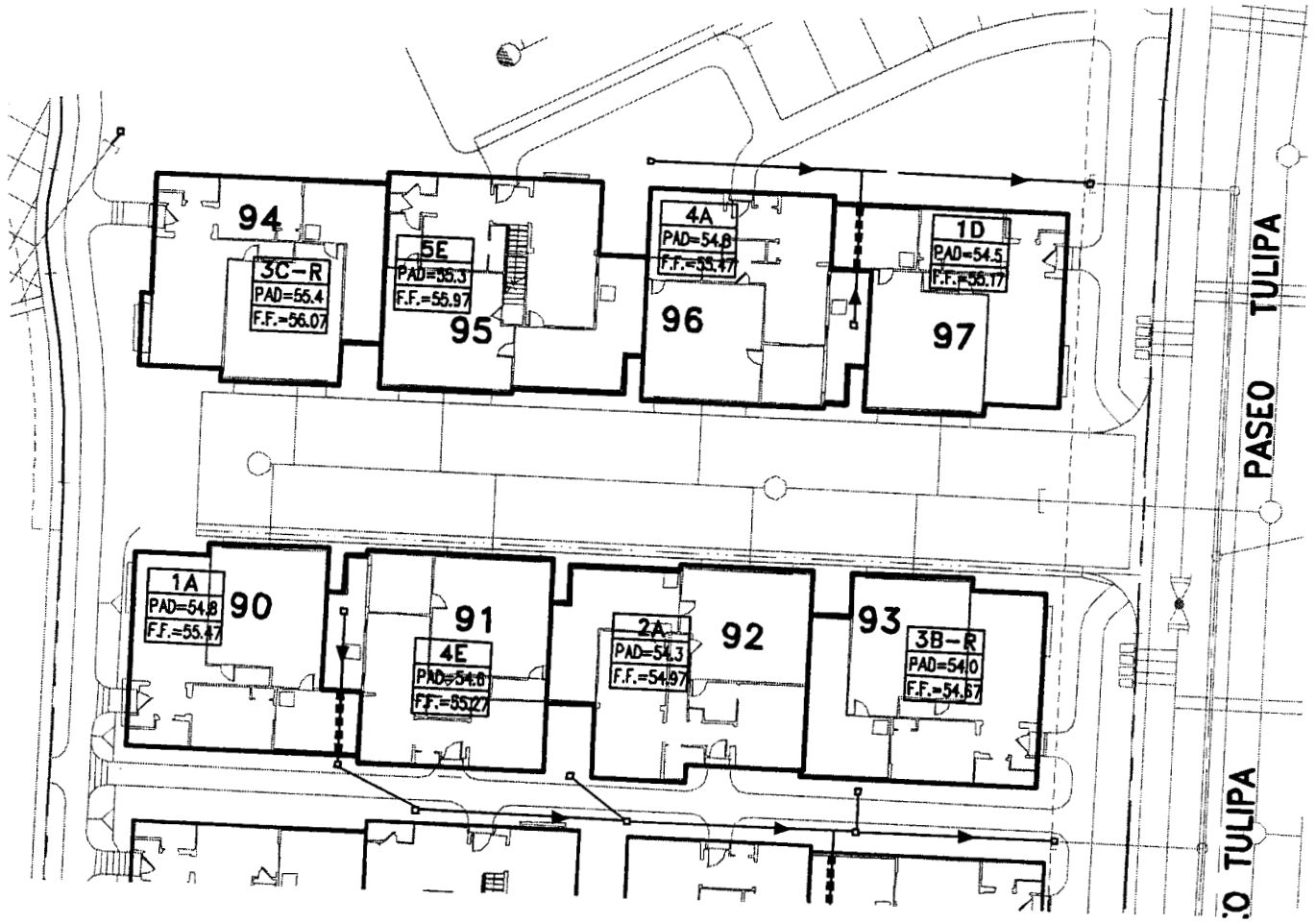
8 - BUILDING NUMBER

————— - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

