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ORIGINAL

Mark Sequeira
Citizens Opposed to SanTan
2236 East Saratoga Street
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(480)558-7233
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and Mr. K. Sundlof's
st re: case no. 105
Docket Number 200000B-00-0105

2000 OCT 20 P 1:27

AZ CORP COMMISSION
DOCUMENT CONTROL

Chairman, COST

Dated October 19, 2000

Arizona Corporation Commission
DOCKETED
OCT 20 2000
DOCKETED BY

IN THE MATTER OF THE APPLICATION OF SALT RIVER PROJECT, OR THEIR ASSIGNEE(S), IN CONFORMANCE WITH THE REQUIREMENTS THE ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF NATURAL GAS-FIRED, COMBINED CYCLE GENERATING FACILITIES AND ASSOCIATED INTRA-PLANT TRANSMISSION LINES, SWITCHYARD IN GILBERT, ARIZONA LOCATED NEAR AND WEST OF THE INTERSECTION OF VAL VISTA DRIVE AND WARNER ROAD.

1.Please provide us with copies of the tapes of recorded conversations taken during the polling process as referenced in your statement on Sept. 14, 2000.

I believe that Cathy Lopez is introducing this evidence into the record at docket control as it was turned over per her request. The additional recordings are still on request and I am not in possession of them.

2. Please state with specificity (?) each and every fact which supports your statement that SRP did not go through the proper channels and did not obtain proper permits.

SRP's public process is woefully inadequate as stated in my Letter of Notification. SRP failed to notify on their website or in mailers facts that could be considered detrimental to prospective home buyers, realtors or the general public. SRP was alerted to this fact by myself in late May and again in early June. SRP consciously decided to continue pursuing a policy of not informing residents unless they specifically asked about areas of concern. Per Cathy Lopez, SRP did not communicate the height of the stacks to the Community Working Group even after they knew by law that they were required to be 150 feet high for proper dispersal. SRP failed to disclose that additional gas lines were being installed. SRP continues to practice 'spin-control' rather than report the facts (as shown in SRP's press release dated Sept. 14, 2000). SRP's spokesperson, Janeen Rohovit, told me over the phone that she chose to present the plant in a positive light and need not discuss details that were considered unattractive or controversial as will be proven in testimony.

3. Please provide all facts and copies of all documents which supports your allegation that SRP has lost, destroyed or suppressed documents.

I believe that you should talk to your client about this. In discussion with Cathy Lopez at SRP's Tempe offices, it was relayed that Randy Dietrich had been deleting emails. Also SRP claimed that communications with the town of Gilbert did not exist that were discovered by a data request to the town of Gilbert. If SRP has not willfully and purposely withheld, suppressed or deleted documents then they should release them. The communications SRP continues to allege did not happen will be brought out in cross-examination. Obviously until recently SRP was suppressing public records and documents claiming customer privacy and client privilege.

4. Please state with specificity(?) each and every fact which supports your statement that SRP "barely scrapes" by on community notification.

SRP's public process is a farce. It is a 'demonstration' of community involvement and notice without any substantive dialogue. I intend to use SRP's statements, past attitudes, witnesses' testimony, cross-examination and the debacle over microplants in Gilbert (see evidence in prior data request) to prove that SRP had no intention of supplying detailed information to the public. I begged SRP to honestly present this plant, both good and bad, the impacts and the need to the public prior to forming COST and they would have none of it. They assured me at a later date that they would be including this data in a next mailing but instead emphasized the Gilbert Intergovernmental Agreement and forgot to mention WHY residents should come out to their open houses and be concerned. At that time I formed COST to help make the public aware - Because SRP refused to do so unless someone came to them and asked specific questions. Then they would meet individually with those concerned and try to do 'damage control' rather than communicate with the public. There was NO WAY in May or June to know about the impact of this expansion unless you knew the EXACT questions to ask. When you contacted the Town of Gilbert they told you to call SRP or go to their website. SRP at that time had NO information whatsoever on their website except the graph showing the need of 2700 megawatts. Later SRP posted images of the stacks ONLY AFTER COST HAD TAKEN DIGITAL PICTURES OF THEIR BOARDS AT THE OPEN HOUSE AND POSTED THEM ON OUR WEBSITE AND RELEASED THEM TO THE MEDIA. SRP called the media and tried to get them suppressed. When the media chose to publish the images SRP decided to release them themselves and post them on their website. Not a good showing of open communication with the public. The EPG's list of 35 contacts that formed the basis of the CWG is suspect. People were referred to them by Maggie Cathey and others who were friends and happened to support the expansion. I discussed this with Maggie and she threatened to sue me but agreed that she had made recommendations to EPG that ended up on the CWG and favorable to SRP's expansion. None of the chosen individuals were elected representatives of their home owners associations. SRP didn't go to the associations for input or to inform them about possible issues needing mitigation until after COST started getting HOAs to mail out flyers and pass resolutions supporting COST's efforts to make the public aware of what was happening in their community. Please READ my Letter of Notification/Protest.

5. Please state all facts and all documents which supports your allegation that SRP offered to pay sums of money to various SRP customers.

Again, ask your clients (Randy Dietrich). There was talk between Randy and myself. There

was communications both verbal and emailed between Randy and the LaTona's (Intervenors) that SRP employees/officials (?) had discussed these issues internally. The LaTona's decided early on to not get involved with COST because of ongoing communications with Randy regarding possible settlements. Only after Randy backed off that position did they become involved with COST. Email enclosed in my last data request bears some of this out. Ask SRP to release the emails pertaining to this issue or perhaps it will be submitted as evidence by the other intervenors. Charlene Koski of the Tribune also has copies of these emails as they were forwarded to the Town of Gilbert and she got them through a data request.

Dated October 19, 2000

Mark Sequeira
Citizens Opposed to SanTan

Original and 25 copies filed this 20th of October, 2000
with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing mailed or hand-delivered
This same date to:

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By:

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Response to SRP and Mr. K. Sundlof's
data request re: case no. 105
Docket Number L00000B-00-0105

Chairman, COST

Dated October 19, 2000

Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF SALT RIVER PROJECT, OR THEIR ASSIGNEE(S), IN CONFORMANCE WITH THE REQUIREMENTS THE ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF NATURAL GAS-FIRED, COMBINED CYCLE GENERATING FACILITIES AND ASSOCIATED INTRA-PLANT TRANSMISSION LINES, SWITCH-YARD IN GILBERT, ARIZONA LOCATED NEAR AND WEST OF THE INTERSECTION OF VAL VISTA DRIVE AND WARNER ROAD.

1.Please state whether you represent a group or organization.

Let it be known that I currently represent 2500 residents of Gilbert and the East Valley who oppose the construction of the above mentioned plant as presented by SRP to the public. I represent the said individuals by way of starting and chairing Citizens Opposed to SanTan.

2. If the answer is yes, please identify the group or organization name and describe the nature of the group or organization.

Citizens Opposed to SanTan was formed: a. To inform the public regarding SRP's public process and lack thereof. b. To engage SRP in meaningful dialogue regarding the nature of the plant and it's effects on the surrounding communities. c. To enlist support of the Gilbert local government and make them aware of community concern and opposition. d. To represent community concerns and opposition on behalf of said communities.

3. Please provide the names and addresses of each member of the group or organization.

I believe that the petitions and letters filed with the Arizona Corporation Commission (Docket Control) already give the information you request.

4. Please state each argument that you intend to raise at the hearing in opposition to SRP's SanTan Expansion Project.

I believe that the arguments proposed by COST are reflected, but not limited, by the Letter of Notification/Protest filed with the ACC, including SRP's problems with disclosure, the lack of neighborhood compatibility and the VAlley's need for power versus 'for-profit' sales.

These arguments are also to include, but not be limited to, the general lowering of air quality if measured on a 'calendar-day' basis using SRP's figure of plant operation=85% to 100%. SRP's use of delaying and deceptive techniques to induce support and quell plant opposition, such as promises of additional monies being provided to area schools even after they knew the facts of the case, promises that this plant would preclude additional transmission lines going into East Valley neighborhoods, neglecting to inform local HOAs or area residents about the scope and nature of their proposed expansion and claims ensuring that this plant will be compatible with the surrounding community.

5. For each argument identified in your answer to number four, describe the factual basis for the argument.

I believe that there is ample evidence available in the current Letter of Notification/Protest to support the arguments therein. However we intend to use witnesses (listed below) and testimony as well as supporting evidence to prove each claim. Again suggestive, but limited to,

a. SRP's problem with disclosure: SRP failed to inform local HOA's in a timely manner of factual data regarding possible impacts to said HOA's and their communities. SRP and EPG also failed to appear and request that local HOA's serve on the community working group that SRP claims has the community's support. None of these individuals were representing area home owners associations. SRP refused to include information in mailers/circulars to area residents that could allow them to make informed decisions regarding getting further informed or even making property-buying decisions in the area. SRP also failed to use their website to inform realtors or potential home buyers to the nature of their expansion or visual/environmental impacts. SRP consistently promised information to area residents that they did not produce (Real Estate Evaluations, Water Usage estimates, Air Studies, etc.). SRP has repeated claimed 'no visible emissions' yet acknowledges increases of visible steam of up to 600%.SRP has declined discussing, or a public debate, the planned expansion since May 26, 1999 in any gathering other than their own open house format that controlled public opinion and kept residents from learning all the issues at hand.

b. The lack of a community 'fit:' SRP has yet to do Environmental Impact Studies for either Air or Water. The Gilbert Town General Plan includes height restrictions to reduce clutter to the skyline and open feel of the town as well as protect high property values and area residents quality of life. According to Gilbert Town minutes and zoning minutes, SRP did not oppose the rezoning process from Agricultural to Residential when this community was being planned and zoned. There are no equivalent structures this height or plants this size in the town of Gilbert. There are no plants of this magnitude in any residential community in America. There is no buffer to this facility as there was in Tempe at the Kyrene facility. SRP has refused to fund any independent air or environmental studies for the Town of Gilbert, COST or area HOAs. SRP is also intent on creating additional noise pollution for residents of Rancho Cimarron and Cottonwood Crossing.

c. SRP claims that all new 825 megawatts of generation 'will be available' to East Valley residents. In their testimony they will refuse to limit the usage of the plant to East Valley residents. SRP will be able to create and sell power from this plant to other states and

counties in violation of the permit the ACC is being asked to grant, polluting Arizona and East Valley skies to keep rates artificially low to East Valley consumers as will be proven in cross-examination. SRP will also not commit in writing to limiting the usage of SanTan to only NEW power needs, opening up a window to create power from SanTan for current East Valley residents so they can divert power from St John and other facilities to sell on the open market as they deem fit or profitable.

6. For each witness that you intend to present at the hearing state:
a. Witness name b. qualifications c. summary of testimony d. exhibits used

List of witnesses COST plans to call:

• Janeen Rohovit (SRP Employee) - Public communications and their content.
• Scott Harrelson (SRP Employee) - Questionable information communicated to newspapers on SRP's behalf.
• Jeff Lane (SRP Employee) - Re: monies given to public schools and improving air quality.
• Bill Meek (Pres., Arizona Utility Investors Association) - Re: Financial interest in SanTan project,...
• Todd Taylor (Spokesperson for Stop Tempe Oasis Project in Tempe) - Re: Push polling in Tempe, negotiations with the city of Tempe, SRP's history of public communications re: Kyrene facility.

• Robert Weir (Past Pres. of Cottonwoods Crossing HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• Marshall Green (Vice Pres. of Finley Farms South HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• Michael Apergis (Pres. of Neely Farms HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• David Hill (Pres. of Lindsay Ranch HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• Charlie Henson (Past Pres. of Rancho Cimarron HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's..
• James Timpano (Board member of Lindsay Meadows HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• Jim McClintock (Past Pres. of Western Skies HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.
• John Wagner (Pres. of Silverstone HOA) - Re: SRP's failed communications with area HOAs and environmental compatibility, CC&R's.

• Maggie Cathey (Gilbert Town Council) - Re: recommendations to EPG of residents for community working group, communications with SRP re: proposed SanTan power plant, Gilbert Gen. Plan, Gilbert height restrictions...
• Mike Evans (Gilbert Town Council) - Re: SRP's failed communications and concerns, SRP's failure at restricting zoning surrounding SRP's SanTan site, Gilbert Gen. Plan, height of screen surrounding SanTan and testimony on photos shown at SRP's last open house, Gilbert height restrictions,...
• Phil Long (Former Gilbert Town Council) - Re: Failure of SRP to restrict zoning surrounding SanTan facility, Gilbert Gen. Plan,...
• Steve Urie (Gilbert Town Council) - Re: communications with residents over concerns that SRP did nothing to restrict zoning surrounding the SanTan facility, Gilbert Gen. Plan, recent fight over 35 foot sign at Gilbert and Warner...
• Representative from the American Lung Assoc. (To be determined) - Re: total air quality, number of bad air days,...

• Kelly Wendell (Editor of the Gilbert Ind.) - Re: SRP's selective use of letters to the editor in their application, overall percentage of letters, general mood of Gilbert re: SanTan.
• Bob Schuster (Editor, the Tribune) - Re: SRP's selective use of letters to the editor in their application, overall percentage of letters to the paper, the Tribune's May 23, 2000 editorial regarding problems communicating over new power plants in Tempe and Gilbert (Request that the Line Siting Committee allow a representative or written statement in case Mr. Schuster cannot attend.)
• Local representative from Santa Fe Gas (SRP's supplier of natural gas and builder of a proposed 18 inch pipeline) - Re: SRP's disclosure of running a new gas line through Gilbert, explosions of Santa Fe pipeline in New Mexico,...
• Representative from Gilbert Board of Education - Re: Monies promised to Gilbert's Public Schools
• Lou Wiegand (Business Mgr. Glendale Public Schools) - Re: Monies promised to Gilbert's Public Schools

7. Please provide the name and address of the attorney or attorneys who will be representing you in these hearings.

As this time COST will be represented by Mark Sequeira and other select intervenors.

8. Please identify and produce each exhibit which you intend to introduce at the hearing.

- Poster showing scale of proposed SRP smokestacks next to downtown Gilbert's watertower
- Current pictures of Gilbert's watertower from differing distances to reflect the nature of scale and the inherent weakness of photography representing real space.
- Current pictures of the Superstitions from varying distances to reflect the same as above.
- Tribune editorial dated May 23, 2000
- Email from Randy Dietrich to Mr. LaTona dated May 10, 2000 re: property values and settlement claims
- Gilbert Independent article dated June 14, 2000 entitled "SanTan would be among the largest in state."
- Letter to the editor, Gilbert Independent, Oct, 11, 2000 from Phil Long
- SRP's mailers and circulars to date
- Arizona Republic article, D1, "New power plants targeted" by Max Jarman

- Gilbert Plan Amendment as published in the Tribune, B8, Sept. 19, 2000
- Gilbert General Plan (in part or in whole-to be presented at hearing due to size restrictions.)
- Gilbert Town Code (in part or in whole-to be presented at hearing due to size restrictions.)
- Finley Farms North HOA CC&Rs
- Finley Farms South HOA CC&Rs
- Rancho Cimarron HOA CC&Rs
- Western Skies Estates HOA CC&Rs
- Lindsay Ranch HOA CC&Rs
- Silverstone Ranch HOA CC&Rs
- Neely Farms HOA CC&Rs
- Cottonwoods Crossing HOA CC&Rs

- portion of Letter from Randy Dietrich to Mr. and Mrs. James Parrault dated Sept. 28, 2000
- Tribune article, A3, Oct. 1, 2000 "firms back expansion of SanTan plant" by C. Koski
- Letter to the editor, The Tribune, June 17, 2000 "Disturbing facts on SRP proposal"
- Letter to the editor, The Tribune, June 29, 2000 "SRP glosses over big Santan issues"
- Letter to the editor, The Tribune, May 17, 2000 "Power plant peril"

- Letter to the editor, The Tribune, June 14, 2000 "SRP officials misleading on SanTan"
- Letter to the editor, The Tribune,August 3, 2000 " Does SRP belong so close to home?"
- Letter to the editor, The Tribune, May 28, 2000 " Our Aim, Keep the lights on"
- Article in the Arizona Republic, B8 and E1, Aug. 15, 2000 "9th alert for ozone is issued"
- Article in the Tribune, A1, May 19, 2000 "SRP plant proposal draws ire"
- Article in the Tribune, A1, May 20, 2000 " SRP shelves power plant for Gilbert"
- Article in the Tribune, A1, May 21, 2000 " Smaller power plants touted"
- Letter to Mark Sequeira from Randy Dietrich dated June 30, 2000
- Article in the Arizona Republic, D1, JUne 25, 2000 "High-Tech, Low Supply"
- Article in the Arizona republic, D1, May 20, 2000 "Power line for Mexico"
- Article in the Daily News-Sun, B1, June 23,2000 "Computers begin to tax power grids"
- Article in the Wall Street Journal, March 13,2000 "U.S. Study proposes Federal Lead Role in Preventing Summer Power Outages"
- Letter from Ekmark and Ekmark to Finley Farms Board of Directors dated Sept. 13, 2000
- SRP press release dated Sept. 14, 2000
- SRP October 2000 bill insert "Contact" article "SanTan project receives support"

Dated October 19, 2000

Mark Sequeira
Citizens Opposed to SanTan

Original and 25 copies filed this 20th of October, 2000
with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing mailed or hand-delivered
This same date to:

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By:

Mark Sequeira
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Problems with SRP's disclosure/communications

We request that the ACC Power Plant and Transmission Line Siting Committee walk the neighborhoods, inspect how close this facility is to our homes and schools, attend the July 18 or August 15, 2000 public meetings that COST is holding (at the Southeast Regional Library at Guadalupe and Greenfield from 7-9:00pm) or call local HOA presidents to determine whether this facility fits into the community.

SRP's public process has included repeated mailings, newsletters, open houses, a website, a 24-hour information line and a Community Working Group.

• SRP's mailings to 20,000 homes have consistently failed to mention issues that might concern area residents. They do not disclose proposed 150 foot stacks, instead saying they will answer questions about: "potential visual impacts." They do not disclose pollution numbers, instead they mention "air modeling studies." Yet they declare they are fully informing residents about this facility. Their mailers have been used to tout the benefits and amenities of the plant and have consistently failed to mention ANY information that could alert a resident to potential problems they might have if this plant is built. The vast majority of residents have no idea about this plant. When and if it is allowed to be built there will be an uproar in Gilbert of a massive scale and numbers of cases of litigation by these misinformed residents and homeowners.

• SRP stated that they would disclose more information on a future newsletter prior to the June 7th open house. The only information 'disclosed' was that the Town of Gilbert had signed an Intergovernmental Agreement with SRP with the implication that Gilbert had approved this facility. No information regarding stacks, pollution, water, etc. was given.

• At the last open house in December, SRP had 35 people attend. COST began circulating flyers and going door to door in May and as a result over 350 people attended the June 7th SRP open house. Of these 350 people, 80% (280) signed petitions out front declaring their opposition to the expansion. Another 10% were clearly undecided and asked for more literature.

• In going door to door we have found the same numbers reflected - 80% opposed and expressed disbelief that a plant of this scale would be permitted to exist in a residential neighborhood.

SRP will disagree, citing recent telephone surveys. HOWEVER, these surveys were conducted by untrained telemarketers who could not answer issues regrading the plant. They also only sought out positive input/responses. COST can supply recordings made of these conversations if the ACC would like to hear the content.

• At SRP's open house information that was promised to residents and the Community Working Group (such as research into property values or images showing the stacks from various intersections) was not available. This is a reoccurring problem. It happened at the December open house, it happened with Stop Tempe Oasis Project (STOP) in Tempe, and has happened repeatedly with the Community Working Group.

• We believe that SRP continues to hold meetings with individual citizens and to have 'open houses' rather than public meetings in order to 'follow a 'divide and rule' philosophy. Citizens are constantly mentioning how they did not know about this project, did not know it's potential impact, and did not know other citizens were asking the same questions or had the same concerns.

• SRP claims that concerned citizens should visit their website. It wasn't until after June 7th that ANY information was on the site except a graph showing a need of 2700 megawatts. Today as a result of probable litigation and COST's efforts in the media, SRP is publishing information regarding hours of plant operation and height of their stacks.

• SRP's 24 hour information line and website did not mention the June 7th open house till one and a half weeks prior to that meeting at the insistence of COST. It did not mention the time of the meeting till one week prior.

• Janeen Rohovit of SRP said regarding the need to disclose information regarding the impacts to the community (stacks, pollution,...) that she "chooses to present the plant in a positive light" and that she "chooses to view it as a positive project" when asked about the need to disclose facts about the plant when 100's of homes are still being sold within a two-mile radius of SanTan and their children must attend these schools. It was explicitly stated in this conversation that while she could present the plant in whatever light she chose, that SRP still had a responsibility to disclose information that a buyer would need to know prior to buying a home near their facility.

• Speaking to residents who bought here from two years ago to as little as two days ago, the expansion of the plant is still not being disclosed. Real Estate agents are claiming that they did not know what SRP was doing and that they thought SRP canceled plans to build at SanTan

(confusing a proposed facility at Guadalupe and McQueen). Since no information was listed on their website and since the Town Council was referring all calls to SRP, there was no way for buyers or R.E. agents to find out about impacts or possible property devaluation.

• Gilbert Town Councilman Mike Evans in multiple meetings and in the Gilbert Independent has stated that "all my questions haven't been met by SRP and I have met with them four times." (Gilbert Independent, June 14, 2000 B-10)

• The Community Working Group (CWG) set up by Environmental Planning Group for SRP consists of only approx. 8 residents out of 100,000 citizens currently residing in Gilbert. 3 of the eight are opposed to the facility as it stands. Two of the original eight were asked to be on the committee by 'referral' and were pro-SRP coming in. EPG admits to sampling only 35 people initially. This from SRP's mailing list of 20,000 people (35,000 today).

• Of the eight or so residents, none represent the community or their HOA at these meetings. HOA Presidents and Vice Presidents were not asked to sit a member of their HOA.

• Community Working Group meetings are held during work hours and on workdays limiting the people who would have liked to be present.

• Community Working Group meetings are held to 'present' information to participants. Feedback is limited to "would you like A or B?" rather than a true discussion. Only four meetings were originally scheduled but due to pressure from one member who felt that "the information promised had not been produced" and that "SRP was moving way too fast," SRP decided to extend the number of meetings.

• Community Working Group meetings usually consist of 3 to 8 residents, a business owner and 20+ town employees/SRP or EPG employees. This makes any true discussion/dissent as a resident extremely daunting.

• SRP is filing for their Certificate of Environmental Compatibility even though they state on their webpage that they would not do so until after they had their third open house at the end of summer and the Community Working Group had finished their task. (They had also told the CWG the same thing) We believe that they are deciding to file at this time because opposition to this facility is growing by the day. COST had publicly stated that they would bring 5-6,000 signatures to the Town Council and ACC by the end of summer. We currently have over 1,000 in less than a month's time. We now have a phone line, a webpage, a bank account and our non-profit status is in process.

Mark Sequeira
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Why this plant does not belong within Gilbert boundaries

We believe that approval of this plant will set a precedent for years to come in Maricopa County, the state of Arizona, and within existing communities around the nation.

Since we understand that SRP's application at this point will need to be very general and many details and studies lacking, we request that the ACC, in the interests of the communities surrounding this plant, reject the application at this time or suspend it until such time as SRP has sufficiently answered the concerns of the community, the Community Working Group, the Town Council, the ACC and the ACC Power Plant and Transmission Line Siting Committee.

• Although SRP has owned the land and plant in question since the 1970's, the surrounding land was at that time primarily agricultural and that SRP's land in question is still zoned agricultural and not industrial.

• In the last five years over 20,000 homes and 8 schools have been built within a two mile radius of this facility. If SRP had planned this expansion even six years ago, then developers and home owners could have decided if the risks of living near a facility of this kind was reasonable. Ninety percent of the homes were non-existent at the time.

Scott Harelson of SRP argues this same point saying " The East Valley is growing so fast, and we're trying to get ahead of that growth with our systems and facilities...If we wait five or 10 years, we will have a lot more subdivisions and then it causes more of a problem. If we can get ahead, people will know the facilities are there before they move to those areas." (Arizona Republic, Wednesday, Sept. 23, 1998 EV1)

• If you grant this permit, you will be helping create the fourth largest power plant in the state in a bedroom community. At 1125 megawatts it will be bigger than Hoover Dam. (Palo Verde - Nuclear, 3733 mg; Navajo - Coal, 2,255; Glen Canyon - Hydro, 1,296; Proposed SanTan - Natural Gas, 1,125; Hoover Dam - Hydro, 1,042 according to the Dept. of Energy, Gilbert Independent, June 14, Sec. A) Note that all these other facilities are outside of populated areas.

• There is NO industry to speak of in this area - primarily a suburban/residential area.

In Tempe at the Kyrene facility there was some justification to such an expansion - There is heavy industry pre-existing on the North and West sides of SRP's property. In Gilbert, there is also no buffer. Houses are across the street on two sides of the plant and literally share a backyard block wall with SRP to the East. In Tempe there is a golf course that separates the plant from the homes in the area.

• The citizens of Gilbert pay the highest property taxes in the Valley because we don't want industry in Gilbert and have very limited commercial areas.

• The Gilbert Town Plan regulates the height of buildings and oleanders and has restrictions against bulletin boards and telephone lines. The ONLY exception is SRP's transmission and the proposed 150 foot (20 foot or 50 foot diameter) stacks. Currently there is a battle in the Town Council over a 35 foot sign at Warner and Gilbert 2 miles to the West.

• Regarding air quality: The ACC should take into account that although Gilbert is far below current EPA National Ambient Air Quality Standards, that is precisely why residents moved to Gilbert from Los Angeles, Phoenix, etc.

• The ACC should also take into account new pollution that will be added to our air by Williams Gateway Airport, the SanTan freeway, the widening of the U.S. 60 freeway, the number of new residents and cars moving into Gilbert as well as current and future construction (dust or PM-10's).

• Any new plant approved will be 'grandfathered' in the future - as the current plant is - allowing it to be free of new standards that are far cleaner, as the freeways and other pollution causing factors kick in.

• We have requested that SRP fund an independent air and environmental impact study to be done by the Town of Gilbert and COST in order to determine whether this project should be approved. It is our recommendation that ACC either do said study or require SRP to do so prior to any hearing or action regarding this application.

• The closest EPA air monitoring station is 3 miles away at Lindsay and Gilbert. There are only 15 in the Valley. The next closest is either in Chandler or Mesa.

• We are currently at risk of violating air and ozone standards every year. These days cause emergency room visits for asthma attacks to increase by over 36%. Asthma is also twice as

common in Arizona as elsewhere in the nation. This pollution hits the East Valley the hardest and will get worse with growth. (East Valley Tribune, Friday, May 19, 2000 A1)

• SRP is seeking to add environmental controls and filters on the old facility in order to get the offsets necessary to justify their newer facility. They have not proven the need in either Gilbert or the East Valley to justify 2700 new megawatts.

• Noise: The residents of Rancho Cimmarron (just North of the facility) and Cottonwoods Crossing (East of the facility) and Western Skies (West of the facility) will hear noise for 85% of the time night and day up to 24 hours a day seven days a week to the level of 48db. with ALL SRP's noise abatement and sound walls in place. This is equivalent to hearing an air conditioner unit running all the time. While SRP claims that cars driving by equal 50db. this is a temporary intrusion and is not at all equivalent to 'white noise.' While SRP claims that people tolerate much more before calling police to complain it is invasive and destructive to quality of life and property values. In the evening Gilbert is very quiet. We encourage the Power Plant and Transmission Line Siting Committee to tour our neighborhoods at night and listen to the crickets in the still of the evening.

• Hazardous Materials: SRP has not disclosed the amounts of Ammonia or Sulfuric Acid that will be stored on site. Neither have they discussed how this materials will be brought in. They have mentioned retraining the fire department in evacuating the public schools in case of hazardous spills.

Mark Sequeira
Citizens Opposed to SanTan
2236 East Saratoga Street
Gilbert, Arizona 85296
(480) 558-7233

The Valley's need for power versus 'for-profit' sale of power

We request that the ACC Power Plant and Transmission Line Siting Committee recommend or conduct an independent study to assess the actual power needs in the East Valley before approving this permit. There has not been adequate information provided to justify this size a facility, especially in a residential area, especially if it is 'for-profit' rather than meeting actual Valley needs.

• There are alternatives to this facility, although they are not as cost effective. SanTan would require that we risk the nature of our community and our investment in our homes rather than SRP investing more money to bring reliable power to the Valley.

APS is planning two new 530 megawatt generators out by Palo Verde with the ability to add two more. Eight other companies are planning to build power plants out by Palo Verde 55 miles West of Phoenix.

• This facility does not meet the need. SRP publicly states that they need 2700 new megawatts of power to insure reliable power into the next generation. This plant will only guarantee 825 megawatts barring future expansions. With The Tempe Kyrene facility being reduced from 825 new megawatts to 250 megawatts SRP still has a shortfall of 1625 megawatts. This plant does not solve the problem.

• COST and area HOAs are asking the ACC to demand SRP announce their complete plans to solving this problem PRIOR to granting any permits. If a new facility needs to be built East or South of town to meet the 1625 megawatt shortfall, COST would like to see all the East Valley's need for power (2700 megwatts) being met from that facility rather than expanding SanTan.

• SRP states that the current lines being used are at maximum capacity and bringing power in from outside of town would neccessitate new lines. However they are already building new lines into and through town including the RS18 and from Palo Verde to Broadway and 101st. COST would recommend that if they have to add new lines that they then add lines and build the plant outside of town (and bury the new lines).

• How many megawatts are needed? SRP states that "SanTan will supply 150,000 to 200,000 homes." (The East Valley Tribune, Sunday, May 28, 2000, F3) Inquiries with SRP indicate that one megawatt of power will supply 500 to 1,000 homes with electricity. These numbers would point to supplying 400,000 to 825,000 NEW homes with power if the proposed plant were approved.

• Scott Harelson of SRP has stated "Gilbert is just growing in leaps and bounds, and we have to take steps to meet that growth, or the lights go out." (Gilbert Independent, June 14, 2000, B10) He also stated, "We will do it in a way to fit the community." (ibid)

• Our position is that SRP intends to build this size a facility in town in order to ease power coming in from their other plants outside of town (such as St. John) so that they can more readily sell power from those plants on the open market to California and other Western states. These facilities can get power into the grid easily without having to try to bring it into town.

• COST and area HOAs are not opposed to a 'limited' expansion that will meet local need for power. Especially if the current plant is shut down thus eliminating the worst cause of pollution for east Valley residents. We are opposed to allowing an industrial facility to be built for 'for-profit' sales outside of Gilbert and the East Valley (whether those sales are actually from SanTan or other plants 'freed up' by SanTan).

• SRP has increasingly sold power through wholesalers in the last three years while admitting that they have added approximately 30,000 new meters every year for the past three years.

• Can SRP expect this growth IN GILBERT (and the East Valley) to continue at the current rate for eight more years? With builders already running out of open land as reported in all the major newspapers?

• SRP quotes on their website and in an East Valley Tribune article (May 28, 2000, F3) an interview with U.S. Energy Secretary Bill Richardson that states the government's concerns about future 'brownouts.' They use this article to stress their need for power. However, the article cites "so called Nimby fights (for Not In My Back Yard) make it increasingly difficult to site new plants and power lines located IN ONE STATE THAT MAY BE ESSENTIAL TO SERVING CUSTOMERS IN ANOTHER STATE." (caps mine) - *U.S. Study Proposes Federal Lead Role In Preventing Summer Power Outages,* John J. Fialka, Wall Street Journal, March 13, 2000.

California currently imports one-fifth (19%) of their power from neighboring states and expects that number to grow. (Arizona Republic, Business Sec., Sunday June 25, 2000) This is "according to the Independent System Operator which regulates the state's power grid." (Daily News-Sun, Friday, June 23, 2000, B1) "Five new power plants with a combined capacity of 3,600 megawatts have been approved by the California Energy Commission. An additional 14 power plants are under consideration. Winning approval for future power plants usually is a daunting task in California because of environmental concerns and resistance from residents who don't want the facilities in their communities. Calpine Corp., for instance, wants to build a power plant in San Jose - The biggest city in the Silicon Valley - but already has encountered opposition from the city's mayor." (ibid)

• Our request is that the ACC and Power Plant and Transmission Line Siting Committee do an independent study to assess the East Valley's need for power and then require SRP to demonstrate how they will meet that need PRIOR to any permit or hearings regarding the same. Then COST, the residents of Gilbert, The Town of Gilbert and the ACC can determine if SanTan is in our best interest.

Articles of Incorporation 996

ARTICLES OF INCORPORATION OF SDA COMPANY

1. **NAME:** The name of the corporation is **SDA COMPANY**

2. **PURPOSE:** The purpose for which this Corporation is organized is the transaction of any or all lawful business for which corporations may be incorporated under the laws of Arizona, as they may be amended from time to time.

3. **INITIAL BUSINESS:** The Corporation initially intends to conduct the business of selling, buying and dealing in real estate.

4. **AUTHORIZED CAPITAL:** The Corporation shall have the authority to issue 1000 shares of Common Stock.

5. **KNOWN PLACE OF BUSINESS:** The street address of the known place of business of the Corporation is:16648 East Williams Field Road, Higley, AZ 85236.

6. **STATUTORY AGENT:** The name and address of the Statutory Agent of the corporation is: STEVEN D. ARLEDGE, 16648 East Williams Field Road, Higley, AZ 85236

7. **BOARD OF DIRECTORS:** The initial board of directors shall consist of one (1) director(s). The name and address of the person who is to serve as the director until the first annual meeting of shareholders or until his successor is elected and qualifies is: STEVEN D. ARLEDGE, 16648 East Williams Field Road, Higley, AZ 85236 The number of persons to serve on the board of directors thereafter shall be fixed by the Bylaws.

8. **INCORPORATION:** The name and address of the incorporators are: STEVEN D. ARLEDGE, 16648 East Williams Field Road, Higley, AZ 85236 All powers, duties and responsibilities of the incorporators shall cease at the time of delivery of these Articles of Incorporation to the Arizona Corporation Commission.

9.**INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS:** The corporation shall indemnify any person who incurs expenses or liabilities by reason of the fact he or she is or was an officer, director, employee, or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another Corporation, partnership, joint venture, trust or other enterprise. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by law.

10. Limitation of Liability: To the fullest extent permitted by the Arizona Revised Statutes as the same exists or may hereafter be amended, a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for any action taken or any failure to take any action as a director. No repeal, amendment, or modification of this article, whether direct, or indirect, shall eliminate or reduce its effect with respect to any act or omission of a director of the Corporation

ORDINANCE NO. 1299

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE OF GILBERT, ARIZONA, BY AMENDING CHAPTER I LAND USE DESIGNATION, ARTICLES VII LAND USE ADMINISTRATION, SECTION 7.2 PLANNING AND ZONING COMMISSION ELIMINATING THE PLANNING AND ZONING COMMISSION AUTHORITY TO REVIEW AND APPROVE SITE PLANS; AND AMENDING CHAPTER II DEVELOPMENT STANDARDS, BY AMENDING ARTICLE X SITE DESIGN STANDARDS RELATED TO THE PROCEDURES AND STANDARDS FOR REVIEW AND APPROVAL OF SITE PLANS FOR SMALL PROJECTS BY THE PLANNING DIRECTOR AND REVIEW AND APPROVAL OF ALL OTHER SITE PLANS BY THE DESIGN REVIEW BOARD OF SITE PLANS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY

WHEREAS, the Unified Land Development Code currently gives authority for site plan approval to both the Planning and Zoning Commission and the Design Review Board: and

WHEREAS, the Town Council of the Town of Gilbert has determined that the responsibility for site plan review and approval should be assigned to the Design Review Board for the more efficient processing of site plans; and

WHEREAS, the Town Council has determined it is in the best interest of the citizens of the Town to make the development process easier for residents to understand and utilize; and

WHEREAS, the Design Review Board of the Town has the expertise and experience to review site plans, subject to a right of appeal by aggrieved persons to the Town council.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

The Unified Land Development Code of Gilbert, Arizona, Chapter I Land Use Designation, Article VII Land Use Administration, is hereby amended by amending Section 7.: Planning and Zoning Commission to read as follows:

7.2 Planning and Zoning Commission

The Planning and Zoning Commission is created to provide General Plan analysis and recommendations consistent therewith to the Council. Its purpose is to review all aspects of proposed rezoning, Code amendments and other development entitlement requests including, but not limited to, present and projected growth of the Town, and the relationship of the development to the surrounding environment and the community regarding land use and zoning.

The Unified Land Development Code of Gilbert, Arizona, Chapter II Development Standards, is hereby amended by amending Article X Site Design Standards, to read as follows

ARTICLE X. SITE PLAN REVIEW

10.1 Purpose.

This article is intended to provide for the detailed review of a Site Plan for new developments, expansion of existing developments, and redevelopment of property in the Town. This review is necessary to eliminate or minimize land use conflicts, to prevent incompatible relationships and uses and to assure compliance with the design guidelines of the Town.

10.11 Procedure.

Site Plan approval is required by this Code for all developments in the Town except for single family residential projects subject to the Town's Subdivision Plat approval process. The owner or owners of any tract of land shall submit to the Planning Department the following information:

A. A Preliminary Site Plan drawn to scale and in such manner as to indicate clearly and precisely what is planned for the subject property.

B. The Preliminary Site Plan shall include all of the following information:

1. Lot dimensions and topography.
2. All buildings and structures existing and proposed.
3. Adjacent land uses, including existing buildings and strucnures, existing and proposed access points.
4. Yards and space between buildings.
5. Walls, fences and landscaping.

1. A Preliminary Site Plan shall be filed with the Planning Department. The Planning Department shall prepare recommendations for the Design Review Board. The Design Review Board shall review the Preliminary Site Plan for compliance with applicable ordinances and design requirements. The Design Review Board may, at its option, approve the Preliminary Site Plan as a Final Site Plan if all requirements of the Town are met. If modifications are required to be made prior to final approval, the applicant shall file its Final Site Plan with the Planning Department and the Design Review Board will meet to consider approval of the Final Site Plan.

2. The approved Final Site Plan shall be forwarded to the Planning Department, Town Engineer, and a file copy retained in the office of the Town Clerk.

a. *Enforcement:* The approved Final Site Plan, shall become part of the parcel's zoning requirements and shall be so enforced in accord with the provisions of this Code.

b. *Issuance of building permits:* Site boundaries shall be established upon approval by the Design Review Board of a Preliminary Site Plan ; however, building permits may be issued, upon application, only after Final Site Plan approval for all or any portion of the development for which a building permit might be sought.

10.14 Revisions.

Revisions to an approved Final Site Plan shall be made pursuant to the procedure prescribed herein. All copies of the approved revised Site Plan shall be dated and signed by the Planning Director.

10.2 Site organization and development.

The Site Organization and Development Section is intended to provide standards for organization and layout of buildings and parking areas so as to promote the general health, safety and welfare of residents of the community. This is accomplished, in part, by encouraging the creation of safe and attractive appearances to the public eye and minimizing views of unattractive uses or activities. Likewise, sound design principles can enhance the compatibility of dissimilar uses and provide for transitional or buffer zones between such uses. The standards set forth herein are recognized as assisting in promoting privacy and logical development and strengthening values.

This Section establishes minimum standards for site organization and development. The Town encourages developers and landowners to exceed these minimums whenever possible.

10.21 Applicability.

A. This Part shall apply to the following buildings and uses in all districts except single-family residential uses:

1. All new buildings and uses of land.
2. Substantial additions to or remodeling of existing buildings where there is a change in the distinguishing characteristics or primary features of the building or land or the use of the building or land.

B. Any proposed building or use shall be shown on a Site Plan indicating the proposed location of buildings, parking areas, landscaping, and street improvements on the property. This Site Plan shall be submitted and reviewed in accordance with procedures set forth in this article.

C. All buildings, parking areas, and landscaping shall be constructed and installed in accordance with the approved Site Plan prior to issuance of a certificate of occupancy for the building or use.

10.22 Screening standards.

A. All outdoor storage areas for materials, trash, equipment, vehicles or similar items shall be screened from view along all street frontages by a six-foot wall constructed of slump block, brick or masonry with a stucco or mortar wash finish designed to match the main building on the site. Such a wall shall extend along the front and sides of the storage area for a sufficient distance to obstruct views into the yard from the public street. A

L. Lighting for service stations shall be directed towards the site and shall not cause undesirable glare to nearby residential properties or public roadways and shall comply with applicable Town ordinances and codes.

M. Service stations shall be subject to all landscaping and design standards contained in this Section and Section 11.1, including screening of parking and maneuvering areas with walls and landscaping. Landscaping shall be installed in accordance with an approved plan and shall cover a minimum of five (5) percent of the net site area. Adequate and proper maintenance of the landscaping shall be the responsibility of the station operator.

N. Accessory businesses involving the sale or rental of automobiles, trailers, motorcycles, boats, or other vehicles may be conducted on the service stations site only if specifically authorized in the Use Permit, but are not permitted in the C-1 Commercial District. Such items must be screened by a five-foot high wall, except where deemed desirable, the Board of Adjustment may permit substitution of a screening fence or wall, or the entire elimination of the wall. One item of each category may be openly displayed or located at least forty (40) feet from the street right-of-way.

O. Vehicles and other obstructions may not be parked on any corner lot within the triangular area formed by the street property lines and a line connecting them at points thirty-three (33) feet from the intersection of the street lines.

P. The repair of motor vehicles shall not include painting, upholstering, body and fender work or major overhauling. Dismantling or minor overhauling of vehicles on service station sites shall be permitted only within enclosed buildings and only in zoning districts where otherwise permitted.

Q. Service station buildings which are vacant for at least one (1) year shall be considered abandoned. Such abandoned buildings shall be removed and their underground fuel tanks shall be removed or filled with an inert material at no cost to the Town.

10.24 Miscellaneous design standards.

A. No walls, buildings, or other obstructions to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the curb lines and a line connecting them at points thirty-three (33) feet from the intersection of the curb lines. Trees may be located within the triangle provided they are pruned high enough to permit unobstructed vision.

B. All trash or refuse collection areas shall be enclosed by a six-foot masonry wall, styled to match the material of adjacent walls or the main building on the site.

C. All outdoor lighting shall comply with applicable Town ordinances and codes.

D. All undeveloped building pads within developed shopping centers or similar projects shall be either paved in asphalt or landscaped to control dust and erosion.

E. Driveways shall not be located closer than fifty (50) feet to a street intersection.

10.3 Building design.

This Section is intended to establish standards to encourage the orderly and harmonious appearance of structures along the Town's thoroughfares.

10.31 General design guidelines.

A. The Town encourages and expects high quality construction and design of buildings with respect to materials, colors, finishes, form and scale.

B. All building facades shall be designed to continue the "small town" character of Gilbert. Large, massive structures shall be architecturally styled to achieve a smaller scale; large building walls shall be broken to reduce scale and provide variety to the streetscape.

C. Buildings should be sited and designed to achieve an optimum level of energy efficiency with regard to solar orientation.

[illegible] equipment, whether ground-level or roof-mounted, shall be

peal, amendment, or modification.
EXECUTED this 3rd day of August, 2000 by all of the incorporator(s).
SIGNED: /s/ Steven D. Arledge
Incorporation
ACCEPTANCE OF APPOINTMENT BY STATUTORY AGENT:
The undersigned hereby acknowledges and accepts the appointment as statutory agent of the above-named corporation effective this 3rd day of August, 2000.
SIGNED: /s/ Steven D. Arledge
16648 E. Williams Field Road, Higley, AZ 85236

Sep 19,20,21,2000/261040

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IT WORKS!!

NOTICE OF FILING OF ARTICLES OF ORGANIZATION OF PEG ENTERPRISES, L.L.C.

Pursuant to A.R.S. Section 29-635 (c), notice is hereby given of the filing of Articles of Organization of PEG ENTERPRISES, L.L.C., an Arizona limited liability company, as follows:
1. Name. The name of the limited liability company is PEG ENTERPRISES, L.L.C.
2. Registered Office. The address of the registered office required to be maintained by A.R.S. Section 29-604 is 8606 N. 94th Avenue, Peoria, Arizona, 85345.
3. Statutory Agent. The name and address of the agent for service of process required to be maintained by A.R.S. Section 29-604 is David C. Kennedy, Attorney at Law, 818 E. Osborn Road, Suite 103, Phoenix, Arizona, 85014.
4. Management. Management of the limited liability company is vested in a manager or managers. The names and addresses of each person who is a manager AND each member who owns a twenty percent or greater interest in the capital or profits of the limited liability company are: Gerald D. Flint, 8606 N. 94th Avenue, Peoria, Arizona 85345; Phillip E. Flint, 8949 W. Stella, Glendale, Arizona 85305; Esther L. Hart, 4846 W. Kaler Circle, Glendale, Arizona 85301
DATED: August 18, 2000.
/s/ Gerald D. Flint

Sep 18,19,20,2000/260544

ARTICLES OF ORGANIZATION HAVE BEEN FILED IN THE OFFICE OF THE ARIZONA CORPORATION COMMISSION FOR

I
Name: Boyer & Boyer Enterprises, LLC
II
The address of the registered office is: 1822 S. 39th Street, #99, Mesa, AZ 85206
The name and address of the Statutory Agent is: Dallas J Boyer, 1822 S. 39th St., #99, Mesa, AZ 85206
III
Management of the limited liability company is reserved to the members. The names and addresses of each person who is a member are:Gregory J. Boyer, 1822 S. 39th St., #99, Mesa, AZ 85206, member; Dallas J Boyer, 1822 S. 39th St., #99, Mesa, AZ 85206, member

6. Vehicular, pedestrian and service access.
7. Off-street parking facilities including number of spaces and dimensions of parking areas.
8. Signs and lighting including location, size, height and method of illumination.
9. Outdoor storage and activities.
10. Drainage, grading and utility plans.
11. Waste disposal facilities.
12. Street dedication and improvements; on-site circulation plan for vehicles and pedestrians.
13. Other such data as may be reasonably required by the Planning Director.

10.12 REVIEW BY PLANNING DIRECTOR OF SMALL PROJECTS

A. The Planning Director or his authorized representatives, shall review applications for small projects. A "small project" is a project which is (1) an addition to an existing approved building of 10,000 square feet or less; (2) minor revisions to an approved site plan; (3) a revision to an approved landscape plan; (4) minor changes to circulation plans; and (5) changes to approved colors and materials in an existing or approved project. The Planning Director may approve a Site Plan for a small project with stipulations necessary to protect the public interest or he may refer a small project to the Design Review Board for their review.

B. The Planning Director may find that special conditions require one or more of the following:

1. Limited vehicular access.
2. Walls, fences and screening devices.
3. Off-site improvements in public right-of-way adjacent to the subject property.

C. The Planning Director's decision shall be final unless the applicant files, in writing, within five (5) working days of the receipt of the decision a request that a public hearing be scheduled before the Design Review Board. Further appeal from the Design Review Board decision may be filed within ten (10) working days in accordance with Section 7.4.

For small projects, if no changes are required to be made to the Preliminary Site Plan, it may be approved as the Final Site Plan.

10.13 Review by Design Review Board

A. Except for small projects approved pursuant to Section 10.12, the Design Review Board shall review applications for Site Plan approval in accordance with this Article and procedures set forth in paragraph 7.4.

1. The Design Review Board shall hold a noticed public hearing for site plan approvals.

2. The applicant, the Planning Director, the Town Manager, any member of the Town Council, or an aggrieved person may appeal any decision of the design review board to the Town Council by filing written notice of the appeal with the Town Clerk within ten (10) calendar days from the date of the Board action. The Town Council shall have the authority to uphold, modify, or overrule the decision of the Board. The decision of the Town Council shall be final.

B. The Design Review Board may find that special conditions require specific stipulations for approval. Stipulations approved by the Design Review Board shall be set forth in the minutes of the Board.

six-foot wall or fence is permitted along the remainder of the perimeter of the site.

B. All loading, delivery, and service bays shall be screened from street view by a six-foot wall, constructed of brick, slump block, or masonry with a stucco or mortar wash finished designed to match the main building on the site and appropriate landscaping, except in the I-2 and I-3 zones where these areas must be screened from arterial streets only.

C. All loading, delivery, and service bays in the I-B and I-1 zones shall not front on a public street.

D. Dismantling, servicing and repairing of vehicles and/or equipment shall be within completely enclosed buildings or within an area enclosed by brick, block, masonry walls as required by Section 10.22-A.

E. Parking lots shall be screened from street view in accordance with Chapter II, Site Plan Review of this Code.

F. Outside displays of cars, boats, trailers, trucks, and other vehicles shall meet the screening requirements for parking lots.

G. Car wash service bays shall not face onto or be visible from any public street and are subject to the screening standards in Section 10.22-B above.

10.23 Service station design standards.

The following development standards are hereby established for the location, design, and operation of such stations in addition to any other requirements prescribed by this Code or other Ordinances:

A. The service station site shall be located at the intersection of arterial streets.

B. The service station site shall have a minimum width of one hundred fifty (150) feet and a minimum area of twenty-two thousand five hundred (22,500) square feet after dedication of all required street rights-of-way.

C. Pump islands shall be located at least thirty (30) feet from the street right-of-way line.

D. Service areas and bay doors shall not front onto or be visible from any public street and are subject to the screening standards in Section 10.22-B above.

E. Design of the station building and site shall be compatible with the type of development in or anticipated in the nearby areas. Special designs may be required if deemed necessary by the Design Review Board.

F. Service stations which are situated within a larger commercial development shall be separated from adjacent property by a three-foot wall, landscaping, or curbing, except for necessary driveways, in order to control vehicular movements and circulation.

G. Masonry walls, at least six (6) feet in height, shall be installed along the interior boundaries of the site where the site is adjacent to or across the alley from a residential district.

H. The outside display of tires, oil or other sale items shall be located adjacent to the main building.

I. Trash and refuse shall be stored in an enclosed or walled area and shall not be visible from the exterior boundaries of the property.

J. Signs shall be limited to one major company identifications sign for each street frontage and shall conform to the general sign regulations. (See Article III).

K. Banners, flags, and other signs or attention attracting devices shall not be permitted except during the first month of opening of a new station.

D. Mechanical equipment shall be screened from public view and be so located to be perceived as an integral part of the building.

E. Accessory equipment capable of generating noise and vibrations shall be properly insulated and the noise and vibrations shall not be apparent from adjacent properties or the public right-of-way.

F. All on-site electric utility, cable televisions lines and all other communication and utility lines for buildings shall be placed underground. Overhead wires are prohibited.

G. Signage shall be considered an integral design element of any building and shall be compatible with the exterior architecture with regard to location, scale, color and lettering.

H. The siting of metal or steel buildings along public streets shall be discouraged. Any such buildings shall be architecturally altered, through the construction of veneers, facades or other architectural details and facades shall be installed on all sides of the building visible by the public from a public street.

I. All buildings located within a larger development, such as a shopping center, shall be architecturally styled to achieve harmony and continuity of design. The elevations of such buildings shall be coordinated with regard t color, texture, materials, finishes and architectural form.

J. The architecture of buildings shall be in accordance with design guidelines adopted by the Town Council for buildings located outside the Heritage District. The architecture of buildings in the Heritage District shall be in accordance with the design guidelines adopted by the Redevelopment Commission. The architectural character of a proposed structure shall be in harmony with and compatible to those in the immediate proximity, but avoiding excessive variety or monotony.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 5th day of September, 2000, by the following vote:
AYES: MAYOR DUNHAM, VICE MAYOR CATHEY, COUNCILMEMBERS CROZIER, EVANS, MORRISON, PRESNYK & UNIF
NAYES: 0 ABSENT: 0
EXCUSED: 0 ABSTAINED: 0

APPROVED this 5th day of September, 2000.

Cynthia L. Dunham, Mayor

ATTEST:
Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:
Martinez & Curtis, P.C.
Town Attorneys
By Susan D. Goodwin

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 1299 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 5th DAY OF SEPTEMBER, 2000, WAS POSTED IN THREE PLACES ON THE 15th DAY OF SEPTEMBER, 2000.

Catherine A. Templeton, Town Clerk

Sep 18,19,20,21,22, 2000/258609

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GILBERT GENERAL PLAN
LAND USE ELEMENT
(Adopted May 24, 1994)

C. *LAND USE ELEMENT*

The Land Use Element establishes preferred development patterns within the Town. It guides the location, type and extent of uses which meet the goals of the community; respond to development constraints and opportunities; and consider the provision of infrastructure and community facilities. The Plan provides a full range of living, working and leisure activities for Gilbert. Primary land use patterns and techniques that should be given consideration include:

- Use of the Buffer Policy
- Consideration of lot size and density to determine buffer
- Greater variety of residential types
- Identification of commercial and employment land uses
- Village Center configuration opportunities
- Commercial and Employment integrated with higher density residential

C.1 *GENERAL LAND USE GOALS*

1. Create a balanced community where residents can live, work and play, and have their essential needs met.

2. Achieve orderly land development patterns which provide for compatible, functional, cost-effective development.

3. Encourage development that can be adequately supported by required services and facilities; and which conserves, to the extent possible, the natural and man-made environment.

4. Protect property values while providing opportunities for development which meet the health, safety and welfare needs of Town residents.

5. Encourage development and maintenance of quality projects.

6. Protect an adequate portion of land as permanent open space.

7. Agree on project design standards prior to granting land use allocations, to aid in the beautification and improvement of living conditions in the community.

8. Encourage infill development in close proximity to existing facilities to promote orderly growth while reducing the cost and extent of public services.

9. Designate areas impacted by existing and future noise levels of 65 Ldn or greater as commercial and employment centers with residential development discouraged. Residential may be allowed within the 65 Ldn contour when appropriate noise attenuation measures have been implemented.

C.2 *DESCRIPTION OF THE PLAN*

The Land Use Plan provides for a wide variety of employment, shopping, entertainment, civic/cultural, educational, and residential uses linked by a grid major street system, open space and pedestrian trails and bikeways. The allocation of land uses within the community has been based primarily on General Plan goals and policies, economic development strategies, circulation system, peripheral land use and policy influences, site characteristics and relationships.

Area Plans and special studies which provide additional information and a greater level of specificity in the form of design guidelines, detailed land use planning, development standards should be provided for the Village Centers and other undeveloped planning units of the Town.

C.2.1 General Plan Land Use Classifications

Land Use Classifications	***Potential Zoning Districts***
RESIDENTIAL	
Low Density Residential (0 - 3 du/ac)	AG, R1-43, R1-35, R1-20, R1-15, R1-10, PAD
Medium Density Residential (0 - 4 du/ac)	AG, R1-43, R1-35, R1-20, R1-15, R1-10, R1-8, R1-7, R1-5, R-CH, PAD
Medium High Density Residential (4 - 8 du/ac)	R1-7, R1-5, R-2, R-3, R-4, R-CH, R-TH, PAD
High Density Residential (8 - 22 du/ac)	R-2, R-3, R-4, R-TH, PAD
COMMERCIAL/EMPLOYMENT	
Convenience	NS, NCC, C-1
Community Center	C-1, C-2
Multi-Use Commercial	C-1, C-2, I-B, I-1, R-3, R-4, PAD
Multi-Use Employment	C-1, C-2, I-B, I-1, I-2, R-3, R-4, PAD

C.3 RESIDENTIAL LAND USES

Purpose: Residential areas will be developed with an emphasis on creating safe, attractive neighborhoods. They will include adequate open space and will be linked to schools, commercial services, parks and other neighborhoods by landscaped pedestrian ways, bicycle paths, and residential scale streets.

C.3.1 Residential Land Use Policies

1. Preserve older and existing residential neighborhoods. Promote the improvement and revitalization of residential areas within the original townsite of Gilbert.

2. Foster positive neighborhood, home, and community atmosphere for existing and new residential areas in the Town.

3. Create high quality residential environments which provide for safe and convenient vehicular circulation, open space and recreational opportunities, while buffering residential areas from non-residential uses and other non-compatible residential.

4. Encourage the development of a range of housing types and densities based upon orderly development patterns.

5. Encourage new residential development to locate within areas currently served by adequate water, wastewater and other community services.

6. Ensure, by administrative procedures, ordinances, policies and programs, the orderly and efficient residential development.

7. Permit the location of clean, properly developed commercial and employment uses within close proximity to residential uses and the location of residential uses within close proximity to commercial and employment uses. (***Refer to Buffer Policy)***

C.3.2 Residential Land Use Classifications

The residential land use classifications provide for a range of residential types in the community. Each classification provides for a set of compatible residential products and locations as indicated on the Land Use Plan, with the exception of High Density Residential which can be located in the Multi-Use Commercial and Multi-Use Employment areas.
Residential development is expressed in density ranges for each residential land use classification. Target densities have been provided to define baseline densities for each residential classification range. Receiving an approval to develop the maximum density of a range should not be considered an assumed right. Obtaining densities higher than the target density in a designated range will require superior quality development, optimal site planning, significant open space, mitigation of impacts on community facilities, and implementation of the concepts and goals of the General Plan. The densities on the Land Use Plan refer to the Gross Residential Area (GRA).

•Low Density Residential (L: 0-3 du/ac, target density = 2.0 du/ac). Low Density Residential areas will not exceed a density of three single-family detached dwelling units per acre. A PAD may be utilized with a minimum lot size of 10,000 SF. Low Density Residential allows for enhancement of the rural character of Gilbert, and the buffering and transitions around existing low density single-family residences. Such buffers and transitions may consist of open space/retention areas, lots that are pie-shaped or other wise designed to be larger than standard sized lots within the subdivision or a combination of these and other appropriate design techniques, this may include allowing the inclusion of existing homes into a proposed development.

•Medium Density Residential (M: 0-4 du/ac, target density = 3.5 du/ac). Medium Density Residential areas will typically contain densities which range from two to four single family detached dwelling units per acre. The PAD District may be utilized with the requirement that the minimum lot size be 5,000 SF.

•Medium High Density Residential (MH: 4-8 DU/Ac, target density = 6 du/ac). Medium High Density Residential areas will contain overall densities which range from four to eight dwelling units per acre and can include single family, patio, townhome and multi-family type units. The PAD district may be utilized. The developer must demonstrate that the project provides a quality living environment. Transferring of credits for multi-family units from separate, previously approved single-family developments shall not be considered.

•High Density Residential (H: 8-22 Du/Ac, target density = 12 du/ac). High Density Residential areas will contain densities which range from eight to twenty-two dwelling units per acre and can include townhome and multi-family residential product types.

> ***Multi-Family in Multi-Use Commercial and Multi-Use Employment Areas.*** High Density Residential projects can be developed in the Multi-Use Commercial and Multi-Use Employment land use classifications with a cap of 20% of the land area. Evaluation of multi-family proposals for such areas should take into consideration appropriate buffers of residential uses from incompatible employment and commercial uses; and protection of commercial visibility on major street frontages by limiting the frontage given-up to multi-family projects. Multi-family proposals within the Heritage District; multi-use commercial and employment industrial areas shall be considered on their own merits. The maximum of twenty-two dwelling units per acre will be allowed in such areas. This density will only be allowed in developments which can demonstrate they provide a beneficial living environment for the user group, the community, and all impacts on community facilities have been mitigated.
>
> ***Multi-Family in PAD's.*** Multi-family development proposals will also be considered on their own merits in planned area developments. The maximum of twenty-two dwelling units per acre will be allowed in such areas. The developer must demonstrate that the multi-family proposal

provides a quality living environment. Transferring of credits for multi-family units from separate, previously approved single-family development shall not be considered.

•Residential Transition Areas (T). Transition Areas may have unique Density cap's and Target's developed to meet specific planning characteristics of that area. The planning characteristics may include existing and future land use conditions which affect the subject land or adjoining land where a land use transition may be useful in creating better land use compatibility and/or design solutions.

Transition Area "A". Transition Area "A" is identified on the Land Use Plan. It is located between Ray and Williams Field, Lindsay and Val Vista Roads. The land in this Transition Area may develop with a target density of 2.5 du/ac with a maximum density (cap) of 3 du/ac if the following criteria are complied with:

•Appropriate buffers/transitions around existing single-family residences that are and will remain exceptions from the three Transition Area properties. Such buffers/transitions may consist of open space/retention areas, lots that are pie-shaped or other wise designed to be larger than standard sized lots within the subdivision or a combination of these and/or other appropriate design techniques. Future development on the Transition Area properties shall not, unless otherwise desired by existing single-family owners abutting such properties, isolate the existing homes from future development with solid fences or other uninterrupted visual barriers. Instead, if desired by such existing single-family homeowners, subdivision design techniques shall be used to appropriately integrate the existing homes with future development.

•Appropriate street connections between developing Transition Area properties.
•Appropriate pedestrian/equestrian connections to the Eastern Canal.
•Encourage a diversity of lot sizes, as design permits, with a minimum lot size of 7,000 SF.

Future zoning and platting decisions concerning the Transition area properties may cap such properties' densities at 3 du/ac and may adopt conditions of approval confirming these buffer/transition, street system, canal access and minimum lot size criteria.

C.4 COMMERCIAL LAND USES

Purpose: Commercial uses which serve the retail and service needs of the community will be conveniently dispersed throughout the Town.

Commercial uses have been classified and located by the type of services and goods provided and the major roadway system. The community prefers a residential scale at intersections of minor-minor arterials. The Land Use Plan indicates locations for Community Centers and Multi-Use Commercial at intersections of major-major and major-minor arterials. The Town will exercise broad authority to evaluate each commercial proposal on its own merits. The evaluation of each center may include: neighborhood compatibility, architectural and site design, traffic impacts, circulation network impacts, economic development benefit, tax base/revenue impacts, job creation, noise and other activity related disturbances to the proximate area.

Village Centers have been indicated on the planning considerations exhibit and consist of unique mixes of multi-Use Commercial and Employment; Community Commercial; residential; civic; cultural; and educational facilities as indicated on the Land Use Plan. The Village Centers provide dispersed services and amenities to the community fostering pedestrian access and interaction. Each proposed and existing Village Center is adjacent to the community-wide open space system providing the opportunity to link each Village Center with the community with pedestrian, equestrian and bicycle pathways. In addition, fixed rail and street transit can be utilized to connect with each Village Center.

C.4.1 Commercial Land Use Policies

1. Promote and maintain balanced commercial activity that is viable and responsive to the needs of the community.

2. Allow only the development of retail/service establishments which are safe, attractive, convenient, expand the tax base, and provide a wide selection of merchandise and services.

3. Promote the location of commercial establishments indicated on the Land Use Plan. Avoid strip development along arterial streets by clustering commercial uses at arterial intersections.

4. Promote safe and convenient access to shopping and services from residential areas by providing pedestrian/bicycle access.

5. Establish Multi-Use Commercial areas to provide retail services and residential in Village Centers for the Town.

   A. Preserve the Gilbert Road Corridor as a multi-use Village Center allowing commercial, retail, office and high intensity residential uses.

   B. Encourage the development of Village Centers with a strong pedestrian and multi-use character at Williams Gateway, the Crossroads Community Core, and at North Recker and South Recker locations.

6. Encourage the development of Multi-Use Commercial uses along the Superstition Freeway, Gilbert Road, Baseline Road, San Tan Freeway, Williams Field and Power Road Corridors.

7. Develop a Multi-Use Commercial area around the civic center complex to provide complementary uses, promote efficient development, and enliven the civic center with supportive businesses, accommodating both day and night activities.

C.4.2 Commercial Land Use Classifications

•Convenience Commercial. Convenience Commercial facilities provide shopping and basic services for the immediate area, and should be no greater than five (5) acres. Convenience facilities may be located at minor or major arterial intersections (limit of two corners per intersection) and at appropriate locations adjoining or within residential, employment, commercial areas with access to arterials. Convenience Commercial facilities are not identified on the Land Use Plan map and can be located in any land use classification based on the merits of the development proposal.

•Community Centers (C). Community Centers provide for the daily commercial needs of the population within the surrounding area and are preferred at major arterial intersections. Community Centers may be located at other intersections or locations with reasonable access to major arterials based on the merits of the development proposal including adequate traffic documentation, neighborhood compatibility, architectural and site design, traffic impacts, circulation network impacts, economic development benefit, tax base/revenue impacts, job creation, noise and other activity related disturbances to the proximate area. Preferred Community Center locations are identified on the Land Use Plan. The acreage of all Community Center uses at any one intersection should not exceed approximately fifty acres (50).

•Multi-Use Commercial (MC). The intent of Multi-Use Commercial is to provide for high intensity uses with a retail commercial emphasis. The designation may include general and regional commercial; High Density Residential (20% cap); hotel/motel; and office uses.

C.5 EMPLOYMENT LAND USES

Purpose: To encourage facilities which provide employment opportunities and help raise the Town's tax base. The primary emphasis of the employment classification is quality planned office and industrial uses. Commercial uses which directly relate to and support industrial and office uses will be allowed; as will higher density residential which are not impacted by noise and safety factors of airport flight patterns.

C.5.1 Employment Policies

1. Encourage the development of Multi-Use Employment uses along the San Tan Freeway and Power Road Corridors to serve Gilbert and adjacent cities.

2. Facilitate the development of Multi-Use Employment at Village Centers, including Williams Gateway, the Crossroads Community Core, Heritage District, and North and South Recker Village Center locations.

3. Accommodate the development of diversified industrial uses which will provide an employment base for the citizens of Gilbert and enhance the revenue base for the Town.

4. Encourage development of clean, high technology industries.

5. Minimize impacts of industrial on less intense uses.

6. Encourage the creation of quality industrial/business parks which provide amenities such as parks, lakes, health clubs, golf courses, restaurants; commercial support uses and housing.

7. Designate sufficient industrial lands throughout the community to accommodate the needs of businesses and to provide employment opportunities within the Town of Gilbert.

C.5.2 Employment Land Use Classifications

•Multi-Use Employment. The intent of Multi-Use Employment classification is to provide for high intensity uses with an employment emphasis. Multi-Use Employment locations are indicated on the Land Use Plan. The designation may include commercial; high residential (20% cap); hotel/motel; and office and industrial uses.

GILBERT GENERAL PLAN

SUMMARY LAND USE DATA
Gilbert Planning Area

The Land Use Summary identifies planned land use classifications, gross acres, dwelling units and percentage of total land use for the Town of Gilbert General Plan. The table reflects land use assumptions for projected open space and the proportional mix of land uses within each multi-use classification.

LAND USE CLASSIFICATION	Planned Acres	Dwelling Units	% of Total
RESIDENTIAL			
L-Low (0-3 du/ac)	7,012	14,024	19.3%
M-Medium (0-4 du/ac)	13,603	45,741	37.5%
MH-Medium High (4-8 du/ac)	2,084	15,516	5.7%
H-High (8-22 du/ac)	1,528	18,336	4.2%
Residential Total (a)	**24,227**	**93,617**	**66.7%**
COMMERCIAL/EMPLOYMENT			
C-Community Commercial	2,055		5.7%
MC-Multi-Use Commercial	2,498		6.9%
ME-Multi-Use Employment	3,482		9.6%
Commercial and Employment Total (b)	**8,035**		**22.2%**
OPEN SPACE			
PL-Public Linkage (c)	485		
PP-Public Parks (d)	1,228		
POS-Project Open Space (e)	1,695		
GC-Golf Course (f)	630		
Open Space Total	**4,038**		**11.1%**
TOTAL	**36,380**		**100%**

(a)Residential acres less open space
(b)Commercial/Employment less 20% target for high density residential
(c)Estimated future open space along canal, railroad and transmission R-O-W's (d)Estimated existing and future regional/district park allocation
(e)Estimated 7% of project related open space
(f)Estimated existing and future golf courses

SMARTER

bert's Future

get a facelift — Your input is needed!

l Plan, originally adopt-
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the main guideline for
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ral Plan. But to come up
lueprint for how Gilbert
needed!
months, several neigh-
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can review plans and

om our residents, and
ıttempt to involve them
Geir Sverdrup, Senior
n who is heading the
ew and public participa-

ts to be addressed are

Stacy Brimhall; Planning
d Zoning Commission
Richard Andrews; Gilbert
nner Geir Sverdrup;
tute and former plan-

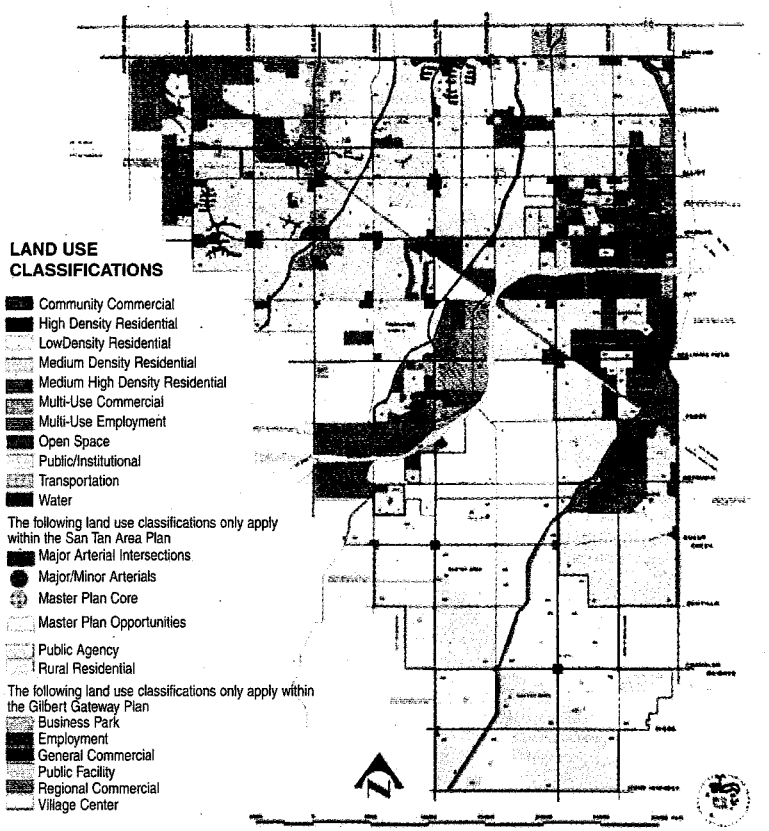
rtment Director Rick

open space, including parks and trails; transportation and transit routes; environmental planning and water resources; conservation and natural resources; public services and facilities; housing development; and commercial and industrial development.

The final document will have to be voted upon by Gilbert residents in the November 2001 election.

Information on the process and the program is on the Town's website, www.ci.gilbert.az.us, and will appear in future issues of this newsletter.

For more information, contact Mr. Sverdrup at 503-6811, or by email at geirs@ci.gilbert.az.us.



ments. They are:

1. A Land Use Element which delineates the proposed distribution, balance, location and extent of use of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and such other categories of public and private uses of land as may be appropriate to the municipality. The Land Use Element includes definitions of land use categories' and intensity of development.

2. A Circulation Element illustrating the general location and extent of existing and proposed freeways, arterial and collector streets, bicycle routes, bus routes, commuter rail and any other modes of transportation which may be appropriate, all coordinated with the Land Use Element. Additionally the Element must develop policies addressing extensions, new alignments and manner of construction and design of freeways, arterial and collector streets, bicycle routes, bus routes, commuter rail. The Element must analyze the need for parking facilities, along with appropriate setbacks and a designated system for such structures. The Element must also analyze the existing street naming system and the existing house numbering system as it relates to circulation, include analysis of conversion of County numbering system as areas are annexed into the Town

3. An Open Space Element that includes:

(a) An inventory of open space areas, recreational resources and designations of access points to open space areas and resources.

(b) An analysis of forecasted needs.

(c) Policies for managing and protecting open space areas and resources and implementation strategies to acquire additional open space areas and further establish recreational resources.

(d) Policies and strategies promoting a regional system of open space and recreational resources in conjunction with existing regional open space and recreational resources.

4. A Growth Area Element, specifically identifying those areas, if any, that are particularly suitable for planned multi-modal transportation and infrastructure expansion and improvements designed to support a planned concentration of a variety of uses, such as residential, office, commercial, tourism and industrial uses. This element shall include policies and implementation strategies that are designed to:

(a) Make automobile, transit and other multi-modal circulation more efficient, make infrastructure expansion more economical and provide for a rational pattern of land development.

(b) Conserve significant natural resources and open space areas in the growth area and coordinate their location to similar areas outside the growth area's boundaries.

(c) Promote the public and private construction of timely and financially sound infrastructure expansion through the use of infrastructure funding and financing planning that is coordinated with development activity.

5. An Environmental Planning Element that provides an analysis of anticipated effects of General Plan Elements on Air and Water Quality and Natural Resources by development proposed by the plan. Develops community wide policies and strategies designed to address anticipated effects as indicted from the analysis of the General Plan Elements on Air and Water Quality and Natural Resources (without adding additional reports above and beyond those require by the State or Federal requirements)

6. A Cost of Development Element that identifies policies and strategies that the municipality will use to nisms allowed by law that can be used to fund and finance additional public services necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees, facility construction, dedications and service privatization.

(b) A component that identifies policies to ensure that any mechanisms that are adopted by the municipality under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the municipality to provide additional necessary public services to the development and otherwise are imposed according to law.

7. Water Resources Element that provides an inventory of and illustrates existing availability of surface water, groundwater and effluent supplies, analyze projected growth and its impact on the available water supply through physically and legally available water and analyze the availability of other water supplies.

8. A Conservation Element which inventories existing natural resources and man made/reclaimed "natural" resources and develops policies and strategies for the retention/reclamation of natural resources.

9. A Recreation Element which provides an inventory of existing system of areas and public sites for recreation, as well as, designation of proposed and future areas and public sites for recreation coordinated and connected to the existing system. Additionally develops policies and strategies to obtain/develop site through the development process.

10. A Public Services and Facilities Element containing a narrative regarding existing general plans for police, fire, emergency services sewage, refuse disposal, drainage, local utilities, rights-of-way, easements, and facilities for said services. Also providing an inventory of existing services and facilities for police, fire, emergency services sewage, refuse disposal, drainage, local utilities, rights-of-way and easements

11. A Public Buildings Element containing a narrative regarding existing civic and community centers, public schools, libraries, police and fire stations, and other public buildings including proposed expansions/new facilities with an inventory and illustration of existing and proposed public buildings

12. A Housing Element which develops standards and programs for the elimination of substandard dwelling conditions, improvement of housing quality, variety and affordability of housing, provision of adequate sites for housing, an analysis of existing housing and forecasts housing requirements (shall meet Federal Fair Housing).

13. A Conservation, Rehabilitation and Redevelopment Element which develops plans and programs for:

- Elimination of slums and blighted areas.
- Community redevelopment, including residential, commercial, industrial and public/quasi-public land uses.
- Neighborhood preservation and revitalization.

14. A Safety Element which develops plans to protect the public from natural and man made disasters which includes:

- Evacuation plans
- Peak load water supply
- Minimum road widths by designation
- Adequate clearance around structures
- Map geological hazards

15. A Bicycle Element containing proposed facilities, routes, parking areas and designated street crossings.

GROWING SMARTER

Protecting Gilbert's Future

General Plan Timetable

October and November
A series of neighborhood meetings and workshops. (To be scheduled)

December through February 2001
Continue on-going public education campaign; continue to take public comments.

March 2001
Assemble public commentary and input and adjust Plan as needed. Prepare draft for public review.

April 2001
Schedule series of follow-up neighborhood meetings.

May 2001
Begin revision of Plan and present at Planning and Zoning Commission meeting.

June/July 2001
Present Plan to Town Council. Prepare final language for November ballot.

Fall 2001
Present plan to the community through a public information campaign.

November 6, 2001
Election Day, featuring the General Plan for public vote.

Town General Plan to get a facelift — Your input is needed!

A special task force comprised of a variety of citizens has begun work on a review and update of the Town's General Plan with an eye toward incorporating state mandated "Growing Smarter" legislation.

The Growing Smarter Task Force, with representatives from the development industry, the business community, elected leaders, the Planning and Zoning Commission and interested citizens, has begun to map out a revised General Plan that will make more clear the future growth of our community.

The Task Force and the Town of Gilbert are embarking on an aggressive program to solicit public input as the lengthy process moves forward. Your thoughts are welcome!

Growing Smarter, passed by the state Legislature in 1998, sets forth specific elements that municipalities are required to address as they plan for future growth. Also, on the upcoming ballot in November are two initiatives that may also impact elements of the Town's policies and procedures relating to growth.

The Town's General Plan, originally adopted by the Town Council in 1986 and updated several times since, is the main guideline for planned and controlled growth and development.

The Town's Planning Department will incorporate elements required from the Growing Smarter legislation, as well as any mandates that come from the ballot initiatives, into a new and revised General Plan. But to come up with a true working blueprint for how Gilbert grows, public input is needed!

Over the next few months, several neighborhood meetings and workshops will be scheduled throughout the community at which time residents can review plans and offer their thoughts.

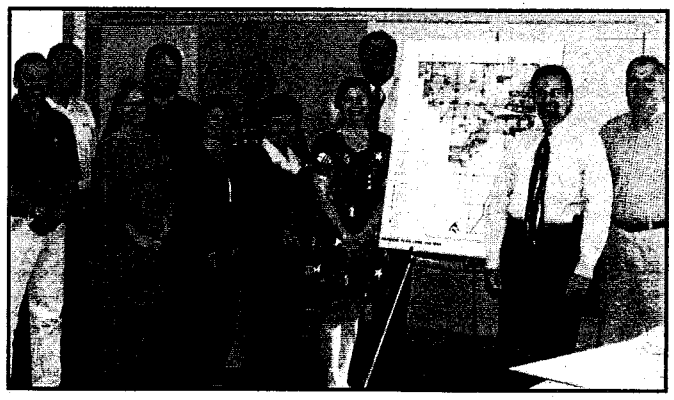
"We want to hear from our residents, and we are making every attempt to involve them in this process," said Geir Sverdrup, Senior Planner with the Town who is heading the Growing Smarter review and public participation plan.

Among the elements to be addressed are open space, including parks and trails; transportation and transit routes; environmental planning and water resources; conservation and natural resources; public services and facilities; housing development; and commercial and industrial development.

The final document will have to be voted upon by Gilbert residents in the November 2001 election.

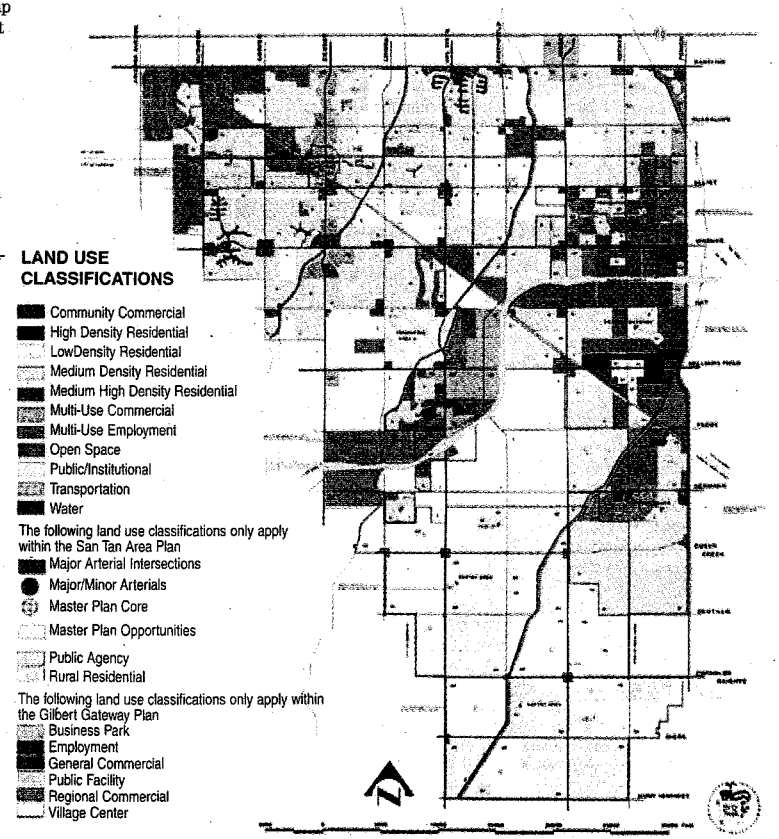
Information on the process and the program is on the Town's website, www.ci.gilbert.az.us, and will appear in future issues of this newsletter.

For more information, contact Mr. Sverdrup at 503-6811, or by email at geirs@ci.gilbert.az.us.



Members of the Growing Smarter Task Force include (from left to right) Gilbert resident Stacy Brimhall; Planning and Zoning Commission member Stan Strom; Town Attorney Susan Goodwin; Planning and Zoning Commission member Daniel Dodge; Gilbert Chamber of Commerce CEO Kathy Langdon; developer Richard Andrews; Gilbert resident Saretta Parrault; Dian Gilmore with the Arizona Association of Realtors; Senior Planner Geir Sverdrup; Planning Director Jerry Swanson; and Scott Anderson, director of the Town's Riparian Institute and former planning director.

Not pictured are Mayor Cynthia Dunham; Council member Steve Urie; Engineering Department Director Rick Allred and residents Joe Johnston, Chris Harkins, Greg Barlow and Tom Billings.



GENERAL PLAN LAND USE MAP — GILBERT

When recorded mail to:
Linda Victor
Continental Homes, Inc.
7001 N. Scottsdale Rd., Suite 2050
Scottsdale, AZ 85253

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MARICOPA COUNTY RECORDER
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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS

LINDSAY RANCH

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("the Declaration") is made this 12th day of January, 19 96 by CHI Construction Company, an Arizona corporation ("CHI"); and Shea Homes ("Shea"), which entities are deemed to be Co-Declarants hereunder and may hereafter be referred to collectively as "Declarant". Any actions which may or are required to be taken herein by "Declarant" or decisions which are to be made by "Declarant" shall require the consent of both CHI and Shea unless either party elects to authorize the other in writing to make such decisions or to take such action on behalf of both parties.

RECITALS

A. Shea is the owner of certain real property in the Town of Gilbert, County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 1 through 134 inclusive, of Lindsay Ranch Unit I, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 19, and

Lots 135 through 301 inclusive, of Lindsay Ranch Unit II, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 20.

CHI is the owner of certain real property in the Town of Gilbert, County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 302 through 427 inclusive, of Lindsay Ranch Unit III, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 21;

Lots 428 through 570 inclusive, of Lindsay Ranch Unit IV, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 22; and

Tracts A through H, inclusive, and Tract K, of Lindsay Ranch, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 18; (collectively "the Property").

B. Declarant desires that a nonprofit corporation, Lindsay Ranch Homeowners Association, be formed for the purpose of the efficient preservation of the values and amenities of Lindsay Ranch and to which will be delegated certain powers of administering and maintaining the Common Area, enforcing this Declaration, and collecting and disbursing the assessments created herein.

C. Declarant desires and intends that the Property shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on and for the benefit of all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each owner thereof and their heirs, representatives, successors and assigns.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I
DEFINITIONS

Section 1.1 "Architectural Committee" shall mean the committee created pursuant to Article VII hereof.

Section 1.2 "Architectural Committee Rules" shall mean the rules, if any, adopted by the Architectural Committee.

Section 1.3 "Articles" shall mean the Articles of Incorporation of the Association, as such may be amended from time to time.

Section 1.4 "Association" shall mean and refer to LINDSAY RANCH HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation, its successors and assigns.

Section 1.5 "Board" shall mean the Board of Directors of the Association.

Section 1.6 "Bylaws" shall mean the Bylaws of the Association, as such may be amended from time to time.

Section 1.7 "Common Area" and "Common Areas" shall mean all areas (including the improvements thereon) owned or to be owned by the Association for the common use and enjoyment of Owners and/or residents of Lindsay Ranch. The Common Area to be owned by the

Association at the time of the conveyance of the first Lot is described as follows:

Tracts A through H, inclusive, and Tract K, of Lindsay Ranch, more particularly described in the records of Maricopa County, Arizona, Book 377, of Maps, Page 18; (collectively "the Common Area").

Section 1.8 "Declarant" shall mean the Declarant designated above or any person or entity who has succeeded to Declarant's rights and powers hereunder as to all or a portion of the Property and to whom Declarant's rights hereunder have been assigned by recorded instrument.

Section 1.9 "Declaration" shall mean the covenants, conditions, restrictions and easements set forth in this document, as such may be amended from time to time.

Section 1.10 "Lot" shall mean any numbered parcel of real property shown upon any recorded plat of the Property together with any improvements constructed thereon, with the exception of the areas designated as lettered tracts and areas dedicated to the public. Each Lot shall be a separate freehold estate.

Section 1.11 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity that is a member of the Association.

Section 1.12 "Owner(s)" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same have merged) of any Lot. "Owner" shall include the purchaser under a recorded agreement for sale of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein "Owner" shall not include a lessee or tenant of a Lot. "Owner" shall include Declarant so long as Declarant owns any Lot within the Property.

Section 1.13 "Property" or "Properties" shall mean the real, personal, or mixed property described or located on Recital A above which is subject to this Declaration.

Section 1.14 "Rules" shall mean the rules and regulations adopted by the Board, if any, as such may be amended from time to time, as more further described in Section 4.4.

Section 1.15 "Visible from Neighboring Property" shall mean, with respect to any given object, visible to a person six feet tall, standing on any part of neighboring property at an elevation

no greater than ground level where the object is located (assuming the ground level where the person is standing is at the same height as the ground level where the object is located).

ARTICLE II
PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facilities or areas situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid;

(c) the right of the Association to suspend the right to use the Common Area for a period not to exceed sixty (60) days for any infraction of the Association Rules and consecutive sixty (60) day periods for so long as the infraction continues;

(d) the right of the Association to limit the number of guests of members using the Common Areas;

(e) the right of the Association to change and regulate the use of Common Areas in accordance with Section 4.6;

(f) the right of the Association to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon, dedicate or otherwise transfer Common Areas in accordance with Section 4.7 hereof; and

(g) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof, to mortgage said property in accordance with Section 8.2(e) hereof. The rights of such mortgagee in said property shall be subordinate to the rights of the Owners hereunder.

Section 2.2 Delegation of Use. Any Owner may delegate, in accordance with and subject to any restrictions contained in the Bylaws, his right of enjoyment to the Common Area and improvements thereon to his tenants, or occupants of his Lot, or guests.

Section 2.3 Owners' Easement of Enjoyment Limitations.

(a) An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot and such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.

(b) Except as authorized by Section 2.1 (f), the Common Area shall remain undivided and no action for partition or division of any part thereof shall be permitted.

(c) Each Owner, his tenant, the occupant of his Lot, and his guests may use the Common Area in common with the Owners, invitees, tenants, and occupants of the other Lots in accordance with the purposes for which it is intended without hindering or encroaching upon the lawful right of such others and in accordance with the Association Rules established by the Board.

Section 2.4 Title to Common Area. CHI Construction Company covenants that it will convey fee simple title to the Common Area to the Association, free of all encumbrances except current real and personal property taxes and other easements, conditions, reservations and restrictions then of record. The conveyance shall be made to the Association prior to the conveyance of the first Lot from the Declarant to any purchaser.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION

Section 3.1 General Declaration. Because it is intended that the Property as presently subdivided shall be sold and conveyed to purchasers subject to this Declaration, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended from time to time; provided, however, property which is not part of a Lot and which is dedicated or transferred to a public authority or utility pursuant to Section 4.7 shall not be subject to this Declaration while owned by the public authority or utility. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property. This Declaration shall run with all of the Property for all purposes and shall be binding upon and

inure to the benefit of Declarant, the Association, all Owners, Members and their respective successors in interest.

ARTICLE IV
THE ASSOCIATION

Section 4.1 The Association. The Association is an Arizona non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise modified or interpreted so as to be inconsistent with this Declaration.

Section 4.2 The Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

Section 4.3 Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and Bylaws.

Section 4.4 Rules. By action of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Rules". The Rules may restrict and govern the use of the Property provided, however, that the Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. The Rules shall have the same force and effect as if they were set forth herein and were a part of the Declaration and may be recorded.

Section 4.5 Personal Liability. The Articles shall specify such limitations on the personal liability of members of the Board as shall be applicable.

Section 4.6 Procedure for Change of Use of Common Area. Upon (a) adoption of a resolution by the Board stating that the then current use of a specified part of the Common Area is no longer in the best interests of the Owners and Members, and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith to take whatever actions are required to accommodate the new use), provided such new use: (i) also shall be for the common benefit of the Owners and Members, and (ii) shall be consistent with any recorded tract declaration, deed restrictions or zoning regulations. Alternatively, the Board upon satisfaction of Subsection (a) above may, in lieu of calling a meeting, notify in

writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Memberships eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

Section 4.7 Procedure for Transfers of Common Area. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public authority or utility (i) if the transfer or dedication does not have a substantial adverse effect on the enjoyment of the Common Areas by the Members or the Residents, or (ii) if required by a recorded subdivision plat, a zoning stipulation or an agreement with the Town of Gilbert, effective prior to the date hereof. Except as authorized in (i) or (ii) above, no such dedication or transfer shall be effective without the approval of a majority of the vote of each class of Members, voting in person or by proxy at a meeting called for such purpose. The Association shall have the right to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon or otherwise transfer Common Areas (to a non-public authority) upon (x) the adoption of a resolution by the Board stating that ownership and/or use of the relevant Common Area is no longer in the best interests of the Owner and Members , and that the change desired shall be for their benefit and shall not substantially adversely affect them, and (y) the approval of such resolution by a majority of the votes of each class of Members, voting in person or by proxy, at a meeting called for such purpose. Alternatively, the Board upon satisfaction of Subsection (x) above may, in lieu of calling a meeting pursuant to Subsection (y) above, notify in writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Members eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 5.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant. Each such Owner shall be entitled to one vote for each Lot owned. When more than one person

holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as such Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Each of the entities comprising "Declarant" shall be considered a Class B member and each shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A on the happening of either the following events, whichever first occurs:

(a) When the total votes in the Class A membership equal the total votes in the Class B membership, or

(b) The 31st day of December, 2005.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants for each Lot, and each Owner of any Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. A Lot owned by the Association, pursuant to Section 6.8 or otherwise, shall not be subject to assessment.

The annual and special assessments, together with interest costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien thereon as well as the personal obligation of the person who was the Lot Owner at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Lot Owner's successors in title, unless expressly assumed.

Section 6.2 Purpose of Assessments. In order to promote civic and social betterment for the common good of the Members of the Association, the assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and Owners of the Property and for the improvement and maintenance of the Common Area.

Section 6.3 Maximum Annual Assessment. Until 12/31/97, the maximum annual assessment shall be Three Hundred Sixty Dollars and No/100 ($360.00) per Lot. The annual assessment shall be payable monthly in advance.

(a) From and after 1/1/98 the maximum annual assessment shall automatically increase effective January 1 of each year without a vote of the members by an amount which is equal to the greater of: (i) five percent (5%) of the maximum assessment for the previous year; or (ii) a percentage equal to the average rate of change of the Consumer Price Index (the "CPI") for the most recent past twelve (12) months. For the purposes hereof CPI shall mean the Monthly Labor Review by the United States Department of Labor Statistics, designated "Consumer Price Index--U.S. City Average for Urban Wage Earners and Clerical Workers, 1982-84 Equals 100, All Items." The maximum annual assessment automatically increases each year even if the actual assessment does not increase.

(b) In Addition to Section 6.3(a) above, the maximum annual assessment during each fiscal year of the Association shall be automatically increased by the amounts of any increases in water or other utility charges or any increases to insurance rates charged to the Association; and

(c) From and after 1/1/2001, the maximum annual assessment may be increased above the amount indicated in (a) above by a vote of two-thirds of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

(d) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 6.4 Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year for the exclusive purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided, however, that any such assessments shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 6.5 Notice and Quorum for any Action Authorized Under Sections 6.3 and 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.3 and 6.4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required

quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.6 Uniform Rate of Assessment. Except as provided herein, the annual assessments must be fixed at a uniform rate for all Lots and may be collected on a quarterly basis, as designated by the Board. Declarant shall pay 25% of the annual assessments for each Lot which Declarant owns in four (4) equal quarterly installments in the same manner established for payment of the annual assessment amount by other Lot Owners, except that Declarant shall pay and be liable for the full assessment amount for any Lots owned by Declarant which are being used by Declarant as Model Homes or otherwise being used and occupied for residential purposes (but not sooner than the closing of the first Lot to a residential homebuyer). Any owner renting or leasing a Lot to Declarant which is not being occupied for residential purposes shall pay 25% of the annual assessment for such Lot.

Section 6.7 Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as of the date of conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to the matters described therein.

Section 6.8 Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

(a) Enforcement by Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner to enforce each such assessment obligation. Any judgement rendered in any such action shall include the amount of the delinquency together with interest thereon at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law, from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner.

(b) Enforcement by Lien. There is hereby created a claim of lien on each and every Lot within the Property to secure payment to the Association of any and all assessments levied against any and all Owners of Lots covered by the Declaration, together with interest thereon at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of any such assessment, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or even without such a written demand being made, the Association may elect to file such claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such claim of lien shall contain substantially the following information: (1) the name of the delinquent Owner; (2) the legal description and street address of the Lot against which the claim of lien is made; (3) the total interest thereon, collection costs, and reasonable attorneys' fees (with any proper offset allowed); (4) a statement that the claim of lien is made by the Association pursuant to the Declaration, and (5) a statement that a lien is claimed against such Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such claim of lien, and mailing a copy thereof to the defaulting Owner, the lien claimed shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien, except only tax liens for real property taxes and liens which are specifically described in Section 6.9. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a realty mortgage or by the exercise of a power of sale in the manner provided by law under a trust deed, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association shall have the power to bid in at any foreclosure or trustee's sale and to purchase, acquire, hold, lease, mortgage, and convey any such Lot. In the event of such foreclosure or trustee's sale, reasonable attorneys' fees, court costs, trustee's fees, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted

by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 6.9 Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, foreclosure or trustee's sale, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, but shall not terminate the personal liability of the prior owner for assessments. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 7.1 Organization, Power of Appointment and Removal of Members. There shall be an Architectural Committee, organized as follows:

(a) Committee Composition. The Architectural Committee shall consist of five (5) or three (3) regular members (in any case, an odd number), the Board so elects, and two (2) alternate members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.

(b) Alternate Members. In the event of the absence or disability of one (1) or two (2) regular members of said Committee, the remaining regular member or members, even though less than a quorum, may designate either or both of the alternate members, if any, to act as substitutes for the absent or disabled regular member or members for the duration of such absence or disability, who shall thereupon become "regular" members during such term of designation.

(c) Terms of Office. Members of the Architectural Committee shall serve until they resign, are removed, or are replaced.

(d) Appointment and Removal. The right to appoint and remove all regular and alternate members of the Architectural Committee at any time is hereby vested solely in the Board; provided however, that no member may be removed from the Architectural Committee by the Board except by the vote or written consent of fifty-one percent (51%) of all regular (or alternates sitting as regular) Board members.

(e) Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Board.

Section 7.2 Duties. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules and procedures for appeal to the Board of Directors, and to carry out all other duties imposed upon it by this Declaration. In doing so, the Committee may appoint and designate, by a majority vote of the Committee, a representative (who need not be a Lot Owner) who shall have the authority to exercise those rights and powers and who shall have those duties and liabilities, on behalf of the Architectural Committee, until the Architectural Committee, by a majority vote, shall revoke his appointment and designation.

Section 7.3 Meetings and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to Section 7.1(b), the vote or written consent of any two (2) regular members, at a meeting or otherwise, shall constitute the act of the Committee, unless the unanimous decision of the Committee is otherwise required by this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services.

Section 7.4 Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Committee Rules". Such Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property.

Section 7.5 Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

Section 7.6 Time for Approval. In the event the Architectural Committee fails to approve or disapprove the plans and specifications, such will be deemed approved within thirty (30) days after their submission.

Section 7.7 Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, and the Association hereby indemnifies and holds harmless the Architectural Committee and all members thereof, for, from and against any and all damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or similar documents whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the overall development of the Property, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by such member, and without willful or intentional misconduct, as would be applicable under local law, and except for those circumstances under which a member of the Board would have liability under Section 4.5. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or listen to the views of the Association or any Owner with respect to any proposal submitted to the Architectural Committee.

ARTICLE VIII
USE RESTRICTIONS

Section 8.1 Permitted Uses and Restrictions - Residential. The permitted uses, easements, and restrictions for all Property covered by this Declaration shall be as follows:

(a) Single Family Residential Use. All Lots shall be used, improved and devoted exclusively to single family residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted thereon, except that the owner or occupant residing within the Property may conduct such business activity within the residence so long as (i) the existence or operations of the business activity within the residence is not apparent or detectable by sight, sound or smell from the exterior of the residence; (ii) the business activity does not involve persons coming into the community who do not reside in the community for the purpose of receiving products or services arising out of such usage or door-to-door solicitation of residences or the community; (iii) the business activity conforms to all zoning requiremenets for the community; and (iv) the business activity does not consititute a nuisance, a hazard, an offensive use, or threaten the security or safety of residents. Nothing herein shall be deemed to prevent the leasing of any Lot with the improvements thereon to a single family from time to time by the Owner thereof, subject to all of the provisions of the Declaration. No structure whatever

shall be erected, placed or permitted to remain on any Lot without the express written approval of the Architectural Committee, provided, however, the Architectural Committee will consider requests for construction of a detached garage, gazebo, guest quarters and other such structures. However, written approval by the Architectural Committee of such structures is essential to construction of such structures and such structures must comply with the guidelines established for such structures either in this Declaration or in any rules established by the Architectural Committee and/or the Town of Gilbert. Lots owned by Declarant or its designee or assignee may be used as model homes and for sales and construction offices for the purpose of enabling Declarant or its designee or assignee to sell Lots within the Property until such time as all of the Lots owned by Declarant or its designee or assignee have been sold or leased to purchasers or tenants.

(b) Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained so as to be Visible from Neighboring Property, unless approved by the Architectural Committee. B

(c) Utility Service. All lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted. C

(d) Improvements and Alterations. No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon from its natural or improved state existing on the date such Property was first conveyed by Declarant to a home buyer shall be made without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Architectural Committee or any subcommittee thereof. Pursuant to its rulemaking power, the Architectural Committee shall establish a procedure for the preparation, submission and determination of applications for any such alteration or improvement. The Architectural Committee shall have the right, in its sole discretion, to refuse to approve any plans, specifications or grading plans, which are not suitable or desirable, for aesthetic or other reasons, and in

so passing upon such plans, specifications and grading plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from adjacent or neighboring Property. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee.

(e) Maintenance of Lawns and Plantings. All yards visible from the street shall have acceptable landscaping installed within a reasonable period of time not to exceed 180 days from the close-of-escrow to the first home buyer as to a specific Lot. Lots shall be maintained by their Owners free of weeds and debris; lawns shall be neatly mowed and trimmed; bushes shall be trimmed; and dead plants, trees, or grass shall be removed and replaced.

(f) Repair of Buildings. No improvement upon any Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

(g) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Property except in covered sanitary containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make same available for collection and, then, only the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.

(h) Overhangs. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or otherwise to encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

(i) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Property except usual and customary equipment and machinery used in connection with the use, maintenance or construction of permitted improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Common Area. Slides, playground equipment, basketball poles and hoops, outdoor decks, gazebos and other such equipment or structures shall be allowed provided they are approved by the Architectural Committee.

(j) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner, without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.

(k) Signs. No sign of any nature (other than a name and address sign, not exceeding 9" x 30" in size) shall be permitted on any Lot; provided, however, that one sign of not more than five square feet may be temporarily erected or placed on a Lot for the purpose of advertising the Lot for sale or rent; and provided further the Declarant or its designee or assignee may erect any signs during construction. These restrictions shall not apply to the Association in furtherance of its powers and purposes herein set forth.

(l) Utility Easements. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment, and to affix and maintain wires, circuits and conduits on, in and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated except as initially developed and approved by the Declarant or thereafter approved by the Board. This easement shall in no way affect any other recorded easements. This easement shall be limited to improvements as originally constructed and no common utility shall be permitted to pass over any improvements on the Lots and no connection line shall be permitted to pass over any improvement on the Lot other than the one it serves.

(m) Animals. No animal or fowl, other than a reasonable number of generally recognized house or yard pets, shall be (i) maintained on any Lot covered by this Declaration and then only if they are kept, bred or raised thereon solely as

domestic pets and not for commercial purposes; or (ii) be permitted to make an unreasonable amount of noise, or create a nuisance. No structure for the care, housing or confinement of any animal or fowl, shall be maintained so as to be Visible From Neighboring Property.

(n) Temporary Occupancy. No temporary building, structure or vehicle of any kind shall be used as a residence, either temporary or permanent. Temporary buildings or structures used during construction periods shall be removed immediately after completion of such construction.

(o) Trailers, Boats, Aircraft, and Motor Vehicles. No motor vehicle classified by manufacturer rating as exceeding one (1) ton, mobile home, trailer, camper shell, boat, boat trailer or hang glider or other similar equipment or vehicle may be parked, stored, maintained, constructed, reconstructed, or repaired on any Lot, street, or Common Area, Visible From Neighboring Property within the Property, provided, however, the provisions of this section do not preclude the parking in garages or on driveways of (i) pickup trucks of not more than one (1) ton capacity (with or without camper shells) providing the height of such pickup truck and camper shall not exceed seven (7) feet, or (ii) mini motor homes or other recreation vehicles which do not exceed seven (7) feet in height or eighteen (18) feet in length, if those vehicles described in (i) and (ii) are used on a regular and recurring basis for basic transportation. No automobile, motorcycle, motor bike, motorized hang glider, or other motor vehicle shall be constructed, reconstructed or repaired on any Lot, street, or Common Area within the Property and no inoperable vehicle may be stored or parked so as to be Visible From Neighboring Property, except in the event of an emergency.

(p) Nuisances/Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to a Lot and no odors or loud noises shall be permitted to arise or emit therefrom, so as to create a nuisance, render any such Property or any portion thereof or activity thereon unsanitary, unsightly, offensive or detrimental to the Lot or person in the vicinity thereof. Without limiting the generality of any of the foregoing provisions, no speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such Property. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Property. The Board in its sole discretion shall have the right to determine the existence of any violation of this Section and its determination shall be final and enforceable as provided herein. Normal construction activities shall not be considered a nuisance or otherwise

prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods. Supplies or building materials and construction equipment shall be stored only in such areas and in such manner as may be approved by the Architectural Committee or the Declarant.

(q) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise not Visible From Neighboring Property.

(r) Mineral Exploration. No Property 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 of any kind.

(s) Diseases and Insects. No Owner or resident shall permit any thing or condition to exist upon the Property which shall induce, breed or harbor infectious plant diseases or noxious insects.

(t) Party Walls and Fences. The rights and duties of Owners with respect to party walls or party fences shall be as follows:

(1) Owners of contiguous Lots who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use does not interfere with the use and enjoyment thereof by the other Owner.

(2) In the event that any party wall or party fence is damaged or destroyed through the act of an Owner, his agents, guests, or family members, it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the other adjoining Lot Owner or Owners. Any dispute over an Owner's liability shall be resolved as provided in subsection (5) below.

