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2010 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR

RANCHO DORADO OWNERS ASSOCIATION

*A Residential Planned Development Community*

**NOTICE**

(Gov't. Code §12956.1)

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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**2010 AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
FOR  
RANCHO DORADO**

A Residential Planned Development Community

THIS 2010 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS is made on the day and year hereinafter written, by Rancho Dorado Owners Association, a California nonprofit mutual benefit corporation ("Declarant"), with reference to the following Recitals.

**RECITALS**

Declarant is a corporation that owns the Common Area lots and whose Members are the Owners of all the residential Lots within that certain real property in the City of San Marcos, County of San Diego, State of California, more particularly described in Exhibit "A" attached hereto and made a part hereof ("Community").

The Community was developed as a Planned Development, as defined in section 1351(k) of the California Civil Code, and consists of two hundred seventy-six (276) residential Lots and sixteen (16) Common Area lots.

The Community is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the following documents:

The Declaration of Restrictions for Rancho Dorado recorded August 1, 2000 as File/Page No. 2000-0406634;

The Declaration of Annexation for Rancho Dorado (Monte Verde – Phase 2) recorded August 1, 2000, as File/Page No. 2000-0406636;

The Declaration of Annexation for Rancho Dorado (Loma Real – Phase 3) recorded August 1, 2000, as File/Page No. 2000-0406638;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 4 – La Fuente Phase 2) recorded September 15, 2000, as File/Page No. 2000-0496933;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 5 – Loma Real – Phase 2) recorded September 26, 2000, as File/Page No. 2000-0514180;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 6 – Monte Verde Phase 2) recorded September 21, 2000, as File/Page No. 2000-0506489;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 7 – Los Reyes Phase 1) recorded November 9, 2000, as File/Page No. 2000-0610483;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 8 – La Fuente Phase 3) recorded November 9, 2000, as File/Page No. 2000-0610491;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 9 – Monte Verde Phase 3) recorded November 9, 2000, as File/Page No. 2000-0610489;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 10 – Loma Real – Phase 3) recorded November 13, 2000, as File/Page No. 2000-0614878;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 11 – Los Reyes – Phase 2) recorded November 9, 2000, as File/Page No. 2000-0610485;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 12 – Monte Verde Phase 4) recorded November 9, 2000, as File/Page No. 2000-0610487;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 13 – Loma Real Phase 4) recorded November 13, 2000, as File/Page No. 2000-0614880;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 14 – Los Reyes Phase 3) recorded February 20, 2001, as File/Page No. 2001-0094509;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 15 – Loma Real Phase 5) recorded February 20, 2001, as File/Page No. 2001-0094511;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 16 – Monte Verde Phase 5) recorded February 20, 2001, as File/Page No. 2001-0094513;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 17 – Los Reyes Phase 4) recorded August 7, 2001, as File/Page No. 2001-0558719;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 18 – Loma Real – Phase 6) recorded April 5, 2001, as File/Page No. 2001-0205857;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 19 – Los Reyes Phase 5) recorded August 7, 2001, as File/Page No. 2001-0558722;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 20 – Loma Real – Phase 7) recorded April 24, 2001, as File/Page No. 2001-0252155;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 21 – Los Reyes Phase 6) recorded November 15, 2001, as File/Page No. 2001-0833584;

The Declaration of Annexation for Rancho Dorado (Proposed Rancho Dorado Phase 22 – Loma Real – Phase 8) recorded November 15, 2001, as File/Page No. 2001-0833586;

all in the Official Records of the County Recorder of San Diego County. The Declaration listed in No. 1 above and the Declarations of Annexations listed in Nos. 2 through 22 above shall be referred to herein collectively as the "Original Declaration" unless the context clearly indicates otherwise

Declarant now desires to amend and restate the Original Declaration and replace it in its entirety with this Restated Declaration, except that those exhibits to the Original Declaration which identify Brush Management Areas and Association Maintenance Areas shall be incorporated herein by this reference. Declarant further desires that, upon recordation of this Restated Declaration, the Community shall be subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens, and charges contained herein, and that this Restated Declaration take the place of the recording of the Original Declaration.

The Original Declaration, in Article 13, Section 13.3 provides that it may be amended by the affirmative vote or written consent of sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the Voting Power of the Association. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of the Voting Power has been obtained.

Under California Civil Code section 1355, an amendment is effective after (1) approval of the percentage of Owners required by the Governing Documents has been given, (2) that fact has been certified in a writing executed and acknowledged by the Association President if no Officer has been designated in the Declaration for such purpose, and (3) the writing has been recorded in the County in which the Community is located.

NOW, THEREFORE, Declarant hereby declares that all of the Community is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Restated Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Community. All provisions of this Restated Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Community, and shall be binding on and for the benefit of all of the Community and all parties having or acquiring any right, title, or interest in all or any part of the Community, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Lot.

## DECLARATION

### ARTICLE 1 – DEFINITIONS

1.1 **"In General"** Unless otherwise defined herein, capitalized terms or words used in this Restated Declaration shall have the definitions in this Article, or in the Davis-Stirling Common Interest Development Act (California Civil Code section 1350 et seq., hereafter "Act") or in the California Nonprofit Corporation Law (California Corporations Code section 5002 et seq.). Words not defined in the Declaration, the Act or in the Corporations Code shall be understood in their ordinary and popular sense, as determined by the context in which they are used, unless the context indicates that the term or word is a defined term which was inadvertently not capitalized.