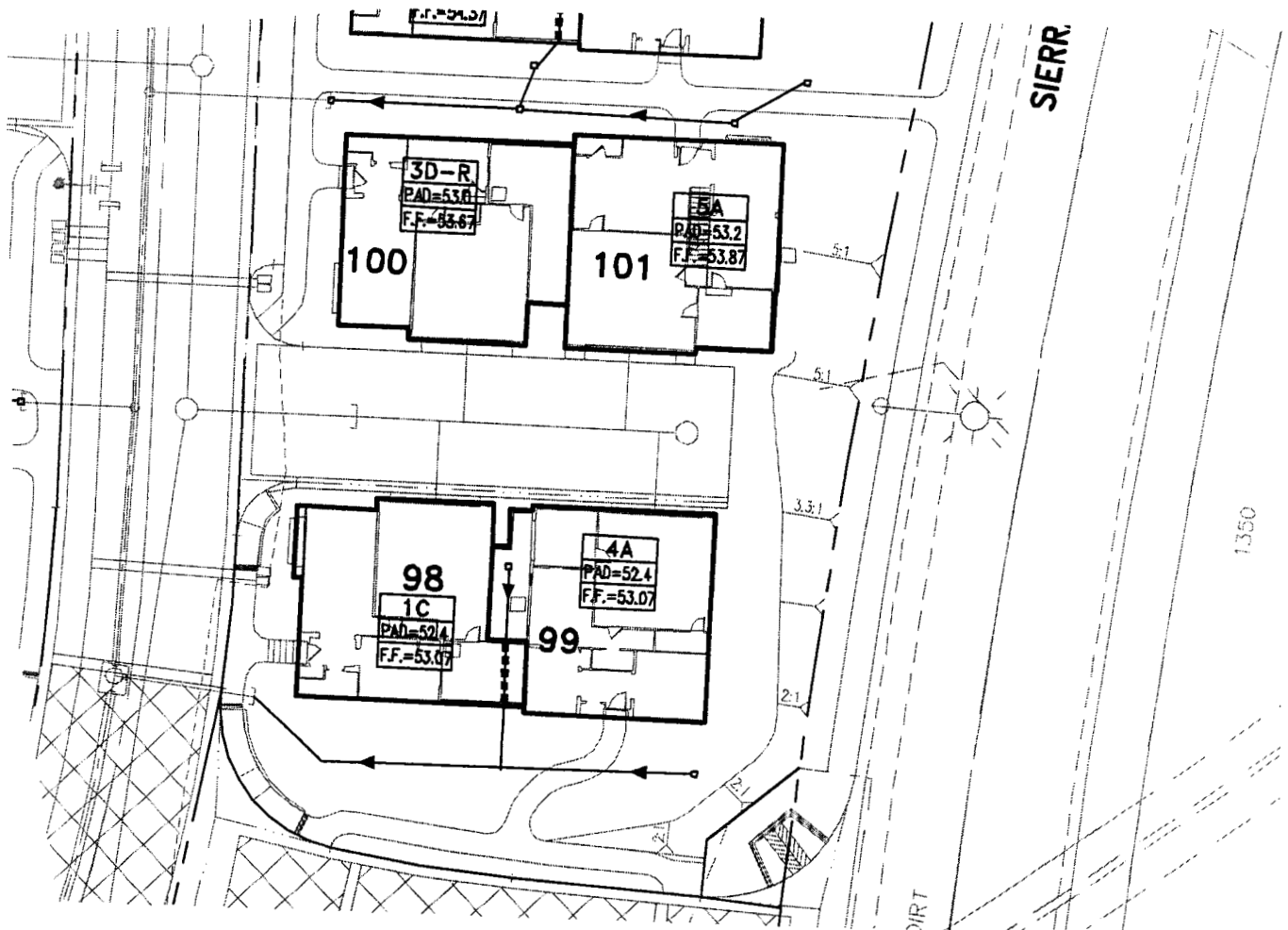
- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67
- BUILDING PAD
- BUILDING FINISHED FLOOR