(3) In the event any party wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his agents, guests or family members, it shall be the joint obligation of all Owners whose Lots adjoin such wall or fence to rebuild and repair such wall or fence, such expense to be divided among the Owners in accordance with frontage of their Lot on the party wall or party fence.

(4) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall or party fence without the prior written consent of the Board.

(5) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a party wall or party fence or the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be final and enforceable.

(6) Each Owner shall permit the Owners of adjoining Lots, or their representatives, when reasonably required, to enter his Lot for the purpose of repairing or maintaining a party wall or fence or for the purpose of performing installations, alterations or repairs to the Property of such adjoining Owners, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate. An adjoining Owner making entry pursuant to the terms of this paragraph shall not be deemed guilty of trespass by reason of such entry.

(7) Surfaces of party walls or party fences which are generally accessible or viewable from only the adjoining Property may be planted against, painted, maintained and used by the adjoining Owners. If such surfaces are viewable from public streets or the Common Area, the color scheme shall not be changed without the written consent of the Architectural Committee.

(8) Any Lot which has a wall adjacent to the Common Area and which wall separates the Lot from the Common Area shall be considered to have a party wall with the Association and the provisions of this Section 8.1(t) apply as though the Common Area were an adjacent Lot.

(9) The Owners of Lots with a wall adjacent to a street, or adjoining property, other than Lots or Common Area within the Property, shall be solely responsible for repair and maintenance of such walls, and if repair is necessary, the repaired wall must match the size, color, and texture of the existing adjacent walls within the Property.

(u) Drainage Easement. There is hereby created a blanket easement for drainage of groundwater on, over and across the Common Area. No Owner shall obstruct, divert, alter or interfere with any portion of the Property. Each Owner shall

at his own expense maintain the drainageways and channels on his Lot in proper condition free from obstruction.

(v) Parking. It is the intent of the Declarant to eliminate on-street parking as much as possible. Vehicles of all Owners, residents, guests and invitees are to be kept in garages, carports, residential driveways and other parking areas designated by the Association.

(w) Right of Entry. During reasonable hours and upon reasonable notice to the Owner or resident of a Lot, any Member or authorized representative of the Architectural Committee or the Board shall have the right to enter upon and inspect any Lot or improvements thereon, except for the interior portions of any completed improvements, to determine if the improvements are in compliance with this Declaration. Any such persons shall not be deemed guilty of trespass by reason of such entry.

(x) Health, Safety and Welfare. In the event uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or residents, the Board may make rules restricting or regulating their presence as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots as part of the Architectural Committee Rules.

(y) Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of improvements or signs necessary or convenient to the development or sale of Lots within the Property.

Section 8.2 Permitted Uses and Restrictions - Common Area. The permitted uses and restrictions for the Common Area shall be as follows:

(a) Permitted Uses.

(1) Except as otherwise provided herein, the Common Area shall be used in general for the exclusive benefit of the Owners, for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment to be derived from such reasonable and proper use, without hindering the exercise of or encroaching upon the right of any other Owner to utilize the Common Area, provided that no unlawful use shall be permitted.

(b) Restricted Uses.

(1) The Common Area shall not be used by Owners for storage of supplies, material or personal property of any kind.

(2) Except as otherwise provided herein, no activity shall be carried on nor condition maintained by any Owner upon the Common Area which spoils the appearance of the Property or hinders or encroaches upon the right of any other Owner to utilize the Common Area as reasonably intended.

(c) Maintenance by Association. The Association has the right and may, at any time, as to any Common Area conveyed, leased, or transferred to it, or otherwise placed under its jurisdiction, in the discretion of the Board, without any approval of the Owners being required:

(1) Maintain the plantings on all Common Areas. For this purpose, Declarant and the Association shall have the right, at any time, to plant, replace, maintain and cultivate landscaping, shrubs, trees, and plantings on any Common Area and on such easements over an Owner's Lot as may have been granted to Declarant or the Association, regardless of whether any Owner or the Association is responsible hereunder for maintenance of such areas. No Owner shall remove, alter, injure or interfere in any way with any landscaping, shrubs, trees, grass or plantings placed upon any Common Area without the prior written consent of Declarant or the Association. Declarant and the Association shall have the right to enter upon or cross over any Lot, at any reasonable time, for the purpose of planting, replacing, maintaining or cultivating such landscaping, shrubs, trees, grass or plantings and shall not be liable for trespass for so doing.

(2) Reconstruct, repair, replace or refinish any improvement or portion thereof upon the Common Area or the above described easement areas (to the extent that such work is not the responsibility of any governmental entity or utility);

(3) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, and parking area (to the extent that such work is not done by a governmental entity or utility, if any such entity is responsible for the maintenance and upkeep of such area);

(4) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and

ground cover to the extent that the Board deems necessary or advisable;

(5) Place and maintain upon the Common Area such signs, markers and lights as the Board may deem appropriate for the proper identification, use and regulation thereof, subject to the approval of the Architectural Committee;

(6) Remove all papers, debris, filth and refuse from the Common Area and wash or sweep paved areas as required; clean and relamp lighting fixtures as needed;

(7) Repaint striping, markers, directional signs, and similar identification or safety devices as necessary;

(8) Pay all real and personal taxes and assessments on the Common Area;

(9) Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Area;

(10) Pay for and keep in force at the Association's expense, adequate insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Area. Such insurance shall be with companies acceptable to the Association in amounts and with adequate limits of liability desired by the Owners or required of the Owners pursuant to any other recorded document affecting the Property, such insurance to name the Association or the Owners or both as named insureds;

(11) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration;

(12) The Board shall be the sole judge as to the appropriate maintenance within the Common Area; and

(13) Nothing herein shall be construed so as to preclude the Association from delegating its powers set forth above to a project manager or agent or to other persons, firms or corporations.

(d) Damage or Destruction of Common Area by Owners. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, or agents, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original

plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall, to the extent required under local law, be paid by said Owner, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments, including Section 9.3 hereof.

(e) Mortgage of Common Area. The Common Area shall not be mortgaged without the prior consent of Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members.

ARTICLE IX
INSURANCE

Section 9.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a person other than the Declarant, the Association shall maintain adequate insurance for the Common Areas, including liability in an amount no less than one million dollars ($1,000,000), as well as directors and officers liability. Each Owner shall be responsible for coverage on his Lot and any improvements thereon.

Section 9.2 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner, and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 9.3 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

ARTICLE X
GENERAL PROVISIONS

Section 10.1 The Declaration. By acceptance of a deed or by acquiring any ownership interest in any portion of the Property, each Owner, his heirs, representatives, successors, transferees and assigns, binds himself, his heirs, representatives, successors, transferees and assigns, to restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Owner by so doing hereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and thereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Owner fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various future Owners.

Section 10.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In the event any portion of any Lot is maintained so as to present a public or private nuisance, or substantially detract from or affect the appearance or quality of any surrounding Lot, or is used in a manner which violates this Declaration or in the event the Owner or resident of any Lot is failing to perform its obligation under this Declaration or the Architectural Committee Rules, the Association or any Owner(s) may give notice to the Owner of such Lot that unless corrective action is taken within fourteen (14) days, the Association or such Owner may take, at such Owner's cost, whatever action is appropriate to complete compliance including, without limitation, appropriate legal action. Charges incurred by the Association or such Owner(s) in making any repairs or maintenance shall be borne by the violating Owner and shall be paid to the Association or such Owner(s), as appropriate, on demand with interest at twelve percent (12%) per annum accruing from the date said charges are incurred until paid in full. Any sum not paid hereunder by the violating Owner shall be treated as an assessment and collected in accordance with the procedures provided in Article VI.

Section 10.3 Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.4 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after

which time they shall be extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by Owners representing not less than seventy-five percent (75%) of the authorized votes of each class of Membership, and thereafter by an instrument signed by Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members; except that the Declarant may amend the Declaration as may be requested by the FHA, VA, FHLMC or FNMA, or any government agency which requests such amendment as a condition of approving the Declaration or any federally chartered lending institution which requests such amendment as a condition to lending funds upon the security of any Lot, or as may be appropriate in the event of any such requested amendment that deletes, diminishes or alters Declarant's control of the Association and its activities, to permit the Declarant to adopt other and different control provisions. Any amendment must be recorded.

Section 10.5 Notices. Notices provided for in these Restrictions shall be in writing and shall be addressed to the last known address of the Lot Owner in the files of the Lindsay Ranch Homeowners' Association. Notices shall be deemed delivered when mailed by United States First Class, Registered or Certified Mail addressed to the Lot Owner at such address or when delivered in person to such Owner.

Section 10.6 Condemnation. Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Common Area is to be taken by any governmental body by exercise of the power of condemnation or eminent domain, all Owners and first mortgagees shall be immediately notified by the Association thereof. The Association shall represent the Owners in any condemnation or eminent domain proceeding authority for acquisition of any part of the Common Area of the Property, and every Owner appoints the Association his/her attorney-in-fact for this purpose. The entire award made as compensation for such taking of Common Area, including but not limited to any amount awarded as severance damages, or the entire amount received and paid in anticipation and settlement for such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including but not limited to attorneys' fees, appraisers' fees and court costs (which net amount shall hereinafter be referred to as the "Award"), shall be paid to the Association as trustee for the use and benefit of any Owners and their first mortgagees as their interests may appear. The Association shall, as it is practicable, cause the Award to be utilized for the purpose of repairing and restoring the Property, including, if the Association deems it necessary or desirable, the replacement of any improvements so taken or conveyed.

In the event of any taking of any Lot in the Property by eminent domain, the Owner of such Lot shall be entitled to receive

the award for such taking, and after acceptance thereof Lot Owner and all of Lot Owners' mortgagees shall be divested of all interest in the Property if such Owner shall vacate Lot Owners' Lot as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Property or take other action. The remaining portion of the Property shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking. In the event of a taking by eminent domain of more than one Lot at the same time, the Association shall participate in the negotiations and shall propose the method of division of the proceeds of condemnation where Lots are not valued separately by the condemning authority or by the court. The Association should give careful consideration of the allocation of Common Interests in the Common Area in determining how to divide lump sum proceeds of condemnation. In the event any Lot Owner disagrees with the proposed allocation, Lot Owner may have the matter submitted to arbitration under the rules of the American Arbitration Association.

Section 10.7 Waiver; Remedies Cumulative. No failure or delay on the part of any person in exercising any right, power or privilege hereunder and no course of dealing between or among the Persons subject hereto shall operate as a waiver of any provision hereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any person subject hereto would otherwise have. No notice to or demand upon any person in any case shall entitle such person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances.

Section 10.8 Topical Heading. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs of this Declaration.

Section 10.9 Prior Approval. As long as there is a Class B membership, then if this Declaration has previously been approved by the Federal Housing Administration or the Veterans Administration, the following actions will require, to the extent then required by applicable regulations of the Veterans Administration or Federal Housing Administration, the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area, and the amendment of this Declaration. Whenever the approval of the Federal Housing Administration or the Veterans Administration is required under this Section, such approval shall be deemed given unless a disapproval or statement requesting additional time is issued by such agency to the Association within thirty (30) days following submissionto such agency.

IN WITNESS WHEREOF, SHEA HOMES AND CHI CONSTRUCTION COMPANY, as Co-Declarants, have caused their corporate names to be signed and their corporate seals to be affixed by the undersigned officers thereunto duly authorized this 12th day of January, 1996.

SHEA HOMES

By: _____

Its: V.P. Land Acquisition

~~By:~~ _____

~~Its:~~ _____

CHI CONSTRUCTION COMPANY

By: _____

Its: VP Land Acquisition

STATE OF ARIZONA)
)s.s.
County of Maricopa)

On this 15th day of January, 1996, before me, the undersigned Notary Public, personally appeared Kelly Lund and _____, who acknowledged himself/herself to be the Vice President and _____, respectively, of SHEA HOMES, and that as such officers being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

Linda Metz
Notary Public

OFFICIAL SEAL
LINDA METZ
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm Expires Jan. 26, 1998

STATE OF ARIZONA)
)s.s.
County of Maricopa)

On this 4th day of January, 1996, before me, the undersigned Notary Public, personally appeared Curt Nelson, who acknowledged himself to be the V.P. of Land Acquisition of CHI CONSTRUCTION COMPANY, an Arizona corporation, and that as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

Linda Victor
Notary Public

My Commission Expires:

OFFICIAL SEAL
LINDA VICTOR
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 10, 1996

When recorded, return to:

Fennemore Craig
Two North Central Avenue
Suite 2200
Phoenix, AZ 85004
Attention: Lesa J. Storey

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
95-0654994 10/26/95 08:27

First American Title
201-800-685582 1/1

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

FINLEY FARMS SOUTH

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DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

FINLEY FARMS SOUTH

This Declaration of Covenants, Conditions and Restrictions for Finley Farms South (the "Declaration") is made and entered into as of the 24th day of October, 1995, by SPRING/SUNBELT IV L.L.C., an Arizona limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of that parcel of real property situated in Maricopa County, Arizona, more particularly described in Exhibit "A" hereto.

B. Declarant desires to create a planned residential community which will include common facilities for the benefit of the community.

C. Declarant desires to submit and subject the Property to the covenants, conditions and restrictions set forth in this Declaration.

D. Declarant desires to establish for its own benefit, for the benefit of the Designated Builders, and for the mutual benefit of all future owners and occupants of the Property, and every part thereof, certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof.

E. Declarant desires and intends that the Owners, mortgagees, beneficiaries and trustees under deeds of trust, Occupants, Designated Builders and all other Persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which shall run with the land and be binding upon the Property and all Persons having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each Owner thereof, and all of which are declared to be in furtherance of a plan to promote and protect the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

DECLARATIONS

NOW, THEREFORE, Declarant, for the purposes above set forth, declares as follows:

1. Definitions.

Defined terms used in this Declaration have the first letter of each word in the term capitalized. Unless the context otherwise requires, defined terms shall have the following meanings:

1.1 "Annual Assessment" means the assessments levied against each Lot or Parcel, and the Owner thereof, pursuant to Sections 7.5 through 7.9 of this Declaration.

1.2 "Architectural Committee" means the committee of the Association appointed by the Board pursuant to Section 12 of this Declaration.

1.3 "Architectural Guidelines" means the rules, guidelines and procedures adopted by the Architectural Committee pursuant to Section 12 of this Declaration, as amended or supplemented from time to time.

1.4 "Areas of Association Responsibility" collectively means (i) the Common Areas, (ii) all land (and the Improvements located thereon) located within the boundaries of a Lot or Parcel, which the Association is obligated to maintain, repair and replace, either pursuant to the terms of this Declaration or the terms of another Recorded instrument executed by the Association, and (iii) all land (and the Improvements located thereon) located in dedicated rights-of-way within the Project, which the Association is required by the Town of Gilbert to maintain.

1.5 "Articles" means the Articles of Incorporation for the Association, and any properly adopted amendments and supplements to them.

1.6 "Assessment" means the Annual Assessments and the Special Assessments, together with any other amounts declared by this Declaration to be a part of an Assessment or declared by this Declaration to be secured by the Assessment Lien.

1.7 "Assessment Lien" means the lien created and imposed by Section 7.3 of this Declaration.

1.8 "Association" means Finley Farms South Owners Association, an Arizona nonprofit corporation, its successors (including, but not limited to, a successor by merger or consolidation) and assigns.

1.9 "Association Rules" means the rules adopted by the Board pursuant to Section 14.19 of this Declaration.

1.10 "Board" means the Board of Directors of the Association.

1.11 "Bylaws" means the Bylaws of the Association, and any properly adopted amendments and supplements to them.

1.12 "Church Site" means any portion of the Property designated as such by Declarant in a Recorded instrument and owned in fee by a church or religious organization, for so long as such church or religious organization is the fee owner thereof and such portion of the Property is utilized primarily for religious purposes.

1.13 "Common Areas" collectively means (i) all Tracts designated as common area on any Plat, (ii) all land which the Association at any time owns in fee or in which the Association has a leasehold interest, for as long as the Association is the owner of the fee or leasehold interest, and (iii) all Improvements located on each of the foregoing areas.

1.14 "Common Expenses" collectively means the expenditures made by or financial liabilities of the Association (including, but not limited to, the Park Assessments paid or to be paid by the Association as provided in Section 4.4 of this Declaration) and any allocations to reserves.

1.15 "Constituent Documents" means this Declaration, the Articles, the Bylaws, the Association Rules, and the Architectural Guidelines, together with any properly adopted amendments to any of them.

1.16 "Declarant" means the above-recited Declarant or any Person to whom Declarant's rights hereunder are hereafter assigned in whole or in part by Recorded instrument.

1.17 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Finley Farms South, as amended from time to time.

1.18 "Designated Builder" means any Person who (i) is engaged in the business of constructing and selling residences in the Property to the public, (ii) has acquired or has an Option to acquire one or more Lots or Parcels in connection with and in the course of such business, and (iii) is designated by Declarant in a Recorded instrument as a Designated Builder entitled to enjoy the rights and privileges provided to Designated Builders under this Declaration. The term "Designated Builder" shall also include any Person to whom all of a Designated Builder's rights and privileges hereunder are assigned by a Recorded instrument, but only if Declarant's written consent to the assignment is either included in the Recorded instrument of assignment or is evidenced by a separate Recorded instrument signed by Declarant.

1.19 "Dwelling Unit" means any building, or portion of a building, situated upon a Lot or Parcel, which is designed and intended for independent ownership and for use and occupancy as a residence.

1.20 "Eligible Holder" means any First Mortgagee or Institutional Guarantor that requests notice of certain matters in accordance with Section 15.18 of this Declaration.

1.21 "Exempt Property" shall collectively mean the following parts of the Property: (i) any portion of the Property owned in fee by or dedicated to and accepted by the United States of America, the State of Arizona, Maricopa County, the Town of Gilbert, or any political subdivision of any of the foregoing, for so long as any such entity or political subdivision is the fee owner thereof or for so long as said dedication remains effective, and (ii) the Church Site.

1.22 "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property.

1.23 "First Mortgagee" means the holder of the note secured by a First Mortgage.

1.24 "Fractional Interest" means that fraction, the numerator of which is one and the denominator of which is the sum of the number of Lots then in the Property and the number of Units of Density then in the Property.

1.25 "Improvement" means any building, fence, wall, fixture, improvement or structure, any swimming pool, road, driveway or parking area, and any tree, plant, shrub, grass or other landscaping improvement of every kind and type.

1.26 "Institutional Guarantor" means the Federal Housing Administration ("FHA") and the Veterans Administration ("VA"), including any successor thereto, if such an agency purchases any note, or guarantees or insures the payment of any note secured by a First Mortgage.

1.27 "Interest Rate" means the rate of interest equal to the greater of (i) twelve percent (12%), or (ii) the annual rate of interest then in effect for new first priority single family residential mortgage loans guaranteed by the VA.

1.28 "Lot" means each portion of the Property separately designated and described as a lot on a Plat, together with the Improvements thereon.

1.29 "Master Development Plan" means the map of dedication Recorded in Book 397 of Maps, page 50, as from time to time amended, corrected or supplemented by Recorded instrument.

1.30 "Member" means any Person who is a member of the Association, as provided in this Declaration.

1.31 "Membership" means a membership in the Association. Initially there shall be two Classes of Membership, as provided in Section 5.3 of this Declaration.

1.32 "Mortgage" means any Recorded, filed or otherwise perfected instrument pertaining to a portion of the Property (which is not a fraudulent conveyance under Arizona law), given in good faith and for valuable consideration as security for the performance of an obligation including, but not limited to, deeds of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.33 "Mortgagee" means the holder of a note secured by a Mortgage, including the beneficiary under any deed of trust.

1.34 "Mortgagor" means the party executing a Mortgage as obligor.

1.35 "North Property Association" means Finley Farms Homeowners Association, an Arizona nonprofit corporation, its successors and assigns, which corporation has been formed or is to be formed pursuant to the North Property Declaration.

1.36 "North Property Declaration" means the Declaration of Covenants, Conditions and Restrictions for Finley Farms, Recorded on January 17, 1995, in Instrument No. 95-0024852, as amended by the First Amendment Recorded on March 7, 1995, in Instrument No. 95-0124613, and as thereafter amended from time to time by any properly adopted amendment thereto.

1.37 "Occupant" means a Person or Persons, other than an Owner, in rightful possession of a Lot or Parcel.

1.38 "Option" means an exclusive option to purchase one or more Lots or Parcels, where the optionee's rights are held by a Designated Builder, and which option is evidenced by a Recorded memorandum or other Recorded instrument.

1.39 "Owner" means the record owner, whether one or more Persons, of fee simple title to any Lot or Parcel, whether or not subject to any Mortgage, but excluding those having such interest merely as a lessee or as security for the performance of an obligation. If fee simple title to a Lot or Parcel is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et. seq., fee simple title shall be deemed to be in the trustor. If fee simple title to a Lot or Parcel is vested of record in a trustee pursuant to a subdivision trust agreement, dual beneficiary trust agreement, or similar arrangement, the beneficiary of any such trust who, under the terms of the trust, is entitled to possession of the trust property shall be deemed to be the Owner. If a Lot or Parcel is subject to a contract for conveyance of real property under the provisions of Arizona Revised Statutes, Section 33-741 et. seq., the purchaser under such contract (and not the seller) shall be deemed to be the Owner.

1.40 "Parcel" means each area of the Property shown as a separate piece of property on the Master Development Plan; provided, however that in the event a Parcel is split in any manner into portions under separate ownership (other than by subdivision of the Parcel into Lots by recordation of a Plat), each portion under separate ownership shall thereafter constitute a separate Parcel. Any Parcel subdivided into Lots (or Lots and Common Areas) by the Recordation of a Plat thereof shall cease to be a Parcel as of the date of Recordation of such Plat; provided, however, that any remaining portion of such Parcel not so subdivided shall continue to be a Parcel unless and until such remaining portion is so subdivided.

1.41 "Park" means the real property described in Exhibit "B" attached hereto, which property is subject to the North Property Declaration.

1.42 "Park Assessment" means the assessments for expenses in connection with the operation, upkeep and maintenance of the Park levied pro rata against each Owner and Parcel and Lot within the Property, pursuant to Section 4.6.3 of the North Property Declaration.

1.43 "Person" means an individual, corporation, partnership, limited liability company, trustee or other legal entity.

1.44 "Plat" means the plat or plats of subdivision Recorded against all or any portion of the Property, as from time to time amended, corrected or supplemented by Recorded instrument.

1.45 "Private Yard" means that portion of a Lot other than the residential structure, which is enclosed or shielded from view by walls, fences, hedges or the like so that it is not generally Visible from Neighboring Property.

1.46 "Property" and "Project" are synonymous, and shall mean the real property described in Exhibit "A" attached hereto and all Improvements now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.47 "Public Purchaser" means any Person, other than Declarant or a Designated Builder, who by means of voluntary transfer becomes the Owner of a Lot with a completed Dwelling Unit thereon, other than a Person who purchases a Lot with a completed Dwelling Unit thereon and then leases it back to Declarant or any Designed Builder for use as a model in connection with the marketing of other Lots.

1.48 "Public Yard" means that portion of a Lot other than the residential structure, which is generally Visible from Neighboring Property, whether or not it is located in front of, beside, or behind the residential structure.

1.49 "Record," "Recording" or "Recordation" refers to the act of placing a document or instrument of public record in the office of the County Recorder of Maricopa

County, Arizona. "Recorded" refers to a document or instrument which has been so placed of public record.

1.50 "Shortfall" means, with respect to any budget year of the Association in which a reduced Annual Assessment election by Declarant or a Designated Builder is effective as provided in Section 7.9, the amount by which the total Common Expenses of the Association for that budget year exceed the Annual Assessments payable by Owners for that budget year (including Declarant and any Designated Builder at the reduced rate under Section 7.9).

1.51 "Special Assessment" means the assessments levied against each Lot or Parcel, and the Owner thereof, pursuant to Sections 7.10 or 9.5 of this Declaration.

1.52 "Unit of Density" means a Dwelling Unit permitted upon a Parcel pursuant to Town of Gilbert Zoning Case No. CC 94-132 or other then-applicable zoning of such Parcel. If a Plat is Recorded with respect to a Parcel or portion thereof, then the Parcel or portion thereof which is so platted shall cease to have any Units of Density as of the date of Recordation of such Plat, and the number of votes and the Assessments attributable thereto shall thereafter be based upon the number of Lots within such Plat rather than the number of Units of Density.

1.53 "Visible from Neighboring Property" means capable of being clearly seen without artificial sight aids by an individual six feet tall standing at ground level on any Lot or Parcel, or any portion of the Common Areas, or on any public street in or abutting the Property.

2. Binding Covenants; Rights and Obligations.

Declarant hereby submits and subjects the Property to the rights, easements, privileges, covenants and restrictions set forth in this Declaration, and hereby declares that all of the Property, including the Lots, Parcels and Common Areas, shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and provisions of this Declaration. Each grantee of Declarant, by the acceptance of a deed of conveyance, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each Person at any time hereafter owning or acquiring any interest in any part of the Property, accepts the interest subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, binding upon any Person having any interest or estate in the Property at any time, and inuring to the benefit of the grantee, purchaser or Person as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument whereby each such Person acquires an interest in the Property.

3. Property Rights and Rights of Enjoyment in the Common Areas.

3.1 Right of Enjoyment of Common Areas.

Subject to the provisions of Section 3.3 of this Declaration, every Owner shall have a right and easement of enjoyment in and to the Common Areas. The easement shall be appurtenant to, and shall pass with the title to, every Lot and Parcel.

3.2 Conveyance of Common Areas.

At such time as the Improvements on the Common Areas (or any individual phase thereof) have been completed and the Association has been formed and is able to operate and maintain the Common Areas, legal title to the Common Areas (or individual phase) shall be conveyed by Declarant (or the Designated Builder, if title thereto is then held by the Designated Builder) to the Association, free and clear of all liens and encumbrances except the lien for real property taxes (if any) not yet due and payable. Declarant (or the Designated Builder, as applicable) shall at its expense provide to the Association a title insurance policy insuring good and marketable title in the Association to the Common Areas (or individual phase).

3.3 Limitations.

The rights and easements of enjoyment created in this Declaration (including, but not limited to, those relating to the Common Areas) shall be subject to the following:

(a) The right of the Association to dedicate, convey, transfer, or encumber the Common Areas, subject to the consent requirements of Section 15.3(4) of this Declaration;

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure in the event of default upon any Mortgage covering them;

(c) The right of the Board to suspend such rights and easements of enjoyment (including, but not limited to, those relating to the Common Areas and the Park) and the voting rights of any Owner (and any Occupant or other Person claiming through such Owner) for any period during which any Assessment or other charge hereunder assessed to such Owner or his Lot or Parcel remains delinquent and unpaid, and for any period not to exceed 30 days or any infraction of this Declaration, the Architectural Guidelines, or the Association Rules (subject, however, to renewal for continuing infraction); provided, however, that no such suspension shall prevent reasonable access to a Lot or Parcel across Common Areas; and

(d) The right of the Board to regulate the use of the Common Areas through the Association Rules and to prohibit access to portions of the Common Areas, such as landscaped areas, which are not intended for use by Owners, Occupants or other Persons.

3.4 Delegation of Rights.

Any Owner may delegate his rights of enjoyment in the Common Areas to the members of his family who reside upon his Lot or Parcel or to any Occupant of his Lot or Parcel. The Owner shall notify the Association in writing of the name of any Person to whom such rights of enjoyment are delegated and the relationship of such Person to the Owner, provided, however, that such notification shall not be required with respect to any member of the Owner's immediate family. The rights and privileges of any such Person are subject to suspension as provided in this Declaration or any other Constituent Document to the same extent as those of the delegating Owner, and are subject to such further regulation as may be provided in the Constituent Documents.

4. Rights of Enjoyment in the Park.

As provided in Section 4.6 of the North Property Declaration, every Owner and their family, tenants and guests, shall have a non-exclusive right of and easement and enjoyment in and to the Park, which shall be appurtenant to and pass with the title to every Lot and Parcel, subject to the provisions of Section 4.6 of the North Property Declaration, and to the following provisions:

4.1 Covenant and Agreement to Pay Park Assessments.

Declarant, for each Lot or Parcel owned by Declarant, hereby covenants and agrees, and each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot or Parcel, is deemed to covenant and agree, to pay to the North Property Association (or the Association, if the Association has assumed the collection responsibility therefor as provided in Section 4.4 below) the Park Assessment levied pursuant to Section 4.6 of the North Property Declaration with respect to such Owner or such Owner's Lot or Parcel. The Park Assessment with respect to a Lot or Parcel shall be a continuing lien against such Lot or Parcel and shall be enforceable against each Owner in the same manner as provided in this Declaration for the enforcement of delinquent Assessments and in the same manner as provided in the North Property Declaration for the enforcement of delinquent assessments thereunder. In addition, in the event that the need for any maintenance or repair of the Park is caused through the willful or negligent act of any Owner, his family, lessees, guests or invitees, the cost of such maintenance or repairs shall be paid by such Owner to the North Property Association (or the Association, if the Association has assumed the collection responsibility therefor as provided in Section 4.4 below) upon demand therefor by the North Property Association (or the Association, as applicable), and the payment of such amounts shall be enforceable against each Owner in the same manner as provided in this Declaration for the

enforcement of delinquent Assessments and in the same manner as provided in the North Property Declaration for the enforcement of delinquent Assessments thereunder.

4.2 Covenants and Agreements Regarding Park Use. Each Owner hereby covenants and agrees to be bound by the provisions regarding use of the Park set forth in the North Property Declaration, the Association Rules promulgated pursuant to the North Property Declaration, and any Association Rules promulgated pursuant to this Declaration. Any Association Rules promulgated pursuant to this Declaration which govern or relate to the use of the Park shall require the prior approval of the North Property Association.

4.3 Rights of Enforcement. The Declarant under the North Property Declaration and the North Property Association shall be empowered to enforce against each Owner the provisions of Section 4.6 of the North Property Declaration relating to payment of the Park Assessment by Owners hereunder and use of the Park by such Owners.

4.4 Association Rights and Powers. The Association, acting by and through the Board, shall have the power and authority to perform all of the Association's duties, obligations and functions with respect to the Park as set forth in Section 4.6 of the North Property Declaration. The Board may elect, as provided in Section 4.6.3 of the North Property Declaration, to have Park Assessments billed to and collected by the Association for remittance to the North Property Association. In the event that such an election is made by the Board, then the Park Assessments payable with respect to the Property shall be part of the Common Expenses hereunder, and the Association shall be obligated to pay to the North Property Association all Park Assessments from time to time payable with respect to the Property pursuant to the North Property Declaration. Such election by the Board to collect and pay Park Assessments to the North Property Association shall in no event be construed to relieve the Owners hereunder from their obligation to pay Park Assessments pursuant to Section 4.6 of the North Property Declaration if the Association hereunder fails to do so.

4.5 Church Site. The Owner of the Church Site shall, on or before 90 days prior to commencement of each Assessment Period (as defined in the North Property Declaration), deliver written notice to the North Property Association and the Association, electing one of the following options for such Assessment Period: (i) the Church Site (and the Owner, tenants and guests thereof) shall have no right to use the Park and the Church Site and Owner thereof shall have no obligation to pay Park Assessments, or (ii) the Church Site (and the Owner, tenants and guests thereof) shall have the right to use the Park in accordance with the terms and conditions of this Section 4 and the Church Site and Owner thereof shall be obligated to pay Park Assessments in accordance with the terms and conditions of this Section 4. If the Owner of the Church Site fails to deliver such written notice of election for any Assessment Period, then such Owner shall be deemed to have elected option (i) for that Assessment Period.

5. The Association: Membership and Voting Rights.

5.1 Association.

The Association has been, or will be, formed to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Areas of Association Responsibility, the collection of Assessments, and other matters as provided in this Declaration, the Articles and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

5.2 Membership.

Each Owner shall be a Member of the Association so long as he is an Owner. Membership shall automatically terminate when the Owner ceases to be an Owner. Upon the transfer of his ownership interest, the new Owner succeeding to the ownership interest shall likewise automatically succeed to the Membership. A Membership shall not be transferred, pledged or alienated in any way, except upon the sale of the Lot or Parcel to which it appertains (and then only to the purchaser of the Lot or Parcel) or by intestate succession, testamentary disposition, foreclosure of a Mortgage or other legal process transferring fee simple title to the Lot or Parcel (and then only to the Person to whom fee simple title is transferred). Notwithstanding the foregoing, if an Owner grants an irrevocable proxy or otherwise pledges or alienates his voting right regarding special matters to a Mortgagee as additional security, only the vote of the Mortgagee will be recognized in regard to the designated special matters if a copy of the proxy or other instrument pledging or alienating the Owner's vote has been filed with the Board. If more than one such instrument has been filed, the Board shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves. Any attempt to make a prohibited transfer of a Membership is void and will not be recognized by or reflected upon the books and records of the Association.

5.3 Classes of Membership; Voting Rights of Classes.

The Association initially shall have two classes of voting Membership:

Class A. Class A Members shall be all Owners but, so long as any Class B Memberships are outstanding, shall not include Declarant. Class A Members shall be entitled to one vote for each Lot owned and one vote for each Unit of Density within each Parcel owned.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three votes for each Lot owned by the Class B Member and three votes for each Unit of Density within each Parcel owned by the Class B Member. The Class B Membership shall cease and be converted to Class A Membership, without

further act or deed, upon the happening of any of the following events, whichever occurs first:

(i) 120 days following the first date when the total votes entitled to be cast by the Class A Members equal or exceed the total votes entitled to be cast by the Class B Members, or

(ii) seven years following conveyance of the first Lot to a Public Purchaser, or

(iii) the date upon which Declarant voluntarily delivers written notice to the Association electing to convert the Class B Membership to Class A Membership (but Declarant shall not be required to make such an election).

Notwithstanding the foregoing, the Class B voting rights relating to any particular Lot or Parcel shall be converted to Class A voting rights upon the sale or other disposition of the Lot or Parcel by Declarant, other than in connection with a Recorded assignment by Declarant of all or substantially all of its rights under this Declaration. If any lender to whom Declarant has by Recorded instrument assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security succeeds to the interests of Declarant by virtue of the assignment, the Class B Memberships shall not be terminated, and the lender shall hold the Class B Memberships on the same terms as they were held by Declarant.

5.4 Voting Procedures.

No change in the ownership of a Lot or Parcel shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot or Parcel must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot or Parcel is owned by more than one Person, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the Membership as to such Lot or Parcel shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said Membership, and, in the absence of such designation and until such designation is made, the Board shall either: (i) make such designation, in which event such designation shall be binding for all purposes; or (ii) declare that until all Persons who together hold such Membership jointly make such written designation, the vote(s) attributable to such Membership under this Declaration shall not be cast or counted on any questions before the Members; provided, however, that if any one of such Persons casts a vote or votes representing a certain Lot or Parcel without objection from any other Person sharing ownership of such Lot of Parcel, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot or Parcel unless and until objection thereto is made to the Board, in writing.

5.5 Association Board of Directors.

The Board shall initially be comprised of the individuals specified in the Articles. The terms of office of the members of the Board shall be staggered as provided in the Articles and Bylaws. Each Board member shall serve until his successor is elected and qualified at the next annual meeting of the Association at which vacancies in his group of members is filled or upon his resignation or removal from office, as the case may be. Declarant shall appoint the members of the Board until the first annual meeting of the Association after the date that Class B Membership is converted to Class A Membership. Except for the initial Board and Board members elected or appointed by Declarant, each director shall be an Owner or the spouse of an Owner (or, if an Owner is a corporation, partnership, limited liability company or trust, a director may be an officer, partner, member or beneficiary of the Owner). If a director ceases to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant. Vacancies on the Board caused by any reason shall be filled by a vote of the majority of the remaining Board members though less than a quorum, or by the remaining Board member if there is only one, and each individual so elected shall be a Board member until his successor is duly elected and qualifies. A Board member may be removed from office as provided in the Articles or Bylaws. Except for directors elected or appointed by Declarant, directors shall be elected in the manner and at the times set forth in the Articles or Bylaws.

5.6 Board's Determination Binding.

In the event of any dispute or disagreement between any Owners or other Persons relating to the Project, or any question of interpretation or application of the provisions of this Declaration, or any other Constituent Documents, the determination by the Board shall be final and binding on each and all of such Owners or other Persons (subject to any contrary determination by a court of competent jurisdiction). Unless the Constituent Documents specifically require the vote or written consent of the Members, the approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

5.7 Additional Provisions in Articles and Bylaws.

The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents, members and other interested Persons not inconsistent with law or this Declaration.

5.8 Indemnification.

The Association shall indemnify any and all of its directors and officers, and former directors and officers, against expenses incurred by them, including legal fees, or judgments or penalties rendered or levied against any such Person in a legal action brought against any such Person for acts or omissions alleged to have been committed by any such Person while acting within the scope of his or its authority as a director or officer of the

Association, or exercising the powers of the Board, provided that the Board shall determine in good faith that such Person did not act, fail to act, or refuse to act with gross negligence or with wrongful, fraudulent or criminal intent in regard to the matter involved in the action. Notwithstanding anything to the contrary expressed herein, the Board shall have the right to refuse indemnification as to expenses in any instance in which the Person to whom indemnification would otherwise have been applicable shall have incurred expenses without approval by the Board which are excessive and unreasonable in the circumstances and are so determined by the Board, and as to expenses, judgments, or penalties in any instance in which such Person shall have refused unreasonably to permit the Association, at its own expense and through counsel of its own choosing, to defend him or it in the action or to compromise and settle the action. The Association shall also indemnify the employees, committee members and direct agents of the Association in the same manner and with the same limitations as provided above with respect to directors and officers. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such directors, officers, committee members, employees or agents may be entitled.

5.9 Accounting.

The Association shall at all times keep, or cause to be kept, complete and current books, records and financial statements of the Association. Required books, records and financial statements shall specify in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise. Upon the prior written request to the Association by any Owner, Institutional Guarantor or First Mortgagee, the Association shall make such books, records and financial statements available for the inspection of such Owner, Institutional Guarantor or First Mortgagee during normal business hours or other reasonable times. Books and records of the Association (including, but not limited to, financial statements) may be audited or unaudited, as determined by the Board; provided, however, that if any Institutional Guarantor submits to the Association a written request for an audited financial statement of the Association for the most recently concluded fiscal year of the Association, the Association shall deliver such an audited financial statement to such Institutional Guarantor as required under Section 15.8 of this Declaration, and the cost of preparing such an audited financial statement shall be a Common Expense. The Board may impose a reasonable charge for photocopies of any such books or records requested by any Owner, First Mortgagee or Institutional Guarantor.

5.10 Constituent Documents.

The Association shall at all times keep, or cause to be kept, complete and current copies of the Constituent Documents. Upon the prior written request to the Association by any Owner, Institutional Guarantor or First Mortgagee, the Association shall make the Constituent Documents available for the inspection of such Owner, Institutional Guarantor or First Mortgagee during normal business hours or other reasonable times. The Board may impose a reasonable charge for photocopies of any Constituent Documents requested by any Owner, First Mortgagee or Institutional Guarantor.

5.11 Termination of Association.

If the Association is terminated or dissolved, the assets of the Association shall be transferred to a successor owners' association, a public agency or a trust for the benefit of the Owners and Mortgagees, whichever appears to the Board, in its sole and absolute discretion, to then be the most reasonable and equitable distribution thereof consistent with applicable tax and other laws.

5.12 Managing Agent.

All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement. Any agreement for professional management, or any other contract providing for services of Declarant or any other party, shall not provide for compensation to the managing agent or other contracting party in excess of those amounts standard within the community in which the Project is located, nor exceed a term of one year, but the term may be renewed by agreement of the parties for successive one-year periods. Any such agreement shall provide for termination by either party with or without cause and without payment of a termination fee upon 60 days' written notice; provided, however, that the Association may also terminate the agreement for cause upon 30 days' written notice.

5.13 Mergers, Consolidations.

The Association shall have the right and power to participate in mergers or consolidations with any other non-profit corporations, associations or other entities (including, but not limited to, the North Property Association), regardless of whether the objects, purposes, rights and powers of such non-profit corporations, associations or other entities are the same as those of the Association. Any such merger or consolidation shall require the approval of the Owners holding not less than two-thirds of the votes in each class of Members.

6. Easements and Use of Common Areas.

6.1 Creation of Easement.

There is hereby created a blanket easement upon, across, over and under the Common Areas for installing, constructing, replacing, repairing, maintaining and operating all utilities including, but not limited to, water, sewer, gas, telephone, electricity, television cable and/or antenna or other delivery systems, security systems, and communication lines and systems, for the delivering or providing of public or municipal services such as refuse collection and fire and other emergency vehicle access, and for reasonable ingress and egress in connection with each of the foregoing. By virtue of the easement, it shall be expressly permissible for the providing governmental agency or utility company to erect and maintain necessary facilities and equipment on the Common Areas; provided, however, that no easements shall be created, and no sewers, electrical lines, water lines or other facilities for utilities or lines shall be installed

or relocated on the Common Areas, except as initially created and approved by Declarant or thereafter created or approved by the Board. This provision shall in no way affect any other Recorded easements on the Property.

6.2 Authority of Board.

In addition to the blanket easements granted in Section 6.1 of this Declaration, the Board is authorized and empowered to grant such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains and other public or private utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Areas or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot or Parcel resulting from such a grant shall be repaired by either the providing utility or the Association at its expense. The rights of the Board under this Section shall include, without limitation, the right to furnish to any Person furnishing a service covered by the general easement described in Section 6.1 a specific easement by separate Recorded document evidencing the easement rights of such Person.

6.3 General Use Rights.

Except for the use limitations provided in Sections 3.3 and 6.6 of this Declaration, each Owner shall have the non-exclusive right to use the Common Areas in common with all other Owners as required for the purposes of access and use, occupancy and enjoyment of, the respective Lot or Parcel owned by the Owner. The right to use the Common Areas shall extend to each Owner and Occupant and the agents, servants, tenants, family members and invitees of each Owner. The right to use and possess the Common Areas shall be subject to and governed by the provisions of the Constituent Documents.

6.4 Declarant's and Designated Builders' Use.

Declarant shall have the right and easement to maintain sales or leasing offices, management offices and models throughout the portions of the Project owned by Declarant, and each designated Builder shall have the right and easement to maintain such offices and models throughout the portions of the Project owned by such Designated Builder. Declarant shall have the right and easement to maintain, and to grant to Designated Builders the right to maintain, one or more advertising, identification or directional signs on the Common Areas.

6.5 Wall Easement.

There is hereby created an easement upon, over and across each Lot and Parcel which is adjacent to the perimeter boundaries of the Project, a street, and/or a Common Area, for reasonable ingress, egress, installation, replacement, maintenance and repair of a Project perimeter wall located on the easement. The easement created by this Section 6.5 shall be in favor of Declarant and Designated Builders and appurtenant to the portions of the Project

owned by them at any time, as well as in favor of the Association and those Owners whose Lots or Parcels are subject to the easement.

6.6 Exclusive Use Rights.

By action of the Board, minor portions of the Common Areas adjoining a Lot or Parcel may be reserved for the exclusive control, possession and use of the Owner of the Lot or Parcel. If such an area serves as access to and from two Lots or Parcels, the Owners of the two Lots or Parcels shall have joint control, possession and use of the area as reasonably serves both Lots or Parcels. The exclusive use rights created herein are subject to the blanket utility easement described in Section 6.1 and to the maintenance and architectural control provisions contained in this Declaration and to such reasonable rules and regulations with respect to possession, control, use and maintenance as the Board may from time to time promulgate. Easements are hereby created in favor of and running with each Lot or Parcel having such an area, for the creation of such exclusive control and use of each such area. Such easements and the exclusive rights described in this Section may be terminated by the Board at any time in its sole discretion. Each Owner, by accepting title to a Lot or Parcel, shall be deemed to have further ratified the easements and rights to exclusive use created by this Section 6.6.

7. Assessments.

7.1 Creation of Assessment Right.

In order to provide funds to enable the Association to meet its financial and other obligations and to create and maintain appropriate reserves, there is hereby created a right of assessment exercisable on behalf of the Association by the Board. Annual Assessments and Special Assessments shall be for Common Expenses and shall be allocated among all Lots and Parcels as provided in this Section 7.

7.2 Covenants with Respect to Assessments.

Declarant, for each Lot or Parcel owned by Declarant, hereby covenants and agrees, and each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot or Parcel, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner or such Owner's Lot or Parcel, together with (i) interest from the date due at a rate equal to the Interest Rate, (ii) such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments, whether or not a lawsuit is filed, and (iii) other charges, fines, penalties, or other amounts levied against such Owner or his Lot or Parcel pursuant to this Declaration or any of the Constituent Documents. Each of the Assessments with respect to a Lot or Parcel, together with interest, costs and reasonable attorneys' fees, and charges, fines and penalties as provided in this Section 7.2, shall also be the personal obligation of the Person who or which was the Owner of such Lot or Parcel at the time such amount became due provided, however, that the personal obligation for delinquent Assessments and other amounts shall not

pass to a successor in title of such Owner unless expressly assumed by such successor. No Owner shall be relieved of its obligation to pay any of the Assessments or other amounts by abandoning or not using its Lot or Parcel or the Common Areas, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Lot or Parcel. However, upon transfer by an Owner of fee title to such Owner's Lot or Parcel, as evidenced by a Recorded instrument, such transferring Owner shall not be liable for any Assessments or other amounts thereafter levied against such Lot or Parcel. The obligation to pay Assessments and other amounts is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or other amounts or setoff shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, the Articles, the Bylaws, or any other Constituent Document, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

7.3 Assessment Lien; Foreclosure.

There is hereby created and established a lien (the "Assessment Lien") against each Lot or Parcel which shall secure payment of (i) all present and future Assessments assessed or levied against such Lot or Parcel or the Owner thereof, (ii) any present or future charges, fines, penalties or other amounts levied against such Lot or Parcel or the Owner or Occupant thereof pursuant to this Declaration or any of the Constituent Documents, (iii) such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments, charges, fines, penalties or other amounts, whether or not a lawsuit is filed, and (iv) interest on the foregoing amounts from the date due at a rate equal to the Interest Rate. The Assessment Lien is and shall be prior and superior to all other liens affecting the Lot or Parcel in questions, except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any First Mortgage. The Assessment Lien may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any Lot or Parcel pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the Assessment Lien as to Assessments and other amounts which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot or Parcel from liability for any Assessment or other amounts becoming due after such sale or transfer, or from the Assessment Lien thereof. The Association shall have the power to bid for any Lot or Parcel at any sale to foreclose the Assessment Lien on the Lot or Parcel, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot or Parcel is owned by the Association, no right to vote shall be exercised with respect to said Lot or Parcel and no Assessment (whether Annual Assessments or Special Assessments) shall be assessed or levied on or with respect to said Lot or Parcel, provided, however, that the Association's acquisition and ownership of a Lot or Parcel under such circumstances shall not be deemed to convert the same into Common Area. The Association may maintain a suit to recover a money judgment for unpaid Assessments and other amounts without foreclosing or waiving the Assessment Lien securing same. Recording of this Declaration constitutes record

notice and perfection of the Assessment Lien established hereby, and further Recordation of any claim of an Assessment Lien for Assessments or other amounts hereunder shall not be required, whether to establish or perfect such Assessment Lien or to fix the priority thereof, or otherwise (although the Board shall have the option to Record written notices of claims of Assessment Lien in such circumstances as the Board may deem appropriate). All of the provisions of this Section 7.3 relating to the Assessment Lien (including, but not limited to, the subordination provisions) shall apply with equal force in each other instance provided for in this Declaration wherein it is stated that payment of a particular Assessment or other amount shall be secured by the Assessment Lien.

7.4 Commencement.

Assessments provided herein shall commence for all Owners, including Declarant and any Designated Builders, upon the sale and delivery of the first Lot to a Public Purchaser. Notwithstanding the foregoing or anything herein to the contrary, Park Assessments shall commence as provided in Section 4.6.3 of the North Property Declaration.

7.5 Annual Budget; Adjustment.

Prior to the beginning of each fiscal year of the Association, the Board shall prepare, or cause to be prepared, an annual budget for the Association for the upcoming fiscal year, which budget shall serve as the basis for determining Annual Assessments for the applicable fiscal year (subject to the Board's right to adjust such budget as provided in this Section 7.5, and further subject to the limitations set forth in Section 7.8). The budget shall take into account the estimated Common Expenses and cash requirements of the Association for the fiscal year. The annual budget shall also provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. Not later than 60 days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a statement of the amount of the Annual Assessments to be levied against such Owner's Lot or Parcel for the fiscal year in question. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of this Section 7.5 and of Sections 7.8 and 7.10, neither the annual budget (nor any amended budget adopted pursuant to the following provisions of this Section) adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners or any other Person. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by Section 7.8) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section 7.10. Within 60 days after adoption of an amended budget (if the Board elects to

levy an additional Annual Assessment), the Board shall cause to be delivered or mailed to each Owner a statement of the revised Annual Assessment to be levied against such Owner's Lot or Parcel; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such a meeting, the Board shall cause to be promptly mailed or delivered to each Owner a statement of the Special Assessment to be levied against such Owner's Lot or Parcel.

7.6 Rate of Assessment.

Subject to the limitations in Section 7.8 and to the provisions of Section 7.9, the amount of the Annual Assessment for each Lot or Parcel shall be as follows:

(a) For each Lot, an amount equal to the Fractional Interest multiplied by the total budget of the Association established by the Board pursuant to Section 7.5.

(b) For each Parcel, an amount equal to the Fractional Interest, multiplied by the total number of Units of Density within such Parcel, multiplied by the total budget of the Association established by the Board pursuant to Section 7.5.

7.7 Due Dates.

Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, payable not more frequently than monthly nor less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of each applicable period during that fiscal year.

7.8 Maximum Annual Assessments.

Prior to January 1 of the year immediately following the first conveyance of a Lot to a Public Purchaser, the maximum Annual Assessment which any Owner shall be required to pay with respect to any Lot or Unit of Density may not exceed $360.00 per year. From and after January 1 of the year immediately following the first conveyance of a Lot to a Public Purchaser, the Board may, without a vote of the Members, increase the maximum Annual Assessment during each fiscal year of the Association by the greater of (a) six percent (6%) of the maximum Annual Assessment for the immediately preceding fiscal year, or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average (1982-84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics (or such other government index with which it may be replaced) (the "CPI"), which amount shall be computed in the last month of each fiscal year in accordance with the following formula:

X = CPI for September of the calendar year immediately preceding the year in which the Annual Assessments commenced;

Y = CPI for September of the year immediately preceding the calendar year for which the maximum Annual Assessment is to be determined; and

$\frac{Y - X}{X}$ multiplied by the maximum Annual Assessment for the then current fiscal year equals the amount by which the maximum Annual Assessment may be increased.

Notwithstanding the foregoing, if the Owners holding two-thirds of the votes in each class of Members of the Association approve, the maximum Annual Assessment may be increased by an amount greater than otherwise permitted pursuant to this Section 7.8.

7.9 Reduced Assessment Rate.

Notwithstanding anything to the contrary herein, so long as the Class B Membership in the Association is outstanding, Declarant and/or any Designated Builder may elect to pay Annual Assessments for Lots and Parcels owned by it in an amount equal to one-quarter of the Annual Assessments otherwise payable hereunder in the absence of this Section. Declarant or a Designated Builder may make the election provided for in the preceding sentence for any budget year by giving the Association written notice prior to the commencement of the budget year; provided, however, that such an election may be made for the first budget year of the Association by giving notice prior to sale and conveyance of the first Lot to a Public Purchaser or the commencement of the budget year, whichever is later. An election for reduced Annual Assessments made by Declarant or a Designated Builder as provided herein shall remain in effect until it is rescinded by written notice to the Association or the Class B Membership in the Association ceases to be outstanding, in which event the reduced Annual Assessments shall terminate and full Annual Assessments shall be payable as of the commencement of the next following budget year. In the event that Declarant or a Designated Builder makes the election for reduced Annual Assessments provided for herein, then the party making such election shall be obligated to pay, in addition to such reduced Annual Assessments, an amount equal to the Shortfall in the budget year in which its election is effective, multiplied by the Fractional Interest, multiplied by the number of Lots and Units of Density owned by such party. The obligations set forth in the preceding sentence of a party making a reduced Annual Assessment election shall be an Assessment Lien against Lots and Parcels owned by such party pro rata and shall be enforceable by the Association in the same manner as Annual Assessments provided for herein. Notwithstanding any contrary provision of this Section, the reduced assessment rate provided for in this Section shall not apply to Park Assessments payable under Section 4 with respect to Lots and/or Parcels owned by Declarant or any Designated Builder.

7.10 Special Assessments.

In addition to the Annual Assessments authorized by this Section 7, the Association may levy Special Assessments from time to time, provided, however that any Special Assessment shall be effective only with the approval of Owners holding not less than two-thirds of the votes in each class of Members. Subject to Sections 7.7 and 7.8, Special Assessments shall be allocated among Lots and Parcels in the ratio established in accordance with Section 7.6. The Special Assessment shall be payable at such time or in installments from time to time, as the Board may determine. The Special Assessments provided for herein shall be secured by the Assessment Lien. Special Assessments approved by the Members as provided in this Section 7.10 shall not be subject to the limitations of Section 7.8 of this Declaration.

7.11 Certificate of Payment.

Any Person acquiring an interest in Lot or Parcel shall be entitled to a statement from the Association setting forth the amount of unpaid Assessments, if any. No Person shall be liable for, nor shall any Assessment Lien attach to a Lot or Parcel in excess of, the amount set forth in such a statement, except for Assessments which occur or become due after the date thereof and any interest, costs, reasonable attorneys' fees and late charges related to the assessments. The Association may charge a reasonable fee for the preparation of any such statement.

7.12 Exempt Property.

The Exempt Property shall be exempt from Annual Assessments and Special Assessments and shall not be included in any calculation of Fractional Interests hereunder, and no voting rights in the Association shall attach to Exempt Property; provided, however, that should any Exempt Property cease to be Exempt Property for any reason, it shall thereupon be subject to Annual Assessments and Special Assessments (prorated as of the date it ceased to be Exempt Property) and included in the Fractional Interest calculation hereunder, and voting rights in the Association shall attach thereto as otherwise determined in this Declaration. Notwithstanding anything to the contrary in this Declaration or in any other Constituent Document: (i) the Board shall have the power to exempt any or all of the Exempt Property from any or all of the provisions of this Declaration on such terms and conditions as may be determined by the Board in its sole discretion, and (ii) the obligations of the Church Site and the Owner thereof with respect to the payment of Park Assessments shall be as provided in Section 4.5.

8. Insurance.

Commencing not later than the date of the first conveyance of a Lot to a Public Purchaser, the Association shall maintain, to the extent reasonably available, the insurance coverage required by this Section 8, in accordance with the following provisions:

8.1 Authority to Purchase.

The Association, by and through the Board, shall purchase and maintain the insurance required under Section 8.2 of this Declaration and such other insurance as may be deemed necessary or appropriate by the Board. Provision shall be made for the issuance of certificates of endorsement to any First Mortgagee if requested by it. Such policies and endorsements thereon, or copies thereof, shall be deposited with the Association. The Board shall deliver a copy of certificates of insurance evidencing the Association's coverage or, by and through its agent, advise the Owners of the coverage of the policies, to permit the Owners to determine which particular items are included within the coverage so that each Owner may insure himself at his own expense as he sees fit if certain items are not insured by the Association. The Board may impose a reasonable charge for photocopies of insurance certificates or policies requested by any Owner. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide for himself at his own expense (i) such comprehensive public liability insurance as such Owner may desire against loss or liability for damage andy any expense of defending against any claim for damages which might result from the ownership, use or occupancy of such Owner's Lot or Parcel, (ii) such insurance on the Dwelling Unit and other Improvements constructed on his Lot or Parcel and all fixtures and personal property upon such Lot or Parcel or in such Dwelling Unit or other Improvements, and (iii) such other insurance which is not carried by the Association as the Owner desires.

8.2 Coverage.

The Association shall maintain and pay for policies of insurance as follows:

(1) Insurance of a multi-peril type for all insurable Improvements on the Areas of Association Responsibility providing coverage against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Arizona), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount not less than 100% of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable Improvements, with such amount to be redetermined annually by the Board with the assistance of the insurer or insurers providing such coverage.

(2) A comprehensive general liability policy covering all of the Areas of Association Responsibility, insuring the Association, each member of the Board and each Owner against any liability to the public or to any Owner or Occupant (and such Owner's or Occupant's invitees, agents, employees, tenants, guests, servants and household members) for death, bodily injury and property damage arising out of or incident to the ownership or use of the Areas of Association Responsibility or incident to the performance by the Association of its maintenance and other obligations hereunder.

This insurance shall be in an amount determined by the Board, but in no event less than $1,000,000.00 per occurrence for personal injury, deaths and/or property damage. This insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying a claim under such policy because of the negligent acts or omissions of the Association any Owner (or any other Person named as an insured or additional insured thereunder). The scope of coverage shall also include non-owned and hired automobiles.

(3) If any part of the Areas of Association Responsibility is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance covering all insurable Improvements on the Areas of Association Responsibility shall be maintained in an amount not less than the lesser of (i) 100% of the current replacement cost, from time to time, of all such insurable Improvements, or (ii) the maximum limit of coverage available for such insurable Improvements under the National Flood Insurance Act of 1968, as amended. Such a flood insurance policy shall be in the form of the standard policy issued by the National Flood Insurance Association.

(4) The Association shall obtain fidelity coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written to provide protection which is in no event less than the greater of: (i) one and one-half times the Association's estimated annual operating expenses and reserves or, (ii) the sum of three months' Annual Assessments on all Lots and Parcels then within the Project plus the reserve funds held by the Association. In connection with such coverage, an appropriate endorsement to the policy to cover any Person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(5) A worker's compensation policy, if necessary to meet the requirements of applicable law.

(6) Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for similar projects established by any interested Institutional Guarantor, except to the extent such coverage is not reasonably available or has been waived in writing by the Institutional Guarantor.

8.3 Provisions Required.

The insurance policies purchased by the Association shall, to the extent reasonably possible, contain the following provisions:

(1) The coverage afforded by policies shall not be brought into contribution or proration with any insurance which may be purchased by Owners or First Mortgagees.

(2) The conduct of any one or more Owners shall not constitute grounds for avoiding liability on any policies.

(3) There shall be no subrogation with respect to the Association, the Board, the Owners, Mortgagees, and their respective Occupants, agents, tenants, servants, employees, guests and household members, or the policy or policies should name such people as additional insureds; and, each policy must contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

(4) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

(5) A statement of the name of the insured shall be included in all policies, in form and substance similar to the following:

> "Finley Farms South Owners Association, for the use and benefit of the individual owners" [designated by name, if required].

(6) A standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association, for the use and benefit of Mortgagees as their interests may appear, or which must be otherwise endorsed to fully protect the interest of First Mortgagees, their successors and assigns.

(7) For policies of hazard insurance, a standard mortgagee clause shall provide that the insurance carrier shall notify the First Mortgagee named at least ten days in advance of the effective date of any reduction in or cancellation of the policy.

(8) Any "no other insurance" clause shall exclude insurance purchased by Owners or First Mortgagees.

(9) Coverage must not be prejudiced by (a) any act or neglect of Owners when such an act or neglect is not within the control of the Association or (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

(10) Coverage may not be cancelled or substantially modified without at least 30 days' (or such lesser period as otherwise provided herein) prior written notice

to any and all insureds including First Mortgagees and interested Institutional Guarantors.

(11) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such an election is not exercisable without the prior written approval of the Association, or when in conflict with the insurance trust provisions contained herein, or any requirement of law.

8.4 First Mortgagee Protection.

(1) The Association shall, upon written request, provide each First Mortgagee with a letter wherein the Association agrees (a) to give timely written notice to each First Mortgagee, or any Person designated by a First Mortgagee, whenever damage (whether arising from casualty, condemnation or otherwise) to the Common Areas and related facilities exceeds $10,000, (b) to give timely written notice to the First Mortgagee, or any Person designated by a First Mortgagee, whenever damage (whether arising from casualty, condemnation or otherwise) to a Lot or Parcel known to the Association covered by the First Mortgage exceeds $1,000, and (c) any lapse, cancellation or material modification of any insurance or fidelity bond maintained by the Association.

(2) Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better, or if this rating service is discontinued, an equivalent rating by a successor thereto or a similar rating service.

(3) Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Arizona.

(4) Policies shall not be utilized where: under the terms of the carrier's charter, bylaws or policy, contributions may be required or assessments may be made against the Owner or First Mortgagee or any Person purchasing or guaranteeing any First Mortgage or may become a lien superior to any First Mortgage; by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or, the policy includes any limiting clauses (other than insurance condition) which could prevent any Owner or the First Mortgagee, its successors or assigns, from collecting insurance proceeds.

(5) The mortgagee clause of each insurance policy shall be properly endorsed, and necessary notices of transfer must have been given, and any other action required to be taken must be taken in order to fully protect, under the terms of the policies and applicable law, the interest of all First Mortgagees, their successors and assigns. Where permissible, the insurance carrier shall be required to name the servicer of a First Mortgage, or "[name of servicer], its successors or assigns," as the First

Mortgagee under the mortgagee clause. If permissible, where a deed of trust is utilized, the insurance carrier shall be required to use "[name of servicer], its successors or assigns, beneficiary" or "[name of trustee], its successors or assigns, for the benefit of [name of servicer]" instead of only the name of the trustee under the deed of trust.

(6) All insurance drafts, notices, policies, invoices and all other similar documents, or their equivalent, shall be delivered directly to each servicer involved, if any, regardless of the manner in which the mortgagee clause is endorsed. The servicer's address on any First Mortgagee endorsement on a policy shall be used in the endorsements in lieu of the address of the First Mortgagee if requested by the First Mortgagee.

(7) First Mortgagees may pay overdue premiums, or may secure new insurance coverage on the lapse of a policy, with respect to any insurance required to be maintained by the Association as provided in this Section 8, and First Mortgagees making expenditures therefor shall be owed immediate reimbursement by the Association.

8.5 Non-Liability of Association/Board.

Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board member or other Person shall be liable to any Owner or Mortgagee if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate. It shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner may desire.

8.6 Premiums.

Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot or Parcel or its appurtenances, or of the Areas of Association Responsibility, by an Owner, or by any Occupant, guest or invitee of an Owner, shall be assessed against that particular Owner.

8.7 Insurance Claims.

The Association, acting by and through its Board, is hereby irrevocably appointed agent and attorney-in-fact for each Owner and for each holder of a First Mortgage or other lien upon a Lot or Parcel, and for each owner of any other interest in the Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and the Board has full and complete power to act for the Association in this regard.

8.8 Benefit.

Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of the Association, the Owners, First Mortgagees and interested Institutional Guarantors, as their interests may appear.

9. Damage, Destruction and Condemnation.

9.1 Definitions.

As used in this Section, the following terms shall have the following definitions:

(a) "Destruction" shall exist whenever the Board determines that, as a result of any casualty, damage or destruction, the Common Areas, or any part thereof, have been damaged.

(b) "Condemnation" means the taking of any property interest in the Common Areas by the exercise of a power of eminent domain, or the transfer or conveyance of such an interest to a condemning authority in anticipation of such an exercise.

(c) "Restoration" in the case of Destruction means the repair or reconstruction of the damaged or destroyed portions of the Common Areas in accordance with the provisions of this Section. "Restoration" in the case of Condemnation means the repair or reconstruction of the remaining portions of the Common Areas, if any, to restore the Common Areas to an attractive, sound, functional and desirable condition, including, if the Board deems it desirable or necessary, the replacement of any Improvements so taken. Insofar as reasonably possible, taking into account the portions of the Common Areas subject to Destruction or taken by Condemnation, Restoration shall be in conformance with the original plans and specifications or, if the Board determines that adherence to original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes or other governmental rules or regulations then in effect, such repairs or reconstruction shall be of a kind and quality substantially the same as the condition in which the affected portions of the Common Areas existed before the Destruction or Condemnation. Any Restoration not in accordance with original plans and specifications shall first be approved by a majority of First Mortgagees, based on one vote for each mortgage owned.

(d) "Restoration Funds" in the case of any Destruction means any proceeds of insurance received by the Association as a result of the Destruction of any portion of the Common Areas, but excluding that portion of any proceeds of insurance legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Common Areas, Lots or Parcels, and any uncommitted funds or income of the Association other than that derived through Assessments. "Restoration Funds" in the case of Condemnation means the entire amount received by the

Association as compensation for any Condemnation including, but not limited to, any amount awarded as severance damages, but deducting therefrom reasonable and necessary costs and expenses including, but not limited to, attorneys' fees, appraiser's fees and court costs, together with any uncommitted funds or income of the Association other than that derived through Assessments.

9.2 Restoration of Common Areas.

In the event of any Destruction or Condemnation of the Common Areas, the Association shall undertake the Restoration of the Common Areas unless the Owners holding not less than 75% of the votes in each class of Members of the Association and not less than 51% of the First Mortgagees (based upon one vote for each Mortgage owned) agree in writing at or prior to the special meeting hereinafter provided that the Association should not undertake the Restoration of the Property.

9.3 Construction Contract.

In the event the Association undertakes the Restoration of the Common Areas, the Board shall contract with a reputable contractor or contractors who shall, if required by the Board, post a suitable performance or completion bond. The contract with such contractors shall provide for the payment of a specified sum for completion of the work described therein and shall provide for periodic disbursements of funds, which shall be subject to the prior presentation of an architect's certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board.

9.4 Restoration Funds.

Upon receipt by the Association of any insurance proceeds, condemnation awards or other funds resulting from the Destruction or Condemnation of any portion of the Common Areas, the Association may cause the Restoration Funds to be paid directly to a bank located in Maricopa County, Arizona, whose accounts are insured by the Federal Deposit Insurance Corporation, or its successor agency, as designated by the Board, as trustee (the "Restoration Funds Trustee") for the Association. Any such funds shall be received, held and administered by the Restoration Funds Trustee subject to a trust agreement consistent with the provisions of this Declaration and which shall be entered into between the Restoration Funds Trustee and the Association. Disbursement of such funds shall be made only upon the signatures of two members of the Board. Disbursements to contractors performing any repair or reconstruction upon the Common Areas shall be made periodically as the work progresses in a manner consistent with procedures then followed by prudent lending institutions in Maricopa County, Arizona.

9.5 Special Assessment for Restoration.

If the Restoration Funds are, or appear to the Board to be, insufficient to pay all of the costs of Restoration, the Board shall, with the consent of Owners holding not less than two-thirds of the votes in each class of Members of the Association, levy a Special Assessment to make up any deficiency. Such a Special Assessment shall be levied against all Owners to the extent necessary to make up any deficiency for Restoration of the Common Areas. The amount of the required Special Assessment shall be determined by the Board, in its sole discretion. The Special Assessment relating to the Restoration of the Common Areas shall be levied against the Owners in the same proportion as Annual Assessments under Section 7.6. The Special Assessment shall be payable at such time or in installments from time to time, as the Board may determine. The Special Assessment provided for herein shall be secured by the Assessment Lien.

9.6 Special Meeting.

In the event of the Destruction or Condemnation of the Common Areas, the Board, at its election or upon presentation of a petition signed by not less than 10% of the Owners requesting such a meeting, shall convene a special meeting of the Association for resolving whether the Association should undertake the Restoration of the Common Areas in accordance with Section 9.2 of this Declaration.

9.7 Decision Not to Restore.

If the Common Areas are not to be restored following any Destruction or Condemnation, the Board shall use the Restoration Funds to pay all of the Mortgages or other liens or encumbrances of record with respect to the Common Areas which will not be restored. If any Restoration Funds remain after such an application of them, they shall be held by the Association for working capital or reserves, in the discretion of the Board.

9.8 Emergency Repairs.

Notwithstanding any provision of this Section 9, the Board may, without any vote of the Owners or First Mortgagees, undertake any repair which the Board deems reasonably necessary to avoid further damage or destruction which is likely, in the Board's sole opinion, to cause substantial diminution in the value of the Common Areas or which presents an unreasonable risk of injury to persons or property.

9.9 Condemnation of a Lot or Parcel.

In the event of the Condemnation of all or substantially all of a Lot or Parcel so that it is no longer tenantable following reasonable repair or reconstruction, the Lot or Parcel shall cease to be part of the Project, the Owner shall cease to be a Member of the Association, and the Fractional Interest of each remaining Owner shall automatically be

recomputed to reflect appropriately the number of Lots and Parcels (and Units of Density) remaining in the Project.

9.10 Destruction of a Lot or Parcel.

In the event that any Lot or Parcel is damaged or destroyed (in whole or in part), the Owner shall promptly undertake or cause to be undertaken the repair or reconstruction of the damaged or destroyed portions of the Lot or Parcel. If a Lot or Parcel is not restored within a reasonable time following notice by the Board to the Owner when restoration is mandatory hereunder, then the Association shall be entitled to exercise any right or remedy available under this Declaration, including affirmative injunctive relief, and shall have the further right to enter into possession of the Lot or Parcel in order to undertake the restoration of the Lot or Parcel in accordance with this Section.

10. Party Walls.

10.1 Rights and Duties.

The rights and duties of the Owners and the Association with respect to a wall or fence located between two Lots, between two Parcels and/or between a Lot and a Parcel (hereinafter referred to as a "party wall") shall, to the extent not inconsistent with the provisions of this Section, be governed by the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions. The cost of reasonable repairs and maintenance of a party wall shall be shared equally by the Owners of the adjoining Lots and/or Parcels.

10.2 Restoration.

If a party wall is destroyed or damaged by fire or other casualty, any Owner whose Lot or Parcel adjoins the wall may restore it, and all of the adjoining Owner(s) shall contribute equally to the cost of restoration, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, or by the negligent or willful act of any of his agents, Occupants, licensees, guests, invitees or family members, causes the party wall to be damaged or to be exposed to the elements shall bear the whole cost of furnishing the necessary restoration or necessary protection against such elements. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to the Owner's successors in title.

10.3 Disputes.

In the event of any dispute between Owners concerning a party wall, or under the provisions of this Section, upon the written request of any one of the Owners

addressed to the Association, the disputed matter shall be decided by the Board, whose decision shall be final and binding upon the Owners.

10.4 Wall Encroachment.

In the event any party wall encroaches upon a Lot or Parcel, a valid easement for such encroachment and for the maintenance of the party wall shall and does exist in favor of the Owners of the Lots or Parcels which share such party wall.

10.5 Back Yard Construction.

To the extent necessary in order for an Owner to construct a swimming pool or other Improvements in the back yard of his Lot, an Owner may remove all or a part of a party wall, provided the Owner gives reasonable notice to the adjoining Owner(s) that all or a part of the party wall will be removed. Any Owner removing all or a part of a party wall pursuant to this Section shall rebuild and restore the party wall to its prior condition at such Owner's sole cost and expense within a reasonable time after entry through the party wall is no longer necessary in connection with the construction of Improvements in the back yard of such Owner's Lot.

11. Maintenance, Repairs and Replacements.

11.1 Maintenance of Lots and Parcels.

Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements of his own Lot or Parcel and all Improvements to it. Each Owner shall maintain his Lot or Parcel in a neat and orderly condition, in accordance with such rules and regulations as may be adopted by the Association. All grass, hedges, shrubs, vines and plants of any type on a Lot or Parcel shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed and replaced with living foliage or like kind, unless different foliage is approved by the Architectural Committee as provided in Section 12. No yard equipment, wood piles or storage areas may be maintained so as to be Visible from Neighboring Property. All Lots upon which no Dwelling Unit, buildings or other structures, landscaping or other Improvements have been constructed shall be maintained in a weed-free and attractive manner.

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11.2 Maintenance of Areas of Association Responsibility.

Except as otherwise provided herein to the contrary, maintenance, repairs and replacements of the Areas of Association Responsibility shall be furnished by the Association as part of the Common Expenses, subject to the applicable provisions of the Constituent Documents. If, due to the intentional act or negligence of an Owner, any Occupant of his Lot or Parcel, or his invitee, guest, family member or tenant, damage is caused to the

Common Areas or to any Lot or Parcel owned by others, or maintenance, repairs or replacements are required which would otherwise be at the Common Expenses, then the Owner shall pay for the damage and for such maintenance, repairs and replacements as may be determined by the Board, to the extent not covered by the Association's insurance. An authorized representative of the Board, or of the manager or managing agent of the Project, and all contractors and repairmen employed or engaged by the Board or the manager or managing agent, shall be entitled to reasonable access to each of the Lots and Parcels as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or any equipment, facilities or fixtures affecting or serving other Lots or Parcels or the Common Areas.

11.3 Enforcement of Obligations.

In the event that any Owner fails to maintain and repair his Lot or Parcel and Improvements on it as required hereunder, the Association, following reasonable notice to the Owner (except in emergency situations where such notice is not practical), in addition to all other remedies available to it hereunder or by law, and without waiving any alternative remedies, shall have the right, through its agents and employees, to enter upon the Lot or Parcel at any reasonable time and in any reasonable manner, and to repair, maintain, and restore the Lot or Parcel, including the exterior of the Improvements erected thereon. Each Owner (by acceptance of a deed for his Lot or Parcel) hereby covenants and agrees to repay to the Association the cost of any such repairs immediately upon demand, and the failure of any Owner to make a required payment shall carry with it the same consequences as the failure to pay any Assessment hereunder when due, including the imposition of interest and late charges in accordance with the rules and regulations of the Association, all of which shall be the personal obligation of the Owner and secured by the Assessment Lien.

11.4 Disputes.

If any maintenance, repair, replacement or reconstruction involves more than one Lot or Parcel, and if the Owners of the affected Lots and/or Parcels do not agree as to who should perform the work, or as to the allocation of the cost thereof, the decision shall be made by the Board and the decision shall be final and binding upon the Owners.

12. Architectural Control.

12.1 Architectural Committee.

The Board may establish and appoint the members of an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. Prior to the appointment of the initial members of the Architectural Committee, and at any time when there is no one serving on the Architectural Committee (whether due to death, resignation or removal), the Board shall exercise any and all rights, powers, duties and obligations of the Architectural Committee. The Architectural Committee shall adopt, and may from time to time amend, supplement and repeal, architectural and landscaping rules, guidelines and review

procedures (collectively, the "Architectural Guidelines") and shall make the same available to Owners. The Architectural Guidelines may be different for different Parcels within the Project. The Architectural Guidelines shall interpret, implement and supplement this Declaration, shall set forth procedures for Architectural Committee review, and may include, without limitation, provisions regarding:

14.1.1 architectural design, with particular regard to the harmony of the design with surrounding structures and topography; (C)

14.1.2 landscaping design, content and conformance with the character of the Property, and permitted and prohibited plants;

14.1.3 requirements concerning exterior color schemes, exterior finishes and materials; and (D)

14.1.4 signage.

The Architectural Guidelines shall have the same force and effect as the Association Rules. The Architectural Guidelines and all amendments, supplements, repeals or replacements thereof shall be subject to the approval of the Board.

12.2 Submission and Review of Plans.

No construction, building, additions, modifications, improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Lot or Parcel or the Dwelling Unit or other Improvements located thereon from their natural or improved state existing on the date that this Declaration is first Recorded shall be made or done without the prior approval of the Architectural Committee. All subsequent additions to or changes or alterations in any Improvement (including changes in exterior color scheme) shall be subject to the prior approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without the prior written approval of the Architectural Committee. Nothing contained herein shall be construed to limit the right of an Owner to make interior alterations within his Dwelling Unit or Private Yard which are not Visible from Neighboring Property.

12.3 Other Approvals; Liability.

No approval by the Architectural Committee of any proposed construction, installation, modification, addition or alteration shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such construction, modification, addition or alteration. Neither Declarant, the Association, the Board

nor the Architectural Committee (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

14.3.1 the approval or disapproval of any plans, drawings or specifications, whether or not defective;

14.3.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or

14.3.3 the development of any Lot or Parcel.

12.4 Fee.

The Board may establish a reasonable processing fee to defer the costs of the Architectural Committee in considering any request for approvals submitted to the Architectural Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

12.5 Inspection.

Any member or authorized consultant of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot or Parcel, after reasonable notice to the Owner or Occupant of such Lot or Parcel, in order to inspect the Improvements constructed or being constructed on such Lot or Parcel to ascertain that such Improvements have been, or are being, built in compliance with this Declaration, the Architectural Guidelines and any approved plans, drawings or specifications.

12.6 Waiver.

Approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

12.7 Appeal to Board.

Any Owner or Occupant aggrieved by a decision of the Architectural Committee may appeal the decision to the Board in accordance with procedures to be established in the Architectural Committee's standards and procedures. In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board.

12.8 Not Applicable to Declarant and Designated Builders.

The foregoing provisions of this Section 12 shall not apply to any portions of the Property owned by Declarant or any Designated Builder so long as the Improvements constructed thereon (and/or any additions, modifications or alterations thereto) are constructed or made in a good and workmanlike manner and are generally compatible in terms of quality of construction to other Improvements theretofore constructed by Declarant or such Designated Builder.

13. Rental Lots.

Notwithstanding anything herein to the contrary, any Owner may rent or otherwise grant occupancy rights to any Lot or Parcel (but not less than an entire Lot or Parcel) owned by him, with the lessee, renter or other Occupant being entitled to the same privileges of use of the Lot or Parcel and Common Areas and subject to the same restrictions as the Owner of the Lot or Parcel. With the exception of a First Mortgagee in possession of a Lot or Parcel following a default in a First Mortgage, or a foreclosure proceeding or deed or other arrangement in lieu of foreclosure, no Owner may allow the use of his Lot or Parcel for transient or hotel purposes or for a period of less than 30 days. All lease or other occupancy agreements, including those for a month-to-month tenancy, shall be in writing and provide that the terms of the agreement shall be subject in all respects to this Declaration and the other Constituent Documents, and that failure to comply with the provisions of such documents shall constitute a default under the agreement. A copy of the agreement shall be delivered by the Owner to the Board on or before the commencement of occupancy under the agreement. Each Owner granting occupancy rights to his Lot or Parcel shall remain jointly and severally liable with the Occupant for the payment of any Assessment required hereunder and compliance with the Constituent Documents, including any fines or penalties levied as a result of a violation thereof.

14. Use and Occupancy Restrictions.

14.1 Residential Use.

No part of the Property shall be used for other than residential and related purposes except that Declarant reserves for itself and for Designated Builders the right to maintain sales offices, model units, and signs on the Property, together with rights of ingress thereto and egress therefrom, until all Lots have had Dwelling Units constructed on them and the Lots and Dwelling Units have been sold and conveyed. Each Lot and Parcel shall be used as permitted by this Declaration and for no other purpose. No religious (except on a Church Site), professional, commercial or industrial operations of any kind shall be conducted in or upon any Lot, any Parcel, or the Common Areas, except such temporary uses as shall be permitted to Declarant and Designated Builders while Lots and Parcels are being constructed and sold by Declarant and/or Designated Builders.

14.2 Landscaping.

The landscaping on the portion of each Lot which is Visible from Neighboring Property (including, but not limited to, the front yard of the Lot) shall be completed within six months after the Dwelling Unit on the Lot is first occupied. No landscaping (other than landscaping installed by Declarant or any Designated Builder) shall be erected, placed or maintained anywhere in or upon a Lot unless the plans for such landscaping have been approved by the Architectural Committee as provided in Section 12 of this Declaration.

14.3 Temporary Structures.

(E) No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, shed or other, shall be used as a residence, or otherwise kept on a Lot or Parcel so as to be Visible from Neighboring Property, at any time except such structures as Declarant or a Designated Builder may find necessary or convenient to the development and sale of Lots or Parcels.

14.4 Cancellation of Insurance.

No Owner shall permit anything to be done or kept in his Lot or Parcel or in or upon any Common Areas which will result in the cancellation of insurance thereon or which would be in violation of any law.

14.5 Signs.

No sign of any kind shall be displayed to the public view on any Lot, Parcel or any Common Areas without the approval of the Board except (a) such signs as may be used by Declarant or Designated Builders in connection with the development and sale of Lots and Parcels, and (b) one "For Sale" or "For Rent" sign on each Lot, which sign shall have a total face area of five feet or less and the location of which sign may be regulated by rule or regulation of the Board or Architectural Committee.

14.6 Pets.

Subject to the provisions of Sections 14.7 and 14.17 of this Declaration, a reasonable number of small, commonly accepted household pets may be kept in each Lot or Parcel without the prior approval of the Board. All additional pets are prohibited unless approved in advance by the Board. No animal shall be kept, bred or maintained for any commercial purpose, and, except as otherwise provided above, no animals of any kind shall be raised, bred or kept in any Lot or Parcel or in or upon any Common Areas. No animal shall be allowed to become a nuisance, whether by making an unreasonable amount of noise or otherwise. All pets shall be leashed or otherwise appropriately restrained when in any part of the Property other than in an Private Yard or a residence. Upon the request of any Owner, the Board shall determine, in its sole and absolute discretion, whether, for the purposes of this

Section 14.6, a particular animal is a commonly accepted household pet or whether a particular animal is a nuisance. The keeping of pets shall also be subject to such additional rules and regulations with respect thereto as the Association may adopt.

14.7 Nuisances.

No Owner shall permit or suffer anything to be done or kept about or within his Lot or Parcel which will obstruct or interfere with the rights of other Owners or Occupants, or annoy them by unreasonable noises or otherwise, nor commit or permit any nuisance about or within his Lot or Parcel or commit or suffer any illegal act to be committed therein. Each Owner shall comply with all of the requirements of the health authorities and of all other governmental authorities with respect to his Lot or Parcel and the Common Areas.

14.8 Vehicles.

Except as specifically permitted by the Board, (a) no boats, trailers, motor homes, campers, trucks classed by manufacturer capacity rating as exceeding 3/4 ton, or unlicensed or inoperative vehicles shall be parked or stored in or upon any Lot or Parcel, the Common Areas or the public streets of the Project, other than temporary parking on a Lot, Parcel or the adjacent street for purposes of loading or unloading; and (b) no vehicle shall be repaired or rebuilt in any Lot or Parcel or upon the Common Areas or the public streets of the Project.

14.9 Lighting.

Except as initially installed by Declarant or a Designated Builder, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or Parcel which will allow light to be directed or reflected in any manner on the Common Areas, or any part thereof, or any other Lot, Parcel or public streets in the Project.

14.10 Air Conditioners.

No window air conditioners or portable units of any kind Visible from Neighboring Property shall be installed in any Lot or Parcel. No heating, cooling, ventilating or air conditioning units, or solar panels or equipment, shall be placed on any Lot or Parcel so as to be Visible from Neighboring Property unless approved by the Board.

14.11 Reflective Materials.

No reflective materials including, but not limited to, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows which are Visible from Neighboring Property without the prior written approval of the Board.

14.12 Antennas.

No radio, television or other antennas of any kind or nature shall be placed or maintained upon any Lot or Parcel except as may be permitted by the Board. All cable television lines serving a Lot or Parcel shall be placed so as to not be Visible from Neighboring Property. Each Owner shall pay for any damage to the Common Areas (including, but not limited to, landscaping therein) caused by any installation of cable television lines serving the Owner's Lot or Parcel.

14.13 Trash Collection.

The Association may maintain trash and garbage collection bins or similar facilities in such areas of the Common Areas as the Board determines. No garbage or trash shall be kept, maintained or contained in any Lot or Parcel so as to be Visible from Neighboring Property except in sanitary containers with lids or covers. Sanitary containers placed in public view for collection shall be promptly stored out of public view after collection. .

14.14 Clotheslines.

Outside clotheslines or other facilities for drying or airing clothes shall not be erected, placed or maintained on the Property unless they are within the Private Yard on a Lot and are not Visible from Neighboring Property.

14.15 Vegetation.

No shrub, tree or other vegetation belonging to any Owner shall be allowed to overhang another Lot or Parcel without the consent of the Owner. Consent may be revoked at any time after having been given.

14.16 No Mining.

No portion of the Property shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

14.17 Safe Condition.

Without limiting the foregoing, each Owner shall maintain and keep his Lot or Parcel and any Common Areas subject to his exclusive control at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots or Parcels or the Common Areas.

14.18 Enforcement.

The Board or its authorized agents may enter any Lot or Parcel in which a violation of these restrictions or the rules and regulations of the Association exists and may correct such violation at the expense of the Owner of the Lot or Parcel. The Board may enact and impose a reasonable system of fines, penalties and/or fees for violation of these restrictions or the Association Rules, which fines, penalties and/or fees shall be secured by the Assessment Lien.

14.19 Association Rules.

The Board may from time to time, and subject to the provisions of this Declaration, adopt, amend, approve and repeal rules and regulations relating to (i) the management, operation and use of the Areas of Association Responsibility, (ii) minimum standards for the maintenance of Lots and Parcels, (iii) the health, safety or welfare of Owners and Occupants, (iv) any purpose for which this Declaration provides that such rules and regulations may be enacted, and (v) reasonable and generally applicable restrictions on or regulations of the use and occupancy of the Property or any portion thereof. All remedies described in Section 18 of this Declaration and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, or his guests, invitees, licensees, family members, or tenants, or any Occupant or other Person of any provision of this Section 14 or the Association Rules.

15. Rights and Duties of First Mortgagee.

Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws, rules and regulations of the Association, and management agreements, the following provisions shall apply to and benefit each holder of a First Mortgage:

15.1 No Right of First Refusal.

None of the Constituent Documents shall provide that the right of an Owner to sell, transfer or otherwise convey his Lot or Parcel will be subject to any right of first refusal, or similar restriction, in favor of the Association. Any "right of first refusal" that may ever be contained in the Constituent Documents shall not impair or affect the rights of a First Mortgagee to foreclose or take title to a Lot or Parcel pursuant to the remedies provided in the First Mortgage, to accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor, or interfere with a subsequent sale or lease of a Lot or Parcel so acquired by the First Mortgagee.

15.2 Mortgagee in Possession.

A First Mortgagee who comes into possession of a mortgaged Lot or Parcel by virtue of foreclosure of the Mortgage, or through any equivalent proceedings, such as, but not limited to, the taking of a deed or assignment in lieu of foreclosure or acquiring title at a trustee's sale under a first deed of trust, or any third party purchaser at a foreclosure sale

or trustee's sale, will not be liable for the Lot's or Parcel's unpaid Assessments and other amounts which may accrue prior to the time the First Mortgagee or third party purchaser comes into possession of the Lot or Parcel. Any such Person shall acquire title free and clear of any Assessment Lien authorized by or arising out of the provisions of this Declaration which secures the payment of any Assessments or other amounts accrued prior to the time the Person came into possession of the Lot or Parcel. Any such unpaid Assessments or other charges against the Lot or Parcel foreclosed shall be deemed to be a Common Expense. Nevertheless, in the event the Owner against whom the original Assessment or charge was made is the purchaser or redemptioner, the lien shall continue in effect and may be enforced by the Association for the amount of the unpaid Assessments and other amounts that were due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid Assessment or other amount shall continue to exist as the personal obligation of the defaulting Owner to the Association, and the Board may use reasonable efforts to collect from the Owner even after he is no longer a Member of the Association.

15.3 Consent of Mortgagees Required.

Unless at least two-thirds of the Eligible Holders (based upon one vote for each First Mortgage owned), including, in the case of the partition or subdivision of any Lot, the holder of the First Mortgage for the Lot, and the Owners holding not less than two-thirds of the votes in each Class of Members, or such higher percentage as required in this Declaration or by applicable law, have given their prior written approval, neither the Owners nor the Association shall be entitled to:

(1) By act or omission, seek to abandon or terminate this Declaration, except where provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro rata Fractional Interest or obligation of any individual Lot for the purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards (except as provided in Section 9.9 of this Declaration, relating to Condemnation of a Lot).

(3) Partition or subdivide any Lot.

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Project shall not be deemed a transfer within the meaning of this clause).

(5) Use hazard insurance proceeds payable or paid to the Association due to losses to the Common Areas or the Lots or portions thereof for other than the repair, replacement or reconstruction of such areas, except as provided herein or by statute in case of substantial loss to the Common Areas. First Mortgagees shall have the

right to participate in the adjustment and settlement of any claim under any insurance maintained by the Association.

15.4 Tax Liens.

All taxes, assessments and charges which may become liens prior to a First Mortgage under local law shall relate only to the individual Lot or Parcel and not to the Project as a whole.

15.5 Priority of Mortgage.

No provision of the Constituent Documents shall give an Owner, or any other party, priority over any rights of the First Mortgagee of a Lot or Parcel pursuant to its First Mortgage in the case of a distribution to the Owner of insurance proceeds or condemnation awards for losses to or a taking of Lots, Parcels and/or Common Areas.

15.6 Amenities.

Amenities (if any) pertaining to the Project (such as parking, recreation and service areas) are a part of the Project.

15.7 Notice of Default.

Upon request, each First Mortgagee and Institutional Guarantor shall be entitled to written notification from the Association of any default in the performance by its Mortgagor under the Constituent Documents, if the default is not cured within 30 days. All First Mortgagees and Institutional Guarantors shall be entitled to written notification by the Association upon the commencement of any condemnation proceedings against all or any part of the Property or the Lot or Parcel securing its Mortgage.

15.8 Review of Records.

First Mortgagees and Institutional Guarantors shall have the right upon reasonable written request to: (a) examine the books and records of the Association at reasonable times; (b) receive an annual financial statement of the Association within 90 days following the end of any fiscal year of the Association, which shall be audited by an independent accountant if required by the regulations of any Institutional Guarantor; and (c) receive written notice of all meetings of the Association and designate a representative to attend all such meetings.

15.9 No Personal Liability.

A First Mortgagee shall not in any case or manner be personally liable for the payment of any Assessment or other amount, nor the observance or performance of any covenant, restriction, or rule and regulation of the Association, or any provision of the Articles

or Bylaws, or any management agreement, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Section 15.

15.10 Enforcement Against Successors.

An action to abate the breach of any of these covenants, restrictions, reservations and conditions may be brought against a purchaser who has acquired title through foreclosure of a First Mortgage and the subsequent foreclosure or trustee's sale (or through any equivalent proceedings), and the successors in interest to any such purchaser, even though the breach existed prior to the time the purchaser acquired an interest in the Lot or Parcel.

15.11 Exercise of Owner's Rights.

During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to a power of sale conferred under a deed of trust and pursuant to law, the First Mortgagee, or a receiver appointed in any such action, may (but need not exercise) any or all of the rights and privileges of the defaulting Owner of the Lot or Parcel including, but not limited to, the right to vote as a Member of the Association in the place and stead of the defaulting Owner.

15.12 Mortgagee Subject to Declaration.

At such time as a First Mortgagee comes into possession of or becomes record Owner of a Lot or Parcel, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all Assessments and other amounts accruing thereafter, in the same manner as any other Owner.

15.13 Lien Subordinate to First Mortgage.

The Assessment Lien provided for herein shall be subordinate to the lien of any First Mortgage now or hereafter placed upon any Lot or Parcel; provided that the First Mortgage is in favor of a bank, savings and loan association, insurance company, mortgage banker, other institutional lender, or Institutional Guarantor and their successors or assigns: and provided further that subordination shall apply only to the Assessments and other amounts which have accrued prior to a sale or transfer of the Lot or Parcel to which the First Mortgage relates pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure.

15.14 No Impairment of Mortgage.

Notwithstanding any provision in the Constituent Documents to the contrary, no provision of this Declaration or the other Constituent Documents related to costs, use, set-back, minimum size, building materials, architectural, aesthetic or similar matters shall

ever provide for reversion or foreclosure of title to a Lot or Parcel in the event of violation thereof. No breach or violation of any provision of the Constituent Documents shall affect, impair, defeat or render invalid the interest or lien of any First Mortgagee.

15.15 Amendment.

Notwithstanding and prevailing over all other provisions hereof, no amendment to this Declaration shall be made or become effective which in any way adversely affects, materially diminishes or materially impairs any of the rights, privileges or powers granted to any First Mortgagee or which is in any way materially inconsistent with the customary rules, regulations or requirements of institutional First Mortgagees affected or their successors or assigns without the prior written consent of all affected institutional First Mortgagees. Upon written request, each First Mortgagee and Institutional Guarantor shall be entitled to timely written notice of any proposed action which requires the consent of a specified percentage of Mortgagees.

15.16 Enforcement.

First Mortgagees shall have the right to enforce against Owners, the Association and all others, any and all provisions of this Declaration including, but not limited to, this Section 15. Enforcement by First Mortgagees may be by injunction, mandatory or prohibitory, or any other lawful procedure. This Declaration shall be interpreted to the extent reasonably possible in conformity with all rules, regulations and requirements of any Institutional Guarantor of a Mortgage on any Lot or Parcel in effect as of this date, or as they may be hereafter amended, and any provision hereof which is materially inconsistent therewith shall be deemed modified to conform thereto to the extent reasonably possible.

15.17 Articles and Bylaws.

The Articles, Bylaws and all Association Rules shall be governed by this Declaration and all provisions thereof which are inconsistent herewith shall be void.

15.18 Eligible Holders.

Notwithstanding anything in this Declaration to the contrary, any First Mortgagee or Institutional Guarantor may submit a written request to the Association, which identifies the name and address of the First Mortgagee or Institutional Guarantor and the particular Lot(s) or Parcel(s) subject to its rights as First Mortgagee or Institutional Guarantor, to receive timely written notice of all or any of the matters specified below. Any First Mortgagee or Institutional Guarantor which submits a request in the manner provided herein shall be considered an "Eligible Holder" for purposes of this Declaration. Those matters for which any First Mortgagee or Institutional Guarantor may request notice are:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or a material portion of the Lot or Parcel subject to its rights as First Mortgagee or Institutional Guarantor;

(b) Any 30-day delinquency in the payment of Assessments or charges owed by the Owner of the Lot or Parcel subject to its rights as First Mortgagee or Institutional Guarantor;

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action that requires the consent of a specified percentage of Eligible Holders.

16. Mortgages.

Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his Lot or Parcel. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Lot or Parcel.

17. Exemption of Declarant from Restrictions.

Notwithstanding anything contained in this Declaration to the contrary (except that, in the event of a conflict with the provisions of Section 15 of this Declaration, those provisions shall be controlling), none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant or a Designated Builder, or any of their employees, agents and subcontractors, in connection with the construction, completion, marketing, sale or leasing of the Project or any portion thereof, or the repair or maintenance of any Lot or Parcel as required either by this Declaration or by any contract of sale with Owners.

18. Remedies.

18.1 Power to Enforce.

In the event of any default by any Person under the provisions of this Declaration, or the other Constituent Documents, the Association, or its successors or assigns, and the Board, or its agents, and an Owner of a Lot or Parcel shall have each and all of the rights and remedies which may be provided for in this Declaration or the other Constituent Documents, and which may be available at law or equity, and may prosecute any action or other proceedings against the defaulting Person for enforcement or foreclosure of its lien and the appointment of a receiver for a Lot or Parcel, or for damages or injunction, whether mandatory or prohibitory, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of a Lot or Parcel and to rent the Lot or Parcel and apply

the rents received to payment of unpaid assessments and interest accrued thereon, and to sell it as hereinafter in this Section 18 provided, or for any combination of remedies or for any other relief, all without notice and without regard to the value of the Lot or Parcel or the solvency of the defaulting Person.

18.2 Expenses.

The proceeds of any such rental or sale shall first be paid to discharge court costs, other litigation costs including, but not limited to, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds after satisfaction of such charges and any unpaid Assessments and other amounts hereunder or any Assessment Lien hereunder shall be paid to the Owner or the Mortgagees of the Lot or Parcel, as their interests may appear. Upon the confirmation of the sale, the purchasers shall be entitled to a deed to the Lot or Parcel and to immediate possession of the Lot or Parcel and may apply to the court for a writ of restitution for the purpose of acquiring possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

18.3 Lien Rights.

All expenses of the Association in connection with any action or proceeding described or permitted by this Section 18, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the Interest Rate, until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the Common Expenses, and the Association shall have an Assessment Lien for all such sums, as well as for nonpayment of his respective share of the Common Expenses, upon the Lot or Parcel of the defaulting Owner and upon all of his additions and Improvements thereto.

18.4 Self Help.

In the event of a default by any Person, the Association and the Board, and the manager or managing agent, if authorized by the Board, shall have the authority to correct the default and to do whatever may be necessary, and all expenses in connection therewith shall be charged to and assessed against the defaulting Person. Such a charge shall constitute an Assessment Lien against a defaulting Owner's Lot or Parcel as provided for in Section 7 of this Declaration. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board.

18.5 Warning Notice.

If any Person (either by his conduct or by the conduct of any Occupant of his Lot or Parcel, or the Owner's family, guests, invitees or tenants to the extent the Owner may

be held legally responsible therefor) violates any of the provisions of this Declaration, or any Constituent Documents, as then in effect, and the violation continues for 10 days after notice in writing to the defaulting Person or occurs repeatedly during any 10 day period after written notice, then the Board or any affected or aggrieved Owner shall have the power to file an action against the defaulting Person for a judgment or injunction, whether mandatory or prohibitory, requiring the defaulting Person to comply with the provisions of this Declaration, or the Constituent Documents, and granting other appropriate relief, including money damages.

18.6 Mortgage Priority.

Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot or Parcel but, except as herein specifically provided, each and all of the covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot or Parcel whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise. To the extent that summary abatement or enforcement rights are herein reserved to Declarant or a Designated Builder, the Association or any other Person, judicial proceedings for enforcement must be instituted before any items of construction can be altered or demolished.

19. Amendment.

Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. So long as there is outstanding any Class B Membership in the Association, any amendment other than one authorized by Section 19.5 of this Declaration must be approved by all Institutional Guarantors.

19.1 Adoption.

Amendments may be adopted with or without a duly held meeting of the Owners upon the written approval of Owners of not less than 75% of the Lots (with each Unit of Density within a Parcel being considered a "Lot" for purposes of such 75% calculation). In the event that no meeting of Owners is held, the requisite number of Owners must consent in writing to the amendment. Amendments properly adopted shall bear the signature of the president of the Association and shall be attested by the secretary, and shall be acknowledged by them as officers of the Association. Properly adopted amendments shall be effective upon Recording in the appropriate governmental offices or at such later date as may be specified in the amendment. Notwithstanding the foregoing, any amendment of this Declaration which is deemed to be "material" under the requirements of Institutional Guarantors, including, but not limited to, any amendment which would change the Fractional Interest of any Owner, may be adopted only with the foregoing affirmative vote or consent of Owners and the consent of Eligible Holders representing at least 51% of all First Mortgages held by Eligible Holders (based upon one vote for each First Mortgage held).

19.2 Effect.

It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the section being amended or the amendment itself.

19.3 Required Percentages.

If this Declaration, the Articles or Bylaws requires the consent or agreement of all Owners and/or all lienholders and all trustees and/or beneficiaries under trust deeds, or any specified percentage of them, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such an action shall be signed by no lesser percentage of the Owners and/or lienholders and trustees and/or beneficiaries under trust deeds.

19.4 Required Consent of North Property Association.

Notwithstanding any provision of this Section 19, the prior written consent of the North Property Association shall be required for any termination of this Declaration or for any amendment to any provision of Section 4 of this Declaration or which otherwise benefits or applies to the North Property Association.

19.5 Declarant Powers.

Notwithstanding any provision of this Section 19, for so long as any Class B Membership in the Association is outstanding, Declarant reserves the right, and shall be authorized and empowered, acting alone, to amend this Declaration as necessary to comply with, or conform this Declaration to, the requirements or guidelines of an Institutional Guarantor and governmental authorities (including, but not limited to, requirements to qualify the Property and offer it for sale); provided, however, that Declarant shall obtain the approval of any interested Institutional Guarantor or governmental authority to such an amendment. Upon the adoption and Recording of any such amendment by Declarant, a copy of the amendment shall be made available for the inspection of every Owner, every Eligible Holder, and the North Property Association.

19.6 Institutional Guarantors.

Anything to the contrary herein notwithstanding, no amendment shall be effective to materially modify, change, limit or alter the rights expressly conferred upon Mortgagees in this Declaration, or which is in any way materially inconsistent with the rules, regulations or requirements of any interested Institutional Guarantor, unless the amendment is approved in writing by the Institutional Guarantor.

20. Notices.

Notices provided for in this Declaration, or the Bylaws or rules and regulations of the Association, shall be in writing and shall be addressed to the Association or the Board, as the case may be, at an address to be established by the Board. The Association or the Board may at any time designate a different address or addresses for notices to them respectively by giving written notice of the change of address to all Owners. All notices to Owners shall be to their respective Lots or Parcels. Any Owner may designate a different address or addresses for notices to him by giving written notice of his change of address to the Board. Notices addressed as above shall be deemed delivered when mailed by United States mail, first class with postage prepaid, or when delivered in person. Upon written request to the Board, a Mortgagee of a Lot or Parcel shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner of the Lot or Parcel subject to the Mortgage.

21. Captions and Exhibits: Construction.

Captions given to various sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any exhibits referred to herein are incorporated as though fully set forth where the reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the ownership and operation of the Property under the provisions of Arizona law.

22. References to VA, FHA, and Institutional Guarantors.

In various places throughout this Declaration and the other Constituent Documents, references are made to the FHA, the VA and Institutional Guarantors, and, in particular, to various consents or approvals required by the FHA, the VA and/or Institutional Guarantors. Such references are included so as to cause the Constituent Documents to meet certain requirements of such agencies should Declarant or any Designated Builder request approval of the Project by any of such agencies. Unless and until the FHA or the VA have approved the Project as acceptable for insured or guaranteed loans and at any time during which such approval, once given, has been revoked, withdrawn, cancelled or suspended an there is no outstanding Mortgage Recorded against a Lot or Parcel to secure payment of an insured or guaranteed loan by either the VA or the FHA, all references herein to required approvals or consents of the VA, the FHA and/or Institutional Guarantors shall be deemed null and void and of no force and effect.

23. Severability.

If any provision of this Declaration, the Articles, Bylaws or rules and regulations of the Association, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the Articles, Bylaws or the rules and regulations, and of the application of any such provision,

section, sentence, clause, phrase or word in any other circumstances, shall not be affected, and the remainder shall be construed as if the invalid part were never included therein.

24. Power of Attorney.

Whenever the Association or the Board is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association in accordance with the Articles and Bylaws. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Association or the Board is empowered to take any action or do any act including, but not limited to, action or acts in connection with the Common Areas, the Owners and each of them hereby constitute and appoint the Association, acting through its Board, as their attorney-in-fact for the purposes of taking such action or doing such acts including, but not limited to, executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by the acceptance of a deed for a Lot or Parcel or by signing a contract for purchase of a Lot or Parcel or by succeeding in any other manner to the ownership of a Lot or Parcel, each Owner shall be deemed and construed to have ratified and expressly granted the above power of attorney.

25. Disclaimer of Representations.

Notwithstanding any contrary provision of this Declaration or any other Constituent Document, neither Declarant nor any Designated Builder makes any representations or warranties whatsoever that (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future.