- 8 - BUILDING NUMBER

- - UNIT BOUNDARY

SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
PAD=50.0  
F.F.=50.67

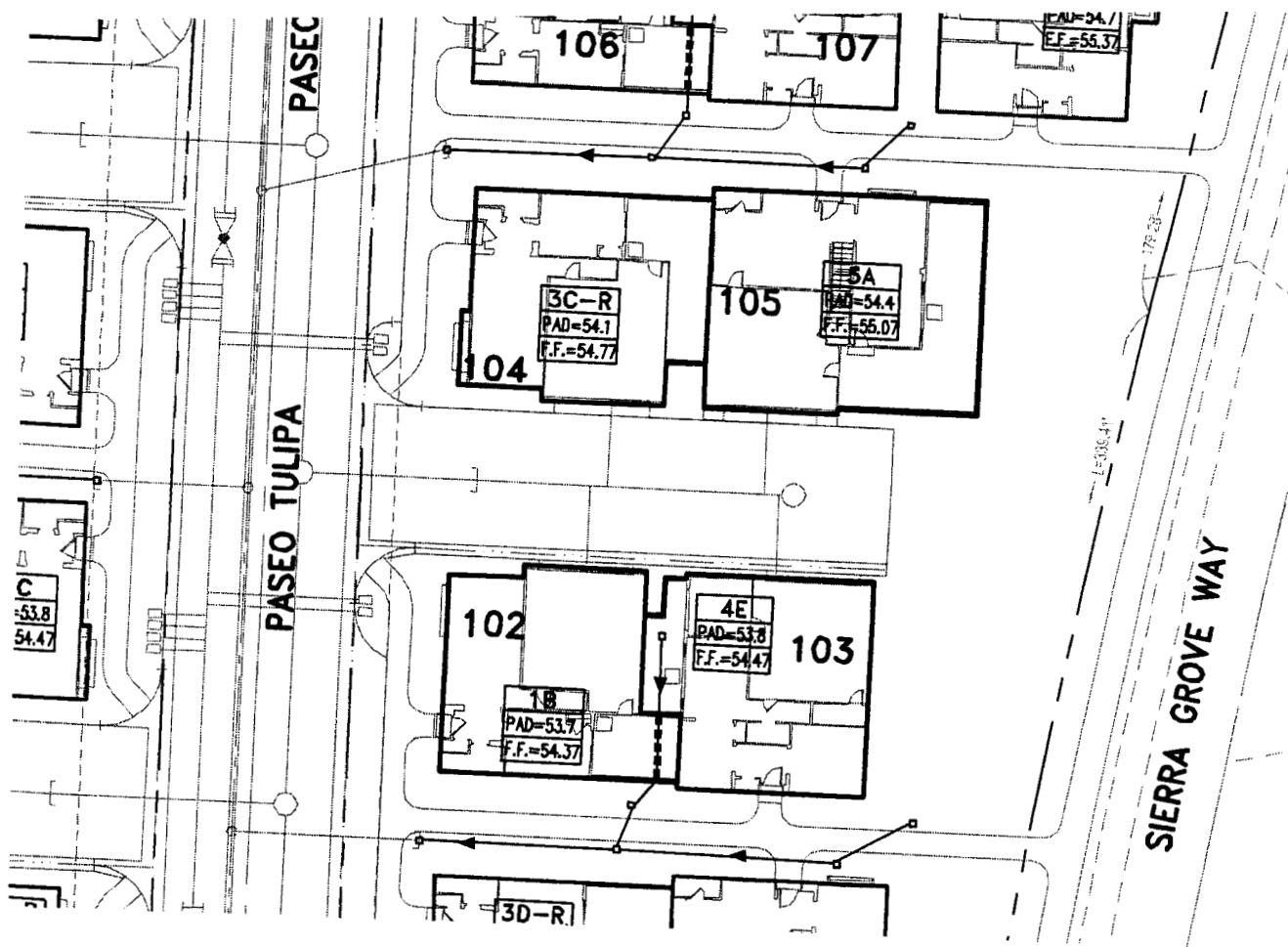
BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67

- BUILDING PAD  
- BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

- BUILDING PLAN NUMBER  
BUILDING ELEVATION
- 2B  
PAD=50.0  
F.F.=50.67
- BUILDING PAD
- BUILDING FINISHED FLOOR

8 - BUILDING NUMBER

- - UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN
- 2B  
 PAD=50.0  
 F.F.=50.67

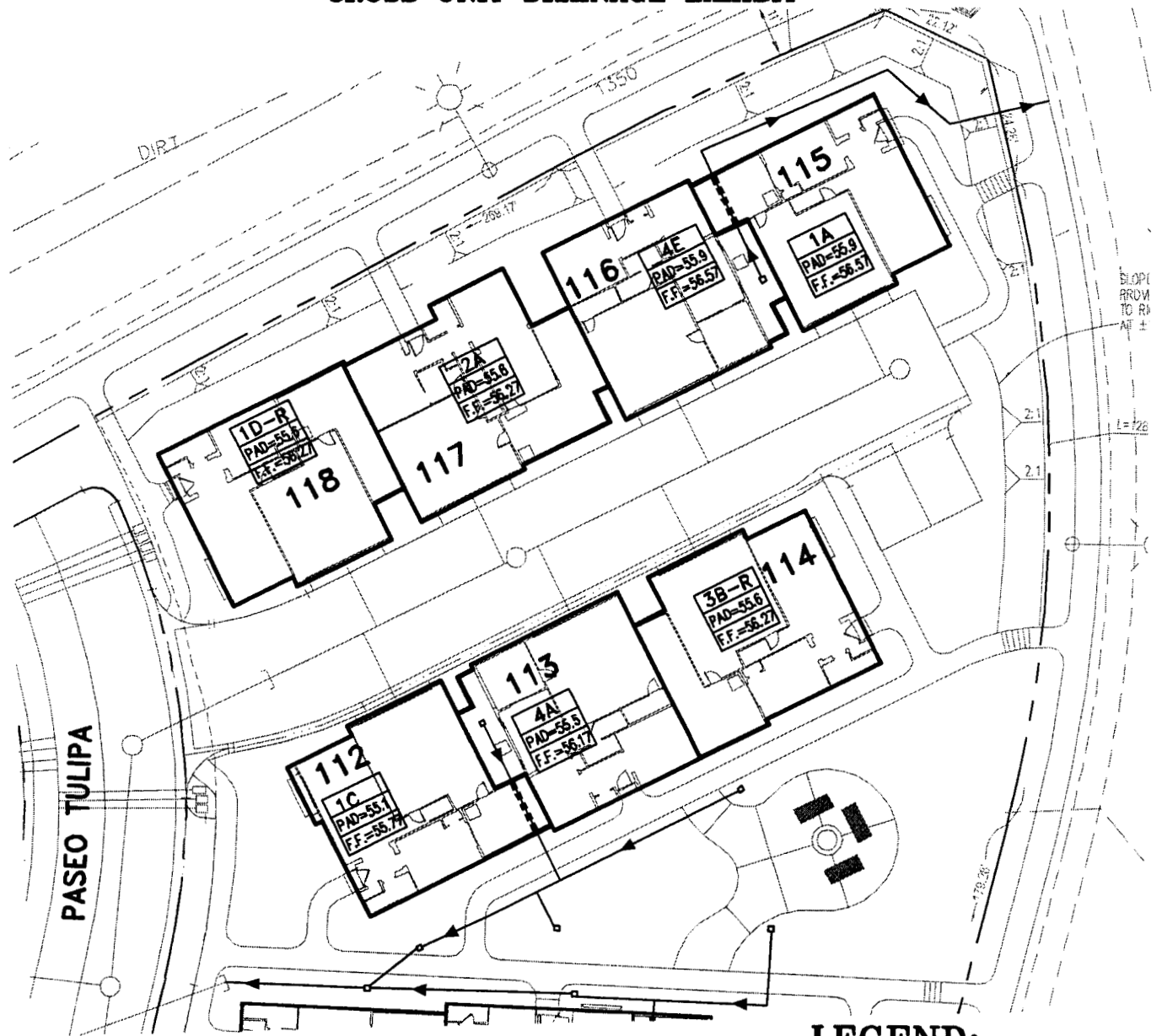
 - BUILDING PLAN NUMBER  
 - BUILDING ELEVATION
- 2B  
 PAD=50.0  
 F.F.=50.67

 - BUILDING PAD  
 - BUILDING FINISHED FLOOR
- 8 - BUILDING NUMBER
- - UNIT BOUNDARY

SCALE: 1"=30'



# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- > - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