26. Consent to Provisions of North Property Declaration. Declarant, on behalf of itself and the Association, agrees that Declarant and the Association shall be bound by the terms of Sections 4.6, 5.3, 6.9, 8.5, 10.3, 10.17 and 10.18 of the North Property Declaration.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed.

SPRING/SUNBELT IV L.L.C., an Arizona limited liability company

By: _____
John W. Graham
Its: Authorized Agent

By: _____
Printed Name: Donald W. Woolley
Its: Authorized Agent

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20th day of October, 1995, by John W. Graham, the Authorized Agent of Spring/Sunbelt IV L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

_____
Notary Public

My Commission Expires:
4/20/97

OFFICIAL SEAL
BRIDGETTE A. KIRK
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires 4/20/97

STATE OF ~~ARIZONA~~ OREGON)
) ss.
County of ~~Maricopa~~ LANE)

The foregoing instrument was acknowledged before me this 19th day of October, 1995, by Donald W. Woolley, the Authorized Agent of Spring/Sunbelt IV L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

Gloria M. Vaughn
Notary Public

My Commission Expires:

11-2-96

OFFICIAL SEAL
GLORIA M. VAUGHN
NOTARY PUBLIC - OREGON
COMMISSION NO.018806
MY COMMISSION EXPIRES NOV. 02, 1996

CONSENT OF NORTH PROPERTY DEVELOPER AND NORTH PROPERTY ASSOCIATION

The undersigned Jackson Properties FF, Inc., an Arizona corporation ("Jackson"), is the Declarant under the North Property Declaration (as defined in foregoing Declaration to which this Consent is attached), the Builder under that certain Joint Development Agreement dated October 21, 1994 evidenced by a Memorandum of Agreement dated October 21, 1994 and recorded October 21, 1994 in the Official Records of Maricopa County, Arizona as Instrument No. 94-0761445, and the Beneficiary under that certain Deed of Trust recorded October 21, 1994 in the Official Records of Maricopa County, Arizona as Instrument No. 94-0761446 (the "Deed of Trust"). Jackson hereby (i) consents to the foregoing Declaration, (ii) acknowledges and agrees that the foregoing Declaration satisfies the requirements of the Joint Development Agreement, (iii) acknowledges and agrees that the foregoing Declaration satisfies the requirements of the North Property Declaration, (iv) agrees to be bound by the applicable terms of the foregoing Declaration and agrees that the Deed of Trust shall be subordinate to the foregoing Declaration and that the foregoing Declaration shall survive any trustee's sale or foreclosure (or deed in lieu thereof) under or pursuant to the Deed of Trust, and (v) authorizes and consents to the name of the Association set forth in the foregoing Declaration and the use of the name "Finley Farms" in such name, even though such name is or may be deceptively similar to the name of the HOA (as hereinafter defined).

The undersigned Finley Farms Homeowners Association, an Arizona nonprofit corporation ("HOA") is the Association under the North Property Declaration. HOA hereby (i) consents to the foregoing Declaration, (ii) acknowledges and agrees that the foregoing Declaration satisfies the requirements of the North Property Declaration, and (iii) authorizes and consents to the name of the Association set forth in the foregoing Declaration and the use of the name "Finley Farms" in such name, even though such name is or may be deceptively similar to the name of the HOA.

JACKSON PROPERTIES FF, INC.,
an Arizona corporation

By: _____
Its: PRESIDENT

Date: 10/20/95

FINLEY FARMS HOMEOWNERS ASSOCIATION,
an Arizona nonprofit corporation

By: _____
Its: PRESIDENT

Date: 10/20/95

CONSENTED TO AND APPROVED BY THE
UNDERSIGNED HOLDER OF A DEED OF
TRUST ENCUMBERING THE PROPERTY SUBJECT
TO THE NORTH PROPERTY DECLARATION:

FINLEY SECOND MORTGAGE L.L.C., an
Arizona limited liability company

By: PHOENIX M.G.P. INC.
Its: Administrative Member

By: _____
Its: _____

Date: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20th day of October, 1995, by Randall B. Jackson the President of Jackson Properties FF, Inc., an Arizona corporation, on behalf of the corporation.

Lori A. McMahon
Notary Public

My Commission Expires:
5/7/99

"OFFICIAL SEAL"
Lori A. McMahon
Notary Public-Arizona
Maricopa County
My Commission Expires 5/7/99

CONSENTED TO AND APPROVED BY THE
UNDERSIGNED HOLDER OF A DEED OF
TRUST ENCUMBERING THE PROPERTY SUBJECT
TO THE NORTH PROPERTY DECLARATION:

FINLEY SECOND MORTGAGE L.L.C., an
Arizona limited liability company

By: PHOENIX M.G.P. INC.
Its: Administrative Member

By: _____
Its: PRESIDENT

Date: OCTOBER 20, 1995

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____, the _____ of Jackson Properties FF, Inc., an Arizona corporation, on behalf of the corporation.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of October, 1995, by Randall B. Jackson the President of Finley Farms Homeowners Association, an Arizona nonprofit corporation, on behalf of the corporation.

Lori A. McMahon
Notary Public

My Commission Expires:
5/7/99

"OFFICIAL SEAL"
Lori A. McMahon
Notary Public-Arizona
Maricopa County
My Commission Expires 5/7/99

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of October, 1995, by Randall B. Jackson, the _____ of Phoenix M.G.P., Inc., the Administrative Member in Finley Second Mortgage, L.L.C., an Arizona limited liability company, for and on behalf thereof.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____, the _____ of Finley Farms Homeowners Association, an Arizona nonprofit corporation, on behalf of the corporation.

_____
Notary Public

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20th day of OCTOBER, 1995, by JACK W. HILTON, the PRESIDENT of Phoenix M.G.P., Inc., the Administrative Member in Finley Second Mortgage, L.L.C., an Arizona limited liability company, for and on behalf thereof.

Sue A. Watford
Notary Public

My Commission Expires:
MARCH 9, 1999

OFFICIAL SEAL
SUE A. WATFORD
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Mar. 9, 1999

EXHIBIT "A"

Parcel 1

Lots 1 through 53 and Tracts A through G, of FINLEY FARMS SOUTH PARCEL 9, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 404 of Maps, Page 24 and Certificate of Correction recorded October 19, 1995 in 95-0640102 of Official Records.

Parcel 2

Lots 1 through 109 and Tracts A through D, of FINLEY FARMS SOUTH PARCEL 11, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 404 of Maps, Page 9.

Parcel 3

Lots 1 through 36 and Tracts A through E, of FINLEY FARMS SOUTH PARCEL 12, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 404 of Maps, Page 10.

Parcel 4

Lots 1 through 98 and Tracts A, B, C and D, of FINLEY FARMS SOUTH PARCEL 16, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 403 of Maps, Page 30.

Parcel 5

Lots 1 through 117 and Tracts A, B, C, D and E, of FINLEY FARMS SOUTH PARCEL 17, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 402 of Maps, Page 37.

Parcel 6

Lots 1 through 143 and Tracts A, B, C, D, E, F, G and H, of FINLEY FARMS SOUTH PARCEL 14, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 400 of Maps, Page 35.

Parcel 7

Lots 1 through 99 and Tracts A through D, of FINLEY FARMS SOUTH PARCEL 15, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 404 of Maps, Page 12.

Parcel 8

Lots 1 through 75 and Tracts A through F, of FINLEY FARMS SOUTH PARCEL 13, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 404 of Maps, Page 11.

Parcel 9

Lots 1 through 129 and Tracts A through J, of FINLEY FARMS SOUTH PARCEL 18, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 401 of Maps, Page 2.

EXHIBIT "B"

LEGAL DESCRIPTION OF PARK

Tract C of PARKSIDE AT FINLEY FARMS UNIT 1 per plat recorded in Book 386, Page 49, records of Maricopa County, Arizona.

Except that portion of said Tract C designated as retention/open space on said plat and subject to an easement held by the Salt River Project and recorded in Docket 4781, Page 254, records of Maricopa County, Arizona.

RANCHO CIMARRON PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

ADOPTED MARCH, 1998

1ST OF EACH MONTH: ASSESSMENT IS DUE AND PAYABLE TO:

RANCHO CIMARRON PROPERTY OWNERS ASSOCIATION

15TH OF EACH MONTH: Notice is sent advising that the late fee will be applied to your account on the 30th day of the month, a lien will be filed on the property on the first day of the following month and small claims will be processed on the 15th of the following month if the amount due remains unpaid. **THIS IS THE ONLY NOTICE THAT YOU WILL RECEIVE.**

30TH OF EACH MONTH: If payment is not **RECEIVED** at the Management office or the bank lockbox by this date, a charge for late payment of $5.00 is automatically assessed on every account showing one full assessment due without further notice to the homeowner.

1ST OF THE SECOND MONTH: If payment is not **RECEIVED** at the Management office by this date, a lien fee of **$70.00** will be added to the homeowner's delinquent account and the lien automatically filed. **As of this date, payments must include the collection costs and be paid by Cashiers Check, Certified Check or Money Order.**

A lien will stay in place against the property until such time as the account has been paid in full.

15TH OF SECOND MONTH: If payment is not **RECEIVED** at the Management office by this date, small claims fee of **$65.00 plus any additional fees incurred** will be added to the homeowner's delinquent account and the small claims automatically processed.

When a small claims judgment is received, the delinquency will be referred to an Attorney for collection. **Any fees incurred in the collection of this delinquency will be charged to the delinquent owner's account.**

ALL PAYMENTS WILL BE APPLIED TO THE ACCOUNT AS FOLLOWS:

1. **Past due assessments**
2. **Fines.**
3. **Lien fee, small claims fees, legal fees.**
4. **Late charges.**

There will be a $15.00 charge for checks returned for insufficient or uncollected funds.

Signature _____ Date 3-3-98

GUIDELINES FOR COMMUNITY LIVING

FOR THE

RANCHO CIMARRON HOMEOWNERS ASSOCIATION

GUIDELINES FOR COMMUNITY LIVING

COMMUNITY ORGANIZATION

Every resident of Rancho Cimarron is a member of the RANCHO CIMARRON HOMEOWNERS ASSOCIATION (the "Association"), the entity responsible for the management of all common areas and related facilities, and administration of construction activities by homeowners in accordance with adopted architectural guidelines and standards.

The Board of Directors (the "Board") manages the affairs of the Association. The Board has a wide range of powers, including the ability to adopt rules and regulations governing the use of common areas and to employ a management firm to assist in the operation of the Association.

The Architectural Control Committee is established by the Board to review all improvements within 30 days, including new construction and modifications to existing properties. The Architectural Control Committee has adopted architectural guidelines and standards to evaluate proposed construction activities.

ARCHITECTURAL REVIEW PROCESS

The Declaration of Covenants, Conditions and Restrictions, (the "CC&R's") requires the written approval of the Architectural Control Committee before any change to a site or building exterior of a residential property is made. Residents with proposed changes should contact the management company to obtain the necessary submittal documentation.

Simply stated, no new construction or remodeling, **including changes in exterior color, is to occur on any lot or exterior of any home without the prior approval of the Architectural Control Committee.** The responsibility of the Architectural Control Committee is to insure the harmonious, high quality image of Rancho Cimarron is implemented and maintained. Your submittal will be returned to you either approved, denied, or for more information within 30 days of receipt of your request.

It is the homeowner's responsibility to insure that any proposed construction is coordinated with, and where applicable, approved by, these and other local, state and federal government agencies. The Architectural Control Committee and Association assume no responsibility for obtaining these reviews and approvals. The Board may, at its option, grant variances from the Design Guidelines which have been established for Rancho Cimarron. Variances will be granted only in extenuating circumstances, based upon the determination that a restriction would create an unreasonable hardship or burden since the adoption of the CC&R's has rendered such a restriction obsolete. Any activity permitted by variance may not have an adverse effect upon other homeowners and must be in keeping with the high quality of life intended for Rancho Cimarron.

DESIGN GUIDELINES

GENERAL PRINCIPLES

The purpose of the Architectural Control Committee is to insure consistent application of the Design Guidelines. The Design Guidelines promote those qualities in Rancho Cimarron which enhance the attractiveness and functional utility of the community. Those qualities include a harmonious relationship among structures, vegetation, topography and overall design of the community. (B)

Relationship of Structures and Site

Treatment of the site must relate harmoniously to adjacent sites and structures that have a visual relationship to the proposed construction. (C)

Protection of Neighbors

The interests of neighboring properties must be protected by making reasonable provisions for such matters as access, surface water drainage, sound and sight buffers, preservation of views, light and air, and other aspects of design which may have a substantial effect on neighboring properties. (D)

Design Compatibility

The proposed construction must be compatible with the design characteristics of the property itself, adjoining properties and the neighborhood setting. Compatibility is defined as harmony in style, scale, materials, color and construction details.

Workmanship

The quality of workmanship evidenced in construction must be equal to, or better than, that of the surrounding properties. In addition to being visually objectionable, poor construction practices can cause functional problems and even create safety hazards. The Architectural Control Committee assumes no responsibility for the safety or livability of new construction by virtue of design or workmanship.

BUILDING ARCHITECTURE

In general, any exterior addition or alteration to an existing residence shall be compatible with the design character of the original structure.

Patio Covers and Storage Sheds

Metal or other backyard storage sheds detached from the house are allowed when they are lower than the home's surrounding block wall. Architectural review and approval is not required in these cases. All permanent additions to a home, including patio covers and buildings, must be submitted to the Architectural Committee for approval prior to construction.

Antennas

No antenna or other device, including microwave dish apparatus, for the transmission or reception of television or radio signals will be approved which are higher than the home's surrounding block wall. Installation of any antenna or satellite dish must be submitted to and approved by the Architectural Control Committee.

Awnings
Awnings over windows must be a canvas type with the color the same on the interior and exterior face. Your application must include the following: the manufacturer, color, type, planned location(s) of installation. Awnings will not be approved for front windows.

Roof Equipment
No devices of any type, including antennas, evaporative coolers, air conditioning units, and solar equipment shall be placed on any roof.

MISCELLANEOUS ITEMS

Swimming Pools Pools and spas need not be submitted for architectural approval but pool ladders/slides need to be approved and will be considered based upon appearance, height, and proximity to other properties. Perimeter walls on lots bordering Association landscaped areas may not be torn down. Access must be gained by tearing down owners front wall on the side of the home, leaving the perimeter wall intact, assuring it matches in texture and color throughout the community unless other access is approved by the Architectural Committee.

Pools may not be backwashed into the drainage ditches, common landscaped areas, drainage-ways or streets. All backwash water is to be retained on the owner's lot. If necessary, a hole should be dug and filled with rocks to provide for the needed capacity. In the event a hole is made in a wall to backwash into prohibited areas, the Association may repair the wall and any damage to the landscape caused from back- washing, at the homeowners expense. Swimming pool fence requirements are regulated by the Town of Gilbert. The Development Services Department should be contacted to determine the safety fence requirements for your pool.

Flagpoles
Flagpoles are not allowed in residential areas. Homeowners are allowed to use brackets mounted on the house or garage to display flags, no prior approval is necessary.

Basketball Goals
Basketball standards must be approved by the Committee prior to installation. They will be considered upon their appearance and their relationship to other properties.

Driveways
Driveways may not be expanded without the prior approval of the Architectural Control Committee. All driveways must be kept clean, clear of debris, oil, rust and other stains.

Clotheslines
Clotheslines or other outside facilities for drying clothes or airing clothes shall be erected, placed or maintained on any lot or parcel so as to be visible from neighboring property.

Window Coverings Criteria

No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, or temporary window coverings such as newspapers or bed sheets shall be installed or placed upon the outside or inside of any windows of any house without the prior written approval of the Architectural Control Committee. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a house shall be constructed or installed in any home without the prior written consent of the Architectural Contol Committee. The Board has given blanket approval to all off-white or white, shutters, mini-blinds, and vertical blinds. All others require Architectural approval.

Planters and Walkways

Planters, paved walkways and other hardscape features visible from neighboring property must be reviewed and approved by the Architectural Control Committee. Surface textures and colors are to match the paint color and materials of the house.

Gates

Double gates may be installed to allow wider accessways to backyards. Double gates should be the same type, design, and color as the originally installed single gates. Shrubs, trees or other plants should be located between the house and the double gates, where possible.

Gutters and Downspouts

Gutters and downspouts may be considered for approval. The finish on same must match the dwelling in color. High-quality materials that offer long life are recommended as the homeowner will be required to maintain the addition in good repair. Plans must include the proposed locations of the gutters and downspouts, the quality of material to be used, warranty by the manufacturer, and the name and telephone number of the installer.

Ramadas and Gazebos-Rear Yards Only

1) Maximum square footage (under roof) is 120 square feet.
2) Maximum roof height is 10 feet.
3) The structure must be set back a minimum of 7 feet from any wall.
4) The structure must be painted to match the house color or be left the natural wood color, either of which is to maintained.
5) Any roof tile must also match the tile of the house.
6) Lighting attached to the structure is permitted so long as it is not directed onto adjacent property.

Play Structures

1) May be erected in rear yards only and structures must be set back a minimum of 7 feet from any wall.
2) Maximum height allowed to top support bar or highest point of structure, is 10 feet.
3) Maximum height of any deck/platform is to be 4 feet above ground.
4) The distance from the ground elevation to the top of the perimeter fence must be measured and submitted with plans.
5) The Committee will take the appearance, height, and proximity to neighboring property into consideration.
6) Submit a brochure or picture if possible.

E

COMMUNITY RULES

The following community rules summarize some of the common provisions found in the CC&R's as well as rules established by the Board. These rules are not meant to restrict, but rather to guide activities for the benefit of all residents of Rancho Cimarron. Cooperation on the part of all residents in following these rules will make living at Rancho Cimarron an enjoyable experience.

General Property Restrictions

Owners may rent only the entire lot or dwelling unit. Rental must be made only to a single family. No gainful occupation, trade or other non-residential use may be conducted on the property for the purpose of receiving products or services related to such usage. Owners must receive Board permission to apply for any re-zoning, variances or use permits.

Maintenance

All landscaping shall be maintained in a neat and attractive condition. Minimum maintenance requirements include watering, mowing, edging, pruning, removal and replacement of dead or dying plants, removal of weeds and noxious grasses, and removal of trash.

Trash/Recycling Containers and Collection

No garbage or trash shall be kept on any lot except in covered containers provided by the City. These containers must be stored out of sight.

Pets

Residents are allowed to keep a reasonable number of generally recognized house or yard pets. Animals cannot be kept or raised for commercial purposes, and they are not allowed to make an unreasonable amount of noise or become a nuisance to neighbors. Also, no structure for housing such animals may be visible from neighboring property. Dogs must remain on leashes at all times while on Association property, unless approved in writing by the Association. All owners must clean up after their pets.

Machinery and Equipment

No machinery or equipment of any kind shall be placed, operated or maintained upon any lot or any street.

Vehicles, Campers and Boats

No motor vehicle classed by manufacturer rating as exceeding 3\4 ton, mobile home, travel trailer, camper shell, boat, or other similar equipment or vehicle may be parked, maintained or repaired on any lot or on any street so as to be visible from neighboring property. All motorized vehicles, including ATV's, motorcycles, go carts and similar vehicles are prohibited from entering onto any common areas. No commercial vehicles shall be parked on streets or lots in the community. Vendors may park for a reasonable amount of time while rendering a service.

Parking

The intent of the Association is to restrict on-street parking to the extent possible. Vehicles of homeowners and their guests are to be parked in the garage, carport or driveway. No inoperable vehicle nor those with expired tags will be parked in driveways or streets. No vehicle shall be parked on landscapes (grass or granite).

Building Repair

No building or structure shall be permitted to fall into a state of disrepair. The owner of every home or structure is responsible at all times for keeping the buildings in good condition and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, the owner is responsible for immediate repair or reconstruction. Roofs must be kept in good repair at all times.

Exterior Lights

Any change of exterior lighting must be submitted to the Architectural Committee. This includes flood lights and any addition or change to coach lighting. Malibu lighting need not be submitted. Holiday lighting is allowed from October 31 to Jan 31 only.

VIOLATION OF LAW

Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation or use of any property within the community is a violation of the CC&R's and is subject to the enforcement procedures in the CC&R's.

RESIDENTIAL LANDSCAPE GUIDELINES

Landscaping provides one of the most important architectural features. If, you as a homeowner, follow the guidelines for original installation, Architectural Control Committee approval is not necessary. The Management Company will tour the community to insure the landscape is installed as prescribed.

All landscape is to be installed within ninety (90) days of the close of escrow. Each homeowner is responsible for keeping his yard neatly trimmed, properly cultivated and free of trash, weeds, and other unsightly material.

Semi arid, desert type, turf or any combination will be accepted. If decomposed granite is used, it should be of an "earth tone" color and not white, green, blue, red or other bright colors. Native soil is not an acceptable ground cover. All changes in existing landscape must also be approved.

Trees, shrubs, and annuals adequate to enhance the aesthetic appeal of walls, planters, walks, etc., shall be included in the landscape theme for the front, side, and rear yards. Cactus or other strictly desert plantings will not be approved. However, rear yards enclosed by opaque walls and gates may be landscaped with desert themes, if desired, providing desert type plantings do not protrude above the walls.

All irrigation systems are to be below ground. All irrigation systems and landscaping shall be designed and trimmed to minimize spray onto the streets, driveways, walks, and other non-landscaped area.

The utilization of non-living objects as ornaments in the landscaping must be harmonious with the character of the neighborhood. Individual expression is permissible so long as it does not detract from this goal.

All landscape shall be maintained in a neat and attractive condition. Minimum maintenance requirements, include watering, mowing, edging, pruning, removal and replacement of dead or dying plants, removal of weeds and noxious grasses and removal of trash.

Attached are lists of trees, shrubs, groundcover, annuals, etc. to help in designing your landscaping.

RANCHO CIMARRON

TREE AND PLANT LIST

A. TREES

PALMS	BOTANICAL NAME
California Fan Palm	Washington Filifera
Canary Island Date Palm	Phoenix Canariensis
Common Date Palm	Phoenix Dactylifera
Mexican Fan Palm	Washington Robusta
Queen Palm	Arecastrum Romanzoffianum

TREES	BOTANICAL NAME
Acacia "Sweet	Acacia Farnesiana
Acacia "Cat Claw"	Acacia Greggii
African Sumac	Rhus Lancea
Aleppo Pine	Pinus Halepensis
Ash "Fan-Tex"	Fraxinum Velutina "Rio Grande"
Beefwood "Coast"	Casuarina Stricta
Blue Palo Verde	Cercicium Floridum
Brazilian Pepper	Schinus Terebinthifolius
Carob Tree	Ceratonia Siliqua
Chilean Mesquite	Prosopis Chilensis
Citrus	Orange, Grapefruit, Lemon
Cottonwood	Populus
Eucalyptus "Desert Gum"	Eucalyptus Rudis
Eucalyptus "Coolibah Tree"	Eucalyptus Microtheca
Ficus Nitida "Indian Laurel Fig"	Ficus Microcarpa Nitida
Mondel Pine (best pine to use)	Pinus Eldarica "Brutia"
Oleander Standard	Nerium Oleander
Olive "Swan Hill" (Seedless)	Olea Europaea
Yellow Oleander Standard	Thevetia Peruviana

TREES NOT RECOMMENDED	BOTANICAL NAME
Bottle Trees	Brachychiton Populneus
Evergreen Elms	Ulmus Parvifolia
Evergreen Pears	Pyrus Kawakamii
Weeping Willows	Saliz Babylonica
Silver Dollar Eucalyptus	

B. SHRUB, GROUND COVER, & VINES

SHRUBS	BOTANICAL NAME
Acacia	Acacia Redolens
Arizona Rosewood	Vauquelinia Californica
Bougainvillea "LaJolla" (variety)	Bougainvillea
Brittle Bush	Encelia Farinosa
Cape Honeysuckle	Tecomoria Capensis
Carissa	Carissa Grandiflora (all varieties)
Cassia	Cassia Nemophylla
Daylily	Hemerocallis
Desert Ruellia	Ruellia Permissularis
Fortnight Lily	Dietes
Fountain Grasses	Pennisetum Setaceum
Indian Hawthorn	Raphiolepis Indica
Mescal Bean	Sophora Secundiflora
Oleander	Nerium Oleander
Oleander "Petite Pink"	Oleander Dwarf
Pampas Grasses	Cortaderia Selloana
Pittosporum	Pittosporum Tobira
Purple Hop Seed Bush	Dodonaea Viscosa "Purpurea"
Red Bird of Paradise	Caesalpina Pulcherrima
Rosemary	Rosmarinum Officinalis
Santolina - Grey	Santolina Chamaecyparissus
Santolina - Green	Santolina Virens
Sea Green (no spray irrigation) Juniper	Juniper Chinensis
Umbrella Plant	Cyperus Alternifolius
Yellow Oleander	Thevetia Peruviana

GROUND COVERS & VINES	BOTANICAL NAME
Asparagus Fern	Asparagus Densiflorus "Sprengeri"
Cat's Claw	Macfadyena Unguis-cati
Fig Vine	Ficus Pumila
Halls' Honeysuckle	Lonicera Japonica "Halliana"
Lantana, Purple Trailing	Lantana Montevidensis
Myoporum	Myoporum Parvifolium
Vinca	Vinca Major

SHRUBS & GROUNDCOVER NOT RECOMMENDED

All bouganvillea other than "La Jolla" varieties
Petunias (annuals)
Yellow Lantana (dwarf varieties)

C. ANNUAL AND PERENNIAL LIST

ANNUALS AND PERENNIALS	BOTANICAL NAME
Madagascar Periwinkle	Catharantuhs Roseus
Sweet Alyssum	Lobularia Maritima
White & Yellow Pansies (Grandiflora)	Viola

March 1998

To All Homeowners:

The Arizona State Statutes mandate that the Association provide specific information in writing to the purchaser within ten (10) calendar days of the Association's receiving a notice of pending sale. The law provides that the cost of this service will be paid by the seller of the lot.

Please be aware that due to the way the law is written, the data must be conveyed to the purchaser each time the Association is notified of pending sale. Therefore, depending upon your earnest money agreement, you may want to discuss with your realtor or attorney including a provision for this in your contract. If the sale does not go through, the process must still be followed; and the fee is applied to the seller's account each time.

When recorded, return to:

D. Randall Stokes, Esq.
Lewis and Roca LLP
40 North Central Avenue, 21st Floor
Phoenix, Arizona 85004-4429

SECURITY TITLE

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

95-0379181 06/30/95 10:44

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DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS

FOR

SILVERSTONE RANCH

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
SILVERSTONE RANCH

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ARR0C623

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
SILVERSTONE RANCH

This Declaration of Covenants, Conditions and Restrictions is made as of _____, 1995, DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, as "Declarant," with reference to the following:

A. As of the date hereof, Declarant is the owner of fee title to the Property.

B. Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within the Property. Declarant desires to provide a flexible (yet common) and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said real property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof. A

ARTICLE 1

DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

1.1 "Annexable Property" shall mean any and all real property any part of which is located within two (2) miles of the property described on Exhibit A hereto.

1.2 "Annual Assessments" shall mean those Assessments designated as such in this Declaration and computed and levied as provided in Section 8.5.

1.3 "Architectural Committee" shall mean the committee established pursuant to Article 9.

1.4 "Articles" shall mean the articles of incorporation of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Bylaws and the statutes and regulations of the State of Arizona.

1.5 "Assessments" shall mean the Annual Assessments, the Special Assessments and, to the extent applicable, the Irrigation Assessments (as well as any other amounts declared by this Declaration to be a part of the Assessments or declared by this Declaration to be secured by the lien created under Section 8.3).

1.6 "Association" shall mean Silverstone Ranch Association, an Arizona non-profit corporation, and its successors and assigns.

1.7 "Association Rules" shall mean the reasonable rules and regulations adopted by the Association pursuant to Section 7.3.

1.8 "Board" shall mean the board of directors of the Association elected in accordance with the provisions of the Articles, the Bylaws and the statutes and regulations of the State of Arizona.

1.9 "Bridle Path" shall mean the areas of land situated upon the Common Area or over an easement or easements granted to the Association for the purpose of allowing Owners, Occupants or their invited guests to ride horses along a path.

1.10 "Bylaws" shall mean the bylaws of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Articles and the statutes and regulations of the State of Arizona.

1.11 "Common Area" shall mean all real property (including the improvements thereto), all easements and licenses, and all personal property and facilities owned by the Association for the common use and enjoyment of the Owners.

1.12 "Common Expenses" shall mean the actual and estimated expenses of operating the Association (including any reasonable reserves), of exercise by the Association of its rights hereunder and of fulfillment by the Association of its duties and obligations imposed hereby, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration or pursuant to the Articles or the Bylaws.

1.13 "Declarant" shall mean DMB Property Ventures Limited Partnership, a Delaware limited partnership ("DMB"), and its successors and assigns, subject to the further provisions of this Section 1.13. UDC Homes has an option (the "Option") to acquire Lots from DMB, pursuant to a written option agreement, a memorandum of which has been Recorded at Recorder's No. 95-282285, records of Maricopa County, Arizona (the "Option Memorandum"). For so long as DMB owns fee title to any Lot and the Option has not expired or been terminated (other than because of UDC Homes' acquisition over time of all of the Lots): (a) UDC Homes shall have and exercise all of the rights, privileges, duties and obligations of Declarant under this Declaration, including without limitation the right to cast all votes held by Declarant pursuant to this Declaration, the Articles or the Bylaws; (b) all Lots owned by DMB (or by any affiliate of DMB, or by any trustee for the benefit of DMB or any such affiliate, or by any successor to DMB so long as the Lot owned by such successor remains subject to the Option) together with all Lots owned by UDC Homes (or any trustee for the benefit of UDC Homes) shall be deemed to be owned by Declarant for purposes of this Declaration, including without limitation for purposes of determining the number and class of votes appurtenant to such Lots; and (c) UDC Homes shall not assign, transfer, convey or encumber, whether voluntarily, involuntarily, by operation of law, merger, consolidation, reorganization or otherwise, any rights, privileges, duties or obligations of the Declarant under this Declaration, or any right or obligation of UDC Homes hereunder to enjoy, exercise, fulfill or perform any such rights, privileges, duties or obligations of the Declarant, without the written consent of DMB, as evidenced by a Recorded instrument executed by

DMB (provided that DMB shall promptly execute and deliver to UDC Homes for Recording a consent to any such assignment or transfer made to, and in connection with UDC Homes' assignment or transfer of rights with respect to the Option to, a "UDC Permitted Transferee" in compliance with the provisions of the option agreement more particularly described in the Option Memorandum). At such time as UDC Homes shall have purchased all of the Lots, UDC Homes shall thereupon be and become the Declarant hereunder and shall automatically succeed to all rights, privileges, duties and obligations of the Declarant hereunder. If, instead, the Option shall expire or terminate (other than because of UDC Homes' acquisition over time of all of the Lots), all rights and obligations of UDC Homes to have and exercise the rights, privileges, duties and obligations of the Declarant shall thereupon cease and revert to and be vested in DMB and DMB's successors and assigns, and thereafter UDC Homes shall be deemed a Class A Member only as to each Lot of which UDC Homes is an Owner. Except as expressly provided in this Section 1.13, and subject to the provisions of this Section 1.13, any assignment of the rights and duties of Declarant shall be evidenced by a duly executed and acknowledged Recorded instrument executed by the assigning Declarant which expressly makes such assignment.

1.14 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

1.15 "Dwelling Unit" shall mean any building or part thereof situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

1.16 "Eligible Mortgage Holder" shall mean any holder (as evidenced by a Recorded instrument) of a First Mortgage who or which shall have made written request to the Association for notice of any proposed action that, pursuant to Section 12.2 or Section 12.12, requires the consent of a specified percentage of Eligible Mortgage Holders (which written request must contain the name and address of the Eligible Mortgage Holder and the Lot number or street address of the Lot against which the First Mortgage held by said Eligible Mortgage Holder is Recorded).

1.17 "Equestrian Lot" shall mean any of Lots 119-134, inclusive, as designated on the Plat.

1.18 "Equestrian Lot Owner" shall mean the Owner of an Equestrian Lot (as evidenced by a Recorded instrument).

1.19 "First Mortgage" shall mean a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.20 "Irrigation Assessments" shall mean those Assessments levied against certain of the Equestrian Lots as more particularly provided in Section 8.10.

1.21 "Lot" shall mean and refer to a lot into which any part of the Property is subdivided as set forth on the Plat and shall include, without limitation, the Equestrian Lots.

1.22 "Maximum Annual Assessment" shall mean the amount determined for each fiscal year of the Association in accordance with Section 8.7.

1.23 "Member" shall mean any Person entitled to membership in the Association, as provided in this Declaration.

1.24 "Mortgage" shall mean a deed of trust, as well as a mortgage, which, in either case, is Recorded against a Lot.

1.25 "Mortgagee" shall mean a beneficiary under a deed of trust, as well as a mortgagee under a mortgage, which, in either case, is Recorded against a Lot.

1.26 "Occupant" shall mean any Person other than an Owner who occupies or is in possession of a Lot, whether as a lessee under a lease or otherwise.

1.27 "Owner" shall mean the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), provided that Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot with respect to which fee title is held by a trustee (other than the trustee of a deed of trust) for the benefit of Declarant, and provided further that the provisions of this Section shall be subject to the provisions of Section 1.13. The term "Owner" shall not include: (i) any Person who holds an interest in a Lot merely as security for the performance of an obligation; or (ii) a lessee, tenant or other Occupant of a Lot. Notwithstanding the foregoing, a Person who holds fee title to a Lot solely as a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes shall not be deemed to be the "Owner" of such Lot; instead, for purposes of determining the "Owner" of such Lot in accordance with this Section, the trustor under such deed of trust shall be deemed to hold fee title to such Lot.

1.28 "Pathway" shall mean the private pathway upon or within an easement created and shown on the Plat over the rear portions of Lots 119 through 130, inclusive, providing the Owners and Occupants of those Lots pedestrian and equestrian access to such Lots.

1.29 "Person" means a natural person, corporation, partnership, trustee or other legal entity.

1.30 "Phase" shall mean: (a) any one of the groups of Lots within the Property specified on Exhibit B hereto; or (b) in the case of any additional property hereafter annexed to the Property pursuant to Article 6 of this Declaration, any one of the groups of Lots designated as a "phase" in the Recorded instrument effecting such annexation in accordance with Article 6. In the event that the Recorded instrument effecting any such annexation does not divide the particular property being annexed into Phases, then such property shall be deemed to constitute a single Phase for purposes of this Declaration. The numbers or letters (or numbers and letters) assigned to Phases are and shall be for reference only and shall not control the order or timing of development or sale of Lots within any Phase or from Phase to Phase.

1.31 "Plat" shall mean the plat Recorded in Book 397 of Maps, page 3, as hereafter amended, corrected or supplemented.

1.32 "Property" shall mean the real property described on Exhibit A hereto, and shall further refer to such additional property, if any, as may hereafter be annexed thereto pursuant to

Article 6 or as is now or may hereafter be owned in fee simple by the Association, but shall not include real property, if any, which is deleted and removed from the Property pursuant to Section 6.7.

1.33 "Record", "Recording", "Recorded" and "Recordation" shall mean placing or having placed an instrument of public record in the official records of Maricopa County, Arizona, or of such other governmental authority, office or official with which or whom the applicable laws of the State of Arizona prescribe that documents affecting title to real property in the area including the Property are to be placed of public record.

1.34 "Single Family" shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than three unrelated persons maintaining a common household.

1.35 "Special Assessments" shall mean those Assessments levied in accordance with Section 8.9.

1.36 "Stables" shall mean the building(s) and fence designated for the containment of horses situated upon a portion of the Common Area.

1.37 "UDC Homes" shall mean and refer to UDC Homes, Inc., a Delaware corporation, and, subject to the limitations on assignment, transfer, conveyance and encumbrance set forth in Section 1.13, shall also include its successors and assigns. From and after the date when UDC Homes shall have purchased all of the Lots, the term "UDC Homes" shall also be deemed to include, in addition to UDC Homes, Inc., and its successors and assigns ("UDC"), any other Person or Persons controlling, controlled by or under common control with UDC.

ARTICLE 2

PROPERTY RIGHTS

Every Owner shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, including, without limitation, the Bridle Path, the Stables and the Pathway, subject to any restrictions or limitations contained in this Declaration or in any Recorded instrument conveying such property to the Association or subjecting such property to this Declaration, and subject further to the Association Rules. Any Owner may assign his, her or its right of enjoyment to (and share the same with) the members of his or her household and assign the same to and share the same with his, her or its tenants and invitees subject to the provisions of this Declaration and to reasonable regulation by the Board and otherwise in accordance with such procedures as the Board may adopt. An Owner who leases his, her or its Lot shall be deemed to have delegated such Owner's rights and easements under this Article 2 to the lessee of such Lot for the term of such lease.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 Votes of Owners of Lots. Every Owner of a Lot automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Except as provided in Section 1.13, each Owner's membership in the Association shall be appurtenant to and

may not be separated from ownership of the Lot to which the membership is attributable. In the event any Lot is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either: (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions before the Members; provided, however, that if any one of such Persons casts a vote representing a certain Lot without objection from any other Person sharing ownership of such Lot, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot unless and until objection thereto is made to the Board, in writing. Notwithstanding the foregoing, so long as the Class B membership is in existence, no Class B Member shall at the same time be a Class A Member nor shall a Class B Member have any Class A votes, and the membership and number of votes of the Class B Member(s) shall be determined in accordance with Subsection 3.3.2. Subject to Subsection 3.3.1, each Owner (other than Declarant, so long as the Class B membership is in existence) shall have one vote for each Lot owned by such Owner.

3.2 Declarant. Declarant shall be a Member of the Association for so long as it holds a Class A or Class B membership.

3.3 Voting Classes. The Association shall have two classes of voting Members.

3.3.1 Class A. Class A Members shall be all Owners except Declarant (until the conversion of Declarant's Class B membership to Class A membership as provided below). Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 3.1; and

3.3.2 Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot owned by such Member. Subject to Section 1.13, Declarant shall have the right, at any time and from time to time, to assign all or any part of its voting rights appurtenant to its Class B membership (as well as all or any other rights appurtenant thereto) to one or more Persons acquiring, for purposes of development and sale, any part of the Property. Further, Declarant shall have the right, at any time and from time to time, to designate an individual or individuals to exercise Declarant's voting rights (whether appurtenant to Class A or Class B membership), provided, however, that such designation shall not act as an assignment by Declarant of its membership or voting rights hereunder. Subject to the provisions of Article 6 below, the Class B membership automatically shall cease and be converted to a Class A membership upon the happening of the first of the following events:

(a) the date which is 90 days after the date upon which the total number of votes of the Class A Members equals the total number of votes of the Class B Member;

(b) the date which is ten (10) years after the date this Declaration is Recorded; or

(c) the date on which Declarant Records a written notice electing to convert the Class B membership to Class A membership (provided, however, that so long as DMB owns fee title to any Lot, a written notice Recorded pursuant to this Subsection 3.3.2(c) shall not be effective to convert the Class B membership to Class A membership unless such written notice is also executed by DMB.

3.4 Right to Vote. No change in the ownership of a Lot shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof. The vote for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. Any Owner of a Lot which is leased or which is subject to a valid, outstanding and Recorded executory agreement of sale may, in the lease, agreement of sale or other written instrument, assign the voting right appurtenant to the Lot to the lessee thereof or to the purchaser thereof under such agreement of sale, as applicable, provided that a copy of the written assignment of such voting rights is furnished to the Secretary of the Association prior to any meeting at which such lessee or purchaser seeks to exercise such voting right.

3.5 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules and any other rules and regulations adopted pursuant to any of the foregoing.

3.6 Transfer of Membership. Except as otherwise provided in this Declaration, the rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law, shall operate to transfer the membership appurtenant thereto to the new Owner and any attempt to make any other form of transfer shall be void.

ARTICLE 4

MAINTENANCE

4.1 Association's General Responsibilities. The Association shall maintain and keep in good repair the Common Area (and certain other areas, as more expressly provided in this Section 4.1), and the costs of such maintenance shall be Common Expenses of the Association (subject to any insurance then in effect. This maintenance shall include, but not be limited to:

4.1.1 maintenance, repair and replacement of all landscaping and other flora, structures and improvements situated upon the Common Area;

4.1.2 maintenance, repair and replacement of the Bridle Path, the Stables and the Pathway;

4.1.3 maintenance, repair and replacement of landscaping and flora in or upon public rights-of-way immediately adjacent to the exterior boundaries of the Property, and of any perimeter or boundary walls on or surrounding the exterior boundaries of the Property (but not any fences constructed or erected by one or more Owners or Occupants for containment of horses);

4.1.4 maintenance, repair and replacement of landscaping and signs within areas designated on one or more subdivision plats or other instruments Recorded by, or bearing the written approval of, Declarant (or, after termination of the Class B membership, the Association) with respect to all or portions of the Property as "landscape easements," "landscape and wall easements" or "landscape and sign easements" (or similar designations) to be maintained by the Association;

4.1.5 maintenance, repair and replacement of the side facing a street or portion of the Common Area of any boundary or perimeter wall situated within areas designated on one or more subdivision plats or other instruments Recorded by, or bearing the written approval of, Declarant (or, for subdivision plats Recorded after termination of the Class B membership, the Association) with respect to the Property as "wall easements" (or similar designations) to be maintained by the Association; and

4.1.6 maintenance and repair of any drainage easements upon or across the Common Area.

Notwithstanding anything to the contrary in the foregoing, except where otherwise provided in an instrument Recorded by, or bearing the written approval of, Declarant, the Association shall be responsible for maintaining the side of any boundary wall facing a public street or roadway (or a private street or roadway owned by the Association), while the Owner of a Lot shall be responsible for maintaining the side of any boundary wall facing such Owner's Lot. For purposes of the preceding sentence a "boundary wall" shall be any wall or fence separating a Lot from a public street or roadway adjacent to or along the exterior perimeter boundaries of Silverstone Ranch or adjacent to or along a major arterial street or roadway (whether public or owned by the Association) within Silverstone Ranch if, in the case of a wall within Silverstone Ranch, such wall is designed as a "common" or "theme" wall presenting a uniform appearance along its length.

4.2 Maintenance of Owner's Structures. Each Owner shall be responsible for the maintenance, cleaning, painting, repair and general care of all structures existing or constructed upon such Owner's Lot (including, without limitation, fences, stables and other structures for the care or containment of horses) and, in particular, each Owner shall cause the exterior of said structures to be maintained in good condition and repair and in an attractive state consistent with the Association Rules, any guidelines, standards or rules of, the Architectural Committee and general community standards within the Property. In the event that the Board shall determine, after providing reasonable notice and an opportunity to be heard, that any Owner is in breach of such Owner's obligations under the preceding sentence, the Board shall promptly give such Owner written notice of such determination, including a reasonably detailed list or description of the repairs, maintenance or other work required to cure such Owner's breach, and in the event the Owner shall not have cured such breach within thirty (30) days after the date of said written notice, the Association may, in the discretion of the Board, cause the repairs, maintenance or other work to be performed so as to cure such Owner's breach, and the costs of doing so, together with interest from the date of expenditure at the rate set forth in Section 12.9, shall be the personal obligation of such Owner and shall constitute a lien on such Owner's Lot, which lien shall have the priority and may be enforced in the manner described in Section 8.3, the Association shall also have standing and authority to request that a court of competent jurisdiction compel such Owner to cure such breach, and to the extent not inconsistent with an order of such court, the Association may pursue either or both of the courses of

action described in this sentence. The Association shall have an easement on, over, across and through each Lot to permit it to carry out its duties and obligations under this Article 4.

4.3 Publicly-Dedicated Areas. Except as expressly provided in this Article 4 (and, in particular, in Subsection 4.1.3), and except as may otherwise be required by applicable law, the Association shall have no responsibility to maintain any areas within the Property (including, but not limited to, public streets) which are dedicated to or the responsibility of a municipality or other governmental entity.

4.4 No Discrimination. The provision of services in accordance with this Article shall not be deemed to be discrimination in favor of or against any Owner.

ARTICLE 5

INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES

5.1 Insurance to be Obtained by the Association.

5.1.1 Hazard Insurance.

(a) The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Arizona), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount equal to 100% of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage, but including fixtures and building service equipment and personal property and supplies owned by the Association), with such amount to be redetermined annually (and upon the subjection of any portion, or all, of the Annexable Property to the effect of this Declaration if such subjection results in an addition to the Common Area of property upon which are situated improvements required to be insured hereunder) by the Board with the assistance of the insurer or insurers providing such coverage.

(b) The policy or policies providing the insurance required by this Subsection 5.1.1 shall provide that: (i) any insurance trust agreement shall be recognized; (ii) the insurer shall waive any right of subrogation against the Owners, the Board or the Association, and their respective agents, tenants, servants, employees, guests and household members; (iii) such insurance shall not be cancelled, invalidated or suspended by reason of any acts or omissions of any Owner (or of such Owner's invitees, agents, tenants, servants, employees, guests or household members), or of any member, officer or employee of the Board without a prior written demand to the Board that any such act or omission be cured and without providing a sixty (60) day period within which the Board may cure such act or omission (or cause the same to be cured); (iv) such insurance coverage shall be primary, and shall in no event be brought into contribution with any insurance

maintained by individual Owners, their Mortgagees or other lien holders; and (v) the coverage afforded by such policy or policies shall not be prejudiced by any act or omission of any Owner or Occupant (or their agents) when such act or omission is not within the control of the Association.

(c) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain (if available at no additional cost or at such additional cost as is not demonstrably unreasonable) the following endorsements (or their equivalents): (i) "agreed amount" and "inflation protection" endorsements; (ii) "increased cost of construction" endorsement; (iii) "contingent liability from operation of building laws or codes" endorsement; (iv) "demolition cost" endorsement; and (v) "current replacement cost" endorsement.

(d) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain a steam boiler and machinery endorsement providing coverage in an amount not less than the lesser of $2,000,000 or the insurable value of the building(s) housing such boiler and machinery, if any.

(e) Unless a higher maximum deductible amount is required by applicable law, each policy providing the insurance coverage required by this Subsection 5.1.1 shall provide for a deductible not to exceed the lesser of $10,000 or one percent (1%) of the face amount of such policy.

5.1.2 Liability Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times a comprehensive general liability policy insuring the Association, each member of the Board, each Owner and each Declarant Designee (as defined below), against any liability to the public or to any Owner or Occupant (and such Owner's or Occupant's invitees, agents, employees, tenants, guests, servants and household members) for death, bodily injury and property damage arising out of or incident to the ownership or use of the Common Area or arising out of or incident to the performance by the Association of its maintenance and other obligations hereunder. The Board, with the assistance of the insurer(s) providing such coverage, shall review annually the amounts of coverage afforded by said comprehensive general liability policy or policies and adjust such amounts of coverage as the Board deems appropriate, but in no event shall said policy or policies provide coverage less than One Million Dollars ($1,000,000.00) for death, bodily injury and property damage for any single occurrence. The policy or policies providing such insurance shall, by specific endorsement or otherwise, preclude denial by the insurer(s) providing such insurance of a claim under such policy or policies because of negligent acts or omissions of the Association, any Owner(s) or any Declarant Designee(s) or any other Person named as an insured or additional insured thereunder. For purposes of this Subsection 5.1.2 (and Subsection 5.1.7), the term "Declarant Designee" shall mean Declarant and, so long as Declarant or any affiliate of Declarant, or any Person with whom Declarant or any such affiliate contracts directly for the performance of all or a substantial portion of Declarant's rights and obligations hereunder, or for the construction of substantial improvements on the Property, retains an interest in the Property or any Lot, such affiliate and such other Person, if identified by Declarant to the Association, provided that any added premium cost or other expense resulting from naming Declarant, such affiliate or such other Person as insureds shall be borne by Declarant, such affiliate or such other Person.

5.1.3 Flood Insurance. In the event any part of the Common Area is in a "special flood hazard area," as defined by the Federal Emergency Management Agency (or its successors), the

Board, acting on behalf of the Association, shall obtain (and maintain at all times during which any part of the Common Area is in such a "special flood hazard area") a "master" or "blanket" policy of flood insurance covering all insurable improvements on the Common Area and covering any personal property situated from time to time within such improvements (to the extent such personal property is normally covered by the standard flood insurance policy available from time to time in the State of Arizona). Said insurance shall be in an amount not less than the lesser of: (a) 100% of the current replacement cost, from time to time, of all such insurable improvements (and such insurable personal property) located in the "special flood hazard area"; or (b) the maximum coverage available for such insurable improvements and insurable personal property under the National Flood Insurance Program. Unless a higher maximum deductible amount is required by applicable law, the policy providing such insurance shall provide for a deductible not to exceed the lesser of $5,000 or one percent (1%) of the face amount of such policy.

5.1.4 General Provisions Governing Insurance. The insurance required to be obtained under Subsections 5.1.1, 5.1.2 and 5.1.3 shall be written in the name of the Association as trustee for each of the Owners and for each Mortgagee (as their respective interests may appear) and shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with one or more companies authorized to provide such insurance in the State of Arizona;

(b) Exclusive authority to adjust losses under policies in force on property owned or insured by the Association shall be vested in the Board;

(c) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants or their Mortgagees or other lienholders, and the insurance carried by the Association shall be primary;

(d) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Board or the Owners and their respective tenants, servants, agents, employees, guests and household members;

(e) Each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall require the applicable insurer to give not less than ten (10) days written notice to the Association, and to each Mortgagee which shall have given such insurer written notice of such Mortgagee's interest in a Lot (which notice must include the name and address of such Mortgagee), of any cancellation, refusal to renew or material modification of such policy; and

(f) To the extent reasonably available, each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall contain a waiver by the applicable insurer of its rights to repair and reconstruct instead of paying cash.

5.1.5 Fidelity Bonds. The Board, acting on behalf of the Association, shall obtain and maintain at all times adequate fidelity bond coverage to protect against dishonest acts on the part of officers, directors and employees of the Association and all others who handle, or are responsible

for handling, funds held or administered by the Association, whether or not such officers, directors, employees or others receive compensation for services they render to or on behalf of the Association. Any independent management agent which handles funds for the Association shall also obtain (and pay for) such fidelity bond coverage with respect to its own activities (and those of its directors, officers and employees, whether or not such directors, officers or employees receive compensation for services rendered). Such fidelity bonds: (a) shall name the Association as obligee; (b) shall be issued by one or more companies authorized to issue such bonds in the State of Arizona; and (c) shall be in an amount sufficient to cover the maximum total of funds reasonably expected by the Board to be in the custody of the Association or such agent at any time while such bond is in force, but in no event shall the amount of such fidelity bond coverage be less than the sum of three (3) months' Annual Assessments on all Lots, plus the total of funds held in the Association's reserves. Each such fidelity bond shall provide that the issuer thereof shall provide not less than ten (10) days written notice to the Association and to each Eligible Mortgage Holder before such bond may be cancelled or substantially modified for any reason.

5.1.6 Workers' Compensation Insurance. The Board, acting on behalf of the Association, shall obtain and maintain workers' compensation insurance if and to the extent necessary to meet the requirements of applicable law.

5.1.7 Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 5.1 shall be Common Expenses (except that, as provided in Subsection 5.1.5, the cost of the fidelity bond required to be furnished by any independent management agent shall be paid by such agent, and, as provided in Subsection 5.1.2, any added cost of naming Declarant, or any other Declarant Designee, shall be borne by Declarant or such other Declarant Designee). The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Section 5.1, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such insurance coverage from reputable companies authorized to provide such insurance in the State of Arizona, or if such insurance coverage is available only at an unreasonable cost.

5.1.8 Subsequent Changes in Insurance Requirements. It is the intention of this Article 5 (and, in particular, of this Section 5.1), to impose upon the Association the obligation to obtain and maintain in full force and effect at least those types and amounts of insurance as are required, at the time this Declaration is Recorded, by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration and Federal Housing Administration. However, notwithstanding any provision of this Declaration to the contrary, should any or all of said agencies subsequently amend or modify their respective requirements regarding the insurance coverage required to be maintained by the Association, the Board, acting on behalf of the Association, shall, promptly upon receiving notice of such amendment or modification from any such agency, from any Owner or Eligible Mortgage Holder or from Declarant, obtain such additional, modified or amended policy or policies of insurance as may be necessary to conform to such amended or modified requirements (provided, however, that the Board shall not be required to alter the types or amounts of coverage if the amendments or modifications adopted by any such agency reduce or eliminate required types or amounts of insurance). Should such requirements of any such agency conflict with the requirements of any other such agency or with applicable provisions of law, the Board, acting on behalf of the Association, shall diligently work with such agency or agencies to resolve such conflict and shall thereafter obtain and maintain such additional, modified or amended

policy or policies of insurance as may be necessary to conform with the requirements of such agencies. taking into account the resolution of said conflict. In the event the Board, after exercise of such diligence, is unable to resolve such conflict, the Board, acting on behalf of the Association, shall exercise its good faith business judgment and obtain and maintain in full force and effect such insurance coverage as the Board, in the exercise of such judgment, deems to conform as closely as possible with the applicable requirements of all such agencies, and of law, taking into account such conflict.

5.2 Insurance to be Obtained by the Owners.

5.2.1 Public Liability Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, such comprehensive public liability insurance as such Owner may desire against loss or liability for damages and any expense of defending against any claim for damages which might result from the ownership, use or occupancy of such Owner's Lot.

5.2.2 Hazard and Contents Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, such fire, liability, theft and any other insurance covering: (a) any Dwelling Unit and any other structure on such Owner's Lot; and (b) any and all fixtures and personal property upon such Lot or in such Dwelling Unit or other structure(s).

5.3 Casualty Losses.

5.3.1 Damage and Destruction.

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the property required to be insured by the Association under Section 5.1, the Board or its duly authorized agent shall: (i) proceed with the filing and adjustment of all claims arising under such insurance; (ii) obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property; and (iii) upon receipt of the proceeds of such insurance and except as is otherwise provided in this Subsection 5.3.1, use such proceeds to repair or reconstruct the damaged or destroyed property. The terms "repair" and "reconstruction" (or variants thereof), as used in this Article 5 shall mean repairing or restoring the property in question to substantially the same condition as that in which it existed prior to the fire or other casualty (or, where applicable, replacing the damaged or destroyed property with property substantially similar to the damaged or destroyed property as it existed prior to such damage or destruction).

(b) Any major damage or destruction to the property required to be insured by the Association under Section 5.1 shall be repaired or reconstructed unless: (i) at a special meeting of the Members of the Association duly noticed and convened within sixty (60) days after the occurrence of such damage or destruction, the Members determine, by a vote of Persons holding not less than seventy-five percent (75%) of the votes in each class of Members, not to so repair or reconstruct; and (ii) Eligible Mortgage Holders representing at least fifty-one percent (51%) of all Lots subject to First Mortgages held by Eligible Mortgage Holders concur in such determination not to so repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or

reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made or become available; provided, however, that such extension shall not exceed an additional sixty (60) days. The Board shall determine whether any minor damage or destruction to the Common Area should be repaired or reconstructed.

(c) In the event that it is determined in the manner described above that the damage or destruction of any part of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event such property shall be maintained by the Association in a neat and attractive condition as an undeveloped portion of the Common Area.

5.3.2 Excess or Deficiency of Proceeds. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to pay the cost thereof, the Board shall, without the necessity of a vote of the Members, levy assessments against the Owners of all Lots, which assessments shall be allocated equally among all Lots. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Any assessments levied pursuant to this Subsection 5.3.2 shall be deemed to be a part of the Assessments and shall be secured by the lien created by Section 8.3. If the funds available from insurance exceed the cost of repair, such excess shall be used to meet Common Expenses or, in the discretion of the Board, placed in a reserve account for contingencies or capital improvements.

5.3.3 Repair or Reconstruction of Dwelling Units or Other Structures. In the event of the destruction of a Dwelling Unit or other structure on a Lot, or of damage to such Dwelling Unit or other structure which, in the reasonable judgment of the Board, materially affects the exterior appearance thereof, the Board shall have the right, at its option, exercisable by written notice to the Owner of the Lot upon which such Dwelling Unit or other structure is situated, to require such Owner to repair or reconstruct (or cause to be repaired or reconstructed), at such Owner's expense (subject to any insurance proceeds as such Owner may then or thereafter receive in respect of such destruction or damage), such Dwelling Unit or other structure within such reasonable period of time as shall be specified by the Board in such notice (which period of time shall in no event be less than eight (8) months from the date of such destruction or damage). The Board may exercise such right and establish such time period notwithstanding such Owner's failure to maintain hazard or casualty insurance upon such Owner's Lot or any structures thereon and notwithstanding any unavailability or delay in receipt of proceeds of any insurance policy or policies, although the Board may take such matters into account in establishing or extending the time period within which such repair or reconstruction must be completed. Any such repair or reconstruction work shall be performed in compliance with all applicable provisions thereof, and the Owner of such Lot shall take such steps as are reasonably necessary to prevent damage to surrounding property and injury to persons as may result from or arise in connection with the destroyed or damaged Dwelling Unit or other structure or the repair or reconstruction activities with respect thereto.

ARTICLE 6

ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

6.1 Reservation of Certain Annexation Rights. While, as of the date this Declaration is Recorded, Declarant has no plans to annex additional property to the Property, it is possible that one or more portions (and perhaps all) of the Annexable Property may from time to time be annexed to the Property (and thereby subjected to the provisions of this Declaration) and, therefore, while Declarant shall have no obligation or duty to so annex all or any portion of the Annexable Property, Declarant hereby reserves the right, privilege and option from time to time hereafter to add and annex to the Property (and thereby to subject to the provisions of this Declaration) any part(s) or all of the Annexable Property, without the vote of the Members and without notice to or approval of any holder, insurer or guarantor of any Mortgage or of any other Person, provided, however, that the right, privilege and option reserved in this sentence shall expire and terminate at 11:59 p.m. local time on December 31 of the calendar year in which falls the ten (10th) anniversary of the date this Declaration is Recorded, and provided, further, that so long as DMB owns fee title to any Lot, no such annexation shall be effective unless DMB shall have given its written consent thereto (as evidenced by DMB's execution of the instrument required to be Recorded to effect such annexation pursuant to Section 6.4 below). Notwithstanding the foregoing sentence, no portion of the Annexable Property may be annexed to the Property unless, at the time of each and any such annexation either: (a) the portion of the Annexable Property to be annexed is owned either by Declarant or by a trustee for the benefit of Declarant; or (b) the owner of the portion to be annexed (if other than Declarant or such trustee) consents in a written, Recorded instrument to such annexation.

6.2 Limitations on Other Annexations. As of the date this Declaration is Recorded, Declarant does not anticipate that any additional property, other than portions or all of the Annexable Property, as provided in Section 6.1, will be annexed to the Property, and additional property not included within the Annexable Property may be annexed to the Property only: (a) by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for that purpose; and (b) with the approval of the applicable percentage of Eligible Mortgage Holders, as provided in Section 12.2; and (c) with the express written consent of each owner of all or any part of the property proposed to be annexed.

6.3 FHA and VA Approval. In addition to the requirements imposed by Sections 6.1 and 6.2, so long as the Class B membership is in existence no additional property (whether or not a part of the Annexable Property) may be annexed to the Property without the prior approval of the Federal Housing Administration or the Veterans Administration (except to the extent such annexation is in accordance with a plan of annexation or expansion previously approved by such agencies).

6.4 Recordation of Annexation Instrument. Upon approval to the extent required by this Article 6 of any annexation of property to the Property, Declarant, in the case of annexation of all or any part of the Annexable Property pursuant to Section 6.1, or the President and Secretary of the Association, in the case of any other annexation, shall execute, acknowledge and Record an instrument effecting and evidencing such annexation (which instrument shall also be duly executed and acknowledged by each owner of all or any part of the property being annexed), and such annexation shall be deemed effective only upon such Recordation. Such instrument (or a separate instrument Recorded by Declarant or the Association, as applicable, against any property annexed to

the Property pursuant to this Article 6 and executed by the Owner of such annexed property) may subject the annexed property to such additional covenants, conditions and restrictions as the owner thereof may deem appropriate or desirable (subject, however, to approval thereof by Declarant or the Association, as applicable, and to such other approval rights as may be granted hereby to other parties in connection with such annexation), provided, however, that any and all such additional covenants, conditions and restrictions shall be subordinate and subject to the provisions of this Declaration.

6.5 Effect of Annexation. Upon the effective date of an annexation pursuant to this Article 6: (a) the property so annexed shall immediately be and become a part of the Property and subject to all of the provisions hereof; (b) any Lot then or thereafter constituting a part of the annexed property, and the Owner of any such Lot, shall thereupon be subject to all of the provisions of this Declaration (including, but not limited to, the provisions of Articles 2, 3 and 8); (c) any part or parts of the property annexed which is or are designated or declared to be Common Area shall thereupon be subject to the provisions of this Declaration (including, but not limited to, the provisions of Articles 2 and 4); and (d) improvements then or thereafter situated upon the annexed property shall be subject to the provisions of this Declaration and shall be reasonably consistent, in terms of quality of construction, with the improvements situated upon other portions of the Property prior to such annexation.

6.6 No Obligation to Annex. Nothing herein shall constitute a representation, warranty or covenant that Declarant, any successor or assign of Declarant, or any other Person will subject any additional property (whether or not a part of the Annexable Property) to the provisions of this Declaration, nor shall Declarant, any successor or assign of Declarant, or any other Person be obligated so to do, and Declarant may, by Recorded instrument executed by Declarant, waive its rights so to do, in whole or in part, at any time or from time to time.

6.7 De-Annexation. Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other Person (except as provided in this Section 6.7), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, provided, however, that: (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant (or an affiliate of Declarant or a trustee of a trust for the benefit of Declarant) or, in the case of a deletion and removal of a portion of the Property at the request of the owner(s) of such portion, Declarant executes and Records an instrument approving such deletion and removal; (b) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Units or Common Area recreational facilities have been constructed thereon; and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights under this Section 6.7 in each case by executing and causing to be Recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of: (i) the date such instrument is Recorded; or (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Section 6.7, the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property and not subject to this

Declaration, and the owner(s) thereof (or of interests therein) shall not be deemed to be Owners or Members or have any other rights or obligations hereunder except as members of the general public. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed. Each portion of the Property deleted and removed pursuant to this Section 6.7 shall thereafter be deemed to be a part of the Annexable Property unless otherwise expressly provided to the contrary in the instrument Recorded by Declarant to effect such deletion and removal. Notwithstanding anything in this Section 6.7 to the contrary, so long as DMB owns fee title to any Lot, no de-annexation pursuant to this Section 6.7 shall be effective unless DMB shall have given its written consent thereto (as evidenced by DMB's execution of the instrument required to be Recorded to effect a de-annexation pursuant to this Section 6.7).

ARTICLE 7

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

7.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Area, including, without limitation, the Bridle Path, the Stables and the Pathway, and shall keep the Common Area in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

7.2 Personal Property and Real Property for Common Use. The Association, through action of the Board, may acquire, hold and dispose of tangible and intangible personal property and real property, except that, subject to the provisions of Sections 12.2, 12.11 and 12.12, no dedication, sale or transfer of all or any part of the Common Area shall be made or effective unless approved by not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within, adjacent to or related to all or any part of the Property as may be conveyed or assigned to the Association by Declarant (including, but not limited to, such parts of the Common Area as may now or hereafter be held by Declarant).

7.3 Rules and Regulations. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area (including, without limitation, the Bridle Path, the Stables and the Pathway), provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Property and the Common Area. Upon adoption, the Association rules shall have the same force and effect as if they were set forth herein. Sanctions for violation of the Association Rules or of this Declaration may be imposed by the Board and may include suspension of the right to vote and the right to use the recreational facilities on the Common Area, and may also include

reasonable monetary fines (so long as such fines are reasonable and nondiscriminatory, and are in accordance with a general schedule of fines adopted or amended by the Board prior to the date of the particular violation for which a fine is to be imposed). No suspension of an Owner's right to vote or of the right of such Owner (or any Occupant of such Owner's Lot or any guest or household member of such Owner or Occupant) to use the recreational facilities on the Common Area due to a violation of the Association Rules may be for a period longer than sixty (60) days (except where such Owner or Occupant fails or refuses to cease or correct an on-going violation or commits the same or another violation, in which event such suspension may be extended for additional periods not to exceed sixty (60) days each until such violation ceases or is corrected).

7.4 Availability of Books, Records and Other Documents. The Association shall maintain complete and current copies of this Declaration, the Articles, the Bylaws and the Association Rules (as well as any amendments to the foregoing) and of the books, records and financial statements of the Association, and, upon the prior written request to the Association by any Owner or by any holder, insurer or guarantor of a First Mortgage, shall make the same available for inspection, at reasonable times and under reasonable circumstances, by such Owner or such holder, insurer or guarantor.

7.5 Audited Financial Statements. In the event any holder, insurer or guarantor of a First Mortgage submits to the Association a written request for an audited financial statement of the Association for the most recently concluded fiscal year of the Association, the Association shall promptly deliver such an audited financial statement to such holder, insurer or guarantor, and in the event no such audited financial statement has been prepared for the most recently concluded fiscal year, the Association shall cause the same to be prepared and delivered to such holder, insurer or guarantor as soon as reasonably possible. The cost of having such an audited financial statement prepared shall be a Common Expense.

7.6 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7.7 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to the manager.

7.8 Irrigation Service. The Association shall enter into such contracts, agreements or arrangements with Salt River Project ("SRP") or other public or private utility companies and private third-party irrigation service companies for the provision of irrigation water to Lots 119 through 130, as shown the Plat (the "Irrigable Lots"), as may be reasonably requested from time to time by the Owners of a majority of the Irrigable Lots, including, without limitation, the maintenance, operation, repair and replacement of irrigation gates, valves, pipes and the like (but not for the maintenance or repair of berms on the Irrigable Lots, which shall be the responsibility of the respective Owners thereof). The Association, for itself and its employees, agents and independent contractors, shall have an easement upon, over and across each of the Irrigable Lots for purposes of performing any and all

such work. No Owner of an Irrigable Lot shall avoid such Owner's obligation to pay the Irrigation Assessments levied pursuant to Section 8.10 by refusing to accept irrigation water. Each Owner of an Irrigable Lot, by acceptance of a deed or other conveyance instrument therefor, is deemed to acknowledge that the Association may have little or no control over the schedule or timing of the delivery of irrigation water by SRP or any other utility company or independent contractor, and to agree not to hold the Association liable for, or assert any claims against the Association arising in connection with, the schedule or timing of such delivery. The Association shall not be obligated to enter into any such contract, agreement or arrangement if the cost thereof to the Association (together with the costs of any other such contract, agreement or arrangement then existing) would exceed the amounts available from the Irrigation Assessments to pay the same (unless an increase in Irrigation Assessments sufficient to cover all such costs is approved in accordance with Section 8.10).

ARTICLE 8

ASSESSMENTS

8.1 Creation of Assessment Right. In order to provide funds to enable the Association to meet its financial and other obligations and to create and maintain appropriate reserves, there is hereby created a right of assessment exercisable on behalf of the Association by the Board. Annual Assessments and Special Assessments shall be for Common Expenses and shall be allocated equally among all Lots, subject to the provisions of this Article 8.

8.2 Covenants with Respect to Assessments. Each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner's Lot, together with interest from the date due at a rate equal to the greater of: (a) ten percent (10%) per annum; or (b) the annual rate of interest then in effect for new first priority single family residential mortgage loans guaranteed by the Veterans Administration, and together with such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments. Each of the Assessments with respect to a Lot, together with interest, costs and reasonable attorneys' fees as provided in this Section 8.2, shall also be the personal obligation of the Person who or which was the Owner of such Lot at the time such Assessment arose with respect to such Lot, provided, however, that the personal obligation for delinquent Assessments shall not pass to a successor in title of such Owner unless expressly assumed by such successor. No Owner shall be relieved of his, her or its obligation to pay any of the Assessments by abandoning or not using his, her or its Lot or the Common Area, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Lot. However, upon transfer by an Owner of fee title to such Owner's Lot, as evidenced by a Recorded instrument, such transferring Owner shall not be liable for any Assessments thereafter levied against such Lot. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, the Articles or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

8.3 Lien for Assessments; Foreclosure. There is hereby created and established a lien against each Lot which shall secure payment of all present and future Assessments assessed or levied against such Lot or the Owner or Occupant thereof (together with any present or future charges, fines, penalties or other amounts levied against such Lot or the Owner or Occupant thereof pursuant to this Declaration or the Articles, the Bylaws or the Association Rules). Such lien is and shall be prior and superior to all other liens affecting the Lot in question, except: (e) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any First Mortgage made in good faith and for value. Such liens may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot from liability for any Assessments becoming due after such sale or transfer, or from the lien thereof. The Association shall have the power to bid for any Lot at any sale to foreclose the Association's lien on the Lot, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot is owned by the Association, no right to vote shall be exercised with respect to said Lot and no Assessments (whether Annual Assessments, Special Assessments or Irrigation Assessments) shall be assessed or levied on or with respect to said Lot, provided, however, that the Association's acquisition and ownership of a Lot under such circumstances shall not be deemed to convert the same into Common Area. The Association may maintain a suit to recover a money judgment for unpaid Assessments, rent, interest and attorneys' fees without foreclosing or waiving the lien securing same. Recording of this Declaration constitutes record notice and perfection of the liens established hereby, and further Recordation of any claim of a lien for Assessments or other amounts hereunder shall not be required, whether to establish or perfect such lien or to fix the priority thereof, or otherwise (although the Board shall have the option to Record written notices of claims of lien in such circumstances as the Board may deem appropriate).

8.4 Dates Assessments Commence. Assessments shall be payable in respect of a Lot (including any Lot owned by Declarant) from the date upon which title to said Lot, or any other Lot within the Phase containing such Lot, shall first be conveyed to a retail purchaser, and such Assessments shall be payable regardless of whether a Dwelling Unit or other structure shall be situated upon such Lot on such date. As to any Lot owned by Declarant with respect to which Assessments shall have commenced as provided in the preceding sentence, the Assessments payable by Declarant with respect to such Lot shall be an amount equal to twenty-five (25%) of the Assessments which would otherwise be payable hereunder with respect to such Lot if it were owned by an Owner other than Declarant. No Assessments shall be payable with respect to a Lot so long as Declarant shall own all of the Lots within the Phase containing such Lot. As to any Lot conveyed by Declarant to a retail purchaser, Assessments as to such Lot shall be prorated as of the close of escrow with respect to such Lot (or, if no escrow is utilized, as of the date of Recordation of the deed conveying such Lot to such retail purchaser). The numbers or letters (or numbers and letters) assigned to the Phases are for reference only, and Declarant shall retain full discretion as to the order and timing of its development and sales of Lots within any Phase or from Phase to Phase within property owned by Declarant.

8.5 Computation of Assessments; Annual Budget. The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Association, which annual budget shall serve as the basis for determining the Annual Assessments for the applicable fiscal year (subject to the limitations of Section 8.7 hereof). Such budget shall take into account the estimated Common

approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, the Maximum Annual Assessment for any fiscal year shall be equal to the Maximum Annual Assessment for the immediately preceding fiscal year increased at a rate equal to the greater of: (a) the percentage increase for the applicable fiscal year over the immediately preceding fiscal year in the Consumer Price Index -- All Urban Consumers -- All Items (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the index most similar in composition to such index; or (b) ten percent (10%). Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the Maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to meet any increases over the preceding fiscal year in: (i) premiums for any insurance coverage required by the Declaration to be maintained by the Association; or (ii) charges for utility services necessary to the Association's performance of its obligations under this Declaration, in either case (i) or (ii) notwithstanding the fact that the resulting increase in the Maximum Annual Assessment is at a rate greater than otherwise permitted under the preceding sentence. In addition, in the event Declarant (or a trustee for the benefit of Declarant, or any assignee of either) at any time hereafter annexes any portion(s) or all of the Annexable Property, and the Association's added maintenance and other responsibilities with respect to the Common Area and other property thereby annexed necessitate an increase in the Maximum Annual Assessment greater than otherwise permitted under this Section 8.7 without approval of the Members, Declarant may nevertheless increase such Maximum Annual Assessment, effective not earlier than the first sale to a retail purchaser of a Lot within the portion(s) so annexed, without the vote of the Members, so long as such increase is in an amount and in accordance with a revised budget approved by the Veterans Administration or the Federal Housing Administration (unless such agencies waive in writing their rights to approve such revised budget, in which event such approval shall not be required); such new Maximum Annual Assessment, if so approved, shall thereupon be substituted for the previously established Maximum Annual Assessment for the applicable fiscal year of the Association. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the Maximum Annual Assessment for such fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the Maximum Annual Assessments for any fiscal year shall not prevent the Board from levying Annual Assessments in subsequent fiscal years in the full amount of the Maximum Annual Assessment for such subsequent fiscal year (as determined in accordance with this Section 8.7). In the event that, for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the Maximum Annual Assessment for such fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

8.8 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 8.9 hereof; or (b) approving any increase in the Maximum Annual Assessment greater than that permitted by application of the formula as set forth in Section 8.7, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Annual Assessment, a quorum

Expenses and cash requirements of the Association for the year. The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of any of the Common Area. The annual budget shall also provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. Not later than sixty (60) days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a copy of the budget and a statement of the amount of the Annual Assessments to be levied against such Owner's Lot for the fiscal year in question. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of this Section 8.5 and of Sections 8.7 and 8.9, neither the annual budget (nor any amended budget) adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by Section 8.7) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section 8.9. Within sixty (60) days after adoption of the amended budget (if the Board elects to levy an additional Annual Assessment), the Board shall cause a copy of the amended budget and a statement of the additional Annual Assessments to be levied against the Lots to be delivered or mailed to each Owner; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such meeting, shall cause a statement of the Special Assessment to be levied against each Lot to be promptly mailed or delivered to each Owner.

8.6 Due Dates. Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, payable not more frequently than monthly nor less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of the applicable period during that fiscal year. Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, in the event any Assessments (or installments thereof) with respect to a Lot are delinquent, the Board shall have the right, in its sole discretion, to accelerate the date on which all Assessments with respect to such Lot are due and payable. For purposes of this Declaration, Assessments shall be deemed "paid" when actually received by the Association or by its manager or agent designated by the Association to collect the same (provided, however, that if any Assessments were paid by check and the bank or other institution upon which such check is drawn thereafter dishonors and refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due).

8.7 Maximum Annual Assessment. The Annual Assessments provided for herein shall not at any time exceed the Maximum Annual Assessment, as determined in accordance with this Section 8.7. For the fiscal year ending December 31, 1995, the Maximum Annual Assessment shall be Seven Hundred Twenty Dollars ($720.00) for each Lot. Thereafter, unless a greater increase is

shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

8.9 Special Assessments. In addition to the Annual Assessments, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment. Subject to Section 8.4, Special Assessments shall be allocated equally among all Lots.

8.10 Irrigation Assessments. In addition to the Annual Assessments, Special Assessments and other amounts which may be levied or charged against any Lot or Owner under this Declaration, the Board shall have the right, power and authority, on behalf of the Association, to levy against Lots 119 through 130, inclusive, as shown on the Plat (the "Affected Lots"), and the Owners thereof, Irrigation Easements to defray the Association's costs for provision to the Affected Lots of irrigation services as described in Section 7.8 (including, without limitation, the establishment and funding of reserves for repairs, replacements and contingencies with respect thereto). The Irrigation Assessments shall be deemed for all purposes to be a part of the Assessments with respect to the Affected Lots. The Irrigation Assessments levied against an Affected Lot shall be secured by the lien against such Lot created in Section 8.3, and the Association shall have all rights and remedies in the event of non-payment of Irrigation Assessments as it has for non-payment of any other Assessments including, without limitation, foreclosure of such lien. The Board shall establish the Irrigation Assessments for each fiscal year in such amount as the Board deems appropriate, but in no event shall the Irrigation Assessments for any Affected Lot for a fiscal year exceed an amount equal to thirty percent (30%) of the Maximum Annual Assessment for that fiscal year. The Irrigation Assessments shall be assessed equally among the Affected Lots. Upon establishment by the Board of the Irrigation Assessments for a fiscal year, the Board shall advise the Owner of each Affected Lot, in writing, of the amount thereof (which the Board may either include with the statement of the Annual Assessments for such fiscal year required by Section 8.5, or provide separately), together with the date(s) the Irrigation Assessments (or, at the election of the Board, installments thereof) are due. If, at any time during the course of a fiscal year, the Board determines that the amount of the Irrigation Assessments levied and collected for such year is inadequate, the Board may, in its discretion, increase the amount of the Irrigation Assessments for such year (but in no event to an amount greater than the maximum specified above unless approved by Owners of at least seventy-five percent (75%) of the Affected Lots), in which event the Board shall advise the Owner of each Affected Lot, in writing, of the increase in the Irrigation Assessments and the date(s) by which the Owner's payment of such increase is due. No Owner of an Affected Lot shall be relieved of his, her or its obligation to pay the Irrigation Assessments against such Lot by not accepting irrigation water or by not otherwise using the irrigation services described in Section 7.8.

8.11 Certificates. The Association shall, upon the written request of any Owner or the holder, insurer or guarantor of any Mortgage, and upon payment of such reasonable charge as may be determined by the Board, furnish to the requesting party a certificate, executed by an officer of the

association, stating the date to which Assessments with respect to such Owner's Lot have been paid and the amount, if any, of any Assessments which have been levied with respect to said Lot but which remain unpaid as of the date of such certificate; said certificate shall be binding upon the Association as to the matters set forth therein as of the date thereof.

8.12 Surplus Monies. Unless otherwise expressly determined by the Board, any surplus monies of the Association shall be held by the Association and placed in one or more reserve accounts as determined by the Board, and shall not be paid to the Owners or credited against the Owners' respective liabilities for Assessments.

8.13 Declarant's Obligation for Deficiencies. So long as the Class B membership exists, Declarant shall pay and contribute to the Association, within thirty (30) days after the end of each fiscal year of the Association, or at such other times as may be requested by the Board, such funds as may be necessary, when added to the Assessments levied by the Association pursuant to this Declaration, to provide for: (a) the operation and maintenance of the Common Area and the recreational facilities located thereon; (b) the maintenance of adequate reserves; and (c) the performance by the Association of all other obligations of the Association under this Declaration or the Articles or Bylaws. Declarant's obligations under this Section 8.13 may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both.

8.14 Common Expenses Resulting from Misconduct. Notwithstanding any other provision of this Article 8, if any Common Expense is caused by the misconduct of any Owner (or of any Occupant, tenant, employee, servant, agent, guest or invitee for whose actions such Owner is responsible under applicable law), the Association may assess that Common Expense exclusively against such Owner and such Owner's Lot, which amount (together with any and all costs and expenses, including but not limited to attorneys' fees, incurred by the Association in recovering the same) shall be secured by the lien created pursuant to Section 8.3.

ARTICLE 9

ARCHITECTURAL STANDARDS; ARCHITECTURAL COMMITTEE

9.1 Appointment of Architectural Committee; Standing to Enforce. All property which is now or hereafter subject to this Declaration shall be subject to architectural, landscaping and aesthetic review as provided herein. This review shall be in accordance with this Article 9 and such standards as may be promulgated by the Architectural Committee, which is hereby established. Authority and standing on behalf of the Association to enforce in any court of competent jurisdiction decisions of the Architectural Committee and the provisions of this Article 9 shall be vested in the Board, provided, however, that so long as Declarant has the right to appoint the Architectural Committee under this Section 9.1, Declarant shall have the right, but not the obligation, to enforce decisions of the Architectural Committee and the provisions of this Article 9, on behalf of the Association, in courts of competent jurisdiction. So long as Declarant (or a trustee for the benefit of Declarant) owns any part of the Property, the Architectural Committee shall consist of three (3) individuals appointed by Declarant. At such time as either: (a) neither Declarant nor a trustee for the benefit of Declarant owns any part of the Property; or (b) Declarant Records a written waiver of its right to appoint the Architectural Committee, the Board shall appoint the members of the

Architectural Committee, which shall have such number of members (but not less than three (3)) as the Board may elect, from time to time. Each member of the Architectural Committee appointed by the Board shall serve in such capacity until: (i) such member is removed by the Board; or (ii) such member resigns such position or dies. Prior to the appointment of the initial members of the Architectural Committee, and at any time when there is no one serving on the Architectural Committee (whether due to death, resignation or removal), the Board shall have and exercise any and all rights, powers, duties and obligations of the Architectural Committee.

9.2 Jurisdiction of the Architectural Committee; Promulgation of Standards. The Architectural Committee shall have exclusive jurisdiction over all original construction and any modifications, additions or alterations to improvements on any portion of the Property (including, but not limited to, the construction or installation of, or modifications, additions or alterations to: (a) Dwelling Units and any other buildings or other structures including, without limitation, stables, corrals, fences and other structures, fixtures or devices for the care, feeding, exercise or containment of horses; (b) landscaping; (c) fences and fence walls (including, without limitation, those for the containment of horses); (d) heating, ventilating, air conditioning and cooling units; (e) solar panels; (f) paint; and (g) any other construction, modification, addition or alteration affecting the exterior appearance of any structure or Lot). The Architectural Committee shall adopt, and may from time to time amend, supplement and repeal, architectural and landscaping standards and application procedures and shall make the same available to Owners, builders and developers who seek to engage in development of or construction upon any portion of the Property. Such standards and procedures shall interpret, implement and supplement this Declaration, and shall set forth procedures for Architectural Committee review. Such standards and procedures may include, without limitation, provisions regarding:

9.2.1 the size of Dwelling Units;

9.2.2 architectural design, with particular regard to the harmony of the design with surrounding structures and topography;

9.2.3 placement of buildings (including, but not limited to, placement of a barn, stable or similar structure on any Equestrian Lot);

9.2.4 landscaping design, content and conformance with the character of the Property, and permitted and prohibited plants;

9.2.5 requirements concerning exterior color schemes, exterior finishes and materials (including, without limitation, materials, exterior color schemes and exterior finishes of any barn, stable or other structure for the housing, care or containment of horses and of any fence or corral for the containment of horses);

9.2.6 signage; and

9.2.7 perimeter and screen wall design and appearance, as well as the location and appearance of any fence or corral for the containment of horses.

Such standards and procedures shall have the same force and effect as the Association Rules. Further, after termination of Declarant's right to appoint the members of the Architectural Committee pursuant to Section 9.1, any and all amendments, supplements, repeals or replacements to or of such standards and procedures shall be subject to the approval of the Board.

9.3 Submission and Review of Plans. No original construction, modification, alteration or addition subject to the Architectural Committee's jurisdiction (including, but not limited to, landscaping) shall be commenced until it has been approved or is deemed approved by the Architectural Committee as provided herein. Any Owner or other Person seeking to construct or install any new improvements or landscaping or to make any modification, alteration or addition to any existing improvement (including, but not limited to, landscaping) upon any portion of the Property (or to cause same to be constructed, installed or made) shall first submit to the Architectural Committee detailed plans, specifications and elevations relating to the proposed construction, installation, modification, alteration or addition; said plans, specifications and elevations (including, but not limited to, a detailed site plan) shall be sent by: (a) personal delivery, in which case the Person delivering the same shall obtain a signed and dated receipt from the recipient thereof (in which event they shall be deemed received as of the date indicated by the recipient on such receipt); or (b) by U.S. mail, postage paid, certified mail, return receipt requested (in which event they shall be deemed received as of the date indicated on the return receipt). The Architectural Committee shall have forty-five (45) days after receipt of such plans, specifications and elevations to approve or disapprove of the proposed construction, installation, modification, alteration or addition or to request additional information, and, if the Architectural Committee disapproves, to give such Owner or other Person reasonably detailed written reasons for such disapproval. In the event the Architectural Committee fails either to approve or disapprove the proposed construction, installation, modification, alteration or addition (or to request additional information) within said forty-five (45) day period, such proposed construction, installation, modification, alteration or addition shall be deemed approved.

9.4 Obligation to Obtain Approval.

9.4.1 Except as otherwise expressly provided in this Declaration or the Architectural Committee's standards and procedures, without the prior written approval by the Architectural Committee of plans and specifications prepared and submitted to the Architectural Committee in accordance with the provisions of this Declaration and such standards and procedures:

(a) no improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or improvements thereon from their natural or improved state existing on the date such property first becomes subject to this Declaration; and

(b) no building, fence, exterior wall, pool, roadway, driveway, stable, barn, corral or other structure, improvement or grading shall be commenced, erected, maintained, altered, changed or made on any Lot at any time.

9.4.2 No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee in accordance with its standards and procedures and except in compliance with Section 9.12.

9.4.3 No material changes or deviations in or from the plans and specifications for any work to be done on the Property, once approved by the Architectural Committee, shall be permitted without approval of the change or deviation by the Architectural Committee.

9.4.4 No other item or matter required by this Declaration to be approved in accordance with this Article 9 shall be done, undertaken or permitted until approved by the Architectural Committee.

9.5 Changes to Interiors of Dwelling Units or Other Structures. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his, her or its Dwelling Unit or other structure on such Owner's Lot or to paint the interior of his, her or its Dwelling Unit or such other structure any color desired, except to the extent such remodeling or painting is visible from outside such Dwelling Unit or other structure or affects the exterior appearance of such Dwelling Unit or other structure.

9.6 Other Approvals; Liability. No approval by the Architectural Committee of any proposed construction, installation, modification, addition or alteration shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such construction, modification, addition or alteration. None of Declarant, the Association, the Board or the Architectural Committee (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

9.6.1 the approval or disapproval of any plans, drawings or specifications, whether or not defective;

9.6.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or

9.6.3 the development of any Lot.

9.7 Fee. The Board may establish a reasonable processing fee to defer the costs of the Architectural Committee in considering any request for approvals submitted to the Architectural Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

9.8 Inspection. Any member or authorized consultant of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot, after reasonable notice to the Owner or Occupant of such Lot, in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with this Declaration, the standards and procedures adopted by the Architectural Committee and any approved plans, drawings or specifications.

9.9 Waiver. Approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval of the

Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

9.10 Appeal to Board. Except as provided in this Section 9.10, any Owner or Occupant aggrieved by a decision of the Architectural Committee may appeal the decision to the Board in accordance with procedures to be established in the Architectural Committee's standards and procedures. In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, until termination of Declarant's right to appoint the members of the Architectural Committee pursuant to Section 9.1, no decision of the Architectural Committee may be appealed to the Board.

9.11 Nonapplicability to Declarant. The provisions of this Article 9 shall not apply to any portions of the Property owned by Declarant, by any Person affiliated with Declarant, by UDC Homes, or by a trustee for the benefit of any of the foregoing so long as any improvements constructed thereon (or any additions, modifications or alterations to any such improvements) are constructed or made in a good and workmanlike fashion and are generally comparable in terms of quality of construction to other improvements theretofore constructed by Declarant, by any Person affiliated with Declarant or by UDC Homes on the Property (or on other property adjacent to or near the Property). Further, this Article 9 may not be amended without the written consent of Declarant and of UDC Homes so long as Declarant, any Person affiliated with Declarant, UDC Homes, or a trustee for the benefit of any of the foregoing owns any of the Property.

9.12 Landscaping. All Lots, excluding driveways, parking areas and areas covered by structures, and excluding that portion of the Lot, if any, which is enclosed by a perimeter wall around the rear yard, shall be landscaped in a manner and using plants and soil approved in advance by the Architectural Committee. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon any Lot except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee in accordance with this Article 9 and the Architectural Committee's standards and procedures. No material changes or deviations in or from the plans and specifications for any work to be done on any Lot, once approved by the Architectural Committee, shall be permitted without approval of the change or deviation by the Architectural Committee. Neither this Section 9.12 nor Sections 9.3 or 9.4 above shall be construed to prevent normal landscape maintenance or the replacement of dead or diseased plants with other similar plants (so long as the replacement plants are permitted by the Architectural Committee's standards and procedures).

ARTICLE 10

USE RESTRICTIONS AND OTHER COVENANTS, CONDITIONS AND EASEMENTS

10.1 Residential, Recreational and Equestrian Purpose. The Property shall be used only for residential, recreational and related purposes and for the use and enjoyment of horsemen including the non-commercial breeding and raising of horses. No Lot or any other part of the Property shall be used, directly or indirectly, for any business, commercial, manufacturing, industrial, mercantile,

vending or other similar purpose, except for use by Declarant (or an affiliate or assignee of Declarant), for a period not to exceed ten (10) years from the first conveyance by Declarant of a Lot to a retail purchaser, directly in connection with construction and sales activities with respect to the Property (including, but not limited to, maintenance and operation of model homes, sales offices and signs advertising the Property or portions thereof). Notwithstanding the foregoing, an Owner or Occupant may conduct a business activity in a Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all applicable zoning ordinances or requirements; (c) the business activity does not involve the door-to-door solicitation of Owners or other Occupants in the Property; (d) the use of the Dwelling Unit for trade or business shall in no way destroy or be incompatible with the residential character of the Dwelling Unit or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the Dwelling Unit or inside an accessory building or garage, and shall not involve the viewing, purchase or taking delivery of goods or merchandise within the Property; (f) the trade or business shall be conducted by the Owners or Occupants of the Dwelling Unit with no more than one (1) employee working in or from such Dwelling Unit who is not an Occupant thereof; (g) no more than twenty percent (20%) of the total floor area of the Dwelling Unit shall be used for trade or business; (h) the Dwelling Unit used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Dwelling Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

10.2 Equestrian Lot. The Owners and Occupants of all of the Lots shall have the right to the use and enjoyment of the Stables, the Bridle Path and the Pathway, subject to any restrictions or limitations contained in this Declaration or in the Association Rules; however, only the Owner or Occupant of an Equestrian Lot will be allowed to (i) keep horses on his, her or its Equestrian Lot, and (ii) erect a fence and a barn, stable or similar structure for the containment of such horses on his, her or its Equestrian Lot. Any such fence, barn, stable or similar structure shall be constructed in accordance with the guidelines set forth in this Declaration, and shall not impede the retention area located on the rear of each Equestrian Lot. No more than three (3) horses will be allowed on each Equestrian Lot, and such horses must be owned by an Owner or Occupant of that Equestrian Lot. No horse shall be kept on any Equestrian Lot until a fence designed for the containment of the horse and approved by the Architectural Committee shall have been erected. The Owner or Occupant of any Lot (whether or not an Equestrian Lot) shall have the right to keep, place or maintain a horse trailer on his, her or its Lot, subject to such reasonable rules and regulations as may be adopted from time to time by the Architectural Committee (including, but not limited to, rules and regulations as to size and location of such trailers).

10.3 Stables. Stables and an adjoining fence designed for the use and containment of horses shall be erected on a portion of the Common Area for the use and enjoyment of the Owners. The construction of the Stables will be done in accordance with the guidelines set forth in Section 10.24 for the construction of stables on the Equestrian Lots. Association Rules governing the use of the Stables will be posted on a sign located at the Stables.

10.4 Garages and Driveways. The interior of all garages situated upon the Property shall be maintained by the respective Owners or Occupants thereof in a neat, clean and sightly condition. Such garages shall be used for parking vehicles and storage only, and shall not be used or converted for living or recreational activities. All driveways on Lots shall be of concrete construction.

10.5 Temporary Structures. No temporary residence, structure or garage shall be placed or erected upon any part of the Property (except as may otherwise be permitted by Section 10.6 or Section 10.23 or Section 10.24). Except with the express written approval of Declarant, no Dwelling Unit or other structure on any Lot shall be occupied in any manner while in the course of original construction or prior to issuance by the appropriate local governmental authority of a certificate of occupancy (or other similar document) with respect to such Dwelling Unit or other structure.

10.6 New Construction. All buildings or structures erected on the Property shall be of new construction and the buildings and structures shall not have been moved to the Property from other locations (except for temporary construction and/or sales facilities placed or maintained on the Property by Declarant or an affiliate or assignee of Declarant in connection with the construction and sales activities of Declarant or such affiliate or assignee of Declarant). No guest-house, garage, barn, stable or similar structure shall be erected on any Lot until construction of the Dwelling Unit shall have been commenced on such Lot, and no guest-house, garage, barn, stable or similar structure shall be maintained or occupied until construction on the Dwelling Unit is finalized and ready for occupancy according to approval of the Architectural Committee.

10.7 Signs. No billboards or signs of any type or character shall be erected or permitted on any part of the Property or on any Lot, except for signs used by Declarant (or an affiliate or assignee of Declarant) to advertise the Property (or to identify builders, contractors or lenders) during the construction and sales period and except for any sign erected by the Association at the Stables. Nothing herein shall be deemed to prohibit attachment to the exterior of a Dwelling Unit of a single nameplate and a single address plate identifying the occupant and the address of such Dwelling Unit or the placing upon the exterior of any Dwelling Unit (or upon the Lot containing the Dwelling Unit) of a single "For Sale" or "For Lease" sign, provided that such nameplates and address plates shall be subject to the rules and regulations of the Architectural Committee, and except that such "For Sale" or "For Lease" sign shall not have dimensions exceeding eighteen (18) inches by twenty-four (24) inches. Further, nothing herein shall be deemed to prohibit installation and maintenance of directional signs, subdivision identification signs, street signs or similar signs as may be approved by Declarant or by the Architectural Committee for installation or maintenance by the Association.

10.8 Heating, Ventilating and Air Conditioning Units. No heating, air conditioning or evaporative cooling units or equipment shall be placed, constructed or maintained upon the Property, including, but not limited to, upon the roof or exterior walls of any structure on any part of the Property unless: (a) where such unit or equipment is installed upon the roof of any structure upon

the Property, such unit or equipment is fully screened from view from any adjacent properties by a parapet wall which conforms architecturally with such structure; or (b) in all other cases, such unit or equipment is attractively screened or concealed from ground level view from adjacent properties, which means of screening or concealment shall (in either case (a) or (b)) be subject to the regulations and approval of the Architectural Committee.

10.9 Solar Collecting Panels or Devices. Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, Declarant desires to promote and preserve the attractive appearance of the Property and the improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Committee pursuant to Article 9 above, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property (including upon the roof of any structure upon any Lot), so long as either: (a) such solar collecting panels and devices are placed, constructed and maintained so as not to be visible from ground level view from adjacent properties; or (b) such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed by a person six feet tall standing at ground level on adjacent properties.

10.10 Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon the Property (including, but not limited to, upon the roof or exterior walls of any Dwelling Unit or other structure), unless: (a) where such antenna, pole, tower or dish is installed upon the roof of a Dwelling Unit or other structure, such antenna, pole, tower or dish is fully screened and concealed from view from adjacent properties by a parapet wall which conforms architecturally with the structure of such Dwelling Unit or other structure; or (b) in all other cases, such antenna, pole, tower or dish is fully and attractively screened or concealed from view from adjacent properties, which means of screening or concealment shall (in either case (a) or (b)) be subject to the regulations and approval of the Architectural Committee. Notwithstanding the foregoing, the Board may (but shall not be obligated to) install (or permit to be installed) upon the Common Area a television and/or radio "dish-type" antenna designed and intended to serve all Owners and Occupants of the Property (or as many of such Owners and Occupants as elect to use such service). Further, notwithstanding the foregoing, the Architectural Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon such Owner's or Occupant's Lot, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Committee. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by Section 10.11. B

10.11 Basketball Goals or Similar Structures. No basketball goal or similar structure or device (whether mounted on a pole, wall or roof) shall be placed or constructed upon the front yard, front elevation or front roof surface of any structure on any part of the Property (except upon the Common Area). A basketball goal may be placed on a Lot in a location where such goal would be visible from a street running along the side of a Dwelling Unit so long as: (a) such goal is located within an enclosed rear yard on such Lot; and (b) the location of such goal is approved in advance.

in writing, by the Architectural Committee. Notwithstanding the foregoing, an Owner or Occupant may place a temporary, portable basketball goal or standard on the driveway or otherwise in the front yard of that Owner's or Occupant's Lot, but shall not allow such goal or standard to remain there for more than twelve (12) hours during any 24-hour day, and shall otherwise abide by any rules or regulations adopted by the Board with respect thereto.

10.12 Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on the Property unless such tanks are either: (a) buried underground; or (b) of such size and height, in such location and attractively screened from view from adjacent properties in such manner, as may be required by the Architectural Committee. Nothing herein shall be deemed to prohibit use or storage upon the Property of propane or similar fuel tanks with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace.

10.13 Vehicles.

10.13.1 No private passenger automobiles or pickup trucks shall be parked upon the Property or any roadway adjacent thereto except within a garage, in a private driveway appurtenant to a Dwelling Unit, or within areas designated for such purpose by the Board.

10.13.2 No other vehicles (including, but not limited to, mobile homes, motor homes, boats, recreational vehicles, trailers (including, but not limited to, horse trailers), trucks, campers, permanent tents or similar vehicles or equipment) shall be kept, placed or maintained upon the Property or any roadways adjacent thereto, except: (a) within a fully enclosed garage appurtenant to a Dwelling Unit; or (b) as set forth in Section 10.2; or (c) in such areas and subject to such rules and regulations as the Board may designate and adopt.

10.13.3 No vehicle (including, but not limited to, those enumerated in Subsections 10.13.1 and 10.13.2) shall be constructed, reconstructed or repaired upon the Property or any roadway adjacent thereto except within a fully enclosed garage.

10.13.4 No motor vehicles of any kind which are not in operating condition shall be parked in any unenclosed parking areas (including, but not limited to, private driveways appurtenant to a Dwelling Unit).

10.13.5 The provisions of this Section 10.13 shall not apply to vehicles of Declarant or its employees, agents, affiliates, contractors or subcontractors during the course of construction activities upon or about the Property.

10.14 Underground Facilities. No cesspool or well may be dug or installed without the prior written approval of the Board. No part of the Property shall be used for purposes of boring, mining, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth (except to the limited extent required in connection with the normal construction activities of Declarant or an affiliate or assignee of Declarant during the applicable construction period).

10.15 Outdoor Burning. There shall be no outdoor burning of trash or other debris, provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills or outdoor fireplaces.

10.16 Sanitation. Garbage and refuse facilities, containers and the like shall be attractively screened and camouflaged in such manner as to conceal them from the view of neighboring Lots, Dwelling Units, property, roads or streets (except during reasonable periods to allow for collection by the appropriate municipal or private sanitation service). All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and sanitary condition. All rubbish, trash and garbage shall be kept only in containers meeting applicable municipal sanitation requirements (and any applicable reasonable rules and regulations of the Association), shall be regularly removed from the Property and shall not be allowed to accumulate thereon. All manure shall be kept in covered containers meeting applicable municipal sanitation requirements (and any applicable reasonable rules and regulations of the Association) and shall be regularly removed from the Property. In addition, modern insect control equipment shall be installed in the Stables and on each Equestrian Lot where horses are kept.

10.17 Fences, Interferences and Obstructions.

10.17.1 All fences, except for fences designed or used for the containment of horses, shall be of block construction (except as may be otherwise permitted with the prior written consent of the Architectural Committee) and, except as otherwise approved by the Architectural Committee, shall be painted or colored to match the exterior of the structure(s) enclosed by or upon the same Lot as such fence. No fence designed or used for the containment of horses shall be commenced or erected on any Equestrian Lot until the design and location of such fence and the kind of materials to be used therein have been approved by the Architectural Committee. Fences designed or used for the containment of horses shall be of galvanized steel with posts at least two (2) inches in diameter and placed in concrete. No wooden posts or fencing of any kind, barbed or stranded wire or electric fences are permitted. No fence shall exceed six and one-half (6 1/2) feet in height, provided that no fence within fifteen (15) feet of the front property line of a Lot shall exceed three (3) feet in height (provided that the Architectural Committee shall have the authority to establish and enforce even more restrictive limitations on the height, locations and appearance of fences and fence walls, either in individual cases or as a general restriction on portions or all of the Property, where necessary or appropriate, in the reasonable judgment of the Architectural Committee, to comply with applicable zoning, building or public safety ordinances). The foregoing shall not apply to boundary walls or fences (if any) constructed by Declarant along property lines bounding public rights-of-way, provided, however, that such boundary walls or fences shall be constructed so as to comply with applicable municipal zoning and other laws and ordinances. No fence shall be permitted to interfere with existing recorded restrictions, drainageways or easements. Except as otherwise provided by applicable law or governmental rule or regulation, and subject to any applicable restrictions or requirements set forth in any recorded plat of all or any part of the Property, fences may be constructed in or over a recorded utility easement, provided, however, that should the utility companies ever require access to such easement, it shall be the responsibility of the Owner of the applicable Lot, at his, her or its sole expense, to remove and replace such fence.

10.17.2 No structure, shrubbery or other vegetation shall be permitted to exist on any Lot or other portion of the Property, the height or location of which shall be deemed by

the Architectural Committee either to constitute a traffic hazard or to be unattractive in appearance or unreasonably detrimental to enjoining Property. As an aid to freer movement of vehicles at and near street intersections and in order to protect the safety of pedestrians, property and the operators of vehicles, the Board or Architectural Committee may impose further limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, and construction and planting on corner Lots at the intersection of two or more streets or roadways.

10.18 Nuisance. No rubbish or debris of any kind shall be placed or permitted to accumulate for any unreasonable length of time on any portion of the Property, and no odors shall be permitted to arise therefrom, so as to render the Property or any portion thereof unsanitary, unsightly or offensive or detrimental to any other portion of the Property in the vicinity thereof or to its Owners or Occupants. No noxious destructive or offensive activity, or any activity constituting an unreasonable source of annoyance, shall be conducted on any Lot or on the Common Area. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except ordinary intercom systems or security devices used exclusively for security purposes, shall be located, used or placed on the Property. The Board in its discretion shall have the right to determine the existence of any such activity or item. The Association shall have the standing and authority to institute legal proceedings to abate such activity or to secure the removal of such item. Furthermore, the Board shall have the right to remove any such activity or item at the expense of the Owner responsible for the nuisance (or at the expense of the Owner whose tenant, Occupant or guest is responsible for such activity or item). Each Owner and Occupant shall refrain from any act on or use of his, her or its Lot or the Common Area which could reasonably cause embarrassment, discomfort or annoyance to other Owners or Occupants, and the Board shall have the power to make and enforce reasonable rules and regulations in furtherance of this provision.

10.19 Drainage Alteration; Easements. No vegetation (except suitable ground cover) may be planted or permitted to remain on areas subject to drainage easements, as shown on Recorded plats, in such manner as to interfere with drainage or which shall be deemed by the Board to be a detriment to utilities located under or near such vegetation. Except as otherwise provided herein, or by applicable governmental rule, regulation or ordinance, the owner of property subject to Recorded easements shall be responsible for maintaining said property.

10.20 Clothes-Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any part of the Property unless they are erected, placed or maintained exclusively within a fenced yard or otherwise concealed and shall not be visible to a person six feet tall standing at ground level on neighboring property.

10.21 Pets. With the exception of horses as provided in Section 10.1 of this Declaration, no animals, livestock or poultry of any kind shall be raised, bred or kept on the Property, provided, however, that nothing herein shall be construed as prohibiting the keeping of a reasonable number of ordinary household pets in or on a Lot, subject to rules and regulations adopted by the Board, provided that such pets are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no pets may be kept upon the Property or on or in any Lot which, in the opinion of the Board, result in any annoyance or are obnoxious to Owners or Occupants of other Lots in the vicinity.