BUILDING PLAN NUMBER  
BUILDING ELEVATION

2B  
PAD=50.0  
F.F.=50.67

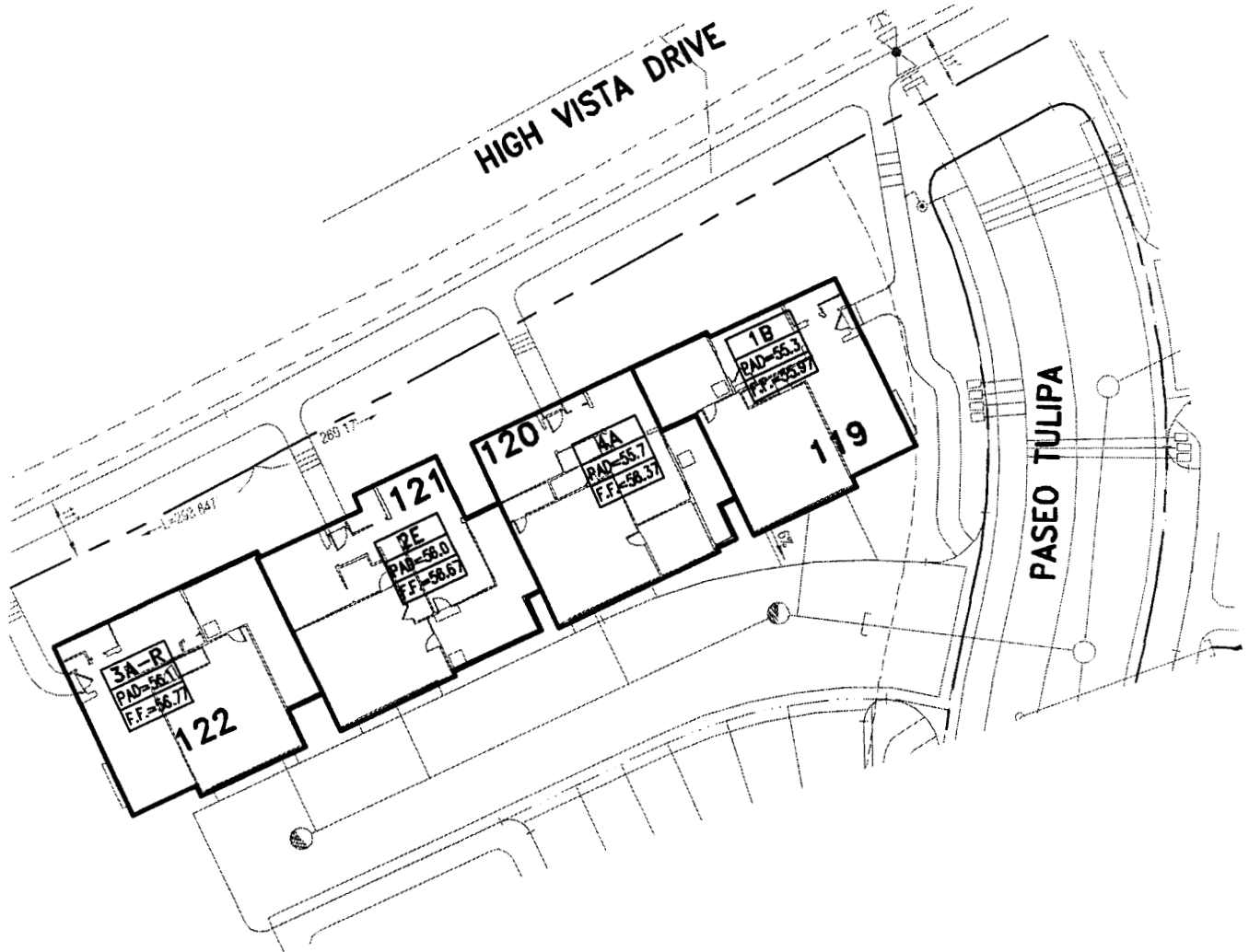
8

- BUILDING PAD
- BUILDING FINISHED FLOOR
- BUILDING NUMBER
- UNIT BOUNDARY



SCALE: 1"=30'

# EXHIBIT CUD TRACT 34324 THE PASEOS CROSS UNIT DRAINAGE EXHIBIT



## LEGEND:

- - PVC CROSS DRAIN PIPE
- ▶——— - PVC DRAIN PIPE
- - 12"x12" AREA DRAIN

- BUILDING PLAN NUMBER  
 BUILDING ELEVATION
- |    |          |            |
|----|----------|------------|
| 2B | PAD=50.0 | F.F.=50.67 |
|----|----------|------------|
- BUILDING PAD
  - BUILDING FINISHED FLOOR
  - BUILDING NUMBER
  - UNIT BOUNDARY