10.22 Leasing; Obligations of Tenants and Other Occupants.

10.22.1 All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules. All tenants shall be subject to the terms and conditions of this Declaration, the Articles, the Bylaws and the Association Rules as though such tenant were an Owner (except that such tenant shall not have any voting rights appurtenant to the Lot occupied by such tenant. Each Owner shall cause his, her or its tenants or other Occupants to comply with this Declaration, the Articles, the Bylaws and the Association Rules and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or Occupants, notwithstanding the fact that such tenants or Occupants are also fully liable for any violation of each and all of those documents.

10.22.2 In the event that a tenant or other Occupant violates any provision of this Declaration, the Articles, the Bylaws or the Association Rules, the Association shall have the power to bring an action or suit against such tenant or other Occupant to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity. The Association's costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest as provided in Section 12.8, shall be reimbursed by the tenant or other Occupant to the Association (or, in the absence of reimbursement by the tenant or other Occupant, or at the election of the Board, by the Owner of the Lot occupied by such tenant or other Occupant) and constitute a lien on the applicable Lot which shall have the priority, and may be enforced in the manner, described in Section 8.3.

10.22.3 The Board shall also have the power to suspend the right of the tenant or other Occupant to use the recreational facilities on or constituting a part of the Common Area for any violation by the tenant or other Occupant of any duty imposed under this Declaration, the Articles, the Bylaws or the Association Rules and, where approved by Members holding a majority of the votes in each class of Members represented in Person or by valid proxy at a meeting of Members duly called for such purpose, to impose reasonable monetary fines upon the tenant or the Owner of the applicable Lot, or both. No suspension hereunder of the right of a tenant or other Occupant to use the recreational facilities on or constituting part of the Common Area may be for a period longer than sixty (60) days except where the tenant or other Occupant fails or refuses to cease or correct an on-going violation or commits the same or another violation, in which event such suspension may be extended for additional periods not to exceed sixty (60) days each until such violation ceases or is corrected; the foregoing limitation shall not affect or prevent termination of the applicable lease if permitted by the terms of said lease or otherwise by applicable law.

10.22.4 No Owner may lease less than his, her or its entire Lot. No Lot may be leased for a period of less than thirty (30) days. Upon leasing his, her or its Lot, an Owner shall promptly notify the Association of the commencement and termination dates of the lease and the names of each tenant or other Person who will occupy the Lot during the term of the lease.

10.22.5 The provisions of this Section 10.22 shall not apply to Declarant's use of Lots owned by (or leased to) Declarant as a model home or office or for marketing purposes pursuant to Section 10.1.

10.23 Storage and Tool Sheds or Structures. Except as provided in Section 10.6, no storage or tool sheds or similar structures shall be placed, erected or maintained upon any part of the Property except: (i) where such storage or tool shed or similar structure is constructed as an integral part of a Dwelling Unit (including materials, color and the like); or (ii) where such storage or tool shed or similar structure is temporarily placed on the Property by Declarant or an affiliate or assignee of Declarant in connection with construction activities of Declarant or such affiliate or assignee of Declarant. Notwithstanding part (i) of this Section 10.23, an Owner or other Person shall be permitted to erect, on his, her or its Lot, a storage building which is not attached to the Dwelling Unit on that Lot, so long as the storage building meets all of the following requirements:

(a) The storage building shall be stuccoed and painted to match the Dwelling Unit on the same Lot;

(b) The roof of the storage building shall be tiled to match the roof of the Dwelling Unit on the same Lot;

(c) The storage building shall be no higher than eight (8) feet at its highest point;

(d) The storage building shall comply with all laws, ordinances and regulations (including, but not limited to, city set back requirements); and

(e) The storage building shall not be attached at any point to any fence (including any block wall fence).

Any Owner or other Person who wishes to erect such a storage building on his, her or its Lot must still comply with all other provisions of this Declaration and, in particular, shall submit plans for the proposed storage building to the Architectural Committee for review in accordance with Article 9 of this Declaration, and shall not commence erection or construction of such storage building until such plans are approved by the Architectural Committee in accordance with Article 9 of this Declaration.

10.24 Barn, Stable or Similar Structure. An Owner or Occupant of an Equestrian Lot shall be permitted to erect, on his, her or its Equestrian Lot, a barn, stable or similar structure for the housing, care and containment of horses, so long as it meets all of the following requirements:

(a) The exterior must be of a material and color approved by the Architectural Committee;

(b) The roof of the building shall be tiled to match the roof of the Dwelling Unit on the same Equestrian Lot;

(c) The building shall be no higher than fifteen (15) feet at its highest point;

(d) The building shall comply with all laws, ordinances and regulations (including, but not limited to, city setback requirements); and

(e) The building shall not be attached at any point to any block wall fence.

Any Owner or Occupant of a Equestrian Lot who wishes to erect such barn, stable or similar structure on his, her or its Equestrian Lot must still comply with all other provisions of this Declaration and, in particular, shall submit plans for the proposed building to the Architectural Committee for review in accordance with Article 9 of this Declaration, and shall not commence erection or construction of such building until such plans are approved by the Architectural Committee in accordance with Article 9 of this Declaration.

10.25 Landscaping and Maintenance. Within ninety (90) days of acquiring a Lot, each Owner (other than Declarant) shall landscape, if not already landscaped, such Lot and any public right-of-way areas (other than sidewalks or bicycle paths) lying between the front or side boundaries of such Lot and an adjacent street, except where the installation or maintenance (or both) of landscaping within any public right-of-way area is designated on a Recorded plat Recorded by or with the written approval of Declarant as being the responsibility of the Association. Each Owner shall maintain the landscaping on such Owner's Lot and any public right-of-way areas lying between the front or side boundaries of such Lot and an adjacent street and shall keep the land free of debris and weeds at all times and promptly repair portions of the landscaping which have been damaged. Each Owner shall maintain the aforementioned landscaping and exterior of the Owner's Dwelling Unit in accordance with standards prescribed by the Board and otherwise in a manner and to a level not less than the standards of quality established by the Board with respect to the quality, quantity and frequency of watering, mowing, weeding, trimming, fertilizing, painting and the like. In the event any Owner fails to perform the obligations provided herein, the Association may, at the discretion of the Board, perform those obligations at the expense of such Owner, which expense, together with attorneys' fees and interest as provided in Section 12.9, shall be secured by the lien on such Owner's Lot established by Section 8.3. The provisions of this Section 10.25 shall not apply to any Lot or other property owned by Declarant.

10.26 Roof Materials. The roof of each Dwelling Unit (or of any building containing Dwelling Units) within the Property and the roof of any barn, stable or similar structure situated upon any Equestrian Lot, shall consist of concrete or clay tile, unless such Dwelling Unit has a flat roof with no pitch (i.e., a horizontal roof).

10.27 Encroachments. There are reserved and granted for the benefit of each Lot, over, under and across each other Lot and the Common Area, and for the benefit of the Common Area, over, under and across each Lot, non-exclusive easements for encroachment, support, occupancy and use of such portions of Lots and/or Common Area as are encroached upon, used and occupied as a result of any original construction design, accretion, erosion, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof, or any other cause. In the event any improvements on a Lot or on the Common Area are partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement(s) shall exist for as long as the encroachment exists; provided, however, that no 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.

10.28 Easement for Annexable Property. Declarant shall have, and hereby expressly reserves, for itself and its agents, successors and assigns, an easement over and across the Common

Area for the purposes of reasonable ingress to and egress from, over and across the Property, including private roads and pathways, to the Annexable Property until all of the Annexable Property is fully developed and sold to retail purchasers.

10.29 Miscellaneous. The Board, in its good faith discretion, is hereby authorized to grant such waivers of the restrictions contained in this Article 10 as it shall deem appropriate in the circumstances, so long as the use permitted by such waiver shall not result in an unsafe, unsanitary or aesthetically displeasing condition and shall not result, in the Board's discretion, in a substantial departure from the common plan of development contemplated by this Declaration. In addition, all portions of the Property shall continue at all times to be subject to any and all applicable zoning laws and ordinances, provided, however, that where the provisions of this Declaration are more restrictive than such laws or ordinances, the provisions of this Declaration shall control. Further, and notwithstanding anything to the contrary herein, any and all exemptions, exclusions, rights, easements or qualifications under or with respect to the provisions of this Article 10, or any portion thereof, granted or made applicable or available to Declarant by this Article 10 shall also be deemed granted and made applicable or available to UDC Homes so long as UDC Homes (or a trustee for the benefit of UDC Homes) owns any portion of the Property, with the same effect as if "UDC Homes" were substituted for "Declarant" in each instance where the latter appears in this Article 10.

ARTICLE 11

PARTY WALLS

11.1 General Rules of Law to Apply. Each wall or fence which is located between two Lots or between a Lot and Common Area shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article 11, the general rules of law regarding party walls and liability for property damages due to negligent or willful acts or omissions shall apply thereto. (For purposes of this Article 11 only, in the case of a party wall between a Lot and Common Area, in interpreting the provisions of this Article the Common Area bounded by such wall shall be deemed to be a "Lot" and the Association shall be deemed to be the "Owner" of such "Lot.")

11.2 Repair and Maintenance. No Owner or Occupant of any Lot (or any tenant, guest, invitee, employee or agent of such Owner or Occupant) shall do or permit any act (or omit to do any act) that will or does damage, destroy or impair the structural soundness or integrity of any party wall, or which would cause any party wall to be exposed to the elements, and, in the event any such Owner, Occupant, tenant, guest, invitee, employee or agent does or permits any such act (or so omits to do any act), such Owner's or Occupant's liability with respect to such damage, destruction, impairment or exposure shall be determined in accordance with applicable law.

11.3 Sharing of Repair and Maintenance. In the event any repair, maintenance or reconstruction of any party wall shall be necessary (other than due to the negligence or willful act or omission of the Owner or Occupant of one Lot, or such Owner's or Occupant's tenants, guests, invitees, employees or agents) the cost thereof shall be borne equally by the Owners and/or Occupants of the Lot(s) having in common such party wall, and in the event any Owner (or Occupant) fails or refuses timely to pay such Owner's (or Occupant's) share of such cost, the other Owner (or Occupant) shall have the right to pay in full such cost and recover from such Owner (or Occupant) such Owner's (or Occupant's) share of such cost (together with interest as provided in Section 12.9).

11.4 Consents to Modification. No Owner or Occupant shall alter or modify any party wall in any respect without having first obtained the written consent of the Owner of the other Lot adjoining such party wall, provided that such consent shall not be required in the case of repair or restoration of such party wall to its condition prior to any damage or destruction if the negligence or willful act or omission of the Owner or Occupant of such other Lot was the cause of such damage or destruction and such Owner or Occupant fails or refuses to repair or restore such party wall promptly upon the request of the other Owner or Occupant. Any consent required by this Section 11.4 shall be in addition to and not in substitution for the consents or approvals of the Architectural Committee required by this Declaration or of any municipal or other governmental body having jurisdiction over the Property.

ARTICLE 12

GENERAL PROVISIONS

12.1 Term. The covenants, conditions and restrictions of this Declaration: (a) shall run with and bind the Property; (b) shall inure to the benefit of and shall be enforceable by the Association or by the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect until January 1, 2043; beginning January 1, 2043, and at January 1 every twenty-five (25) years thereafter, this Declaration, and all of the conditions, covenants and restrictions herein, shall automatically be extended for successive periods of twenty-five (25) years each, unless and until revoked by an affirmative vote of Members holding not less than sixty-seven percent (67%) of all votes then entitled to be cast. For any such revocation to be effective, the vote required by this Section 12.1 shall be taken at a special meeting of Members duly called for such purpose, which meeting shall be held no earlier than six (6) months before the January 1 date at which this Declaration would automatically be extended absent such vote; in the event such meeting is duly called and held, and at that meeting the requisite number of votes are cast to revoke this Declaration, the President and Secretary of the Association shall execute and Record a notice of such revocation, and such revocation shall be effective as of the applicable January 1 date at which this Declaration would automatically be extended absent such vote. Notwithstanding any such revocation of this Declaration, each Owner of a Lot (and such Owner's Occupants, tenants, agents, guests and invitees) shall nevertheless have a permanent easement across the Common Area for access to such Lot and for access to and use of such recreational facilities as may exist on the Common Area at the time of such revocation.

12.2 Amendment. Except as otherwise provided herein (and subject to the provisions of Sections 12.11, 12.12, 12.13, and 12.14), this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of: (i) Members holding not less than sixty-seven percent (67%) of all Class A votes then entitled to be cast; and (ii) so long as the Class B membership is in existence, Declarant; and (iii) so long as DMB owns any Lot, DMB. No amendment to this Declaration shall be effective unless and until such amendment is Recorded. In addition to and notwithstanding the foregoing: (a) so long as the Class B membership exists, no amendment to this Declaration shall be effective without the prior approval of the Federal Housing Administration and the Veterans Administration; and (b) no amendment of a material nature to this Declaration (or to the Articles or the Bylaws) shall be effective unless approved by Eligible Mortgage Holders representing at least fifty-one percent (51%) of all Lots subject to First Mortgages held by Eligible

Mortgage Holders. A change to any of the following would be considered to be a change of a material nature:

12.2.1 provisions relating to voting rights in the Association;

12.2.2 provisions relating to Assessments, Assessment liens or subordination of Assessments;

12.2.3 provisions relating to reserves for maintenance and repairs;

12.2.4 provisions relating to Owner's rights to use the Common Area;

12.2.5 boundaries of any Lot;

12.2.6 conversion of any Lot into Common Area or vice versa;

12.2.7 addition or annexation of property to, or withdrawal, removal or deletion of property from, the Property, or addition or annexation of any property to, or withdrawal, removal or deletion of any property from, the Common Area (except to the limited extent certain additions, annexations, withdrawals, removals or deletions are expressly permitted without approval of or notice to the holders, insurers or guarantors of any Mortgage by Article 6);

12.2.8 provisions relating to insurance or fidelity bonds;

12.2.9 provisions relating to the leasing of Lots (or Dwelling Units thereon);

12.2.10 provisions relating to the right of an Owner to sell or transfer such Owner's Lot;

12.2.11 restoration or repair of any structures or improvements on the Common Area following a hazard damage or condemnation in a manner other than as specified in this Declaration;

12.2.12 any action to dissolve or otherwise terminate the Association or the legal status of the Property after substantial destruction or condemnation of improvements on the Property occurs; or

12.2.13 any provisions that expressly benefit the holders, insurers or guarantors of Mortgages.

An Eligible Mortgage Holder shall be deemed to have approved a proposed material change if such Eligible Mortgage Holder fails to submit to the Association a response to a written notice of the proposed material change within thirty (30) days after its receipt of such notice, so long as such notice is sent by certified or registered mail, return receipt requested. Further, no amendment which has otherwise been approved in accordance with this Declaration but which discriminates against, or impairs or adversely impacts the rights of the Owners or Occupants (or both) of Equestrian Lots, as

a class, shall be effective unless and until approved in writing by Owners of at least seventy-five percent (75%) of all Equestrian Lots.

12.3 Indemnification. The Association shall indemnify each and every officer and director of the Association (including, for purposes of this Section, former officers and directors of the Association) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director of the Association in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an officer or director of the Association, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except indirectly to the extent that such officers or directors may also be Members of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless from and against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director of the Association, may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any director or officer (or former director or officer) of the Association who may be entitled to indemnification hereunder to enable such Person to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Person by reason of his or her being, or having been, an officer or director of the Association. In the event it is ultimately determined that a current or former officer or director to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 12.3 or otherwise under the Articles, Bylaws or applicable law, such current or former officer or director shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

12.4 Easements for Utilities. There is hereby reserved to the Association the power to grant blanket easements upon, across, over and under all of the Common Area for installation, replacement, repair, and maintenance of master television antenna systems, security and similar systems, and all utilities, including, but not limited to, water, sewer, telephone, cable television, gas and electricity, and for delivering or providing public or municipal services such as refuse collection and fire and other emergency vehicle access (which easements shall also include appropriate rights of ingress and egress to facilitate such installation, replacement, repair and maintenance, and the delivery or provision of such public, municipal or emergency services), provided that no such easement shall interfere with a Dwelling Unit or its reasonable use or with Declarant's construction and sales activities and such easements shall require the holder of the easement to repair any damage caused to the property of any Owner. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate Recordable document, the Association shall have the right to grant such easement on said property in accordance with the terms hereof.

12.5 Easement for Ingress and Egress to Equestrian Lots. There is hereby reserved to the Association the power to grant an easement upon, across and over a portion of the Common Area

to the Owners and Occupants of the Equestrian Lots for the purpose of providing ingress and egress for horse trailers to and from the Equestrian Lots.

12.6 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot or Parcel (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area) which may or may not be subject to this Declaration.

12.7 Severability; Interpretation; Exhibits; Gender. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. The provisions hereof shall be construed and interpreted with reference to the laws of the State of Arizona. References in this Declaration to Articles, Sections and Subsections shall be deemed to be references to the specified Articles, Sections and Subsection of this Declaration (unless otherwise specifically stated), whether or not phrases such as "of this Declaration," "hereof" or "herein" are used in connection with such references. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof. Where the context hereof so requires, any personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all genders, and the singular shall include the plural and vice versa. Titles of Articles and Sections are for convenience only and shall not affect the interpretation hereof.

12.8 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

12.9 Enforcement. Subject to Section 9.1, the Association shall have the standing and power to enforce the provisions of this Declaration, the Articles, the Bylaws and the Association Rules, and the provisions of any other Recorded document pertaining to any Lot or Lots, and its costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest thereon from the date the costs are expended at a rate equal to the greater of: (a) ten percent (10%) per annum; or (b) the annual rate of interest then in effect for new residential first priority mortgage loans guaranteed by the Veterans Administration, shall constitute a lien on all Lots owned by the Owner or Owners against whom the action is taken (or against whose Occupants the action is taken), which lien shall have the priority and may be enforced in the manner described in Section 8.3. Further, any Owner shall have the standing and the right to bring an action against the Association for any violation or breach by the Association of any provision hereof or of the Articles or the Bylaws. In addition, any Owner or Owners shall have the standing and power to enforce the provisions of this Declaration, the Articles and the Bylaws, and the prevailing party or parties in any action by an Owner or Owners to enforce any such provisions shall be entitled to recover from the other party or parties its or their costs in such action (including reasonable attorneys' fees), together with interest

thereon at a rate equal to the greater of: (a) ten percent (10%) per annum; or (b) the annual rate of interest then in effect for new residential first priority loans guaranteed by the Veterans Administration, and shall further be entitled to have all such costs (including such interest) included in any judgment awarded to the prevailing party or parties in such action. Failure by the Association or by any Owner to take any such enforcement action shall in no event be deemed a waiver of the right to do so thereafter.

12.10 Property Held in Trust. Any and all portions of the Property (and of the Annexable Property) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is Declarant or UDC Homes, shall be deemed for all purposes under this Declaration to be owned by Declarant or UDC Homes, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by Declarant or UDC Homes, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by Declarant or UDC Homes to any such trust (or the trustee thereof) or to Declarant or UDC Homes by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

12.11 FHA/VA Approval. So long as the Class B membership is in existence, the following actions shall not be taken without the prior approval of the Federal Housing Administration and the Veterans Administration: (a) annexation of additional properties to the Property (except to the extent such annexation is in accordance with a plan of annexation or expansion previously approved by such agencies); (b) dedication of any part or all of the Common Area; or (c) amendment of this Declaration.

12.12 Notices to Certain Mortgage Holders, Insurers or Guarantors. The Association shall give timely written notice of any of the following actions, events or occurrences to any holder, insurer or guarantor of a Mortgage who or which, prior to such action, event or occurrence, shall have made written request to the Association for such notice (which written request shall state the name and address of such holder, insurer or guarantor and the Lot number or street address of the Lot to which the applicable Mortgage pertains):

12.12.1 Any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing the applicable Mortgage;

12.12.2 Any delinquency lasting sixty (60) days or more in payment of any Assessments or other charges owed to the Association by the Owner of the Lot securing the applicable Mortgage, or any other breach or default hereunder by the Owner of the Lot securing the applicable Mortgage which is not cured within sixty (60) days after notice thereof from the Association to such Owner;

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

12.12.4 Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders, as provided in Section 12.2.

12.13 Dissolution or Termination of the Association or Legal Status of the Property. No action to dissolve or otherwise terminate the Association or the legal status of the Property for any reason other than the substantial destruction or condemnation of the Property shall be taken without the consent of Eligible Mortgage Holders representing not less than sixty-seven percent (67%) of all Lots subject to First Mortgages held by Eligible Mortgage Holders.

12.14 Amendments Requested by Governmental Agency. Notwithstanding any other provision of this Declaration, Declarant shall have the right to amend all or any part of this Declaration to such extent and with such language as may be requested by the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or other governmental or quasi-governmental agency which issues, guarantees, insures or purchases Mortgages (or securities or other debt instruments backed or secured by Mortgages), or otherwise governs transactions involving Mortgages or instruments evidencing same, or otherwise governs development of the Property or the Annexable Property, as a condition to such agency's approval of this Declaration, the development encompassing the Property or any subdivision constituting a part of the Property. Any such amendment shall be effected by Declarant's Recording an instrument executed by Declarant and appropriately acknowledged, specifying the governmental or quasi-governmental agency requesting such amendment and setting forth the appropriate amendatory language. Recording of such amendment shall constitute conclusive proof of such governmental or quasi-governmental agency's request for such amendment. Such amendment shall be effective, without the consent or approval of any other Person, on and as of the date the same is Recorded, and shall thereupon and thereafter be binding upon any and all Owners or other Persons having any interest in all or any part of the Property. Except as expressly provided in this Section, neither Declarant nor any other Person(s) shall have the right to amend this Declaration except in accordance with and pursuant to the other provisions and requirements of this Declaration.

12.15 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

12.16 Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant or by UDC Homes of a corporate name which is the same as or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant or by UDC Homes, as applicable, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other non-profit corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

12.17 Temporary Sign Easement. Declarant hereby reserves to itself and its agents a temporary easement over, upon and across those portions of the Common Area adjacent to publicly dedicated streets and roadways for purposes of installing and maintaining signs identifying Persons building upon or developing portions of the Property. The easement reserved hereby shall expire and

terminate upon completion of construction and sales activities upon the Property, but in no event later than ten (10) years after the date this Declaration is Recorded.

12.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of this Declaration, the Articles, the Bylaws or the Association Rules. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Lot Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

12.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither Declarant nor UDC Homes makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of Silverstone Ranch can or will be carried out, or that any real property now owned or hereafter acquired by Declarant or by UDC Homes is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither Declarant nor UDC Homes has any reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, neither Declarant nor UDC Homes makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant and UDC Homes harmless therefrom.

12.20 Declarant's Rights. Subject to Section 1.13, any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, that no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly Recorded. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the Annexable Property in any manner whatsoever. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units and sales offices, and Declarant shall have an easement for

access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by Declarant and any clubhouse or community center which may be owned by the Association, as models, sales offices and other purposes related to Declarant's sales activities on the Property and the Annexable Property. So long as Declarant continues to have rights under this Section, no Person shall Record any subdivision plat or map, any declaration of covenants, conditions and restrictions, any declaration of condominium or any similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted Recordation without compliance herewith shall result in such subdivision plat or map, declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant. This Section may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of: (a) ten (10) years from the date this Declaration is Recorded; or (b) upon Recording by Declarant of a written statement that all sales activity has ceased.

12.21 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon Declarant or upon UDC Homes any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as Declarant, UDC Homes or a trustee for the benefit of Declarant or UDC Homes owns any portion of the Property, without the express written consent of Declarant and UDC Homes. Further, and notwithstanding any other provision of this Declaration to the contrary, for so long as DMB owns fee title to any Lot and the Option (as defined in Section 1.13) has not expired or been terminated (other than because of UDC Homes' acquisition over time of all of the Lots), no provision of this Declaration (including, but not limited to, this Section) which grants to or confers upon Declarant or upon DMB any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way without the express written consent of DMB.

12.22 References to VA and FHA. In various places throughout this Declaration, references are made to the Veterans Administration ("VA") and the Federal Housing Administration ("FHA") and, in particular, to various consents or approvals required of either or both of such agencies. These references are included so as to cause this Declaration to meet certain requirements of such agencies should Declarant submit the Silverstone Ranch project (or portions thereof) for approval by either or both of such agencies. However, neither Declarant nor UDC Homes shall have any obligation to submit the Silverstone Ranch project (or any portion thereof) for approval by either or both of such agencies, and Declarant and UDC Homes shall have full discretion whether to submit the Silverstone Ranch project (or any portion thereof) for approval by either or both of such agencies. Unless and until the VA or the FHA shall have approved the Silverstone Ranch project, and at any time during which both: (a) such approval, once given, shall be revoked, withdrawn, cancelled or suspended; and (b) there are no outstanding mortgages or deeds of trust Recorded against any Lot or other portion of the Property to secure payment of an FHA-insured or VA-guaranteed loan, all references herein to required approvals or consents of such agencies shall be deemed null and void and of no force or effect.

12.23 Amendments to Articles and Bylaws. Except as otherwise provided in the Declaration, the Articles and Bylaws may only be amended by following the procedure set forth in this Section. The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either an annual meeting or a special meeting, and if approved by Members holding (either personally or by valid proxy) the Applicable Percentage (defined below) of the votes eligible to be cast on the amendment (including votes otherwise eligible to be cast but not represented personally or by valid proxy at such meeting), such amendment shall have been adopted, provided, however, that a copy of any such proposed amendment or a summary of the changes to be effected shall have been given to each Member in good standing at least ten (10) days prior to said meeting of the Members. For purposes hereof, the "Applicable Percentage" shall mean, in the case of an amendment to the Articles, sixty-seven percent (67%), and in the case of an amendment to the Bylaws, fifty-one percent (51%). Any number of amendments may be submitted and voted upon at any one meeting. Notwithstanding the foregoing but subject to Section 12.22, so long as the Class B membership is in existence, the following actions shall require the prior approval of the Federal Housing Administration and the Veterans Administration: (a) amendment of the Articles or the Bylaws; (b) dissolution of the Association; and (c) merger or consolidation of the Association with any other entity.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first set forth above.

DECLARANT:

DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership

By DMB GP, INC., an Arizona corporation, General Partner

By JC Howell

Its V.P.

UDC CONSENT AND APPROVAL

UDC Homes, Inc., a Delaware corporation, hereby consents to, approves and joins in the execution and recordation of the foregoing Declaration.

UDC HOMES, INC., a Delaware corporation

By _____

Its Assistant Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 29TH day of JUNE, 1995, before me, the undersigned officer, personally appeared JAMES C. HOSELTON, who acknowledged himself to be VICE PRESIDENT of DMB GP, INC., an Arizona corporation, which is General Partner of DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, and that he/she, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of said entities by himself/herself.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Carol Klimoski
Notary Public

My commission expires:

OFFICIAL SEAL
CAROL KLIMOSKI
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Exp. April 20, 1997

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 29 day of June, 1995, before me, the undersigned officer, personally appeared Gina M. Self, who acknowledged himself to be Assistant Vice President of UDC HOMES, INC., a Delaware corporation, and that he/she, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of said corporation by himself/herself.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Janet L. Weems
Notary Public

My commission expires:

OFFICIAL SEAL
JANET L. WEEMS
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Oct. 11, 1997

ARR0C623

Exhibit A

Lots 1 through 134, inclusive, and Tracts A through Q, inclusive, SILVERSTONE RANCH, according to the plat recorded in Book 397 of Maps, page 3, records of Maricopa County, Arizona.

Exhibit B

The entire Property described on Exhibit A will consist of a single Phase for Assessment purposes.

When recorded mail to:

Jon A. Titus, Esq.
Titus, Brueckner & Berry
7373 N. Scottsdale Road
Scottsdale, Arizona 85253

MARICOPA COUNTY RECORDER
HELEN PURCELL
96-0517931 07/24/96 10:29
METRO 1 OF 1

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS

RECEIVED
JUL 24 1996
TITUS, BRUECKNER & BERRY

NEELY FARMS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("the Declaration") is made this 15th day of July, 1996 by CHI CONSTRUCTION COMPANY, an Arizona corporation ("CHI"), WOODSIDE HOMES OF ARIZONA, INC., an Arizona corporation ("Woodside"), and HARVARD INVESTMENTS, INC., a Nevada corporation ("Harvard") (collectively, "Developers" and individually, a "Developer").

RECITALS

A. The Developers are the owners and developers of certain real property in the Town of Gilbert, County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 1 through 629, inclusive, of Neely Farms, Units I, II, III and IV, more particularly described in the records of Maricopa County, Arizona, Book 419 of Maps, Pages 22-25 ("the Property" or "the Project").

B. The Developers desire that a nonprofit corporation, Neely Farms Homeowners' Association, be formed for the purpose of the efficient preservation of the values and amenities of the Property and to which will be delegated certain powers of administering and maintaining the Common Area, enforcing this Declaration, and collecting and disbursing the assessments created herein.

C. The Developers desire and intend that the Property shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on and for the benefit of all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors or assigns, and shall

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exception of the areas designated as lettered tracts and areas dedicated to the public. Each Lot shall be a separate freehold estate.

Section 1.11 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity that is a member of the Association.

Section 1.12 "Owner(s)" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same have merged) of any Lot. "Owner" shall include the purchaser under a recorded agreement for sale of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein "Owner" shall not include a lessee or tenant of a Lot. "Owner" shall include a Developer so long as such Developer owns any Lot within the Property.

Section 1.13 "Property" or "Properties" shall mean the real, personal, or mixed property described or located on Recital A above which is subject to this Declaration.

Section 1.14 "Rules" shall mean the rules and regulations adopted by the Board, if any, as such may be amended from time to time, as more further described in Section 4.4.

Section 1.15 "Village" refers to the four villages into which the Property has been divided, as set forth on Exhibit A attached hereto. Notwithstanding any contrary provision of this Declaration, there shall be only one Developer for each Village. As of the date of recordation of this Declaration, CHI is the Developer of Village A, Woodside is the Developer of Village B, and Harvard is the Developer of Villages C and D.

Section 1.16 "Visible from Neighboring Property" shall mean, with respect to any given object, visible to a person six feet tall, standing on any part of neighboring property at an elevation no greater than ground level where the object is located (assuming the ground level where the person is standing is at the same height as the ground level where the object is located). B

ARTICLE II
PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facilities or areas situated upon the Common Area;

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encroaching upon the lawful right of such others and in accordance with the Association Rules established by the Board.

Section 2.4 Title to Common Area. Harvard covenants that it will convey fee simple title to the Common Area to the Association, free of all encumbrances except current real and personal property taxes and other easements, conditions, reservations and restrictions then of record. The conveyance shall be made to the Association by Harvard prior to the conveyance of the first Lot from any Developer to any purchaser.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION

Section 3.1 General Declaration. Because it is intended that the Property as presently subdivided shall be sold and conveyed to purchasers subject to this Declaration, the Developers hereby declare that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended from time to time; provided, however, property which is not part of a Lot and which is dedicated or transferred to a public authority or utility pursuant to Section 4.7 shall not be subject to this Declaration while owned by the public authority or utility. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property. This Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of the Developers, the Association, all Owners, Members and their respective successors in interest.

ARTICLE IV
THE ASSOCIATION

Section 4.1 The Association. The Association is an Arizona non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise modified or interpreted so as to be inconsistent with this Declaration.

Section 4.2 The Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

Section 4.3 Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and Bylaws.

Section 4.4 Rules. By action of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Rules". The Rules may restrict and govern the use of the Property

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of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 5.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners but, so long as any Class B memberships are outstanding in the Property, shall not include the Developer in each Village. Each such Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as such Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Members shall be the Developers. Each Developer shall be entitled to three (3) votes for each Lot owned. Each Class B Member may cast its votes in such proportions as it may determine (i.e., cumulative voting shall be allowed). The Class B memberships shall cease and be converted to Class A on the happening of either the following events, whichever first occurs:

(a) When the total votes outstanding in the Class A membership within the Project equal or exceed the total votes outstanding in the Class B membership within the Project, or

(b) The 31st day of December, 2001.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. Each Developer covenants for each Lot, and each Owner of any Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. A Lot owned by the Association, pursuant to Section 6.8 or otherwise, shall not be subject to assessment.

The annual and special assessments, together with interest costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien thereon as well as the personal

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Section 6.5 Notice and Quorum for any Action Authorized Under Sections 6.3 and 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.3 and 6.4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.6 Uniform Rate of Assessment. Except as provided herein, the annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, as designated by the Board. Until such time as 75% of the Lots within a Village are sold to third party residential homebuyers, the Developer for that Village shall pay 25% of the annual assessments for each Lot which the Developer owns, which assessments shall be payable in twelve (12) equal monthly installments in the same manner established for payment of the annual assessment amount by other Lot Owners; provided, however, that the Developer shall pay and be liable for the full assessment amount for any Lots owned by the Developer which are being used by the Developer as Model Homes or otherwise being used and occupied for residential purposes (but not sooner than the closing of the first Lot to a residential homebuyer). The 25% reduced assessment rate for a Developer as provided in this Section 6.6 shall remain in effect until the end of the month in which 75% of the Lots in the Developer's Village have been sold to third party residential homebuyers, at which time the reduced assessments shall terminate and full assessments shall be payable by the Developer as of the commencement of the next following month. For any period in which a Developer is entitled to reduced assessments as provided in this Section 6.6, the Developer shall also be obligated to pay its pro rata share of any Shortfall (as hereinafter defined), which obligation shall be in addition to the Developer's obligation to pay annual assessments at the reduced rate. A Developer's pro rata share of a Shortfall shall be due and payable within 30 days after demand therefor by the Association. A Developer's pro rata share of a Shortfall shall be an amount equal to the total Shortfall, multiplied by a fraction, the numerator of which is the total number of Lots owned by the Developer, and the denominator of which is the total number of Lots owned by all Developers entitled to reduced assessments under this Section 6.6. As used herein, the term "Shortfall" means, with respect to any period in which any Developer is entitled to reduced annual assessments under this Section 6.6., the amount by which the total expenses of the Association for that period exceed the annual assessments payable by Owners for that period (including Developer(s) at the reduced rate under this Section 6.6). The obligation of a Developer to pay its pro rata share of a Shortfall as set forth in this Section 6.6 shall be a lien against Lots owned by the Developer, on a pro rata basis, and shall be enforceable by the Association in the same manner as assessments provided for herein. Any Shortfall obligation paid by a Developer shall be deemed to be an advance payment of annual assessments at the full assessment amount.

Section 6.7 Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as of the date of conveyance of the first Lot.

Upon recordation of a duly executed original or copy of such claim of lien, and mailing a copy thereof to the defaulting Owner, the lien claimed shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien, except only tax liens for real property taxes and liens which are specifically described in Section 6.9. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a realty mortgage or by the exercise of a power of sale in the manner provided by law under a trust deed, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association shall have the power to bid in at any foreclosure or trustee's sale and to purchase, acquire, hold, lease, mortgage, and convey any such Lot. In the event of such foreclosure or trustee's sale, reasonable attorneys' fees, court costs, trustee's fees, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 6.9 Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, foreclosure or trustee's sale, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 7.1 Organization, Power of Appointment and Removal of Members. There shall be an Architectural Committee, organized as follows:

(a) Committee Composition. The Architectural Committee shall consist of five (5) or three (3) regular members (in any case, an odd number), the Board so elects, and two (2) alternate members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.

(b) Alternate Members. In the event of the absence or disability of one (1) or two (2) regular members of said Committee, the remaining regular member or members, even though less than a quorum, may designate either or both of the alternate members, if any, to act as substitutes for the absent or disabled regular member or members for the duration of such absence or disability, who shall thereupon become "regular" members during such term of designation.

Section 7.6 Time for Approval. In the event the Architectural Committee fails to approve or disapprove the plans and specifications, such will be deemed approved within thirty (30) days after their submission.

Section 7.7 Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, and the Association hereby indemnifies and holds harmless the Architectural Committee and all members thereof, for, from and against any and all damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or similar documents whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the overall development of the Property, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by such member, and without willful or intentional misconduct, as would be applicable under local law, and except for those circumstances under which a member of the Board would have liability under Section 4.5. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or listen to the views of the Association or any Owner with respect to any proposal submitted to the Architectural Committee.

ARTICLE VIII
USE RESTRICTIONS

Section 8.1 Permitted Uses and Restrictions - Residential. The permitted uses, easements, and restrictions for all Property covered by this Declaration shall be as follows:

(a) Single Family Residential Use. All Lots shall be used, improved and devoted exclusively to single family residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted thereon. Nothing herein shall be deemed to prevent the leasing of any Lot with the improvements thereon to a single family from time to time by the Owner thereof, subject to all of the provisions of the Declaration. No structure whatever shall be erected, placed or permitted to remain on any Lot without the express written approval of the Architectural Committee, provided, however, the Architectural Committee will consider requests for construction of a detached garage, gazebo, guest quarters and other such structures. However, written approval by the Architectural Committee of such structures is essential to construction of such structures and such structures must comply with the guidelines established for such structures either in this Declaration or in any rules established by the Architectural Committee and/or the Town of Gilbert. Lots owned by a Developer or its designee or assignee may be used as model homes and for sales and construction offices for the purpose of enabling the Developer or its designee or assignee to sell Lots within the Property until such time as all of the Lots owned by the Developer or its designee or assignee have been sold or leased to purchasers or tenants.

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(f) Repair of Buildings. No improvement upon any Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

(g) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Property except in covered sanitary containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make same available for collection and, then, only the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.

(h) Overhangs. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or otherwise to encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

(i) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Property except usual and customary equipment and machinery used in connection with the use, maintenance or construction of permitted improvements, and except that which any Developer or the Association may require for the operation and maintenance of the Common Area. Slides, playground equipment, basketball poles and hoops, outdoor decks, gazebos and other such equipment or structures shall be allowed provided they are approved by the Architectural Committee.

(j) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner, without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.

(k) Signs. No sign of any nature (other than a name and address sign, not exceeding 9" x 30" in size) shall be permitted on any Lot; provided, however, that one sign of not more than five square feet may be temporarily erected or placed on a Lot for the purpose of advertising the Lot for sale or rent; and provided further a Developer or its designee or assignee may erect any signs during construction. These restrictions shall not apply to the Association in furtherance of its powers and purposes herein set forth.

(p) Nuisances/Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to a Lot and no odors or loud noises shall be permitted to arise or emit therefrom, so as to create a nuisance, render any such Property or any portion thereof or activity thereon unsanitary, unsightly, offensive or detrimental to the Lot or person in the vicinity thereof. Without limiting the generality of any of the foregoing provisions, no speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such Property. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Property. The Board in its sole discretion shall have the right to determine the existence of any violation of this Section and its determination shall be final and enforceable as provided herein. Normal construction activities shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods. Supplies or building materials and construction equipment shall be stored only in such areas and in such manner as may be approved by the Architectural Committee or a Developer. D E

(q) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise not Visible From Neighboring Property. F

(r) Mineral Exploration. No Property 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 of any kind.

(s) Diseases and Insects. No Owner or resident shall permit any thing or condition to exist upon the Property which shall induce, breed or harbor infectious plant diseases or noxious insects.

(t) Party Walls and Fences. The rights and duties of Owners with respect to party walls or party fences shall be as follows:

(1) Owners of contiguous Lots who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use does not interfere with the use and enjoyment thereof by the other Owner.

(2) In the event that any party wall or party fence is damaged or destroyed through the act of an Owner, his agents, guests, or family members, it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the other adjoining Lot Owner or Owners. Any dispute over an Owner's liability shall be resolved as provided in subsection (5) below.

(u) Drainage Easement. There is hereby created a blanket easement for drainage of groundwater on, over and across the Common Area. No Owner shall obstruct, divert, alter or interfere with any portion of the Property. Each Owner shall at his own expense maintain the drainageways and channels on his Lot in proper condition free from obstruction.

(v) Parking. It is the intent of a Developer to eliminate on-street parking as much as possible. Vehicles of all Owners, residents, guests and invitees are to be kept in garages, carports, residential driveways and other parking areas designated by the Association.

(w) Right of Entry. During reasonable hours and upon reasonable notice to the Owner or resident of a Lot, any Member or authorized representative of the Architectural Committee or the Board shall have the right to enter upon and inspect any Lot or improvements thereon, except for the interior portions of any completed improvements, to determine if the improvements are in compliance with this Declaration. Any such persons shall not be deemed guilty of trespass by reason of such entry.

(x) Health, Safety and Welfare. In the event uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or residents, the Board may make rules restricting or regulating their presence as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots as part of the Architectural Committee Rules.

(y) Developer's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by a Developer, or its duly authorized agents, of improvements or signs necessary or convenient to the development or sale of Lots within the Property.

Section 8.2 Permitted Uses and Restrictions - Common Area. The permitted uses and restrictions for the Common Area shall be as follows:

(a) Permitted Uses.

(1) Except as otherwise provided herein, the Common Area shall be used in general for the exclusive benefit of the Owners, for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment to be derived from such reasonable and proper use, without hindering the exercise of or encroaching upon the right of any other Owner to utilize the Common Area, provided that no unlawful use shall be permitted.

(b) Restricted Uses.

(1) The Common Area shall not be used by Owners for storage of supplies, material or personal property of any kind.

(6) Remove all papers, debris, filth and refuse from the Common Area and wash or sweep paved areas as required; clean and relamp lighting fixtures as needed;

(7) Repaint striping, markers, directional signs, and similar identification or safety devices as necessary;

(8) Pay all real and personal taxes and assessments on the Common Area;

(9) Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Area;

(10) Pay for and keep in force at the Association's expense, adequate insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Area. Such insurance shall be with companies acceptable to the Association in amounts and with adequate limits of liability desired by the Owners or required of the Owners pursuant to any other recorded document affecting the Property, such insurance to name the Association or the Owners or both as named insureds;

(11) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration;

(12) The Board shall be the sole judge as to the appropriate maintenance within the Common Area; and

(13) Nothing herein shall be construed so as to preclude the Association from delegating its powers set forth above to a project manager or agent or to other persons, firms or corporations.

(d) Damage or Destruction of Common Area by Owners. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, or agents, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall, to the extent required under local law, be paid by said Owner, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments, including Section 9.3 hereof.

(e) Mortgage or Conveyance of Common Area. The Common Area shall not be mortgaged or conveyed without the prior consent of Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members.

the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In the event any portion of any Lot is maintained so as to present a public or private nuisance, or substantially detract from or affect the appearance or quality of any surrounding Lot, or is used in a manner which violates this Declaration or in the event the Owner or resident of any Lot is failing to perform its obligation under this Declaration or the Architectural Committee Rules, the Association or any Owner(s) may give notice to the Owner of such Lot that unless corrective action is taken within fourteen (14) days, the Association or such Owner may take, at such Owner's cost, whatever action is appropriate to complete compliance including, without limitation, appropriate legal action. Charges incurred by the Association or such Owner(s) in making any repairs or maintenance shall be borne by the violating Owner and shall be paid to the Association or such Owner(s), as appropriate, on demand with interest at twelve percent (12%) per annum accruing from the date said charges are incurred until paid in full. Any sum not paid hereunder by the violating Owner shall be treated as an assessment and collected in accordance with the procedures provided in Article VI.

Section 10.3 Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.4 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by Owners representing not less than seventy-five percent (75%) of the authorized votes of each class of Membership, and thereafter by an instrument signed by Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members; except that the Developers, acting jointly, may amend the Declaration as may be requested by the FHA, VA, FHLMC or FNMA, or any government agency which requests such amendment as a condition of approving the Declaration or any federally chartered lending institution which requests such amendment as a condition to lending funds upon the security of any Lot, or as may be appropriate in the event of any such requested amendment that deletes, diminishes or alters the Developers' control of the Association and its activities, to permit the Developers to adopt other and different control provisions. Any amendment must be recorded.

Section 10.5 Notices. Notices provided for in these Restrictions shall be in writing and shall be addressed to the last known address of the Lot Owner in the files of the Neely Farms Homeowners' Association. Notices shall be deemed delivered when mailed by United States First Class, Registered or Certified Mail addressed to the Lot Owner at such address or when delivered in person to such Owner.

Section 10.6 Condemnation. Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Property is to be taken by any governmental body

Section 10.9 Prior Approval. As long as there is a Class B membership, then if this Declaration has previously been approved by the Federal Housing Administration or the Veterans Administration, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area, and the amendment of this Declaration.

IN WITNESS WHEREOF, Developers, have caused their corporate names to be signed and their corporate seals to be affixed by the undersigned officers thereunto duly authorized this 15th day of July, 1996.

"CHI"

CHI CONSTRUCTION COMPANY,
an Arizona corporation

By: _____

Its: VP of Land Acquisition

"WOODSIDE"

WOODSIDE HOMES OF ARIZONA, INC.,
an Arizona corporation

By: _____

Its: Sr. V.P.

"HARVARD"

HARVARD INVESTMENTS, INC.,
a Nevada corporation

By: _____

Its: _____

EXHIBIT "A"

VILLAGE A

Continental Lots

Lots 142 through 438, inclusive, of Neely Farms, Unit III, Parcel III, more particularly described in the records of Maricopa County, Arizona, in Book 419 of Maps, Page 24.

VILLAGE B

Woodside Lots

Lots 1 through 80, inclusive, of Neely Farms, Unit I, more particularly described in the records of Maricopa County, Arizona, in Book 419 of Maps, Page 22.

VILLAGE C AND D

Harvard Lots

Lots 81 through 141, inclusive, of Neely Farms, Unit II, more particularly described in the records of Maricopa County, Arizona, in Book 419 of Maps, Page 23.

Lots 439 through 629, inclusive, of Neely Farms, Unit IV, Parcel IV, more particularly described in the records of Maricopa County, Arizona, in Book 419 of Maps, Page 25.

3500.17\EXH-A.CCR

Recording Requested by:
FIRST AMERICAN TITLE

When recorded mail to:

HELEN PURCELL
96-0723702 10/10/96 03:57
[illegible] 7 of 15

CAPTION HEADING:
AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DOCUMENT IS BEING RE-RECORDED FOR THE SOLE PURPOSE OF ATTACHING EXHBITS "A" AND "B".

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3. All of the other terms and conditions of the Declaration shall remain unchanged.

"CHI"

CHI CONSTRUCTION COMPANY,
an Arizona corporation

By _____
Its VP of Land Acquisition

"WOODSIDE"

WOODSIDE HOMES OF ARIZONA, INC.,
an Arizona corporation

By _____
Its SR. VP

"HARVARD"

HARVARD INVESTMENTS, INC.,
a Nevada corporation

By _____
Its President

"RYLAND"

RYLAND GROUP, INC.,
an Arizona corporation

By _____
Its _____

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NEELY FARMS HOMEOWNERS ASSOCIATION,

By _____

Its _____

OFFICIAL SEAL
LIANE BABB
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Dec. 11, 1998

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this [illegible] day of [illegible], 1996, before me, the undersigned Notary Public, personally appeared [illegible], who acknowledged himself to be the [illegible] of CHI CONSTRUCTION COMPANY, an Arizona corporation, and that as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

_____
Notary Public

My Commission Expires:

[illegible]

STATE OF ARIZONA)
) ss.
County of Maricopa)

OFFICIAL SEAL
CHRISTINE A. BEAUCHAMP
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Sept. 17, 1999

On this 11th day of [illegible], 1996, before me, the undersigned Notary Public, personally appeared [illegible], who acknowledged himself to be the [illegible] of WOODSIDE HOMES OF ARIZONA, an Arizona corporation, and that as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

_____
Notary Public

My Commission Expires:

September 17, 99

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STATE OF NEVADA)
) ss.
County of Maricopa)

On this 14th day of August, 1996, before me, the undersigned Notary Public, personally appeared Craig L. Krumwiede, who acknowledged himself to be the President of HARVARD INVESTMENTS INC., a Nevada corporation, and that as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

NOTARY PUBLIC
STATE OF ARIZONA
County of Maricopa
KIMBERLEY KORP
My Commission Expires Sept. 14, 1999

Kimberley Korp
Notary Public

My Commission Expires:

9.14.99

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 22 day of August, 1996, before me, the undersigned Notary Public, personally appeared [illegible], who acknowledged himself to be the V.P. of the RYLAND GROUP, INC., an Arizona corporation, and that as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation.

OFFICIAL SEAL
JOYCE L. LARSCHEID
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Aug. 19, 1999

Joyce L. Larscheid
Notary Public

My Commission Expires:

August 19, 1999

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CONSENT TO AMENDMENT TO DECLARATION

The undersigned UDC Homes, Inc., a Delaware corporation, hereby consents to the foregoing Amendment to Declaration.

UDC HOMES, INC.

By _____
Its Asst. Secy.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 23 day of September, 1996 by ROBERT M. COSS as ASST SECRETARY of UDC Homes, Inc., a Delaware corporation, on behalf of the corporation.

_____
Notary Public

My Commission Expires:

04/30/98

PH562600.006-V1-

09/16/96

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EXHIBIT "B"

THAT CERTAIN REAL PROPERTY CONSISTING OF 106 FINAL PLATTED AND ENGINEERED LOTS (48' X 110"), DESCRIBED AS LOT NOS. 439 THROUGH 469 AND LOT NOS. 537 THROUGH 611 OF UNIT IV, NEELY FARMS SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT RECORDED ON JULY 3, 1996 AT BOOK 419 OF MAPS, PAGE 25, INSTRUMENT NUMBER 96-0472495, RECORDS OF MARICOPA COUNTY, ARIZONA.

BYLAWS OF
NEELY FARMS HOMEOWNERS' ASSOCIATION

ARTICLE I
PLAN OF LOT OWNERSHIP

1. Name and Location.

These Bylaws shall constitute the Bylaws of Neely Farms Homeowners' Association (the "Association"), a corporation formed pursuant to Covenants, Conditions and Restrictions now or hereafter recorded in the records of the County Recorder of Maricopa County, Arizona, on July 24, 1996, in Instrument No. 96-0517931 as and if amended (the "Declaration"), for those subdivisions recorded as Neely Farms (the "Project").

2. Personal Application.

All present or future Owners (as defined in the Declaration), tenants, future tenants, or their employees, or any other persons who might use the facilities of the Project in any manner, are subject to the regulations of these Bylaws as set forth herein.

3. Non-Profit Corporation.

The Association is an Arizona non-profit corporation, and is organized and existing under and by virtue of the laws of the State of Arizona as same pertains to the application of corporate activities and the Project. The office of the Association shall be located at 7001 North Scottsdale Road, Suite 2050, Scottsdale, Arizona 85253, but meetings of the members and directors may be held at such places within the State of Arizona, County of Maricopa, as may be designated by the Board of Directors.

4. Terms.

The terms utilized in these Bylaws shall, except as otherwise provided herein, have the meanings set forth in the Declaration.

ARTICLE II
MEETINGS OF THE MEMBERSHIP

1. Place.

All meetings of the Members shall be held at the Project, or at such other place as shall be designated by the Board of Directors of the Association and stated in the Notice of Meeting.

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many votes in the aggregate as shall equal three (3) times the number of Lots for which he is a Voting Member, multiplied by the number of Directors to be elected at such election; and each Voting Member may cast the whole of such votes whether in person or by proxy for one candidate, or distribute such votes among two (2) or more candidates, and Directors of the Association shall not be elected otherwise.

7. Informal Action.

Any action required to be taken at a meeting of the Members, or any other action which may be taken at such meeting, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members entitled to vote with respect to the subject matter thereof.

8. Irregularities.

All information and/or irregularities in calls, notices of meetings and in the manner of voting, form of proxies, credentials, and method of ascertaining those present, shall be deemed waived if no objection is made at the meeting or if waived in writing.

9. Record Date.

For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, or in order to make a determination of Members for any other purpose, the Board of Directors, at its election, may provide that the Membership books shall be closed for a stated period, but not to exceed in any case fifteen (15) days prior to the event concerned.

ARTICLE III
BOARD OF DIRECTORS

1. Number and Term of Office.

The initial Board of Directors shall consist of five (5) Members, and for so long as there is a Class "B" Membership outstanding, the Board of Directors shall consist of five (5) Members. Thereafter, the number for the Board shall be an odd number not less than five (5) Directors nor more than seven (7) Directors. Notwithstanding anything to the contrary herein, for so long as there is a Class "B" Membership in the Property: the Developer for Village A shall have the sole right to appoint or elect two (2) Board members, the Developer for Village B shall have the sole right to appoint or elect one (1) Board member, the Developer for Village C shall have the sole right to appoint or elect one (1) Board member, and the Developer for Village D shall have the sole right to appoint or elect one (1) Board member. From and after the time that Class "B" Memberships cease and are converted to Class "A" Memberships, the Board members shall be elected on a Property-wide (as opposed to a Village-by-Village) basis. Except for the initial Board of Directors and any Director elected or appointed by a Developer, each Director shall be an Owner of a Lot or, if an Owner is a corporation, partnership, trust or

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nevertheless be given to each Director personally, or by mail, telephone or telegraph, at least five (5) days prior to the day named for such meeting.

7. Special Meetings.

Special meetings of the Board of Directors may be called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinafter provided) and purpose of the meeting.

8. Waiver of Notice.

Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or the time and place thereof, except when a Director attends for the express purpose of objecting to lack of notice. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

9. Board of Directors' Quorum.

At all meetings of the Board of Directors, a majority of all the Directors shall constitute a quorum for the transaction of business, and every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. If at any meeting of the Board of Directors, there should be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Fidelity Bonds.

The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds, and all other persons designated by the Declaration, furnish adequate fidelity bonds or coverage. The premiums on such bonds or coverage shall be paid by the Association.

11. Powers and Duties.

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Corporation. These powers shall include the following:

(a) To make assessments as authorized by the Declaration and to collect, use and expend the assessments to carry out the purposes and powers of the Association;

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ARTICLE IV
OFFICERS

1. Enumeration and Election of Officers.

The principal officers of the Association shall be a president, a vice president, a secretary and a treasurer. Each officer shall be an Owner of a Lot or, if an Owner is a corporation, partnership, trust or other legal entity, the officer may be a representative thereof. Notwithstanding the foregoing, as long as there is a Class "B" Membership, each officer need not be an Owner of a Lot. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

2. Term.

The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

3. Special Appointments.

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

4. Resignation and Removal.

Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5. Multiple Offices.

The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 3 of this Article.

6. The President.

The president shall be the chief executive officer of the Association; shall preside at all meetings of the Member and of the Board of Directors; shall have executive powers and general

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ARTICLE V
FISCAL MANAGEMENT

1. Depositories.

The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time, upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association or a professional management company as may be designated by the Board of Directors.

2. Determination of Assessments.

The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses for the Project ("Common Expenses") and cash requirements for the year. The estimated annual budget shall not include those utility expenses which are the obligation of the individual Owners. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of any of the Common Areas. The annual budget shall also provide for a reserve for contingencies for the year and an adequate reserve for maintenance, repairs and replacements of those Common Areas that must be replaced on a periodic basis, as determined by the Board. To the extent that the assessments and other cash income collected from the Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall be taken into account in determining the annual budget.

3. Amount.

Each Lot shall pay its pro-rata share of the total annual assessment in the proportion required by the Declaration. The Developers shall be entitled to reduced annual assessments under the terms and conditions set forth in Section 6.6 of the Declaration.

4. Budget.

The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Owner not later than thirty (30) days before the beginning of such year. On or before the first day of each quarter of each year covered by the annual budget, each Owner shall pay one-fourth (1/4) of the annual assessment for his Lot. As used herein, proportionate shares of each Owner and his Lot shall be in accordance with his respective ownership interest in the Common Areas as set forth in the Declaration. (Such general assessments and utility assessments may hereinafter be referred to collectively as regular quarterly assessment(s)).

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(a) Interest. If any Assessment is not paid within thirty (30) days after it becomes due and payable, interest at the rate of twelve percent (12%) per annum, or the prevailing FHA/VA interest rate for new home loans (at the time of delinquency), whichever is higher, but in no event exceeding the maximum rate allowed by law, shall be assessed on the amount owing from the date of delinquency until such time as it is paid.

(b) Late Charge. The Board may, in its discretion, require an Owner and any predecessor in interest who was in arrears at the time of a voluntary conveyance to pay a late charge, in an amount to be determined by the Board, for delinquency in the payment of Assessments which are five (5) days or more overdue.

(c) Suspension of Vote. The Board may suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to vote on any matter at regular or special meetings of the Association.

(d) Suspension of Recreation Privileges. The Board may also suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to use of the recreational facilities of the Project.

(e) Enforcement of Lien. The Board of Directors may proceed as authorized by Section 10 of this Article V or the requisite provisions of the Declaration to institute an action at law for a money judgement or other proceeding to recover the amount of the delinquent Assessment.

10. Lien.

It shall be the duty of every Owner to pay his Lot's respective Assessment(s) in the manner herein provided. Such Assessments, together with any interest thereon and costs of collection thereof, as provided for in the Declaration, shall be a continuing lien upon the Lot against which and for which such Assessment is made. The Association and the Board shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Declaration, these Bylaws or otherwise available at law or in equity for the collection of all unpaid Assessments and any interest thereon and costs of collection thereof.

11. Recordation.

Any lien upon a Lot shall become effective upon recording notice thereof in the office of the County Recorder, Maricopa County, Arizona.

12. Suit.

Suit to recover a money judgement for unpaid Assessments shall be maintainable without foreclosure or waiving any lien securing same. In any legal action against an Owner to enforce payment of any unpaid Assessments or otherwise to secure compliance with the provisions of

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ARTICLE VII
AMENDMENTS OF THE BYLAWS

These Bylaws may be amended at any regular or special meeting of the Directors; provided, however, that the Federal Housing Administration and the Veterans Administration shall have the right to veto any amendments while there is a Class "B" Membership. In addition, any proposed amendment which would affect the percentage interests of Owners must have the prior written approval of all holders of first mortgages on the Lots.

ARTICLE VIII
CONSTRUCTION

1. Conflicts.

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. If any provision of these Bylaws is less restrictive than the Declaration or the Articles of Incorporation when Dealing with the same subject, the more restrictive provisions of the Declaration and Articles of Incorporation shall be applicable in the same manner as if included in the provisions of these Bylaws.

2. Disputes.

In the event of any dispute or disagreement between any Owners relating to the Project, or any questions, or interpretation or application of the provisions of the Articles of Incorporation, Declaration, or these Bylaws, the determination thereof by the Board shall be final and binding on all Owners. If a decision cannot be reached by the Board, such matter shall be decided as set forth in the Declaration.

3. FHLMC, FNMA, FHA/VA.

Notwithstanding anything to the contrary herein, to the extent that these Bylaws shall be contrary to or inconsistent with provisions of the Declaration, Federal National Mortgage Association, Federal Housing Administration and Veterans Administration, if any may be applicable to the Association, these Bylaws shall be considered superseded by such provisions, rules and/or regulations.

ARTICLE IX
LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of ownership of a Lot and/or Membership in the Association shall not relieve or release any former Owner or Member from any liability or obligations incurred under or in any way connected with the Project and/or Association, during the period of such ownership and Membership, or impair any rights or remedies which the Association may have

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DATE FILED

JUL 25 1996

DATE APPR 7-25-96
TERM
BY Cheri Lee

ARTICLES OF INCORPORATION
OF
NEELY FARMS HOMEOWNERS' ASSOCIATION

The undersigned hereby voluntarily set forth the following statements for the purpose of forming a non-profit corporation under and pursuant to the laws of the State of Arizona, and for that purpose hereby adopt these Articles of Incorporation.

0783458-

ARTICLE I
NAME

The name of the corporation is NEELY FARMS HOMEOWNERS' ASSOCIATION, hereinafter called the "Association".

CLMF

ARTICLE II
KNOWN PLACE OF BUSINESS

The address of the Association's known place of business is 7001 North Scottsdale Road, Suite 2050, Scottsdale, Arizona 85253, but other offices may be established and maintained at such other places as the Board of Directors may designate from time to time.

ARTICLE III
PURPOSE AND INITIAL BUSINESS

The initial business and primary purpose of the Association is to serve as a governing body for all of the Owners of the Lots at that Property known as Neely Farms (the "Property"), subject to Covenants, Conditions, and Restrictions now or hereafter recorded in the records of the County Recorder, Maricopa County, Arizona, on July 24, 1996, in Instrument No. 96-0517931 as, and if amended (the "Declaration"), including but not limited to the acquisition, construction, management, maintenance, preservation, and care of the Common Areas, as defined in the Declaration, and to perform such other duties as are imposed upon the Association under the Declaration. Defined terms used and not otherwise defined herein shall have the meanings attributed to them in the Declaration.

The Association shall not engage in any other business or activity, except as set forth herein and in the Bylaws of the Association. Notwithstanding any other provisions of these Articles, the Association shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization qualifying under Section 528 or, if the Association so elects, Section 501(c)(4) of the Internal Revenue Code of 1986, as the case may be.

The Association does not contemplate pecuniary gain or profit to the members thereof, and the members shall have no individual interest in the profits of the Association, if they are generated.

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is a Class "B" Membership outstanding shall be five (5) Directors. Thereafter, the number for the Board shall be an odd number not less than five (5) Directors nor more than seven (7) Directors, as specified in the Bylaws. For so long as there is a Class "B" Membership in the Property: the Developer for Village A shall have the sole right to appoint or elect two (2) Board members, the Developer for Village B shall have the sole right to appoint or elect one (1) Board member, the Developer for Village C shall have the sole right to appoint or elect one (1) Board member, and the Developer for Village D shall have the sole right to appoint or elect one (1) Board member. From and after the time that Class "B" Memberships cease and are converted to Class "A" Memberships, the Board members shall be elected on a Property-wide (as opposed to a Village-by-Village) basis. Except for the initial Board of Directors and any Director elected or appointed by a Developer, each Director shall be an Owner of a Lot or, if an Owner is a corporation, partnership, trust, or other legal entity, the Director may be a representative thereof.

Until the first annual meeting of the Members and until their successors are designated or elected or qualified, the following persons shall constitute the Board of Directors of the Association:

Kurt Nelson	c/o CHI Construction Company 7001 North Scottsdale Road, Suite 1050 Scottsdale, Arizona 85253
Randy Thovson	c/o CHI Construction Company 7001 North Scottsdale Road, Suite 1050 Scottsdale, Arizona 85253
Gene Morrison	c/o Woodside Homes of Arizona, Inc. 7400 West Detroit Street, Suite 120 Chandler, Arizona 85226
Craig Krumwiede	c/o Harvard Investments, Inc. 2524 East Camelback Road, Suite 900 Phoenix, Arizona 85016
Chris Cacheris	c/o Harvard Investments, Inc. 2524 East Camelback Road, Suite 900 Phoenix, Arizona 85016

ARTICLE VII
OFFICERS

The affairs of the Association shall be administered by officers elected by the Board of Directors at its first meeting, and at each successive meeting of the Board of Directors following the annual meeting of the Members of the Association, or at other meetings called for

JUL-25-1995 15:07 HZ CORP COMMISSION

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Scott K. Risley	Titus, Brueckner & Berry, P.C. 7373 North Scottsdale Road, Suite B-252 Scottsdale, Arizona 85253
Belle Taylor	Titus, Brueckner & Berry, P.C. 7373 North Scottsdale Road, Suite B-252 Scottsdale, Arizona 85253

All powers, duties and responsibilities of the incorporators shall cease upon the filing of these Articles of Incorporation by the Arizona Corporation Commission.

ARTICLE XII
STATUTORY AGENT

FC Service Corporation, Two North Central, Suite 2200, Phoenix, Arizona 85004-2390, who has been a bona fide resident of the State of Arizona for at least three (3) years, is hereby appointed Statutory Agent of the Association upon whom all notices and process, including summons, may be served. The Board of Directors may revoke the appointment of such agent at any time and shall have the power to fill any vacancy.

ARTICLE XIII
DURATION

The duration of the Association shall be perpetual.

ARTICLE XIV
CONFLICT WITH DECLARATION AND OTHER

To the extent that these Articles shall be contrary to, inconsistent with, or more permissive than the provisions of the Declaration dealing with the same subject, or laws, rules, and regulations or pertaining to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Administration, the Veterans Administration and/or the Federal Housing Administration, applicable to the Association, these Articles shall be considered superseded by the Declaration or such laws, rules and/or regulations.

ARTICLE XV
AMENDMENTS

Subject to the provisions of Article XIV hereof, the Association may, at any regular or special meeting called for such purpose, amend, alter, or repeal any provision hereof by the affirmative vote of two-thirds (2/3) of each Membership class then entitled to vote in person or by proxy, and upon ten (10) days prior written notice to all first mortgagees and, if required by law, after publications in a newspaper having general circulation in Maricopa County, Arizona. As long as there is a Class "B" Membership, any amendment to the

(b) acts or omissions which are not in good faith or which involve intentional misconduct or a knowing violation of law,

(c) a violation of Arizona Revised Statutes Section 10-1026,

(d) any transaction from which the director derived an improper personal benefit, or

(e) a violation of Arizona Revised Statutes Section 10-1097.

Any repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Association existing hereunder with respect to any act or omission occurring prior to or at the time of such repeal or modification.

IN WITNESS WHEREOF, we have hereunto set our hands this 25th day of July, 1996.

Incorporator

Incorporator

STATE OF ARIZONA }
} ss.
County of Maricopa }

On the 25th day of July, 1996, before me, the undersigned Notary Public, personally appeared Scott K. Risley and Belle Taylor known to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires

OFFICIAL SEAL
JANICE L. INNOCENZI
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Oct. 29, 1996

3500.17articles

JUL-26-1996 15:09 AZ CORP COMMISSION

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NEELY FARMS HOMEOWNERS' ASSOCIATION, INC.

ARCHITECTURAL REVIEW COMMITTEE GUIDELINES

AND LANDSCAPE GUIDELINES

ARCHITECTURAL REVIEW PROCESS

In accordance with the Declaration of Covenants, Conditions and Restrictions for Neely Farms Homeowners' Association (the "Declaration"), the Board of Directors has adopted the following Guidelines for Architectural Improvements (the "Guidelines") which shall apply to all lots within Neely Farms Homeowners' Association.

Each lot owner should read, review and make himself acquainted with the CC&R's recorded on hi lot with Maricopa County and with these Architectural Guidelines as may be amended from time to tim by the Board of Directors. These documents are intended to enhance property values and the hig standards of development that exist within Neely Farms Homeowners' Association. The Guidelines ar established to assist residents in preparing an application to the Architectural Committee for structur and landscape improvements. FOLLOWING THESE GUIDELINES DOES NOT ELIMINATE TH NEED FOR SUBMISSION OF PLANS FOR APPROVAL BY THE ARCHITECTURAL COMMITTEE Even if your addition or alteration is identical to another which has been approved, it must b submitted for approval. Because each situation may have different conditions, e.g., different locatior physical conditions or design considerations, etc., each application will be reviewed on a case-by-ca basis. In the event of any inconsistency between these Guidelines and the Declaration, the Declarati shall control. All architectural approvals will be conditioned upon compliance with applicable Ci codes.

Initially, architectural review will be performed by the Board of Directors consisting of employees Continental Homes. It is the intention of this Board of Directors to monitor sales to determine at whi annual membership meeting turnover of the Association will be conveyed from the developer to t homeowners in accordance with the provisions in the legal documents. Within the year prior to tl projected turnover, the Board will solicit volunteers to serve on a Board-appointed Advisory Committe

Among the duties of the Committee will be reviewing architectural submittals and maki recommendations to the Board of Directors for approval or disapproval. When the homeown eventually elect the Board of Directors from among the homeowner members, there will be owners w have had the opportunity to learn the process.

APPLICATION PROCEDURE

Submittal –

Application and plans (which will be kept on file with the Association) should be mailed to:

Appeal –

Any appeal of the Committee's decision must be submitted in writing to Neely Farms Homeowners' Association Architectural Committee, c/o _____, within 30 days from the mailing of the Committee's decision.

ARCHITECTURAL GUIDELINES

ANTENNAS

Refer to the CC&R's, Section 8.1(b) for specific provisions. In summary, no antenna, satellite dish pole, or tower will be permitted that is visible to surrounding properties. In all other cases, plan for the location and concealment of an antenna, pole or tower must be submitted to and approve by the Architectural Committee.

H

AWNINGS

Awnings over windows shall be a canvas type with the color the same on the inside and exteric face. A minimum five-year guarantee is expected from the manufacturer to insure a high qualit awning.

Submit: The manufacturer, color, type, and number of years' guarantee for approval prior installation.

BASKETBALL GOALS OR SIMILAR STRUCTURES

Basketball goals will be considered based upon their appearance and their relationship to oth properties.

CHILDREN'S PLAY STRUCTURES; POOL LADDERS

Plans for children's play structures must be submitted for approval since in most instances th protrude over the fence. This is not intended to eliminate play structures, but to assure nothi unsightly is erected.

When selecting the location upon which the structure is to be placed, the distance from t ground elevation to the top of the perimeter fence must be measured and submitted with t plans for the structure. When considering plan approval, the Committee will take ir consideration the appearance, height and proximity to neighboring property.

I

PATIO COVERS

Plans for patio covers will be considered for approval and should be built using the same specifications as those covered patios built by the original Developer.

POOLS AND SPAS

Pools and spas need not be submitted for architectural approval provided the following requirements are met: (1) pool ladders/slides need to be approved and will be considered based upon appearance, height, and proximity to other properties; and (2) perimeter walls on lots bordering Association landscaped areas may not be torn down. Access must be gained by tearing down a front wall on the side of the home, leaving the perimeter wall intact, assuming it matches in texture and color throughout the community unless other access is approved by the Architectural Committee.

SIGNS

No signs (other than a name and address sign, not exceeding 9" x 30" in size) of any nature, shal be permitted on any Lot; provided, however, that one (1) sign of not more than five (5) square fee may be temporarily erected or placed on a Lot for the purpose of advertising the property for sal or rent; and provided further the builder may erect any signs during construction; and provide further, this restriction shall not apply to the Association in furtherance of its powers an purposes herein set forth.

SOLAR PANES; WIND TURBINES AND EQUIPMENT

All solar energy devises visible from neighboring property or public view must be approved l the Architectural Committee prior to installation.

Roof-mounted solar panels and equipment must match the roof material. Panels must be a integrated part of the roof design and mounted directly to the roof plane. Solar units must n break the roof ridge line and must not be visible from public view.

Wind turbines must be approved by the Architectural Committee as to appearance a placement.

STORAGE SHEDS

Any storage shed will require approval by the Architectural Committee. If approved, proj screening will be required.

SUN SCREENS AND WINDOW TINTING

No aluminum material or other reflective material may be installed in windows.

ASSOCIATION PLANT LIST - - -

The following vegetation types and varieties are prohibited:

1. Olive trees (Olea europaea) other than the "Swan Hill" variety. These trees crea' considerable pollen which disturbs allergy sufferers. A mature tree produces thousands (olives which drop and create a mess in the landscape.

2. Oleanders (Nerium oleander) other than the dwarf variety and Thevetia (Thevel Species). Oleanders other than dwarf or thevetia varieties get to such a size and tru thickness that they are difficult to control on a small lot.

3. Fountain Grass (Pennesethus setaceum) or Pampas Grass (Cortaderia Selloana). Withir very few years, fountain grass and pampass grass build up thatch which makes the extremely difficult to trim back. As a result, they are often let go and are unattractive owners end up removing them. Pampass grass blades are so sharp, they can eas produce sliver cuts.

4. All varieties of Citrus are permissible within the confines of the rear yard.

5. Mexican Palo Verde (Parkinsonia aculeatea). Known for its extreme shedding, this vari is prohibited.

6. All varieties of mulberry trees. Mulberry trees join fruiting olive trees as a major po contributor.

FINE GRADING & MOUNDING

Fine grading is critical aspect of landscaping. Each lot has been graded such that all storm w will drain away from the house. It is important that this drainage pattern be maintained w preparing the landscape design, especially if mounding or berming is proposed. In all cases, installation must comply with the Town of Gilbert grading and drainage plan. Every ef should be made to make the mounding appear natural.

WATER FEATURES (FOUNTAINS, ETC.)

Water features are permitted within rear yard areas. It is recommended water be chlorina Water features must be approved by the Architectural Committee when in the front yard.

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Continental

Dear Homeowner:

Below is a description of the two landscape packages we offer with the purchase of a new home at Sunrise at Neely Farms.

Oasis Package

1 24" box tree
1 15-gal. tree
5 5-gal. shrubs
8 1-gal. shrubs/groundcovers
450 square feet sod (max)
40 lineal feet (max) brick header, end to end
1/2" sized Walker Gold granite, approx. 2" deep
1 automatic irrigation system w/ waterline stub to front of rear yard fence

Desert Package

1 24" box tree
1 15-gal. tree
13 5-gal. shrubs
15 1-gal. shrubs/groundcover
1/2" sized Walker Gold granite, approx. 2" deep
1 automatic irrigation system w/ waterline stub to front of rear yard fence

Please contact McKeown, Inc. at 272-4611 some time between writing your contract and the time when your home is at final frame stage to set up an appointment to meet at McKeown's office to complete a landscape design. McKeown, Inc. is located at 2921 West McDowell Road. You must have plans approved by McKeown prior to close of escrow. If landscape plans are not approved prior to close of escrow Continental Homes will authorize installation of a pre-approved landscape design.

Front yard landscaping must be complete within 15 days of close of escrow. McKeown will attempt to contact you prior to installation. However, McKeown has the right to access the property and install landscaping at their discretion. It is recommended you have power and water service on prior to installation of landscaping.

Additional landscaping such as shrubs, groundcover, etc. may be purchased through McKeown. Each buyer will be responsible for complying with the Neely Farms Landscape Guidelines for additions or modifications to the basic packages.

The following lots are premium or corner lots and will receive additional granite: 202, 203, 226, 227, 250, 251, 274, 275, 298, 299, 310, 323, 324, 335, 336, 338, 347, 348, 368, 391, 392, 411, 434, 425 and 438.

If you have any questions please contact your sales associate.

Welcome Home

CONTINENTAL HOMES INC.
7001 NORTH SCOTTSDALE ROAD
SUITE 2050
SCOTTSDALE, ARIZONA 85253
POST OFFICE BOX 60010
PHOENIX, ARIZONA 85082-0010
602.483.0006

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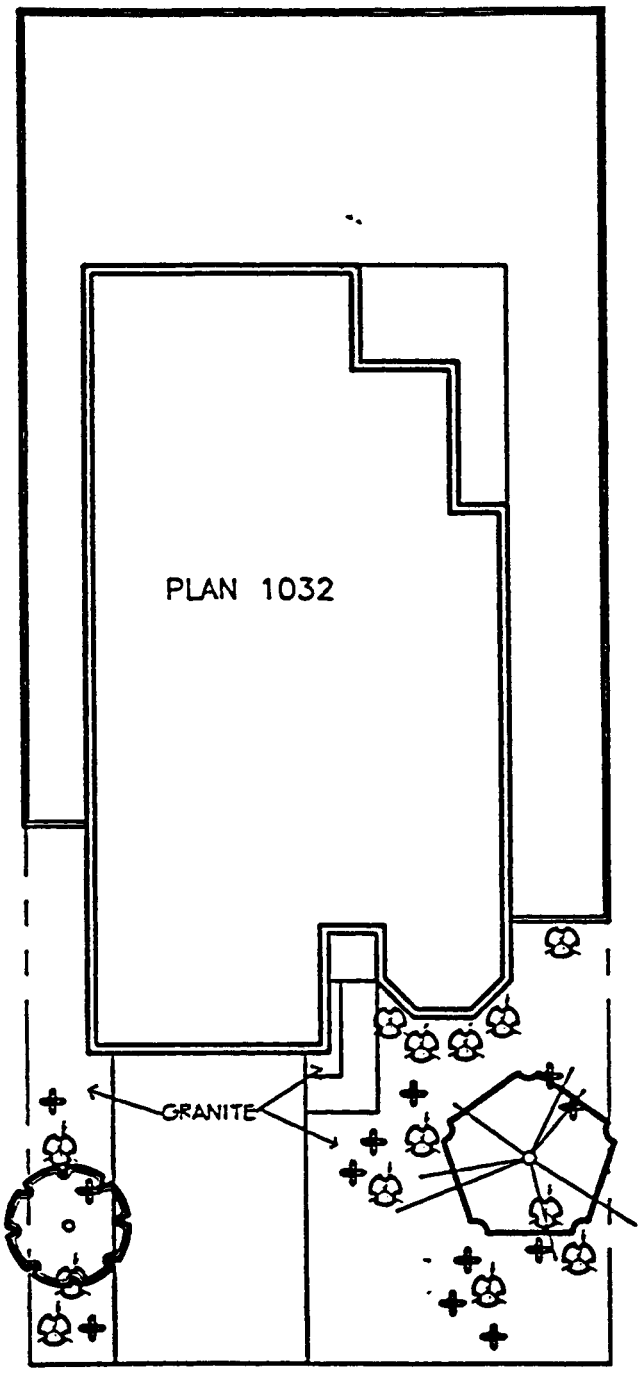
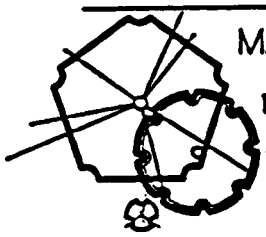
McKEOWN INC.

GENERAL NOTES: THESE PLANS ARE A TYPICAL REPRESENTATION OF THE LANDSCAPE PACKAGE. LOT SIZES AND FLOOR PLANS VARY AS DO WALKS, WALLS, DRIVEWAYS, GATES, ETC...

GRANITE LANDSCAPING PACKAGE

CONTINENTAL HOMES INC AT NEELY FARMS





MATERIAL LIST

1 - 24" BOX TREE

1 - 15 GALLON TREE

13 - 5 GALLON SHRUBS

15 - 1 GALLON SHRUBS

- 1/2" SIZED WALKER GOLD GRANITE (FRONT YARD ONLY)
- AUTOMATIC IRRIGATION SYSTEM (WITH MAINLINE STUB TO FRONT OF REAR YARD FENCE)

2921 WEST McDOWELL ROAD PHOENIX, ARIZONA 85009-2514 TELEPHONE : 602/272-4611 FAX : 602/278-0502

WESTERN SKIES ESTATES HOMEOWNER'S ASSOCIATION
ARCHITECTURAL CONTROL GUIDELINES

def: Landscaping: to arrange the ground with trees, shrubs, flowers, grass, rocks or any other materials which do not consist primarily of dirt.

COMMUNITY ORGANIZATION

Every resident at Western Skies Estates is a member of WESTERN SKIES ESTATES HOMEOWNERS ASSOCIATION (The "Association"), the entity responsible for the management of all common areas and related facilities, and administration of construction activities by homeowners in accordance with adopted architectural guidelines and standards.

The Board of Directors (The "Board") manages the affairs of The Association. The Board has a wide range of powers, including the ability to adopt rules and regulations governing the use of common areas and to employ a management firm to assist in the operation of The Association.

The Architectural Control Committee (the "ACC") is established by the Board to review all improvements within Western Skies Estates, including new construction and modifications to existing properties. The ACC has adopted architectural guidelines and standards to evaluate proposed construction activities.

THE ARCHITECTURAL REVIEW PROCESS

The Declaration of Covenants, Conditions and Restrictions (the "C C & R's") requires the written approval of the ACC before any change, addition or modification to a site or building exterior of a residential property is made. Residents with proposed changes should contact the Management Company to obtain the necessary architectural guidelines and submittal documentation.

Simply put, no new construction or remodeling, including changes in exterior color, is to occur on any lot or exterior of any home without the prior approval of the ACC. The responsibility of the ACC is to ensure that the harmonious, high quality image of Western Skies Estates is implemented and maintained. Your submittal will be returned to you either approved, denied or with a request for more information within forty-five (45) days from the receipt of the architectural submission. Homeowners, who have had their submittal denied, have the right to appeal the decision of the ACC, but, unless overturned on appeal, all decisions of the ACC shall prevail.

It is the homeowner's responsibility to ensure that any proposed construction is coordinated with, and where applicable, approved by local, county, state and federal government agencies. The ACC, the Management Company and The Association assume no responsibility for obtaining these reviews and approvals.

The Architectural Committee at Western Skies Estates Homeowner's Association, for the

before installation. A condition for approval may require you to screen your dish from view of the streets, adjacent lots and/or the Golf Course. The preferred placement of these dishes is in the back of the house. You may also be required to paint the dish, inside and out (except for a three inch perimeter around the inside of the dish), to match the surrounding house or walls. In no case will a satellite dish be approved if it is larger than eight (8) feet. Any electrical boxes, panels, conduits or irrigation controllers normally mounted on exterior walls must be painted to match the surrounding surface.

c

SOLAR ENERGY DEVICES

Solar Energy Devices are allowed to be installed and used on property. These devices should be approved prior to the installation for location, size, color, etc., by the ACC.

SWIMMING POOLS

If you live on the Golf Course or otherwise have a "view" lot, you should obtain approval for pool construction from the ACC prior to having the pool installed. If your pool installers require the use of common land to access your lot, please contact the Management Company to coordinate the point of access for construction. In most cases, entry from the front yard through a side yard wall should be adequate for access. All pool equipment in view lots should be screened so as to not be visible from neighboring properties or the Golf Course. This means that you should plant shrubs or flowers around the equipment to properly screen it, or build a short wall to hide this from view. Safety fencing may also be required by The Town of Gilbert. Contact Gilbert to determine what they require. Swimming pool slides are allowed, as long as they are at least seven (7) feet from all property line walls or fences and must be approved by the ACC. Backwashing of swimming pools or spas is not allowed onto any part of the Golf Course, Common Areas, or onto neighboring property.

LANDSCAPE MAINTENANCE

Consistent and regular maintenance of landscaping, sidewalks, buildings, etc., on the property reflects pride of ownership and directly affects our property values. Minimum maintenance includes irrigating, mowing, edging, pruning, trimming, and removal and replacement of dead or dying plants, flowers or trees. Allowing trash and debris to accumulate on your lot is unacceptable. If you have not had your landscaping installed, you have three (3) months (90 days) from the close of escrow on your house to have a plan for installation approved by the ACC and the yard installed. This requirement is for all front yards and all view lots. So, a plan and drawing should be submitted to the ACC for approval as soon after you move in as possible. On this plan please ensure that you include the type, size and location of each plant and tree to be installed. Additionally, for all yards, you are not allowed to alter the drainage of your lot so as to allow drainage of excess irrigation or rain water onto the Golf Course, common areas or your neighbor's property. Drainage typically runs from the backyard to the front yard to the street, and any deviation from this plan could cause damage to walls and fences, and could in time, seriously affect the pad on which your home sits. Any drainage changes should be submitted and approved by the ACC before any alterations are made. It is in everyone's interest to keep their homes and yards well maintained. All turf, plants and trees should at all times be maintained and

Awnings are allowed over windows, but the style, shape and most importantly, the color must be approved in advance by the ACC.

Gazebo or Ramada construction, is allowed, in the backyard only, and will be reviewed on a case by case basis. The maximum dimension is 120 square feet. The maximum height is 10 feet at the tallest point. The structure would have to be left either as natural wood color (Redwood, etc.) or painted to match the existing house and walls. The structure must be set back at least seven (7) feet from any other walls or the home. Lighting attached to the gazebo or ramada is allowed as long as it does not encroach onto neighboring properties, common areas or the Golf Course.

It is the duty of all homeowners located on Golf Course lots to maintain the condition of their fences. Do not allow these fences to rust or otherwise fall into a state of disrepair. If you are unable to paint these fences, please hire someone to do it for you.

All **vegetable gardens** shall be in back yards only. Do not plant a vegetable garden in your front yard. **Fruit trees** are allowed in front yards, but must be maintained. Do not allow fruit to fall and rot in front yards.

Permanent Planters or Raised Planting Beds or other hardscape features visible from neighboring property must be reviewed and approved by the ACC.

All homeowners are encouraged to plant at least two (2) **shade trees** in front yards.

No **Lattice work** shall be placed in any yard which is visible from neighboring property, the street or the Golf Course.

Double Gates may be installed to allow wider access to back yards. Double gates should be of the same type, design and color as the originally installed single gate.

Trash Containers shall not be visible from the street or golf course or open view lots, except on days of collection. Garbage cans, wood piles, and areas for storage of equipment and unsightly items should be kept screened by adequate fencing or other aesthetically pleasing materials acceptable to the ACC.

All **Dog houses**, Dog runs, etc., that are visible to other yards or the Golf Course must be approved by the ACC.

These rules are for both your protection and the protection of your neighbors. A little courtesy for your neighbors will go a long way toward making Western Skies Estates Homeowner's Association the kind of Association to which people look forward to coming home. Your cooperation is greatly appreciated in consistently maintaining the high community standards which are practiced now and for the future.

WESTERN SKIES ESTATES
HOMEOWNER'S ASSOCIATION

SPECIAL MEETING NOVEMBER 26, 1996

AGENDA

I. INTRODUCTIONS

II. ASSOCIATION OVERVIEW

III. KINNEY MANAGEMENT SERVICES ROLE

IV. ARCHITECTURAL REVIEW

V. OPEN DISCUSSION

WESTERN SKIES ESTATES HOMEOWNER'S ASSOCIATION
P.O. BOX 25466
TEMPE, AZ. 85285-5466
(603) 820-3451

GUIDELINES FOR COMMUNITY LIVING

COMMUNITY ORGANIZATION

Every resident at Western Skies Estates is a member of WESTERN SKIES ESTATES HOMEOWNER'S ASSOCIATION (The "Association"), the entity responsible for the management of all common areas and related facilities, and administration of construction activities by homeowners in accordance with adopted architectural guidelines and standards.

The Board of Directors (The "Board") manages the affairs of The Association. The Board has a wide range of powers, including the ability to adopt rules and regulations governing the use of common areas and to employ a management firm to assist in the operation of The Association.

The Architectural Control Committee (The "ACC") is established by the Board to review all improvements within Western Skies Estates, including new construction and modifications to existing properties. The ACC has adopted architectural guidelines and standards to evaluate proposed construction activities.

THE ARCHITECTURAL REVIEW PROCESS

The Declaration of Covenants, Conditions and Restrictions (The "C C & Rs") requires the written approval of the ACC before any change, addition or modification to a site or building exterior of a residential property is made. Residents with proposed changes should contact Kinney Management Services, the management company, to obtain the necessary architectural guidelines and submittal documentation.

Simply put, *no new construction or remodeling, including changes in exterior color, is to occur on any lot or exterior of any home without the prior approval of the ACC.* The responsibility of the ACC is to ensure that the harmonious, high quality image of Western Skies Estates is implemented and maintained. Your submittal will be returned to you either approved, denied or for more information within forty five (45) days from receipt of the architectural submission. Homeowners who have had their submittal denied have the right to appeal the decision of the ACC, but all decisions of the ACC shall prevail.

E

It is the homeowner's responsibility to ensure that any proposed construction is coordinated with, and where applicable, approved by local, county, state and federal government agencies. The ACC, the Management Company and The Association assume no responsibility for obtaining these reviews and approvals.

Western Skies Estates Homeowner's Association, for the protection of its residents, has established a set of guidelines to help you, the new homeowner, with questions or concerns you may have regarding your new neighborhood and the Association in which you live.

These standards, known as ***The Rules and Regulations***, have been adopted with an eye toward community aesthetics, pride of ownership, safety and common sense. Their sole purpose is to protect both you and the investment that you have made in your home. They are to protect your neighbors as much as they are to protect you. (F)

PETS

It benefits everyone when all residents are responsible for their pets. Pets are defined as generally recognized non-farm animals, such as dogs, cats and birds, but only such numbers and types shall be allowed which will not create a disturbance or disturb the health, safety, welfare and quiet enjoyment of other homeowners, their guests and friends. When walking your dog(s), please keep them leased at all times. Other persons out walking may not get along with your dog as well as you do. Also, when walking your pet, please bring along a scooper and a bag, to remove waste as it occurs. Please do not allow your pet to leave its waste on common area or someone else's property. Courtesy in this area can go a long way toward great neighbor relations. Please keep in mind that no one at Western Skies Estates is allowed to walk (either alone or with their animals) on Golf Course property.

BASKETBALL POLES (PERMANENT)

The ACC for Western Skies Estates has determined that in order to control placement of permanent basketball poles, you are required to submit a plan to show where you want the pole to be located. Basketball (and other sports) poles should be no closer than 12 feet from all perimeter walls (in the backyard), and at least halfway up the driveway toward the house (on either side of the driveway) if installation is to occur in the front yard. Poles and backboards should remain solid colors, but sports and other logos will be considered on a case by case basis.

BASKETBALL POLES (TEMPORARY)

Temporary (or portable) basketball poles are allowed at Western Skies Estates. The Board does ask that if you do not plan to use the pole for an extended period of time, that the pole be stored out of sight from the street and neighboring properties. Please do not lay the pole down in the front yard; rather, remove it from sight. Temporary poles are to be erected on your property only, so, for safety's sake, please do not set up the basketball pole on any street within the Association.

ROOF AND WALL MOUNTED EQUIPMENT

No devices of any type, including antennas, evaporative coolers, air conditioning units, satellite dishes and solar equipment shall be placed on any roof. While satellite dishes under one (1) meter (39 inches Standard American) are allowed for residential use, the location of such dishes must have prior approval by the ACC before installation. A

condition for approval may require you to screen your dish from view of the streets, adjacent lots and/or the Golf Course. You may also be required to paint the dish to match the surrounding house or walls. In no case will a satellite dish be approved if it is mounted higher than eight (8) feet above ground. Any electrical boxes, panels, conduits or irrigation controllers normally mounted on exterior walls must be painted to match the surrounding surface.

PERSONAL AND RECREATIONAL VEHICLES

Recreational vehicles, such as campers, boats, jet skies, all-terrain vehicles, trailers and mobile homes can be parked on your property for not more than 4 consecutive hours for cleaning and use preparation. If your RV is to be parked for a time longer than that, it must be placed in an area on your lot which will not allow the RV to be seen from the street, your neighbors' homes or the Golf Course. Personal vehicles should be parked at all times in either your garage or driveway. It is the intent of the Association to limit on-street parking as much as possible. Repairing your vehicle on your lot is allowed in your garage only. Routine maintenance is fine, but repairs to either your car or RV should be done in a commercial garage. Inoperable vehicles should not be parked in the driveway or on the street, but in the garage. An inoperable vehicle is defined as one which is either not in adequate operating condition, is either unregistered or uninsured, or is in such poor physical condition (such as extensive rust or corrosion) that operation of the vehicle would pose a danger to other residents or the operator. Commercial vehicles are not allowed to be parked at Western Skies Estates, except for standard sized 1/2 ton pickup trucks and standard sedans, which are also being used for personal business. Any commercial sign, logo or printing on the vehicle should be inoffensive. This would be determined by the ACC.

SWIMMING POOLS

If you live on the Golf Course or otherwise have a 'view' lot, you should obtain approval for pool construction from the ACC prior to having the pool installed. If your pool installers require the use of common land to access your lot, please contact your management company to coordinate the point of access for construction. In most cases, entry from the front yard through a side yard wall should be adequate for access. All pool equipment in view lots should be screened so as to not be visible from neighboring properties or the Golf Course. Having a pool means cleaning and backflushing the pool filter periodically. All backflushed water should remain on your property. Sometimes this may mean the additional installation of a backwash area in your backyard. These areas are developed and installed to handle all backflushed water. No one is allowed to backflush their pool onto any streets, common areas or the Golf Course. Safety fencing may also be required by The Town of Gilbert. Contact Gilbert to determine what they require. Swimming pool slides are allowed, as long as they are at least 7 feet from all property lines walls or fences and must be approved by the ACC.

LANDSCAPE MAINTENANCE

Consistent and regular maintenance of landscaping, sidewalks, buildings, etc. on the property reflects pride of ownership and when the neighborhood is being kept up,

everyone in the neighborhood wins. Minimum maintenance would include irrigating, mowing, edging, pruning and trimming, and removal and replacement of dead or dying plants, flowers or trees. Allowing trash and debris to accumulate on your lot is unacceptable. If you have not had your landscaping installed, you have 3 months (90 days) from the close of escrow on your house to have a plan for installation approved by the ACC and the yard installed, so a plan, or bird's eye, view drawing should be submitted to the ACC for approval as soon after you move in as possible. On this plan, please ensure that you include the type, size and location of each plant and tree to be installed. Additionally, you are not allowed to alter the drainage of your lot so as to allow drainage of excess irrigation or rain water onto the Golf Course, common areas or your neighbor's property. Drainage typically runs from the backyard to the front yard to the street, and any deviation form this plan could cause damage to walls and fences, and could, in time, seriously affect the pad on which your home sits. Any drainage changes should be submitted and approved by the ACC before any alterations are made. It is in everyone's interest to keep their homes and yards well maintained. All turf, plants and trees should at all times be maintained and treated to ensure vigorous growth and health. Weeds should be removed either chemically (with herbicides) or by physical removal. All areas within your yard which do not have grass should have a generally recognized rock or stone cover, such as decomposed granite. Natural dirt is not acceptable to the ACC. All rock should be of a natural color, such as tan or brown. Other artificially colored rock must have approval in advance.

MISCELLANEOUS

Swing sets, storage sheds, etc. should be approved by the ACC before installation. No shed or playset should be higher than the walls surrounding it. Sheds or playsets which stand higher than the property walls should either be placed below yard grade to a point at which the structure cannot be seen from the street, neighboring properties or the Golf Course. All play structures should be placed at least 7 feet away from all property walls. To further aid in concealment, the ACC may require that the resident paint the structure to match existing walls. For patio covers: Flat roofs (with a slope of less than 1" per 12") must have a brai or build-up roof application with colored granules which match the existing roof. This add-on must identically match in both color and quality as what was built by the declarant. Sloped patio roofs with a 4" to 12" pitch or more must be roofed in tile to match the existing roof. Except for as noted above, asphalt shingles are prohibited.

If you wish to expand or widen your driveway, you must have prior approval from the ACC before beginning the work.

Clotheslines and other outdoor clothes drying facilities are not allowed at Western Skies Estates.

The only signs allowed in front yards are standard commercial grade "For Sale" or "For Rent" signs. Poll installation signs, landscape maintenance signs and the like ar not allowed at Western Skies Estates. Also, you may conduct a business out of your home as long as that business does not detract from the neighborhood. Parked employee vehicles,

delivery trucks, etc. do detract from the neighborhood and are not allowed. No night club style clubs, bars etc. may be run from any Single Family Home.

Floodlights, spotlights or other high intensity lighting may not be used in any manner which will direct or reflect any light onto any other lot or onto the streets. It is not necessary to submit plans to the ACC, but if you are unsure about how adding lights will affect your neighbors, and you want to submit a plan to the ACC, it is advisable that you obtain signatures from any neighbors who might be affected by the lights, in which they agree to allow the lights to be placed.

All radios, televisions, speakers or amplifiers must have their volume controlled so as not to allow any noise to be heard form neighboring properties, the common area or the Golf Course.

Window coverings, such as drapes or other suitable window coverings, must be installed within 60 days from close of escrow on your home. Reflectorized coverings must be approved in advance by the ACC.

Awnings are allowed over windows, but the style, shape and most importantly, the color must be approved in advance by the ACC.

Gazebo or Ramada construction in the backyard (only) is allowed. The maximum dimension is 120 square feet. The maximum height is 10 feet at the tallest point. The structure would have to be left either as natural wood color (Redwood, etc.) or painted to match the existing house and walls. The structure must be set back at least 7 feet from any other walls or the home. The roof would have to match the roof on your home. Lighting attached to the gazebo or ramada is allowed as long as it does not encroach onto neighboring properties, common areas or the Golf Course.

These rules are for both your protection and the protection of your neighbors. A little courtesy for your neighbors will go a long way toward making Western Skies Estates Homeowner's Association the kind of Association to which people look forward to coming home. Your cooperation is greatly appreciated in consistently maintaining the high community standards which are practiced now and for the future.'

Welcome to Western Skies Estates!

WESTERN SKIES ESTATES HOMEOWNER'S ASSOCIATION
P.O. BOX 25466
TEMPE, ARIZONA 85285-5466
(602) 820-3451 (800) 678-9936

Date: _____

1. Owner's Name: _____

   Unit ID & Lot Number: _____ Phone Number: _____

   Complete Address: _____

   _____

2. Contractor Name, Address and Phone Number: _____

   _____

3. Description of work to be done: _____

   _____

   _____

   _____

4. Type of materials to be used: _____

   _____

5. Color(s) to be used: _____

6. Dimensions of structure (height, width, etc.), If Applicable: _____

   _____

   _____

7. Please include two copies of all drawings, if applicable.

_____ _____
Committee Approval/Denial Date

Additional Committee Comments: _____

_____

_____

HELEN PURCELL

94-0532546 07/11/94 04:26

When recorded return to:
Pinnacle Builders
4715 North 32nd Street
Suite 104
Phoenix, Arizona 85018
Attn: Roger Williams

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
WESTERN SKIES ESTATES
GILBERT, MARICOPA COUNTY, ARIZONA

When recorded return to:
Pinnacle Builders
4715 North 32nd Street
Suite 104
Phoenix, Arizona 85018
Attn: Roger Williams

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
WESTERN SKIES ESTATES
GILBERT, MARICOPA COUNTY, ARIZONA

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
WESTERN SKIES ESTATES
MARICOPA COUNTY, ARIZONA

This Declaration is made and entered into as of the date set forth at the end hereof by:

Walter P. Conner, as Trustee under Trust Agreement dated November 6, 1973, also known as the Robert W. and Fay G. Conner Irrevocable Trust (the "Trust");

Western PB Limited Partnership, an Arizona limited liability partnership ("Western") (The Trust and Western are collectively "Co-Declarants");

Val Vista Golf Course Partnership, an Arizona general partnership ("Golf Course Operator"); and

Pinnacle Builders, Inc., an Arizona corporation ("Homebuilder").

The Trust is the fee owner of the Property with the exception only of Phase 1 of the Residential Parcels. Western is the fee owner of Phase 1 of the Residential Parcels and holds an optionee's interest in portions of the Property comprised of Residential Parcels and the Multi-Use Parcels (other than Phase 1 of the Property, which Western presently owns), pursuant to an Option. Homebuilder has a sub-optionee's interest in the portions of the Property comprised of the Residential Parcels and the Multi-Use Parcels pursuant to a Suboption with Western. Golf Course Operator is the tenant of the portion of the Property comprised of the Golf Course pursuant to the Ground Lease.

This Declaration is consented to by RRH Financial, doing business as R. R. Hensler, Inc. ("Golf Course Lienholder"). Golf Course Lienholder holds a lien on the Golf Course pursuant to the Golf Course Deed of Trust.

The Golf Course, the Multi-Use Parcels (to the extent provided herein) and the Residential Parcels constitute Western Skies Estates (the "Project"), which is located in the Town of Gilbert, Maricopa County, Arizona.

If developed as single family residential homes, the Multi-Use Parcels shall be and remain subject to all of the rights, obligations, benefits and burdens of this Declaration. If developed as a multi-family residential project, the Multi-Use Parcels will be subject only to the restrictions contained in Sections 5.1A (as to restrictions to multi-family use), 5.17, 5.18, 6.2C, the architectural control provisions contained in Article 7 of this Declaration, 11.3 and 11.5 and shall not be otherwise subject to the rights, obligations, benefits and burdens of this Declaration, unless and until such Multi-Use Parcels, developed as a multi-family residential project, are thereafter resubmitted and annexed (if ever) to the remaining provisions of this Declaration as Annexable Property under Section 10.1 below. In such event of annexation, the Multi-Use Parcels shall again be part of the Project for all purposes.

Co-Declarants, with the joinder of Golf Course Operator and of Homebuilder, and with the consent of Golf Course Lienholder, hereby declare that all portions of the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, easements, covenants, conditions and restrictions, all of which are and shall be interpreted to be for the purpose of enhancing and protecting the value and attractiveness of the Project. All of the limitations, covenants, conditions and restrictions shall constitute covenants which shall run with the land and shall be binding upon Co-Declarants, and their respective successors and assigns and all parties having or acquiring any right, title or interest in or to any part of the Project; provided, however, Co-Declarants and Homebuilder, and their successors and assigns, as parties having an interest in the Multi-Use Parcels, will be subject to and bound by this Declaration as hereinabove set forth based upon the development of the Multi-Use Parcels as either single family residential homes or a multi-family residential project, as applicable.

This Declaration may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one declaration.

ARTICLE 1

Definitions

Section 1.1 "Additional Master Common Area" shall mean Master Common Area within any platted Subdivision in the Project which is intended for the benefit and use of the Owners of Lots within that Subdivision, and not for the general benefit and use of all Owners, as provided in Section 9.4, provided the Association has approved the designation of such property as Additional Master Common Area as provided in that Section.

Section 1.2 "Additional Master Common Area Assessment", "Costs", "Exempt Costs", "Maximum Additional Master Common Area Assessment" and "Subdivision" are defined in Section 9.4.

Section 1.3 "Alterations" has the meaning set forth in Section 7.2.

Section 1.4 "Annexable Property" has the meaning set forth in Article 10.

Section 1.5 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating, insuring and managing, as applicable, the Master Common Areas and operating the Association, which is to be paid by each Lot Owner as determined by the Association and as provided herein, exclusive of Additional Master Common Area Assessments. The Owner(s) of the Golf Course shall never have any liability for Assessments, nor shall the Golf Course be subject to lien therefor. In addition to the other limitation contained herein: The Trust shall have no liability for Assessments until such time as the Option has either lapsed or terminated and the Trust has platted thereafter such remaining portions of the Residential Parcels and Multi-Use Parcels, and then only with respect to the portions of the Residential Parcels and Multi-Use Parcels so platted. If the Multi-Use Parcels are otherwise subject to Assessments, no portion of the Multi-Use Parcel initially developed as a multi-family residential project shall have any liability for Assessments or be subject to the lien therefor. The Owner(s) of those portions of the Multi-Use Parcels shall be liable for Assessments unless and until such time (if ever) as the Multi-Use Parcels are thereafter developed or redeveloped as a multi-family residential project (at which point the Owner(s) of those portions of the Multi-Use Parcels developed as a multi-family residential project shall not have any liability for Assessments for such portions, and such portions shall not be subject to the lien therefor).

Section 1.6 "Assessment Lien" has the meaning set forth in Section 4.1.

Section 1.7 "Association" shall mean the WESTERN SKIES ESTATES HOMEOWNER'S ASSOCIATION, an Arizona nonprofit corporation. The Association shall be established by the filing of its Articles of Incorporation (the "Articles") and governed by its Bylaws (the "Bylaws").

Section 1.8 "Board" or "Board of Directors" shall mean the governing body of the Association.

Section 1.9 "Committee" shall mean the Architectural Control Committee for the Project established pursuant to Article 7 of this Declaration.

Section 1.10 "Co-Declarants" shall be the Trust and Western, and their successors and assigns. The rights, duties and obligations of the Trust and Western, as Co-Declarants, shall be governed by Section 2.9 below.

Section 1.11 "Declaration" shall have the meaning set forth in the Recitals.