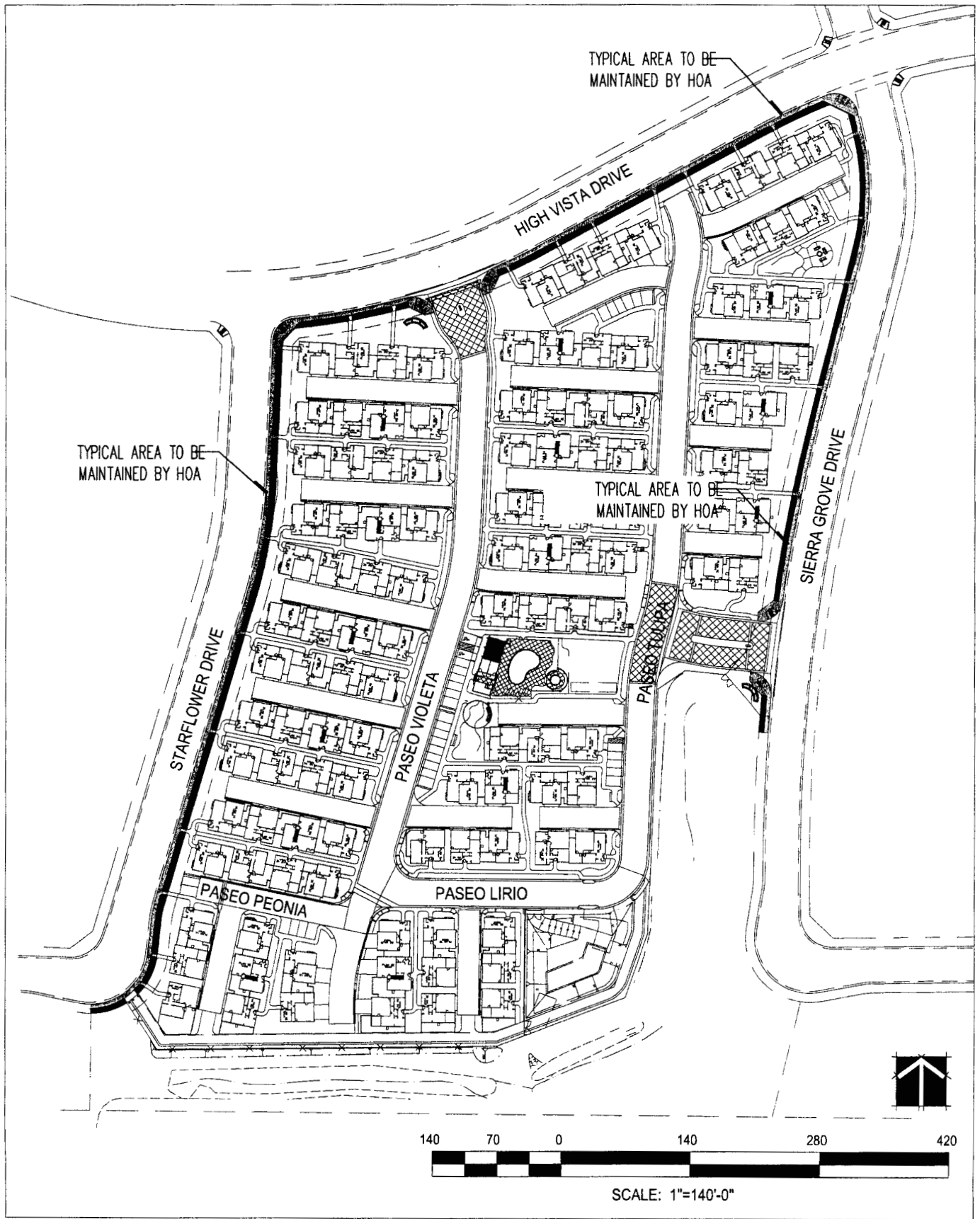
SCALE: 1"=30'

**EXHIBIT "D"**

**COUNTY MAINTENANCE AREAS**

LOTS F THROUGH I, INCLUSIVE, OF TRACT NO. 34324, IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER THAT TRACT MAP RECORDED ON June 3, 2011, IN BOOK 434, PAGES 6 THROUGH 9, INCLUSIVE, OF MAPS, IN THE OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

**EXHIBIT "E"**  
**PARKWAY MAINTENANCE AREAS**  
**[Attached Hereto]**



LANDSCAPE MAINTENANCE EXHIBIT  
TR 34324, IP 070001

**EXHIBIT “F”**  
**SITE PLAN**  
**[Attached Hereto]**