Section 1.12 "Eligible First Mortgagee" shall have the meaning set forth in Section 8.6.

Section 1.13 "First Mortgage" shall mean any mortgage (which includes a recorded deed of trust and a recorded contract of sale as well as a recorded mortgage) which is a first priority lien on any Lot, including the Golf Course Deed of Trust as defined in Section 1.16 below.

Section 1.14 "First Mortgagee" shall mean the holder of a First Mortgage.

Section 1.15 "Golf Course" shall mean that certain real property described on the attached Exhibit "1.15" which is incorporated herein by this reference.

Section 1.16 "Golf Course Deed of Trust" shall mean that certain Deed of Trust, Assignment of Rents and Leases and Security Agreement dated June 10, 1993 executed by Golf Course Operator as trustor, for the benefit of Golf Course Lienholder, as beneficiary, and recorded on June 15, 1993, in the Official Records as Instrument No. 93-0378305.

Section 1.17 "Golf Course Lienholder" shall have the meaning set forth in the Recitals.

Section 1.18 "Golf Course Operator" shall initially mean Val Vista Golf Course Partnership, an Arizona general partnership. Thereafter, Golf Course Operator shall mean any person or entity which has possession of and operates the Golf Course, which may either be the Trust itself, any lessee of the Golf Course from the Trust pursuant to the Ground Lease or otherwise which operates the Golf Course, or any manager or operator of the Golf Course designated as the "Golf Course Operator" pursuant to a contract therefor with the Trust or a lessee of the Golf Course which is recorded in the Official Records.

Section 1.19 "Ground Lease" shall mean that certain Ground Lease dated as of May 6, 1991, between the Trust, as landlord, and the Golf Course Operator, as tenant, as amended by that certain First Amendment to Ground Lease and Consent to Assignment dated as of March 31, 1992, for approximately 150 acres of real property lying contiguous to portions of the Residential Parcels and the Multi-Use Parcels and within the Project and as further amended by that certain Second Amendment to Ground Lease and Memorandum of Ground Lease dated _____, and recorded in the Official Records on _____ as Instrument No. _____ (the "Second Ground Lease Amendment"). The Ground Lease is

evidenced by a Memorandum of Ground Lease and Option dated May 6, 1991 and recorded on May 6, 1991 as Instrument No. 91-203246 in the Official Records, as amended by the Second Ground Lease Amendment.

Section 1.20 "Homebuilder" shall mean Pinnacle Builders, Inc., an Arizona corporation, and the successor Owners of all or any of the Residential Parcels, or any portion thereof only if such successor is specifically named as a successor Homebuilder in an instrument recorded in Official Records and executed by Homebuilder; provided, however, the Trust shall become a Homebuilder automatically at such time as the Option has either lapsed or terminated and the Trust has platted any of the remaining portions of the Residential Parcels and Multi-Use Parcels, but only with respect to those portions of the Residential Parcels and Multi-Use Parcel so platted, without specifically being named as a successor Homebuilder in an instrument recorded in the Official Records executed by Homebuilder. The Owner of the Multi-Use Parcels, or any portion thereof, constructed or being constructed as single family residential homes (as opposed to a multi-family residential project), for the purpose of the original development, construction and sale thereof, but shall be a Homebuilder upon that property, and such Owner may exercise all rights of a Homebuilder with respect thereto, including making a recorded designation of a successor Homebuilder therefor as provided above.

Section 1.21 "Lakes" shall have the meaning set forth in Section 5.17.

Section 1.22 "Lot" shall mean one of the separately designated Lots in the Project as shown on a recorded Plat, together with any improvements thereon. Each Lot shall consist of at least 3200 square feet and be at least 30 feet in width. Until a Plat dividing the Residential Parcels into Lots is recorded in Official Records, that Parcel shall be deemed to contain the number of Lots permitted by the zoning for that Parcel, for voting (subject to Section 2.6 hereof), assessment (subject to Section 4.3 hereof) and all other purposes hereunder. Each numbered and lettered parcel in the Project is a separate freehold estate. Lots in the Project shall include any portion of the Multi-Use Parcels developed as single family residences and platted.

Section 1.23 "Lot Improvements" shall have the meaning set forth in Section 5.16.

Section 1.24 "Master Common Area" shall mean any Master Common Area tracts designated as Master Common Area on any Plat as provided in Section 1.33, including all structures, facilities, improvements and landscaping thereon and all rights, easements and appurtenances relating thereto. Title to any tract of Master Common Area shall be conveyed to the Association by Co-Declarants or Homebuilder free and clear of all monetary liens and encumbrances for the benefit of all of the Lot Owners (except Additional Master Common Area, as provided in Section 9.4) and Co-Declarants (but only for the express purposes described in Sections 11.3 and 6.3 below) upon the completion of all of the improvements designed therefor and approval by the Veterans Administration or Federal Housing Administration (if either agency has approved the proposed development plan of the Project) and the Town of Gilbert, and prior to the conveyance of the first Lot in the Residential Parcel which includes that tract to an Owner other than Co-Declarants or Homebuilder. Every Owner shall have a right and easement of ingress and egress and enjoyment in, over and to the Master Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to suspend Master

Common Area use rights as provided in Sections 3.3 and 4.11 below, the right of the Association (with requisite Owner consent) to dedicate or transfer Master Common Area to any public agency, authority or utility company as provided in the Articles and, with respect to any Additional Master Common Area, as provided in Section 9.4. Any Owner may delegate, in accordance with the Project Documents, his right of enjoyment to the Master Common Area and facilities thereon to members of his family, tenants and contract purchasers who reside on his Lot. The Owners, tenants or other users of (x) the Golf Course and (y) to the extent the same are developed as a multi-family residential project, the Multi-Use Parcels, shall have no right to use or enjoy the Master Common Area, except as provided in Sections 11.3 and 6.3 below.

Section 1.25 "Member" shall mean those persons entitled to membership (a "Membership") in the Association as provided herein.

Section 1.26 "Minimum Maintenance" shall have the meaning set forth in Section 11.1.

Section 1.27 "Multi-Use Parcels" shall mean that certain real property described on the attached Exhibits "1.27-A" and "1.27-B" which are incorporated herein by this reference.

Section 1.28 "Official Records" shall mean the official records of Maricopa County, Arizona, Recorder's Office.

Section 1.29 "Option" shall mean that certain option granted under that certain Option Agreement dated as of May 6, 1991, by and between the Trust, as optionor, and Western, as optionee and as successor in interest by assignment from Conner Properties Limited Partnership, an Arizona limited partnership, as amended by First Amendment to Memorandum of Option dated as of June 9, 1993, wherein Western has the option to acquire all or part of the Residential Parcels and Multi-Use Parcels in fee title from the Trust as optionor and as further amended by Second Amendment to Memorandum of Option dated _____. The Option Agreement is evidenced by a Memorandum of Option dated February 27, 1991, and recorded in the Official Records on May 6, 1991, as Instrument No. 91-203245, which has been assigned by Conner Properties Limited Partnership to Western. The First Amendment to Memorandum of Option is recorded in the Official Records as Instrument No. 94-104590. The Second Memorandum of Option is recorded in the Official Records as Instrument No. _____.

Section 1.30 "Owner" shall mean the record holder of title to a Residential Parcel or Lot in the Project, subject to provisions below in this Section 1.30. This shall include any person having fee simple title to any Lot in the Project, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot or other property is sold under a recorded contract of sale or subdivision trust to a purchaser, the purchaser, rather than the fee owner, shall be considered the Owner as long as he or a successor in interest remains the contract purchaser or purchasing beneficiary under the recorded contract or subdivision trust. The owner(s) of the Golf Course is not an Owner for purposes of this definition and this Declaration. Notwithstanding anything in this Declaration to the contrary, the Owner of any Residential Parcel or Lot in the Project for the purposes of voting, assessment and other purposes hereunder, prior to the vesting of fee title in such Residential Parcel or Lot in Homebuilder or

another purchaser for value, shall be Western as optionee under the Option (and not the Trust) for so long as the Option is in effect and Western is not then in default thereunder. Upon the lapse of the Option by the passage of time, a default thereunder or otherwise, the status of Owner for such portion of the Project then owned by the Trust, for the purposes of voting, assessment and other purposes hereunder, shall revert automatically from Western to the Trust as fee owner thereof.

Section 1.31 "Party Wall" shall have the meaning set forth in Section 6.1.

Section 1.32 "Phase 1" shall mean a parcel contained in the Residential Parcels as established in the Plat recorded in Book 376 of Maps, Page 4 of the Official Records, with a Certificate of Correction recorded in the Official Records as Instrument No. 94-381444A.

Section 1.33 "Plat(s)" shall mean that plat of Phase 1 and the plat of every subsequent phase to the Project, each phase of which shall be individually platted, together with the other plats of the Project or portions thereof as hereinafter provided, as any of the same may be amended from time to time. Western or Homebuilder will, subject to Committee approval, record additional Plats for the Residential Parcels in Official Records, and the same may designate Master Common Areas to be owned and maintained by the Association as provided herein and the designations of Master Common Areas on the Plats shall be binding upon all parties. No Plat may be amended without the approval of the Committee. Even if all or any portion of the Golf Course or the Multi-Use Parcels, if developed as a multi-family residential project, are subjected to a subdivision plat recorded in Official Records, that shall not be a Plat for purposes of this Declaration, nor shall the lots or parcels created thereby be Lots for purposes of this Declaration.

Section 1.34 "Project" shall mean only the Golf Course, the Residential Parcels, and to the extent provided herein, the Multi-Use Parcels.

Section 1.35 "Project Documents" shall mean and include this Declaration, as it may be amended from time to time, the exhibits, if any, attached hereto, the Plats, the Articles and Bylaws and any "Rules and Regulations" adopted from time to time by the Association as provided herein or in the Bylaws.

Section 1.36 "Property" shall mean that certain real property described on the attached Exhibit "1.36" which is incorporated herein by this reference.

Section 1.37 "Residential Parcels" shall mean all Lots and Master Common Areas included in the Plats and all real property described on the attached Exhibits "1.37-A" through "1.37-D" which is incorporated herein by this reference, exclusive of any areas now or hereafter dedicated or otherwise conveyed to the Town of Gilbert or other governmental entities.

Section 1.38 "Subassociation" is a homeowners association created for the benefit of Owners of Lots in and with respect to one or more specific Residential Parcels, or a portion thereof, as provided in Section 9.3.

Section 1.39 "Suboption" shall mean that certain suboption granted under that certain Option Agreement dated January 24, 1994, by and between Western, as optionor, and Homebuilder, as optionee, recorded in the Official Records as Instrument No. 94-0104592, wherein Homebuilder has the option to acquire all or part of the Residential Parcels and Multi-Use Parcels in fee title from Western.

Section 1.40 "Trust" shall have the meaning set forth in the Recitals.

Section 1.41 "Western" shall have the meaning set forth in the Recitals.

ARTICLE 2

Administration, Membership, Voting Rights of the Association, and Rights between Co-Declarants

Section 2.1 Basic Duties Of The Association. The management of the Master Common Area shall be vested in the Association in accordance with this Declaration and the Articles and Bylaws. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of the Project Documents, subject to the standards set forth in all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project. In addition to the duties and powers enumerated in the Bylaws and the Articles, and without limiting the generality thereof, the Association shall have the duties and powers as set forth in Article 3 below and elsewhere in this Declaration.

Section 2.2 Membership. The Owner of a Lot shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. Tenants shall not have any voting or Membership rights in the Association by virtue of their occupancy of any Lot or house thereon. The owner(s) of the Golf Course is not a Member. The owner(s) of the Multi-Use Parcels developed as a multi-family residential project is not a Member. Notwithstanding anything in this Declaration to the contrary, the Membership of any Residential Parcel or Lot in the Project, prior to the vesting of fee title in such Residential Parcel or Lot in Homebuilder or another purchaser for value, shall be Western as optionee under the Option for so long as the Option is in effect and Western is not then in default thereunder. Upon the lapse of the unexercised Option by the passage of time, a default thereunder or otherwise, status as Member for such portion of the Project subject to the unexercised Option and then owned by the Trust, shall revert automatically from Western to the Trust as fee owner thereof.

Section 2.3 Transfer Of Membership. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then automatically to the new Owner as provided in Section 2.2. The transfer of Membership for a Lot subject to the Option or Suboption shall be conveyed upon exercise of the Option or the Suboption. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Lot, the Association shall record the transfer upon its books, causing an automatic transfer of Membership as provided in Section 2.2.

Section 2.4 Membership Classes. The Association shall have two (2) classes of voting Membership established according to the following provisions:

A. Class A Membership shall be that held by each Owner of a Lot other than Co-Declarants and Homebuilder (while two classes of Membership exist), and each Class A Member shall be entitled to one (1) vote for each Lot owned. If a Lot is owned by more than one (1) person, each such person shall be a Member of the Association but there shall be no more than one (1) vote for each Lot.

B. Class B Membership shall be that held by Co-Declarants (subject to the provisions of Section 2.2 above vesting such Membership in Western during the term of the Option), Homebuilder and, in certain instances the Trust, (but with respect to the Trust, only to the extent that the Option has lapsed or terminated, and then only to the extent provided in Section 2.2 above), which shall be entitled to three (3) votes for each Lot owned by Co-Declarants, Homebuilder and the Trust, to the extent set forth above, in proportion to the number of Lots owned by each respectively, provided that Class B Membership shall be converted to Class A Membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(1) When Homebuilder has conveyed seventy-five percent (75%) of the Lots in the Project (including, for this purpose, the Multi-Use Parcels if such parcels have not, at the time of measurement, been developed as a multi-family residential parcel) to Owners other than Homebuilder; or

(2) The tenth anniversary of the close of escrow for the sale of the first Lot by Homebuilder.

In the event there is more than one Homebuilder under Sections 1.20 and 8.4 hereof, the voting rights of all Lots owned by all Homebuilders shall be added together solely for purposes of determining the conversion of Class B Membership to Class A Membership. Notwithstanding the foregoing, Co-Declarants or a Homebuilder or the Trust may voluntarily convert all or a portion of its respective Class B Membership to Class A Membership without the prior consent of the other Co-Declarant, Homebuilder(s) or the Trust at any time by giving written notice to the Association, but the same will not affect the Class B Membership rights of the other Co-Declarant, Homebuilder(s) or the Trust.

Subject to the provisions of Section 2.6 below, until a Residential Parcel, or a portion thereof, is subject to a Plat dividing the same into Lots, that Residential Parcel, or portion thereof, shall be deemed to contain the number of Lots permitted by the applicable zoning thereof, for purposes of this Section 2.4 and Article 4.

Subject to the provisions of Section 2.6 below, until a Multi-Use Parcel not then developed as a multi-family residential project, or a portion thereof, is subject to a Plat dividing the same into Lots, that Multi-Use Parcel, or portion thereof, shall be deemed to contain the number of Lots permitted by the applicable zoning thereof, for the purposes of this Section 2.4 and

Article 4. Multi-Use Parcels developed as a multi-family residential project shall not be deemed to contain Lots.

Section 2.5 Association Voting Requirements. Any action by the Association which must have the approval of the Association Membership before being undertaken shall require (i) the affirmative vote of not less than fifty-one percent (51%) of the Membership present and voting at a duly called and held meeting of the Membership; or (ii) the written consent of not less than fifty-one percent (51%) of the Membership unless, in either case, another percentage is specifically prescribed by a provision within this Declaration, the Bylaws or the Articles.

Section 2.6 Vesting Of Voting Rights. Voting rights attributable to all Lots owned by Homebuilder shall vest immediately by virtue of Homebuilder's ownership thereof. Voting rights in all Lots subject to the Option shall be vested in Western automatically by virtue of Western's Option interest therein, provided, however, the voting rights applicable to Lots subject to the Option which automatically vests in Western pursuant to the preceding clause, shall automatically vest in the Trust at such time as the Option has either lapsed or terminated. Notwithstanding the foregoing or anything in this Declaration to the contrary, no Owner of any Lot shall have any voting rights attributable to that Lot until the Plat for such Lot has been recorded in the Official Records. In addition, notwithstanding the foregoing or anything in this Declaration to the contrary, except for Western and Homebuilder, no Owner of any Lot shall have any voting rights attributable to that Lot until an Assessment has been levied against that Lot and Owner by the Association pursuant to Article 4 below. Western and Homebuilder shall have voting rights attributable to its Lot(s) notwithstanding that an Assessment has not yet been levied against that Lot and Owner by the Association pursuant to Article 4 below.

Section 2.7 Meetings Of The Association. Regular and special meetings of members of the Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws.

Section 2.8 Board Of Directors. The affairs of the Association shall be managed by a Board of Directors which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws.

Section 2.9 Rights Between Co-Declarants and Homebuilder(s). Co-Declarants and Homebuilder(s), for purposes of this Declaration, shall be deemed to be the Owner of the Lots contained in the Residential Parcels owned by each respectively, subject to the other provisions of this Declaration respecting the vesting of certain ownership rights in Western during the duration of the Option. At such time as Western, pursuant to its optionee's interest under the Option, or Homebuilder, pursuant to its suboptionee's interest under the Suboption, becomes the Owner of all or portions of the Residential Parcels, then the number of Lots deemed to be owned by Co-Declarants and Homebuilder shall be adjusted accordingly.

ARTICLE 3

Duties and Powers of the Association

Section 3.1 Master Common Area

A. General Obligation. The Association shall maintain, paint, repair, replace, restore, operate and keep in good condition all of the Master Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon, provided that each Owner shall be responsible to reimburse the Association for all costs incurred by the Association as a result of repairs or replacements arising out of or caused by the willful or negligent act or neglect of that Owner or his tenants, or their respective family members, guests or invitees. The Association shall be entitled to commence an action at law or in equity to enforce this provision. Liability hereunder shall be limited to that provided for or allowed in the statutory or case law of the State of Arizona.

Section 3.2 Insurance.

A. Public Liability Insurance. The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Homebuilders, the Co-Declarants, the agents and employees of each and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Master Common Area, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners, other insureds or the Association. Such insurance shall be in amounts deemed appropriate by the Board but in no event shall the limits of liability for such coverage be less than $1,000,000 for each occurrence with respect to bodily injury and property damage. In the event insurance proceeds are inadequate to fully discharge the liability of the Association and its agents and employees, then the Association may levy a special Assessment on Lot Owners therefor as provided in Article 4. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the person or persons responsible purposely or negligently, for the damage.

B. Fidelity Bonds And Other Insurance. The Association shall obtain and maintain (and/or cause a professional manager employed by the Association to obtain and continually maintain) bonds covering all persons or entities which handle funds of the Association, including, without limitation, any such professional manager employed by the Association and any of such professional manager's employees, in amounts not less than the maximum funds that will at any time be in the possession of the Association or any professional manager employed by the Association but in no event less than the total of Assessments for a three (3) month period on all Lots and all reserve funds maintained by the Association. With the exception of a fidelity bond obtained by a professional manager covering such professional manager's employees, all fidelity bonds shall name the Association as an obligee. In addition, all such bonds shall provide that the same shall not be terminated, canceled or substantially modified without at least thirty (30) days' prior written notice to the Association. The Association shall also obtain and maintain any insurance which may be required by law, including, without limitation, workers' compensation

insurance and director's and officer's liability insurance. Further, unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the Co-Declarants and Homebuilders) of the individual Lots have given their prior written approval, the Association shall not be entitled to (i) use hazard insurance proceeds for losses to any Master Common Area other than for the repair, replacement or reconstruction of such Master Common Area or (ii) fail to maintain hazard insurance on any insurable amenities, if any, on the Master Common Area. The Association shall have the power and authority to obtain and maintain other and additional insurance coverage, including multi-peril insurance providing at a minimum fire and extended coverage on a replacement cost basis for the Master Common Area improvements, if any, which additional insurance shall meet the insurance requirements established by the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC"), as applicable, so long as either FNMA or FHLMC is a First Mortgagee or Owner of a Lot, except to the extent that such coverage is not available or has been waived in writing by FNMA or FHLMC. A First Mortgagee may pay overdue premiums on hazard insurance policies or secure new coverage for the Master Common Area in case of lapse of a policy, and the Association shall immediately reimburse the First Mortgagee therefor.

C. Repair And Replacement Of Damage Or Destroyed Property. Any Master Common Area improvements damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild or restore them. The cost of repair or replacement in excess of insurance proceeds or condemnation awards and reserves shall be paid by the Association and, as provided above, the Association may specially assess the Owners therefor. Any excess or remaining insurance or condemnation proceeds which are not needed to restore the Master Common Area as provided above, and which are not utilized to fund any previously unfunded reserve requirements of the Association, shall be distributed to the Owners on the basis of an equal share for each Lot. No provisions of the Project Documents shall give a Lot Owner or any other person priority in the case of payment to the Lot Owner of insurance proceeds or condemnation awards for losses to Master Common Area over any rights of a First Mortgagee.

Section 3.3 Enforcement, Penalties And Remedies. The Association shall enforce the provisions of this Declaration and the other Project Documents by appropriate means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions. The Association may adopt a schedule of reasonable monetary penalties for violation by Owners (and others for whom Owners are responsible as provided herein) of the provisions of the Project Documents and impose the same according to procedures in the Bylaws. Further, if an Owner is in default and the applicable cure period, if any, has expired, the Board may suspend the Master Common Area use rights (except with respect to any private streets) and/or the Association voting rights of the Owner until the default is fully cured, in accordance with the procedures set forth in the Bylaws. The Association shall have the additional rights and remedies set forth in Section 8.1, and in Article 4 with respect to delinquent Assessments and Charges as defined below.

Section 3.4 Easements. The Association may grant and reserve easements where necessary for utilities and sewer facilities over the Master Common Area to serve the Master Common Area and the Lots, and for other purposes as set forth in Section 6.3.

Section 3.5 Management And Other Contracts. The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project. Any agreement for professional management of the Project or any agreement providing for services by Co-Declarants or Homebuilder (or any affiliate of Co-Declarants or Homebuilder) shall provide for termination by either party without cause or payment of a termination fee upon thirty (30) days' written notice or for cause upon thirty (30) days' or less written notice and without payment of a termination fee. Such agreement shall further provide for a reasonable contract term of from one (1) to three (3) years and be renewable only by consent of the Association and the other party.

Section 3.6 Rules. The Association may adopt reasonable Rules and Regulations not inconsistent with this Declaration, the Articles or the Bylaws relating to the use of the Master Common Area and all facilities thereon and the conduct of Owners and their tenants, and their respective family members, guests and invitees with respect to the Project and other Owners.

ARTICLE 4

Assessments and Charges

Section 4.1 Assessment Obligations. Each Owner of any Lot, by acceptance of a deed or recorded contract of sale or beneficial interest in a subdivision trust therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular annual Assessments; (b) special Assessments for capital improvements and unexpected expenses and (c) other charges made or levied by the Association against the Lot and the Owner thereof including, without limitation, interest, late charges, collection costs, costs and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration or any other Project Document (whether or not a lawsuit or other legal action is instituted or commenced), which charges are collectively referred to herein as the "Charges". Such Assessments and Charges shall be established and collected as provided herein and in the Bylaws. Any part of any Assessment or Charge not paid within thirty (30) days of the due date therefor as established in this Article 4 shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid and shall be subject to a reasonable late charge of $25.00. The annual and special Assessments and any Charges made against a Lot and the Owner thereof pursuant to this Declaration or the Bylaws shall be a charge and a continuing lien upon the Lot (hereinafter "Assessment Lien") without further action by the Association or any other party. Each such Assessment and Charge shall also be the personal obligation of the person who was the Owner of such Lot at the time the Assessment or other Charge fell due as provided in this Article 4 or elsewhere in this Declaration, but this personal liability shall not pass to successor Owners unless specifically assumed by them. The Assessment Lien on each Lot shall be prior and superior to all

other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Lot. No Owner of a Lot may exempt himself from liability for Assessments and Charges by waiver of the use or enjoyment of any of the Master Common Area or by the abandonment of his Lot.

Notwithstanding anything contained in this Declaration to the contrary and in addition to any other limitations contained herein (including, without limitation, the limitations contained in Section 1.5 above): (i) in no event shall Assessments or Charges be levied on any Lot until after the Plat thereof is recorded in the Official Records, (ii) the Golf Course shall never be subject to or have any liability for Assessments or Charges or the expenses of the Association, (iii) the Multi-Use Parcels shall not be subject to or have any liability for Assessments or Charges or the expenses of the Association if developed as a multi-family residential project and (iv) for so long as the Option is in effect, no Lot (even if platted) owned by Trust but subject to the unexercised Option shall be subject to the levy of Assessments and Charges.

Section 4.2 Purpose Of Assessments. The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance (including utility costs incurred by the Association under Section 3.5) of the Master Common Area as provided herein and for the common good of the Project. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance (including utility costs incurred by the Association), repairs and replacement of the Master Common Area and other improvements which the Association is responsible for maintaining.

Section 4.3 Annual Assessments. The maximum annual Assessment amount in the year that Homebuilder first closes escrow for the sale of any Lot in the Project to an Owner other than Homebuilder shall be $180.00 per annum. The annual Assessment shall be prorated based on the number of months remaining before December 31 of such year as well as any partial months remaining. Without the vote or approval of the Members of the Association, the maximum annual Assessment amount set forth above shall be automatically increased each calendar year after the first year during which a Lot in the Project is assessed by the greater of ten percent (10%) of the previous year's maximum annual Assessment or a percentage equal to the percentage increase, if any, in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (published by the Department of Labor, Washington, D.C.) for the year ending with the preceding July (or a similar index chosen by the Board if the above-described Index is no longer published). The Board shall annually apply the foregoing formula and determine and fix the amount of the annual (calendar year) Assessment against each Lot. The maximum annual Assessment amount may be increased by an amount in excess of the amount produced by the foregoing formula or decreased by more than twenty percent (20%) of the annual Assessment against Lots for the prior calendar year only if such increase or decrease is approved by the affirmative vote of two-thirds (2/3) of each of the voting power of Class A Members and Class B Members (while Class B Membership exists) voting in person or by proxy at a meeting duly called for this purpose.

Notwithstanding anything to the contrary stated in this Article, until Class B Membership is terminated pursuant to Section 2.4B above, no annual Assessment shall be paid by

Western, Homebuilder or the Trust, to the extent it holds Class B Membership as provided in Section 2.4B above, owning any Lot; the obligations with respect to such Lots being limited to the Homebuilder(s) funding any deficiency as hereafter provided in this Section 4.3 and Homebuilder(s) funding reserves in accordance with Section 4.5 below. Neither Western nor the Trust shall have any liability for funding any deficiency as hereafter provided in this Section 4.3 or funding reserves in accordance with Section 4.5 below except to the extent they are also a Homebuilder within the definition of Section 1.20.

Until Class B Membership is terminated pursuant to Section 2.4B above, any Homebuilder(s), in proportion to the number of Lots owned by it, shall be severally responsible on a pro rata basis for the prompt payment on a current basis of all costs and expenses related to maintenance and repair of the Master Common Area and other areas required to be maintained by the Association hereunder, if any, and all other costs incurred by the Association in the performance of its duties, in the event and to the extent that the funds available to the Association are inadequate for payment of such costs and expenses on a current basis. Any Homebuilder's failure to perform the requirements contained in this Section shall constitute a default under this Declaration entitling any Lot Owner or First Mortgagee to record a notice of lien against the defaulting party's property interest in the Project (but not against any other non-defaulting Homebuilder) to enforce the provisions of this Section. If any Homebuilder relinquishes its Class B Membership rights under Section 2.4B and is therefore paying full Assessments, such party shall have no responsibility under this Section for shortfalls/deficits accruing thereafter.

Section 4.4 Special Assessments. In addition to the regular annual Assessments authorized above, the Board may levy in any Assessment year a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) any construction, reconstruction, repair or replacement of a capital improvement upon the Master Common Area or other improvements the Association is responsible for maintaining (including fixtures and personal property related thereto); (ii) any unanticipated or underestimated expense normally covered by a regular Assessment; and (iii) where necessary, for taxes assessed against the Master Common Area, provided however, that in all events, no such special Assessment shall be made without the affirmative vote of two-thirds (2/3) of each of the voting power of Class A Members and Class B Members (while Class B Membership exists) voting in person or by proxy at a meeting duly called for this purpose.

Section 4.5 Reserves And Working Capital. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Master Common Area, Master Common Area improvements and other improvements which the Association is responsible for maintaining. Homebuilder(s) shall establish a working capital fund for the Association, for the initial months of Project operations, equal to two (2) months' estimated monthly Assessments for each Lot in the Project. Each Lot's share shall be collected and paid to the Association at the time that the sale of that Lot from Homebuilder to another person is closed. Such payment shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. The Association may not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs, or make up any budget deficits while Class B Membership exists.

Section 4.6 Procedures For Voting On Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.3 or 4.4 of this Article shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies therefor entitled to cast sixty percent (60%) of all of the votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. While Class B Membership exists, the quorum requirements described above shall apply to both classes and a quorum shall not exist for a meeting unless a quorum of each class is present.

Section 4.7 Allocation Of Assessments. The Owner of each Lot shall bear an equal share of each regular and special Assessment except as otherwise specified elsewhere in this Declaration, subject to the provisions of Sections 4.3 and 4.5 above.

Section 4.8 Commencement Of Assessments. The regular annual Assessments provided for herein shall commence as to each Lot then existing in the Project on the first day of the month following the close of escrow of the sale of the first Lot in the Project by a Homebuilder to another person. Thereafter, due dates and amounts of Assessments shall be established by the Board and notice shall be given to each Lot Owner at least forty-five (45) days prior to any due date of any special Assessment or any change in the amount or due date of any annual Assessment; provided, however, that Owners shall continue to pay Assessments at the last established rate until the Board gives notification of any change in accordance with this Section 4.8. At the option of the Board, all annual Assessments shall be payable in twelve (12) equal monthly installments or four (4) equal quarterly installments and if Assessments are to be due on a monthly basis, no notice of such Assessment shall be required other than an annual notice setting forth the monthly payment amount and the day of each month on which each payment amount is due.

Section 4.9 Effect Of Transfer Of Lot By Sale Or Foreclosure. The sale or transfer of any Lot shall not affect the Assessment Lien or liability of the former Owner for Assessments or Charges due and payable except as provided below. No sale or transfer of a Lot shall relieve the new Lot Owner from liability for any Assessment or Charge thereafter becoming due or release his Lot from any Assessment Lien.

If the First Mortgagee or another person obtains title to a Lot as a result of the foreclosure, trustee's sale or deed in lieu thereof of any First Mortgage, such First Mortgagee or other person shall not be liable for the Assessments and Charges chargeable to such Lot which became due prior to the acquisition of title to such Lot by the First Mortgagee or other person, and the Assessment Lien therefor shall be extinguished. Such unpaid Assessments and Charges shall be deemed to be common expenses collectible from the Owners of all of the Lots through regular annual or special Assessments, subject to the continuing liability of the transferring or foreclosed Owner. In a voluntary conveyance of a Lot, the grantee of the same shall not be personally liable for Assessments and Charges due to the Association in connection with that Lot which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee, but the Lot shall remain encumbered by the Assessment Lien therefor. Any grantee, mortgagee or other

lienholder shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments and Charges due the Association for a reasonable preparation charge. The grantee or other person entitled to receive the statement shall not be liable for, nor shall the Lot conveyed be subject to, unpaid Assessment Liens in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such Assessment or Charge becoming due after the date of any such statement.

Section 4.10 Remedies For Nonpayment. When any Assessment or Charge due from an Owner to the Association on behalf of any Lot is not paid within thirty (30) days after the due date, the Assessment Lien therefor may be enforced by foreclosure of the Assessment Lien and/or sale of the Lot by the Association, its attorney or other person authorized by this Declaration or by law to make the sale. The Assessment Lien may be foreclosed and the Lot sold in the same manner as a realty mortgage and property mortgaged thereunder, or the Assessment Lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Lot, the solvency of the Owner thereof or the relative size of the Owner's default. Upon the sale of a Lot pursuant to this Section, the purchaser thereof shall be entitled to a deed to the Lot and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession, subject to applicable laws. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including, but not limited to, court costs, other litigation costs, costs and attorneys' fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid Assessments and other Charges due to the Association, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchaser shall take the interest in the Lot sold subject to this Declaration. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at any sale and to acquire and hold, lease, mortgage or convey the same. The Association may utilize Association funds to maintain that Lot and pay First Mortgage payments concerning that Lot during the Association's period of ownership of such Lot. In the event the Owner against whom the original Assessment or Charge was made is the purchaser or redemptioner, the Assessment Lien securing that portion of the Assessment or Charge remaining unpaid following the sale shall continue in effect and said lien may be enforced by the Association or by the Board for the Association as provided herein. Further, notwithstanding any foreclosure of the Assessment Lien or sale of the Lot, any Assessments and Charges due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting Owner of the Lot to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member of the Association.

Section 4.11 Suspension Of Rights. In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may suspend the Association voting rights and/or the right to use the Master Common Area (excluding private streets) of a Lot Owner who is in default in the payment of any Assessment or any other amount due to the Association, as provided in the Bylaws, with such suspension to end upon the Owner's full cure of the default.

Section 4.12 Other Remedies. The rights, remedies and powers created and described in Sections 4.10 and 4.11 and elsewhere in the Project Documents are cumulative and may be used or employed by the Association in any order or combination. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments and Charges, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the liens created for Assessments or Charges due hereunder.

Section 4.13 Unallocated Taxes/Payment By First Mortgages. In the event that any taxes are assessed against the Master Common Area or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, a special Assessment may be levied equally against all of the Lots in an amount equal to said taxes, as provided in Section 4.4. First Mortgagees may pay taxes or other charges that are in default and that may or have become charges against the Master Common Area and shall be entitled to immediate reimbursement therefor from the Association.

ARTICLE 5

Use Restrictions

Section 5.1 Use Of Lots As A Single Family Subdivision; Leases; No Partition.

A. Single Family Subdivision. With the exception of the Multi-Use Parcels developed as a multi-family residential project, all Lots within the Residential Parcels and the Multi-Use Parcels of the Project shall be known and described as residential Lots and shall be occupied and used for single family residential purposes only. Any single family house and related improvements on a Lot shall consist of not less than 1,200 square feet. The Multi-Use Parcels shall be occupied and used only for either single family residential purposes or as a multi-family residential project. A portion or portions of the Multi-Use Parcels may be used for single residential purposes and another portion or portions may be used for a multi-family residential project; in such event the portion(s) of the Multi-Use Parcels used as single family residential homes shall be subject to this Declaration in its entirety and the portion(s) developed as a multi-family residential project shall be subject to only portions of this Declaration as herein provided. Business and trade uses within the Lots of the Project shall be restricted as provided in Section 5.4.

B. Leases. No Owner may rent his/her Lot and the single family house and related improvements thereon for transient or hotel purposes or shall enter into any lease for less than the entire Lot. No lease shall be for a rental period of less than thirty (30) days. Subject to the foregoing restrictions, the Owners of Lots shall have the absolute right to lease their respective Lots provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations, and uses contained in this Declaration and the Bylaws and any reasonable Rules and Regulations adopted by the Association. A copy of any such lease shall be delivered to the Association prior to the commencement of the term of the lease. The

Owner is fully responsible for the conduct and actions of his tenants, and his tenant's family members, guests and other invitees.

C. No Partition. No Owner shall bring any action for or cause partition of any Lot, it being agreed that this restriction is necessary in order to preserve the rights of the Owners. Judicial partition by sale of a single Lot owned by two or more persons or entities and the division of the sale proceeds is not prohibited (but partition of title to a single Lot is prohibited). Notwithstanding the foregoing, a vacant Lot may be split between the Owners of the Lots adjacent to such Lot so that each portion of such Lot would be held in common ownership with another Lot adjacent to that portion, subject to any further requirements or restrictions imposed by the Town of Gilbert. No division of any single individual residence into a condominium or time share use shall be permitted within the Project.

Section 5.2 Nature Of Buildings/Structures On Lots. No buildings or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction. No structure of a temporary character and no trailer, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently. No unsightly structure, object or nuisance shall be erected, placed or permitted on any Lot. All buildings and structures on each Lot shall conform with the setback requirements as set forth in the applicable Plat.

Section 5.3 Animals On Lots. No livestock, poultry or other animals shall be raised, bred or kept on any Lot except that customary household pets such as dogs, cats and household birds may be kept, but only such number and types shall be allowed which will not create a nuisance or disturb the health, safety, welfare or quiet enjoyment of other Lot Owners, the Co-Declarants, its employees, invitees or other persons using the Golf Course or its facilities. All animals shall be kept under reasonable control at all times and in accordance with applicable laws and any Rules and Regulations adopted by the Association, and shall be restrained by fence or leash from roaming in or through the Master Common Area or the Golf Course. No Owner (or his tenant, or any of their respective family members, guests or invitees) shall go upon the Golf Course with any pet or other animal for any purpose. All animal wastes must be promptly disposed of in accordance with applicable city or county regulations, and must be immediately removed by the animal's owner from Master Common Areas or any other owner's Lot. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether a particular animal constitutes a customary household pet or is a nuisance (because of noise or otherwise), or whether the number of animals or birds maintained on any portion of the Project is reasonable, and may require the immediate permanent removal of any animal which it determines is violating these provisions. Any decision rendered by the Board shall be final; provided, however, any Owner not satisfied with such decision shall be permitted one mediation session with a board representative as its sole remedy or right of appeal. Owners shall be liable for any and all damage to property and injury to persons and other animals caused by their household pets and the household pets of their tenants and other occupants.

Section 5.4 Signs; Restrictions On Commercial Uses Of Lots. No sign of a commercial nature shall be allowed on a Lot within the Project, except for one "For Rent" or one "For Sale" sign per Lot of no more than five (5) square feet. No institution or other place for the

care or treatment of the sick or disabled, physically or mentally (except as provided by the Arizona Developmental Disabilities Act of 1978 36-581 et seq., or other applicable federal or state law) shall be placed or permitted to remain within the Project and no theater, bar, restaurant, saloon, or other place of entertainment may ever be erected or permitted on any Lot. Further, no trade or business of any kind may be conducted in or from any Lot except that an Owner may conduct a business activity within a single-family house located on a Lot so long as the existence or operation of the business activity (a) is not apparent or detectable by sight, sound, or smell from the exterior of the single-family house; (b) conforms to all zoning requirements for the Project; (c) does not increase the liability or casualty insurance obligation or premium of the Association; (d) is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use, including, without limitation, excessive or unusual traffic or parking of vehicles in the vicinity of any Lot or the Master Common Area as may be determined in the sole discretion of the Board; and (e) does not include any use or business which Co-Declarants or the Golf Course Operator may conduct consistent with the golf course nature of such property, including the retail sale of food, beverages, golf course equipment or related materials. The terms "business" and "trade," as used in the previous sentence, shall be construed to have their ordinary and generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves providing goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration regardless of whether (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor.

Notwithstanding any provision contained herein to the contrary, it shall be expressly permissible for Homebuilders or other builders to move, locate and maintain, during the period of construction and sale of Lots, on such portions of the Project owned by that party as that party may from time to time select, such facilities as in the sole opinion of that party shall be reasonably required, convenient or incidental to the construction of houses and sale of Lots, including but not limited to business offices, storage areas, trailers, temporary buildings, construction yards, construction materials and equipment of every kind, signs of any size, models, and sales offices, except that in the case of Homebuilders or builders other than the Homebuilder named in Section 1.20, the foregoing shall be subject to the prior approval of the named Homebuilder.

Section 5.5 Use Of Garages On Lots. No garage on a Lot may be converted to living space without the prior written consent of the Committee except that Homebuilder may use a garage area in a model home or models for a sales office. Lot owners shall keep their garages neat, clean and free from clutter, debris or unsightly objects and shall at all times keep garage doors closed except as reasonably necessary for ingress and egress.

Section 5.6 Solar Collectors. Solar collectors and related equipment may not be installed on roofs of houses but may be located elsewhere on the Lots. An Owner must obtain the prior written approval from the Committee pursuant to Article 7 prior to installing the same, which may include screening requirements, so as to conceal the same from view of adjacent Lots, the Master Common Area, the street and the Golf Course. The Association, through the Committee, may from time to time adopt guidelines concerning the types of solar collectors and related equipment which may be installed in the Project and acceptable means of installation therefor.

Section 5.7 Antennas And Satellite Dishes On Lots. No antenna may exceed eight (8) feet in height and the installation of any antenna shall be subject to Committee approval, which may include screening requirements, so as to conceal the same from view of adjacent Lots, the Master Common Area, the street and the Golf Course. Satellite dishes for the reception of television signals are permitted on individual Lots if the same are not visible from the street, the Master Common Area, adjacent Lots, or the Golf Course, or if partially visible, if the plans for the same are reviewed in advance by the Committee and determined to be predominantly unobtrusive by the Committee. The Committee shall have the right to require the installation of landscaping or other screening around the satellite dish. I

Section 5.8 Storage Sheds And Swings On Lots. No storage sheds or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the fence on or adjoining said Lot or if such object is visible from the front of the Lot. All swings and slides (including those used in connection with a swimming pool) shall be at least seven (7) feet from all fences located on or near perimeter Lot lines, subject to any further requirements or restrictions of the Town of Gilbert. The foregoing improvements shall also be subject to the prior approval of the Committee. J

Section 5.9 Screening Materials On Lots. All screening areas, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of the improvements by the Homebuilder or other builder, or as approved by the Committee pursuant to Article 7.

Section 5.10 Lot Maintenance Requirements; Nuisances; Garbage And Rubbish; Storage Areas. Each Owner shall maintain, repair, replace, restore and reconstruct his Lot and the improvements constructed thereon (including the house) so as to keep the same in a good, neat and safe order, condition and repair, in full compliance with all applicable laws and legal requirements and in full compliance with this Declaration and the original plans therefor prepared by Homebuilder and/or approved by the Committee under Article 7 below. Without limiting the generality of the foregoing, the Owner shall keep the roof, exterior walls, doors and windows and other improvements visible from other Lots and/or the Master Common Area and/or the Golf Course in good condition by promptly replacing broken roof tiles or windows, periodically repairing stucco cracks and painting, and similar matters. In the event a house is totally or substantially destroyed, the house need not be rebuilt but the Owner shall, within three (3) months, remove all destroyed or damaged improvements and restore the Lot to its condition prior to construction of the house.

No unsightly object or nuisance shall be erected, placed or permitted on any Lot, nor shall any use, activity or thing be permitted which may endanger the health or unreasonably disturb the Owner or occupant of any Lot. No noxious, illegal or offensive activities shall be conducted on any Lot. Each Lot shall be maintained free of rubbish, trash, garbage or other unsightly items and the same shall be promptly removed from each Lot and not allowed to accumulate thereon and further, no garbage, trash or other waste materials shall be burned on any Lot. Garbage cans, clotheslines, woodpiles and areas for the storage of equipment and unsightly items shall be kept screened by adequate fencing or other aesthetically pleasing materials acceptable to the Committee so as to conceal same from the view of adjacent Lots and streets and the Golf K L

Course. Garbage cans may be in view only on collection days and thereafter they must be promptly stored out of sight as provided herein.

No Owner or occupant of any Lot, nor any of their employees, agents or contractors shall (a) deposit or place lawn or landscaping clippings, leaves, branches or other materials or debris on any part of the Golf Course or Master Common Area; or (b) backwash swimming pools or spas onto any part of the Golf Course or Master Common Area, or (c) otherwise cause or allow swimming pool or spa water to be released onto any part of the Golf Course or Master Common Area.

Section 5.11 Vehicles On Lots And Adjacent Streets. No commercial vehicles or "Recreational Vehicles" (including, without limitation, campers, boats, trailers, mobile homes or similar type vehicles) shall be parked (a) in front of a Lot or in a front driveway or otherwise on a Lot where it can be seen from any street, except for temporary parking only not exceeding four (4) consecutive hours, or (b) in a location which is not concealed from view of adjacent Lots and streets and the Golf Course. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Committee. No vehicles (including commercial vehicles and Recreational Vehicles) or other mechanical equipment may be dismantled or repaired (except for ordinary maintenance and repair of such vehicles and equipment inside an enclosed garage, and emergency repairs elsewhere for a time period not exceeding forty-eight (48) hours) or allowed to accumulate on any Lot or in front of any Lot, or ever parked or used on any Master Common Area, except as required by the Association for it to perform its duties hereunder. No vehicle which is abandoned or inoperative shall be stored or kept on any Lot or in front of any Lot in such manner as to be visible from any other Lot or any street or alleyway within or adjacent to the Project.

Section 5.12 Lights; Radios And Other Speakers On Lots. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other Lot or adjacent street, or any part thereof except as approved by the Committee. No radio, television or other speakers or amplifiers shall be installed or operated on any Lot so as to be audible from other Lots, the Master Common Area or the Golf Course. M

Section 5.13 Sanitary Facilities On Lots. None of the Lots shall be used for residential purposes prior to the installation thereon of water-flushed toilets and all bathrooms, toilets and sanitary conveniences shall be inside the house permitted hereunder on each Lot.

Section 5.14 Window Cover Materials On Lots. Within sixty (60) days after the date of close of escrow, each Owner shall install permanent draperies or suitable window coverings on windows facing the street, exclusive of garage windows.

Prior to installation of any reflective materials on the windows or any portion of the house or any other area on any Lot, approval and consent of color and texture must be obtained from the Committee pursuant to Article 7.

Section 5.15 Drilling And Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind or drilling for water wells shall be permitted upon or in any Lot, nor shall oil or water wells, tanks, tunnels, mineral extractions, or shafts or dry wells be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 5.16 Landscaping On Lots; No Change Of Drainage Affecting Golf Course. Subject to the variance provisions of Section 7.3 below, unless installed by the Homebuilder or other builder the (a) front yard landscaping on each Lot, and (b) the rear yard landscaping on those Lots which are adjacent to the Golf Course or any Master Common Area must be installed and substantially completed in an attractive manner by the Owner within three (3) months from the date of close of escrow based upon plans therefor approved in advance by the Committee pursuant to Article 7 below. The landscape plans submitted to the Committee must include proposed changes in grade to be accomplished as part of the landscaping development. Landscaping at all times must be maintained by each Owner in a neat and attractive manner. Any material alterations or modifications made to the original landscaping of a Lot as originally installed and affecting visibility into the Lot from the Golf Course or any Master Common Area or affecting drainage shall be approved in advance by the Committee. Further, each Owner must maintain, repair and restore any and all grades, slopes, retaining walls and drainage structures (collectively "Lot Improvements") as installed by Homebuilder on a Lot or which has been approved by the Committee. If any Owner does not (i) install and complete approved landscaping within the three (3) month period described above, (ii) maintain his landscaping in a neat and attractive manner, or (iii) maintain all Lot Improvements on a Lot, the Homebuilder of the Lot or the Committee, after giving the Owner fifteen (15) days' written notice to cure any such default, shall have the right to cause the necessary landscaping work or Lot Improvements to be done and the Owner in default shall be responsible for the cost thereof. Additionally, the party expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended together with interest thereon at the rate of fifteen percent (15%) per annum until paid. In addition to the foregoing, any party may utilize remedies available under Section 8.1, for such Owner's default.

Section 5.17 Risks Associated With Water Features. Each Owner purchasing a Lot or a Multi-Use Parcel acknowledges that (a) there is an unfenced lake or other bodies of water on or associated with the Golf Course and the Project ("Lakes"), and (b) there is an inherent and unavoidable potential danger and hazard represented by purchasing a parcel in the vicinity of the Lakes. Each Owner, his/her tenants, and their respective family members, guests and other invitees are assuming the various risks involved in living and/or coming upon the Project in the vicinity of the Lakes. Each Owner and tenant shall be solely responsible to ensure the safety of their respective family members, guests and/or other invitees and pets or other domestic animals with respect to the Lakes, including the safety (with respect to the Lakes) of all persons present at the Project with the actual or implied permission or consent of any such person. Without limitation, this shall include the safety of small children or non-swimmers in the vicinity of the Lakes, and the prevention of unauthorized use of the Lakes by persons present with the actual or implied consent of the Owner or tenant. Neither Co-Declarants, any Golf Course Operator, Homebuilder nor the Association will employ or otherwise have available lifeguards, monitors, supervisors or other persons to monitor or supervise the Lakes, or the safety of any persons, and

no actions or omissions by the Co-Declarants, any Golf Course Operator, Homebuilder or Association shall create any responsibility or obligation of Co-Declarants, any Golf Course Operator, Homebuilder, the Association, or any of their respective officers, directors, partners, shareholders, members, employees or agents to monitor or supervise these matters.

Section 5.18 Homebuilder Not Responsible For Design, Construction, Operation Or Maintenance Of Golf Course And Related Improvements; Trust Not Responsible For Design, Construction Or Maintenance Of Residential Parcels, Lots Or Master Common Area. While the Project is a multi-use development containing the Golf Course, Residential Parcels and Multi-Use Parcels, all Owners acknowledge that:

A. Homebuilder did not and will not design or construct the Golf Course or, except to the extent provided in Section 11.7, any related improvements (including but not limited to the clubhouse, driving range, landscaping or irrigation systems or facilities) and has no responsibility therefor or with respect to any matters related thereto.

B. Homebuilder and the Association have no responsibility for the operation, maintenance or repair of the facilities described in subsection A above, or for the manner in which such facilities are operated, maintained or repaired.

C. The Trust did not and will not design or construct the Residential Parcels, any Lot, or any of the Master Common Area within the Project and has no responsibility therefor or with respect to any matters related thereto, unless the unexercised Option shall lapse and the Trust shall thereafter develop portions of the Residential Parcels or the Multi-Use Parcels.

D. The Trust has no responsibility for the operation, maintenance or repair of the facilities described in subsection C above or for the manner in which such facilities were designed or the manner in which they are operated, maintained or repaired, unless the unexercised Option shall lapse and the Trust shall thereafter develop portions of the Residential Parcels or the Multi-Use Parcels.

Section 5.19 No Warranty Of Enforceability. While Co-Declarants have no reason to believe that any of the restrictive covenants contained in this Article 5 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Co-Declarants make no warranty or representation as to the present or future validity or enforceability of any of the restrictive covenants. Any Owner acquiring a Lot in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Co-Declarants harmless therefrom.

Section 5.20 Use Of The Multi-Use Parcels. The parties acknowledge that the Multi-Use Parcels may be developed for single family residential purposes or as a multi-family residential project. Should the Multi-Use Parcels be developed for single family residential purposes, then the Multi-Use Parcels shall be considered Residential Parcels for all purposes under this Declaration (whether or not so described in any applicable Article or Section hereof). Should the Multi-Use Parcels be developed as a multi-family residential project, then solely the provisions of Sections 5.1A (as to restrictions to multi-family use), 5.17, 5.18, 6.2C, Article 7, Sections 11.3

and 11.5 shall apply to the Multi-Use Parcels, but otherwise no restrictions or covenants in this Declaration shall apply thereto.

ARTICLE 6

Fences, Party Walls and Easements

Section 6.1 Fence Requirements. All Lots, when developed, shall be improved with fences as approved by the Committee. Except as may be installed by Homebuilder and subject to the variance provisions of Section 7.3, no side or rear fence and no side or rear wall, other than the wall of the house constructed on said Lot, shall be more than six (6) feet in height. Notwithstanding the foregoing, prevailing governmental regulations shall take precedence over these restrictions if said regulations are more restrictive. Unless otherwise approved by the Committee, all fencing and any materials used for fencing, dividing or defining the Lots must be of cement block construction and of new materials, and erected in a good and workmanlike manner. The color(s) of the fencing for all Lots will be as selected by the builder thereof with the prior approval of the Committee and shall not be changed without the prior approval of the Committee. All fences shall be maintained in good condition and repair, and fences, upon being started, must be completed within a reasonable time not exceeding three (3) months from commencement of construction. If any fence originally installed by an Owner is wholly or partially damaged by any cause, it shall be removed in its entirety or returned to its original condition within three (3) months from the date of damage; any fences originally installed by any builder, or in a location in which a builder-installed fence was originally erected, must be promptly restored to their original condition by such Owner, or Owner(s) of the adjacent Lots if the same is a Party Wall under Section 6.2.

Wherever the words "Party Wall," "fence", "fences" or "fencing" appears in this Declaration, they include block walls, wood fences and other materials used as a fence, fences, wall or walls (except a wall which is part of a house) subject to the provisions of this Section 6.1 requiring cement block construction.

Section 6.2 Fences As Party Walls.

A. Fences which may be constructed by a Homebuilder or other builder upon the dividing line between Lots or between a Lot and Master Common Area, or near or adjacent to said dividing line because of minor encroachments due to engineering errors (which are hereby accepted by all Owners and the Association in perpetuity) or because existing easements prevent a fence from being located on the dividing line, are "Party Walls" and shall be maintained and repaired at the joint cost and expense of the adjoining Lot Owners, or of the adjoining Lot Owner and the Association if the Party Wall divides a Lot and Master Common Area. Paint and/or stucco surfaces shall be maintained and repainted as necessary by the party whose property is enclosed by the painted and/or stuccoed surface. Fences constructed upon the back of any Lot (which do not adjoin any other Lot or Master Common Area) by the Homebuilder or other builder shall be maintained and repaired at the cost and expense of the Lot Owner on whose Lot (or immediately adjacent to whose Lot) the fence is installed. Such Party Walls and fences shall not be altered, or changed in design, color, material or construction from the original installation made by the Homebuilder or other builder without the approval of the adjoining Owner(s), if any, and

the Committee. In the event any Party Wall is damaged or destroyed by the act or acts of one of the adjoining Lot Owners, his family, agents, guests or tenants (or by any employee, agent or contractor of the Association), that Owner or the Association shall be responsible for said damage and shall promptly rebuild and repair the Party Wall(s) to its/their prior condition, at his or its sole cost and expense. In all other events when any Party Wall is wholly or partially damaged or in need of maintenance or repair, each of the adjoining Owners (or the adjoining Owner and the Association, if applicable) shall share equally in the cost of replacing the Party Wall or restoring the same to its original condition. For this purpose, said adjoining Owners (or the adjoining Owner and the Association, if applicable) shall have an easement as more fully described in Section 6.3(A)(2). All gates shall be no higher than the adjacent Party Wall or fence.

B. In the event of a dispute between Owners with respect to the repair or rebuilding of a Party Wall, then, upon written request of one of such Owners addressed to the Committee, the matter shall be submitted to the Committee for arbitration under such rules as may from time to time be adopted by the Committee. If no such rules have been adopted, the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third arbitrator to be chosen within five (5) days by any judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners who shall share the cost of arbitration equally. In the event one Owner fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other Owner, then said requesting Owner shall have the right and power to choose both arbitrators.

C. Fences between any adjoining Lot and the Golf Course shall be painted, maintained and repaired at the sole cost of the Owner of the adjoining Lot, except for damage done or caused by the Golf Course Operator or its agents, employees or contractors, for which the Golf Course Operator will be solely responsible. The Owner of the adjacent Lot shall be solely responsible to paint, maintain, repair and/or replace the fence as necessary due to rust damage from landscaping watering on the Lot and/or Golf Course or golf ball damage.

Section 6.3 Easements.

A. General Easements.

(1) Easements for installation and maintenance of utilities and drainage facilities have been created as shown on the Plat(s), and additional easements may be created by grant or reservation by Co-Declarants or the Homebuilder of a portion of the Project for the foregoing purposes. Except as may be installed by any Homebuilder, no structure, planting or other materials shall be placed or permitted to remain within these easements which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, if any, or which may obstruct or retard the flow of water through the channels in the drainage easements, if any. The easement area of each Lot and all improvements located thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, and except for any easement area referred to in Subsection 6.3A(3) below, which will be maintained by the Owner of the Lot who has use of the easement.

(2) For the purpose of repairing and maintaining any Party Wall, a temporary easement in any one space not to exceed five (5) feet in width is hereby created over the portion of every Lot immediately adjacent to any Party Wall to allow the adjoining Owner access for maintenance purposes as set forth herein and no other purpose.

(3) In addition to the foregoing, if a Party Wall is not located between Lots, an easement is hereby created for six (6) months after a house is constructed on any Lot for the purpose of constructing and maintaining said Party Wall. With respect to any Party Wall not located on a dividing line between Lots but located near or adjacent to such dividing line, an Owner of a Lot shall have and is hereby granted a permanent easement over any property immediately adjoining said Owner's Lot up to the middle line of said Party Wall for the use and enjoyment of the same.

(4) Each Lot and Master Common Area within the Project is hereby declared to have an easement over all adjoining Lots and the Master Common Area for the purpose of accommodating any encroachment due to minor engineering errors, errors in either the original construction or reconstruction of the buildings on the Lots, or the settlement or shifting of buildings or any other similar cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

B. Homebuilder Easements.

(1) Homebuilder shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project on Lots owned by such party and to maintain one or more advertising signs on the Master Common Area while the Homebuilder sells Lots in the Project, and may grant such rights to other builders.

(2) Homebuilder shall have the right and an easement on and over the Master Common Area to construct thereon all buildings and improvements consistent with the approved plans therefor and to use the Master Common Area (until Class B Membership terminates) and any Lots owned by Homebuilder for construction and renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project, and may grant such rights to other builders.

(3) The Homebuilder shall have an easement on, over and through the Lots (but not through any houses thereon) for any access necessary to complete any renovations, warranty work or modifications to be performed by Homebuilder.

C. Association Easements. The following easements are hereby created in favor of the Association and its directors, officers, agents, employees and independent contractors over the Lots (but not the houses thereon):

(1) For inspection of the Lots in order to verify the performance of all Owners of all items of maintenance and repair for which they are responsible;

(2) For inspection, maintenance, repair and replacement of the Master Common Area accessible from the Lots; and

(3) For the purpose of enabling the Association, the Board, the Committee or any other committee appointed by the Board, to exercise and discharge their respective rights, powers and duties under the Project Documents. No Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under the powers or easements reserved under this Declaration.

The Association also has certain easements over the Golf Course as provided in Article 11, below.

ARTICLE 7

Architectural Control

Section 7.1 Creation Of Committee. For the purpose of maintaining the architectural and aesthetic integrity and consistency within the Project, an Architectural Control Committee consisting of five (5) members is hereby established. The first members of said Committee shall be individuals, two (2) of which shall be appointed by Western and three (3) of which shall be appointed by Homebuilder, who shall serve until their resignation or removal. The two (2) members of the Committee representing Western may, at any time, be removed and replaced by Western, and upon resignation of any such representative of Western, Western shall have the sole right to appoint a replacement. The three (3) members of the Committee representing Homebuilder may, at any time, be removed and replaced by the Board, and upon resignation of any such representative of Homebuilder, the Board shall have the sole right to appoint a replacement. Western may waive its rights to appoint some or all Committee members by recording an instrument in the Official Records giving notice of the same, whereupon such right will vest in the Board. The rights of Western under this Section 7.1 shall automatically vest in the Trust at such time as the Option either lapses or is terminated.

A majority of the Committee shall be entitled to take action and make decisions for the Committee. Except for Committee members appointed by Western, all Committee members shall be Owners or representatives of Homebuilders.

Section 7.2 Review By Committee. No buildings or exterior or structural improvements of any kind, fences, walls, Party Walls, solar collectors, antennas (including customary TV antennas), satellite dishes, underground TV apparatuses, broadcasting towers, other structures, Lot Improvements, landscaping or landscaping changes, or changes to the exterior colors of any of the foregoing (collectively, the "Alterations") shall be commenced, erected, made, structurally repaired, replaced or altered (except as set forth below) anywhere in the Project (including, without limitation, the Multi-Use Parcels developed as a multi-family residential project)

until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, location and approximate cost of same shall have been submitted to and approved by the Committee. The Committee shall have the right to refuse to approve any Alteration which is not suitable or desirable in their opinion for aesthetic or other reasons, and they shall have the right to take into consideration (i) the suitability of the proposed Alterations; (ii) the material (including type and color) of which it is to be built; (iii) the site (including location, topography, finished grade elevation) upon which it is proposed to be erected; (iv) the harmony thereof with the surroundings (including color and quality of materials and workmanship); and (v) the effect of the Alterations as planned on the adjacent or neighboring property (including visibility and view). Failure of the Committee to reject in writing said plans and specifications within forty-five (45) days from the date the same were submitted shall constitute approval of said plans and specifications, provided the design, location, color and kind of materials in the Alterations shall be governed by all of the restrictions herein set forth. With respect to reviewing proposed plans and specifications, the Committee shall have the right to employ professional consultants to review the same to assist it in discharging its duties. In the event the Committee elects to employ such consultant, the Committee shall first give notice to the Owner of the fee required for purposes of hiring any such consultant and the Owner shall promptly pay said consultant's fee to the Committee prior to the Committee being obligated to proceed further with its review of said Owner's submission.

The Committee's approval of Alterations shall not be interpreted or deemed to be an endorsement or verification of the safety, structural integrity or compliance with applicable laws or building ordinances of the Alterations and the Owner and/or its agents shall be solely responsible therefor. The Committee and its members shall have no liability for any lack of safety, integrity or compliance thereof. The Committee and its members shall have no personal liability for judicial challenges to its decisions and the sole remedy for a successful challenge to a decision of the Committee shall be an order overturning the same without creating a right, claim or remedy for damages. The Committee may adopt and amend, from time to time, architectural control guidelines consistent with this Section and the Project Documents.

Section 7.3 Variances. The Committee may (with Board approval in its sole discretion and in extenuating circumstances) grant minor variances from the restrictions set forth in Article 5 and Article 6 of this Declaration and any of the requirements set forth in this Article 7 if the Committee determines that (a) either (i) a restriction would create an unreasonable and substantial hardship or burden on an Owner or (ii) a change of circumstances has rendered a restriction obsolete and (b) the activity permitted under the variance will not have a substantially adverse effect on other Owners and is consistent with the high quality of life intended for the Project.

Section 7.4 Fee. A fee of $50.00 per review may be charged by the Committee whether or not outside consultants are used by the Committee.

ARTICLE 8

General

Section 8.1 Effect Of Declaration And Remedies. The declarations, limitations, easements, covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing (or whose title is acquired by foreclosure, deed in lieu thereof, trustee's sale or otherwise) or occupying any Lot or other property in the Project after the date on which this Declaration is recorded in the Official Records. In the event of any violation or attempted violation of these covenants, conditions, and restrictions, they may be enforced by an action brought by the Association, the Committee or by the Owner or Owners (not in default) of any Lot or Lots or other property in the Project, at law or in equity, in addition to the Association's remedies in Sections 3.3 and 4.10. Co-Declarants and Golf Course Operator shall have the right to enforce any provisions which are intended to benefit the Golf Course or the owner(s) thereof in any manner permitted by applicable law, including, without limitation, by any remedy or procedure provided for in this Declaration. Golf Course Operator's right to enforce is expressly limited to the right to enforce provisions which are intended to benefit the Golf Course or any owner(s) thereof. Co-Declarants, Homebuilder and Golf Course Operator have no duty to take action to remedy any such default. Remedies shall include but not be limited to damages, injunctive relief and/or any and all other rights or remedies pursuant to law or equity and the prevailing party shall be entitled to collect all costs incurred and reasonable attorneys' fees sustained in commencing and/or defending and maintaining such lawsuit. Notwithstanding the foregoing, an Owner's liability for damage to Master Common Area or Lots or other property (including improvements thereon) of other Owners by reason of the acts of the Owner, the Owner's tenants, and their respective family members, guests, invitees or licensees shall be limited to that imposed under applicable Arizona statutory, case and other law. Any breach of these covenants, conditions and restrictions, or any remedy by reason thereof, shall not defeat nor affect the lien of any mortgage or deed of trust made in good faith and for value upon the Lot in question and the breach of any of these covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings notwithstanding the lien or existence of any such mortgage or deed of trust.

All instruments of conveyance of any interest in any Lot or other property in the Project shall be deemed to contain a reference to this Declaration and shall be subject to the declarations, limitations, easements, covenants, conditions and restrictions herein as fully as though the terms and conditions of this Declaration were therein set forth in full; provided, however, that the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in any instrument of conveyance. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions and restrictions.

Section 8.2 Plurals; Gender. Whenever the context so requires, the use of the singular shall include and be construed as including the plural and the masculine shall include the feminine and neuter.

Section 8.3 Severability. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.

Section 8.4 Transfer By Homebuilder. Wherever Homebuilder is granted certain rights and privileges hereunder, Homebuilder shall have the right, but only as to rights and privileges related to portions of the Property owned in fee by Homebuilder, to fully or partially assign and transfer any of such rights and privileges, but only as to rights and privileges related to portions of the Property owned in fee by Homebuilder, to any other party acquiring title thereto as evidenced by a written instrument recorded in the Official Records which describes in detail the particular Homebuilder's right or rights being assigned (if less than all such Homebuilder rights) and said instrument shall state that, in such case, the assignee is a Homebuilder. Upon an assignment by Homebuilder of its rights hereunder, Homebuilder shall thereafter have no further liability, responsibility or obligations for future acts or responsibilities of any successor Homebuilder hereunder and the successor shall be solely responsible therefor (to the extent of the assignment) and all parties shall look to the successor therefor. At any time, any Homebuilder may, by a written, recorded notice, relinquish all or any portion of its rights hereunder and all parties shall be bound thereby, except that no Homebuilder, nor its successors or assigns, may relinquish the rights of any other Homebuilder. Homebuilder may collaterally assign all of its rights and privileges, but only as to rights and privileges related to portions of the Property owned in fee by such Homebuilder, to act as Homebuilder for such portion of the Project to a lender as additional security for any loan from the lender encumbering all or substantially all of the Lots in the Project owned by such Homebuilder, with such assignment to become absolute and final in favor of such lender or a purchaser at a foreclosure or trustee's sale upon that party's acquisition of fee title to the encumbered Lots, unless such party otherwise specifies in an instrument recorded in the Official Records.

Section 8.5 Rights Of First Mortgagees And Insurers Or Guarantors Of First Mortgages. Upon written request to the Association identifying the name and address of the First Mortgagee for any Lot or the insurer or guarantor of any such First Mortgage and the Lot number or address, any such First Mortgagee or insurer or guarantor of such First Mortgage will be entitled to timely written notice of:

A. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor, as applicable;

B. Any delinquency in the payment of Assessments or Charges owed or other default in the performance of obligations under the Project Documents by an Owner of a Lot subject to a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor which remains uncured for a period of sixty (60) days;

C. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

D. Any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as described in this Declaration.

Section 8.6 Miscellaneous. This Declaration shall remain and be in full force and effect for an initial term of thirty-five (35) years from the date this Declaration is recorded in the Official Records. Thereafter, this Declaration shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked by an instrument in writing, executed and acknowledged by (a) Co-Declarants (if said Co-Declarants then have any interest in the Project by reason of Class B Membership, by reason of any annexation rights pursuant to Article 10 or by reason of the fee ownership of real property in the Project as evidenced by the Official Records), (b) the then Owners of not less than seventy-five percent (75%) of the Lots in the Project, and (c) "Eligible First Mortgagees" (those First Mortgagees who have filed a written request with the Association requesting notice of certain matters set forth in Section 8.5) holding First Mortgages on Lots which have at least sixty-seven percent (67%) of the votes of Lots subject to First Mortgages held by Eligible First Mortgagees, which said instrument shall be recorded in the Official Records not earlier than ninety (90) days prior to the expiration of the initial effective period hereof, or any ten (10) year extension. If there is any conflict between any of the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to the Project Documents in the following order: the Plat(s), Articles, Bylaws and Rules and Regulations of the Association. As long as there is Class B Membership, the following actions require the prior approval of the Federal Housing Administration or the Veterans Administration if either of those agencies has approved the development plan of the Project: annexation of additional properties, dedication of the Master Common Area, amendment of this Declaration and withdrawal or de-annexation of any property from this Declaration.

Section 8.7 Amendments. At any time, this Declaration may be amended by an instrument in writing, executed and acknowledged by the then Owners of not less than sixty-seven percent (67%) of the platted Lots then existing in the Project; provided however, that (i) the Homebuilder, while Class B Membership exists, acting alone, or (ii) the Co-Declarants, acting alone, may amend this Declaration to comply with the guidelines or regulations of any governmental or quasi-governmental agency insuring, guaranteeing or purchasing loans in the Project, without the consent of any other person (including any Owner, Co-Declarants or any lienholder, including Eligible First Mortgagees). Except as provided in the proviso contained in the preceding sentence, the approval of Eligible First Mortgagees holding First Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to First Mortgages held by Eligible First Mortgagees shall be required to add to or amend any "material" provisions of the Project Documents which establish, provide for, govern and regulate any of the following:

A. voting;

B. Assessments, Assessment Liens or subordination of such liens;

C. reserves for maintenance, repair and replacement of the Master Common Area;

D. rights to use of or reallocation of interests in the Master Common Area (other than dedications to governmental agencies and private utilities);

E. responsibility for maintenance and repair of the various portions of the Project;

F. expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;

G. convertibility of Lots into Master Common Area or Master Common Area into Lots;

H. imposition of any right of first refusal or similar restriction on the right of a Lot Owner to sell, transfer or otherwise convey his Lot;

I. any provisions which are for the express benefit of First Mortgagees, Eligible First Mortgagees or insurers or guarantors of First Mortgages on Lots held by Eligible First Mortgagees;

J. a decision by the Association to establish self-management when professional management had been required previously by the Project Documents or an Eligible First Mortgagee; and

K. any action to terminate the legal status of the Project after substantial destruction or condemnation occurs.

An addition or amendment to the Project Documents shall not be considered "material" if it is for the purpose of correcting technical errors or for clarification only. An Eligible First Mortgagee which receives a written request to approve additions or amendments pursuant to this paragraph and which does not deliver or post to the requesting party a negative response within thirty (30) days after such notice was delivered thereto by certified or registered mail, return receipt requested, shall be deemed to have approved such request. The consents required under this Section 8.7 shall not apply to amendments recorded by Co-Declarants or Homebuilder to comply with governmental or quasi-governmental agency regulations as described above in this Section 8.7.

No provisions of this Declaration which are for the benefit of the Western, as a Co-Declarant, may be amended without the prior written consent of Western, or its heirs, successors and assigns. No provisions of this Declaration which are for the benefit of the Golf Course may be amended without the prior written consent of the Golf Course Operator, or its heirs, successors and assigns. Further, this Declaration may not be amended to impose any further or additional obligations on the Golf Course, or the owners thereof, without the prior written consent of the owners thereof. So long as the Trust owns any portion of the Property, provisions of this Declaration may not be amended without the prior written consent of the Trust. Such approval shall be deemed given if the Trust does not deliver a response within fifteen days of the Trust's receipt of a request to consent to a Declaration amendment, said request to conform with the notice provision contained in the Option.

Section 8.8 Beneficiary Disclosures. To the extent required by applicable law, the names and addresses of the beneficiaries of the Trust are as set forth on Exhibit "8.8" which is incorporated herein by reference.

Section 8.9 Counterpart. This Declaration may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one agreement.

ARTICLE 9

Phased Plan of Development; Subassociations; Additional Master Common Area Provisions

Section 9.1 Phased Plan Of Development. Co-Declarants intend that the Residential Parcels of the Project (and the Multi-Use Parcels, to the extent developed as single family residences) be developed in multiple phases. The time period for such phasing may be an indeterminate period of time.

Section 9.2 Ratification Of Subjecting The Multi-Use Parcels To Only Portions Of This Declaration. To clarify the date as of which only portions of this Declaration applies to a multi-family residential project located on the Multi-Use Parcels, the Owner thereof, with the approval of the Association, may record a notice that the Multi-Use Parcels are developed as a multi-family residential project and not as single family residential homes.

Section 9.3 Subassociations And Parcel Declarations. The Homebuilder of a Residential Parcel or a portion thereof may record separate declarations, covenants, conditions, restrictions, and/or easements, and create Subassociations by executing articles of incorporation and bylaws thereof as such Homebuilder determines is appropriate, to bind property then owned by the Homebuilder provided:

A. The Association approves such documents prior to their execution and recordation in the Official Records.

B. Such documents may provide for the conversion of Lots within such property to common area of the Subassociation, but only with the prior approval of the Association.

C. Such documents shall recite that they are always subject to the provisions of this Declaration and the Articles and Bylaws of the Association, and all Rules and Regulations of the Association adopted pursuant thereto. Such documents may contain additional and/or more restrictive requirements than are set forth herein or in the Articles, Bylaws or Rules and Regulations of the Association but no such documents shall affect, diminish, limit or restrict any of the provisions of this Declaration or the Articles, Bylaws or Rules and Regulations of the Association.

The Association shall have no ownership of or responsibility for maintaining common areas that are to be owned by a Subassociation.

Section 9.4 Additional Master Common Area Provisions. As provided in Sections 1.24 and 1.33 above, Master Common Area is limited to that property owned by the Association which is intended, designed and available for the general use and benefit of all Owners.

Except as permitted below with respect to Additional Master Common Area, any other "common areas" must be owned and maintained by a Subassociation.

If a Homebuilder or a Subassociation desires for a common area within a specific Residential Parcel which is not intended, designed and/or available for the general use and benefit of all Owners to be an Additional Master Common Area, such designation must be approved by the Association and confirmed in a written "Designation of Additional Master Common Area", recorded in the Official Records, subjecting one or more a specific parcels of real Property to this Section as Additional Master Common Area. As an example but not by way of limitation, a Subdivision with a guard or card-gated entry could have the areas containing the guard or card gate and any private streets or other common areas for which access is restricted thereby Additional Master Common Areas, subject to Association approval, in lieu of a Subassociation being responsible therefor. In the event any such Additional Master Common Area is designated:

A. Upon (a) completion of all improvements for the Additional Master Common Area as described on the plans and specifications therefor approved by the Association and all applicable governmental agencies, (b) acceptance of such improvements as required by such government agencies and the Association (subject to any continuing warranty obligations of Owner as the constructor thereof), and (c) receipt of any required approval from any government agencies for the Association to accept the Additional Master Common Area, the Association agrees to accept fee simple title to the Additional Master Common Area, provided that it is conveyed free and clear of all liens (except current prorated real property taxes) by special warranty deed and title is insured by a title insurance policy meeting the requirements of such government agencies.

B. Upon the Association's acceptance of the special warranty deed for the Additional Master Common Area, the same shall, for all purposes, be deemed to the Master Common Area as defined in this Declaration, subject to all terms and provisions of this Declaration applicable to Master Common Area, except as specifically provided herein. The Association shall maintain, repair, replace, insure, pay taxes on and otherwise deal with the Additional Master Common Area in the same manner as any other Master Common Area subject to this Declaration.

C. Notwithstanding the obligations of the Association set forth herein, all costs incurred by the Association with respect to the Additional Master Common Area, including maintenance, landscaping, repair, replacement, taxes, insurance, utility, administrative and other costs and fees (collectively, the "Costs"), shall be periodically assessed by the Association to the Owners of Lots within the platted subdivision ("Subdivision") wherein the Additional Master Common Area(s) are located in installments as the Association deems necessary (the "Additional Master Common Area Assessment"), at a rate specified in the Designation of Additional Master Common Area. From and after January of the year immediately following the Association's acceptance of the Special Warranty Deed for the Additional Master Common Area, the Board may, without the approval of the Owners of the Lots in the Subdivision, annually adjust the Additional Master Common Area Assessment on the basis of the prior year's Cost history and its projections of Costs for the year in question. Subject to the limitations set forth below, the Additional Master Common Area Assessment shall be set at a figure calculated to fully cover all projected Costs of the Additional Master Common Area for the year in question plus/minus any accrued deficits/surpluses therefor carried forward from prior years, and the total of such amounts shall be

divided by the number of Lots in the Subdivision to arrive at the annual Additional Master Common Area Assessment amount for each Lot for the year in question. The Additional Master Common Area Assessments shall be payable in monthly or quarterly installments in advance as determined by the Board.

Notwithstanding the foregoing, the Additional Master Common Area Assessment determined above for any year shall not exceed the Maximum Additional Master Common Area Assessment (as defined below) for that year except with the prior vote or written approval of the Owners of at least two-thirds (2/3) of the Lots in the Subdivision. The "Maximum Additional Master Common Area Assessment" for the year after the Association's acceptance of the Additional Master Common Area shall be an annual rate per Lot equal to the original Additional Master Common Area Assessment as increased by the combination of (a) the projected increases in utility Costs, insurance Costs and real or other taxes for the Additional Master Common Area for the year in question ("Exempt Costs") over the prior year and (b) the greater of (1) the increase in the "Consumer Price Index" (described in Section 4.3 above) for the previous year multiplied by the non-Exempt Costs for the prior year, or (2) ten percent (10%) of the total non-Exempt Costs for the previous year, divided by the number of Lots in the Subdivision. The Maximum Additional Master Common Area Assessment may be increased each subsequent year in the same manner (but shall not be decreased), except that the prior year's Maximum Additional Master Common Area Assessment figure shall be used in lieu of the original Additional Master Common Area Assessment amount. As described above, any deficits/surpluses between the Association's collection of Additional Master Common Area Assessments and the total costs for the Additional Master Common Area for any particular year shall be carried forward and considered in setting the subsequent year's Additional Master Common Area Assessment, with the intent that the Association will fully recover all Costs associated with the Additional Master Common Area from the Owners of the Lots in the Subdivision.

Additional Master Common Area Assessments shall be collected by the Association in the same manner as any other Assessment, including but not limited to the right of the Association to foreclose the Assessment Lien and/or institute suit to collect the same.

ARTICLE 10

Annexation of Annexable Property; Adjustments of Boundaries

Section 10.1 Homebuilder's Reservation Of Rights To Annex And Irrevocable Commitment Of Annexable Property.

A. Co-Declarants and Homebuilder hereby expressly reserves the right, until ten (10) years from the recording of this Declaration, to annex to the Residential Parcels and the Multi-Use Parcels and subject to this Declaration (if not already subject hereto and therefore not part of the Project) without the consent of any Owner or lienholder, all or any portion of any property owned by Co-Declarants or Homebuilder which is currently within the Project or adjacent to any portion of the Project (the "Annexable Property"). The annexation of all or any portion of the Annexable Property shall be accomplished by Homebuilder recording a Declaration of Annexation in the Official Records stating (i) the legal description of the Annexable Property being

annexed; and (ii) a description of any portion of the Annexable Property being added which will be Master Common Area. The Declaration of Annexation may contain additional restrictions or other provisions relating to the Annexable Property which is annexed thereby, provided the same do not adversely affect the Owners of any other Lot.

B. Any portion of the Annexable Property annexed pursuant to this Section shall not become irrevocably annexed as a Residential Parcel until the date on which the first Lot within the annexed portion of the Annexable Property is conveyed to an Owner. If any Declaration of Annexation recorded pursuant to this Section divides a portion of the Annexable Property being annexed into separate phases, then each phase of the property being annexed shall not become irrevocably annexed as a Residential Parcel until the date on which the first Lot within such phase is conveyed to an Owner.

C. Co-Declarants or Homebuilder shall have the right to amend any Declaration of Annexation recorded pursuant to this Section to change the description of phases within the property being annexed, except that Co-Declarants or Homebuilder may not change any portion of the Annexable Property which has already become irrevocably annexed to the Project.

D. At any time prior to the date which is ten (10) years after the recording of this Declaration, the Annexable Property which has not been irrevocably annexed pursuant to the provisions of this Section may be withdrawn as a Residential Parcel or Multi-Use Parcel (and from the Project if the same is not otherwise already part of the Project). Any such withdrawal of property shall be accomplished by Co-Declarant's or Homebuilder's recording of a Declaration of Withdrawal in the Official Records, describing the portion of the property being withdrawn. Upon the recording of any such Declaration of Withdrawal, that portion of the Annexable Property described in the Declaration of Withdrawal shall no longer be eligible for annexation, and, unless already part of the Project under this Declaration, the same shall not be part of the Project.

E. The voting rights and Assessment obligation of the Owners (including Homebuilder) of Lots annexed pursuant to this Section shall be effective as of the date the Lots become irrevocably annexed to the Project.

Section 10.2 No Limitations On Development.

A. The Annexable Property may be added from time to time in one or more portions or as a whole, with no limitations or restrictions as to the order of annexation or the boundaries of Annexable Property. The portions of Annexable Property annexed need not be contiguous.

B. There are no limitations on the locations or dimensions of improvements to be located on the Annexable Property. No assurances are made as to what, if any, further improvements will be made by Co-Declarants or Homebuilder on any portion of the Annexable Property.

C. Homebuilder makes no assurances as to the exact number of Lots which shall be added by annexation of all or any portion of the Annexable Property.

D. All improvements to be constructed on Master Common Area within the Annexable Property annexed into the Residential Parcels will be substantially completed, and all such Master Common Areas must be conveyed to the Association free of liens and encumbrances (except current taxes and assessments) prior to the time at which such portion of the Annexable Property is irrevocably annexed in accordance with the provisions of this Section. If the Annexable Property is divided into phases, only those improvements to be located on Master Common Area within phases irrevocably committed must be completed prior to the time that such phases are so irrevocably committed.

E. All taxes, assessments, mechanic's liens, and other charges affecting the Master Common Area in a new phase or portion of the Annexable Property, covering any period prior to the irrevocable annexation of said real property to the Residential Parcels, shall be paid or otherwise provided for by Homebuilder or its successor or assign seeking to bring the same within the Residential Parcels in a manner satisfactory to the Federal Housing Administration or Veterans Administration, if either such agency has approved the Residential Parcels, before irrevocable annexation of the real property to the Residential Parcels, so that any liens arising in connection with said phase or Annexable Property will not adversely affect the rights of the existing Lot Owners.

F. Prior to irrevocable annexation of any portion of the Annexable Property to this Declaration, Homebuilder shall purchase, at Homebuilder's own expense, a liability insurance policy if required, and in an amount determined by, the Federal Housing Administration or the Veterans Administration, if either such agency has approved the Residential Parcels, to cover any liability to which Owners of Lots in the Residential Parcels might be exposed by reason of the new phase, or the construction of improvements thereon. This policy shall be endorse "as owner's interest might appear."

Section 10.3 Adjustments Of Boundaries. Because of the complexity of the Project and the legal descriptions, plats and other materials affecting the same, the potential exists for necessary modification or corrections of legal descriptions, plats and related materials by deeds, affidavits of correction and the like, the Association, Co-Declarants, Homebuilder, and the other Owner(s) will reasonably cooperate in connection therewith as may be reasonably necessary or appropriate from time to time to carry out the intent of this Declaration.

ARTICLE 11

Golf Course

Section 11.1 Use Of Golf Course. The Golf Course shall be maintained, operated, modified, improved and otherwise used solely for Golf Course, driving range and golf related purposes, for at least five (5) years from the date that Homebuilder conveys the last Lot located in the Residential Parcels owned by Homebuilder to an Owner. Activities and uses permitted on the Golf Course shall include all activities generally associated with the operation and maintenance of a Golf Course. In addition, the Golf Course Operator may permit other community and recreational activities on the Golf Course, including, but not limited to, tournaments, banquets, picnics, charitable events, and meetings or social gatherings, provided that the Golf Course

continues to be improved, operated and maintained as a Golf Course with minimal interruptions due to such uses and activities. Golf Course Operator may light or modify lighting for the Golf Course, provided only "down lighting" or "surface lighting" thereof in a manner approved by the Committee shall be permitted. No building, shed, snack bar, washroom or other similar facility shall be located on the Golf Course within 150 feet of any common boundary line between any Golf Course Lot (or Multi-Use Parcel) and the Golf Course.

At such time as a golf course is not being operated on the Golf Course Property, Golf Course Operator shall maintain, repair and replace as reasonably necessary all landscaping (and all watering systems serving the landscaping) and improvements on the Golf Course visible from any Lot, Master Common Area or street in a neat, orderly and good condition that will not detract from the appearance or attractiveness of the Project (the "Minimum Maintenance"). If Golf Course Operator fails to perform any Minimum Maintenance, the Board may notify Co-Declarants thereof and if Co-Declarants fail to perform the required Minimum Maintenance within twenty (20) days from such notice (or if the required Minimum Maintenance will reasonably require more than twenty (20) days to be completed, if Golf Course Operator does not commence such work within such twenty (20) days and diligently proceed with completion thereof), the Association may (but shall not be required to) perform the Minimum Maintenance, as well as any Minimum Maintenance required thereafter unless Co-Declarants have notified the Association of its willingness and ability to perform such future Minimum Maintenance and provided reasonable evidence to the Association of such ability. The Association shall not perform any work not reasonably required to maintain the landscaping and improvements on the Golf Course visible from any Lot, Master Common Area or street in a neat, orderly and good condition such that it will not detract from the appearance or attractiveness of the Project. The Association shall perform any such work at a cost representing a reasonably competitive price in the marketplace. All such costs incurred by the Association, plus interest thereon at the rate of ten per cent (10%) per annum from the date paid until the date reimbursed, shall be payable by Golf Course Operator upon demand, and shall be secured by a lien upon the Golf Course, which shall be prior to all other liens except real estate taxes and assessments and any First Mortgage, and which may be foreclosed in the same manner as a real property mortgage under Arizona law. Before beginning any such Minimum Maintenance, the Association or its contractor shall have liability insurance with minimum coverage of at least $1,000,000.00 combined single limits coverage, and workmen's compensation insurance as required by law, and such liability insurance shall include Co-Declarants as an additional insured as evidenced by a Certificate of Insurance. The Association shall indemnify and hold Co-Declarants harmless from and against any and all liability, losses, claims, causes of action, expenses or attorneys' fees incurred or sustained by Co-Declarants as a result of the activities of the Association and its agents, employees and contractors on the Golf Course under this Section.

The provisions of this Section 11.1 above shall apply to the Golf Course, but otherwise no restrictions or covenants in Article 5 related to Lots shall apply thereto.

Section 11.2 Association Not Responsible For Golf Course. The Association shall have no obligation to maintain, repair or otherwise care for the Golf Course.

Section 11.3 Assumption Of Risk For Golf Ball Damage. Portions of the

Residential Parcels and the Multi-Use Parcels are located adjacent to or in the vicinity of the Golf Course. Each Owner hereby assumes personally and for such Owner's tenants, and their respective guests, family members and invitees, all risk associated with owning or occupying property immediately adjacent to the Golf Course, including, without limitation, the possibility of personal injury or property damage as a result of the flight of golf balls, the noise and other effects associated with the play of golf and the use, operation and maintenance of the Golf Course, and all other usual activities associated with the existence, operation, maintenance, improvement and use of the Golf Course. Each Owner agrees to release, indemnify, and hold harmless the Co-Declarants (including successive owners of the Golf Course), any Golf Course Operator, any Homebuilder and the Association and each of their respective owners, officers, directors, partners, agents, employees, contractors, invitees, guests, and members from and against any and all claims, damages, liabilities, and losses arising from personal injury, property damage or other injury or damage sustained by such Owner, any tenant of Owner, or any of their respective family members, invitees, guests, visitors, or other persons using or occupying any Residential Parcel, any Multi-Use Parcel, Lot, Master Common Area or any other Project land adjoining the Golf Course and from all other claims, damages, liabilities and losses relating to the effects upon such persons or upon such Owner's property of the activities conducted on the Golf Course, including the flight of golf balls over and onto any Residential Parcel, any Multi-Use Parcel, Lot, Master Common Area or any other Project land adjoining the Golf Course.

The Trust, as owner of the Golf Course, hereby reserves an easement across all Residential Parcels, all Multi-Use Parcels, Lots, Master Common Areas, Subassociation Common Areas, and any other Project land adjoining the Golf Course, and the air space above all such property, for the following purposes: the flight, entry, landing, and resting on, around or over such property of golf balls and for all other usual activities associated with the existence, operation, maintenance, improvement and use of the Golf Course. The easements reserved hereunder shall run with and burden the Residential Parcels, Multi-Use Parcels, Lots, Master Common Areas, Subassociation Common Areas and any other Project land adjoining the Golf Course and shall benefit the Golf Course. The foregoing covenants of all Owners shall be binding on all successor Owners, and shall inure to the benefit of the Co-Declarants (including the successive owners of the Golf Course), Homebuilder and any Golf Course Operator.

Section 11.4 Golf Course Easements. In addition to the easement rights granted in Section 11.3 above, the parties acknowledge that the Golf Course, and any Golf Course Operator, may require easement or license rights over or concerning portions of the Master Common Area for the operation, maintenance and/or repair of the Golf Course. The Association, by action of the Board, shall grant easements and licenses from time to time over or concerning portions of the Master Common Area to Co-Declarants (for its benefit and the benefit of the Golf Course Operator and their respective employees, agents and contractors), provided:

A. The Board determines that such easement(s) or license(s) are reasonably necessary for the appropriate operation, maintenance and/or repair of the Golf Course consistent with this Declaration,

B. The Board determines that such easement(s) or license(s) and the use thereof will not materially and adversely affect the Association, Owners, Lots or Master Common Area, and

C. The Board imposes such reasonable conditions, limitations and restrictions as it deems necessary or appropriate to protect and ensure the interests of the Association, Owners, Lots and Master Common Area.

Section 11.5 Restrictions As To Golf Course Lots. The following additional restrictions shall apply to Golf Course Lots (including Multi-Use Parcels located adjacent to the Golf Course):

A. The boundaries of all Lots adjacent to the Golf Course shall be fenced by the Homebuilder or Owner with fencing consistent in materials, color and quality as originally installed by Homebuilder or Owner, for the purpose of preserving and protecting the views of the Golf Course from all adjoining property and views of adjoining land from the Golf Course. Owners of Golf Course Lots, prior to installing or modifying fences or walls on a Golf Course Lot, shall obtain written approval for such construction or changes from the Committee. Further, no fence other than a fence consistent in materials, color and quality as originally installed by Homebuilder or Owner shall be installed or constructed immediately adjacent to the boundary between a Golf Course Lot (or Multi-Use Parcel) and the Golf Course without the prior written approval of Co-Declarants.

B. The Owner(s) of a Lot adjacent to the Golf Course shall be solely responsible for maintaining the fences required under subsection A above concerning that Lot (or Multi-Use Parcel) and all improvements within the Lot (or Multi-Use Parcel) visible from the Golf Course in a neat, clean and attractive manner consistent with the Golf Course and the Project.

C. Co-Declarants shall have the right to enforce the foregoing provisions with respect to Golf Course Lots (or Multi-Use Parcel) in any manner allowed by applicable law, including, without limitation, by lien right or other remedy or procedure permitted herein, in addition to all other enforcement provisions and rights for Co-Declarants and the Association in this Declaration.

D. The provisions of this Section 11.5 shall control over an inconsistent provision contained in Section 6.1.

Section 11.6 Golf Carts. No Owner or tenant or any of their respective family members, guests or invitees shall operate or use any golf cart on the Golf Course, for the purpose of playing golf or otherwise, except for golf carts owned by Co-Declarants and/or the Golf Course Operator and rented or the use of which is otherwise obtained in connection with the authorized playing of rounds of golf on the Golf Course.

Section 11.7 Entry Features On Golf Course. The Golf Course Operator shall maintain, repair and replace all improvements heretofore or hereafter installed by Homebuilder on any portion of the Golf Course, including but not limited to, main entrance features created with

the initial development of the Golf Course and the costs of such maintenance, repair and replacement will be paid solely by Golf Course Operator. Upon Homebuilder's completion of improvements relating to any such portion of the Golf Course, the Golf Course Operator and Co-Declarants will confirm by written agreement the improvements for which the Golf Course Operator is responsible.

Section 11.8 Other Matters. In no event shall Assessments or Charges be levied against the Golf Course. In no event shall the Golf Course be subject to or have any liability for the expenses of the Association. The Owner(s) of the Golf Course is not a member of the Association.

DATED as of this 7th day of July, 1994.

Walter P. Conner Trustee

Walter P. Conner, as Trustee under Trust Agreement dated November 6, 1973, also known as the Robert W. and Faye G. Conner Irrevocable Trust

[Trust]

WESTERN PB LIMITED PARTNERSHIP, an Arizona limited partnership

By: PB Investment I, L.L.C., an Arizona limited liability company, Its Administrative General Partner

By: Pinnacle Builders, Inc., an Arizona corporation, its member

By_____

Its_____

[Western]

the initial development of the Golf Course and the costs of such maintenance, repair and replacement will be paid solely by Golf Course Operator. Upon Homebuilder's completion of improvements relating to any such portion of the Golf Course, the Golf Course Operator and Co-Declarants will confirm by written agreement the improvements for which the Golf Course Operator is responsible.

Section 11.8 Other Matters. In no event shall Assessments or Charges be levied against the Golf Course. In no event shall the Golf Course be subject to or have any liability for the expenses of the Association. The Owner(s) of the Golf Course is not a member of the Association.

DATED as of this 7th day of July, 1994.

Walter P. Conner, as Trustee under Trust Agreement dated November 6, 1973, also known as the Robert W. and Faye G. Conner Irrevocable Trust

[Trust]

WESTERN PB LIMITED PARTNERSHIP, an Arizona limited partnership

By: PB Investment I, L.L.C., an Arizona limited liability company, Its Administrative General Partner

By: Pinnacle Builders, Inc., an Arizona corporation, its member

By _____

Its Vice President

[Western]

VAL VISTA GOLF COURSE PARTNERSHIP,
an Arizona limited partnership

By: DJK&T Limited Partnership, an Arizona limited partnership, Its General Partner

By: DJK&T Corp., an Arizona corporation, its general partner

By _____
Donald M. Switzenberg
President

By: Kencorp., Inc., a Michigan corporation, its general partner

By _____
Kenneth Magill
President

By: Lloyd E. Canton Investments Limited Partnership, an Arizona limited partnership, Its General Partner

By: The Canton Group, Inc., its general partner

By _____
Lloyd E. Canton
President

[Golf Course Operator]

PINNACLE BUILDERS, INC., an Arizona corporation

By _____

Its Vice-President

[Homebuilder]

Consented and
Agreed to:

RRH FINANCIAL, doing business
as R. R. Hensler, Inc.

By _____

Its _____

[Golf Course Lienholder]

PINNACLE BUILDERS, INC., an Arizona corporation

By_____

Its_____

[Homebuilder]

Consented and
Agreed to:

RRH FINANCIAL, doing business
as R. R. Hensler, Inc.

By_____

Its_____

[Golf Course Lienholder]

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 7th day of July, 1994, by Walter P. Conner, as Trustee under Trust Agreement dated November 6, 1973, also known as the Robert W. and Faye G. Conner Irrevocable Trust, on behalf of the Trust.

(Seal and Expiration Date)
April 23, 1996

Mary E Gilbert
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 1994, by _____, the _____ of Pinnacle Builders, Inc., an Arizona corporation, as a member of PB Investment I, L.L.C., an Arizona limited liability company, the Administrative General Partner of Western PB Limited Partnership, an Arizona limited partnership, on behalf of the partnership.

(Seal and Expiration Date)

_____
Notary Public

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 1994, by Walter P. Conner, as Trustee under Trust Agreement dated November 6, 1973, also known as the Robert W. and Faye G. Conner Irrevocable Trust, on behalf of the Trust.

(Seal and Expiration Date)

_____
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 5th day of July, 1994, by Don Kile, the Vice President of Pinnacle Builders, Inc., an Arizona corporation, as a member of PB Investment I, L.L.C., an Arizona limited liability company, the Administrative General Partner of Western PB Limited Partnership, an Arizona limited partnership, on behalf of the partnership.

(Seal and Expiration Date)

OFFICIAL SEAL
STACEY L. BIORKMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 17, 1998

Stacey L Biorkman
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 5th day of July, 1994, by Donald M. Switzenberg, President of DJK&T Corp., an Arizona corporation, as general partner of DJK&T Limited Partnership, an Arizona limited partnership, General Partner of Val Vista Golf Course Partnership, an Arizona limited partnership, on behalf of the partnership.

(Seal and Expiration Date)

OFFICIAL SEAL
STACEY L. BIORKMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 17, 1998

Stacey L Biorkman
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 5th day of July, 1994, by Kenneth Magill, President of Kencorp., Inc., a Michigan corporation, General Partner of Val Vista Golf Course Partnership, an Arizona limited partnership, on behalf of the partnership.

(Seal and Expiration Date)

OFFICIAL SEAL
STACEY L. BIORKMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 17, 1998

Stacey L Biorkman
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 7th day of July, 1994, by Lloyd E. Canton, President of The Canton Group, Inc., as general partner of Lloyd E. Canton Investments Limited Partnership, an Arizona limited partnership, General Partner of Val Vista Golf Course Partnership, an Arizona limited partnership, on behalf of the partnership.

(Seal and Expiration Date)

OFFICIAL SEAL
STACEY L. BIORKMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 17, 1998

Stacey L Biorkman
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 5th day of JUNE, 1994, by DONNIE, the VICE PRESIDENT of Pinnacle Builders, Inc., an Arizona corporation, on behalf of the corporation.

(Seal and Expiration Date)

SEAL
BIORKMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Mar. 17, 1998

Stacy L Biorkman
Notary Public

State of Arizona

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 1994, by _____, the _____ of RRH Financial, doing business as R. R. Hensler, Inc.

(Seal and Expiration Date)

_____
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 1994, by _____, the _____ of Pinnacle Builders, Inc., an Arizona corporation, on behalf of the corporation.

(Seal and Expiration Date)

_____
Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 5 day of July, 1994, by PAUL E. SARGENT, the Executive VP of RRH Financial, doing business as R. R. Hensler, Inc.

(Seal and Expiration Date)

OFFICIAL SEAL
KELLY G. STREET
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Comm. Expires 7-19-97

Kelly G Street
Notary Public

NETWORK ESCROW AND TITLE AGENCY
When recorded, return to:

JACKSON PROPERTIES FF, INC.
1255 W. Baseline Rd.
Suite 184
Mesa, Arizona 85202
151001952

MARICOPA COUNTY RECORDER
HELEN PURCELL
95-0124613 03/07/95 03:17
CATHY 6 OF 31

FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
FINLEY FARMS – NORTH

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FINLEY FARMS (the "Amendment") is made this 28th day of February, 1995, by FINLEY FARMS HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation (the "Association"), for the purpose of partially amending that certain Declaration of Covenants, Conditions and Restrictions for Finley Farms dated January 13, 1995 and recorded on January 17, 1995 as Instrument No. 95-0024852, records of Maricopa County, Arizona (the "Declaration") as follows:

1. The following is hereby added as Section 3.12.1 of Article 3:

"3.12.1 Exception for Horses at Equestrian Estates. Notwithstanding the foregoing, horses shall be permitted on Lots within the subdivision known as Equestrian Estates, provided that no more than four (4) horses may be kept on any Lot without the prior written approval of the Architectural Committee, which approval the Architectural Committee may withhold in its sole and absolute discretion. All horses permitted under this Subsection 3.12.1 shall be kept and maintained in accordance with the requirements of this Declaration, the Association Rules, all applicable zoning ordinances and regulations, and any and all other applicable rules and regulations of any governmental authority. All horses permitted hereunder shall be confined to an Owner's Lot, except that horses shall be permitted on those portions of the Common Area designated as equestrian trails. No horses shall be permitted to graze in front yards or Common Areas."

2. Except as herein amended, all other provisions of the Declaration as originally written shall remain in full force and effect.

COURTESY RECORDING
NETWORK ESCROW & TITLE INC.
AGENCY IS RELEASED FROM LIABILITY

FFFON058.WP5-020975-9:08

3. The undersigned hereby certifies that this Amendment has been approved and consented to as required by Section 10.3 of the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the day and year first above written.

FINLEY FARMS HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation

By: _____
Its: President

APPROVAL OF DECLARANT:

JACKSON PROPERTIES FF, INC.,
an Arizona corporation

By: _____
Its: PRESIDENT

PPPO\058.WP5-020895-9:08

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 3 day of March, 1995, by Randall B. Jackson, the President of FINLEY FARMS HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation, of for and on behalf of the corporation.

Stacy L. Couch
Notary Public

My commission expires:

2-25-98

OFFICIAL SEAL
STACY L. COUCH
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires Feb. 25, 1998

SATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 3 day of March, 1995, by Randall B. Jackson, the President of JACKSON PROPERTIES FF, INC., an Arizona corporation, of for and on behalf of the corporation.

Stacy L. Couch
Notary Public

My commission expires:

2-25-98

OFFICIAL SEAL
STACY L. COUCH
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires Feb. 25, 1998

PPPOUDGA.WPS-020895-9:08

CONSENT OF MASTER DEVELOPER

The undersigned, as the Master Developer under that certain Joint Development Agreement dated October 21, 1994 evidenced by a Memorandum of Agreement dated October 21, 1994 and recorded October 21, 1994 in the Official Records of Maricopa County, Arizona as Instrument No. 94-0761445 hereby consents to the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for Finley Farms and acknowledges and agrees that the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for Finley Farms satisfies the requirements of the Joint Development Agreement, including Section 6(b) thereof.

Dated this 1 day of March, 1995.

SPRING/SUNBELT IV L.L.C.,
an Arizona limited liability company

By: Thomas P. Eccles

Its: Authorized Signer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 1 day of March, 1995, by Thomas P. Eccles, the Authorized Signer of Spring/Sunbelt IV L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

Lynn M. Dolan
Notary Public

My Commission Expires:

August 27, 1996

OFFICIAL SEAL
LYNN M. DOLAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Aug. 27, 1996

PPP08D6F

CONSENT OF LIENHOLDER

The undersigned, as the beneficiary under a Deed of Trust and Assignment of Rents recorded against the real property subject to the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for Finley Farms (the "First Amendment"), hereby agrees to be bound by the terms of such First Amendment and agrees that such Deed of Trust and Assignment of Rents be subordinate to the Declaration of Covenants, Conditions and Restrictions for Finley Farms, as amended by the First Amendment, which shall survive any trustee's sale held pursuant to the Deed of Trust and Assignment of Rents or any foreclosure of the Deed of Trust and Assignment of Rents.

Dated this 28th day of February, 1995.

FINLEY FIRST MORTGAGE, L.L.C., Arizona limited liability company BY PHOENIX M.G.P. INC., an Arizona limited company, AS ADMINISTRATIVE MEMBER

By: [signature]

Its: Pres., ADMINISTRATIVE MEMBER

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 28 day of February, 1995, by JACK W. HILTON, the ADMINISTRATIVE MEMBER of Finley First Mortgage, L.L.C., an Arizona limited liability company, on behalf of the limited liability company, by Phoenix M.G.P. Inc., an Arizona limited company, as Administrative Member.

[signature]
Notary Public

My Commission Expires:

OFFICIAL SEAL
SUE A. WATFORD
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Mar. 10, 1995

PPPOBD6A.WPS-020895-9:15

CONSENT OF LIENHOLDER

The undersigned, as the beneficiary under a Deed of Trust and Assignment of Rents recorded against the real property subject to the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for Finley Farms (the "First Amendment"), hereby agrees to be bound by the terms of such First Amendment and agrees that such Deed of Trust and Assignment of Rents be subordinate to the Declaration of Covenants, Conditions and Restrictions for Finley Farms, as amended by the First Amendment, which shall survive any trustee's sale held pursuant to the Deed of Trust and Assignment of Rents or any foreclosure of the Deed of Trust and Assignment of Rents.

Dated this 1 day of ~~February~~ March, 1995.

SPRING/SUNBELT IV L.L.C.,
an Arizona limited liability company

By: Thomas P. Eccles

Its: Authorized Signer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 1 day of March, 1995, by Thomas P. Eccles, the Authorized Signer of Spring/Sunbelt IV L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

Lynn M. Dolan
Notary Public

My Commission Expires:

August 27, 1996

OFFICIAL SEAL
LYNN M. DOLAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Aug. 27, 1996

PPPOBD6A.WPS-022395-2:14

WHEN RECORDED, RETURN TO:

JACKSON PROPERTIES FF, INC.
1255 WEST BASELINE ROAD
SUITE 184
MESA, ARIZONA 85202

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
95-0024852 01/17/95 08:15
FRANK 1 OF 1

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

FINLEY FARMS – NORTH

CONSENT OF LIENHOLDER

The undersigned, as the beneficiary under a Deed of Trust and Assignment of Rents recorded against the real property subject to the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for Finley Farms (the "First Amendment"), hereby agrees to be bound by the terms of such First Amendment and agrees that such Deed of Trust and Assignment of Rents be subordinate to the Declaration of Covenants, Conditions and Restrictions for Finley Farms, as amended by the First Amendment, which shall survive any trustee's sale held pursuant to the Deed of Trust and Assignment of Rents or any foreclosure of the Deed of Trust and Assignment of Rents.

Dated this 28th day of February, 1995.

FINLEY SECOND MORTGAGE, L.L.C., Arizona limited liability company BY PHOENIX M.G.P. INC., an Arizona limited company, AS ADMINISTRATIVE MEMBER

By: _____

Its: ADMINISTRATIVE MEMBER

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 28th day of February, 1995, by Jack W. Hilton, the Administrative Member of Finley Second Mortgage, L.L.C., an Arizona limited liability company, on behalf of the limited liability company, by Phoenix M.G.P. Inc., an Arizona limited company, as Administrative Member.

Sue A. Watford
Notary Public

My commission expires:

OFFICIAL SEAL
SUE A. WATFORD
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Mar. 10, 1995

PPP08D6A.WP5-020895-9:15

DECLARATIONOF COVENANTS,CONDITIONS AND RESTRICTIONS FOR FINLEY FARMS

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DECLARATIONOF COVENANTS,CONDITIONS AND RESTRICTIONS

FOR

FINLEY FARMS

This Declaration of Covenants, Conditions, and Restrictions for Finley Farms (the "Declaration") is made this 13th day of January, 1995, by Jackson Properties FF, Inc., an Arizona corporation (the "Declarant").

ARTICLE 1

DEFINITIONS

Unless otherwise defined, the following words and phrases when used in this Declaration the shall have the meanings set forth in this Article.

1.1 "Additional Property" means (i) the real property, together with all Improvements located thereon, described on Exhibit B attached to this Declaration and (ii) any real property, together with the Improvements located thereon, situated within the vicinity of the Project.

1.2 "Annual Assessment" means the assessments levied against each Lot, and the Owner thereof, pursuant to Section 6.2 of this Declaration.

1.3 "Architectural Committee" means the committee of the Association to be created pursuant to Section 5.10 of this Declaration.

1.4 "Architectural Committee Rules" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 5.10 of this Declaration, as amended or supplemented from time to time.

1.5 "Areas of Association Responsibility" means (i) all Common Area; (ii) all land, and the Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration or the terms of another recorded document executed by the Association; and (iii) all real property, and the Improvements situated thereon, within the Project located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such

time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas.

1.6 "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

1.7 "Assessment" means an Annual Assessment or Special Assessment.

1.8 "Assessment Lien" means the lien created and imposed by Article 6 of this Declaration.

1.9 "Assessment Period" means the period set forth in Section 6.6 of this Declaration.

1.10 "Association" means Finley Farms Homeowners Association, an Arizona nonprofit corporation, and its successors and assigns.

1.11 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3 of this Declaration, as amended from time to time.

1.12 "Board" means the Board of Directors of the Association.

1.13 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.14 "Common Area" means all Tracts designated on the Plats and all land, together with all Improvements situated thereon which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest.

1.15 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.16 "Declarant" means Jackson Properties FF, Inc., an Arizona corporation, its successors and any person or entity to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.17 "Declaration" means this Declaration of Covenants, Conditions, and Restrictions, as amended from time to time.

1.18 "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters from the Association in accordance with Section 9.1 of this Declaration.

1.19 "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 9.1 of this Declaration.

1.20 "First Mortgage" means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same Lot.

1.21 "First Mortgagee" means the holder or beneficiary of any First Mortgage.

1.22 "Improvement" means any building, fence, wall or other structure or any swimming pool, road, driveway, parking area or any trees, plants, shrubs, grass or other landscaping improvements of every type and kind.

1.23 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot including an assignee of a lease.

1.24 "Lot" means a portion of the Project intended for independent ownership and use and designated as a lot on any Plat and, where the context indicates or requires, shall include any Residential Unit, building, structure or other Improvements situated on the Lot.

1.25 "Maintenance Standard" means the standard of maintenance of Improvements established from time to time by the Board or, in the absence of any standard established by the Board, the standard of maintenance of Improvements generally prevailing throughout the Project.

1.26 "Member" means any Person who is a member of the Association.

1.27 "Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 et seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Owner. In the case of the Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

1.28 "Park" means that portion of Tract C of the Plat of Parkside at Finley Farms Unit I legally described on Exhibit C attached to this Declaration, intended for development and use as a park site.

1.29 "Park Assessment" means the assessments for expenses in connection with the operation, upkeep and maintenance of the Park levied pro rata against each parcel and subdivided lot within the South Property, and each South Property Owner, pursuant to Section 4.6.3 of this Declaration.

1.30 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.31 "Plats" means the plat of Equestrian Estates at Finley Farms recorded in Book 386, page 50, records of Maricopa County, Arizona; the plat of The Manor at Finley Farms Unit I recorded in Book 387, page 2, records of Maricopa County, Arizona; the plat of The Manor at Finley Farms Unit II, recorded in Book 386, page 48, records of Maricopa County, Arizona; the plat of The Estates at Finley Farms, recorded in Book 387, page 3, records of Maricopa County, Arizona; the plat of Parkside at Finley Farms Unit I, recorded in Book 386, page 49, records of Maricopa County, Arizona; and the plat of Parkside at Finley Farms Unit II, recorded in Book 387, page 1, records of Maricopa County, Arizona; and all amendments, supplements and corrections to any of the foregoing, and any subdivision plat Recorded against all or any part of the Additional Property that is annexed and subjected to this Declaration in accordance with Section 2.2 of this Declaration, and all amendments, supplements and corrections thereto. "Plat" means any one of the Plats.

1.32 "Property" or "Project" means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon, and all real property, together with all Improvements located thereon, which is annexed and subjected to this Declaration pursuant to Section 2.2 of this Declaration.

1.33 "Project Documents" means this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

1.34 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for (i) a Person who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots or (ii) a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration.

1.35 "Recording" means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and "Recorded" means having been so placed of public record.

1.36 "Resident" means each individual occupying or residing in any Residential Unit.

1.37 "Residential Unit" means any building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence.

1.38 "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Residential Unit.

1.39 "South Property" means that portion of the Additional Property designated as the South Property on Exhibit B attached to this Declaration.

1.40 "South Property Association" means the homeowners association to be formed with respect to the South Property.

1.41 "South Property Declaration" means the declaration of covenants, conditions and restrictions to be Recorded against the South Property.

1.42 "South Property Developer" means Spring/Sunbelt IV L.L.C., an Arizona limited liability company, its successors and any person or entity to whom it may expressly assign all of its rights under this Declaration by a Recorded instrument.

1.43 "South Property Owner" means the Owner of a parcel or subdivided lot within the South Property.

1.44 "Special Assessment" means any assessment levied and assessed pursuant to Section 6.4 of this Declaration.

1.45 "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing at ground level on any part of such neighboring property.

ARTICLE 2

PLAN OF DEVELOPMENT

2.1 Property Initially Subject to the Declaration. This Declaration is being recorded to establish a general plan for the development, sale, lease and use of the Project in order to protect and enhance the value and desirability of the Project. The Declarant

declares that all of the property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

2.2 Annexation of Additional Property.

2.2.1 At any time on or before the date which is seven (7) years after the date of the Recording of this Declaration, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Property with the consent of the Owner of the portion of the Additional Property being annexed, but without the consent of any other Owner or Person. The annexation of all or any portion of the Additional Property shall be effected by the Declarant and the Owner of the Additional Property being annexed Recording an amendment to this Declaration setting forth the legal description of the Additional Property being annexed, stating that such portion of the Additional Property is annexed and subjected to the Declaration and describing any portion of the Additional Property being annexed which will be Common Area. Unless a later effective date is set forth in the amendment annexing Additional Property, the annexation shall become effective upon the Recording of the amendment. An amendment Recorded pursuant to this Section may divide the portion of the Additional Property being annexed into separate phases and provide for a separate effective date with respect to each phase. The voting rights of the Owners of Lots annexed pursuant to this Section shall be effective as of the date the amendment annexing such property is Recorded even if the annexation will not be effective until a later date. The Lot Owner's obligation to pay Assessments shall commence as provided in Section 6.7 of this Declaration. If an amendment annexing a portion of the Additional Property divides the annexed portion of the Additional Property into phases, the Declarant shall have the right to amend any such amendment to change the description of the phases within the annexed property, except that Declarant may not change any phase in which a Lot has been conveyed to a Purchaser. Notwithstanding any contrary

provision of this Declaration, except as specifically provided in Section 4.6 with respect to the payment of Park Assessments and the use of the Park by South Property Owners, neither the Additional Property nor any portion thereof shall be subject to this Declaration unless and until such Additional Property or specified portion thereof is annexed by the Recording of an amendment in accordance with the provisions of this Section 2.2.1.

2.2.2 Declarant makes no assurances as to the exact number of Lots which shall be added to the Project by annexation or if all or any portion of the Additional Property will be annexed.

2.2.3 All taxes and other Assessments relating to all or any portion of the Additional Property annexed into the Project covering any period prior to the time when such portion of the Additional Property is annexed in accordance with this Section shall be the responsibility of and shall be paid by, the Declarant.

2.2.4 The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. The property annexed by the Declarant pursuant to this Section 2.2 need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any portion of the Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property.

2.3 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever that: (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future.

ARTICLE 3

USE RESTRICTIONS

3.1 Architectural Control.

3.1.1 No Improvement shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee. No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, from their appearance on the date this Declaration is Recorded shall be made or

done without the prior written approval of the Architectural Committee. Any Owner desiring approval of the Architectural Committee for the construction, installation addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his Lot, or the Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with any fee payable pursuant to Section 3.1.4 of this Declaration and all supporting information, plans and specifications requested by the Architectural Committee, have been submitted to the Architectural Committee, approval will not be required and this Section will be deemed to have been complied with by the Owner who had requested approval of such plans. The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval. Notwithstanding any other provisions of this Declaration to the contrary, approval of the Architectural Committee is not required for the installation of an in-ground swimming pool so long as any accompanying improvements or equipment are not Visible From Neighboring Property. Above ground swimming pools must be approved by the Architectural Committee.

3.1.2 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

3.1.3 Any change, deletion or addition to the plans and specifications approved by the Architectural Committee must be approved in writing by the Architectural Committee.

3.1.4 The Architectural Committee shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section, which fee shall be payable at the time the application for approval is submitted to the Architectural Committee.

3.1.5 All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

3.1.6 The provisions of this Section do not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any improvements made by, or on behalf of, the Declarant.

3.1.7 The approval required of the Architectural Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

3.1.8 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a warranty or representation by the Architectural Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.2 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailer or other structures be maintained or kept on any property for a period in excess of twelve (12) months without the prior written approval of the Architectural Committee.

3.3 Nuisances: Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or other property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and other property shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Architectural Committee. In addition, any

construction equipment and building materials stored or kept on any Lot or other property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

3.4 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot or other property which shall induce, breed or harbor infectious plant diseases or noxious insects.

3.5 Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation including, without limitation, satellite or microwave dishes, shall be erected, used, or maintained on any Lot without the prior written approval of the Architectural Committee.

3.6 Mineral Exploration. No Lot or other property 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 of any kind.

3.7 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or other property, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Lots and other property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot or other property.

3.8 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot or other property so as to be Visible From Neighboring Property. (B)

3.9 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

3.10 Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot or other property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

3.11 Residential Use. All Residential Units shall be used, improved and devoted exclusively to residential use by a Single Family. No trade or business may be conducted on any Lot or in or from any Residential Unit, except that an Owner or other Resident of a Residential Unit may conduct a business activity within a Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project; (iii) the business activity does not involve persons coming on to the Lot or the door-to-door solicitation of Owners or other Residents in the Project; and (iv) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Project, as may be determined from time to time in the sole discretion of the Board. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

3.12 Animals. No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot, except for dogs, cats, parakeets or similar household birds which may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All dogs, cats or other pets permitted under this Section shall be confined to an Owner's Lot except that a dog or cat may be permitted to leave an Owner's Lot if such dog or cat is at all times kept on a leash not to exceed six feet (6') in length and is not permitted to enter upon any other Lot. No animal, bird, fowl, poultry or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any animal, bird, fowl, poultry, or livestock shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Architectural Committee shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, bird, fowl, poultry, or livestock is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Architectural Committee shall be enforceable in the same manner as other restrictions set forth in this Declaration.

3.13 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other Improvements or such machinery or equipment which Declarant or the Association may require for the operation and maintenance of the Project.

3.14 Signs. No signs whatsoever (including, but not limited to, commercial, political, "for sale", "for rent" and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot except:

3.14.1 Signs required by legal proceedings.

3.14.2 Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee.

3.14.3 One (1) "For Sale" sign provided the size, color, design, message content, location and type have been approved in writing by the Architectural Committee.

3.15 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant, without the prior written approval of the Architectural Committee. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person other than the Declarant against any Lot without the provisions thereof having been first approved in writing by the Architectural Committee. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Architectural Committee and the proposed use otherwise complies with this Declaration.

3.16 Trucks, Trailers, Campers and Boats. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area or on any street so as to be Visible From Neighboring Property without the prior written approval of the Architectural Committee, except for: (i) the temporary parking of any such vehicle or equipment on a Lot or on a street for a period of not more than forty-eight (48) hours within any seven (7) day period; (ii) temporary construction trailers or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Committee; (iii) boats and vehicles parked in garages on Lots so long as such

vehicles are in good operating condition and appearance and are not under repair; or (iv) motor vehicles not exceeding seven (7) feet in height and eighteen (18) feet in length which are not used for commercial purposes and which do not display any commercial name, phone number or message of any kind.

3.17 Motor Vehicles.

3.17.1 Except for emergency vehicle repairs, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a Lot or other property in the Project, and no inoperable vehicle may be stored or parked on any such Lot or other property so as to be Visible From Neighboring Property or to be visible from any Common Area or any street.

3.17.2 No automobile or other motor vehicle shall be parked on any road or street in the Project, except for automobiles or motor vehicles of guests of Owners which may be parked on a road or street in the Project for a period of not more than forty-eight (48) hours during any seven (7) day period.

3.18 Towing of Vehicles. The Board shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.19 Variances. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Architectural Committee determines in its discretion that (i) a restriction would create an unreasonable hardship or burden on an Owner, Lessee or Resident or a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and (ii) that the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and Residents of the Project and is consistent with the high quality of life intended for Residents of the Project.

3.20 Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as

shown on the drainage plans on file with the county or municipality in which the Project is located.

3.21 Garages and Driveways. Garages shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Architectural Committee.

3.22 Rooftop Air Conditioners Prohibited. No air conditioning units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building so as to be Visible From Neighboring Property.

3.23 Basketball Goals and Backboards. No basketball goal or backboard shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee.

ARTICLE 4

EASEMENTS

4.1 Owners' Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.3 and 4.4 of this Declaration, every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

4.1.1.1 The right of the Association to dedicate, convey, transfer or encumber the Common Area as provided in Section 5.11 of this Declaration.

4.1.1.2 The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit access to such portions of the Common Area, such as landscaped areas, not intended for use by Owners, South Property Owners, Lessees or Residents.

4.1.1.3 The right of the Association to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Project Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation.

4.1.2 If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

4.2 Utility Easement. There is hereby created an easement upon, across, over and under the Common Area and the Lots for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area or Lots, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Area or Lots except as initially designed, approved and constructed by the Declarant or as approved by the Board.

4.3 Declarant's Use for Sales and Leasing Purposes. Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising, identification or directional signs on the Common Area (excluding, however, the Park) or on the Lots owned by Declarant while the Declarant is selling Lots. Declarant reserves the right to place models, management offices and sales and leasing offices on any Lots owned by Declarant and on any portion of the Common Area (excluding, however, the Park) in such number, of such size and in such locations as Declarant deems appropriate.

4.4 Declarant's Easements.

4.4.1 Declarant shall have the right and an easement on and over the Areas of Association Responsibility to construct all Improvements the Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots and other property owned by Declarant for construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project.

4.4.2 The Declarant shall have the right and an easement upon, over, and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations or exercising the rights granted to or reserved by the Declarant by this Declaration.

4.5 Easement in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots;

4.5.3 For correction of emergency conditions in one or more Lots;

4.5.4 For the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Project Documents;

4.5.5 For inspection of the Lots in order to verify that the provisions of the Project Documents are being complied with by the Owners, their guests, tenants, invitees and the other occupants of the Lot.

4.6 South Property Owners' Easements of Enjoyment.

4.6.1 Subject to the rights and easements granted (i) to the Declarant in Sections 4.3 and 4.4 of this Declaration, and (ii) to the Association in Sections 4.1.1 and 4.5 of this Declaration, and effective upon the Recording of the South Property Declaration, every South Property Owner, and their family, tenants and guests, shall have a non-exclusive right and easement of enjoyment in and to the Park, which right shall be appurtenant to and shall pass with the title to every lot within the South Property, subject to the provisions of this Section 4.6 and the right of the Association to suspend a South Property Owner's right of enjoyment to use the Park if such South Property Owner is more than fifteen (15) days delinquent in the payment of the Park Assessment or has violated any provision of this Declaration or the Association Rules and has failed to cure such violation within fifteen (15) days after the Association notifies such South Property Owner of the violation.

4.6.2 The rights granted to South Property Owners under Section 4.6.1 shall be effective upon the Recording of the South Property Declaration, which shall contain the following provisions:

(i) Each South Property Owner shall covenant and agree to pay to the Association the Park Assessment, which shall be a charge on and continuing lien against each parcel and subdivided lot in the South Property and shall be enforceable against a South Property Owner in the same manner as provided in this Declaration for the enforcement of delinquent Assessments;

(ii) Each South Property Owner shall covenant and agree to be bound by the provisions regarding use of the Park set forth in this Declaration and in the Association Rules;

(iii) The Declarant and the Association shall be empowered to enforce against the South Property Owners the provisions of the South Property Declaration with respect to payment of the Park Assessment and use of the Park; and

(iv) The prior written consent of the Association shall be required for any termination of the South Property Declaration or for any amendment to any provision of the South Property Declaration with respect to the terms required pursuant to this Section 4.6.2 or that otherwise benefits or applies to the Association.

4.6.3 The obligation of the South Property Owners to pay Park Assessments shall commence upon substantial completion of the Improvements situated on the Park and the conveyance of such Improvements to and acceptance of such Improvements by the Association. For purposes of this Section 4.6.3, "substantial completion" shall mean the earlier of the issuance of a permit by the Town of Gilbert with respect to the Park, if applicable, or the issuance of a certificate of substantial completion by the architect or engineer responsible for supervision of construction of such improvements. The Board shall submit to the South Property Association, or to the South Property Developer if the South Property Association then is not in existence, at least sixty (60) days prior to the beginning of each Assessment Period (including the initial Assessment Period) a proposed budget for the operation, upkeep and maintenance of the Park for the upcoming Assessment Period. The South Property Association, or South Property Developer, as applicable, shall have thirty (30) days to review and approve the proposed budget and to give written notice to the Board of any objection to the budget, which notice shall specify the exact item(s) objected to and the reason for the objection. In the event of the failure of the South Property Association, or South Property Developer, as applicable, to timely object in writing to a proposed budget, such budget shall be deemed to be approved. In the event the Board and the South Property Association, or South Property Developer, as applicable, are unable to resolve any such objections within thirty (30) days from the date of the notice of objection, then pending resolution of such objections pursuant to the provisions of Section 10.18 below, the budget for such upcoming Assessment Period (other than the budget for the initial Assessment Period) shall be set at the lesser of the budget proposed by the Board or one hundred five percent (105%) of the budget for the immediately preceding Assessment Period, exclusive of amounts budgeted for insurance, property taxes and utilities, but the budget for the initial Assessment Period shall be determined pursuant to the provisions of Section 10.18 below. At such time as the parties have mutually agreed upon the budget for such Assessment Period (or such budget has been determined pursuant to the provisions of Section 10.18 below), such budget shall become

effective and the Park Assessments shall be adjusted accordingly. The Board shall give notice of the Park Assessment to each South Property Owner at least thirty (30) days prior to the due date for the initial Park Assessment and thereafter at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Park Assessment established by the Board, nor relieve any South Property Owner from its obligation to pay the Park Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all expenses incurred in connection with the Park for any reason, including, without limitation, nonpayment of Park Assessments by any Member or South Property Owner, the Board may, subject to the review and approval procedure for the benefit of the South Property Association or South Property Developer, as applicable, contained in this Section 4.6.3, increase the Park Assessment for that Assessment Period and the revised Park Assessment shall commence on the date designated by the Board. The Park Assessment payable by each South Property Owner shall be computed annually by multiplying the total funds budgeted for an Assessment Period for the operation, upkeep and maintenance of the Park by: the total number of Lots owned by a South Property Owner divided by the total of the number of Lots imposed on the Property plus the number of lots imposed on the South Property. In the event that any portion of the Property or the South Property is not subject to a Recorded plat, then for purposes of determining the Park Assessment payable by a South Property Owner, (i) any unplatted portion of the Property shall be deemed to have that number of lots equal to the maximum density permitted by the zoning for the unplatted portion; and (ii) any unplatted portion of the South Property shall be deemed to have that number of lots equal to the maximum density for the unplatted portion permitted by the Town of Gilbert pursuant to Gilbert zoning case No. CC 94-132. Park Assessments shall be collected on a monthly basis, or such other basis as may be selected by the Board. Upon creation of the South Property Association, the Park Assessment shall, upon the written request of the South Property Association, be billed to and collected by the South Property Association for remittance to the Association.

4.6.4 Nothing herein shall be construed as granting to the South Property Owners any voting rights in the Association or any right or easement of enjoyment to any portion of the Common Area other than the Park, nor to any other portion of the Property.

4.6.5 The South Property Owners and the South Property Association shall have the right to enforce against the Declarant, the Owners and the Association, in any manner provided for law or in equity, the provisions of this Declaration and the Association Rules with respect to the use, management, maintenance, repair, replacement and operation of the Park or which otherwise benefit the South Property Owners or the South Property Association with respect to the right and easement granted to the South Property Owners pursuant to this Section 4.6. The failure of any South Property Owner or the South Property Association to take enforcement action with respect to a violation of this Declaration or the Association Rules shall not constitute or be deemed a waiver of the right of any South

Property Owner or the South Property Association to enforce this Declaration or the Association Rules in the future.

4.6.6 If a parcel or subdivided lot within the South Property is leased or rented by the owner thereof, the lessee and the members of the lessee's family residing with such lessee shall have the right to use the Park during the term of the lease, and the owner of such parcel or subdivided lot shall have no right to use the Park until the termination or expiration of such lease.

4.6.7 Upon annexation of any portion of the South Property pursuant to Section 2.2 of this Declaration, the obligation of the South Property Owners within such annexed portion to pay future Park Assessments shall thereupon cease, and such South Property Owners will be regarded as Owners obligated to pay Assessments as provided in this Declaration.

4.6.8 Upon receipt of a written request by a South Property Owner, the Association, within a reasonable period of time thereafter, shall issue to such South Property Owner a written certificate stating that all Park Assessments, interest, and other fees and charges have been paid with respect to any specified lot within the South Property as of the date of such certificate, or if all Park Assessments have not been paid, the amount of such Park Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the lot within the South Property in question.

4.6.9 In the event the Association fails from time to time to utilize the proceeds of Park Assessments and the proceeds of Assessments payable to the Association by the Owners to pay the costs of the operation, upkeep and maintenance of the Park as provided in Section 6.16 below in accordance with the current budget in effect pursuant to Section 4.5.3 above, the South Property Association, or the South Property Developer if the South Property Association is not then in existence, may provide written notice to the Association of such failure. In the event the Association fails to utilize the funds to pay the costs of the operation, upkeep and maintenance of the Park in accordance with the current budget within thirty (30) days following receipt of such notice, in addition to any other rights or remedies available to the South Property Association or the South Property Developer hereunder, the South Property Association or the South Property Developer, as applicable, shall have the right to operate and maintain the Park, subject, however, to the rights of the Owners to use the Park pursuant to this Declaration. In the event the South Property Association or the South Property Developer, as applicable, exercises its rights under this section, the Association shall pay to the South Property Association or the South Property Developer, as applicable, all costs incurred by the South Property Association or the South

Property Developer, as applicable, in connection with the operation, upkeep and maintenance of the Park in accordance with the current budget. The South Property Association or the South Property Developer, as applicable, shall be entitled to offset any Park Assessments payable under this Declaration against any amounts owning to the South Property Association or the South Property Developer under this Section.

4.6.10 In the event Declarant fails from time to time to pay to the Association when due any amounts payable by Declarant under Section 6.2 below, the South Property Association, or the South Property Developer if the South Property Association is not then in existence, may provide written notice to Declarant of such failure. In the event the Declarant fails to pay all such amounts within thirty (30) days following receipt of such notice, in addition to any other rights or remedies available hereunder, the South Property Association or the South Property Developer, as applicable, shall have the right to operate and maintain the Park, subject, however, to the rights of the Owners to use the Park pursuant to this Declaration, until such time as Declarant has paid to the Association all amounts due from the Declarant under Section 6.2 below and the South Property Association or the South Property Developer has been paid all amounts owed to the South Property Association or the South Property Developer under this section. In the event the South Property Association or the South Property Developer, as applicable, exercises its rights under this section, (a) the South Property Association or the South Property Developer, as applicable, shall have the right to enforce the collection of the amounts Declarant has failed to pay under Section 6.2 below in any manner allowed by law or in equity, including, without limitation, bringing an action to compel the Association to foreclose the Assessment Lien against any Lots owned by the Declarant, and (b) the Association shall pay to the South Property Association or the South Property Developer, as applicable, all costs incurred by the South Property Association or the South Property Developer, as applicable, in connection with the operation, upkeep and maintenance of the Park in accordance with the current budget. The South Property Association or the South Property Developer, as applicable, shall be entitled to offset any Park Assessments payable under this Declaration against any amounts owing to the South Property Association or the South Property Developer under this Section.

ARTICLE 5

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

5.1 Formation of Association. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. In the event of any conflict or

inconsistency between this Declaration and the Articles. Bylaws, Association Rules or Architectural Rules, this Declaration shall control.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board shall have the power to levy reasonable fines against an Owner for a violation of the Project Documents by the Owner, a Lessee of the Owner or by any Resident of the Owner's Lot.

5.3 The Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (i) the management, operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (ii) minimum standards for any maintenance of Lots; or (iii) the health, safety or welfare of the Owners and Residents. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. Except as may be permitted pursuant to the further provisions of this Section 5.3, the Association Rules with respect to the Park (the "Park Rules") shall not discriminate among either the Owners or the South Property Owners with respect to use of the Park. The Board shall submit to the South Property Association, or to the South Property Developer if the South Property Association then is not in existence, at least sixty (60) days prior to the proposed effective date of the Park Rules, any proposed Park Rules. The South Property Association, or the South Property Developer, as applicable, shall have thirty (30) days to review and approve the proposed Park Rules and to give written notice to the Board of any objection to the proposed Park Rules, which notice shall specify the exact item(s) objected to and the reason for the objection. In the event of the failure of the South Property Association, or the South Property Developer, as applicable, to timely object in writing to the proposed Park Rules, the proposed Park Rules shall be deemed approved. In the event the Board and the South Property Association, or South Property Developer, as applicable, are unable to resolve any such objections within thirty (30) days from the date of the notice of objection, then pending the resolution of such objections pursuant to the provisions of Section 10.18 below, those Park Rules to which the South Property Association, or South Property Developer, as applicable, do not object, shall be implemented. At such time as the parties have mutually agreed upon any remaining Park Rules (or such remaining Park Rules have been determined pursuant to the provisions of Section 10.18 below), such additional Park Rules shall be deemed adopted. The Board may, from time to time, amend or modify the Park Rules without the consent of the South Property Association, or the South Property Developer, if applicable, provided, however, any material change to the Park Rules, or the adoption of a Park Rule which is not uniformly applicable to the Owners and the South Property Owners, shall be subject to the review and approval procedure for the benefit of the South Property Association or South Property

Developer, as applicable, contained in this Section 5.3. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration.

5.4 Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in wilful or intentional misconduct.

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents or by law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or by law, or reasonably necessary to effectuate any such right or privilege.

5.6 Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

5.7 Classes of Members and Voting Rights. The Association shall have the following two classes of voting membership:

(i) Class A. Class A members are all Owners, with the exception of the Declarant until the termination of the Class B membership, of Lots. Each Class A member shall be entitled to one (1) vote for each Lot owned. Upon the termination of the Class B membership, the Declarant shall be a Class A member so long as the Declarant owns any Lot.

(ii) Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the earlier of: (i) the date on which the votes entitled to be cast by the Class A members equals or exceeds the votes entitled to be cast by the Class B member; (ii) the date which is seven (7) years after the recording of this Declaration; or (iii) when the Declarant notifies the Association in writing that it relinquishes its Class B membership.

5.8 Voting Procedures. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

5.9 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the membership appurtenant to said Lot to the new Owner thereof. Each Purchaser of a Lot shall notify the Association of his purchase within ten (10) days after he becomes the Owner of a Lot.

5.10 Architectural Committee. The Association shall have an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. The Architectural Committee shall be a Committee of the Board. The Architectural Committee shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. So long as the Declarant owns any Lot, the Declarant shall have the sole right to appoint and remove the members of the Architectural Committee. At such time as the Declarant no longer owns any Lot, the members of the Architectural Committee shall be appointed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Architectural Committee, and in that event the Declarant may require, for so long as the Declarant owns any Lot, that specified actions of the Architectural Committee, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. The Architectural Committee may promulgate architectural guidelines, standards and procedures to be used in rendering its decisions. Such guidelines, standards and procedures may include, without limitation, provisions regarding: (i) the size of Residential Units; (ii) architectural design, with particular regard to the harmony of the design with the surrounding structures and typography; (iii) placement of Residential Units and other buildings; (iv) landscaping design, content and conformance with the character of the Property and permitted and prohibited plants; (v) requirements concerning exterior color schemes, exterior finishes and materials; (vi) signage; and (vii) perimeter and screen wall

design and appearance. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Architectural Committee may establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to the Architectural Committee, which fee shall be paid at the time the request for approval is submitted.

5.11 Convevance or Encumbrance of Common Area. The Common Area shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent or affirmative vote of the Class B member of the Association and the affirmative vote or written consent of the Owners representing at least two-thirds (2/3) of the votes entitled to be cast by Class A members of the Association. In addition, the Park may not be mortgaged, transferred, dedicated or encumbered without the prior written consent of the South Property Association; provided, that such consent shall not be required with respect to the conveyance of the Park to the Association.

5.12 Suspension of Voting Rights. If any Owner fails to pay any Assessments or other amounts due to the Association under the Project Documents within fifteen (15) days after such payment is due or if any Owner violates any other provision of the Project Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, the Board of Directors shall have the right to suspend such Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Project Documents are corrected.

ARTICLE 6

COVENANTFOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned by it, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

6.2 Annual Assessments.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period shall assess against each Lot an Annual Assessment.

6.2.2 The Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessment by Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board.

6.2.3 The maximum Annual Assessment for each fiscal year of the Association shall be as follows:

(i) Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment for each Lot shall be $240.00.

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the Board may, without a vote of the members, increase the maximum Annual Assessment during each fiscal year of the Association by the greater of (a) five percent (5%) of the maximum Annual Assessment for the immediately preceding fiscal year or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average (1982-84=100), issued by the United States Department of Labor, Bureau of Labor Statistics (the "Consumer Price Index"), which amount shall be computed in the last month of each fiscal year in accordance with the following formula:

X = Consumer Price Index for September of the calendar year immediately preceding the year in which the Annual Assessments commenced.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the maximum Annual Assessment is to be determined.

$\frac{Y-X}{X}$ multiplied by the maximum Annual Assessment for the then current fiscal year equals the amount by which the maximum Annual Assessment may be increased.

In the event the Consumer Price Index ceases to be published, then the index which shall be used for computing the increase in the maximum Annual Assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, in the event no such successor index is recommended by the United States government, the index selected by the Board.

(iii) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment may be increased by an amount greater than the maximum increase allowed pursuant to (ii) above, only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.3 Rate of Assessment. The amount of the Annual Assessment for each Lot other than Lots owned by the Declarant shall be the amount obtained by dividing the total budget of the Association for the Assessment Period for which the Annual Assessment is being levied by the total number of Lots subject to the Assessment at the time the Annual Assessment is levied by the Board. The Annual Assessment for Lots owned by the Declarant shall be an amount equal to twenty-five percent (25%) of the Annual Assessment levied against Lots owned by Persons other than the Declarant. If a Lot ceases to qualify for the reduced twenty-five percent (25%) rate of assessment during the period to which an Annual Assessment is attributable, the Annual Assessment shall be prorated between the applicable rates on the basis of the number of days in the Assessment Period that the Lot qualified for each rate.

6.4 Obligation of Declarant for Deficiencies. So long as there is a Class B membership in the Association, Declarant shall pay and contribute to the Association, within thirty (30) days after the end of each fiscal year of the Association, or at such other times as may be requested by the Board, such funds as may be necessary, when added to the Annual Assessments levied by the Association, to pay all Common Expenses of the Association as they become due.

6.5 Special Assessments. The Association may levy against each Lot which is then subject to assessment, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.6 Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period, and the obligation of the Owners to pay Annual Assessments shall commence upon the conveyance of the first Lot to a Purchaser and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

6.7 Commencement Date of Assessment Obligation. All Lots described on Exhibit A to this Declaration shall be subject to assessment upon the conveyance of the first Lot to a Purchaser. All Lots annexed pursuant to Section 2.2 of this Declaration shall be subject to assessment upon the conveyance to a Purchaser of the first Lot within the annexed property. If the amendment to this Declaration which annexes all or any part of the Additional Property divides the property being annexed into phases, then the Lots within each phase will be subject to assessment when the first Lot in the phase is conveyed to a Purchaser.

6.8 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a quarterly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed until the Member has been given not less than thirty (30) days written notice prior to such foreclosure that the Assessment or any installation thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period, but successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.9 Effect of Nonpayment of Assessments: Remedies of the Association.

6.9.1 Any Assessment, or any installment of an Assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of twelve percent (12%) per annum or the prevailing VA/FHA interest rate for new home loans, whichever is higher. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within five (5) days after such payment was due.

6.9.2 The Association shall have a lien on each Lot for: (i) all Assessments levied against the Lot; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (iii) all fines levied against the Owner of the Lot; (iv) all attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot; (v) any amounts payable by the Declarant pursuant to Section 6.3 of this Declaration; and (vi) any amounts payable to the Association pursuant to Section 7.3 or 7.4 of this Declaration. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is recorded and the amount claimed to be past due as of the date of the recording of the Notice of Lien, including interest, lien recording fees and reasonable attorneys' fees. Before recording any Notice of Lien against a Lot, the Association shall make a written demand to the delinquent Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten (10) days after delivery of the demand, the Association may proceed with recording a Notice of Lien against the Lot.

6.9.3 The Assessment Lien shall have priority over all liens or claims except for: (i) tax liens for real property taxes; (ii) assessments in favor of any municipal or other governmental body; and (iii) the lien of any First Mortgage. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any Assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

6.9.4 The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, fines, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full.

6.9.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments or (ii) bringing an action to foreclose the Assessment Lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

6.10 Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Member or other Person a written certificate stating that all Assessments, interest, and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate, or if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot in question.

6.11 Purposes for which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Residents, maintenance of landscaping on Common Areas and public right-of-way and drainage areas within the Project, recreation, liability insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety and

indemnification of officers and directors of the Association. The Association may also expend its funds under the laws of the State of Arizona or such municipality's charter.

6.12 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

6.13 Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot the sum of $100.00. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Project Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.14 Transfer Fee. Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board, but no transfer fee shall be payable with respect to the transfer of a Lot by the Declarant to a Purchaser.

6.15 Exemption. The parcel designated on the Plat for use as a school shall be exempt from Assessments and the Assessment Lien, and the Owner of such parcel shall have no voting rights in the Association; provided, however, that should the parcel cease to be used for a school for any reason, it thereupon shall be subject to Assessments (prorated as of the date it ceased being used for such purpose) and the Assessment Lien, and the Owner thereof shall having voting rights in the Association as otherwise determined in this Declaration.

6.16 Application of Assessments by Association. The proceeds of Park Assessments paid to the Association shall be utilized by the Association only for paying the costs of the operation, upkeep and maintenance of the Park. In addition, the proceeds of Assessments payable to the Association by the Owners shall be applied first to the costs of the operation, upkeep and maintenance of the Park and the balance, if any, shall be applied to the costs of the operation, upkeep and maintenance of the remainder of the Common Areas.

ARTICLE 7

MAINTENANCE

7.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate maintenance, repair and replacement of all Areas of Association Responsibility; provided, that the Park shall be maintained in a first-class condition comparable to other park sites located within the vicinity of the Project.

7.2 Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his Lot, and all buildings, Residential Units, landscaping or other Improvements situated thereon, except for any portion of the Lot which is an Area of Association Responsibility. All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed and replaced with living foliage of like kind, unless different foliage is approved in writing by the Architectural Committee. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property or streets. All Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

7.3 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of an Area of Association Responsibility is caused through the willful or negligent act of any Owner, his family, Lessees, guests or invitees, the cost of such maintenance or repairs shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien. In the event that the need for maintenance or repair of the Park is caused through the willful or negligent act of any South Property Owner, his family, lessees, guests or invitees, the cost of such maintenance or repairs shall be paid by such South Property Owner to the Association upon demand and the South Property Declaration shall provide that payment of such amounts shall be enforced in the same manner as provided in this Declaration for the enforcement of delinquent Assessments.

7.4 Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project

which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen (14) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

7.5 Boundary Walls.

7.5.1 Each wall or fence which is located between two Lots shall constitute a boundary wall and, to the extent not inconsistent with this Section 7.5, the general rules of law regarding boundary walls shall apply.

7.5.2 The Owners of contiguous Lots who have a boundary wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

7.5.3 Any Owner may construct, without notice to or consent from the Owners of contiguous Lots, a boundary wall upon such Owner's Lot. provided the boundary wall does not encroach upon contiguous Lots. The Owners of contiguous Lots shall share jointly and equally all costs associated with the construction of the boundary wall, as evidenced by receipts, invoices and similar supporting documentation. Owners of contiguous Lots shall reimburse the Owner constructing the boundary wall for such costs not less than thirty (30) days following submission of a request therefor, together with copies of the supporting documentation. All construction shall be consistent with the plans and specifications approved by the Architectural Committee pursuant to Section 3.1 of this Declaration, and with the requirements of this Declaration and all applicable building codes, regulations and ordinances.

7.5.4 In the event that any boundary wall is damaged or destroyed through the act of an Owner, his agents, tenants, licensees, guests or family, it shall be the obligation of such Owner to rebuild and repair the boundary wall without cost to the other Owner or Owners;

7.5.5 In the event any such boundary wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

7.5.6 Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes any boundary wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

7.5.7 The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title;

7.5.8 In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a boundary wall shall first obtain the written consent of the adjoining Owners;

7.5.9 In the event any boundary wall encroaches upon a Lot, a valid easement for such encroachment and for the maintenance of the boundary wall shall and does exist in favor of the Owners of the Lots which share such boundary wall.

7.5.10 To the extent necessary in order for an Owner to construct a swimming pool or other Improvements in the back yard of his Lot, an Owner may remove all or a part of a boundary wall provided the Owner gives reasonable notice to the adjoining Owner that all or a part of the boundary wall will be removed. Any Owner removing all or a part of a boundary wall pursuant to this Subsection shall rebuild and restore the boundary wall to its prior condition at such Owner's sole cost and expense within a reasonable time after entry through the boundary wall is no longer necessary in connection with the construction of Improvements in the back yard of such Owner's Lot.

7.6 Maintenance of Walls other than Boundary Walls.

7.6.1 Walls (other than boundary walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot.

7.6.2 Any wall which is placed on the boundary line between a Lot and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area. In the event any such wall encroaches upon the Comon Area of a Lot, an easement for such encroachment shall exist in favor of the Association or the Owner of the Lot, as the case may be.

7.6.3 Any wall which is placed on the boundary line between a Lot and public right-of-way shall be maintained, repaired and replaced by the Association except that the Owner of the Lot shall be responsible for the repair and replacement of the surface of the wall which faces the Lot.

7.7 Installation of Landscaping. Within sixty (60) days after acquiring a Lot from Declarant, each Owner shall install grass, trees, plants and other landscaping improvements (together with any sprinkler system or drip irrigation system sufficient to adequately water the grass, trees, plants or other landscaping improvements) on (i) that part of the Lot which is between the street or public right-of-way adjacent to the Lot and the exterior walls of the Residential Unit situated on the Lot except for any side or back yard of the Lot which is completely enclosed by a wall or fence and (ii) any public right-of-way areas (other than sidewalks or bicycle paths) lying between the front or side boundaries of such Lot and any adjacent street, except for any part of such area which is an Area of Association Responsibility. All such landscaping must be installed in accordance with plans and specifications approved by the Architectural Committee pursuant to Section 3.1 of this Declaration.

ARTICLE 8

INSURANCE

8.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

8.1.1 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than $1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

8.1.2 Property insurance on all Areas of Association Responsibility insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Areas of Association Responsibility, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy.

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

8.1.4 Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

8.1.5 The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to Section 8.1 of this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to any Area of Common Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.5 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Areas of Association Responsibility which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the total authorized votes in the Association

vote not to rebuild and, with respect to any damage or destruction to the Park, the South Property Association consents in writing to any determination by the Owners not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either (i) be retained by the Association as an additional capital reserve, or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association; provided, that any remaining insurance proceeds attributable to the damaged area of the Park shall be allocated between the Association and the South Property Association in the manner set forth in Section 4.6.3 with respect to determination of the Park Assessment.

ARTICLE 9

RIGHTS OF FIRST MORTGAGEES

9.1 Notification to First Mortgagees. Upon receipt by the Association of a written request from a First Mortgagee or insurer or governmental guarantor of a First Mortgage informing the Association of its correct name and mailing address and the Lot number or address to which the request relates, the Association shall provide such Eligible Mortgage Holder or Eligible Insurer or Guarantor with timely written notice of the following:

9.1.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor;

9.1.2 Any delinquency in the payment of Assessments or charges owed by an owner of a Lot subject to a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor or any other default in the performance by the Owner of any obligation under the Project Documents, which delinquency remains uncured for the period of sixty (60) days;

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

9.1.4 Any proposed action which will require the consent of a specified percentage of Eligible Mortgage Holders as set forth in Section 9.2 or 9.3 of this Declaration.

9.2 Approval Required to Terminate Project. Any termination of the legal status of the Project for reasons other than the substantial destruction or a substantial taking in condemnation of the Project shall not be effective unless approved by Eligible Mortgage Holders holding First Mortgages on Lots the Owners of which have at least sixty-seven percent (67%) of the votes in the Association allocated to Owners of all Lots subject to First Mortgages held by Eligible Mortgage Holders.

9.3 Approval Required for Amendment to Declaration, Articles or Bylaws.

9.3.1 The approval of Eligible Mortgage Holders holding First Mortgages on Lots the Owners of which have at least fifty-one percent (51%) of the votes in the Association allocated to Owners of all Lots subject to First Mortgages held by Eligible Mortgage Holders shall be required to add or amend any material provisions of the Declaration, Articles or Bylaws which establish, provide for, govern or regulate any of the following:

(i) Voting rights;

(ii) Assessments, assessment liens or subordination of assessment liens;

(iii) Reserves for maintenance, repair and replacement of Common Areas;

(iv) Insurance or fidelity bonds;

(v) Responsibility for maintenance and repairs:

(vi) Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;

(vii) Boundaries of any Lot;

(viii) Reallocation of interests in the Common Areas or the rights to their use;

(ix) Convertibility of Lots into Common Areas or of Common Areas into Lots;

(x) Leasing of Lots;

(xi) Imposition of any restrictions on an Owner's right to sell or transfer his Lot;

(xii) A decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;

(xiii) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;

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

(xv) Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

9.3.2 Any addition or amendment to the Declaration, Articles or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

9.4 First Mortgagee's Right of Inspection of Records. Any First Mortgagee will, upon written request, be entitled to: (i) inspect the books and records of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

9.5 Limitation on Partition and Subdivision. No Lot shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot.

9.6 Prior Written Approval of First Mortgagees. Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the sponsor, developer or builder) of at least two-thirds (2/3) of the Lots have given their prior written approval, the Association shall not be entitled to:

9.6.1 Seek to abandon, partition, subdivide, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Lots. The granting of easements for public utilities or for other public purposes consistent with the

intended use of such Common Area shall not be deemed a transfer within the meaning of this Subsection;

9.6.2 Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

9.6.3 Change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots or the maintenance of the Common Area;

9.6.4 Fail to maintain fire and extended coverage on insurance common area on current replacement cost basis in an amount of at least one hundred percent (100%) of insurable value;

9.6.5 Use hazard insurance proceeds for losses to any Common Area, other than the repair, replacement or reconstruction of such Common Area.

9.7 No Priority over First Mortgagees. No provision of this Declaration gives or shall be construed as giving any owner or other Person priority over any rights of a First Mortgagee of a Lot in the case of the distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Area.

9.8 Failure of First Mortgagees to Respond. Any First Mortgagee who receives a written request from the Board to respond to or consent to any action requiring the consent of the First Mortgagee shall be deemed to have approved such action if the Association has not received a negative response from such First Mortgagee within thirty (30) days of the date of the Association's request.

9.9 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Project Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article and any other provisions of the Project Documents with respect to the number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors that must consent to (i) an amendment of the Declaration, Articles or Bylaws, (ii) a termination of the Project, or (iii) certain actions of the Association as specified in Section 9.2, 9.3 and 9.6 of this Declaration, the provision requiring the consent of the greatest number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors shall prevail; provided, however, that so long as there is a Class B membership in the Association, the Declarant, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration, the Articles or the Bylaws in order to conform this Declaration, the Articles or the Bylaws to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home

Loan Mortgage Corporation, the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required or requested by the Declarant.

ARTICLE 10

GENERALPROVISIONS

10.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents in any manner provided for by law or in equity. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Project Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Project Documents in the future.

10.2 Term: Method of Termination. This Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded, after which time, this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination (i) is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent (90%) or more of the votes in each class of membership in the Association and by the holders of First Mortgages on Lots, the Owners of which have seventy-five percent (75%) or more of the votes in the Association; and (ii) is consented to in writing by the South Property Association. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

10.3 Amendments.

10.3.1 Except for amendments made pursuant to Subsection 2.2 or 10.3.2 of this Declaration, the Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than seventy-five percent (75%) of the Lots and, with respect to any amendment to any provision of this Declaration that benefits or applies to the South Property Owners, with the written consent of the South Property Association.

10.3.2 The Board may amend this Declaration or any Plat, without obtaining the approval or consent of any Owner, First Mortgagee, South Property Owner or first mortgagee with respect to the South Property, in order to conform this

Declaration or any Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the FHA, the VA or any federal, state or local governmental agency whose approval of the Project, the Plats or the Project Documents is required by law or requested by the Declarant or the Board.

10.3.3 So long as the Declarant owns any Lot, any amendment to this Declaration must be approved in writing by the Declarant.

10.3.4 So long as there is a Class B membership in the Association, any amendment to this Declaration must have the prior written approval of the FHA or the VA.

10.3.5 Any amendment approved pursuant to Subsection 10.3.1 of this Declaration or by the Board pursuant to Subsection 10.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved and consented to as required by this Section. Unless a later effective date is provided for in the amendment, any such amendment shall be effective upon the Recording of the amendment.

10.4 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules or the Architectural Committee Rules, the Bylaws shall control.

10.5 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

10.6 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (i) those which would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

10.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

10.8 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner or Resident of any restriction or other provision of the Project Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner or Resident violating, or responsible for the violation of, the Project Documents; (ii) the legal description of the Lot against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. If, after the recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was Recorded, and the recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or that the violation did not exist. Failure by the Association to record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Project Documents.

10.9 Laws, Ordinances and Regulations.

10.9.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other persons to obtain the approval of the Board or the Architectural Committee with respect to certain actions are independent of the obligation of the Owners and other persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other person from the obligation to also comply with all applicable laws, ordinances and regulations.

10.9.2 Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

10.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this

Declaration shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

10.11 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

10.12 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

10.13 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner, Lessee, Resident or South Property Owner then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Maricopa County. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

10.14 FHA/VAApproval. So long as there is a Class B membership in the Association, the following actions shall require the prior written approval of the FHA or the VA: annexation of additional properties, dedication of common areas, and amendment to this Declaration.

10.15 No Absolute Liability. No provision of the Project Documents shall be interpreted or construed as imposing on Owners absolute liability for damage to the Common Area or the Lots. Owners shall only be responsible for damage to the Common Area or Lots caused by the Owners' negligence or intentional acts.

10.16 References to FHA and VA. In various places throughout the Project Documents, references are made to the FHA and the VA and, in particular, to various consents or approvals required of either or both of such agencies. Such references are included so as to cause the Project Documents to meet certain requirements of such agencies should Declarant request approval of the Project by either or both of those agencies. However, Declarant shall have no obligation to request approval of the Project by either or both of such agencies. Unless and until the FHA or the VA have approved the Project as acceptable for insured or guaranteed loans and at any time during which such approval, once given, has been revoked, withdrawn, cancelled or suspended and there are no outstanding mortgages or deeds of trust recorded against a Lot to secure payment of an insured or guaranteed loan by either of such agencies, all references herein to required

approvals or consents of such agencies shall be deemed null and void and of no force and effect.

10.17 Consent Not to be Unreasonably Withheld. Wherever in this Declaration the consent of the South Property Association or the South Property Developer is required, such consent shall not be unreasonably withheld, delayed or conditioned. In the event consent is withheld with respect to any matter, the South Property Association or South Property Developer, as applicable, shall set forth with reasonable specificity the corrective action required to obtain its consent to the matter. Unless otherwise provided herein, in the event written objection to the matter is not received within thirty (30) days following the request for consent thereto, the South property Association or South Property Developer, as applicable, shall be deemed to have consented to such matter.

10.18 Dispute Resolution. The resolution of any disputes or disagreements pursuant to Sections 4.6.3 or 5.3 above between the Association and the South Property Association, or the South Property Developer if the South Property Association then is not in existence, shall be resolved by binding arbitration in accordance with the terms of this Section 10.18. Arbitration conducted pursuant to this Section 10.18 shall be administered by the American Arbitration Association (the "Administrator") pursuant to the Commercial Arbitration Rules of the Administrator. Judgment upon any award or determination rendered under this Section 10.18 may be entered into any court having jurisdiction. Any party who fails to submit to binding arbitration following a proper demand by the opposing party shall bear all costs and expenses, including reasonable attorneys' fees, incurred by the opposing party in compelling arbitration. The arbitration shall be conducted by three (3) independent arbitrators. One (1) arbitrator shall be selected by the Association, the second arbitrator shall be selected by the South Property Association or the South Property Developer if the South Property Association then is not in existence and the third arbitrator shall be selected by the other two (2) arbitrators. All such arbitrators shall have at least ten (10) years experience in the management of homeowners' associations in Maricopa County, Arizona. The award and/or determination of the arbitrator shall be in writing and shall specify the factual basis for the award and/or its determination. To the maximum extent practicable, the Administrator, the arbitrators, the Association and the South Property Association, or the South Property Developer if the South Property Association then is not in existence, shall take all action necessary to ensure an arbitration proceeding under this Section 10.18 shall be concluded within one hundred twenty (120) days after the filing of the dispute with the Administrator. Arbitration proceedings shall be conducted in Arizona at a location determined by the Administrator. The award of the arbitrators shall specifically

identify the prevailing party in the arbitrated matter. The non-prevailing party in any arbitration proceeding shall bear the entire cost of the proceeding, including the fees and costs of the arbitrators.

JACKSON PROPERTIES FF, INC., an Arizona corporation

By: Randall B. Jackson
Its: PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 13th day of January, 1995, by RANDALL B. JACKSON, the PRESIDENT of Jackson Properties FF, Inc., an Arizona corporation, on behalf of the corporation.

Carol L. Bremer
Notary Public

"OFFICIAL SEAL"
Carol L. Bremer
Notary Public-Arizona
Maricopa County
My Commission Expires 6/15/98

My Commission Expires:

6-15-98

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

Parcel No. 1:

Lots 1 through 21, and Tract A, of EQUESTRIAN ESTATES AT FINLEY FARMS, per plat recorded in Book 386, page 50, records of Maricopa County, Arizona.

Parcel No. 2:

Lots 1 through 89, and Tracts A, B, C and D, of THE MANOR AT FINLEY FARMS UNIT I, per plat recorded in Book 387, page 2, records of Maricopa County, Arizona.

Parcel No. 3:

Lots 90 through 158, and Tracts A and B, of THE MANOR AT FINLEY FARMS UNIT II, per plat recorded in Book 386, page 48, official records of Maricopa County, Arizona.

Parcel No. 4:

Lots 1 through 64, and Tracts A, B, C and D, of THE ESTATES AT FINLEY FARMS, per plat recorded in Book 387, page 3, records of Maricopa County, Arizona.

Parcel No. 5:

Lots 1 through 50, and Tracts A, B, C, D and E, of PARKSIDE AT FINLEY FARMS UNIT I, per plat recorded in Book 386, page 49, official records of Maricopa County, Arizona.

Parcel No. 6:

Lots 51 through 130, and Tracts A, B, C and D, of PARKSIDE AT FINLEY FARMS UNIT II, per plat recorded in Book 387, page 1, records of Maricopa County, Arizona.

LEGAL DESCRIPTION OF ADDITIONALPROPERTY

January 12, 1995

1. South Property.

LEGAL DESCRIPTION FOR FINLEY FARMS MAP OF DEDICATION

That part of Section 16, Township South, Range 6 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the East Quarter Corner of said Section 16;

Thence South 00°03'52" East, along the East line of said Section 16, a distance of 1,937.46 feet;

Thence South 21°54'09" West, departing said East line of said Section 16, a distance of 153.24 feet;

Thence South 37°13'16" West, a distance of 702.15 feet to a point on the South line of said Section 16;

Thence South 89°51'57" West, along said South line, a distance of 2,158.85 feet to the South Quarter Corner of said Section 16;

Thence South 89°52'14" West, continuing along said South line, a distance of 331.70 feet;

Thence North 00°00'05" East, a distance of 1,468.19 feet;

Thence South 89°52'18" West, a distance of 2,310.08 feet to a point on the West line of said Section 16;

Thence North 00°00'08" West, along said West line, a distance of 1,152.71 feet to a point on the south line of a parcel of land as recorded in Book 175 of Deeds, Page 201, Maricopa County Records;

Thence along said South line, the following courses;

Thence North 89°53'46" East, a distance of 1,313.34 feet;
Thence North 00°23'55" West, a distance of 2.78 feet;
Thence North 89°36'05" East, a distance of 661.30 feet;
Thence North 89°40'19" East, a distance of 962.31 feet;

Thence North 78°30'29" East, departing said south line, a distance of 65.75 feet to the beginning of a tangent curve of 1,400.00 foot radius, concave Southeasterly;

Thence Northeasterly, along said curve, through a central angle of 11°18'30", a distance of 276.31 feet;

Thence North 89°48'59" East, a distance of 508.15 feet;

CVL

CONSENT OF LIENHOLDER

The undersigned, as the beneficiary under a Deed of Trust and Assignment of Rents recorded against the real property described on Exhibit "A" attached to the foregoing Declaration of Covenants, Conditions and Restrictions for Finley Farms, hereby agrees to be bound by the terms of such Declaration and agrees that such Deed of Trust and Assignment of Rents be subordinate to the Declaration of Covenants, Conditions and Restrictions for Finley Farms which shall survive any trustee's sale held pursuant to the Deed of Trust and Assignment of Rents or any foreclosure of the Deed of Trust and Assignment of Rents.

Dated this 5th day of January, 1995.

FINLEY ~~FARMS~~ FIRST MORTGAGE, L.L.C., an Arizona limited company BY PHOENXI M.G.P. INC., AS ADMINISTRATIVE MEMBER

By: _____

Its: PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 5TH day of January, 1995, by Jack W. Hilton, the President of Finley ~~Farms~~ First Mortgage, L.L.C., an Arizona limited liability company, on behalf of the limited liability company. By Phoenix M.G.P. Inc., as Administrative Member.

_____
Notary Public

My Commission Expires:

OFFICIAL SEAL
JAN E. LONG
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Oct. 6, 1998

PPP08558.WPS-010595-12:36

950024852

CONSENT OF LIENHOLDER

The undersigned, as the beneficiary under a Deed of Trust and Assignment of Rents recorded against the real property described on Exhibit "A" attached to the foregoing Declaration of Covenants, Conditions and Restrictions for Finley Farms, hereby agrees to be bound by the terms of such Declaration and agrees that such Deed of Trust and Assignment of Rents be subordinate to the Declaration of Covenants, Conditions and Restrictions for Finley Farms which shall survive any trustee's sale held pursuant to the Deed of Trust and Assignment of Rents or any foreclosure of the Deed of Trust and Assignment of Rents.

Dated this 5th day of January, 1995.

FINLEY ~~FARMS~~ SECOND MORTGAGE, L.L.C.,
an Arizona limited company BY PHOENIX M.G.P. INC., AS ADMINISTRATIVE MEMBER.

By: _____

Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 5th day of January, 1995, by Jack W. Hilton, the President of Finley ~~Farms~~ Second Mortgage, L.L.C., an Arizona limited liability company, on behalf of the limited liability company. By Phoenix M.G.P. Inc., as Administrative Member.

_____
Notary Public

My Commission Expires:

OFFICIAL SEAL
JAN E. LONG
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Oct. 6, 1998

PPP08558.WPS-010595-12:36

Thence North 89°44'48" East, a distance of 409.09 feet;

Thence South 89°51'16" East, a distance of 1,087.32 feet to a point on the East line of said Section 16;

Thence South 00°03'26" East, along said East line, a distance of 28.26 feet to the Point of Beginning.

Containing 239.090 Acres (Gross) more or less.

EXCEPT

Any portion lying within the USA Fee Title Strip as recorded in Book 177 of Deeds, Page 500, and Instrument #94-204539, Maricopa County Records, and also Lateral 11 of the Easterly canal together with sufficient area to permit economical operation and maintenance purposes.

REGISTERED SURVEYOR
CERTIFICATE NO.
22782
LARRY E.
SULLIVAN
Date Signed 1-12-95
ARIZONA, U.S.A.

CVL

EXHIBIT C

LEGAL DESCRIPTION OF PARK

Tract C of PARKSIDE AT FINLEY FARMS UNIT I per plat recorded in Book 386, Page 49, records of Maricopa County, Arizona.

Except that portion of said Tract C designated as retention/open space on said plat and subject to an easement held by the Salt River Project and recorded in Docket 4781, Page 254, records of Maricopa County, Arizona.

Hold for pick-up front counter

940362722

CLIENT_____

When Recorded, Return To:

Gary R. Zwillinger, Esq.
Scult, French, Zwillinger
& Smock, P.A.
One Arizona Center, 11th Floor
400 East Van Buren Street
Phoenix, Arizona 85004

MARICOPA COUNTY RECORDER
HELEN PURCELL
94-0298574 04/13/94 02:23

THIS DOCUMENT IS BEING RE-RECORDED FOR THE SOLE PURPOSE OF CORRECTING A TYPOGRAPHICAL ERROR ON PAGE 3.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

COTTONWOODS CROSSING

THIS DECLARATION is made and entered into on the date set forth at the end hereof by COTTONWOODS CROSSING ASSOCIATES, an Arizona general partnership ("CCA"), and RWCD CROSSINGS, L.L.C., an Arizona limited liability company ("RWCD").

RECITALS

A. RWCD is the owner of that certain parcel of real property situated in the Town of Gilbert, County of Maricopa, State of Arizona, described on the Exhibit "A" to this Declaration (the "RWCD Parcel").

B. CCA is the owner of that certain parcel of real property situated in the Town of Gilbert, County of Maricopa, State of Arizona, described on the Exhibit "B" to this Declaration (the "CCA Parcel").

C. The RWCD Parcel and the CCA Parcel are located adjacent to one another and, though separately owned, are referred to jointly in this Declaration as the "Property".

D. CCA and RWCD desire to establish and record easements, restrictions, covenants, and conditions upon their respective Parcels which will provide the basis of a general plan for the development, occupancy, use and enjoyment of the Property which would protect the value, desirability and attractiveness of the Property.

NOW, THEREFORE, CCA and RWCD hereby declare that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following

declarations, limitations, easements, covenants, conditions and restrictions, all of which are and shall be interpreted to be for the purpose of enhancing and protecting the value and attractiveness of the Project and all Lots and property therein. All of the limitations, covenants, and restrictions shall constitute covenants which shall run with the land and shall be binding upon CCA and RWCD, their successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Property.

ARTICLE I

Definitions

1.1 "Agency" or "Agencies" means the Federal Housing Administration ("FHA"), Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC").

1.2 "Annual Assessments" means the regular annual assessments levied by the Board pursuant to Section 4.3 of this Declaration.

1.3 "Architectural Control Committee" or "Committee" means the committee formed pursuant to Article 8 of this Declaration.

1.4 "Articles" means the Articles of Incorporation of the Association, as amended or restated from time to time, on file with the Arizona Corporation Commission.

1.5 "Assessments" means that portion of the cost of maintaining, repairing, operating and managing the Common Area, and operating the Association, which is to be paid by each Owner as determined by the Association and as provided herein.

1.6 "Association" means the Cottonwoods Crossing Association, an Arizona nonprofit corporation. The Association shall be established by the filing of its Articles of Incorporation ("Articles") and governed by its Bylaws ("Bylaws").

1.7 "Association Rules" means the rules and regulations adopted by the Association pursuant to Section 5.1.6 of this Declaration.

1.8 "Board" means the Board of Directors of the Association.

1.9 "Common Area" means those Tracts within the Project designated as "Common Area" on any Plat for all or any portion of the Project, including all structures, facilities, improvements and landscaping thereon and all rights, easements and appurtenances relating thereto. Title to the individual Common Area Tracts shall be conveyed to the Association by Declarant for the benefit of all of the Lot Owners upon the completion of all of the improvements

designated therefor and approved by the Town of Gilbert prior to the conveyance of the first Lot in the Project to an Owner other than Declarant. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area, the right of the Association to suspend Common Area use rights as provided in the Bylaws and the right of the Association to dedicate or transfer Common Area to any public agency, authority or utility company as provided in this Declaration. Any Owner may delegate, in accordance with the Project Documents, his right of enjoyment to the Common Area and facilities thereon to members of his family, tenants and contract purchasers who reside on his Lot.

1.10 "Declarant" means RWCD and any successors or assign of the Declarant's rights and powers hereunder. CCA has joined in this Declaration for the purpose of subjecting the CCA Parcel to this Declaration; however, CCA shall not be considered a Declarant and shall not be entitled to exercise any of the rights of a Declarant under this Declaration unless and until the CCA Parcel is annexed and becomes part of the Project in accordance with Section 2.2 of this Declaration. Upon annexation of the CCA Parcel pursuant to Section 2.2, CCA shall be deemed a Declarant for all purposes under this Declaration.

1.11 "Design and Construction Guidelines" means the rules and regulations governing permitted development and construction on the Lots which the Architectural Control Committee may promulgate from time to time pursuant to Section 8 of this Declaration.

1.12 "Developer" means a home builder who acquires one or more undeveloped Lots of the Project from the Declarant (or its heirs, successors or assigns as specified in a recorded assignment of its rights hereunder) for the purpose of development, and the heirs, successors and assigns of a Developer, but specifically excluding members of the public purchasing finished Lots with houses.

1.13 "First Mortgage" means any mortgage or deed of trust on any Lot, or portion thereof, with first priority over any other mortgage or deed of trust encumbering such Lot, or portion thereof.

1.14 "First Mortgagee" means the holder of any First Mortgage.

1.15 "Lot" means one of the separately designated Lots within the Project as shown on a Plat, together with any improvements thereon.

1.16 "Maximum Annual Assessment" means the amount established by or in accordance with Section 4.3 of this Declaration.

1.17 "Member" means and refer to those persons entitled to membership in the Association as provided herein.

1.18 "Owner" means and refer to the record of title to a Lot (except Common Area of the Association) in the Project. This shall include any person having fee simple title to any Lot or other property in this Project, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot or other property is sold under a recorded contract of sale or subdivision trust to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner" as long as he or a successor in interest remains the contract purchaser, or purchasing beneficiary under the recorded contract or subdivision trust.

1.19 "Plat" means that certain plat of Cottonwoods Crossing, Phase II, recorded by Declarant in Book 374 of Maps, Page 20 of the official records of the County Recorder of Maricopa County, Arizona, together with any other plats of all or any portion of the Project recorded by or at the request of Declarant, as the same are amended from time to time. Amendments to Plats are subject to Article 2.

1.20 "Project" shall initially mean only the RWCD Parcel described in Exhibit "A" to this Declaration. "Project" shall also include the CCA Parcel described in Exhibit "B" to this Declaration if that parcel is subsequently annexed in the manner described in Section 2.2 of this Declaration.

1.21 "Project Documents" means and include this Declaration, as it may be amended from time to time, the exhibits, if any, attached hereto, the Plats, the Articles and Bylaws of the Association and any "Rules and Requisites" adopted from time to time by the Association as provided herein or in the Bylaws.

1.22 "Special Assessments" means the assessments, if any, levied by the Board pursuant to Section 4.4 of this Declaration.

ARTICLE 2

Master Planned Development

2.1 NATURE OF DEVELOPMENT.

The Project consists of real property that will be developed in several separate subdivisions. Declarant has or will record one or more Plats with respect to the Project and, if further property is annexed to the Project, one or more additional Plats may be recorded by Declarant with respect to such annexed property in accordance with intended plans for development of the Project. Each Plat may designate Common Area to be owned and maintained by

the Association as provided herein, and the designations of Common Area on the Plats shall be binding and conclusive on the Association, Declarant and all Owners. Common Area as designated on a Plat shall not be deeded to the Association and the Association will have no maintenance responsibilities therefor until all planned improvements thereon have been completed by Declarant or a Developer consistent with any improvements to the Common Areas in the Project in terms of quality of construction. No Plat may be amended, revised, replatted or further subdivided or resubdivided in any manner whatsoever without the prior written approval of the Association and Declarant.

2.2 ANNEXATION OF ADDITIONAL PROPERTY.

The Project currently consists only of RWCD Parcel described in Exhibit "A", but Declarant reserves the right, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, to annex the CCA Parcel described in Exhibit "B", or any portion thereof, to the Project upon the following conditions:

2.2.1 Any annexation of the CCA Parcel pursuant to this Section 2.2 shall be made prior to December 31, 2001.

2.2.2 The annexation of all or any portion of the CCA Parcel shall be accomplished by Declarant (or if the Declarant's rights have been assigned to them, the current owner(s) of the CCA Parcel) recording a Declaration of Annexation covering the applicable portion of the CCA Parcel with the office of the Maricopa County Recorder. Each such Declaration of Annexation shall incorporate this Declaration by reference and may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, if any, of the property annexed hereto and which are not inconsistent with the scheme of this Declaration.

2.2.3 Upon annexation of all or a portion of the CCA Parcel as provided above, the annexed property shall be subject to all provisions of this Declaration, including without limitation the provisions regarding Assessments, without the necessity for amending individual articles hereof. Additional Common Area located in the annexed property which is to be owned and maintained by the Association may be designated on Plats of all or any portion of the annexed property as provided in Section 2.1, above. The Declaration of Annexation shall designate the number of votes for the annexed parcel subject thereto, in the manner specified in Section 3.4 of this Declaration. The designation of Membership Class and votes with respect to lots in the annexed property under the Declaration of Annexation and Section 3.4 of this Declaration shall be applicable for all purposes under this Declaration.

2.3 REMOVAL FROM THIS DECLARATION.

2.3.1 If any portion of the CCA Parcel is not annexed into the Project within the time period stated in Section 2.2.1, then in such event the portion which is not annexed shall be released from this Declaration and all of its restrictions automatically and without further action by Declarant. In addition, Declarant shall have the right, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, to release any portion of the CCA Parcel which has not previously been annexed into the Project under Section 2.2 prior to the expiration of the time period stated in Section 2.2.1 by recording with the office of the Maricopa County Recorder an instrument executed by the Declarant and the then owner(s) of such property releasing such property from this Declaration. Declarant makes no representation or warranty that any property within the CCA Parcel will be used in accordance with the uses and restrictions contained in this Declaration following its release from this Declaration as provided in this Section 2.3.

2.3.2 Notwithstanding anything in the foregoing to the contrary, the CCA Parcel may not be used for any purpose other than one permitted under this Declaration until and unless it has been released from this Declaration in the manner provided in this Section 2.3, and any use thereof or construction thereon shall not be deemed to give any person any rights to continue to use the CCA Parcel or portions thereof for such other use or purpose prior to such release.

ARTICLE 3

Association Membership, Voting Rights and Administration

3.1 BASIC DUTIES OF THE ASSOCIATION.

Management of the Common Area shall be vested in the Association in accordance with this Declaration and the Articles and Bylaws. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and Bylaws, and any rules adopted by the Association, subject to the provisions and standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

3.2 MEMBERSHIP.

The Owner of a Lot shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall

automatically cease. Membership shall be in accordance with the Articles and the Bylaws.

3.3 TRANSFER OF MEMBERSHIP.

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then automatically to the new Owner as provided in section 3.2 above. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Lot, the Association shall record the transfer upon its books, causing an automatic transfer of membership as provided in Section 3.2 above. The Association may charge a transfer fee to offset expenses incurred by the Association in updating its books and records to reflect the transfer. The amount of the transfer fee shall be established by the Board, in its reasonable discretion.

3.4 MEMBERSHIP CLASSES.

The Association shall have two (2) classes of voting membership established according to the following provisions:

3.4.1 Class A Membership shall be that held by each Owner of a Lot other than Declarant (while two classes of membership exist), and each Class A Member shall be entitled to one (1) vote for each Lot owned. If a Lot is owned by more than one (1) person, each such person shall be a Member of the Association but there shall be no more than one (1) vote for each Lot.

3.4.2 Class B Membership shall be that held by Declarant (or its successor) which shall be entitled to three (3) votes for each Lot owned by Declarant. Class B Memberships shall be converted to Class A Memberships and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(i) One hundred twenty (120) days following the first date when the total outstanding votes held by Class A Members equals the total outstanding votes (tripled as above) held by Class B Members; or

(ii) December 31, 2000; provided, however, that if the RWCD Parcel is annexed into the Project, then such date shall be the later of December 31, 2000 or that date which is five (5) years following the date of annexation of the RWCD Parcel.

3.4.3 Declarant may voluntarily convert Class B Membership to Class A Membership at any time by notice to the Association.

3.5 ASSOCIATION VOTING REQUIREMENTS.

Any proposed action by the Association which requires the approval of the Members before being undertaken shall require the affirmative vote of fifty-one percent (51%) of the votes held by those Members present and voting at a duly called and held meeting of the Membership at which a quorum (as prescribed herein or in the Bylaws) is present, unless a higher percentage vote approving the proposed action is specifically prescribed by a provision of this Declaration, the Bylaws or the Articles.

3.6 VESTING OF VOTING RIGHTS.

Voting rights attributable to all Lots or property owned by Declarant shall vest immediately by virtue of Declarant's ownership thereof.

3.7 MEETINGS OF THE ASSOCIATION.

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws.

3.8 BOARD OF DIRECTORS.

The affairs of the Association shall be managed by the Board which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws.

ARTICLE 4

Assessments and Charges

4.1 ASSESSMENTS OBLIGATIONS.

4.1.1 Each Owner of any Lot, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular Annual Assessments, (b) Special Assessments for capital improvements and unexpected expenses and (c) other charges made or levied by the Association against the Owner or Lot pursuant to this Declaration or the Bylaws, such Assessments and charges to be established and collected as provided herein and in the Bylaws. Any part of any Assessment (or other amount due from the Owner to the Association, including interest) not paid when due as established in this Article 4 shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid and shall be subject to a reasonable late

charge not exceeding twenty-five percent (25%) of the delinquent amount, as determined by the Board.

4.1.2 The Annual and Special Assessments and any other charge made against an Owner or a Lot pursuant to this Declaration of the Bylaws, together with interest, late charges, collection and other costs, and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) as provided herein, shall be a charge and a continuing lien upon the Lot ("Assessment Lien"). Each such Assessment and charge, together with interest, late charges, costs and reasonable attorneys' fees as provided above, shall also be the personal obligations of the person who is the Owner of such Lot at the time the Assessment or other charge fell due as provided in this Article 4 or elsewhere in this Declaration, but this personal liability shall not pass to successor Owners unless specifically assumed by them.

4.1.3 The Assessment lien on each Lot shall be prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Lot. No Owner of a Lot may exempt himself from liability for Assessments by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Lot.

4.2 PURPOSE OF ASSESSMENTS.

The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Area as provided herein, and for the common good of the Project. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Area and other improvements which the Association is responsible for maintaining.

4.3 ANNUAL ASSESSMENTS.

4.3.1 The Board shall annually determine and fix the amount of the Annual Assessment against each Lot, including those owned by Declarant and Developers, at an amount not exceeding the Maximum Annual Assessment for the year in question, and shall notify the Owner of each Lot in writing as to the amount of such Annual Assessment not less than forty-five (45) days prior to the date that such Assessment is to commence. The Annual Assessment against each Lot as fixed by the Board shall not exceed the Maximum Annual Assessment amount then in effect and shall not be decreased by more than twenty percent (20%) of the Annual Assessment against the Lot for the prior calendar year without the affirmative vote of Declarant (while Class B Membership exists) and of two-thirds (2/3)

of the votes of Class A Members voting in person or by proxy at a meeting duly called for this purpose. All Annual Assessments shall be payable in twelve (12) equal monthly installments. The Annual Assessment shall be prorated based on the number of months remaining before January 1 of such year as well as any partial months remaining and said sum shall be payable in equal monthly installments.

4.3.2 Except as to the Maximum Annual Assessment amount for the first year as set forth below, the Maximum Annual Assessment amount shall be automatically increased each year by a percentage equal to the percentage increase, if any, in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (published by the Department of Labor, Washington, D.C.) for the year ending with the preceding July (or a similar index chosen by the Board if the above-described Index is no longer published) without the vote or approval of the Members of the Association. However, the Maximum Annual Assessment Amount may be increased by an amount in excess of the amount produced by the foregoing formula (i) if additional Common Area is annexed to the Project and as a result the area of Common Area per Lot in the Project after such annexation is greater than before, in which case the Board may increase the Maximum Annual Assessment as it deems necessary to deal with the increased obligations associated with the additional Common Area; or (ii) if such increase is approved by the affirmative vote of Declarant (while Class B Membership exists) and of two-thirds (2/3) of the votes of Class A Members voting in person or by proxy at a meeting duly called for this purpose. In the event the Board increases the Maximum Annual Assessment due to annexation pursuant to clause (i) of the preceding sentence the subsequent year automatic increase of the Maximum Annual Assessment shall be based on the new Maximum Annual Assessment so set by the Board. In the year prior to January 1 of the year immediately following the close of escrow on the sale of the first Lot in the Project the Maximum Annual Assessment per Lot shall be Four Hundred and Eighty Dollars ($480.00).

4.4 SPECIAL ASSESSMENTS.

In addition to the regular Annual Assessments authorized above, the Board may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or other improvements the Association is responsible for maintaining, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense and, where necessary, for taxes assessed against the Common Area, provided however, that no such Special Assessment shall be made without the affirmative vote of Declarant (while Class B Membership exists) and of two-thirds (2/3) of the

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votes of Class A Members voting in person or by proxy at a meeting duly called for this purpose.

4.5 PROCEDURES FOR ASSESSMENT VOTES.

Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.3 or 4.4 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Notwithstanding any other provision in the Bylaws, at the first such meeting called, the presence of Members or proxies therefor entitled to cast ten percent (10%) of all of the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called provided however the notice period shall be shortened to not less than fifteen (15) nor more than sixty (60) days. The required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting. While Class B Membership exists, the quorum requirements described above shall apply to both classes and a quorum shall not exist for a meeting unless a quorum of each class is present.

4.6 ALLOCATION OF ASSESSMENTS.

The Owners of each Lot shall bear an equal share of each Annual and Special Assessment, except as specified in Sections 4.3 and 4.4.

4.7 COMMENCEMENT OF ASSESSMENTS.

The Annual Assessments provided for herein shall commence as to each Lot in the Project on the first day of the month following the close of escrow on the sale of the first Lot in the Project by Declarant to a Developer or another person. Due dates of Assessments shall be established by the Board and notice shall be given to each Lot Owner at least forty-five (45) days prior to any due date, provided that if Assessments are to be due on a monthly basis, no notice shall be required other than an annual notice setting forth the amount of the monthly Assessment and the day of each month on which each Assessment is due.

4.8 EFFECT OF TRANSFER OF LOT BY SALE OR FORECLOSURE.

The sale or transfer of any Lot shall not affect the Assessment lien or liability for Assessments due and payable related to that Lot except as provided below. No sale or transfer of a Lot shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien therefor. Where, however, the First Mortgagee of a First Mortgage of record or another person obtains title to a Lot as a result of foreclosure, trustee's sale or deed in lieu thereof of any such First Mortgage, such First

Mortgagee or other person shall not be liable for the Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such First Mortgagee or, other person, and the Assessment lien therefor on such Lot shall be extinguished. Such unpaid Assessments shall be deemed to be common expenses collectible from all of the Lots through regular or special Assessments as provided herein. In a voluntary conveyance of a Lot, the grantee of the same shall not be personally liable for Assessments or any other charges due to the Association in connection with that Lot which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee. Any such grantee shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of Grantee's acquisition of legal or equitable title to the Lot.

4.9 REMEDIES FOR NONPAYMENT.

4.9.1 When any Assessment or other amount due from an Owner to the Association on behalf of any Lot is not paid within thirty (30) days after the due date, the lien therefor may be enforced by foreclosure of the lien and/or sale of the Lot by the Association, its attorney or other person authorized by this Declaration or by law to make the sale or as provided herein. The lien may be foreclosed and the Lot sold in the same manner as a realty mortgage and property mortgaged thereunder, or the lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Lot, the solvency of the Owner thereof or the relative size of the Owner's default.

4.9.2 Upon the sale of a Lot pursuant to this Section, the purchaser thereof shall be entitled to a deed to the Lot and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including but not limited to court costs, other litigation costs, costs and attorneys' fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid Assessments and other amounts due to the Association, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchaser

shall take the interest in the Lot sold subject to this Declaration.

4.9.3 The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at any sale and to acquire and hold, lease, mortgage or convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemptioner, the lien shall continue in effect and said lien may be enforced by the Association, or by the Board for the Association, for the Lot's Assessments and other amounts that were due prior to the final conclusion of any such foreclosure, sale or equivalent proceedings. Further, notwithstanding any foreclosure of the lien or sale of the Lot, any Assessments and other amounts due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting owner of the Lot to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member of the Association or as Owner of a Lot.

4.10 SUSPENSION OF RIGHTS.

In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may temporarily suspend the Association voting rights and/or rights to use the Common Area of a Lot Owner who is in default in the payment of any Assessment or any other amount due to the Association, as provided in the Bylaws.

4.11 OTHER REMEDIES.

The rights, remedies and powers created and described in Sections 4.9 and 4.10 and elsewhere in the Project Documents are cumulative and may be used or employed by the Association in any order or combination, except as specifically provided to the contrary herein. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments, interest, rent, collection and other costs, attorneys' fees and/or other amounts due hereunder, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the liens created for Assessments or other amounts due hereunder.

4.12 UNALLOCATED TAXES.

In the event any taxes are assessed against the Common Area or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article 4, and, if necessary, a Special Assessment may be levied equally against all of the Lots in an amount equal to said taxes, as provided in Section 4.4.

4.13 EXEMPTION OF DECLARANT. Each Lot owned by Declarant shall be exempt from the Assessments and the Assessment Lien established under this Declaration until the date such lot is sold to a person other than Declarant; provided, however, that until conversion of its membership to Class A status under Section 3.4, the Declarant shall be responsible for payment of the amount, if any, required to make up a shortfall between the budgeted annual operating expenses of the Association upon which Annual Assessments were set and the actual operating expenses of the Association incurred during such annual period.

ARTICLE 5

Duties and Powers of the Association

5.1 ASSOCIATION DUTIES AND POWERS.

In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.1.1 MAINTENANCE.

Maintain, paint, repair, replace, restore operate and keep in good condition all of the Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon. Only the Association may actually perform the maintenance or repair of Common Area. The liability of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants or invitees. Liability for the repair or replacement of any portion of the Common Area resulting from such excluded items shall be that of the Owner responsible for the same. The Association shall be entitled to commence an action at law or in equity to enforce this responsibility and duty and recover damages for the breach thereof. Liability hereunder shall be limited to that provided for or allowed in the statutory or case law of the State of Arizona.

5.1.2 INSURANCE.

5.1.2.1 Obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant, the Developers, the agents and employees of each, and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Common Area, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner or other insured because of the negligence of other Owners or the Association or other insureds. Such insurance

shall be in amounts deemed appropriate by the Board, but in no event shall the limits of liability for such coverage be less than $1,000,000.00 for each occurrence with respect to bodily injury and property damage.

5.1.2.2 Additionally, the Association shall obtain and continue in effect a policy of multi-peril insurance, providing at a minimum fire and extended coverage, said coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements in the Common Area. Such policy shall contain extended coverage and replacement cost endorsements (providing for replacement of insured improvements from insurance loss proceeds) and may also contain vandalism and malicious mischief coverage, a stipulated amount clause and a determinable cash adjustment clause or a similar clause to permit cash settlement covering the full value of the improvements.

5.1.2.3 All insurance premiums shall be included in the Assessments of the Association. If any of the improvements, furnishings or equipment on the Common Area are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild, repair or replace the same substantially in accord with the original plans and specifications therefor unless the Association membership otherwise determines in a meeting called for the purpose of considering the same. Any excess insurance proceeds shall be deposited in the general fund of the Association. In the event insurance proceeds are inadequate therefor, then the Association may levy a special Assessment on Lot Owners therefor as provided in Article 4. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the person or persons responsible, purposely or negligently, for the damage.

5.1.2.4 The Association shall obtain and maintain bonds covering all persons or entities which handle Association funds, including without limitation, any professional manager employed by the Association and any of such professional manager's employees, in amounts not less than the maximum funds that will at any time be in the possession of the Association or any professional manager employed by the Association but, in no event less than the total of assessments for a three (3) month period on all Lots and all reserve funds maintained by the Association. With the exception of a fidelity bond obtained by a professional manager covering such professional manager's employees, all fidelity bonds shall name the Association as an obligee. In

addition, all such bonds shall provide that the same shall not be terminated, cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

5.1.2.5 The Association shall also obtain and maintain any insurance which may be required by law, including, without limitation, workmen's compensation, and shall have the power and authority to obtain and maintain other and additional insurance coverage meeting the insurance requirements established by an Agency, so long as the Agency is a Mortgagee or Owner of a Lot, except to the extent that such coverage is not available or has been waived in writing by the Agency.

5.1.3 ENFORCEMENT. Enforce the provisions of this Declaration by appropriate means, including, without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions.

5.1.4 EASEMENTS. Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots and other property subject hereto.

5.1.5 DELEGATION. Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.1.6 ADOPT RULES. Adopt, amend, and repeal the Association Rules. The Association Rules may, among other things, restrict and govern the use of the Common Area and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Project and other Owners; provided, however, that the Association Rules shall not discriminate among Owners except to reflect their different rights and obligations as provided in this Declaration, and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in this Declaration.

5.1.7 PENALTY SCHEDULE. Adopt a schedule of reasonable monetary penalties for violation by Owners of the provisions of this Declaration, the Articles and Bylaws, the Association Rules, and any additional rules and regulations of the Association, and impose the same according to procedures set forth in the Bylaws.

ARTICLE 6

Use Restrictions

6.1 USE AS A SINGLE FAMILY SUBDIVISION.

All Lots within the Project shall be known and described as residential Lots and shall be occupied and used for single family residential purposes only, and construction thereon shall be restricted to single family houses and related improvements. No business uses or activities of any kind whatsoever shall be permitted or conducted in the Project, except as set forth in Section 6.4 below. No Owner may rent his/her Lot and the single family house and related improvements thereon for transient or hotel purposes nor may any Owner enter into any lease for less than the entire Lot. No lease shall be for a rental period of less than thirty (30) days. Subject to the foregoing restrictions, the Owners of Lots shall have the absolute right to lease their respective Lots provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations, and uses contained in this Declaration, the Bylaws, and the Association Rules. A copy of any such lease shall be delivered to the Association prior to the commencement of the term of the lease. No Owner shall bring any action for or cause partition of any Lot, it being agreed that this restriction is necessary in order to preserve the rights of the Owners. Judicial partition by sale of a single Lot owned by two or more persons or entities and the division of the sale proceeds is not prohibited (but partition of title to a single Lot is prohibited). No horizontal property regime or condominium shall be created within the Project. No unsightly objects or nuisance shall be erected, placed or permitted on any Lot, nor shall any use, activity or thing be permitted which may endanger the health or unreasonably disturb the Owner or occupant of any Lot. No noxious, illegal or offensive activities shall be conducted on any Lot. B

6.2 NATURE OF BUILDINGS.

No buildings or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction and shall comply with the Design and Construction Guidelines. No structure of a temporary character and no trailer, basement, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently. There shall be no roof mounted air conditioning or other mechanical units (other than solar energy devices approved by the Committee) and there shall be no carports within the Project (houses constructed on each Lot shall include a fully enclosed garage approved by the Committee). C

6.3 ANIMALS.

No animals, livestock or poultry shall be raised, bred or kept on any Lot except that customary household pets such as dogs, cats and household birds may be kept, but only such number and types shall be allowed which will not create a nuisance or disturb the health, safety, welfare or quiet enjoyment of the Lots by the Owners. All animals shall be kept under reasonable control at all times and in accordance with applicable laws. All animal wastes must be promptly disposed of in accordance with applicable city or county regulations.

6.4 SIGNS; RESTRICTIONS ON COMMERCIAL USES.

6.4.1 No sign of a commercial nature, except for one "For Rent" or one "For Sale" sign per Lot of no more than five (5) square feet erected on that Lot, shall be allowed in the Project. No signs may be installed or placed upon the Common Area except as provided in the Bylaws. No billboards, stores, offices or other places of business of any character, or any institution or other place for the care or treatment of the sick or disabled, physically or mentally, shall be placed or permitted to remain on any of said Lots, nor shall any theater, bar, restaurant, saloon, or other place of entertainment ever be erected or permitted on any Lot, and no business of any kind or character whatsoever shall be conducted in or from any Lot.

6.4.2 Notwithstanding any provision contained herein to the contrary, it shall be expressly permissible for the Declarant and the Developers to move, locate and maintain, during the period of construction and sale of Lots, on such portions of the Project owned by that party as that party may from time to time select, such facilities as in the sole opinion of that party shall be reasonably required, convenient or incidental to the construction of houses and sale of Lots, including but not limited to business offices, storage areas, trailers, temporary buildings, construction yards, construction materials and equipment of every kind, signs, models, and sales offices, subject to prior approval thereof by the Declarant.

6.5 USE OF GARAGES.

No garages or any other buildings whatsoever shall be constructed on any Lot on which a house shall have been erected (or is being erected thereon) or until a contract with a reliable and responsible contractor shall have been entered into for the construction of a house which shall comply with the restrictions herein. The restrictions and conditions set forth in this Section 6 shall not be applicable to Declarant or the Developers.

6.6 SIZE OF HOUSES.

6.6.1 Except as provided in Section 6.6.2, no house shall be erected, permitted or maintained on any Lot in the Project unless such house has an area of not less than 1200 square feet, exclusive of open porches, ramadas, patios, balconies, pergolas, carports, or attached or detached garages.

6.6.2 Notwithstanding the provisions of Section 6.6.1, any house erected, permitted or maintained on Lots 228 through 231 and Lots 249 through 251 of the RWCD Parcel shall have an area of not less than 1100 square feet, exclusive of open porches, ramadas, patios, balconies, pergolas, carports, or attached or detached garages.

6.7 SOLAR COLLECTORS.

Solar collectors and related equipment may be installed on roofs of houses and elsewhere on Lots, provided prior written approval is obtained from the Architectural Control Committee. The Architectural Control Committee may, from time to time, incorporate into the Design and Construction Guidelines specific guidelines concerning the types of solar collectors and related equipment which may be installed in the Project and acceptable methods of installation therefor.

6.8 STORAGE SHEDS; SWINGS AND ANTENNA.

No storage sheds or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the fence on or adjoining said Lot or if such object is visible from the front of the Lot. All swings and slides (including those used in connection with a swimming pool) shall be at least seven (7) feet from all fences located on or near perimeter Lot lines. No antenna or satellite receiving station or other device for the transmission or reception of telecommunication signals shall be located on any roof or on any Lot if the height of such object is greater than the height of the fence on or adjoining said Lot or if such object is visible from the front of the Lot. (E)

6.9 SCREENING MATERIALS.

All screening areas, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of the improvements by the Developer and the Design and Construction Guidelines, or as otherwise approved by the Architectural Control Committee.

6.10 GARBAGE AND RUBBISH; STORAGE AREAS.

Each Lot shall be maintained free of rubbish, trash, garbage, weeds or other unsightly items or equipment, and the same shall be promptly removed from each Lot and not allowed to accumulate thereon, and no garbage, trash, weeds or other waste materials shall be burned on any Lot. Garbage cans, clotheslines, woodpiles and areas for the storage of equipment and unsightly items shall be kept screened by adequate fencing or other aesthetically pleasing materials acceptable to the Architectural Control Committee so as to conceal same from the view of adjacent Lots and streets.

6.11 VEHICLES.

No commercial vehicle or recreational vehicle shall be parked in front of a Lot or in a front driveway or otherwise on a lot in such manner as to be visible from any other Lot or any street or alleyway within or adjacent to the Project, except for temporary parking only not exceeding four (4) consecutive hours. "Commercial vehicle" shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of commercial nature on such vehicles shall be unobtrusive and inoffensive, as determined by the Committee. "Recreational vehicle" shall include any camper, boat, trailer, motor home, travel trailer or similar type vehicle or equipment. No vehicles, or other mechanical equipment may be dismantled or allowed to accumulate on any Lot or in front of any Lot. No vehicle which is abandoned or inoperative shall be stored or kept on any Lot or in front of any Lot in such manner as to be visible from any other Lot or any street or alleyway within or adjacent to the Project.

6.12 SANITARY FACILITIES.

None of the Lots shall be used for residential purposes prior to the installation thereon of water-flushed toilets and all bathrooms, toilets and sanitary conveniences shall be inside the house permitted hereunder on each Lot.

6.13 WINDOW COVER MATERIALS.

Prior to installation of any reflective materials on the windows or any portion of the house or any other area on any Lot, approval and consent must be obtained from the Architectural Control Committee, except such consent shall not be required for any such installations made by the Declarant or any Developer (provided the Developer shall comply with the Design and Construction Guidelines and the provisions of Section 8.3).

6.14 DRILLING AND MINING.

No drilling, oil or mineral refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil or water wells, tanks, tunnels, mineral extractions, or shafts be permitted upon or in any Lot.

6.15 LANDSCAPING.

6.15.1 Unless installed by the Developer of a Lot, the landscaping on each Lot must be installed and substantially completed in an attractive manner by the Owner within six (6) months from the date of close of escrow based upon plans therefor which comply with the Design and Construction Guidelines or are otherwise approved in advance by the Architectural Control Committee, and are consistent with all applicable requirements of the Town of Gilbert, if any. The landscape plans submitted to the Committee must include proposed changes in grade to be accomplished as part of the landscaping development. Landscaping at all times must be maintained by each Owner in a neat and attractive manner, free from weeds. If any Owner does not install and complete approved landscaping within such six month period or maintain his landscaping in a neat and attractive manner, the Declarant, the Developer of the Lot, or the Architectural Control Committee, after giving the Owner fifteen (15) days' written notice to cure any such default, shall have the right to cause the necessary landscaping work to be done. The Owner in default shall be responsible for the cost thereof and the parties expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended together with interest thereon at the rate of fifteen percent (15%) per annum until paid. In addition to the foregoing, any party may utilize remedies available under Section 9.1 for such Owner's default.

6.15.2 No tree, shrub or plant of any kind or any other improvement or thing shall be allowed to overhang or otherwise encroach upon any roadway, sidewalk, neighboring Lot, or any other way without the prior written approval and authorization of the Architectural Control Committee.

6.16 DAMAGE TO COMMON AREA.

The Owner of each Lot or other property subject hereto shall be liable to the Association for all damage to the Common Area or improvements thereon or to other areas to be maintained by the Association or improvements thereon caused by such Owner or any occupant, guest or invitee of or to his Lot. The Association shall be entitled to commence an action at law or in equity under Arizona law to enforce this obligation and/or recover damages for the breach thereof.

6.17 OUTSIDE LIGHTING; SPEAKERS.

No lighting shall be directed to the outside of any building or other improvement without the prior written approval and authorization of the Architectural Committee. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind shall be placed, allowed or maintained outside, or be directed to the outside of, any building or other improvement without prior written approval and authorization of the Architectural Control Committee.

ARTICLE 7

Fences and Perimeter Easements

7.1 FENCE REQUIREMENTS.

All Lots, when developed, shall be improved with fences which comply with the Design and Construction Guidelines or are otherwise approved by the Architectural Control Committee. Except as may be installed by the Declarant or any Developer, no side or rear fence and no side or rear wall, other than the wall of the house constructed on said Lot, shall be more than six (6) feet in height. Notwithstanding the foregoing, the prevailing governmental regulations and the provisions of Section 7.3 below shall take precedence over these restrictions if said regulations are more restrictive. All fencing and any materials used for fencing, dividing or defining the Lots must be of cement block construction and of new materials, and erected in a good and workmanlike manner. All fencing for Lots shall utilize masonry block or an approved color, to ensure uniformity within the Project (although different color block may be used if fully stuccoed or otherwise covered in a manner approved by the Architectural Control Committee). All fences shall be maintained in good condition and repair and, upon being started, must be completed within a reasonable time not exceeding three (3) months from commencement of construction. Subject to the other provisions of this Section, if a fence is wholly or partially damaged by any cause, it shall be removed in its entirety or returned to its original condition within three months from the date of damage; provided, however, any such fence installed by any Developer must be promptly restored to its original condition by the Owner(s) of the adjacent Lots.

7.2 FENCES AS PARTY WALLS.

7.2.1 Fences which may be constructed by the Developer upon the dividing line between Lots, or near or adjacent to a dividing line because of minor encroachments due to engineering errors (which are hereby accepted by all Owners in perpetuity) or because existing easements prevent a fence from being located on the dividing line, shall be maintained and repaired at the joint cost and expense of the adjoining Lot Owners,

and fences constructed by the Developer upon the back of any Lot (which do not adjoin any other Lot) shall be maintained and repaired at the cost and expense of the Lot Owner on whose Lot (or immediately adjacent to whose Lot) the fence is installed. Such fences shall not be changed in design, color, material or construction from the original installation made by the Developer or that permitted under the Design and Construction Guidelines without the approval of the adjoining Owner(s), if any, and the Architectural Control Committee. If any such fence is damaged or destroyed by the act or acts of one of the adjoining Lot owners, his family, agents, guests or tenants, that Owner shall be responsible for said damage and shall promptly rebuild and repair the fence to its prior condition, at his sole cost and expense. All gates shall be no higher than the adjacent fence.

7.2.2 Wherever the words "fence" or "fences" or "fencing" appears in this Declaration, they include block walls, chain link fences, wood fences and the materials used as a fence, fences, wall or walls (except a wall which is part of a house).

7.3 EASEMENTS.

7.3.1 Easements for installation and maintenance of utilities and drainage facilities have been created as shown on the Plats, and additional easements may be created by grant or reservation by the Declarant or the Developer of a portion of the Project for the foregoing purpose, or for the purposes set forth in Section 7.3.3 below. Except as may be installed by a Developer, no structure, planting or other materials shall be placed or permitted to remain within these easements which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, if any, or which may obstruct or retard the flow of water through the channels in the drainage easements, if any. The easement area of each Lot and all improvements located thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, and except for any easement area referred to in Section 7.3.3 below, which may be fenced off by a fence installed by the Developer. In the latter case, the easement area shall be maintained the Owner of the Lot who has use of the easement.

7.3.2 For the purpose of repairing and maintaining any fence or wall located upon the dividing line between Lots (or located near or adjacent thereto because of an existing easement located on the dividing line), an easement not to exceed five (5) feet in width is hereby created over the portion of every Lot immediately adjacent to any perimeter fence or wall to allow the adjoining Owner access for maintenance purposes set forth herein and no other purpose.

7.3.3 In addition to the foregoing, if a fence is not located on a dividing line between Lots, an easement is hereby created for purposes of constructing and maintaining a fence between Lots over that portion of each Lot adjacent to or near the dividing line wherever a fence may be constructed by the Developer within six (6) months after a house is constructed on any Lot. With respect to any fence not located on a dividing line between Lots but located near or adjacent to such dividing line, an Owner of a Lot shall have and is hereby granted a permanent easement over any property immediately adjoining said Owner's Lot up to the middle line of said fence for the use and enjoyment of same.

ARTICLE 8

Architectural Control

8.1 CREATION OF COMMITTEE.

For the purpose of maintaining the aesthetic and beautification features and the architectural and aesthetic integrity and consistency within the Project, an Architectural Control Committee of three (3) members is hereby established. The first members of the Committee shall be the individuals named in Exhibit "C" to this Declaration, who shall serve until their resignation or removal by Declarant, whereupon Declarant may appoint replacements who need not be Lot Owners. After the Project has been fully developed (i.e., all Lots have houses constructed thereon), or at such earlier time as Declarant may specify in its sole discretion, the Board of Directors of the Association shall have the right from time to time to remove and/or replace the members of the Committee. Unless earlier removed as provided above, members of the Committee shall serve for a period of one (1) year or until their successors are duly appointed, whichever is later. A majority of the Committee shall be entitled to take action and make decisions for the Committee. Except for Committee members appointed by the Declarant, all Committee members shall be Owners or representatives of Developers.

8.2 DEVELOPMENT GUIDELINES.

Subject to the written approval of Declarant for so long as Declarant has the right to remove and/or replace its members, the Architectural Control Committee shall adopt, and may from time to time amend, supplement, and repeal the Design and Construction Guidelines. The Design and Construction Guidelines shall interpret, implement, and supplement this Declaration, and shall set forth procedures for Architectural Control Committee review and the standards for development within the Project.

8.3 REVIEW BY COMMITTEE.

8.3.1 No buildings or improvements, fences, walls, antennas (including customary TV antennas), underground TV apparatuses, broadcasting towers, other structures, landscaping or grade changes shall be commenced, erected, repaired structurally, replaced or altered (except as set forth below) and no changes to exterior colors of any of the foregoing shall be made until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, location and approximate cost of same shall have been submitted to and approved by the Committee. Approval of plans and specifications shall not be unreasonably withheld and rejection of any proposal reflected in plans or specifications must be based on reasonable judgment as to the effect such construction, installation or alteration will have on the Project as a whole. Failure of the Committee to reject in writing such plans and specifications within forty-five (45) days from the date they were submitted to the Committee shall constitute approval of such plans and specifications, provided the design, location, color and kind of materials in the building or improvement or other item to be built, installed or altered on said Lot shall be governed by all of the restrictions set forth in this Declaration and the Design and Construction Guidelines, and such improvement or alteration or other item shall be in harmony with existing buildings and structures in the Project. H

8.3.2 The Committee shall have the right to refuse to approve any plans and specifications which in its opinion are not suitable or desirable for aesthetic or other reasons, and in so passing upon such plans and specifications the Committee shall have the right to take into consideration the suitability of the proposed improvements or other structure or alteration, and of the material (including type and color) of which it is to be built, the site (including location, topography, finished grade elevation) upon which it is proposed to be erected, the harmony thereof with the surroundings (including color and quality of materials and workmanship) and the effect of the improvements or other structure or alteration as planned on the adjacent or neighboring property including visibility and view. I J

8.3.3 The restrictions and conditions set forth in this Section 8.3 shall not be applicable to any original construction whatsoever undertaken by Declarant. The Committee's approval of materials submitted to it shall not be interpreted or deemed to be an endorsement or verification of the safety, structural integrity or compliance with applicable laws or building ordinances of the proposed improvements or alterations and the Owner and/or its agents shall be solely responsible therefor. The Committee and its members shall have no liability for any lack of safety, integrity or compliance thereof. The Committee and its members shall have no personal liability for judicial challenges to its decisions and the sole remedy for a successful challenge to a

decision of the Committee shall be an order overturning the same without creating a right, claim or remedy for damages.

8.4 IMPROVEMENTS BY DEVELOPERS.

8.4.1 The plans, specifications and elevations of all houses, buildings or other improvements, landscaping and other structures or items that a Developer intends to construct, install or erect in the Project, whether or not visible from another Lot, Common Area or public street, shall be subject to the review and approval of the Committee prior to commencement thereof in accord with the procedures set forth above. In addition, Developers shall strictly comply with the Design and Construction Guidelines and any other development standards adopted by Declarant for the Project, as such standards may be amended or revised from time to time in Declarant's sole discretion; provided, however, that a Developer may continue construction within the Project in accordance with plans, specifications and elevations consistent with the Design and Construction Guidelines and other development standards in effect at the time the plans, specifications and elevations were submitted by the Developer. The Committee shall refuse approval of any Developer's plans, specifications and elevations if the same do not comply with the Design and Construction Guidelines or other development standards then in effect.

8.4.2 During construction, Developers shall utilize only construction traffic routes approved in advance by Declarant, and shall keep the roads in the Project clear of machinery, equipment, building materials, debris and earth. Developers shall keep construction sites, vacant Lots and Lots with completed houses that remain unsold in a neat and tidy condition free from weeds, unnecessary debris, equipment or materials, and shall comply with all requirements of Declarant to ensure orderly, attractive and safe construction and development of the Project.

ARTICLE 9

General

9.1 EFFECT OF DECLARATION AND REMEDIES.

9.1.1 The declarations, limitations, easements, covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding on all persons purchasing or occupying any Lot in the Project after the date on which this Declaration is recorded. In the event of any violation or attempted violation of these covenants, conditions, and restrictions, they may be enforced by an action at law or in equity brought by the Association, Architectural Control Committee, the Owner or Owners (not in default) of any Lot or Lots or other property in the Project or by Declarant. Declarant has no duty to take action to remedy any such default. Remedies shall include but

not be limited to damages, injunctive relief and/or any and all other rights or remedies pursuant to law or equity and the prevailing party shall be entitled to collect all costs incurred and reasonable attorneys' fees sustained in commencing and/or defending and maintaining such lawsuit. Any breach of these covenants, conditions and restrictions, or any remedy by reason thereof, shall not defeat the lien of any mortgage or deed of trust made in good faith and for value upon the Lot or other property in question, but all of these covenants, conditions and restrictions shall be upon and effective against any Owner of a Lot or other property whose title thereto is acquired by foreclosure, trustee's sale or otherwise, and the breach of any of these covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust.

9.1.2 All instruments of conveyance of any interest in any Lot or other property in the Project shall contain (and if not, shall be deemed to contain) reference to this Declaration and shall be subject to the declarations, limitations, easements, covenants, conditions and restrictions herein as fully as though the terms and conditions of this Declaration were therein set forth in full; provided, however, that the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in any instrument of conveyance. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions and restrictions.

9.2 SEVERABILITY.

Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.

9.3 RULES CONCERNING DEVELOPERS; TRANSFERS BY DECLARANT.

Notwithstanding any provision to the contrary herein, the Declarant or the Architectural Control Committee shall have the right from time to time to promulgate and amend rules and regulations concerning the conduct, operations and building activities of Developers (except the Declarant). Wherever Declarant is granted certain rights and privileges hereunder, Declarant shall have the right to assign and transfer any of such rights and privileges to another as evidenced by a written instrument recorded in the office of the Maricopa County Recorder. Upon assignment by Declarant of its rights hereunder, the assignor shall thereafter have no further liability, responsibility or obligations for future acts or responsibilities of the Declarant hereunder and the successor Declarant shall be solely responsible therefor and all parties shall look solely to the successor

Declarant therefor. At any time Declarant may, by a written, recorded notice, relinquish all or any portion of its rights hereunder and all parties shall be bound thereby.

9.4 RIGHTS OF FIRST MORTGAGEES.

Upon written request to the Association identifying the name and address of the First Mortgagee for any Lot or the insurer or guarantor of any such First Mortgage and the Lot number or address, any such First Mortgagee or insurer or guarantor of such First Mortgage (referred to herein as an "Eligible First Mortgagee") will be entitled to timely written notice of:

9.4.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor, as applicable;

9.4.2 Any delinquency in the payment of Assessments or charges owed or other default in the performance of obligations under the Project Documents by an Owner of a Lot subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or guarantor which remains uncured for a period of sixty (60) days;

9.4.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

9.4.4 Any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as described in this Declaration.

9.5 TERM.

This Declaration shall remain and be in full force and effect for an initial term of thirty-five (35) years from the date this Declaration is recorded. Thereafter, this Declaration shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked by an instrument in writing, executed and acknowledged by the then Owners of not less than seventy-five percent (75%) of the Lots in the Project, which said instrument shall be recorded in the office of the County Recorder of Maricopa County, Arizona, within ninety (90) days prior to the expiration of the initial effective period hereof, or the expiration of any ten (10) year extension. In the event of the termination of this Declaration and the dissolution of the Association, the assets of the Association shall be distributed in accordance with the laws of the State of Arizona.

9.6 TRANSFERS OF COMMON AREAS. The Association shall have the right to dedicate or transfer all or any part of the Common

Areas to any public authority or utility provided that such a transfer or dedication does not have a substantial adverse effect on the enjoyment of the Common Areas by the Owners and is required pursuant to a Recorded subdivision plat, a zoning stipulation or ordinance, or an agreement with the City. Except as authorized above, no such dedication or transfer shall be effective without the prior written approval of the Class B Member, if any, and two-thirds (2/3) of the Class A Members other than Declarant. The Association shall have the right to change the size, shape, or location of the Common Areas, to exchange the Common Areas for other property or interests which shall become Common Areas, to encumber all or any part of the Common Areas, and to abandon or otherwise transfer Common Areas to a nonpublic authority upon the prior written approval of the Class B Member, if any, and two-thirds (2/3) of the Class A Members other than Declarant.

9.7 ADDITIONAL APPROVALS.

If this Declaration has been initially approved by FHA or VA in connection with any loan programs made available by FHA or VA in regard to the Project, then for as long as there is a Class B Member, the following actions will require the prior approval of FHA or VA, as applicable, unless the need for such approval has been waived by FHA or VA:

9.7.1 Dedication, conveyance or mortgage of Common Areas (except where such dedication or change is required as of the date hereof by the Town of Gilbert);

9.7.2 Annexation of additional property other than the CCA Parcel; and

9.7.3 Merger or consolidation of the Association with another association or entity;

9.7.4 Amendments of this Declaration.

9.8 AMENDMENTS.

At any time, this Declaration may be amended by an instrument in writing, executed and acknowledged by the then Owners of not less than seventy-five (75%) of the Lots in the Project. In addition, the approval of Eligible First Mortgagees holding First Mortgages on Lots which have at least fifty-one (51%) of the votes of Lots subject to First Mortgages held by Eligible First Mortgagees shall be required to add to or amend any "material" provisions of the Project Documents which establish, provide for, govern and regulate any provisions which are for the express benefit of mortgagees, Eligible First Mortgagees or eligible insurers or guarantors of First Mortgages on Lots. An addition or amendment to the Project Documents shall not be considered "material" if it is for the purpose of correcting technical errors

or for clarification only. Any Eligible First Mortgagee which receives a written request to approve additions or amendments pursuant to this paragraph and which does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

9.9 INTERPRETATION. Except for judicial construction, the Association, by its Board, shall have exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Associations's construction of the provisions thereof shall be final, conclusive, and binding as to all persons and property benefitted or bound by this Declaration. If there is any conflict between any of the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to the Project Documents in the following order: Plats, Articles, Bylaws, the Association Rules, the Design and Construction Guidelines, any other rules and regulations of the Association.

9.10 INCORPORATION BY REFERENCE. Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is deemed incorporated in this Declaration by reference.

9.11 CAPTIONS. All Article and Section titles or headings in this Declaration are for the purpose of reference and convenience only and Declarant intends that they shall be disregarded in interpreting the provisions of this Declaration.

9.12 NOTICES. If notice of any action or proposed action by the Board or any committee or of any meeting is required to be given to any Owner (whether by applicable law, this Declaration or any resolution of the Board), such requirement shall be satisfied (and the notice shall be deemed received) if the notice is (a) delivered to the Owner, (b) mailed to the Owner by certified or registered mail, postage prepaid and return receipt requested, at the street address of the Lot owned or occupied by such Owner, or (c) published once in any newspaper in general circulation within Maricopa County. This Section 9.11 shall not be construed to require that any notice be given if not otherwise expressly required and shall not prohibit satisfaction of any notice requirement in any other manner.

940293574
940362722

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed this 13th day of April, 1994.

COTTONWOODS CROSSING ASSOCIATES, an Arizona general partnership

By: MFD Cottonwoods, Inc., an Arizona corporation, A General Partner

By: _____

Its: President

RWCD CROSSINGS, L.L.C., an Arizona limited liability company

By: _____

Its: Managing Member

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 13th day of April, 1994, by MICHAEL F. DIESSNER, the President of MFD Cottonwoods, Inc., an Arizona corporation, and a general partner of COTTONWOODS CROSSING ASSOCIATES, an Arizona general partnership, on behalf of the Partnership.

Jeanette F. Hikel
Notary Public

My Commission Expires:

OFFICIAL SEAL
JEANETTE F. HIKEL
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Commission Expires May 7, 1996

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 13th day of April, 1994, by MICHAEL F. DIESSNER, the MANAGING MEMBER of RWCD CROSSINGS, L.L.C., an Arizona limited liability company, on behalf of the Company.

Jeanette F. Hikel
Notary Public

My Commission Expires:

OFFICIAL SEAL
JEANETTE F. HIKEL
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Commission Expires May 7, 1996

EXHIBIT "A"

RMCD Parcel

Lots 1 through 276, according to the Plat of Record for COTTONWOODS CROSSING, PHASE 2, Book 374, Page 20, Records of the Maricopa County, Arizona Recorder's Office.

940298574

940362722

EXHIBIT "B"

A portion of the Northeast quarter of Section 21, Township 1 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, lying North of the Eastern Canal, more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast quarter of said Section 21;

Thence North 89 degrees 55 minutes 47 seconds East (North 89 degrees 55 minutes 19 seconds East record) along the North line of said Northeast quarter 2156.50 (2155.81) to the West right-of-way line of the Eastern Canal;

Thence South 38 degrees 17 minutes 28 seconds West (South 38 degrees 16 minutes 52 seconds West record) along the West right-of-way line of the Eastern Canal 2754.52 feet;

Thence South 89 degrees 53 minutes 46 seconds West (South 89 degrees 53 minutes 49 seconds West record), parallel to the South line of the said Northeast quarter 451.18 feet (450.83 feet record) to the West line of said Northeast quarter;

Thence North 0 degrees 2 minutes 28 seconds East (North 00 degrees 02 minutes 24 seconds East record) along the West line of the said Northeast quarter 2159.98 feet (2160.12 feet record) to the Northwest corner of said Northeast quarter and the point of beginning.

940298574
940362722

EXHIBIT "C"

Initial Members of Architectural Control Committee

MICHAEL F. DIESSNER

ROBERT CARPENTER

DAVID LORDS

When recorded mail to:

MARICOPA COUNTY RECORDER
HELEN PURCELL

94-0298576 04/13/94 02:23

This space reserved

CAPTION HEADING: _____

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This is part of the official document.

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MARICOPA COUNTY RECORDER
HELEN PURCELL
94-0071813 01/27/94 01:50

When recorded, return to:
John S. Poulsen
1350 E. McKellips, #2
Mesa, AZ 85203

MEMORANDUM OF PURCHASE AND OPTION AGREEMENT

This Memorandum of Purchase and Option Agreement is entered into this 20th day of January, 1994, by and between Providence Homes, Inc., an Arizona Corporation ("Optionee") and Providence Development, Inc., an Arizona Corporation ("Optionor").

Optionor and Optionee have entered into this certain Purchase and Option Agreement dated of even date herewith the "Purchase and Option Agreement", pursuant to which Optionor has granted to Optionee the exclusive and irrevocable right and option (the "Option") to purchase all or portions of the real property located in Maricopa County, Arizona and more particularly described in the attached Exhibit "A". The terms and provisions relating to the Option are set forth in the Purchase and Option Agreement copy, copies of which are available for inspection at the offices of Providence Development, Inc. 1350 E. McKellips #2, Mesa, Arizona 85203, Attention: John S. Poulsen.

IN WITNESS WHEREOF, this Memorandum of Purchase and Option Agreement has been executed by the parties to be effective on the date first set forth above.

OPTIONOR:	OPTIONEE:
Providence Development, Inc.	Providence Homes, Inc.
BY:	BY:
ITS: President	ITS: President

NOTE: THIS DOCUMENT IS BEING RE-RECORDED TO CLARIFY THE LEGAL DESCRIPTION.

EXHIBIT "A"

Lots 213 thru 276, inclusive, Cottonwoods Crossing, Phase 2, as shown in Book 374 of Maps, page 20, records of Maricopa County, Arizona.

Gilbert
INDEPENDENT

JUNE14 - JUN
20, 2000
Vol. 22, No. 42

COVERING THE NEWS OF GILBERT

25 CENTS

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wards recognize peo- their work at making vn a community of ce, with 12 catagories from "Educator of the o "Neighborhood of r."

line for nominations is 6, 2000. For more ation, call the Gilbert er of commerce at 92-0056.

A presents
t comedy

Gilbert Fine Arts ation is presenting r Tuna," an adult com- aturing two veteran Charlie LeSueur and omon. Set in a fiction- s town, the play is a n rural life, with the ors playing all of the

rmances will be June 17, 23 and 24 at e High School, 500 S. cn, Gilbert. All shows 7:30 p.m. Tickets are e in advance by call- l Kroll at (480) 821- or they may be pur- t the door.

e to Know

eling a little like Déja Gilbert resident Patti erg. Just ten years s. Rosenberg finished top hile ting Miss nsin. he is nner- Mrs.

ught ybe someday I would ain when I was mar- 's been a real chal- Mrs. Rosenberg said. es you to be at your d it's important to me nge myself."

is only the second Mrs. Rosenberg has and the thrill of com- has spurred her to rward to next year's izona pageant.

event consists of an gown competition, d by swimsuits with ant wrapping up with on and answer phase.

Rosenberg said the also allow her to use ple skills, which she ed as a specialist in resources. She is cur- director of human es for Doubletree Suites in downtown

Santan would be among the largest in state

BY K. ROBERT WENDEL
Independent Newspapers

Salt River Project's proposed expansion of its Santan electric plant in Gilbert would create Arizona's fourth-largest power plant, exceeding the electrical generation capacity of Hoover Dam and rivaling that of Glen Canyon Dam, according to information obtained from the U.S. Department of Energy.

With the proposed addition of an 825-megawatt plant at the Santan site on Warner and Val Vista roads, SRP could produce 1,125 megawatts of electricity, surpassing that of Hoover Dam, which generates 1,042 megawatts at a site on the Colorado River, approximately 30 miles east of Las Vegas.

SRP officials confirmed the capacity of the plant.

The Santan plant, at some point, could also be the largest natural-gas-fired plant in the state, depending on the extent and timeline for Arizona Public Service plans to build an electrical generation facility near the Palo Verde nuclear plant, 55 miles west of Phoenix.

If APS plans are approved, the company would initially build two 530-megawatt generators, with the eventual capacity to add two more generators "as market conditions dictated," said Craig Nesbit, a spokesman for APS.

The Palo Verde nuclear plant is also seeing other companies interested in building plants there, due to its location near a natural-gas pipeline, transmission lines, and one of two point-of-sale electrical switching yards in the western United States. So far, Duke Energy and CalPine Corp. have expressed

See ■ SAN TAN, Page 22

Five Largest Existing Arizona Power Plants

Plant	Energy Source	Operating Company	Net Capability (MW)*	Age (Year
1. Palo Verde	Nuclear	Arizona Public Service Co.	3,733	12
2. Navajo	Coal	SRP Agricultural District	2,255	24
3. Glen Canyon	Hydro	Bureau of Reclamation	1,296	34
4. San Tan	**Nat. Gas**	**SRP Proposed**	**1,125**	
5. Hoover	Hydro	Bureau of Reclamation	1,042	62

*Megawatts

SOURCE: DEPARTMENT OF ENE

Petitions could

■SANTAN

From Page 1

interest in the area near the nuclear plant

The Palo Verde nuclear plant leads the state in electrical generation, producing 3,733 megawatts, while the Navajo Plant, a coal fired plant in Northern Arizona, produces 2,255 megawatts of electricity.

SRP presents open house

SRP officials touted the environmental improvements the proposed gas-fired power plant would bring to the area, including a net reduction of 1,530 tons of emissions each year, during an open house on Wednesday, June 7 at Finley Farms Elementary.

SRP said the planning process will continue into 2001, with design planned for the 2000 to 2004 period. Construction is expected to take place from 2004 to 2005, with the plant becoming operational in 2005 or 2006.

The plan must meet the approval of the Environmental Protection Agency, and the Maricopa County Air Quality Department before construction can begin.

"One of the biggest challenges is to demonstrate to the residents and neighbors the need for this facility and why SRP is proposing something like this in the first place," said Scott Harelson, a spokesman for SRP. "Gilbert is just growing in leaps in bounds, and we have to take steps to meet that growth, or the lights go out.

"The question is how to do that, and what we proposed we feel is in the best interests of all our customers, and we will do it in a way to fit the community, and it won't have a significant air quality impact," he said.

SRP officials presented information at the open house showing that with modifications to the existing 325 megawatt generator at the Santan site, the new plant would actually generate 1,530 fewer tons of emissions each year.

But residents and some city officials are skeptical of the information provided by SRP, and they question many of the figures presented to them.

"They told us they were working on numbers, but nobody is telling us what the real figures are," said Gilbert resident Warren Love, a member of Citizens Opposing San Tan, a grassroots neighborhood group.

Residents are also concerned about noise impacts, along with water quality issues and the affect on home values. Opponents also question why SRP is even considering building a plant in what is mainly an area with a residential character.

"They had 20 years to build that plant, and we could have decided if we wanted to live next to a big industrial plant or not," said Mark Sequiera, an organizer of COST. "What we are saying is that window of opportunity is closed."

While Councilmember Mike Evans, who attended the open house, said he recognized the need for more electricity, he added "all of my questions haven't been met by SRP, and I have met with them four times."

Mr. Harelson defended his company, saying the complexity and the amount of research needed to develop accurate numbers on everything from noise pollution to air quality is not a quick process.

"We tried to provide the most accurate air modeling information available," Mr. Harelson said. "Some of numbers that we have given, we hesitated to do, because of just this, the perception that we are changing numbers."

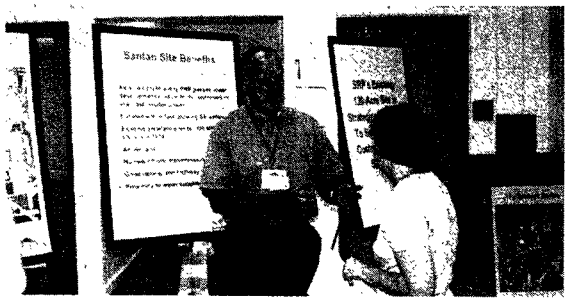

Photo by K Robert Wendel/Independent Newspapers

More than 350 residents turned out to hear of SRP's expansion plans, but while many were inside the Finley Farms School auditorium, others . . .

Photo by K. Robert Wendel1/Independent Newspapers

. . .Staged a rally outside to protest the expansion of the Santan electrical generation facility

While many at the open house remain unconvinced of SRP's plans, many supported the utility in their expansion plans.

"I think SRP appears to be committed to alleviating concerns," said Gilbert resident Karen Bermudez. "I think it's wonderful that this will reduce air pollution and I am glad to see the tax base expand. The schools really need it."

SRP officials claim the taxes would generate more than $100 million in property taxes during the next 21 years, reducing property tax impacts for Gilbert residents. Sixty-eight million of those property tax revenues would be allocated to the Gilbert Unified School District.

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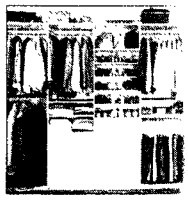

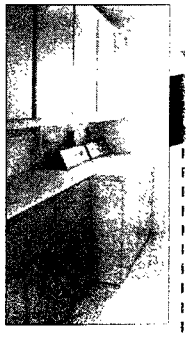

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East Valley Tribune
MONDAY, MAY 22, 2000

Residents fight SRP on plant expansion

Gilbert man heads group that opposes proposed San Tan facility upgrades

BY CHARLENE KOSKI
TRIBUNE

Gilbert residents are preparing to battle SRP.

Local resident Mark Sequeira founded Citizens Opposing San Tan last week to organize local opposition on a proposed expansion of the SRP power plant at Val Vista Drive and Warner Road.

Gilbert's Town Council approved an intergovernmental agreement with SRP last month that requires the utility to widen roads, extend a horseback and hiking trail along the plant's border and re-route the Eastern Canal near Val Vista and Ray Road.

TO LEARN MORE

■ For more information on COST, call Mark Esquire at (480) 503-4877; Jeff Wiedemann at (480) 497-1888; or Stan Wilson at (480) 558-0372.

Sequeira said a May 10 article in the Tribune quoted Gilbert Town Councilman Mike Evans as saying he had only received two or three complaints about the expansion plans.

"Until then," Sequeira said, "I'd just been taking the 'wait-and-see' approach. But just because I was being quiet doesn't mean that I'm for it."

Sequeira contacted Jeff Wiedemann, who lives in the Neely Farms subdivision, and together they began calling people and distributing more than 2,000 fliers encouraging residents to attend an expansion meeting and write local representatives with their concerns.

Please see **FIGHT,** Page **A4**

IAN WINGFIELD/TRIBUNE

Charged up: Neighbors of a Salt River Project facility in Gilbert protest Sunday against the construction of smoke stacks near their homes.

FIGHT: Gilbert group opposes SRP upgrade

From Page **A1**

"You can walk down any street in any of the neighborhoods in the area," Sequeira said. "For every eight people you talk to, six will oppose this thing."

SRP spokesman Jeff Lane said the company has been and will continue to work with residents on the expansion plan. He said the expansion will provide $3 million a year for the next 20 years to Gilbert's school district and significantly improve the air quality of the East Valley.

"Before we can put in a plant, we have to prove that's what will happen ... It's a clean-burning, natural gas-generating system. It's state-of-the-art. Putting in the plant will improve air quality in the East Valley by 120 percent."

Lane also said that SRP distributed a flier about the expansion to residents living in a five-mile radius of the plant.

Sequeira said most of the residents he's spoken with never received the flier and those who did thought it was dishonest. "It's misleading propaganda," he said. "There's nothing about the smokestacks or the pollution. ... How can you trust anyone who doesn't tell you everything?"

Council member and SRP employee Les Presmyk said he's avoided getting involved in any of the expansion issues because he felt all sides were well-represented and he has a conflict of interest. But he attended a recent community meeting because one of the residents called and invited him.

"I don't think SRP is aware of this," Presmyk said of the growing opposition. He explained that the Gilbert SRP site is on land zoned for industrial purposes so there is no issue for the council or citizens to vote on. "A vote would have no bearing," he said. "But we also have the ability here to bring people together on this process ... SRP is certainly sensitive to residents' concerns."

Even though residents know that technically SRP has the right to expand its plant, they hope that if they're loud enough and determined enough, they can make a difference. Wiedemann said he has reason to believe it could happen. A lot of the group's support is stemming from the list of residents who fought off a proposed Wal-Mart in the same community.

"All of these people came together," Wiedemann said, "and we stopped them. We've been successful once, but it would really be helpful to get the council ... to at least put a stamp on this thing saying the residents have spoken and we don't want you to be here."

The expansion is scheduled to be completed by 2005 and Lane said it will allow SRP to keep up with unprecedented growth rates. "From 1998 to 1999, we had a 27 percent increase in customers and we were on pace to break that record this fiscal year. We have to do what we can to make sure our customers have reliable power," he said.

Lyn Angello said she's lived in Neely Farms just west of the plant for a year and a half and never knew it was there, but she's afraid she won't be able to overlook the three proposed 150-foot smokestacks that the expansion includes.

Sequeira said that after meeting with SRP representatives last week, he still has concerns and doubts. In a letter he sent to the company voicing his conclusions after the meeting he wrote, "Maybe my wife said it right when she said that regardless of the information presented ... I and my neighbors are not going to want this in our backyard."

SRP will hold an expansion meeting 5 to 8 p.m. June 7 at Finley Farms Elementary School, 375 S. Columbus Drive. Lane said representatives will be there to address questions and concerns.

Tribune writer Charlene Koski can be reached by e-mail at ckoski@aztrib.com or by calling (480) 898-6573.

Gilbert
INDEPENDENT
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Vol. 22, No. 40
COVERING THE NEWS OF GILBERT
25 CENTS

Letters

Group seeks to educate on fluoride

I am writing in response to the Speak Out in last week's paper addressing the opponents of fluoridation as being ignorant and uneducated on this matter. I looked up the definition of ignorant in the dictionary and it reads, "Lacking knowledge, learning or information." I do not believe this description applies to myself, or others on the committee. I have a wealth of information on both sides of this issue and spent numerous hours researching both the pros and cons of fluoridation, as have many others.

I do not feel that the proponents of fluoridation have proven it safe or effective, therefore, I do not want it in my tap water. Obviously this person feels differently about fluoridation than I do, and that's great. I respect your opinion and have no desire to tell you that you can't use fluoride because I don't think it is safe for you. You can get your fluoride in toothpaste, gels, tablets and numerous other places.

I would like the same respect and do not feel that anyone has the right to tell me that I will have fluoride in my water because they feel it is beneficial to my dental health. I strongly believe that I have the right to decide what is beneficial for my health and the health of my family. I do not understand why anyone would not want to retain that right and sign a petition so they can decide for themselves what they feel is beneficial and not leave that decision up to an elected official.

I have never elected a public official with the intention of allowing them to make health care decisions for my family or myself. I feel very confident in my knowledge of fluoridation and I welcome the opportunity to meet with this person, and council, in a public setting and compare our information on the issue. I am willing to come forward. Are you? The "Educated Citizens Against Fluoridation" has very informative meetings and I learn something every time I attend. There are many in the community who are willing to share their knowledge on fluoridation with others. We welcome anyone who would like to attend. For more information on future meetings, please call Lorna at (480) 813-1417.

Shelley Frost
Gilbert

Let residents make fluoride decision

First, hydrofluosilicic acid is not the same as the fluoride that is applied by the dentist, nor is it the same as that which is administered to the children in the elementary schools, or in the products that have fluoride added to them to be used in dental hygiene.

Second, how can Councilmember Maggie Cathey say that the majority of the citizens want hydrofluosilicic acid added to the water, when after a study was done by the town showed that only 8 percent of the people would benefit from it? When did 8 percent of anything constitute a majority?

Third is the cost. First is the question "why is the supplier of hydrofluosilicic acid willing to put in the tank and pump to dispense this chemical in the water supply?" The suppliers cost for installation has been quoted between $130,000 and $150,000. The town's cost is $31,000 for hydrofluosilicic acid. In the above study, $124,00 is estimated to go down the sink per household per year. Two questions: First, where are the economics, and second, who is really benefiting from this? The citizens of Gilbert, or the supplier of hydrofluosilicic acid?

Fourth is why I am not being allowed to have a choice if I want to expose myself to the risks of this chemical being put in my water supply. I resent being medicated without my consent, and since it's method of distribution is through the drinking water, it cannot be controlled.

I believe in fluoridation, however, I want to choose how and when. Just recently, the Supreme Court ruled that the constitutional right of the people was being violated when certain cable broadcasts could only take place at certain hours of the day.

I feel that I am competent and capable in making my own decisions that are in my best interests, therefore, Gilbert town council, let me decide on this issue, not you.

David Smart
Gilbert

Residents deserve SRP's San Tan facts

As a spokesperson for Citizens Opposing San Tan (COST), I would like to thank the *Tribune* for the story May 22 and editorial on May 23. I agree with the editorial that SRP has failed to inform the public. Though our opposition to SRP's powerplant expansion in Gilbert may appear as another example of "not-in-my-backyardism," let me assure all East Valley residents that this is not so.

Even though some might argue against "big-box" retailers being built in or near residential areas, SRP's plant at Warner and Val Vista roads in Gilbert is an industrial facility and should be located in an industrial area. As proposed, it includes three new 15-story smokestacks putting out over 790 tons of new pollution in addition to the current pollution from the 300 megawatt facility there now. Does anyone in the East Valley make the claim that putting facilities like this in a residential area is a normal or acceptable practice?

While SRP may have the right to force this upon Gilbert, that does not make it ethical to do so. Do not be misled. All of Gilbert will be affected as four new cooling towers, running four to eight times more often than today, pour massive columns of steam high into the atmosphere to be seen by residents of Chandler, Mesa and Queen Creek. This alone will cause house values to plummet as prospective buyers decide that they do not want to live next to what appears to be a "nuclear-style" powerplant.

SRP has mentioned "brown-outs" on more than one occasion. This is a threat that SRP is using to beat the Valley into submission. Does anyone believe that if this plant is not built that SRP will allow power to go out in the heat of summer rather than buy more power from the grid and pass the costs on to us? Especially since new plants are currently going up near Palo Verde outside the Valley? SRP is being incredibly irresponsible to make such statements to the press: "People could die if SRP allows 'brownouts,"

Can you imagine the police department making the statement, "Sorry, you did not increase taxes this year to hire more officers so we cannot respond to your accident?" SRP is a public entity, and as such, is compelled to serve the rapid growth of the Valley. If claims of brownouts were indeed true, then cutting a deal with Tempe (Tempe Oasis Project) would have been out of the question. They threatened "brownouts" as the rationale with that plant too.

So according to SRP, we will have "brownouts" now whether or not we build San Tan. SRP needs 2,700 new megawatts in the next ten years. This plant will create 825. It does not solve the problem. They have admitted that they are either going to put another plant into someone else's backyard or they are going to buy or build a new facility outside of town (Are you listening Mesa?). Our position is that they do so now since it is inevitable and since rights and construction costs are only going to get more expensive. They can create a 2,700 megawatt facility as easily as a 1,800 megawatt facility outside of town where the pollution will not be trapped by the natural basin we live in. This pollution will affect all Valley residents, not just those of us who live near the plant. In fact, they are pushing it 150 feet into the atmosphere so that it will come down farther away in East Mesa and Apache Junction, according to air studies/projections, so that they can pass EPA standards in Gilbert.

In the last three years, while customers have grown by roughly 30,000 new boxes a year, SRP has continued to increase the amount of power they sell to other states for profit. And SRP cannot assure us that this plant will not sell power in the future. In fact, they assure COST that they will do so to stay competitive and to keep energy costs low in the Valley. SRP should be ashamed at asking us to understand their position and need while forcing the citizens and council to accept this without SRP's submitting the plan to any kind of public forum.

Make no mistake. This plant is about competition and monopolizing the power industry. It is just now being proposed because of the recent deregulation of power in Arizona. New plants are being built out by Palo Verde that SRP can either partner with or buy energy from, however SRP does not stand to benefit as much by doing so. SRP is the biggest and most powerful entity in the state. They want this plant and also ask us to sympathize with their current energy problems, yet they are afraid to disclose on any of their mailers, or to their own hand-selected community working group, details that are detrimental to our neighborhood and the East Valley.

Read the postcard they recently mailed out, visit their Web site at www.santanfacts.org and then come to their open house on June 7th at Finley Farms elementary school in Gilbert and ask them why they are afraid to inform the public or publish the facts. COST would like to issue a challenge to SRP to speak to the issues of growth and our energy needs in a public forum that is open to the press. Then East Valley and Gilbert residents can decide if SRP has our best interests in mind or are simply afraid of competition and seeking to benefit from our misfortune.

Mark Sequeira
Gilbert
Citizens Opposing San Tan (COST)
(480)530-4877

Reader doesn't want power plant, fears pollution

At the town of Gilbert's last meeting, our mayor and city council quietly approved the Salt River Project's proposed expansion of the power plant. I say quietly because this same issue has been one of the most contentious issues to rock our neighbors in Tempe. Thousands of signatures were collected on petitions, meetings were held, opinions were expressed. . . Her in Gilbert, nothing.

I believe that this is because our citizens do not realize what looms on the horizon. What SRP is proposing is a merchant power station to replace their existing facility at Val Vista and Warner.

How much difference will this make? Picture three smokestacks 25 stories tall (for reference, keep in mind that the tallest building in the East Valley, the neon blue structure across from Fiesta Mall, is only 16 stories). For those of us in south Gilbert, that remarkable view of the Superstitions will be but a memory. SRP has said they will use landscaping to mute the effects — they must be considering using mature redwoods for this one.

Even now we can only see the Superstitions on one of those rare clear days. We used to take those days for granted. It was one of the reasons why many of us moved out here, to get away from the smog. The days of "moving to Arizona for your health" are gone. Those of us with asthma and those of you with emphysema and other upper respiratory problems will suffer. Tempe resident Dr. Todd Taylor, an emergency room physician, says, "You just don't put a major power plant in the middle of a neighborhood . . . I'm not an environmental wacko, this is just common sense. . . The plant will spew 250 tons of ozone-producing nitrous oxides into the atmosphere each year. That's in addition to 240 tons of carbon monoxide, 200 tones of particulates, 85 tons of volatile organic compounds and 15 tons of sulfur dioxide. The plant will also consume 5,000 to 6,000 acre feet of water per year."

According to Barry Forbes, "The existing power plant only kicks in during the hottest season of the year, operating at just 5 percent of capacity. It only pushes 25 to 30 tons of pollutants into the air each year." This new plant will deliver 30 times as many pollutants.

Why now you ask? SRP says all of this new growth, "snuck up on them." Really? Jennifer Anderson, a lawyer with The Arizona Center for Law in the Public Interest, says it has more to do with their upcoming lawsuit to prevent projects like this one. Dave Feuerherd of the Arizona Lung Association predicts a wave of "frenetic construction activity between now and next year. We think this is an open-and-shut case. People have their heads in the sand . . ." Maybe SRP has, too.

Those of you in Western Skies and other neighborhoods near this behemoth should take careful note, for your property values will take the biggest hit. The town council seemed to think that by tying this project to the possibility of a resort and road and trail improvements, that it would be more palatable to our residents. I hope not.

The kicker is that Oasis, one of the two out-of-state companies that will team with SRP on this project, will sell the vast majority of power generated out of state. That's right. The most likely buyer is Southern California, where new power plants come under much closer scrutiny.

Tempe residents have bee able to scale down or possibly even stop this boondoggle. Gilbert residents should do the same. For the rest of you in the Valley, remember: Coming soon to a neighborhood just like yours, that these are just the first two of a possible 10 to be built here. . . plus hundreds of miles of new transmission lines.

Warren R. Love
Gilbert

Speak Out (480) 443-6977

"Speak Out" is our free, 24-hour opinion line. Call 443-6977 to express your opinion or ask questions about public issues. You are not required to give your name. While we want you to speak out freely, the newspaper reserves the right to edit calls for clarity, brevity, relevance, and fairness.

Research says no

I would like to respond to the "don't let ignorance kill" issue that appeared in last week's Independent. I'm afraid that this issue of fluoridation has crept in quietly through a back door. I will admit I was ignorant on fluoridation until the controversy arose. I am not an expert now but my findings have been amazing. I looked at both sides. I began my position as neutral. Fluoride for my kids' teeth sounds great. Why would anyone oppose that? Well as I looked into it more, the people that the Speak Out person called ignorant are the ones who actually did their homework. After researching the issue, I cannot believe that we are even considering adding fluoride into our water. I plead with all Gilbert residents to please take the time to check out both sides. You will be amazed at what you find. This fluoride is not what you get at the dentist's office. We would be helping big business easily dispose of chemicals they would otherwise have to pay to get rid of. Why are they so eager to give us the equipment to begin fluoridating? Thank you Dave Crozier for doing your homework.

Citizens left 'powerless'

SRP claims that in order to meet the East Valley's need for power, it must more than double the size of Gilbert's San Tan plant, including the addition of three 150 foot stacks. Ironically, SRP's power solution would leave Gilbert citizens "powerless" in many ways.

First, we will be "powerless" to stop the declining values of our homes once the 150 foot stacks are constructed.

Second, we will be "powerless" to control the quality of the air we breathe, with an estimated 790 tons of pollution to be produced by the plant each year.

Lastly, we will be "powerless" to stop the transformation of our unique community into a characterless industrial zone.

The proposed San Tan expansion will affect the entire East Valley — not just those that live around the plant. Don't let SRP's plans drain us of the power to create the kind of community we want and deserve to live in.

If you are concerned about the effects of the plant expansion on Gilbert, write SRP and the Gilbert Town Council to express your viewpoint on the project, or contact Citizens Opposing San Tan (COST) by calling (480) 503-4877 or (480) 497-1888.

Elisa Warner
Gilbert

Choices are available for cable

Excellent article in last week's *Independent* regarding the recent competitive situation between US West and Cox Communications.

With recent upgrades to their interactive programming guides and more channel offerings, US West is providing an excellent alternative for cable viewers and high-speed Internet users in Gilbert.

Channels such as the Outdoor Life Network, MuchMusic, MSNBC, Bloomberg, CNNfi and others, coupled with a set top box that runs three television sets independently "and" simultaneously (all can watch different channels) provide an excellent value in a base programming package.

We have been using this service now for nearly a year The initial installation costs were free at the time and even included the network card to connect our Macintosh computer

No monthly equipment charges if you have the base Total Choice package, no need for set-top boxes in each room and fast access at 256K to over 1Mb/sec which is "not shared" as in the case of a more traditional cable modem

US West, keep up the good work, and if you can get Choice TV/Online in your neighborhood, do check it out

Tim Schneider
Gilbert

FOR COMMUNITY MEETINGS, PROTESTS OR PETITIONS PLEASE CALL COST AT (480)503-4877

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Peter Corbett
Arizona Republic

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New York Times

DaimlerChrysler's 8.2-foot-long Smart, which gets 75 miles a gallon, may be introduced into the United States.

Tiny Smart car may head to U.S.

DaimlerChrysler considering sales in 3 countries

Associated Press

STUTTGART, Germany — Americans used to cruising the highways in their sport utility vehicles may be able soon to ditch their gas-guzzling chariots for a car less than half that size: DaimlerChrysler AG's minuscule Smart.

The German-American automaker confirmed Wednesday that it is considering plans to offer the 8.2-foot-long Smart for sale in the United States as well as Japan and Taiwan.

"There have been considerations in that direction, and we are finding out if there is a market," company spokesman Enrico Mueller said.

The Smart gets 75 miles per gallon of gasoline, compared with about 21 mpg for the average SUV, and sells in Germany for $7,000 to $10,500.

The cartoonish two-seater has overcome sluggish sales in Europe after its 1998 launch. Sales are expected to reach 100,000 for the year. DaimlerChrysler executive board member Juergen Hubbert said Wednesday that the company's Smart division would become profitable in 2003 or 2004.

Mueller said it wasn't known whether the current generation of Smart cars or a four-seat model that is also in the planning stages would be offered for sale in the United States.

Bloomberg News

WASHINGTON — The U.S. Senate Commerce Committee on Wednesday passed a resolution opposing the proposed $11.6 billion merger of United Airlines and US Airways Group Inc. because of concern that it could spark more acquisitions among carriers.

The resolution calls the combination "inconsistent with the public interest" and said it would force rivals such as AMR Corp.'s American Airlines, the second-largest U.S. airline, to make its own purchase. The size of a combined United, the world's largest airline, and US Airways would deter the start-up of carriers that could provide competition, the resolution said.

A combination of United and US Airways, the sixth-largest U.S. carrier, would create a company with control of 40 percent of takeoffs and landings at four of the largest U.S. airports, including Chicago's O'Hare International.

The resolution is an attempt to put political pressure on the Justice Department, which is reviewing antitrust concerns from the proposed purchase.

"It's a warning flag," said ING Barings airline analyst Raymond Neidl, who estimates that the proposed acquisition has less than a 50 percent chance of Justice Department approval. The resolution "probably will have some influence."

Backers of the resolution such as Oregon Democrat

See **PANEL** | Page D7

New power plants targeted

Suits aim to halt county sites

By Max Jarman
The Arizona Republic

A consumer advocacy group has sued to stop the construction of three power plants planned for Maricopa County.

The Arizona Center for Law in the Public Interest filed three lawsuits in Maricopa County Superior Court on Wednesday seeking to overturn Arizona Corporation Commission approvals of power plants proposed by Pacific Gas & Electric Co., Duke Energy Co. and Panda Energy International.

The suits allege that the plants were illegally approved because the commission failed to weigh the need for power against the environmental impacts of the plant. Center Executive Director Tim Hogan contends the commission is bound by state statutes to make such a determination.

"I'm not saying we don't need more power," Hogan said, referring to a documented shortage of electricity generation in Arizona and the Southwest. "I am saying

See **SUITS** | Page D7

ɜealing another side to Janus group's performance

-3.38	+276.5	SalosB01	515	113.94	+3.94	+5.5
*	-97.4	Salton	653	34.13	-.06	+2.1
-.50	-9.6	SJuanB	1497	11.25	+.13	+8.4
-1.06	+69.9	SFeEnTr	228	20.19	*	+14.5
+1.38	+35.8	SFeIntl	5188	41.44	-.38	+60.1
+.38	+55.2	Sappi s	1037	7.06	-.31	-26.6
*	+3.6	SaraLee	42851	19.44	-1.06	-11.9
+.06	-19.6	SauerDanf	563	8.94	-.31	-1.4
*	+19.0	Schawk	528	9.63	*	+13.2
+.13	+4.4	SchergPl	31878	43.71	+.58	+3.1
-2.56	+61.1	Schlmb	47520	79.06	-1.81	+40.9
-.19	-9.4	Schwab s	25656	33.13	-.31	+29.9
-1.00	-41.4	SciAtl s	13832	64.00	-2.00	+128.6
+.31	-19.7	ScottPw	1680	28.31	-.38	+1.1
-3.75	-35.6	Scotts	572	32.00	+.06	-20.5
+.25	-22.5	Scripps	896	48.31	+.19	+7.8
.38	-71.9	ScudGlbHi	274	5.19	-.13	+10.7
+.06	+114.9	ScudNA	619	12.69	*	-36.0
*	-31.4	SeacorS s	278	45.00	-.63	+30.4
-.63	-41.3	Seagate	29141	65.13	+2.75	+39.9
.06	3.3	Seagrm38	701	23.94	+.13	+12.0
*	-34.6	Seagram	17290	55.50	-1.31	+24.0
-.31	-44.0	Seag adj	1138	50.75	-.75	+12.8
-.13	-11.6	SealAir	15806	44.13	-.94	-14.8
-.19	-42.6	SealAir pf	8109	44.44	-.56	-12.0
+.13	-53.2	Sears	12100	33.25	+1.00	+9.5
.06	+12.1	Sears10-38	357	21.69	*	+10.5
-.94	+32.0	SecCG B	360	18.50	+.13	+48.0
.06	+21.8	Seitel	822	14.69	-.06	+117.6
-1.25	+42.8	SempraEn	4595	19.38	-.13	+11.5
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*	+10.0	SvceCp	9993	2.50	-.06	-64.0
-.06	+30.1	Svcmstr	7861	10.25	+.06	-16.8
*	-18.1	ShanHua	1477	7.56	*	+75.4
*	+13.8	ShawC gs	745	23.31	-.19	+40.2
+.25	-16.6	ShawC pfB	381	24.00	+.88	+23.9

		Solerin	87	28.06	-.06	-1.3
		Soudwn	1672	55.50	-1.00	+7.5
		SouthnCo	23465	30.63	-.94	+30.3
		SPenrC	192	14.19	-.69	-8.1
		SoUnCo	186	19.50	+.06	+6.8
		SwstAirl	22316	23.19	+.63	+43.8
		SwGas pf	31	25.00	+.13	+4.2
		SwtGas	890	20.88	+1.16	-8.2
		SwstSec	1291	32.50	+.25	+32.0
		SwnEnrg	371	9.50	+.13	+44.8
		SovranSS	295	20.13	+.19	+8.1
		Spain	354	12.25	-.19	-12.5
▼	Spartch	11857	d14.88	-2.00	-53.6
	Sparton	239	4.19	+.38	-21.2
	SpeedM	335	23.94	-.06	-13.9
	Spherion	1179	13.00	+.19	-47.5
	SpinkerP	2660	58.13	-.13	+59.5
	Spinkr pfB	7	24.63	+.06	+14.2
	SpinkrEx n	535	40.88	-.25	+189.4
	SportSup	237	2.50	*	-63.6
	SptAuth	1904	1.94	+.06	-3.1
▼	Springs	1052	d28.19	-.75	-29.4
▼	SprintFON	82167	d26.81	-1.50	-60.2
▼	SprintPCS	33[illegible]	d33.00	-7.81	-35.8
	StancpF	762	38.63	-.44	+53.3
	StMotr	314	9.13	-.06	-43.4
	StdPac	509	16.75	+.06	+52.3
	StdRegis	275	13.13	+.44	-32.3
	Standex	1124	18.63	-.06	-11.0
	StanIWk	581	23.56	-.31	-21.8
	StarGas	340	17.81	-.13	+35.7
	Startek	241	42.13	-.06	+16.2
	StarwdHtl	4099	29.81	-.19	+26.9
	StateStr	5377	120.56	-1.31	+65.0
	StslBcp	648	19.06	+.19	+5.9
	StatnCas s	2037	14.06	-.31	-6.2
	Steelcse	1378	16.00	-.13	+33.3
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	StrlBcp	183	19.44	-.06	+21.5

	Systemax	246	3.06	*	-64.0

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	TCF Fn	3145	34.50	-.13	+38.7
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	TCW 00	348	9.81	*	+2.6
	TCW 02	950	9.38	*	+3.4
	TCW 03	1826	9.31	-.06	+3.5
	TD Wtr	1793	19.25	+.19	+16.7
	TECO	2940	25.56	-.31	+37.7
	TJX	8999	21.25	-.06	+4.0
	TRW	3735	45.63	*	-12.2
	TV Aztec	2647	13.38	*	+48.6
	TVX Gld s	818	1.88	*	-50.0
	TXU Corp	22757	35.31	-.56	-.7
	TXU pfI	604	44.44	-.38	+1.9
	Taiwan	4523	15.31	+.06	-24.8
	TaiwSem	22634	26.69	+.06	-24.0
	Talbots	3069	67.44	-.31	+51.1
▲	Talism g	1617	u37.75	-.50	+46.6
	Tndyclt	171	2.50	+.13	-18.4
	Target s	35198	25.75	+.06	-29.9
	Tatneft	1627	10.38	-.44	+9.2
	Taubmn	1625	11.31	-.06	+5.2
	Taub pfA	4637	18.13	-.25	+19.8
	TchSym	898	29.88	+.13	+44.8
	Technitrl	1487	118.94	-3.31	+167.3
	Teekay	2315	46.25	+.50	+190.2
	Tektrnx	3997	72.38	-.13	+86.2
	TelCelSul	1065	31.56	+2.13	-.6
	TelCnOes	1175	11.19	+.13	+72.1
	TelNrdeC	415	48.00	+.75	-5.0
	TelNortCel	230	42.44	-.81	-1.2
	TelNorL	10193	22.06	-.13	-3.0
	TlcmArg	1881	22.44	+.13	-34.5
▼	TelcNZ	615	d19.50	-1.13	-49.4
	Telitalia	331	108.00	-4.00	-22.9

	TxPac	35	38.94	*	+1.6
	Textron	8561	45.25	-.94	-41.0
	Theragen	1459	7.02	+.13	-22.5
	ThermoEl	5338	25.25	+.19	+68.3
	ThmBet	3434	18.00	*	-43.5
	Thorlnd	226	23.94	*	-21.4
▲	Thornbg	376	u9.50	+.19	+15.2
	ThreeFS s	2335	30.31	-.56	+10.7
	Tidwtr	13444	44.00	-.38	+22.2
	Tiffany s	10095	38.69	-.81	-13.3
	Timbrld s	794	39.69	-.44	+49.8
	TWCap pf	40	24.94	+.06	+.3
	TimeWrn	32179	78.69	-2.25	+8.8
	Timken	1279	14.25	-.25	-30.3
	TitanCp	4186	19.19	-.81	-59.4
	TitanMet	424	7.38	-.13	+63.9
	TolE pfK		23.25	*	-6.1
	TollBro	1623	30.00	+.25	+61.1
	Tomkins	273	9.75	-.06	-33.6
	THilfgr	8487	9.94	*	-57.5
	Too Inc	539	25.25	+.50	+46.4
	TootsieR	234	38.94	+.13	+21.7
	TorchEn	374	7.63	+.19	+87.7
	Trchmrk	1589	27.50	-.06	-5.4
	Toro	204	30.69	-.25	-17.8
▲	TorDBk g	922	u30.19	-.63	+11.8
	Tosco	16759x	31.00	-.56	+14.0
	TotFinaElf	4863	75.13	-1.38	+8.5
	TotRenl	519	6.81	-.06	+1.9
	TotalSys	716	17.44	+1.00	+6.9
▼	TwrAuto	1811	d9.94	-.38	-35.6
	ToyRU	5793	17.56	-.06	+22.7
	TrammlC	511	15.00	-.25	+29.0
	TrCda g	372	9.31	+.06	+6.4
	TranInc	18	23.25	*	+10.7
	Transocn	24843	58.00	-1.91	+72.2
	TrMMex	554	8.06	-.06	+72.0
	TMMexA	237	8.06	*	+89.7
	TmsCpn	197	1.00	-.13	-65.2

	UtiLHold	220	50.50	*	+1.6
	URS	121	13.63	-.13	-37.2
	US Can	1489	19.50	+.06	-1.9
	US Rest	475	11.25	+.13	-21.1
	USA Educ	5595	44.31	+.09	+4.9
▼	USB Hld	987	d12.00	*	-20.7
	USEC	2009	4.38	-.06	-37.5
▼	USG	2714	d28.63	-.31	-39.3
	UST Inc	6006	20.44	-.19	-18.9
	USXMar	13913	28.38	+.13	+14.9
▼	USXUSS	10580	d16.13	-.31	-51.1
	UltramDS	5848	26.50	-.50	+16.8
	UniSrcEn	1228	16.50	-.19	+47.5
	UUnlao	2479	31.81	+.13	+5.6
	UniCapital	1656	.09	+.02	-97.5
	Unicom	14093	50.88	-.13	+51.9
	Unifi	2955	10.63	-.13	-13.7
	UnilevNV	2948	44.13	-2.55	-18.9
	Unilever	900	24.00	-.25	-20.7
	UBnCalF	219	22.25	*	+11.3
▼	UCarb	6053	d36.06	+.06	-46.0
	UnionPac	6649	38.06	-.50	-12.9
	UPIntr	4557	33.25	+.19	-15.7
	UnBnCal	3180	23.31	-.50	-40.9
	Unisys	39048	12.19	-.44	-61.8
	Unit	1221	15.00	+.19	+95.1
	UAM	1240	24.88	+.13	+34.0
	UDomIn	616	15.75	-.19	-21.0
	UDomR	2721	10.81	-.13	+9.5
	UDom pfA	7	24.25	-.06	+24.4
	UnitInd	183	11.25	+.06	+22.4
▲	UtdMicro n	42556	u14.88	+.88	+6.3
	UPS B n	17929	54.00	+1.50	-21.7
	UtdRentl	1426	20.75	-.06	+21.2
	US Airway	7350	34.38	*	+7.2
	US Bancp	19418	21.44	-.13	-10.0
	US Inds	1599	11.25	*	-19.6
	UtdTech	51049	60.75	-1.29	-6.5
	UtdNtlnGp	6316	92.31	-2.00	+73.8

	VariaMS	565	44.50	*	+9.5
	VectorGp	239x	17.69	-.82	+24.3
	Vectren n	702	20.00	+.25	-.9
	Venator	3489	14.25	+.06	+103.6
	Veritas	774	5.19	+.13	+39.3
	VeritDGC	2362	28.69	-.13	+104.9
	VerizonCm	56501	43.19	-.89	-29.8
	VestSe	70	12.94	-.06	+9.0
	Viacom	5856	60.63	-2.81	+.3
	Viacom8	97925	59.38	-4.25	-1.8
	ViadCp	1733	27.56	+.56	-1.1
	ViasytS n	11368	18.88	+2.06	-1.9
	VidSanN n	856	8.31	+.06	-25.3
	VimpelCm	1198	18.06	-.69	-59.5
	VintgPt	2253	23.25	+.50	+92.7
	Vishay n	11662	35.88	-.56	+69.8
	Visteon n	14948	14.31	-.25	-23.7
	VISX	2783	29.06	-.75	-43.8
▼	Vitro	713	d2.75	-.19	-60.0
▼	Vivendi n	2646	d14.56	-.63	-8.6
	Vlasic	408	1.56	-.13	-72.5
▼	Vodafone s	13752	d34.06	-3.31	-31.2
	Voltimf	229	25.00	+.63	+4.7
	Vorndo	393	37.81	*	+16.3
	Votorntm n	608	18.63	-.63	+24.2
	VulcanM	1398	39.13	-.25	-2.0

W

	WBK ST n	462	31.44	-.38	-1.9
	WHX Cp	1306	2.88	*	-68.1
▼	WHX pfB	492	d11.13	*	-56.9
	WMS	2244	16.94	*	+29.1
	WPS Res	377	31.94	-.06	+27.1
▼	Wabash	611	d9.50	-.50	-36.7
	Wachovia	4766	56.25	+.06	-17.3
	WackCor	2240	8.06	-1.50	-31.0
	Waddell s	1126	37.38	+.13	+106.2
	WalMart	98433	48.44	-1.44	-29.9

▼	Weyerh	19388	d39.69	-1.56	-44.7
	Whirlpl	9255	38.94	+.06	-40.2
	Whitehall s	907	8.50	-.13	-65.5
	Whitmn	8226	12.94	+.31	-3.7
	WileyJA	238	22.00	+.13	+31.3
	Willamt	4415	27.06	-.06	-41.7
▲	Willbros	324	u7.44	-.44	+60.8
	WLyonHm	256	6.81	+.25	+23.9
▼	WmsCom n	10290	d20.88	-2.00	-27.9
	Williams	14297	42.44	-1.00	+38.9
	WmsSon	4259	41.00	-.06	-10.9
	WilmTr	820	52.56	+.38	+8.9
	WinDix	922	14.13	-.38	-41.0
	Winnbg	752	12.31	-.25	-38.6
	WinstonH	285	8.81	+.19	+8.5
	WiscEn	5894	19.44	-.25	+1.0
	WiserO	1865	5.69	-.06	+127.5
	WolWW	1682	9.56	+.19	-12.6
	WldFuel	182	8.13	+.13	+8.3
	WldPages	796	4.94	-.06	-63.8
	Wldtex	4743	.38	*	-76.0
	Worthgtn	1047	9.69	-.06	-41.5
	Wrigley	2073	70.69	-.75	-14.8
	Wyndham	1742	2.06	-.06	-29.8

X-Y-Z

	XL Cap	7147	72.19	-1.44	+39.2
	XcelEngy	9712	26.00	-.19	+33.3
	Xerox	57785	17.00	+.56	-25.1
	YankCdl	691	20.31	+.31	+24.5
	Yorkin	3317	20.50	+.31	-25.3
	Yng&Rubi	5063	50.56	-1.44	-28.5
	ZaleCp	3712	34.56	+1.50	-28.6
	ZiffDavis s	1989	9.88	+.63	-3.7
	ZDnet	6414	17.44	+1.38	-17.0
	Zweig	579	10.25	-.06	+1.9
	ZweigTl	2465	7.00	*	+7.7

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SUITS | Target power plants in county

From Page D1

we need to know how much we need and when."

Thirteen power plants have been proposed for the state, including nine in Maricopa County.

"There's no way we need that much electricity," Hogan said, "yet the commission says it will approve all of them."

The proliferation of power plants is being driven by energy shortages in the Southwest and a deregulated electric market.

Hogan thinks the reason the companies want to build the plants in Arizona is because it's easier and cheaper than building in California where the demand for electricity is the strongest.

"It's not fair to use Arizona's water and pollute Arizona's air to generate electricity for California."

Corporation Commission spokeswoman Heather Murphy said the panel couldn't comment on the suits until it had a chance to review them.

Taylor Cheek, senior director for project development at Panda Energy, called the suit "unfortunate" and "without merit."

"The Corporation Commission did its job and heard all of the evidence," he said. "We feel the courts will feel the same way."

Reach the reporter at max.jarman@arizonarepublic.com, or (602) 444-7351.

PANEL | Opposes UAL, US Airways merger

From Page D1

Ron Wyden said the vote should signal regulators that senators are upset about the prospect that consumers would have fewer choices among airlines and face higher fares.

Commerce Committee Chairman John McCain, R-Ariz., said the "anti-competitive harm posed by the proposed United-US Airways merger outweighs its benefits. I do not believe this merger can be accomplished without great harm to the traveling public."

Shares of United's parent, UAL Corp., fell 81 cents, to $45.25, while US Airways was unchanged at $34.38 in trading Wednesday.

The resolution was approved after the committee defeated an amendment proposed by Sen. Jay Rockefeller, D-W.Va., which would have postponed action on the committee's resolution until after the Justice Department completed its review of the combination proposed in May.

United, whose on-time performance has been the worst among 10 major airlines for the past three months, has promised to add 64 more non-stop flights and serve 29 more international destinations if the acquisition is approved.

Both United and US Airways have promised to increase service in Pittsburgh and Philadelphia.

P. O. Box 52025
Phoenix, AZ 85072-2025
(602) 236-5900
www.srpnet.com

September 28, 2000

Mr. and Mrs. James Parrault
1887 E. Arabian Drive
Gilbert, Arizona 85296

Dear Mr. and Mrs. Parrault:

SRP is in receipt of your letter dated September 3, 2000 in which you requested additional information pertaining to the Santan Expansion Project. Let me first respond to your general question contained within your letter pertaining to the number of reports prepared on behalf of SRP by impartial outside firms. In addition to the two studies you referenced, the Air Quality Impact Analysis by Dames and Moore and the Property Value Study performed by PricewaterhouseCoopers, SRP has contracted with outside firms to conduct studies on the following:

- Archaeological Survey of the Santan Receiving Station Lands by Alfred E. Dittert, Jr., Professor, Department of Anthropology, Arizona State University
- Property Values Study by Kelly Commercial Consultants, Inc.
- Noise Modeling by Hessler Associates, Inc.

SRP has also prepared analyses on land use, water and wastewater, biological wealth, biological resources, visual impacts, historic sites and structures and recreational purposes. The findings and summaries of these analyses are all contained within SRP's application for a Certificate of Environmental Compatibility.

Copies of the reports prepared by PricewaterhouseCoopers and Kelly Commercial Consultants, Inc. are enclosed. In addition, a copy of SRP's application for a Certificate of Environmental Compatibility for Santan is provided in which you will find the Dames and Moore and Dittert reports.

Our responses to your specific questions outlined in your letter are attached.
Should you have any questions regarding the materials and answers provided, please contact me at (602) 236-5262.

Sincerely,

Kelly J. Barr
Manager, Regulatory Affairs and Contracts

cc: Representative Jeff Groscost (w/o attachments)
Press Secretary Paul Senseman (w/o attachments)
Congressman J.D. Hayworth (w/o attachments)
Senator John McCain (w/o attachments)
Paul Bullis, Chairman ACC Power Plant and Transmission Line Siting Committee (w/o attachments)
Kenneth C. Sundlof, Jr. (w/o attachments)
Maricopa County Supervisor Don Stapley (w/o attachments)

XII. Is SRP creating a merchant corporation?

Full disclosure as to whether or not this expansion will be "for profit" and SRP will create a merchant corporation.

SRP Response:
No. The plant is being built to serve the growing energy needs of the Southeast Valley. Nearly a half-million people have moved to the Southeast Valley over the past 30 years. This phenomenal growth requires new generation, preferably located where it is most needed. During the hottest days of the year, the plant will provide 100 percent of its power to customers in Gilbert, Tempe, Chandler and Mesa.

During periods of lower customer demand, SRP may sell power on the wholesale market to other utilities and power marketers, just as it may purchase power during high demand periods. This is common industry practice. The electricity industry is interdependent, with utilities and power marketers throughout the Southwest moving electricity to where it is needed from where it is most available. When SRP sells wholesale energy, the revenues generated from such sales help hold down the price of electricity for our retail customers.

XIII. Arizona expansion needs when compared to 13 other applications for electric co. permits.

Report showing there is a need for this SRP expansion when there are 13 other requests for power plants.

SRP Response:
SRP identified other alternatives to building local generation. Included in those options were buying energy from other merchant plant operators in the state. The benefits of siting the facility in Gilbert include:

- local generation is more cost effective for SRP customers
- local generation will reduce the number of 500 kV and 230 kV lines that would need to be built through rural areas and neighborhoods in the metro area
- local generation brings benefits such as more effective voltage control that enhance power quality to SRP customers.
- local generation will help reduce the tax burden on taxpayers in the Gilbert area

From: "DIETRICH RANDALL GERARD (RANDY)" <rgdietri@srpnet.com>
To: "'sal latona'" <slatona@uswest.net>
Date: Wed, May 10, 2000, 2:56 PM
Subject: RE: your comments about the proposed santan expansion project

---

i can't address your idea on the property value guarantee now. that would be a huge commitment. we have discussed that sort of thing internally but there are a lot of questions - how is it measured, how far out from the plant would we make such a guarantee. and on and on. but i'm sure that we will discuss this again.

as to the location of the generating units on the site. all along we've planned to put the stacks along the west boundary, about in the middle of the property. we will actually take out the 2 northern most oil tanks and the stacks would be located about where those tanks are today.

-----Original Message-----
From: sal latona [mailto:slatona@uswest.net]
Sent: Tuesday, May 09, 2000 7:52 PM
To: DIETRICH RANDALL GERARD (RANDY)
Cc: 'ajerome@epgaz.com'; Town Council; totalview@mindspring.com
Subject: Re: your comments about the proposed santan expansion project

Sorry more thing ! What about property values ? Did you know that the SRP Expansion project in Tempe has already caused tons of resales to die. The realtors there initially were led to believe there would be no impact. That was
true at first because virtually no one knew about it. But because of the disclosure laws facing realtors and home sellers the information had to be released and BOOM - many sales were cancelled. Saving approximately $200 a year
on taxes is attractive, of course, but we know we will see these monstrosities
from our backyard. We know for sure that we will take a hit. There are so many
subdivisions now to choose from, why would anyone in their right mind choose one
that looks at smoke stacks. It's like Elizabeth, New Jersey all over again.
HELP - should we sell now before the news gets out and we have to disclose. Is
SRP willing to pay us the difference between what our house would be valued at 2
years from now without the stacks and what it will be when the stacks are up. I
would be open to that kind of negotiation. By the way, we live in Finley Farms
and our backyard can see the steam rising from what's there now. Will the stacks sit to the rear of your acreage so that it is not as visible from the 1
mile radial proximity to Val Vista and Warner.

"DIETRICH RANDALL GERARD (RANDY)" wrote:

> sal, epg forwarded your recent email to me for response. recall that we
> exchanged a few emails earlier this year regarding the proposed plant.
>
> i hear your concerns. in proposing these projects we hope that we can make

> them as compatible as possible with the areas around each plant. i'll try
> to address a few items below. but i also encourage you to attend the next
> santan open house meeting (not yet announced) which will take place on the
> evening of may 24 at finley farms elementary school.
>
> * yes, the projects we are proposing at both kyrene and santan have 150
> foot stacks. stacks of this height are necessary for proper dispersion of
> the exhaust gases.
>
> * you suggested use of 21st century technology. i can assure you that we
> are indeed doing that from a generating unit perspective. the generators
we
> hope to install would be either Westinghouse or GE's latest. a big part
of
> the investment in these units is devoted to reductions in air emissions.
>
> * you indicated that a generating station so close to residences is not a
> good idea. please keep in mind that both of these plants were in place
> before the surrounding areas infilled with homes. so power plants have
> operated at these sites for a long time - from the 50's at kyrene and from
> the mid 70's at santan. srp has moved a mobile air monitoring station to
> the kyrene site several weeks ago. we will be renting such a mobile
> monitoring station for placement at santan soon. so we will have data
which
> can be compared to the county's monitoring stations and you will be able
to
> see local air quality statistics.
>
> * srp is committed to mitigation ideas for both sites. we are working on
> ideas which will help mask the stacks and other facilities associated with
> the proposed power plants. the santan community working group is
continuing
> to look at such ideas.
>
> if i've not totally answered your concerns here please get back with me.

From: Town Council <council@ci.gilbert.az.us>
To: Mayor@ci.gilbert.az.us, maggiec@ci.gilbert.az.us, davec@ci.gilbert.az.us, mikee@ci.gilbert.az.us, 'sal latona' <slatona@uswest.net>
Date: Wed, Jan 5, 2000, 11:21 PM
Subject: RE: Santan Expansion Project

January 5, 2000

Dear Mr. Latona:

Thank you for taking the time to attend the public open house session on the possible expansion of the San Tan generating plant. The public open house process is being hosted by the Salt River Project and I imagine there will be multiple meetings on this topic. The Town officials and I received advanced briefings on this subject before the public process started. I appreciate hearing your thoughts on the topic now that you had an opportunity to be briefed. I will try to give you some background information on what the Town's part is in this process.

The San Tan generating facility has been in the same location for decades. Salt River Project (SRP) is entitled under federal and state law to operate the facility and to seek permission to expand and improve the facility as may be appropriate. SRP does not need the Town of Gilbert's permission to expand the power plant. Consequently, it's not a question of whether we wish to or do not wish to allow an expansion to occur.

We have many of the same questions that you have, and as the public process continues we will need to gather more information before we take an official position with SRP. However, any position the Town takes would be advisory only.

The Town is discussing the possibility of using a low quality water source for cooling the power plant in exchange for a higher quality of water, which can be used by the Town for drinking water purposes. The Town and SRP have not reached an agreement on their use of water.

In regards to your concerns about the height of the stacks, because of SRP's status as a governmental entity, it is not clear that the Town can regulate the height of the new generator stacks. SRP is not bound by the Town's zoning ordinance and is regulated by the State Corporation Commission.

You also expressed concerns that the plant might create additional pollution levels. Because of air quality issues in the region, we've been assured that this plant would meet all state and federal restrictions. In fact, due to current air quality regulations, this expansion is required to improve existing air quality. Again, the Town does not have authority to regulate such matters and will certainly continue to insist that the plant meet all applicable regulations.

In closing, let me add a few observations. The information provided to the Town indicates that SRP's operations currently do not now, nor would it in the future, create health risks for people living in the vicinity of the San Tan generating plant. It is not now "a pollution monster" nor would it be in the future. It is our belief that the plant will not have a major impact on the surrounding neighborhoods beyond what it already has. We would urge you to continue to voice your opinions and get questions answered from the Salt River Project. This plant is simply one of many locations that SRP is considering for expansion. Like you, we will continue to be involved in the process and seek to have the kinds of questions that you've asked responded

June 30, 2000

Mark Sequeria
2236 E. Saratoga Street
Gilbert AZ 85296
msequeria@mail.bigworld.com

Dear Mr. Sequeira,

As the public discussion regarding the expansion of our Santan generating facility continues we at the Salt River Project are interested in addressing all citizen's concerns, including those expressed by your organization Citizens Opposed to San Tan (COST).

In the course of any public discussion of a project of this magnitude there are bound to be legitimate differences of opinion regarding certain aspects of the new facility. On these points we respectfully ask that you and your organization adhere to a public standard of debate that acknowledges differences of opinion without being publicly disagreeable. There exists, in any public discussion, honest differences of opinion. Such disagreements don't imply dishonesty on the part of either organization, COST or SRP.

The Salt River Project has over a 100-year history of commitment to the Valley we serve over 725,000 customers and employ over 4,200 Arizonans, many of whom are your fellow Gilbert residents. Our challenge, quite simply, is your challenge as well. How do we continue to supply a reliable, clean source of energy to the entire East Valley. We have found through our community out-reach efforts that three out of four Gilbert residents who have all of the facts regarding the Santan project support SRP's plans.

While it is understandable that some Gilbert residents that live closest to the Santan facility are concerned about our plans, we are making every effort to participate in a community discussion to answer questions, further define our plans, and communicate reliable, accurate, up-to-date information to every Gilbert resident. I am sure that you would agree that emotion plays an important part in every community discussion but we must rely on facts, not emotion, to dictate important infrastructure decisions that will shape the future of the entire East Valley.

We at SRP respect your concerns and hope that over the coming months we will be able to continue to address them. At SRP we believe the most important aspect of any community discussion is the ability to rely on accurate and reliable information. We respectfully ask, that you and your organization adhere to a standard of community discussion befitting the significant nature of the very serious topic at hand.

As always, Janeen Rohovit at 602-236-2679 will be pleased to assist you in addressing your concerns, answering your questions regarding the Santan expansion project.

Thank you for your continued interest in the project and your commitment to an honest and open public discussion.

Sincerely,
Randy Dietrich / SRP Manager Resource Development
P.O. Box 52025
Phoenix, AZ 85072
(602) 236-3822

cc: AZ Republic, Tribune, Gilbert Independent, Gilbert Town Council & Santanfacts.org

D2 Republic, Business & Money

Sunday, 6/25/00

...nt and sends Micro-
...peal directly to the
...Court.

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Vivendi buys. Sea-
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...) REACH US

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...or:
...; Brahm.Resnik@
...ic.com

Jim.Fickess@
...lic.com

...trend to revive old retail properties by creating a cluster of Hispanic businesses.

...nix.

"Around the El Mirage (shopping center) in Phoenix,

...nation that is Hispanic.

Rent at Camelback West is

See HISPANIC | Page D5

High-tech, low supply

Power gridlock squeezes California

By Michael Liedtke
Associated Press

SAN FRANCISCO — As California's tech-savvy businesses and households plug into an increasingly wired economy, the state's power system sputters like a frayed electrical cord.

When California energy regulators decided earlier this month to temporarily turn off power in parts of heat-ravaged Northern California it hammered home a point that Silicon Valley leaders had been trying to make for some time: The promising New Economy could be short-circuited unless steps are taken to upgrade California's power grid.

"The Internet has had far more of an impact on the grid than we had foreseen," said Justin Bradley, director of environmental programs for the Silicon Valley Manufacturing Group, a trade organization. "It could be a very ugly situation this year and next, particularly if the weather doesn't cooperate."

Northern California's heat wave — with the normally cool San Francisco tying a

See POWER | Page D5

Dot-com town's 'name' sold

Gannett News Service

What happens to the world's first dot-com town when the Web site it's named after gets sold? Halfway, Ore., also known as Half.com, is about to find out.

Six months ago, the eastern Oregon mountain town, population 345, officially changed its name for a year to Half.com as a publicity stunt by the Half.com Web site, which sells used books, CDs, games, videos and other items for half price or less.

Halfway put up some signs at the entrance to town saying it was officially Half.com and agreed to be featured in ads and do a lot of interviews with the press. In return, the Web site gave the town 20 computers, a county fair prize, about $75,000 for civic improvement projects and free Web pages.

The sale of Half.com to mega auction site eBay, announced earlier this month, raises the inevitable question: Will residents be plunged into turmoil with yet another identity shift?

Hardly.

"It really doesn't change much," said Patti Huff, city planner. Half.com will keep its own name and Web address. But even if the site were to be absorbed into eBay, it probably wouldn't make a big difference to most residents, who haven't exactly seen a glut of tourists since the publicity campaign launched.

What would they do if their adopted "parent" company disappeared?

"We'd take the sign down," local business owner Rick Bryan said. "That's it."

...working Americans 55 and older.

Strengths	Weaknesess	Values
• Experienced	• Set in their ways	• Duty
• Stable	• Uncomfortable with change	• Law and order
• Hard-working	• Technophobic	• Patience
• Loyal	• Fearful of failure	• Expertise
• Well-connected	• Unfamiliar with youth culture	• Team play
• Trustworthy	• Burned out	
• Mature		

New York Time

Hotels, tourist spots feel labor crunch

Gannett News Service

Travelers say labor shortages at some hotels and tourist attractions are hurting customer service.

"It's definitely been more frustrating in the last year," San Francisco traveler Keith Metzger said.

With U.S. unemployment at 4.1 percent and tourism booming, hotels, restaurants and amusement parks are struggling to find workers.

Patricia Robitzsch, general manager of the Fairfield Inn in Topeka, Kan., said she cleaned rooms for nine months before the hotel found three maids.

Travel businesses say they're reaching out to welfare recipients, recruiting help from outside the United States and giving out-of-town workers free transportation.

Opryland Hotel and Attractions provides on-site banking and discounted housing, child care and dry cleaning for its workers.

More signs of the shortage: Walt Disney World Resort in Orlando closed off the New York Street attraction of Disney-MGM Studios one night recently to throw a job fair with food and entertainment. It hired about 500 of the 2,000 workers it needs to make hot dogs, sell cotton candy and sweep floors this summer.

Tourism operators in other cities are facing similar challenges. In Philadelphia, for example, a slew of new hotels and restaurants opening before the Republican National Convention this summer are competing for good workers.

"I've never seen it worse than the last six months," said Bradlee Bartram, director of operations at the Starr Restaurant Organization in Philadelphia.

POWER | High-tech and low supply

From Page D1

record of 103 in mid-June — would have drained the state's power supply, no matter what. It's the advent of personal computers and the Internet, however, that makes it even more difficult for power suppliers to keep up with the digital age's increased demands.

Computers consume about 13 percent of the nation's power, according to EPRI Corp., a Palo Alto research and development group that studies the utility industry.

The Internet's borderless community also taxes U.S. power suppliers because about 80 percent of online traffic comes through this country.

To handle all the Internet action, businesses are turning entire offices into warehouses for powerful computer servers and peripheral equipment needed to navigate networks. These so-called server farms consume 10 to 12 times more power than the traditional office building filled with human workers.

"We are pushing our energy transmission system harder than ever before," said Karl Stahlkopf, EPRI's vice president of power delivery. "Improving our power system is going to be absolutely necessary if we are going to reach the productivity gains (envisioned) in the New Economy."

Computers aren't California's only energy drain. The state's population — the largest in the country — increases annually by about 600,000.

To meet such demand, California imports about one-fifth of its electricity, according to the Independent System Operator.

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FOR IMMEDIATE RELEASE September 14, 2000

SRP Submits Support for Santan Expansion Project

Gilbert Residents, Businesses Back Plan for Needed Local Generation

At today's public hearing of the Arizona Power Plant and Transmission Line Siting Committee in Mesa, SRP submitted a broad list of organizations and homeowners supporting the proposed expansion of the Santan Generating Station in Gilbert.

SRP is seeking a certificate of environmental compatibility (CEC) to construct an 825-megawatt natural gas, combined-cycle generating facility at its existing Santan facility, located at Warner and Val Vista roads.

The expansion will add critical generating capacity to ensure SRP's ability to meet forecasted demand and to maintain a dependable supply of power over the next decade. SRP has experienced a tremendous growth in customers the past few years, particularly in the East Valley -- a pace that is expected to continue.

In addition to about 2,000 letters and signed statements of support from Gilbert residents, the Siting Committee today received information supporting the Santan expansion from East Valley-based businesses and groups such as the Gilbert Chamber of Commerce, the East Valley Partnership, the East Valley Institute of Technology (EVIT), the Arizona Utility Investors Association, the Homebuilders Association of Central Arizona and Local 266 of the International Brotherhood of Electrical Workers.

- MORE -

#0905

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Also presented to the Siting Committee were the results of independent polling showing significant community support for the project as well as a Price Waterhouse Coopers analysis on current and future property values in Gilbert.

While some residents have raised concerns about the proposed expansion, the support submitted at today's hearing reflects the dialog with the community of Gilbert that SRP has established since announcing its expansion plans for Santan last summer followed by an outreach and education effort that started last fall.

The dialog resulted in four public open house meetings conducted by SRP, numerous meetings with local homeowners groups and residents, and recommendations obtained from a Community Working Group (CWG) made up of Gilbert residents familiar with local issues that met numerous times to study the Santan expansion proposal.

Monthly newsletters also were mailed to Gilbert residents to obtain feedback on the project. SRP's application for the CEC included input from the CWG and the public in the form of the configuration of the new facility, aesthetic improvements to the current facility and aesthetic mitigation efforts proposed for the new generating plant.

In addition, SRP entered into an Intergovernmental Agreement (IGA) regarding the Santan Expansion Project with the Town of Gilbert. The CWG recommended the IGA as the best instrument with which to confirm SRP's municipal improvements.

SRP has committed to install improved emission-reduction equipment to its existing facility at Santan if the CEC is approved. Those improvements, combined with a U.S. Environmental Protection Agency mandate for SRP to obtain offsets that exceed total new plant emissions by 10 percent to 20 percent, ensure that there will be an improvement to air quality in the area if the new facility is approved.

The Siting Committee last month recommended approval of SRP's proposed expansion of the Kyrene Generating Station in Tempe, sending the proposal to the Arizona Corporation Commission for approval. SRP must obtain environmental approval from Maricopa County and the U.S. Environmental Protection Agency for both the Kyrene and Santan plant expansions.

- 30 -

#0905

Contact

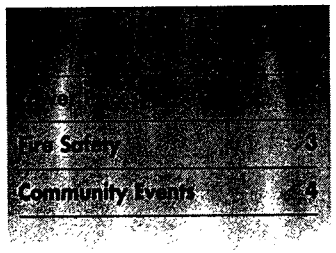
October 2000

News for SRP Residential Customers

Managed Payment Plan

One of SRP's most popular and convenient services, Managed Payment Plan, allows you to balance the seasonal highs and lows of your electric bills so you can have predictable electric bills each month. Your annual energy cost is divided into equal monthly payments, making it easier to budget each month.

You can enroll any time of the year. To find out more about this convenient SRP billing option, see the information enclosed with your bill.



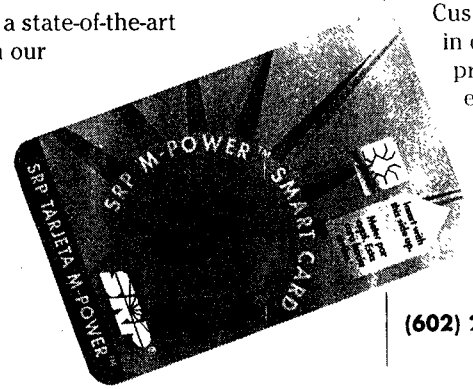
Santan Project Receives Support

Grow RITE (a Gilbert residents group), the International Brotherhood of Electrical Workers Local 266, the Gilbert Chamber of Commerce, the Arizona Utility Investors Association, the Home Builders Association of Central Arizona and the East Valley Partnership are among the organizations that have endorsed the Santan Expansion Project.

These organizations stated their support for the new project at the Arizona Power Plant and Transmission Line Siting Committee hearing last month. The hearing is part of the review process for the project's Certificate of Environmental Compatibility application.

The project, consisting of a state-of-the-art electric generating facility on our 120-acre site in Gilbert is an environmentally sound and cost-efficient solution to help meet the Southeast Valley's future power needs.

For more information about the Santan Expansion Project, visit **www.santanfacts.org** or call **(602) 236-2679.**



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THE WALL STREET JOURNAL INTERACTIVE EDITION
FRONT SECTION ECONOMY

March 13, 2000 REPRINT

U.S. Study Proposes Federal Lead Role In Preventing Summer Power Outages

By JOHN J. FIALKA
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON -- To help prevent power blackouts this summer, the government should take the lead in helping states and utilities mobilize additional power sources and develop better plans for reducing demand, the Energy Department is recommending in a report to be released Monday.

Secretary of Energy Bill Richardson, who had earlier formed a team of experts to study six major blackouts during last summer's heat wave, called the group's final report a "blueprint on how we can keep the lights on and keep air conditioners humming in America's cities next summer."

In remarks prepared for a speech to the National League of Cities, Mr. Richardson stressed better preparedness for emergencies as the nation's roaring economy imposes record electricity demands. The report by the DOE's Power Outage Study Team, called for utilities and state regulatory agencies to ease barriers on the use of so-called microturbines, or smaller generating systems that could be located in cities.

It also called for the DOE to explore ways to mobilize thousands of smaller emergency backup generators used by hospitals, government agencies and businesses so that they could provide power to the nation's four interconnected power grids when the systems' reserve power runs dangerously low.

Deregulation's Costs

The study team, which included scientists and engineers from universities as well as the DOE and its laboratories, noted that many utilities preparing for deregulation have reduced investments in reliability-related programs and that federal research in technologies that could improve the monitoring of electricity grids has also declined.

Because these were among the deficiencies identified in six blackouts and two related power system disturbances during last July's heat wave, the study team urged that funding for reliability programs be increased. The team studied blackouts in New York City, Long Island, New Jersey, the Delmarva Peninsula, the South-Central U.S. and in Chicago.

In its proposed budget for next year, the DOE is asking that the current $3 million earmarked for research on ways to improve power reliability be increased to $30 million.

Regional Cooperation Sought

The study team suggested that one of the ways that they, state and regional officials could help prevent future crises is by setting up better communications systems and holding "regional summits" to work out political differences. So-called Nimby fights (for Not In My Back Yard) make it increasingly difficult to site new plants and power lines located in one state that may be essential to serving customers in another state, a DOE official noted. The study team concluded that more regional approaches might resolve them.

Mr. Richardson reiterated the Clinton administration's support for pending legislation that would stiffen the current voluntary set of rules, agreed upon by major utilities, that operate the power grids. The legislation supports a self-regulating agency, to be established by the utilities, by giving it the power to make compliance with reliability standards mandatory.

The study team noted that "federal leadership in these areas may be controversial," but that it is essential for ensuring reliability. Currently, 24 states and the District of Columbia are in the process of deregulating their electricity markets and most other states are considering such plans.

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EKMARK & EKMARK, L.L.C.

ATTORNEYS AT LAW

September 13, 2000

Via Facsimile Only
(480) 545-8020

Board of Directors
Finley Farms South Homeowners Association
c/o Kara Tretbar, Caretaker Property Management
P.O. Box 4171
Mesa, Arizona 85211

Via Facsimile Only
(480) 456-1550

Board of Directors
Finley Farms South Homeowners Association
c/o Marshall Green, Vice President

Re: SRP Easement Issue
Use of Easement as Equestrian Trail

Dear Board of Directors:

Your property manager forwarded us information regarding the proposed placement of an equestrian trial by SRP on an SRP easement, with said easement being intended for the poles, wires, etc. for the distribution of electricity and for telephone, signal and communication purposes. The facts as we understand them are as follows: SRP is developing a power station near on Warner Road (the "San Tan Power Facility"), not far from the Finely Farms South and other planned communities. There is much neighborhood resistance to this San Tan Power Facility and SRP is aware of the resistance, as is the Town of Gilbert. To appease the critics of the San Tan Power Facility, SRP (and potentially the Town of Gilbert) have offered to install and construct improvements in and around the area. The Association has learned that part of this "beautification" offer is for SRP to continue an already existing equestrian trail, with said continuation being directly through a basin in Finley Farms South, where SRP has an easement for the distribution of electricity and for telephone, signal and communication purposes.

The Association maintains this basin; the Association owns the legal title to this basin. SRP merely has the easement, which it has been using for the purposes as outlined in the express terms of the easement for years. The Association does not want the equestrian trail to be located in this basin area.

6720 North Scottsdale Road, Suite 261 ♦ Scottsdale, Arizona 85253
Telephone 480/922-9292 ♦ Fax 480/922-9422
e-mail ekmark@uswest.net

We can certainly understand why the Association does not want the equestrian trail located in this basin. There are many concerns, including but not limited to: the maintenance, upkeep and cleaning of such an equestrian trail; plus, the liability aspect that arises with equestrian usage.

We have been asked to consider many issues, which will be laid out in the order presented.

> *Does the easement agreement give SRP or anyone else the authority to install the equestrian trail without first consulting the Association and/or getting permission from the Association?*
>
> *Does the easement agreement include by insinuation or directly that recreational improvements are included in the agreement and can be performed with or without the Association's permission?*
>
> *Would the Association have the authority to stop the trail from going through their basin?*

The answer to the first two (2) questions is the easement agreement does not give anyone the authority, not SRP, not the Town of Gilbert, nor anyone else the right, permission, authority or option to use this easement property to install an equestrian trail. The language of the easement is very specific. The easement was granted to SRP, its successors and/or assigns for the following specific purposes:

> To erect, construct, reconstruct, replace, repair, maintain and use a line or lines of poles or steel towers and wires or cable suspended thereon and supported thereby, and underground conduits, cables, vaults and manholes, for the *transmission and distribution of electricity,* and for all other purposes connected therewith, and for *telephone, signal and communication purposes*, including guys, anchorage, cross arms, braces and all other appliances and fixtures used in connection therewith . . .

Case law is clear that easements are only to be used for the specific purposes granted. Thus, the use of the easement is limited to the specific purposes set out in the easement agreement. An equestrian trail is clearly not a use as granted in the easement language.

The general rule with regard to the use of easements is that "the owner of the easement (SRP) cannot materially increase the burden of the servient estate (the basin) or impose thereon a new and additional burden." Pinkerton v. Pritchard, 71 Ariz. 117, 223 P.2d 933 (1950); City of Scottsdale v. Thomas, 156 Ariz. 551, 753 P.2d 1207 (App. 1988). Using the basin as an equestrian trail would certainly increase the burden on the basin: there would be horse and human traffic, when no such traffic currently exists; the Association's maintenance responsibility would increase due to the manure and trash that would accumulate along the trail, there is no

such maintenance responsibility or concern now; there is increased liability because the trail would be open to the public giving rise to other concerns for not only the equestrians, but the owners of property near the trail, no such concerns currently exist, nor is there a need for any special increased insurance coverage.

To answer the third question, does the Association have any authority to stop the trail from going through the basin. The answer to that question is yes. The easement is limited to the purposes as set forth. The Association should contact SRP and inform them that the easement is limited to the purposes set forth above and that said purposes do not contemplate an equestrian trail, that the Association will not be granting additional usages to the easement, and if SRP commences any type of improvements or work to add additional improvements to this basin area, the Association will file suit seeking a temporary and permanent injunction.

It is clear that installing an equestrian trail would increase the burden on the servient estate and would impose a new and additional burden. Thus, if SRP insists in building such an equestrian trail along the easement property, an action for injunctive relief would be appropriate.

I have written the aforementioned opinions under the impression that the Association is vested with legal title to the basin. My guess is that the basin is part of the plat of the Association and part of the property deeded to the Association. This is important because if the Association does not have the legal title to this basin, it would lack standing to bring suit to prohibit the basin being used as an equestrian trail.

The Association needs to make its position known to SRP that under no uncertain terms can the property upon which SRP has been granted an easement for electricity and/or telephone communications be used as an equestrian trail. If the Association would like us to contact SRP in this regard, we would be happy to do so.

The last question we were asked to consider is the following:

> *What, per the Association's documents, in the Board's duty to disclose to the community for projects like a proposed power plant? Could they be held responsible for not disclosing information that comes their way? How far should the Board go to report the plant and what would be the effect if the Board publicly stated their objection or support of the San Tan power plant?*

Under the Finley Farms South Declaration and/or the state disclosure laws, the Board does not have any obligation to disclose to the membership about the San Tan Power Facility project or other like projects ("Projects"). The resale disclosure laws would not require Finley Farms South to disclose this type of project to a potential purchaser either.

The next question becomes does the Association owe a legal duty to its members to disclose information about such types of Projects. The answer to this question is "probably not" for the following reasons: the San Tan power facility is not within the Association, it is nearby; theoretically, there are public hearings regarding this proposed facility; Projects of this type are "public knowledge").

Be advised, that there is no case law in Arizona that imposes a duty upon a homeowners association (and none that holds an Association owes no duty) to inform its members about such Projects[1] that are being proposed or that are going to be built near or in the vicinity of the community. However, as we repeatedly remind our clients, anyone can bring a lawsuit whether having a valid basis nor not. Though we do not think a Court would hold that the Association has a legal duty to inform its members of Projects of this sort, we do not think it would be inappropriate for the Association to bring these issues and information about the public hearing process, etc. to the attention of the members. In fact, the Association should want its members educated about what is going on, and if the Association publishes a newsletter, information about such projects, the dates of public hearings, a number that members can call for more information is appropriate to include in such a newsletter.

As part of that question, we were asked what would be the effect if the Board publicly stated their objection or support of the San Tan power plant. The first issue that must be analyzed is whether the Board is authorized under the Finley Farms South governing documents to take such an action. The Finley Farms South Articles of Incorporation at Article IV states in relevant part that "the corporation is formed and its initial business will be to act for and on behalf of all of the Owners for the ownership of the Common Areas and the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Lots, Common Areas and Areas of Association Responsibility, for the collection of assessments, for the assessment of expenses, for the payment of losses, . . . and for other matters as provided in the Declaration, these Articles of Incorporation, and the Bylaws of the corporation.

Article IV(a) of the Articles of Incorporation provides that without limiting the generality of Article IV, to the extent authorized by its Board of Directors and in accordance with the provisions of the Declaration, the corporation shall be empowered: . . . ."to do all things and acts which in the sole discretion of the Board of Directors shall be deemed to be in the best interests of the Members or for the peace, comfort, safety or general welfare of the Members, all in accordance with the Declaration . . . "

---

[1] Our opinion would likely be different if the Project was going to occur inside or on Association property or if the information to which the Association was privy impacted the common areas or other Association property. Each situation should be analyzed on a case by case basis.

The Bylaws of Finley Farms South at Article III, Section 2 states that "the Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Corporation, and may do all such acts and things as are not by law or otherwise directed to be exercised or done by the Members."

A.R.S. § 10-3302 states general powers of non-profit corporations and the last general power is that the Association may "do any other act not inconsistent with law that furthers the activities and affairs of the corporation." Other standards to keep in mind are codified at A.R.S. § 10-3830(A) which provides that a directors duties shall be discharged: "(1) in good faith; (2) with the care an ordinarily prudent person in alike position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interests of the corporation."

It can be argued that the Finley Farms South Declaration, Bylaws, and Articles grant enough power to the Board to get involved in lobbying for or against Project such as the San Tan power facility. Given the language in the Articles at Article IV(a), if the Board wanted to openly support or oppose such a project in the political arena, it could do so provided the Board determined acting in such a manner would be in the in the best interests of the Members or for the peace, comfort, safety or general welfare of the Members. If a member challenged such an action, the Association would need to rely upon the above referenced provisions of the governing documents to support its involvement.

In short, there is nothing in the governing documents that would require the Association to get involved, because there is nothing enumerated in their duties that would require involvement in matters such as these Projects. However, there is nothing preventing the Board from taking a stand either. Under the Association Documents and the Non-Profit Corporation Act, the Board is authorized to take actions in the best interests of the Members, as long as it is not inconsistent with the law. What the Board would need to determine is whether they believe either supporting or objecting to such a Project would be further the affairs of the Association and be in the best interests of the Members. If the Board does not believe that opposing (or supporting, as the case may be) would be in the best interests, the Board should not take that stand. If the Board believes it would be in the best interests, the specific reasons why should be enumerated in Board meeting minutes: for example, could harm property values; environmental factors; requests from numerous community members to oppose/support; noise; pollution; could benefit our members by bringing greater job opportunities, etc. If the Board publicly gets involved or does not, the Board should always encourage members to take a stand on that member's behalf, as a concerned citizen. No matter what the Board decides to do, it should encourage and remind members that they can and should take a stand on their own behalf.

As stated before, a member could always bring suit against the Board or Association if the Association publicly speaks out for or against one of these types of Projects. In all likelihood,

OZONE: Pollution 'has to brew'

From Page A1

so Mesa, Fountain Hills, and even parts of Tonto National Forest have worse ozone pollution than central Phoenix.

"It's not a directly emitted pollutant. It has to brew," said Jo Crumbaker, air quality planning manager for Maricopa County.

County, state and local officials announced plans Thursday to repeat last year's voluntary program for reducing travel during ozone-alert days this summer.

Last year, 225 employers with a total of more than 200,000 employees participated in the program to encourage transit use, carpooling and telecommuting on days when state meteorologists declared ozone alerts, said Richard Tobin, deputy director of the Arizona Department of Environmental Quality. The program also encourages residents to avoid unnecessary mid-day trips, and to refrain from refilling gasoline tanks until after 4 p.m.

Weather conditions ripe for ozone buildups triggered six alerts last summer. The voluntary trip-reduction program took an average of about 87,500 vehicles off the road, avoiding 2.3 million miles of travel and 42 tons of pollution on each of those days, according to a survey by West-Group Research for the Regional Public Transportation Authority.

HOW TO HELP

Regional transportation officials are asking employers and commuters to help curb ozone pollution this summer. For more information, call (602) 262-7433.

"We can't become complacent," said Rep. Carolyn Allen, R-Scottsdale. "We had a real good summer last year. Let's have another good summer this year."

The three consecutive years without violations have positioned the Valley for possible reclassification from having a "serious" ozone-pollution problem to being in compliance, said Colleen McKaughan, the Environmental Protection Agency's top air-quality official in Arizona.

First, though, the state must submit a plan showing that ozone-fighting measures will stay in place for another 10 years, she said.

And, if Valley air violates the ozone standard this summer, reclassification could go the other direction, putting the area into the "severe" problem category. That would mean additional control measures would be required, McKaughan said. Some of them might come from recent EPA initiatives to require cleaner-running sport utility vehicles and diesel trucks nationwide, but others might require state or local restrictions, she said.

Stronger ozone-fighting measures may become necessary in the next few years anyway. The EPA has proposed tougher federal standards, which it says medical research shows to be necessary for protecting public health. A federal judge last year ruled the EPA did not follow proper steps in setting the new standard, and suspended steps toward enforcing it. The case is now before the U.S. Supreme Court.

Tribune writer Guy Webster can be reached at gwebster@aztrib.com or (480) 898-5682.

FEARS: Scheme under investigation

From Page A1

nix business, Volitions.

A joint undercover investigation begun in December 1999 by the Internal Revenue Service and FBI found World Community's investment scheme was supported by telephone courses that offered information about private, offshore investments and suggested the commercial banking industry and stock market were in danger of collapsing.

Investors were required to sign a nondisclosure statement, agreeing not to tell anyone about the program unless authorized. Invested funds were first placed in offshore accounts, to avoid federal regulation, and then were to be placed in investments.

The SEC is investigating

family, then they will forfeit their profit," said David Marchand, publisher of Miami, Fla.-based Offshore Alert. Marchand said although the schemes sound bizarre, with strong anti-government rhetoric, they are fairly common, and investors typically lose a lot of their money.

"There are no profits. The people they send their money to spend it on vacation homes, boats and travel," Marchand said.

The U.S. Attorney's Office began investigating Meliorations and related companies in May 1999, after Washington Mutual Bank officials in Seattle reported a suspiciously high volume of foreign and domestic wire transfers into and out of Meliorations's account. More than $39 million

Mutual Bank account from September 1997 to January. At least two-thirds of the money, came from investors, according to the affidavit.

The SEC began a civil investigation in the fall of 1999.

Federal agencies have seen a big rise in fraudulent Ponzi schemes in the past few years, according to the affidavit. Ultimately, investors don't get the returns they were promised and many lose everything they put in. Recovery of the funds by the government is difficult because they are often transferred into overseas bank accounts.

Tribune writer Mary Vandeveire can be reached by e-mail at mvandeveire@aztrib.com or by

Smo sett

Millions of spent on tr may not be

BY JENNIF TRI

Smokers cos than $1.1 billior passing the am receive from tobacco settlem a report releas the Arizona Health Services

The results tunate reality: t ably never rec spent to treat si

"We are beh this because th massive," said miskey, D-Pho major health ne

The need f people to an often than aut alcohol, fire, homicide and s In 1998, more died from a sn ness, making u deaths in the s the report. O died in the a nearly one in smoke-related

"It's probabl you could do said Dr. Larr Mesa pulmon signs about ha certificates o month.

"If we didn related disease be cut in half or

Tobacco cor a settlement th $3.1 billion to next 25 ye $35 million pay

aw helps daughters Ashley, 8,
ground is son Chad, 15, holdin

RELATIONSH

hool basic

FYI

K TO SCHOOL

for the following stories
hart Living or on our
site,
narepublic.com:

g. 11: What you'll be
ing this year.
onday: Backpacks don't
to be a health hazard.
DAY: The best thing to
back to school is a
attitude.

student can send a
her the message that
re serious before even
ing a book. It's a brand-
beginning."
the start of the school
she is plenty serious

Phoenix five-day forecast

Today
Partly cloudy
High 109
Low 84

9th alert for ozone is issued

By Mary Jo Pitzl
The Arizona Republic

Air-quality officials have issued the ninth high-pollution advisory of the summer season, calling on Valley motorists to reduce their driving today.

This summer is producing more advisories than last year: As of mid-August 1999, there were only five advisories, compared with nine this year.

During the advisories, motorists are asked to carpool, take the bus, telecommute or otherwise reduce the amount of emissions their vehicles produce.

In addition, residents are asked to put off using gas-powered yard and garden equipment until late in the day as well as delay refueling their vehicles until 4 p.m.

The risk of ozone formation is reduced late in the day, when the sun begins to set. Ozone is formed when hydrocarbons and other emissions cook in the heat and light of long summer days.

Ozone is a largely invisible pollutant that can cause more breathing problems in people who have respiratory ailments. It also can reduce lung function in normally healthy people.

The greater Phoenix area is rated as a "serious" non-attainment area for ozone pollution. The U.S. Environmental Protection Agency could upgrade the rating if the Valley can get through this summer without violating federal health standards for the pollutant.

Though high ozone levels prompt advisories, so far the Valley's levels have not exceeded federal standards this summer.

OUTSIDE

Phoenix

High temperature:
Low temperature:
Rainfall:
High, low relative humi
Barometric pressure at
Record high today: 113°
Record low today: 69° in
Normal high, low today:

Statistics for Sunday, A

Average temperature:
+ or - normal average te
Average wind speed:
Peak wind gust: 39 mph
High/low dew point:
Rainfall to date:
+ or - normal to date:

Arizona fire restrictions

(877) 864-6985
www.azfireinfo.com

Road conditi

(602) 651-2400 (then
or **(888) 411-7623**
Pima County (Tucson)
(520) 547-7510

Pollution

Good: 0-50 Moderate:
Unhealthful: More than

Carbon monoxide	
Ozone	6
Particulates	10

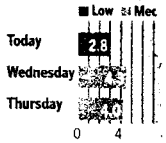
Central Phoenix for 24 hc
yesterday 3 p.m.

	Carb mon.
N. Phoenix	
S. Phoenix	
W. Phoenix	8
Pinnacle Peak	
S. Scottsdale	
Mesa, Tempe	
Hot Spot	14

Source: Maricopa County
Environmental Services De
(602) 506-6400

Pollen forec

Predominant pollen:
Grass, pigweed/lamb's quarters and hackberry.



Source: pollen.com
For pollen forecasts by ZIP c
go to azcentral.com.

UV index

1 2 3 4 5 6 7 8 9
Low Mod. High

The UV index gives a forecast for ultraviolet radiation intensit
A higher number means an increased risk for sun damage.
During Arizona's summer mon
may take only 10-12 minutes o
exposure to burn unprotected

Lawn watering

.56" is needed for Bermuda g
if last watered 3 days ago.
For more information: Phoenix
Conservation Resource Divisio
(602) 256-3370

Dew point fore

Most evaporative coolers are
effective only when the dew
is below 55 degrees.
8 a.m.: **63°** Noon: **62°** 3 p.

Sun & Moon

Sunset today:
Sunrise W

loops through her ears.

"The bigger, the better," said Heather Hested, East Coast fashion stylist for Nordstrom. "The more modern way to wear them is exaggerated. Think about huge hoops, big hair and big sunglasses. It's very glam. It's very 'take a look at me.' "

Will Powers/The Arizona Republic
No, it's not the '80s again, but hoop earrings are back.

Cut ozone risks to your health

The Arizona Republic

Maricopa County is under the ninth ozone alert of the summer.

That means we're dangerously close to having unhealthful air, particularly for people with chronic breathing problems, seniors or the young.

What you can do to minimize potential health hazards:

- Stay indoors — carbon monoxide reduces the amount of oxygen carried in the blood. In healthy people, this can result in headaches and shortness of breath. Heart and lung patients can have more severe breathing problems.
- Carpool, telecommute, combine errands or take a bus — reduces automobile emissions, cutting down on carbon monoxide levels.

The Phoenix area has failed to meet federal health standards for carbon monoxide, particulate matter and ozone, according to the U.S. Environmental Protection Agency.

Hispanic event

›panic and Ameri-
ganization, asked
the Nov. 3-5 citrus
nt weekend so it
/. 5 activities with-

.he dates were set
anged. Simply Cit-
wntown, near Cen-
›. Day of the Dead
nile away.

› leaders said they were disappointed that the city opted to compete against a 20-year-old festival. The group has historically held its festival on the first Sunday of November, attracting between 2,000 and 5,000 people.

"Having two festivals in downtown really affects ours," said Dina Lopez, Xicanindio's executive director. "I feel that our organization is an important organization in Mesa. It's insensitive

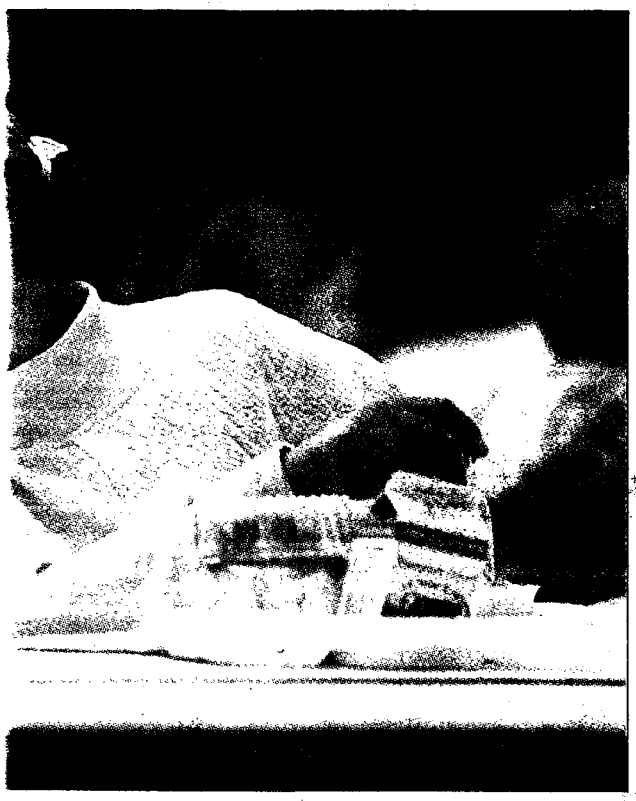
Please see **FESTIVAL,** Page **A4**

DARRYL WEBB/TRIBUNE

Pleas Ignored: Teresa Brice-Heames, a Xicanindio board member, said Mesa officials ignored the group's plea for a new date that wouldn't conflict with its Day of the Dead attendance.

raumatic for these kids to be here all
ch people who can't understand them.'

— Diane Morris



PHOTOS BY TORU KAWANA/TRIBUNE

es during lunch at Laird Elementary School in Tempe.

n a hot issue

number of children who don't speak English.

Some advocate bilingual education — teaching children in both languages until they can gradually make the transition to English. Others, who advocate English only instruction, are trying to get an ini-

SRP shelves power plant for Gilbert

Residents' ire over not being informed of plan spurs move

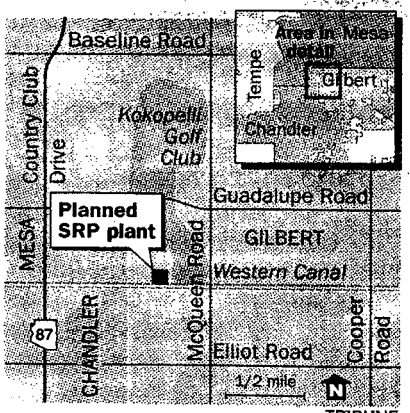
BY ED BAKER
TRIBUNE

Salt River Project has indefinitely stopped a proposal to build a power plant near a west Gilbert neighborhood.

SRP general manager Richard Silverman made the decision late Friday because the plant was not in the community's best interest, spokesman George Sarkisian said. The move came a day after the Tribune reported the utility giant never told area homeowners about its plans.

"We don't want to do anything in that area or move any plant of any size without full disclosure," Sarkisian said.

Residents and officials were outraged Thursday when they learned SRP had internally approved the project without informing them. Construction on the 5-megawatt plant was to begin within a month.



TRIBUNE

SRP has not decided when or if it will build the small plant at the site. However, Sarkisian said it would not be any time this year.

Because the proposed plant was smaller than 80 megawatts, public hearings at the state and

Please see **SRP,** Page **A4**

Town Center Corp. competed against Dia de los Muertos with its Fine Folk Festival downtown until two years ago. The Fine Folk Festival later folded.

Heames said she hopes Pence and city leaders follow through on their promise to promote the Hispanic event, a celebration to brate the city's citrus heritage with events to attract both children and adults.

Mesa avoided controversy when two council members backed off their request to move some events from Sunday to Saturday to accommodate members of the Church of Jesus Christ of Fine Folk Festival, and that ended up folding," she said. "We'll just persevere through this."

Tribune writer Barrett Marson can be reached by e-mail at bmarson@aztrib.com or by calling (480) 898-6568.

SRP: Move called 'right decision'

From Page **A1**

county levels were not required.

That would have left residents with little opportunity to fight the project.

"It was the right decision that they made," Gilbert Town Councilman Mike Evans said. "Prior notification is always what's best, and a public process is always what is desired. They didn't do either."

The plant, which was to be located at an existing electric receiving station site near McQueen and Guadalupe roads, could have powered up to 2,000 homes a year.

The plant also would have created up to 7 tons of nitrogen-based emissions yearly — the equivalent of 140 cars driving 14,000 miles a year, SRP project manager John Lusko said.

SRP said Thursday it did not tell residents about the proposal because it had just recently made the decision to build the plant.

Cynthia Dunham: Gilbert mayor praises move by SRP.

SRP's decision to shelve the project likely will help the utility mend its relationship with officials and residents at a crucial time. Much of the company's ability to prevent a projected East Valley power shortfall may rest in its relationship with Gilbert.

Opposition is emerging to SRP's proposal to expand its Santan Generating Station near Val Vista Drive and Warner Road into an 825-megawatt power plant.

South Tempe residents were successful in getting SRP to reduce by 70 percent the proposed expansion of a power plant near Kyrene Road.

Gilbert Mayor Cynthia Dunham praised SRP's move.

"I think SRP wants to be a good neighbor," she said. "With the concern that's going on around power plants, I think there's a lot of community awareness. People have been sensitized."

Tribune writer Ed Baker can be reached at (480) 821-7466 or by e-mail at ebaker@aztrib.com

out a general tax hike. He also defended his proposal to trim overall state budget growth by 1 percent, which would provide an additional $97 million for education priorities. The plan also would use $50 million from Arizona's $3.1 billion settlement with the U.S. tobacco industry and save $70 million by postponing or canceling pending corporate tax reductions and credits.

The Groscost-backed House proposal is widely seen as the leading contender to Hull's tax-increase plan, which is expected to be debated during an upcoming special session. Dubbed the REWARD Classroom Teachers proposal, which stands for Recognizing Educators' Worth And Rewarding Dedication, the Groscost plan would give teachers a $3,000 pay raise, reduce class sizes and add five days to the 175-day school calendar. In total, it would provide nearly $340 million in public-school classroom funding.

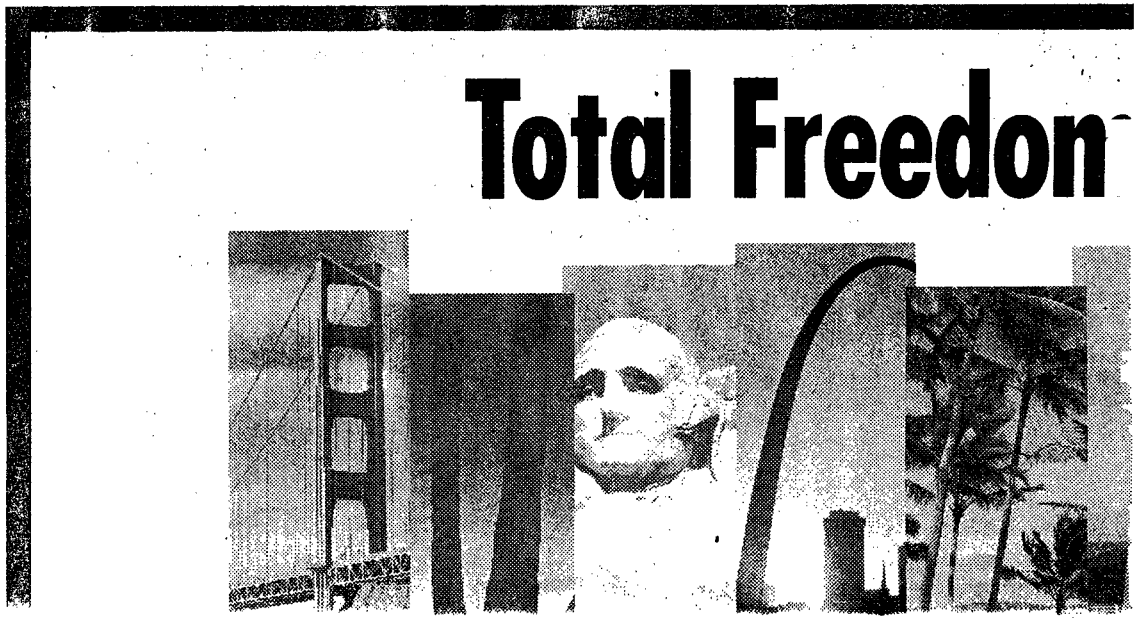
Hull and state Superintendent of Public Instruction Lisa Graham Keegan would rather ask

budget restrictions, Mo

Preliminary figures Friday by legislative aides show the state's ties would lose a total $31 million under the plan.

The Arizona Depar Corrections would be $23.5 million, the Depa Economic Security w $9.5 million and the De of Health Services wou an anticipated $8 millio ing to legislative estim court system would $6 million hit and the Department of Publ would have to do $3 million.

Hull believes that funding should be strer not slashed, to better students and workers state's "new economy said. Support for high tion was echoed Frida makers such as Rep. L perek, R-Tempe, whos includes Arizona State ty. ASU would los $13 million.



SUNDAY, MAY 21, 2000 $1.75

Red Bullet races past Pegasus in Preakness, **C1**

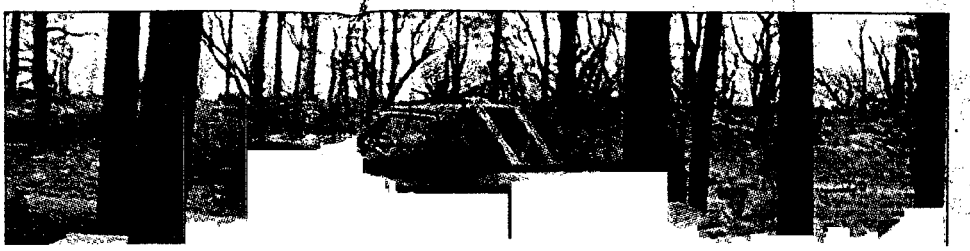
THE '80s ARE BACK
Retro trend has grip on Valley, **D1**

t's part of living up here.
ghters, they do the best they can.'

BRAD ARMSTRONG/TRIBUNE

recently finished his home in the Bonita Creek Estates subdivision, which is on fire. May 14, Frye watched a wildfire burn within 100 feet of his home.

es rekindle fears



Smaller power plants touted

Can be built with little oversight

BY ED BAKER
TRIBUNE

Advancing technology is making Valley neighborhoods potential hosts for compact power plants, and residents would have little recourse to stop their construction.

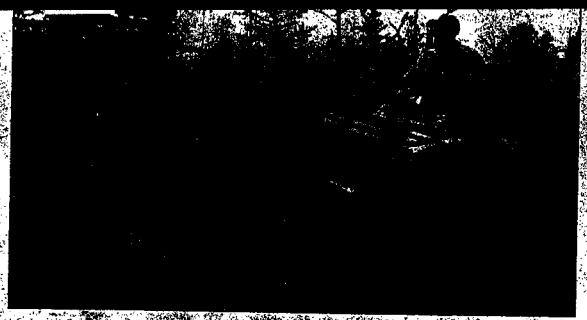
Known as "microturbines," the small, 5- to 15-megawatt plants can be built at power substations — Salt River Project has more than 200 in the Valley — in a month with little state or county government oversight and few public hearings.

Industry experts speculate the plants are the wave of the future because they're so small — about the size of a two-story home — and are less likely to generate the fierce opposition that traditional power plant construction projects do.

Please see **POWER,** Page **A4**

GOP candidate takes swing at 'far-left' Hillary

TESY OF TONTO NATIONAL FOREST



BRAD ARMSTRONG/TRIBUNE

left, examines what is left of his house after the Dude Fire ripped through Bonita Creek Estates in the memorial he built honoring the six firefighters who died fighting the fire near his property.

Residents fear another blaze

This 1990 file photo shows the remains of the Zane Grey cabin after the Dude Fire was ...shed.

COURTESY OF TONTO NATIONAL FOREST

...otential to have a ...ire is there. We're ...g up to not let that ...n. But you never

...EITH KERR
...National Forest

...aths of undeveloped ...ll exist.

...dition to protecting ...his department also has ...ment with the federal ...ent to patrol the forest ...e high-risk season.

...20 full-time firefighters ...any as 16 reserves, Babb ... department believes it ... off a severe fire until ...ews arrived, even with ...ea crews stationed in ...ts of the country.

National Forest officials ...erned, but said they're ... to handle a serious fire ...of a particularly wet year ...Pacific Northwest, fire ...om that region could ... Arizona during an ...y.

...hile hotshot firefighters ...en moved around the ...ost of the engine and ...rews have been left at ...s in Tonto National

SOURCE: Tonto National Forest

TRIBUNE

Forest because of forest fire concerns.

"The potential to have a Dude Fire is there," said Keith Kerr, fire management officer for the Mesa District of Tonto National Forest. "We're gearing up to not let that happen. But you never know."

It's something buyers must think of before choosing a home deep in the wooded Arizona mountains, said Jim and Ruby Sibert, one of six families in Bonita Creek Estates whose home was not destroyed during the 1990 Dude Fire.

Six firefighters, five of them prison inmates, died fighting the blaze that destroyed a chunk of forest the size of Tempe, 60 homes and enough timber to build 3,300 more.

The 28,480-acre fire displaced 1,153 people and took 2,632 firefighters to bring down.

The Siberts remember the

may be tough sell to Valley residents

From Page A1

"It looks like the concept of the large generation station is coming to an end. You don't have many Navajo (Generating Stations) being built anymore," said SRP spokesman Scott Harelson, referring to SRP's massive power plant in northern Arizona. "You have to adjust to what people want."

But as SRP learned last week, the future of the electrical generation may be a tough sell to Valley communities. Gilbert residents and officials reacted with outrage when they discovered the utility giant planned to build its first microturbine in a neighborhood near McQueen and Guadalupe roads. SRP decided Friday to indefinitely postpone construction of the pilot project.

Though the idea for small, local generating plants is old — Thomas Edison first envisioned the concept nearly 100 years ago — only recently has it become cost effective. SRP and Arizona Public Service have considered microturbine technology projects.

More proposals for the neighborhood power plants are likely over the next several years, the Arizona Corporation Commission predicts. And within the next 10 to 20 years, the plants could become so popular that shopping malls will have them on site, said John Castagna, a spokesman for the Edison Electric Institute, an industry lobbying group.

"It sounds neat at first," Castagna said. "But you're actually going to end up seeing opposition. You're going to run into neighborhoods that don't want the sound of turbines."

Pollution may be another issue with the technology. The 5-megawatt plant SRP had proposed in Gilbert would have generated seven tons of nitrogen emissions — about the amount generated by 140 vehicles driving 14,000 miles per year.

The plant can power a neighborhood of about 200 homes.

Which begs the question: Who will look out for neighborhoods when companies or shopping malls move to build microturbines?

SRP needed only to get an air quality permit from the Maricopa County Department of Environmental Quality. There is no public hearing, unless somebody requests one, said Courtney James, a county spokeswoman.

But there's a catch. Microturbines can be picked up and moved to different neighborhoods or cities. And once an individual microturbine is permitted, it can be transferred within Maricopa County without needing an additional permit — meaning some neighborhoods could be left entirely without a voice.

The Arizona Corporation Commission is aware of this. The commission has formed a working group to study the issue, but the group is recommending the commission stay out of microturbine regulation, said spokesman Heather Murphy.

> 'It sounds neat at first. But you're actually going to end up seeing opposition. You're going to run into neighborhoods that don't want the sound of turbines.'
>
> **JOHN CASTAGNA**
> Edison Electric Institute

"They have indicated a preference for local communities to handle these plants and make decisions through zoning or other processes," Murphy said. "They have an impact on such a small scale. The impact is more on a local society level and state rules allow communities to deal with those concerns."

Murphy said if the commission — which only reviews plants over 80 megawatts — were to hold hearings about all microturbine plants, the work load would be "unimaginable."

Far from being monsters, the plants carry benefits. They are quieter than standard power plants, pollute less and if they are as successful as their supporters hope, they could someday reduce the need for transmission lines throughout the Valley.

What microturbines offer is another alternative for Valley power providers, who run into opposition no matter what they propose — transmission lines, standard power plants or microturbines.

"The southeast Valley has to decide: What do they want? More generation or more high-tension lines. It's a decision they have to make," said Gilbert Councilman Mike Evans.

It's one that has to be made sooner rather than later. SRP is currently facing a 650-megawatt shortfall by 2002 and a 2,450-megawatt shortfall by 2008.

With SRP's proposal for the Gilbert microturbine off the table for now, Valley cities have a chance to study ways to gain oversight of the process. And from Scottsdale to Queen Creek, there's interest in doing so.

While private generation companies may be easy to regulate through zoning, SRP provides more of a challenge. Because its power substations are already zoned for electrical uses and because cities have little authority over SRP, zoning would likely be ineffective.

But few city leaders express fears about working with SRP in the future, should the company elect to build more microturbine plants.

"Our city has had a long relationship with SRP and I'm sure we could make this a part of our public process," said Scottsdale Councilman Dennis Robbins. "I don't see why we should worry about SRP and their intent. SRP's willingness to work with the city of Tempe was an example of their work with neighborhoods."

Tribune writer Ed Baker can be reached by e-mail at ebaker.aztrib.com or at (480) 821-7466.

ministration positions
alaries would be item-
along with anyone with
ching assignment doing
nistrative duties. All ex-
curricular activities that
students away from
ol time should be item-
When this data is spread
perhaps a way may be
to operate our schools in
black and also have the
to educate our youth.
e public school system
d be required to furnish
dget breakdown for the
g public, prior to elec-
ays or budget overrides,
be held accountable for
penditures.
re money will not fix
roblems, but public con-
and involvement should
it better.

Reece is a Mesa resident. The
expressed are those of the

SRP officials misleading on Santan

SRP's officials have purposely misled Citizens Opposing Santan (COST), the group fighting the expansion of the Santan generating station. They have also failed to allow the public an informed decision regarding their Santan plan at Warner Road and Val Vista Drive in Gilbert.

SRP assured COST in multiple meetings that the project newsletter mailed out to residents May 31 would include more information regarding the impact the plant would have on our communities. (The expansion includes 15-story smokestacks, four industrial cooling towers, 790 tons of additional pollution, additional transmission towers and decreasing home values.)

COST had strongly objected to an earlier SRP postcard to residents because it failed to include any information that citizens could use to weigh whether or not the plant fit into a residential neighborhood. The postcard was an invitation to cake and punch. It failed to mention an industrial plant that would be visible from the U.S. 60 off-ramp and that could impact our quality of life and home values for years to come.

Our community is fairly new and already it is being destroyed without any recourse to the Gilbert Town Council. SRP is a municipality unto itself and obviously feels it is above the law. SRP officials should be ashamed that they sat in my house and asked us for our understanding as they try to do what is in our best interest.

COST is dedicated to informing the public and letting you decide whether the impact this plant has on our community is mitigated by our need for power. COST has a lot more information that the residents of Gilbert should know about before they say "Yes" to this facility. COST can be reached at either (480) 503-4877 or (480) 497-1888

Mark Sequeira
Gilbert

Foreman comments smell

Why would Dick Foreman write a column defending state Sen. Rusty Bowers (R-Mesa)? I'm sure it's not because Mr. Foreman and Mr. Bowers are close personal friends. I'm sure it's not because Mr. Foreman is a lobbyist and Mr. Bowers is a state senator, making them political bedfellows. He must just be interested in truth and justice.

Bowers purchased land with no access. To increase the value of the land he must gain access. It is a matter of public record that for some time now he has tried to obtain that access.

He apparently assumed that his "status" would be all it would take to force this down the taxpayers' throats. Thanks to the media (including *The Republic*) shining a little light on Mr. Bowers' machinations, it hasn't turned out to be the slam-dunk that he expected when he made the purchase.

It looks like the new approach is to have his f
Mr. Foreman, label the
sition as "gun-toting"
"selfish" to make Mr. Bo
appear to be a victim.
ing could be further fro
truth. The only victims
be the taxpayers if Mr.
ers and Mr. Foreman
successful in their
shared campaign to gai
cess (that does not now e
across government pro
for Mr. Bowers' "enjoym
(read: increased pro
value).

Mr. Foreman calls
friend Mr. Bowers' deni
access "shameful." Wha
really shameful is Mr.
man's little campaign to
line his friend's po
Mr. Foreman may ex
nothing in return but this
doesn't pass the smell tes

Dave N. S
Phe

Consider the alternativ

The Mission Palms H
has a request for a de
opment proposal on its p
erty south of the Hay
flour mill.

This opens up an oppo
nity to move the offen
part of the Hayden Fe
South proposal off the sl
of the butte and onto
Mission Palms parcel
available for development.

The elevations currently
lowed in the Rio Salado de
opment guidelines
obstruct the views to
from the butte. Moving th
offensive elevations to
Mission Palms parcel wo
allow for lower elevati
adjacent the butte and ma
mization of views.

I ask Tempe to sit do

ti-fluoride activist' label is incorrect

By Jan Hibbard

MY TURN

recent *Republic* news
e about fluoridation in
t made statements
me that are false and
e correction.

June 6 article "Anti-
lation petitions filed in
t" by Edythe Jensen
bed me as a "longtime
anti-fluoride activist"
a Mesa activist who lost
lar battle in that city."
e fact checking would
shown that neither
ent is true. I have
been an anti-fluoride
st in Mesa or anywhere
and I certainly never
a similar battle in that
r anywhere else.
course, I oppose fluori-
. The government
t have a right to force
drink the stuff, no
what they say about it.
Republic knows full

well as the sprinkler referendum. But I never had time to be active in either campaign.

However, when I studied the information about fluoride, I quickly learned this isn't just a rights issue. For many, fluoride really does pose a significant health risk. Among other things, extensive evidence links fluoridated drinking water to widespread kidney failure.

I am not an alarmist, and I know how some organizations use junk science to exploit the public with unfounded health fears. But the information about fluoride is convincing. And it hit home, personally.

The fact is I had been drinking fluoridated water Until now.

Just months after Mesa added hydrofluosilicic acid to my drinking water, I was laid up with a severe attack. Two physicians independently diagnosed it as a recurrence of the old kidney infection. Both warned me not to drink fluoridated water ever again, not even to cook with it. I am not surprised so many people believe fluoridation is safe. I did — even while it was literally killing me. And if anyone had blamed it on fluoride back then I would have thought they were kooks.

My sensitivity to hydrofluosilicic acid may not be universal, but neither are the serious side effects often associated with prescription drugs. People react differently. Drugs that can be toler-

issues. It might prompt them to ask questions. It might even save a few lives.

And to set the record straight, I was never an anti-fluoride activist before. But I am one now.

Jan Hibbard is an officer and a director of the Valley Business Owners and Concerned Citizens Inc., a non-profit corporation that "promotes truth in government." She was also an unsuccessful candidate for Mesa City Council earlier this year.

ANOTHER VIEW

e blame guns, drugs, automo- and other inanimate objects me actions and thought pro- ses of fellow society members. are missing the point.
he so-called "scum" and "leach- of society understand the value ife and are doing us a favor. ey are simply ridding the world debt and burden.

Dean Ellsworth Jr.
Chandler

eople should work or what they want

In response to Marianne Jen- ngs' column, "Poster girls for the e of 'It's not my fault'" May 10: I ree. Something is terribly wrong th our society when people pect things to be done for them stead of working for it.
A quote from my parents: "No- dy can take your education from u, no matter what you do." Some und advice from people who ent their lives educating others. d parents think their kids don't ten.
Let's not rob people of their tential by taking away the will to scover it.

Bill Feld
Scottsdale

layor proves er even-handedness

I'm so proud of my mayor that I uld bust my buttons.
By her actions in honoring other eat religious leaders and reli- ons she has shown herself to be en-handed and fair.
She has been trying to promote lerance and recognizes that uch intolerance begins with reli- ons not recognizing and accept- g each of their rights to co-exist. Mazeltov! Mayor Cynthia!

Virginia Ramirez
Gilbert

ritted teeth

John's endorsement of Dubya owed about as much enthusiasm would a former POW's praise of s captors.

Lloyd Clark
Phoenix

became a personal matter and not a national one.

This was no oversight. The Founders felt very strongly that government had no business intruding on the private matter of man's relationship with his Creator.

So to avoid the chaos they saw in Europe where church and state were hopelessly intertwined, they purposely limited the scope of the Constitution to regulate only man's relationship with his fellow man. They didn't presume to legislate for God.

That was left to the churches and to individual conscience. The result was the godless U.S. Constitution, which has served churched and the unchurched of this nation very well for 200 years and has served as a model for many other nations.

Paul F. Gillman
Tempe

Liberals push separation too far

In your May 11 editorial, "Leave Buddha alone, ACLU," you state the truth of the First Amendment: "It prohibits government from establishing a state religion and also prohibits government from interfering in people's free exercise of their religion."

Liberal elements have forced it too far.

Morgan Fryman
Mesa

How to reach us

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labor, no OSHA, workman's compensation, business match of social security or minimum wage. He is for a raise in minimum wage for the little businesses left in this country that will burden them greatly. Soon they will find a way to ship "Made in China" hamburgers, pizza and restaurant meals here soon so we won't even need cooks.

Justine Peterson
Mesa

Power plant peril

As a homeowner in Finley Farms just north of the Santan Generating Station, let me say that I am unhappy with SRP's efforts to inform residents about the expansion. I have written to them regarding concerns as a "neighbor" and have heard no response to my inquiries.

Since Mike Evans (for whom I voted during the last council election) is quoted as saying that only three or four complaints have been voiced, let me say that we plan to organize the residents of Finley Farms and the surrounding developments if SRP is not more forthcoming about landscaping and frontage design, air quality concerns, current and future smog/smoke from the smokestacks, and exactly where on the property they intend to put this new plant. (Obviously set back from Warner where only locally visible from the commercial strip at Val Vista south of Warner would be preferable.)

My neighbors and I view the current "noise level" over development in south Chandler, etc., with distaste. However, that does not mean we will accept an enlarged facility just because STOP forced a reduction in Tempe.

Do not assume that just because residents are currently taking a wait-and-see approach that this gracefulness will continue if SRP is not responsive to residents' requests for information. They have done nothing to improve their image along the north side of their property (Warner Road) or to assure residents that they care about the appearance of their property or ours.

Mark Sequeira
Gilbert

I Got a story?

Letters

Disturbing facts on SRP proposal

Charlene Koski's report on the June 7 SRP open house greatly understated both the opposition to the San Tan expansion project and the genuine lack of information provided by SRP. I talked to most of the SRP representatives but found their statements were deliberately vague or half-truths. What I did learn is summarized below.

■ The San Tan plant currently operates intermittently to meet peak demand. SRP plans on running the expanded facility all day, every day at near full capacity.

■ SRP planned to expand both the Kyrene and the San Tan sites. Tempe's Kyrene expansion was downgraded to updating the existing equipment without increasing capacity. No one would answer how the shortfall from the Kyrene plant would be made up. To me this means SRP will be looking for a new plant site or an expansion of some existing site – including Kyrene or a further expansion of San Tan beyond the current plan. I have no problem with keeping the San Tan as is or improving its technology to reduce its pollution similar to the changes at Kyrene. I do however strongly object to converting this plant into a high capacity, full-time production plant. Major power production plants belong outside, not inside, residential areas.

■ SRP contends they won't be selling the power they generate to California. In reality SRP will use the power from San Tan in lieu of drawing power as they do now from out-of-area production sites, such as the plant at the Four Corners. This will allow them to sell power from outside the region to other areas, like California, and so it would be more accurate to call it an indirect sale.

■ 150-foot smokestacks are needed because the pollution is so much the EPA won't permit them to emit the noxious gases at any lower altitude. These monstrosities will be visible from I-60 so no amount of vegetation short of mature redwood trees will be able to mask them. While I was assured you won't see the pollutants emitted from the stacks, SRP reluctantly admitted you will see a huge cloud of steam from the turbines similar to the cloud you now observe at this site except now it will be bigger and all the time.

■ Incredibly SRP's impact study completely ignores the adverse affect this expansion will have on the real estate values of the surrounding communities. SRP likes to tell people about how their taxes will benefit Gilbert but they fail to recognize the losses in property taxes due to decreased home value SRP said the San Tan expansion on property they have owned for some 30 years was a recent decision but could not explain why SRP waited until AFTER the surrounding communities were built to expand this facility. If SRP had started as little as three to five years ago, there would have been little or no impact or opposition since the area was rural farming land. The statement that homeowners "should have known better before they moved in" applies ten-fold to SRP who have high paid, professional staff to plan out projects 10 to 20 year in the future.

In summary, the decision to place a major power plant inside of existing residential community is totally irresponsible, a dangerous precedent and a demonstration of their complete lack of concern for anything other than a quick, cheap solution to compensate for their inadequate planning.

T.J. Tampa
Gilbert

Tempe leaders show

China issue may hurt GOP

BY ROBERT A. JORDAN
THE TRIBUNE

The Republicans have a new image problem that may further diminish their chances of retaining control of Congress after the November election. This time it comes in the form of a backlash to the U.S. House of Representatives' passage last month of the bill granting China permanent normal trade relations status.

Before the May 24 vote on the China trade bill, a Reuters-Zogby poll asked voters which party they would support in this year's congressional elections. Voters split evenly, 36 to 36 percent, between Republicans and Democrats.

After the vote, pollsters posed the same question, and found that 44 percent of those responding supported Democrats and 36 percent favored Republicans. Another poll taken about the same time gave Democrats a 9-point margin.

There's no doubt among most political analysts that the Democrats in the House, who fought harder against the bill than the GOP, reflected the sentiment of most voters across the nation. Thus, Republicans have ended up with a blotch on their image.

It's not the first in recent memory. That came when the party, particularly its controlling right wing, impeached President Clinton over his affair with Monica Lewinsky. As the polls have shown, most voters' objections to the GOP's conduct toward Clinton was much stronger than their objections to Clinton's sexual mistakes.

Some Republicans suggested that voters would all but forget about the impeachment controversy by election time. But it seems that voters are not only remembering the impeachment, but adding the China vote to their list of grievances, especially when they weigh the candidacies of House incumbents.

The majority opposed the China bill for essentially the same reason as did Democrats: that it could cost U.S. workers their jobs, that China's human rights record was abysmal, and that Congress's annual review of that record should not have been eliminated by the bill.

These sentiments will be at play when voters in key congressional districts — those that will determine who controls the House — go the the polls.

Both parties know that if the Democrats gain six more seats in the House, they will again have the majority.

One key race is in Florida's 22d District, where GOP incumbent Clay Shaw voted for the bill, even though his area has, according to reports, historically offered general support for labor's issues, including organized labor's opposition to normalizing trade relations with China. A strong Democratic challenger could make this a close fight.

In California's 22d District, GOP incumbent James Rogan saw his poll ratings drop when he voted for impeachment. Now he may be in even more trouble with his support of the China bill. With Democratic challenger Adam Schiff making a strong bid, this race is also considered a tossup.

Another close race is seen in New Mexico's 1st District, where conservative Republican Heather Wilson voted for the trade bill in a swing district that was previously held by a Democrat. Her vote ran counter to the view of many constituents. She is facing a strong challenge from Democrat John Kelly.

Then there is New York's 2nd District on Long Island, the seat being vacated by Rick Lazio, who has replaced New York City Mayor Rudolph W. Giuliani as Hillary Clinton's GOP opponent for a U.S. Senate seat.

This is also considered a swing district that was held by a Democrat, Tom Downey, before Lazio was elected. With the district especially sensitive to layoffs and job losses in a a largely unionized area that includes an aerospace industry, this race, which has a number of candidates from both parties, is also a key for both parties. Clinton won this district in 1996.

Lazio voted for the China bill, but a majority of voters there may be looking for a candidate who will keep jobs from being exported overseas.

In New York's 1st District, incumbent Michael Forbes, a Republican who switched to the Democratic Party, voted against the bill. Democrats are working to keep him in office, and Forbes apparently is hoping that his vote as a new Democrat in his district will gain him the support of workers.

With their support for impeachment and the China trade bill, Republicans appear to be going against a majority of the nation's voters — and they did it again last week, when they engineered defeat of Patients Bill of Rights legislation. The public favors that bill, which would have given more protection to patients and along with the right to sue their doctors.

As the number of close congressional races indicates, Republicans may pay the price for not listening to the voices that elected them.

What goes through a father's mind

A few random thoughts from a father after his youngest daughter announced she will soon marry the young man she has been seeing for the past year:

Bob Carlisle's song, "Butterfly Kisses," keeps going round and round in my head. Having walked my oldest daughter down the aisle a few years ago, these feelings had already found a roosting place in me. Now they're back.

I think of my two lovely, no-b-auti-

John Summers

Jennifer has chosen her life-mate. It was her decision, a decision that I was allow-d to ... bed, or picking up socks on the floor, or what foods are forbidden in the house (liver and onions, in my case).

But these things will not detract from the joy of the wedding day. There's plenty of time to work through the difficult stretches.

In a few months, I'll be standing around in my rented tuxedo while my little girls — these beautiful young women — help each other get ready for Jennifer to start her new life as a mar-

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Letters

SRP glosses over big Santan issues

I am writing you opposing SRP's proposed Santan Power Plant expansion in Gilbert. I would specifically like to address some of the issues that SRP fails to fully address.

Issue No. 1: The new plant will generate additional school funding. SRP reports that $3 million per year ($68 million over 21 years) will go to Gilbert schools. This is very misleading. The amount Arizona school districts are allowed to spend for teacher salaries, supplies and other classroom costs is limited based on the number of students, not assessed valuation. Any additional tax dollars generated by the power plant would not generate additional funding for the school district. It would merely reduce the contribution by other taxpayers or reduce the state government contribution. Under Students FIRST legislation, the state pays for the district's current capital needs (school construction, building improvement and equipment). Local property tax dollars are only used to pay for old outstanding bonds or capital overrides.

Issue No. 2: Homeowner property taxes will decline. SRP stated at its open house June 7 that we could expect our property taxes to decline about $50 per year. My house has appreciated about 8 percent a year in the last two years. This comes to about $11,000 per year. After talking to real estate professionals at the open house, I have no doubt that this appreciation would be eliminated and maybe even reversed. It is easy to see the minuscule tax savings pales in comparison to the lost property value.

Issue No. 3: Home values will not be significantly affected. Officials have assured us that after a few years people will get used to the three 150-foot smokestacks visible for miles and home values will increase again. However, this ignores the fact that if homes are appreciating at a 10 percent rate and suddenly go flat for five years, that appreciation is not immediately recouped. In the sixth year the values will not suddenly jump 60 percent, but will resume the 10 percent growth. This 50 percent loss in home value (more than $70,000 in my case) is lost forever.

To conclude, I feel that SRP has followed a misleading pattern on these and other issues. Their mailings have never identified the proposed 150-foot-high smokestacks, effect on property values, and dangers to residents. Why have they done this? Simply because there is not substantial truth to support placing an industrial power plant in the middle of a residential neighborhood, right next door to a large little league facility and park, less than a mile from children at Finley Farms Elementary School.

I urge you to look into this matter further and support efforts to stop this plant expansion.

Lou Wiegand
Gilbert

Story debunking SkyTran was misleading

Tribune reporter Le Templar, and your headline writer, did Tribune readers a great disservice in the June 21 news report titled: "Officials unwilling to risk millions on monorail system." For starters, Templar not only got SkyTran's inventor's name wrong (it isn't "Dale," it's Douglas J. Malewicki), but the whole point of why Malewicki was in Chandler "pushing" his SkyTran magnetic levitation transportation system concept.So much for journalistic integrity, research, accuracy and fairness. It gets worse.

The article gives the impression that SkyTran was here begging "political leaders" for millions of taxpayer dollars to "gamble on one man's fanciful promises." The fact is that Malewicki was invited here by the Industrial Council of the Chandler Chamber of Commerce to make a presentation on SkyTran's cutting-edge, high-tech transportation technology. Malewicki, and SkyTran's VP for Technology Alliances, John Cole, spoke to about 40 East Valley "business leaders" who voluntarily came and paid for the $10-a-plate luncheon presentation because they were interested in the topic. Period!

So what does Templar do with what should have been a very simple business column? He turns it into a "bait and switch" column that says "Leaders believe light rail safe bet." Templar then proceeds to get quotes from a couple of government bureaucrats — "non-elected officials," including Jack Tevlin, a deputy city manager from Phoenix (didn't know that the East Valley had annexed Phoenix), and Jeff Martin, an assistant to the Mesa's city manager.

Tevlin throws out the red herring of Chicago Transit's $60 million failed experiment with Raytheon (Taxi 2000, an outdated clunker of an automated monorail system that definitely deserves to be thrown on the scrap heap). Martin then dutifully recites the mantra repeatedly used in Phoenix's Transit election that SkyTran "exists as a concept and a Web page. That's it."

Phoenix was so afraid of SkyTran's potential, low-cost and non-tax appeal during its recent transit election that it devoted an entire Web page to "Pie in the SkyTran" on its Transit 2000 Web site. The Transit 2000 campaign spent over $1 million largely to try to discredit SkyTran. Nonetheless, voters, SkyTran 21st Century technology is coming sooner than you think. And, light-rail is the 19th century technology that is still light-years away from reality in the Valley.

One would think that Templar would have asked a few of the business leaders from the Chandler COC Industrial Council, made up of representatives from high-tech companies like Intel, Motorola and Orbital, who actually attended the luncheon two very bottom-line questions — "What did you think of the presentation," and "Is SkyTran do-able?"

Sorry, but the Tribune missed the trolley on this one. The next trolley leaves BOB and AWA in about six years.

Jerry Spellman
Mesa

Give SkyTran a chance to show its stuff

An article in the June 21 Tribune indicated that Mr. Malewicki would build a demonstration installation of SkyTran at his expense if a city would grant land rights for it.

Making the assumption that a new Cardinals stadium will be built in northwest Mesa (and Tempe) one can envision large traffic problems occurring when the games are played. There will be a need to relieve as much of that traffic as is practical.

Building a SkyTran monorail system could help to relieve some of this congestion. I propose that Mesa grant Malewicki the opportunity to build his demonstration.

I suggest that the installation of a monorail loop that would go from the proposed stadium, south along Dobson, east on Southern, north on Alma School and back to the stadium would help relieve the congestion. This would provide sufficient length to allow for enough gliders to be included in the system and would allow for a number of stations to disburse the riders about the city. For example, on game days, the parking lots at Tri-City Mall, Mesa Community College and Fiesta Mall could absorb some of the parking.

This installation would not be expected to be profitable but if it proves to be acceptable to riders, the system could be extended within Mesa; perhaps as far as Williams Gateway Airport. This might encourage the startup of a local commuter airline to connect Mesa with such places as Tucson, Albuquerque, Las Vegas and San Diego. It would also tie together the MCC Campus with that at Gateway airport.

The next target would be Sky Harbor Airport.

In the meantime, like our Main Street statues, the SkyTran would attract numerous tourists to our city.

Kenneth L. Campbell
Mesa

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They have projected an increased year 2000 usage rate on which they are basing reduced emissions.

The new plant will use a Catalytic reduction system to reduce NOX. This process uses ammonia and requires the plant to operate within a certain temperature to prevent ammonia being released into the air. When ammonia escapes it is called ammonia slip and this should be a concern with people living so close to the plant.

SRP needs to show that they have studied other sites. There are no other specific sites that they have done a study on according to their report. They have already had a new set of transmission towers approved going north from the plant, along the same corridor as the old plant.

These will intersect an east-west line which will go to the eastern edge of the Valley and also west. Building out of town will require additional lines out of town into the desert.

This is their justification for not studying out-of-town sites. Since the Valley is expanding, they might as well build these lines out of town now, while the land is cheaper, and build the plant farther out where there will not be people nearby to breathe the pollution.

Or they could agree to a deal like in Tempe, where they are building a 250 mg plant and using the old one no more than 1 percent. That would satisfy local power needs, without turning what has been used as a plant to generate power on peak demand days into a major generating station.

Suzanne Pager
Gilbert

SRP did not object

Why is there such a controversy of the proposed expansion of the Santan Power Plant? Doesn't the property have rights granted years ago when the property was zoned, and SRP first began development of the site?

Why has SRP financed such an enormous campaign to convince the community that it is in the best interests of Gilbert, the east Valley, and the State of Arizona to allow expansion at this site? Why is SRP pushing so hard? There must be a substantial amount of money involved, and SRP is unprepared for the time it will take to relocate somewhere else.

Since SRP has failed in sending the opposition home, and since the opposition is not backing down to peer pressure, the best option SRP has is to threaten legal action against the town and attempt to have the town council pass their proposal. Over the years, town councils in Gilbert have not been intimidated by such threats.

However, knowing that SRP will try to make a strong legal appeal in attempting to gain the votes of the town council, I want to make one of my own.

I was a member of the Gilbert Town Council when almost all of the property around and near SRP's Santan Power Plant was approved. Most of the residential zoning was approved in 1993 and 1994. I was present, not only at the council hearings, but also the Planning and Zoning Commission and Design Review Board hearings.

In all of the many public hearings, not once, I repeat not once, did SRP object to residential zoning of the properties surrounding their power plant. This includes a General Plan Amendment of the property immediately east that was amended from industrial to residential.

It is unheard of and inexcusable for SRP to not come forward and publicly advise the community of any future expansion plans prior to a General Plan Amendment or Residential Zoning proposal.

In my opinion, SRP did not have plans at that time to expand and if they did, their silence at the public hearings in 1993 and 1994 forfeited their rights to come back in 2000 and claim they were here first. In a community that has almost no building over two stories and spent over one year planning on how to legally restrict unsightly cell towers near residential areas, the enormous smokestacks and other impacts that have been proposed are unacceptable. We live in a country where electricity is produced, purchased and sold on a grid. The only motivation for this location is the bottom line.

Are we going to support the residents of our community, or are we going to support the bottom line of SRP? In recent years, Gilbert residents have stood together and fought to protect their families from the major impacts of such proposals as the Arizona State Fair and Walmart.

The SRP proposal impacts the property values of thousands of homes in the immediate area. Contact your elected officials and let them know SRP had their opportunity to plan long before the immediate area became zoned residential.

Phil Long
Gilbert

The writer was a town councilmember from 1993 to 1999.

the Board would run a greater risk of having a member protest the Board's involvement if the Board publicly supported such a project, when the general community consensus is against the Project. To avoid any member challenges, the Board should not take a public stand on behalf of the Association, but encourage members to get involved as concerned citizens and to voice their own opinions.

If you have any questions, or would like assistance in dealing with SRP regarding the easement issue, do not hesitate to call. Thank you, as always, for the opportunity to be of assistance.

Sincerely,

Penny L. Koepke

Our aim: Keep the lights on

BY RICHARD M. HAYSLIP

At no time of the year is the value of electricity more apparent in the Valley than during the summer. As temperatures rise, so does our need for more energy.

SRP is committed to assuring that our customers have the electricity they need to operate their air conditioners, computers, pool pumps and lights.

That commitment is all the more challenging since the number of SRP customers has increased more than 15 percent during the past five years — a record 30,000 customers alone in 1999. Assuming at least two persons per customer account that means SRP must accommodate the equivalent of a new city with a population of 60,000 being added to its system in just one year.

Looking further ahead, we project that in the next few years there could be a significant gap between our customers' peak usage and what SRP can provide from our own power plants and other sources. In other words, when demand exceeds supply, shortage occurs — and that could cause your lights to dim or go out.

SRP has identified a number of alternative strategies to meet the challenge of unprecedented customer growth and we are working to implement them as quickly as possible.

Recently, SRP began construction on an important new transmission line in the East Valley that will help maintain reliability and accommodate growth in that region.

In addition, we are proposing to increase the generating capacity at both the Kyrene Generating Station in Tempe and the Santan Generating Station in Gilbert. SRP hasn't built a local generating facility since the 1970s, and it is critical that we expand our electricity supply at these two sites to ensure a reliable supply of energy for the East Valley.

SRP is and will continue to enlist the assistance of municipal leaders and the communities we serve to make certain that these expansion projects are accepted by their surrounding neighborhoods.

To that end, we have created a Community Working Group (CWG) in Gilbert that is advising us on how to mitigate the appearance, noise and air-quality impact a new generating station would have at the Santan site.

The Gilbert CWG's recommendations, which led to an Intergovernmental Agreement with the Town of Gilbert, will ensure a number of site improvement measures that will not only mitigate the visual impact of the proposed new facility but will enhance the appearance of the existing SRP property in Gilbert.

In addition, the public can weigh in on the decision-making process by visiting our website at www.santanfacts.org or by attending open house meetings. The next scheduled meeting is 5 to 8 p.m. on June 7 at the Finley Farms Elementary School in Gilbert.

Our proposed expansion plan at the Santan site would provide electricity for 150,000 to 200,000 homes. The new natural gas facility, using the most efficient fuel and state-of-the-art, combined-cycle technology, would be equipped with the best available emission-reduction technology and will be smaller, quieter and less intrusive than older power plants.

Before any new power facility is permitted to operate, it must demonstrate compliance with stringent air-quality requirements. Furthermore, when the new Santan plant is completed, it would be required to reduce specific emissions from other sources by as much as 120 percent — a net result in permanently retired emissions in Maricopa County.

Expansion of SRP's existing facilities at the Santan Generating Facility will alleviate the shortage of electricity and strengthen the electric grid by injecting additional power directly where it is needed.

As we head into another summer of triple-digit temperatures, it is vital that SRP acts now to meet the increasing demand for electricity in the East Valley. In California, utilities already are pleading with their customers to reduce their electricity use to help avoid energy shortages. U.S. Energy Secretary Bill Richardson has predicted summer energy shortfalls in many parts of the country as well.

SRP is committed to finding a solution to this very serious problem, one that affects the lives of our residential customers and the economic growth of East Valley businesses. We are just as committed to involving our customers in this process.

Please call SRP at (602) 236-2679 if you have any questions or thoughts on our need for local energy generation.

Richard M. Hayslip is manager of SRP's Environmental, Land and Risk Management department.

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Researchers applied simultaneous electrical currents to two

maintained its selection as the weaker current was increased and the stronger decreased.

another MIT researcher. "If you took our circuit, you could cut a wire and it would still work the same."

logical networks operate, said Dean Buonomano, a neurobiology professor at the University of California at Los Angeles.

Computers begin to tax power grids

INTERNET DRAIN: Utility groups say computers consume 13 percent of nation's power

THE ASSOCIATED PRESS

SAN FRANCISCO — As California's tech-savvy businesses and households plug into an increasingly wired economy, the state's power system is sputtering like a frayed electrical cord.

The decision by California energy regulators earlier this week to temporarily turn off the power in parts of heat-ravaged Northern California hammered home a point that Silicon Valley leaders have been trying to make for some time: The promising New Economy could be short-circuited unless steps are taken to upgrade California's power grid.

"The Internet has had far more of an impact on the (power) grid than we had foreseen," said Justin Bradley, director of environmental programs for the Silicon Valley Manufacturing Group, a trade organization. "It could be a very ugly situation this year and next, particularly if the weather doesn't cooperate."

Northern California's record heat wave — with the normally cool San Francisco tying an all-time record of 103 degrees in mid-June — would have drained the state's power supply, no matter what.

But the advent of personal computers and the Internet is making it more difficult for power suppliers throughout the United States to keep up with the digital age's increased demands.

Computers consume about 13 percent of the nation's power, according to EPRI Corp., a Palo Alto research and development group that studies the utility industry.

The Internet's borderless community also is taxing U.S. power suppliers because about 80 percent of online traffic comes through this country.

To handle all the Internet action, businesses are turning entire offices into warehouses for the powerful computer servers and peripheral equipment needed to navigate networks. These so-called "server farms" consume 10 to 12 times more power than the traditional office building filled with human workers.

Add it all up, and "We are pushing our energy transmission system harder than ever before," said Karl Stahlkopf, EPRI's vice president of power delivery. "Improving our power system is going to be absolutely necessary if we are going to reach the productivity gains (envisioned) in the New Economy."

Computers aren't California's only energy drain. The state's population — already the largest in the country — is increasing at an annual clip of about 600,000 people, many of whom are flocking to the state to cash in on high-tech prosperity.

Pacific Gas and Electric Co., the largest power supplier in Northern California, is scrambling to keep up with the growth. When temperatures soared June 14, PG&E's electricity demand hit a record 23,362 megawatts, a 19 percent increase from the peak level just five years ago.

To meet such strong demand, California imports 19 percent of its electricity from neighboring states, according to the Independent System Operator, which regulates the state's power grid. That option might not be as readily available in the future because of the rapid growth in population in other Western states such as Nevada, Arizona, Oregon and Washington.

Some help is on the way for California. Five power plants, with a combined capacity of about 3,600 megawatts, have been approved by the California Energy Commission. An additional 14 power plants are under consideration.

Winning approval for future power plants usually is a daunting task in California because of environmental concerns and resistance from residents who don't want the facilities in their communities. Calpine Corp., for instance, wants to build a power plant in San Jose — the biggest city in the Silicon Valley — but already has encountered opposition from the city's mayor.

Environmentalists believe the high-tech industry should be exploring other ways to address its energy needs before lobbying for more power plants.

"There are lots of ways for companies and factories to manage their energy usage better," said David Nemtzow, president of the Alliance to Save Energy, a nonprofit group in Washington, D.C. "They can get more efficient equipment and shift more work to off-peak hours. Building more power plants may be necessary, but it should be the last place that you look for answers."

The around-the-clock demand of the New Economy is redefining the traditional concept of off-peak time.

James Macias, a Calpine vice president who has worked in Northern California's energy industry for 22 years, remembers a time when a power outage in the middle of the night wasn't a big deal because relatively few customers were inconvenienced.

"Now if you have a 30-minute outage at 3 a.m., it's a big problem because everything in business is tied to being online and operating 24 hours a day," Macias said. "Hopefully, people will take these blackouts as a wake-up call because they're going to happen again."

ON THE NET

- **CALIFORNIA ALLIANCE FOR JOBS:** http://www.rebuildca.org
- **CALIFORNIA ENERGY COMMISSION:** http://www.energy.ca.gov

Market information as of 4 p.m. EDT June 22

Dow Jones Industrial Average 10,376.12

ONE U.S. DOLLAR EQUALS:

1.4764 2.0853 660

MARKET INDEXES:

Name	Close	Net change
20 Transportation	2612.76	-36.65
15 Utilities	323.09	-2.49

MONEY RATES:

Name	Last
Prime	9.50

FOREIGN STOCK INDEXES:

Name	Last	Net change
Hong Kong	15952.36	-285.78

COMMODITIES:

GOLD SILVER COPPER

& Money

SATURDAY
May 20, 2000
SECTION D

Tom Tingle/The Arizona Republic

per mining industry on Arizona dropped by a third in 1999, due

r's falls ona

Mexico targeted and eventually won Asarco Inc.

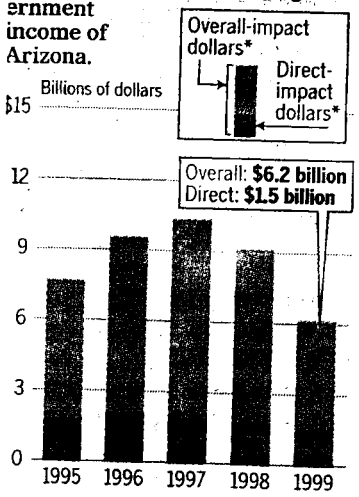
"Maybe the industry has valleyed out," association President Chuck Shipley said. But he cautioned that the future probably holds steady increases in copper's economic impact, rather than any sharp rebound.

The 1999 impact brought the industry back to the level it was at in 1993.

The study showed that the copper industry contributed $1.5 billion in direct impact on Arizona in 1999, down 18 percent from $1.8 billion the year before. Direct impact is the income that employees, suppliers and local governments receive from

Mining's impact drops

Results of economic-impact studies measuring the contributions of the copper industry to the personal, business and government income of Arizona.



*Direct-impact dollars: Income employees, suppliers and local governments receive from mines. Overall-impact dollars: Ripple effect of spending by the above.

Source: Western Economic Analysis Center

The Arizona Republic

more workers.

The Marana-based Western Economic Analysis Center, which did the study, adds direct and indirect impacts to calculate the copper indus-

Power line for Mexico

Demand sparks Tucson proposal

By Max Jarman
The Arizona Republic

Tucson Electric Power Co. plans to build a high-voltage electric transmission line from the Tucson area into northern Mexico.

The line would connect the Western Power Grid with its counterpart in Mexico and enable TEP and other electric companies to sell electricity to power-hungry Mexico.

The project is being driven by a growing demand for electricity in Mexico due to the country's increasing industrialization and improved standard of living. To meet the demand, the Mexican government is encouraging U.S. power producers to build transmission links to Mexico.

Last year, Public Service Co. of New Mexico announced a similar project with French conglomerate Alstom. The two companies plan to build a 300-mile transmission line from Palo Verde Nuclear Generating Station west of Phoenix to a facility operated by government-owned Commission Federal de Electricidad in Santa Ana, Sonora. The line has yet to clear regulatory hurdles.

The TEP line also will connect with the government-owned substation in Santa Ana. The first leg of TEP's line, from Tucson to Sahuarita, will be constructed in a joint venture with Citizens Utilities. The Arizona Corporation Commission has ordered Citizens to improve its service in Santa Cruz County.

POWER | Line to serve Mexico

From Page D1

The project, which is in the early planning stage, is designed to improve electric service reliability in Santa Cruz and Pima counties as well as strengthen the electric power grid in the Southwestern United States, according to TEP. Cap Rock Energy Corp., which is buying Citizens' electric assets in Arizona, will assume Citizens' rights in the project when the deal closes.

"This is a great opportunity for us," TEP spokesman Larry Lucero said. He added that the company has not yet selected a path for the line, nor has it set a firm start date for construction.

Both TEP and Citizens are seeking input from those who could be affected by the project, including environmental groups, customers and property owners to determine a route for the transmission line that will be cost-effective and have the minimal environmental impact on the area.

Reach the reporter at Max.Jarman@ArizonaRepublic.com or (602) 444-7351.

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From

nese markets given other W Lamy and C Trade Minist sheng sealed five days of talks that cap fitful negotiat to join worl making body night meetin negotiators a lunch with Rongji fixed t "This agree fundamental i parties," a sm Lamy after cheers and

TREASURY BONDS

RATE	MATURITY	BID	ASKED	WKLY CHG	ASK YLD
5.50	May 00 p	100.00	100.02	*	1.88
6.25	May 00 p	100.01	100.03	*	1.90
5.38	Jun 00 p	100.01	100.03	+0.01	4.38
5.88	Jun 00 p	100.02	100.04	*	4.42
5.38	Jul 00 p	99.28	99.30	+0.01	5.53
6.13	Jul 00 p	100.01	100.03	+0.01	5.52
6.00	Aug 00 p	99.31	100.01	+0.02	5.70
8.75	Aug 00 c	98.20	98.20	+0.05	6.05
8.75	Aug 00 p	100.19	100.21	*	5.73
5.13	Aug 00 p	99.23	99.25	+0.04	5.87
6.25	Aug 00 p	100.00	100.02	+0.02	5.87
4.50	Sep 00 p	99.09	99.11	+0.02	6.30
6.13	Sep 00 p	99.27	99.29	+0.01	6.34
4.00	Oct 00 p	98.29	98.31	+0.03	6.37
5.75	Oct 00 p	99.21	99.23	+0.02	6.39
5.75	Nov 00 p	99.19	99.21	+0.02	6.45
8.50	Nov 00 c	97.01	97.02	+0.07	6.36
8.50	Nov 00 p	100.29	100.31	+0.01	6.40
4.63	Nov 00 p	99.00	99.02	+0.04	6.45
5.63	Nov 00 p	99.16	99.18	+0.03	6.46
4.63	Dec 00 p	98.23	98.25	+0.02	6.68
5.50	Dec 00 p	99.07	99.09	+0.01	6.69
4.50	Jan 01 p	98.15	98.17	+0.02	6.68
5.25	Jan 01 p	98.31	99.01	+0.01	6.67
5.38	Feb 01 p	98.31	99.01	+0.01	6.72
7.75	Feb 01 c	95.09	95.10	+0.05	6.68
7.75	Feb 01 p	100.21	100.23	-0.01	6.68
11.75	Feb 01	103.19	103.21	-0.03	6.49
5.00	Feb 01 p	98.21	98.22	+0.01	6.74
5.63	Feb 01 p	99.04	99.06	+0.01	6.71
4.88	Mar 01 p	98.12	98.13	+0.01	6.82
6.38	Mar 01 p	99.19	99.21	*	6.78
5.00	Apr 01 p	98.11	98.13	+0.01	6.78
6.25	Apr 01 p	99.15	99.17	*	6.77
5.63	May 01 p	98.27	98.29	+0.01	6.78
8.00	May 01 c	93.20	93.21	+0.03	6.82
8.00	May 01 p	101.02	101.04	*	6.77
13.13	May 01	105.27	105.29	-0.04	6.76
5.25	May 01 p	98.14	98.15	+0.02	6.82
6.50	May 01 p	99.20	99.22	*	6.80
5.75	Jun 01 p	98.26	98.28	+0.01	6.82
6.63	Jun 01 p	99.23	99.25	+0.01	6.81
5.50	Jul 01 p	98.14	98.16	+0.01	6.82
6.63	Jul 01 p	99.22	99.24	*	6.82
7.88	Aug 01 c	91.31	92.00	+0.04	6.89
7.88	Aug 01 p	101.04	101.06	*	6.84
13.38	Aug 01	107.16	107.18	-0.03	6.83
5.50	Aug 01 p	98.10	98.12	+0.01	6.85
6.50	Aug 01 p	99.16	99.18	*	6.84
5.63	Sep 01 p	98.11	98.13	+0.02	6.87
6.38	Sep 01 p	99.10	99.12	+0.02	6.86
5.88	Oct 01 p	98.19	98.21	+0.01	6.86
6.25	Oct 01 p	99.04	99.06	+0.02	6.85
7.50	Nov 01 p	100.26	100.28	+0.01	6.87
15.75	Nov 01	112.07	112.09	-0.04	6.86
5.88	Nov 01 p	98.17	98.19	+0.02	6.86
6.13	Dec 01 p	98.27	98.29	+0.02	6.85
6.25	Jan 02 p	98.31	99.01	+0.02	6.85
6.38	Jan 02 p	99.05	99.07	+0.01	6.86
14.25	Feb 02	111.25	111.27	-0.02	6.85
6.25	Feb 02 p	98.31	99.01	+0.02	5.83
6.50	Feb 02 p	99.11	99.13	+0.02	5.84
6.50	Mar 02 p	99.10	99.12	+0.02	6.85
6.63	Mar 02 p	99.17	99.19	+0.02	6.85
6.38	Apr 02 p	99.04	99.06	+0.02	6.82
6.63	Apr 02 p	99.18	99.20	+0.03	6.83
7.50	May 02 c	87.15	87.16	+0.06	6.86
7.50	May 02 p	101.05	101.07	+0.01	6.82
6.50	May 02 p	99.11	99.13	+0.03	6.82
6.25	Jun 02 p	98.26	98.28	+0.03	6.82
3.63	Jul 02 f	99.03	99.05	-0.02	4.03
6.00	Jul 02 p	98.10	98.12	+0.03	6.80
6.38	Aug 02 c	86.00	86.02	+0.06	6.85
6.38	Aug 02 p	99.02	99.04	+0.04	6.80
6.25	Aug 02 p	98.25	98.27	+0.04	6.80
5.88	Sep 02 p	97.29	97.31	+0.03	6.82
5.75	Oct 02 p	97.18	97.20	+0.03	6.82
11.63	Nov 02	110.18	110.20	*	6.88
5.75	Nov 02 p	97.15	97.17	+0.03	6.83
5.63	Dec 02 p	97.04	97.06	+0.04	6.81
5.50	Jan 03 p	96.23	96.25	+0.03	6.83
6.25	Feb 03 c	83.04	83.06	+0.04	6.85
6.25	Feb 03 p	98.16	98.18	+0.02	6.83
10.75	Feb 03	109.10	109.12	-0.01	6.91
5.50	Feb 03 p	96.20	96.22	+0.02	6.83
5.50	Mar 03 p	96.16	96.18	*	6.84
5.75	Apr 03 p	97.04	97.06	+0.02	6.82
10.75	May 03	110.05	110.07	-0.01	6.89
5.50	May 03 p	96.12	96.14	+0.02	6.82
5.38	Jun 03 p	96.01	96.03	+0.02	6.79
5.25	Aug 03 p	95.15	95.17	+0.01	6.80
5.75	Aug 03 p	96.28	96.30	+0.01	6.82
11.13	Aug 03	111.31	112.01	-0.02	6.90
4.25	Nov 03 p	92.07	92.09	+0.02	6.78
11.88	Nov 03	115.02	115.04	-0.01	6.91
4.75	Feb 04 p	93.11	93.13	+0.02	6.78
5.88	Feb 04 p	96.31	97.01	+0.02	6.78
12.38	May 04	118.24	118.26	*	6.89
5.25	May 04 p	94.21	94.23	+0.02	6.78
7.25	May 04 p	101.13	101.15	+0.01	6.82
6.00	Aug 04 p	97.04	97.06	+0.03	6.77
7.25	Aug 04 p	101.17	101.19	*	6.80
13.75	Aug 04	124.24	124.26	-0.02	6.88
5.88	Nov 04 p	96.16	96.18	+0.03	6.78
7.88	Nov 04 p	103.31	104.01	+0.01	6.82
11.63	Nov 04 b	73.24	73.27	+0.06	6.88
11.63	Nov 04 k	118.01	118.03	-0.01	6.86
7.50	Feb 05 p	102.22	102.24	+0.01	6.80
6.50	May 05 p	98.27	98.29	+0.03	6.76
6.75	May 05 p	100.04	100.06	+0.05	6.70
12.00	May 05 b	71.10	71.13	+0.07	6.88
12.00	May 05 k	121.11	121.13	+0.01	6.85
6.50	Aug 05 p	98.22	98.24	+0.02	6.78
10.75	Aug 05 b	70.03	70.07	+0.08	6.88
10.75	Aug 05 k	116.27	116.29	*	6.84
5.88	Nov 05 p	95.29	95.31	+0.03	6.76
5.63	Feb 06 p	94.21	94.23	+0.03	6.75
9.38	Feb 06 b	68.02	68.06	+0.03	6.80
9.38	Feb 06 k	111.27	111.29	+0.03	6.82
6.88	May 06 p	100.13	100.15	+0.02	6.78
7.00	Jul 06 p	100.31	101.01	*	6.79
6.50	Oct 06 p	98.16	98.18	*	6.78
3.38	Jan 07 f	94.26	94.28	-0.03	4.27
6.25	Feb 07 p	97.08	97.10	*	6.75
7.63	Feb 02-07	100.26	100.30	*	7.03
6.63	May 07 p	99.08	99.10	*	6.75
6.13	Aug 07 p	96.15	96.17	+0.01	6.74
7.88	Nov 02-07	101.21	101.23	-0.02	7.10
3.63	Jan 08 f	95.24	95.26	-0.03	4.27
5.50	Feb 08 p	92.25	92.27	*	6.70
5.63	May 08 p	93.13	93.15	-0.01	6.70
8.38	Aug 03-08	103.19	103.21	-0.01	7.08
4.75	Nov 08 [illegible]	87.20	87.22	*	6.67
8.75	Nov 03-08	105.01	105.03	+0.01	7.07
3.88	Jan 09 f	97.02	97.04	-0.08	4.28
5.50	May 09 p	92.13	92.15	-0.02	6.63
9.13	May 04-09	107.02	107.04	+0.02	7.04
6.00	Aug 09 p	95.28	95.30	*	6.59
10.38	Nov 04-09	112.21	112.23	+0.03	7.01
4.25	Jan 10 f	100.01	100.03	-0.09	4.24
6.50	Feb 10 p	99.29	99.31	-0.01	6.50
11.75	Feb 05-10	118.22	118.24	-0.01	7.01
10.00	May 05-10	112.11	112.13	+0.01	7.00
12.75	Nov 05-10	125.27	125.29	+0.01	6.98
13.88	May 06-11	133.08	133.11	+0.01	6.96
14.00	Nov 06-11	136.08	136.10	+0.02	6.94
10.38	Nov 07-12	119.30	120.00	+0.02	6.90
12.00	Aug 08-13	131.19	131.21	+0.02	6.89
13.25	May 09-14	142.00	142.02	+0.02	6.89
12.50	Aug 09-14k	137.28	137.30	+0.03	6.88
11.75	Nov 09-14k	133.26	133.28	+0.03	6.84
11.25	Feb 15 b	38.05	38.10	-0.04	6.62
11.25	Feb 15 k	142.01	142.03	-0.09	6.71
10.63	Aug 15 b	37.00	37.05	-0.04	6.61
10.63	Aug 15 k	137.03	137.05	-0.10	6.69
9.88	Nov 15 b	36.14	36.19	-0.04	6.60
9.88	Nov 15 k	130.12	130.14	-0.09	6.69
9.25	Feb 16 b	35.30	36.04	-0.04	6.58
9.25	Feb 16 k	124.24	124.26	-0.09	6.68
7.25	May 16 b	35.18	35.24	-0.02	6.55
7.25	May 16 k	105.25	105.27	-0.09	6.65
7.50	Nov 16 b	34.09	34.14	-0.06	6.57
7.50	Nov 16 k	108.11	108.13	-0.08	6.65
8.75	May 17 b	33.05	33.10	-0.08	6.58
8.75	May 17 k	120.30	121.00	-0.09	6.66
8.88	Aug 17 b	32.21	32.26	-0.08	6.57
8.88	Aug 17 k	122.13	122.15	-0.08	6.66
9.13	May 18 b	31.05	31.10	-0.07	6.56
9.13	May 18 k	125.17	125.19	-0.09	6.66
9.00	Nov 18 b	30.06	30.11	-0.07	6.56
9.00	Nov 18 k	124.20	124.22	-0.10	6.66
8.88	Feb 19 b	29.25	29.30	-0.08	6.54
8.88	Feb 19 k	123.18	123.20	-0.09	6.65
8.13	Aug 19 b	28.29	29.02	-0.09	6.53
8.13	Aug 19 k	115.30	116.00	-0.09	6.64
8.50	Feb 20 b	27.31	28.05	-0.10	6.53
8.50	Feb 20 k	120.08	120.10	-0.11	6.64
8.75	May 20 b	27.19	27.24	-0.09	6.52
8.75	May 20 k	123.05	123.07	-0.11	6.64
8.75	Aug 20 b	27.06	27.12	-0.08	6.51
8.75	Aug 20 k	123.10	123.12	-0.11	6.63
7.88	Feb 21 b	26.15	26.20	-0.09	6.49
7.88	Feb 21 k	114.01	114.03	-0.09	6.61
8.13	May 21 b	26.01	26.06	-0.09	6.49
8.13	May 21 k	116.30	117.00	-0.10	6.61
8.13	Aug 21 b	25.21	25.26	-0.09	6.48
8.13	Aug 21 k	117.01	117.03	-0.10	6.61
8.00	Nov 21 b	25.11	25.16	-0.08	6.47
8.00	Nov 21 k	115.27	115.29	-0.10	6.60
7.25	Aug 22 b	24.10	24.15	-0.08	6.43
7.25	Aug 22 k	107.21	107.23	-0.11	6.58
7.63	Nov 22 b	23.28	24.01	-0.08	6.45
7.63	Nov 22 k	112.00	112.02	-0.10	6.59
7.13	Feb 23 b	23.21	23.26	-0.07	6.41
7.13	Feb 23 k	106.12	106.14	-0.11	6.57
6.25	Aug 23 b	23.02	23.07	-0.07	6.39
6.25	Aug 23 k	96.13	96.15	-0.08	6.55
7.50	Nov 24 b	21.16	21.21	-0.06	6.35
7.50	Nov 24 k	111.14	111.16	-0.11	6.55
7.63	Feb 25 b	21.09	21.14	-0.05	6.32
7.63	Feb 25 k	113.02	113.04	-0.13	6.54
6.88	Aug 25 b	20.20	20.25	-0.05	6.32
6.88	Aug 25 k	104.05	104.07	-0.11	6.53
6.00	Feb 26 k	93.16	93.18	-0.10	6.52
6.75	Aug 26 k	102.28	102.30	-0.11	6.51
6.50	Nov 26 k	99.27	99.29	-0.10	6.51
6.63	Feb 27 k	101.15	101.17	-0.09	6.50
6.38	Aug 27 k	98.13	98.15	-0.07	6.49
6.13	Nov 27 k	95.11	95.13	-0.07	6.48
3.63	Apr 28 f	93.01	93.03	-0.10	4.04
5.50	Aug 28 k	87.17	87.19	-0.06	6.46
5.25	Nov 28 k	84.18	84.20	-0.05	6.43
5.25	Feb 29 k	84.27	84.29	-0.04	6.41
3.88	Apr 29 f	97.09	97.11	-0.11	4.03
6.13	Aug 29 k	96.26	96.28	-0.05	6.36
6.25	May 30 k	100.09	100.11	-0.12	6.22

DIVIDENDS

FRIDAY DIVIDENDS DECLARED

	Period	Stk rate	of record	payable
IRREGULAR				
APT Satelli Hldg	x	.3594	5-25	8-7
x- approx amount.				
Amer Insd Mtg 86	...	.025	5-31	8-1
Amer Insd Mtg 88	...	.32	5-31	8-1
AustNewZeal Bk	x	.8412	5-25	7-13
x- approx amount per ADR.				
CadbrySchwpsDel A	...	.8391	6-14	6-15
Central Securs	x	.50	6-2	6-23
x- includes .44 from capital gains.				
Deutsche TelkomAG	x	.57	5-25	6-5
x- approx amount.				
DomResBlackWar un	...	.6057	5-30	6-9
NAIC Growth Fd	...	.045	6-30	8-1
PortugalTelecom	x	.1639	5-25	6-5
x- approx amount per ADS.				
Utd News&Media	x	.3763	4-14	5-25
x- approx amount per ADR.				
STOCK				
Calpine Corp	x	5-29	6-8	
x- 2 for 1 split.				
Hanover Compressor	x	5-30	6-13	
x- 2 for 1 split.				
Sun Bancorp Inc	...	5pc	6-7	6-21
Telident Inc	x			
x- 1 shr of Teltronics for every 7.6 shrs of Telident held eff. 5-30.				
Tiffany & Co	x	6-20	7-20	
x- 2 for 1 split.				
Timberland Co A	x	6-30	7-17	
x- 2 for 1 split.				
Vishay Intertech	x	5-30	6-9	
x- 3 for 2 split.				
INCREASED				
Area Bcshrs	Q	.06	6-16	7-3
Centex Corp	Q	.05	6-27	7-18
Fst Finl Cp Ind	S	.52	6-13	7-3
Power Corp Cda	Q	.15	6-9	6-30
Quixote Corp	S	.15	6-1	7-6
Royal Bk Canada g	Q	.60	7-25	8-24
TransAtlantic	Q	.135	9-8	9-15
United Fire&Cas	Q	.18	6-1	6-15
Vista Bancorp	Q	.15	6-1	6-9
Wellco Enterprises	S	.15	6-2	6-16
INITIAL				
Golden Isles Finl	...	.08	5-16	6-1
REDUCED				
Ohio Casualty	Q	.12	6-1	6-10
CORRECTION				
Ensco Intl	x	.025	6-1	6-15
x- correcting amount.				
RESUMED				
UAL Corp	...	.3125	5-30	6-15
REGULAR				
AIM 85	M	.22	5-31	8-1
Acadia Rlty Tr	Q	.12	6-30	7-15
Allstate Corp	Q	.17	5-31	7-3
Amcore Finl	Q	.16	6-2	6-9
Arrow Intl	Q	.06	5-31	6-15
Ashland Inc	Q	.275	5-30	6-15
BancWest Corp	Q	.17	6-1	6-15
Big Foot Finl	Q	.05	5-31	6-15
CNS Bancorp Inc	Q	.09	5-30	6-9
Champion Industr	Q	.05	6-9	6-26
Chateau Communit	Q	.515	6-30	7-14
Centerpoint Props	Q	.5025	7-27	8-10
China Tire Hldgs	Q	.02	6-16	6-30
Cigna Hi Inco Shrs	M	.06	5-26	6-9
CityBank Wash	Q	.06	6-12	6-23
CommercialNatFinl	Q	.17	5-30	6-10
Comerica Inc	Q	.40	6-15	7-1
Donaldson Co	Q	.07	5-30	6-13
DonaldsonLufkinJen	Q	.0625	7-14	7-28
Fst Fedl F				
Greater B				
Green Mt				
Grey Advo				
Innes Stre				
JC Penny				
Key Corp				
Mass Hlth				
Mass Hlth				
Mass Hlth				
Mass Hlth				
MLMacac				
MSDW				
Magal Se				
Manulife				
Morgan				
OGE Ener				
Patrick In				
Peoples B				
Perkinelr				
Post Prop				
Rayonier				
Republic				
Rivliana F				
SL Indust				
South Jer				
Stirling				
Tandy				
Trenwic				
Tri-Coun				
True Nort				
Uni-Inves				
United Pa				
Williams				
Young &				

AMERICAN STOCK EXCHANG

52-WEEK HIGH	52-WEEK LOW	STOCK	TICKER	FRIDAY VOL	FRIDAY CLS	FRIDAY CHG	WEEKLY VOL	WEEKLY HIGH	WEEKLY LOW	WEEKLY CHG
		A								
19.63	3.75	AMC	AEN	361	4.38	+.38	1,808	4.50	3.88	-.06
1.75	.19	ARC	ATV	170	.31	*	932	.31	.22	+.06
4.69	.94	ARVLiv	SRS	20	1.06	*	1,240	1.25	1.00	-.06
6.13	1.38	AT Plas g	ATJ	10	1.94	-.06	70	2.00	1.94	*
219.13	166.38	ATT Fd	ATF	71	171.13	-6.00	455	184.50	169.44	-7.50
6.63	3.88	ATCross	ATX	216	5.81	-.19	907	6.06	5.63	-.19
8.88	4.13	Ablest	ABI	100	5.00	+.25	149	5.06	4.75	+.19
20.88	13.13	Acadiana	ANA	17	14.00	-.50	22	14.50	14.00	-.75
7.69	3.00	AccessP n	AKC	389	3.25	*	3,424	4.63	3.00	-1.50
2.88	.81	AcmeU	ACU	123	2.13	-.38	510	2.50	1.88	-.19
5.63	1.25	Acsys	AYS	159	4.88	*	932	4.94	4.88	*
▲13.75	7.50	Admiisc	AE	356	13.88	+.19	945	14.25	12.25	+1.88
10.75	3.00	AdvMag	AVM	123	6.88	+.25	219	7.13	6.50	+.25
18.25	.44	AdvPhot	API	1,305	2.13	-.13	9,630	2.44	1.81	+.25
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	*	[illegible]	[illegible]	[illegible]	[illegible]
18.75	5.50	Coll b	COB	2,032	10.44	+.56	6,716	10.69	9.50	+.94
6.25	5.25	ColumbEn	EGY	1	5.63	-.13	40	5.75	5.56	*
3.63	1.00	Comforce	CFS	4	1.69	+.13	437	1.69	1.25	+.19
22.69	12.94	Comincg	CLT	60	15.88	+.94	4,212	15.88	14.94	+.06
5.81	4.13	CmclAst	CAX	100	5.19	*	307	5.19	5.13	*
2.75	.22	CmdrAp	CIQ	507	1.19	-.13	3,205	1.38	1.13	-.19
.63	.02	CmdrA wt	CXI/WS	60	.25	-.06	223	.38	.25	*
22.38	15.81	CmtyBkPa	CTY	2	18.38	-.13	25	18.81	18.38	-.44
10.88	6.00	CmtyCap	CYL	8	6.38	-.19	33	6.63	6.25	*
23.50	4.88	CompTch	CTT	94	14.69	-.19	317	15.00	14.13	-.06
18.25	7.81	Comptek	CTK	177	15.88	-.38	855	16.75	15.63	-.13
4.00	.50	Cmptrc	LLB	386	.94	-.06	1,557	1.25	.94	-.19
12.00	.38	Cmputrn	CFW	975	2.38	-.13	4,563	2.94	2.25	-.25
4.88	1.50	ConsDel	CDV	121	2.00	+.06	208	2.00	1.88	+.06
17.25	11.00	CnsTom	CTO	31	12.13	*	463	12.50	12.13	*
1.50	.22	Continucre	CNU	98	.69	-.06	411	.88	.69	-.13
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
17.25	9.19	HectorCm	HCT	30	13.75	+.63	232	13.75	11.50	
19.00	5.88	Hemispx	HEB	1,266	6.13	-.06	4,052	6.44	6.00	
15.00	2.13	Hmlsph wt	HEB/WS	48	2.25	-.38	405	2.75	2.19	
6.00	4.00	Hersha	HT	29	5.50	-.13	304	5.75	5.50	
5.88	2.00	HiShearT	HSR	45	2.25	-.25	249	2.50	2.00	
15.75	9.25	HollyCp	HOC	31	10.13	*	2,132	10.13	9.25	
5.50	1.06	HlywdCas	HWD	768	4.63	-.13	2,513	5.50	4.50	
▼ 7.50	1.00	HmeSecr	HSI	55	.75	-.25	144	1.31	.75	
18.75	8.50	HooperH s	HH	34,969	13.00	-4.50	42,607	17.88	10.00	
6.75	1.88	HrznMed	HMP	61	2.06	-.06	149	2.25	2.06	
7.63	2.25	HorlzPhm	HZP	48	3.13	*	959	4.00	3.00	
2.88	1.06	HostFdg	HFD	4	1.25	-.13	90	1.38	1.06	
5.00	1.13	Hotelwrks	HWS	117	1.19	-.06	587	1.38	1.13	
9.50	5.25	HovnEn	HOV	80	5.75	-.25	521	6.13	5.75	
10.50	4.50	HungTel	HTC		6.13	*	82	6.38	5.88	
15.50	4.63	ICH Cp	IH	11	6.00	-.19	39	6.38	6.00	
2.75	[illegible]	[illegible]	[illegible]	129	1.50	*	571	1.63	1.31	

Does SRP belong so close to home?

Yes: Record-high usage proves need to expand

BY BILL MEEK
SPECIAL TO THE TRIBUNE

Opponents of Salt River Project's San Tan expansion program have every right to express their views and rally opposition to SRP's plans if they choose. But they tend to dismiss the critical need for new local generation as if some power genie will appear to keep the lights on in the East Valley.

Citizens Opposed to San Tan would serve their neighbors better if they acknowledged some basic truths about electricity supplies.

■ Truth No. 1: The western U.S., including Arizona, is running dangerously low on electric capacity, especially during the peak summer season.

In 2005, when San Tan is scheduled to go into operation, states that make up the inter-connected western power grid will need almost 15,000 megawatts more generating capacity than they have. That's according to the North American Electric Reliability Council which monitors the stability of the grid system. SRP's projected shortfall is about 1,850 megawatts.

The effects of scarcity are already widespread this summer. SRP and APS have hit record peak demands and have barely avoided cutting off customers. California has experienced curtailments and brownouts.

Peak electric prices have reached 40 times normal levels and large businesses in the Northwest are shutting down rather than pay soaring electric costs.

SRP added 30,000 new customers in the past year, most of them in the East Valley, and Gilbert is the poster child for this growth. The town has been doubling in population every five years, from 30,000 in 1990 to an estimated 110,000 today. SRP must have new resources to meet this demand.

■ Truth No. 2: SRP can't reach outside the Valley for the power it needs between now and 2005.

Several companies are rushing to build new power plants outside the metro Phoenix area. In time, they will lessen the regional scarcity problem. But, as things stand today, there is no way to get that power into Phoenix or the East Valley. During the summer season, the import capacity of the transmission system into the Valley is used up, maxed out.

That's a key reason why both SRP and APS are building new generating plants inside their metro Phoenix service areas.

Eventually, more transmission into the Valley must be built, but locating transmission corridors in urban areas is time-consuming and often contentious because a transmission line can affect dozens of neighborhoods and thousands of residents.

For example, SRP and APS have worked jointly for about three years to site a new transmission line that would increase the flow of power from the Palo Verde switchyard into westside communities. They have hit opposition at every turn and are still unable to file a proposed route for state approval.

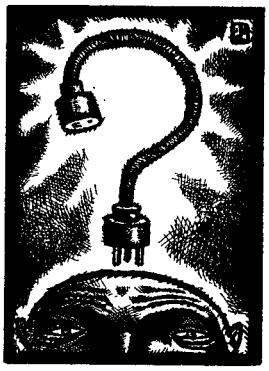
■ Truth No. 3: System reliability requires local generation.

Even if SRP could import enough power to meet demand growth, it would still need local generation to keep the delivery system stable. Electricity loses voltage as it travels through wires. Local generation provides the power to keep voltage at acceptable levels, protecting against system failures. As electric load increases, the need for voltage support rises with it.

Twice this summer delivery systems in California have been pushed to the brink of collapse because of inadequate generation to keep voltage levels up when temperatures were hitting 100 degrees. As one official told The Wall Street Journal, "We were 2,000 volts away from a crisis."

■ Truth No. 4: Everyone in the East Valley shares the need for reliable electricity and they will share the consequences if the system can't deliver.

Bill Meek is president of the Arizona Utility Investors Association which includes many East Valley residents among its 6,500 members.



'In 2005, when San Tan is scheduled to go into operation, states that make up the inter-connected western power grid will need almost 15,000 megawatts more generating capacity than they have.'

BILL MEEK
Arizona Utility Investors Association

'Our most important goal is to make sure that everyone knows about the smoke stacks.'

CATHY LATONA
Citizens Opposed to San Tan

TRIBUNE FILE

Young protester: Alex Jordan, 3, joins her mother, Yolanda, June 7 at a Citizens Opposing San Tan rally outside the Salt River Project open house at Finley Farms Elementary School in Gilbert.

No: Plant would make unfriendly neighbor

BY CATHY LATONA
SPECIAL TO THE TRIBUNE

Over the past few weeks, I have read a healthy flow of articles from SRP and from COST (of which I am part). All have been fairly strong minded but always civil. Recently, I have noticed an unfair amount of negativity toward COST.

I wanted to set the record straight, at least from my perspective, as to what our intentions are. I also want you to know that I have on many occasions calmed people's fears and actually defended SRP.

A perfect example was when someone wanted to distribute some propaganda stating that the expansion could cause cancer. I said no way; we at COST won't do that. Not without professional support from an environmentalist or health care professional who has reviewed SRP's plans.

Most of the members of COST that I have had contact with agree with me that we do no justice to ourselves to use "scare tactics" to gain attention. I personally wish to apologize to anyone who has come to the wrong conclusion about us.

We are simply a group of homeowners in the very immediate area who are concerned about the environmental and economic impact that such a power plant could have on our community and our children. We know of no other such plant in the United States that is built so close to a residential area.

Because of this, we have no data to help calm our fears. We don't have the funds to hire the professionals we would need and therefore are hoping that the Arizona Corporate Commission will perform these studies on our behalf.

We've asked SRP to fund these independent professional studies for the residents of Gilbert. For them it would be petty cash and, if the confidence is there, they should want us to feel safe in our homes.

Our most important goal is to make sure that everyone knows about the smoke stacks. Most of the literature that we have seen published by them has failed to mention the stacks. This makes us paranoid. If the confidence was there on SRP's part, why not a full disclosure? Instead, what we have seen seems to be sugar coated.

I can't tell you how many people in this area still don't know about the expansion. Those that do, for the most part, do not know that the smoke stacks are part of it. They've just been told that the Valley is running out of power and SRP is coming to Gilbert and to the rescue.

They will also be giving our town many gifts. It's funny but several times last week, the news reported that the Valley reached all time record highs for electrical demand. Where were all the brownouts? Not in my area.

If we were running out, wouldn't there be signs of it already? Rather than expanding the power plant that we have, can't it just be modified and then another power plant built somewhere else away from a residential area?

I know the visual eyesore created by this plant will have impact because I have owned homes in the past that have had their value affected by negative nearby visuals that were 100 times less dramatic than what we envision these smoke stacks to be.

If SRP is so confident that we will not be effected, why not give all of us in the immediate area an equity guarantee or the money to hire an independent professional for our own market survey and environmental review? We are open to talking with SRP about these issues and have made several efforts to get answers from them.

We will keep trying and will maintain a calm demeanor in the process. We are just concerned homeowners with a passion to protect what we have worked hard to achieve. How can that be wrong?

Cathy LaTona is a Gilbert resident and committee member of Citizens Opposed to San Tan.

CPS workers make tough calls amid daily criticism from all sides

The heated permanency

They're criticized if they

Group looks to strengthen Hispanic vote

Campaign pushes registration

BY DAVID ROSENFELD
TRIBUNE

About two dozen people hit the streets Saturday to register people to vote as part of an ongoing effort aimed at empowering the voice of Hispanic residents.

Members of the Mesa Association of Hispanic Citizens knocked on doors and set up camp outside local supermarkets within the 4th Congressional District, an area with close to 35 percent Hispanic residents. The effort, named Latino Vote 2000, in conjunction with the Southwest Voter Registration Education Project, has registered about 470 people in the last six weeks, said coordinator Napoleon Pisano.

The 4th Congressional District covers the area south to Baseline Road, north to Main Street, east to Gilbert Road and west to Country Club Drive.

"It's been somewhat frustrating to go out there and not get the numbers we'd like but it's all part of the process. We're in it for the long run," volunteer Phillip Austin said.

Most of the volunteers reported registering about six people after a half-day of work Saturday. Many residents contacted were either already registered or undocumented. Although numbers haven't been quite as high as expected, those with the group say getting Hispanics more involved in politics is a long, slow process.

"Some of these people may not be able to vote but they have four or five kids and they're working in the community. Those kids will be eligible when they turn 18. Change in a society takes time," volunteer Tafoya Matias said.

Austin said he doesn't think increased Hispanic involvement in elections will influence one party or another.

"We just want to get them out there and vote. We're completely nonpartisan," Matias said.

However, Austin said, there are certain issues, such as Proposition 203 that would eliminate bilingual education programs, which should be of particular interest to Hispanics.

Mesa resident and recent Arizona State University graduate Isabel Gonzalez said it feels good to get involved in the community.

"I've noticed how many people just aren't interested in politics. I think it's pretty sad. Coming out on a Saturday is the least I can do," Gonzalez said.

The last day to register to vote in the Nov. 7 election is Oct. 9. Until then, the group plans to continue working to get more voices heard.

"The road of a thousand miles takes one step at a time," Austin said.

MARTHA STRACHAN/FOR THE TRIBUNE

Benefit scrub: Kimber Biggs, center, gets help from Kelsey Thomas, left, and Chaundra Elaina Olson during a benefit carwash for the Mikelle Biggs fund. Mikelle has been missing since January 1999.

Carwash aids hunt for missing girl

BY ALIA BEARD RAU
TRIBUNE

Mesa residents used a carwash Saturday morning to show they still have hope.

Friends and family of 13-year-old Mikelle Biggs, who disappeared almost two years ago, washed cars at the Applebee's Neighborhood Grill & Bar on North Higley Road to pay for fliers and help the family follow leads across the country.

"We wanted to do some awareness fund raising to help get Mikelle's name out there," said Tracy Biggs, Mikelle's mother. "As long as we keep her name and face out there, people will remember. And they'll remember to keep a better eye on their own kids and neighbors' kids."

Mikelle disappeared Jan. 2, 1999, from the 1800 block of East El Moro Avenue while waiting for an ice cream truck. She is described as white, 4 feet 8 inches tall, weighing about 65 pounds. She has brown hair and hazel eyes and was last seen wearing a red short-sleeved shirt and bell-bottom jeans.

Applebee's employees and several girls, including Mikelle's sister, Kimber, 11, laughed as they worked, getting themselves soapier than the cars. Those who stopped by were just happy to help.

Tracy Biggs also spent part of the day painting house numbers on the sidewalks of those interested in donating funds. A visible address makes it easier for emergency vehicles to find a home, she said.

"It's been like a roller coaster," she said of the past months, looking down at a button she wears with the word HOPE. "Some leads come in and they don't affect you. Others do. You never know when it's going to hit you."

She said the family is checking into some new leads, but could not comment on details.

Jan Chatwin of Gilbert used to live near the Biggs family. He was out early, leading the number painting. "We will do this until there is a closure," he said. "She was special. I don't think they'll ever lose hope."

His son, Chris, agreed he couldn't imagine the family ever giving up. "What if she does turn up?" he said. "How can you say I stopped looking for you six months ago?"

Anyone with information on Mikelle can call the Mesa police tip line at (480) 644-2002. Donations are being accepted at any Bank of America location.

A benefit carwash for Chris Secondo, 15, also focused on finding hope Saturday morning at the Mobil station at University Drive and Lindsay Road.

Secundo was struck by a van Aug. 16 at McKellips and Lindsay roads in Mesa while riding his bike. He was in a coma for several days and suffered two broken legs, a broken pelvis and head injuries.

He was released from a hospital earlier last month. Money raised will go toward head trauma rehabilitation and medical bills that insurance will not cover.

Firms back expansion of Santan plant

SRP submits 10 letters of support for project while Gilbert residents oppose it

BY CHARLENE KOSKI
TRIBUNE

Amid growing residential opposition to Salt River Project's expansion of the Santan power plant in Gilbert, several East Valley organizations and businesses released statements in September supporting the project.

At a public hearing for a certificate of environmental compatibility, SRP presented 10 letters of support from organizations including the East Valley Partnership, Gilbert Chamber of Commerce, the Tribune and the Home Builders Association of Central Arizona.

About 2,500 residents oppose the plant's expansion at Val Vista and Warner roads. Some of those opponents said they believe the letters support building a plant but not necessarily at that site.

"We didn't see (the organizations) saying SRP should build here necessarily, but that they support SRP's contention for a need for power. ... I don't think so far anybody would dispute that," said Mark Sequeira, an opponent of the expansion.

Sequeira said he plans to call many of the organizations' leaders as witnesses at the next hearing, scheduled for later this month, to clarify that point.

Tony Hyland, chairman of the Gilbert Chamber of Commerce, said the chamber spent a long time deciding whether to support the expansion and decided to because it is the best option presented so far.

"If something surfaces that appears to be an alternative that will provide the same thing at the same cost, we're not closed to that," Hyland said.

Scott Morrison also wrote a letter of support for the expansion. The SRP presentation listed Morrison as chairman of the Gilbert Town Economic Development Advisory Committee. Morrison said his letter represented only his own view.

"From my personal read of the board, the board would support (the expansion), but we did not take a vote on it," he said.

Morrison said he based his opinion on information received from SRP and "general news awareness." He added that he supports the location of the expansion because he believes not putting it in would increase the number of power lines brought into the area.

messages aimed at the protesters and survivalists and claiming a link to a centrally controlled financial world, according to government documents filed in federal court.

Zidar, formerly of Gilbert, and Chandler resident John Wesley Matthews were ordered Thursday by a federal court in Seattle to halt [illegible] Seattle, claiming they've cheated investors of more than $40 million, selling worthless investments in a get-rich-quick scheme laced with government conspiracy theories.

The defendants could not be reached for comment. Zidar's Payson telephone number has been [illegible] the defendants' properties.

Platka-Bird is the author of "Just-In-Case Food Pantry," a book recommending foods to stock in the event of hurricane, riots or economic crisis. Rice ran a World Community associated west-Phoe-

Please see **FEARS,** Page **A4**

DARRYL

SRP plant proposal draws ire

Gilbert homeowners, town official upset over lack of notice on proposed station

BY ED BAKER
TRIBUNE

Salt River Project's decision to build a small power plant in a Gilbert neighborhood — without notifying local residents — has homeowners and one town official in an uproar.

The five megawatt natural gas-fired generating station, to be located southwest of Guadalupe and McQueen roads, will be constructed by the end of the summer and run on high demand days, said Scott Harelson, an SRP spokesman.

The plant, which is in addition to the expansion of an existing power plant at Val Vista Drive and Warner Road, will include a 30-foot smokestack.

The proposal shocked the town's elected officials Thursday and angered area residents.

"No way. This is unbelievable," said Dick Standifer, whose home is near SRP's 9-acre Corbell receiving station, site of the proposed plant. "As far as we knew when we moved in here all it was going to be was what it is now."

Told by the Tribune that SRP was planning to start construction of the plant next month, Gilbert Councilman Mike Evans responded:

"I'd like to talk to SRP and hear what they have to say and what their explanation is about why I had to hear this from the press. That's not the level of public notification that I think is appropriate."

Harelson said the public had not been notified because the decision to

Please see **SRP,** Page **A6**

INSIDE

Smokers still costly

■ The amount Arizona will receive from a multistate tobacco settlement is much smaller than the money the state spends on smokers, a report shows, **A4**

ANN LANDERS	D7	MOVIES	D5
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BUSINESS	B1	OBITUARIES	A15
CLASSIFIED	E1	OPINION	A16
COMICS	D6	PUZZLES	D7, E28
HOROSCOPE	D7	SCREENS	D1
LOCAL	A3	WEATHER	C8

Vol. 52, No. 135

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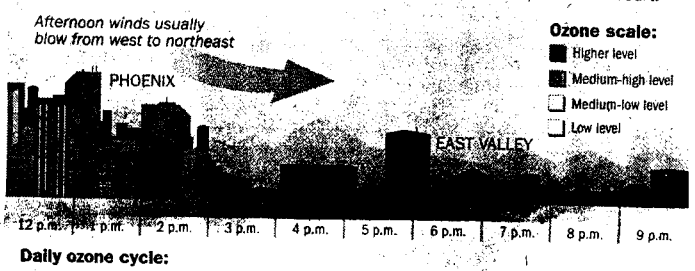
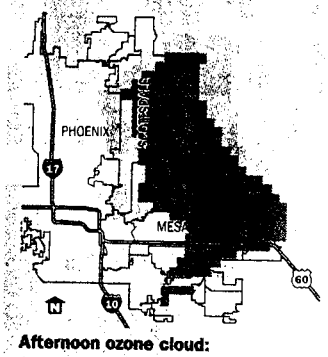
Valley ozone

The Valley has been meeting current federal ozone pollution standards since 1997, but eastern and northern parts of the Valley have air quality that would violate proposed tougher ozone standards. Ozone forms in warm, sunlit air from reactions of precursor chemicals – volatile hydrocarbons and nitrogen oxides – emitted by cars and other sources. The U.S. Environmental Protection Agency says the tougher standards are necessary to protect public health, but enforcement has been tied up in federal court.



Daily ozone cycle:

On typical summer days, ozone concentrations begin accumulating in the Valley by about noon, from reactions of precursor chemicals emitted during the morning. The reactions take time, and prevailing afternoon winds push the chemicals toward the east and north. The combination of time lag and wind often puts highest ozone concentrations over eastern and northeastern parts of the Valley in the late afternoon. The wind disperses the ozone overnight and the cycle starts again the next morning.



Afternoon ozone cloud:

Ozone concentration tends to be highest in the East Valley in the late afternoon.

SOURCE: Maricopa County Environmental Services and Arizona Department of Environmental Quality

Health effects:

The ozone layer in Earth's upper atmosphere is beneficial to health because it blocks harmful ultraviolet radiation, but ozone in the air close to the ground is unhealthy.

- It is a severe irritant, can sting the eyes.
- It can cause choking or coughing.
- It damages lung tissue, aggravates respiratory diseases, makes people more susceptible to respiratory infections.
- When ozone concentrations are high, emergency room visits for asthma attacks increase as much as 36 percent.

What you can do to help:

- Reduce driving - combine trips.
- Car pool, ride the bus, telecommute.
- Go electric when buying gardening equipment
- Call 254-5000 for bus route information.

SCOTT KIRCHHOFER/TRIBUNE

East Valley hit hard by ozone pollution

Winds blow concentrations of eye, lung irritant to area; levels begin to build June 1

BY GUY WEBSTER
TRIBUNE

The ozone pollution season is fast approaching. And that means, if you live in the East Valley, you could be in harm's way.

Ozone forms in hot, sunlit air, usually beginning to reach levels of concern about June 1. It is an invisible pollutant that irritates eyes and lungs and aggravates asthma.

During ozone alerts, residents with asthma or other respiratory problems are advised to avoid outdoor activity.

When ozone concentrations are high, emergency room visits for asthma attacks increase as much as 36 percent. Asthma is about twice as common in Arizona as in the nation as a whole.

The good news is that cleaner-burning gasoline, pollution alert programs and other measures have produced successes. The Valley's air has not violated current federal ozone standards for the past three years.

The bad news is that ozone pollution hits the East Valley and Northeast Valley the hardest.

Ozone takes a few hours to form in the sunlit air each day, from reactions of chemicals emitted by cars and other sources. While the concentration is building from those reactions, the Valley's afternoon wind typically pushes the tainted air toward the east and northeast;

Please see **OZONE,** Page **A4**

House, S advance for educa

Hull upset that prc on tobacco settlem

BY DAN NOWICKI
TRIBUNE

Teachers would be eligible for raises of up to $3,000 a year under separate education funding plans advanced by House and Senate Republican leaders Thursday.

The proposals, which would generate more than $300 million for public schools without raising taxes, would also add five days to the school year.

But both spending plans rely on some money from the state's $3.1 billion settlement with U.S. cigarette makers — which Gov. Jane Hull wants reserved for health-care needs — and both give short shrift to higher education.

Hull, who wants to ask voters to approve a 0.6 percent sales tax measure in November, is underwhelmed by both proposals, but certain aspects of both may have some merit, an aide said late Thursday.

But neither Republican legislative proposal would raise the estimated $450 million a year that the governor's

plan w legislat would teacher

Gov. Ja Hull: Disappo by both an aide

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Concern grows over Chandl man's possible deportation

BY MATT BURGARD
TRIBUNE

Prosecutors spent more than months agonizing over what to do with Garcia-Morales.

On the one hand, they said, Ga Morales, 41, had to face charges for sh ing a thief who was caught breaking his truck last August.

On the other, they said, the Chan homeowner and legal Mexican immigr has been a model citizen since arriving the United States 15 years ago. He held a steady job as a landscaper, raise son who is about to graduate from C

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arch pollsters.

million dollars would om the tobacco windfall. $216 million would come tting state budget growth cent and from postponing te tax cuts and credits en't gone into effect

cost said university bud- be addressed during the ular legislative session.

n't think it's fair for the willing to tighten its own belt," said Groscost, adding that state bureaucracy growth is already more than twice the rate of inflation.

The House plan would exempt formula-driven budget priorities, such as public education, community colleges and indigent health services, from the growth restrictions.

The competing Senate Republican proposal, dubbed TEACh, or $2,000 to $3,000 merit bonuses for teachers who "advance" their students at least one full grade level each year.

The Senate plan, which would allocate $309 million in its first year, also would extend the 175-day school year by five days.

The Senate proposal would be bankrolled by a combination of general fund dollars, "redirected" school administration money, and interest from tobacco settlement now earmarked for the state's Student FIRST program to repair decaying schools. Students FIRST instead would be funded by money borrowed through revenue bonds. The tobacco-settlement component may be referred to the November ballot.

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'grossly unfair'

t who also stole the is truck. The next day, lorales stayed home k to repair the damage ise and wait for the bur- turn for the truck.

the burglar, Adolfo laldonado, 29, walked riveway and used the pen the truck, Garcia- ran out with his regis- n and confronted the edina-Maldonado held rm as Garcia-Morales gun, striking the thief in

a-Maldonado staggered street after the shoot- nowed up several hours handler Regional Hospi- he was treated for his He is now in jail after onvicted of burglary nd federal authorities port him to Mexico.

rsday's hearing, Mari- unty Superior Court aniel Barker accepted agreement reached Stalzer and Garcia- attorney, Neal Taylor of copa County Office of Defender.

said Garcia-Morales, not speak English, is with the agreement, rries a maximum sen- 1½ years in jail and a $150,000 fine.

Authorities said Garcia-Morales will likely receive probation when he is sentenced June 23.

But Garcia-Morales' wife, Taylor said, is worried that federal authorities will deport her husband despite his contributions to the community. The couple's son has expressed an interest in a career in law enforcement, Taylor said.

"Here's a guy who has done everything right, lived a good life. He's the kind of person that makes this country strong," Taylor said.

Taylor pointed out that his client stands 5 feet 2 inches and weighs just over 125 pounds, while the thief he encountered was more than 5 feet 8 inches.

"He was not about to get into a fight with this guy," Taylor said.

Under the plea agreement, Garcia-Morales must also pay Chandler Regional Hospital the cost of treating the thief's gunshot wound. The costs must not exceed $3,000, Barker said.

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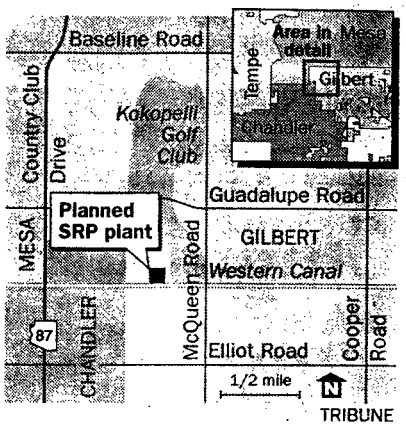
SRP: Residents have little say

From Page **A1**

build the plant, which will cover less than one acre, was just recently made by SRP officials.

Residents will have little say over the project. Because the plant is smaller than 80 megawatts, SRP will not need to go through public hearings at the county or state level. All it needs to begin building is an air quality permit from the Maricopa County Department of Environmental Quality.



An SRP spokeswoman said Thursday the utility giant is confident it will get the permit. Plans to provide information and work with homeowners in the nearby El Dorado Lakes neighborhood are under way, said SRP spokeswoman Janeen Rohovit.

The utility has been scrambling to find ways to create additional power after agreeing to reduce by 70 percent a proposed expansion of its Kyrene Generating Station in south Tempe.

Harelson said Thursday the Gilbert plant is a pilot program and one of the company's alternatives to creating additional power. If the small power plants are successful, they may reduce the need for additional transmission lines throughout the Valley, he said.

But the company may not have cleared all hurdles yet. It has requested an easement for a natural gas line from Gilbert to provide gas to the plant. It's unclear whether that will require Town Council approval.

"I have only had a sketchy briefing," said Town Manager Kent Cooper. "We'll have to ask our attorneys."

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SRP should turn lights on

Gilbert residents trying to stop Salt River Project from building a clean, natural-gas-fired power plant that would ensure a reliable electricity supply as the town grows should reconsider. They could end up with something much worse.

Like power outages. Or those big, ugly electric transmission lines.

Meanwhile, though, SRP should rethink its approach to East Valley electric-power planning. Public opposition to its proposed power plants in Tempe and Gilbert is largely of SRP's own making because neighbors weren't consulted before plans were finalized.

Nobody likes surprises. Especially when those surprises come with tall smokestacks.

But let's consider those "smokestacks." There won't be any smoke coming from them. The proposed Kyrene power plant in Tempe and the San Tan plant in Gilbert would be about as clean as power plants can be — fueled by natural gas and utilizing the very latest and most efficient technology.

Both the Kyrene and San Tan sites are large enough that the stacks would hardly be noticeable. Certainly not as noticeable as those high-tension transmission lines that would have to be strung through neighborhoods if SRP were forced to build its future power plants outside the growth area.

SRP's strategy to keep up with skyrocketing power demands is both technically and environmentally sound. The new gas-fired plants would ensure a clean, reliable source of electricity as the East Valley grows, without the need for obtrusive transmission lines.

To supplement its larger power plants,

SRP officials should invest the time and effort required to present residents of growing areas of the East Valley with all the options.

SRP engineers are considering building smaller plants — about the size of an average house — at selected power substations in the Valley to help meet electric demand spikes that occur in the summer. But one of the first such planned mini-plants in Gilbert was nixed last week after residents heard about it even before SRP's executives.

Which would indicate there's a serious communications short-circuit at SRP.

People have every right to be concerned about what developers, city officials or power company execs have planned for their neighborhood. Lots of folks moving into newer East Valley subdivisions are moving away from problems they experienced in their former neighborhoods and want to stop potential trouble before it occurs.

But there are trade-offs. Not everyone wants a Wal-Mart or power plant in their neighborhood, but we all want inexpensive, reliable electricity in our homes and businesses. That is why SRP officials should invest the time and effort required to present residents of growing areas of the East Valley with all the options for expanding the power supply.

Then ask residents which option they prefer.

There won't be any easy solutions, but at least there won't — or shouldn't — be any surprises.

East Valley Tribune

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Democrats have always fought for better public education, Campaign finance reform, saving soci security given to us by FDR, and medicine by LBJ.

Thank God no Americans are fighting and dying anywhere on the globe.

June Mads
Phoer

Liddy's not the one

On May 17 I attended a gathering of the Young Republicans in central Phoenix to witness a debate between the candidates from Congressional District 1. I went to the debate because I am usure for whom I will vote in the coming election. I am still not sur Most of the candidates sounded pretty credible.

However, I do know one person for whom I am definitely NOT going to vote: Tom Liddy. I was greatly displeased with what I heard at the debate because it wa just a continuation of his negative propaganda that you have already sufficiently printed in your paper.

The man could say nothing pos tive about what he wants to do. H spent his time complaining and insulting his competitors. I am no much for cliche, but perhaps the saying, "Like father, like son," is appropriate.

I did agree with him on one thing, though. Early on he criticized Hillary Clinton for moving t New York just to run for office. That does, of course, appear to b the exact same thing Tom Liddy doing. How long has Tom Liddy lived in CD-1? Did he move to CD-1 just to run for office?

I think his people might sugges he not bring up Hillary Clinton ar her problems since they so close mirror his own.

Rex L. Stan
Chandl