1.2 **"Applicable Law"** means the statutes and public laws and ordinances in effect at the time a provision of the Governing Documents is applied, and pertaining to the subject matter of the Governing Documents provision. Statutes and ordinances specifically referenced in the Governing Documents are "Applicable Law" on the date of the Governing Document, and are not intended to apply to the Community if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

1.3 **"Architectural Committee"** means the committee, if any, appointed by the Board pursuant to Article 8 herein.

1.4 **"Architectural Rules"** means the Rules regulating modifications and alterations to the Lots adopted pursuant to Section 8.6 herein.

1.5 **"Articles"** [Corp. Code §5035] mean the Articles of Incorporation of Rancho Dorado Owners Association, filed in the Office of the Secretary of State of the State of California on May 25, 2000, as File No. 2051896, and any amendments thereto now existing or hereafter adopted.

1.6 **"Association" and "Declarant"** [Civil Code §1351] means Rancho Dorado Owners Association, a California nonprofit mutual benefit corporation created for the purpose of managing a common interest development.

1.7 **"Association Maintenance Areas"** means those areas on the Lots or other areas outside the Common Area which are the responsibility of the Association pursuant to Article 6 herein.

1.8 **"Board"** [Corp. Code §5038] means the Board of Directors of the Association. One or more members of the Board of Directors may be referred to as a "Director" or "Directors."

1.9 **"Brush Management Areas"** means those areas identified on the "Brush Management Exhibit" attached to the Declaration and some of the Declarations of Annexation listed in Recital C herein.

1.10 **"Budgeted Gross Expenses"** means all expenses identified on the annual operating budget for the fiscal year, including all operating expenses and amounts to be deposited into the reserve accounts, but excluding any amounts budgeted to be expended from the reserve accounts for that fiscal year.

1.11 **"Bylaws"** [Corp. Code §5037] means the Bylaws of the Association and any amendments thereto.

1.12 **"Capital Expenditure" or "Capital Improvement"** means the use of Association funds to construct or build an addition to the Community, where such use of funds is optional under the Governing Documents, rather than mandatory, and is not otherwise required by Applicable Law. For purposes of the Governing Documents, the maintenance, repair or replacement of Improvements within the Community which the Association is obligated to maintain, using materials of similar kind, or using materials which are needed due to changes in building or fire codes or due to discontinued fabrication or unavailability, or using materials that have substantially similar cost over the useful life of the material shall not be considered a Capital Expenditure or Capital Improvement, notwithstanding that such expenditure or Improvement may be considered a Capital Expenditure or Capital Improvement for tax purposes.

1.13 **"CFD"** means the Communities Facilities District No. 98-2 which maintains certain desiltation basins and public equestrian and pedestrian trail systems located within and adjacent to the Common Area.

1.14 **"Common Area"** [Civil Code §1351] means those portions of the Community and all Improvements thereon owned by Association for the common use and enjoyment of the Owners identified as Common Area on Exhibit "A" herein. The Common Area shall include the Cost Center Amenities to be used by the Owners of Lots within the Cost Center Area unless the context clearly indicates otherwise.

1.15 **"Common Expenses"** means and includes the actual and estimated expenses of operating the Community, and any reasonable reserve for such purposes

as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Governing Documents.

1.16 "**Community**" means the entire common interest development as described in Exhibit "A" herein, including all Improvements thereon.

1.17 "**Cost Center Amenities**" means those Association maintained amenities located within the Cost Center Area to be used primarily by the Owners and residents within the Cost Center Area. The Cost Center Amenities are motorized vehicle gates, pedestrian gates, sidewalks, private streets, lighting, and a tot lot which serve the Cost Center Area.

1.18 "**Cost Center Area**" means the La Fuente neighborhood consisting of phases 1, 4, and 8 of the Community as described in Exhibit "A" herein.

1.19 "**Cost Center Assessments**" means an additional component of Association regular assessments or special assessments against the Lots which lie within the Cost Center Area for payment of the operating costs and reserves and other items applicable to the Cost Center Amenities within the Cost Center Area. Reference to "regular assessments" or "special assessments" in this Declaration shall also refer to the Cost Center Assessments with respect to the Lots within the Cost Center Area.

1.20 "**Director**" or "**Directors**" [Corp. Code §5047] means one or more members of the Board of Directors.

1.21 "**Dwelling**" means a residential structure or structures, including any enclosed yard, balconies, patio areas and garages located on a Lot.

1.22 "**Electronic Transmission**" [Corp. Code §§20 & 21] means a communication delivered by facsimile, electronic mail or other means of electronic communication as more fully described in California Corporations Code sections 20 and 21.

1.23 "**Eligible Lender**" means a holder, insurer or guarantor of a First Mortgage that provides a written request to Association stating the name and address of such holder, insurer or guarantor and the Lot number, and requesting notice to which such Eligible Lender is due under the Governing Documents.

1.24 "**Governing Documents**" [Civil Code §1351] means this Restated Declaration and any other documents such as the Articles, Bylaws, Rules, or Architectural Rules which govern the operation of Association.

1.25 "**Improvement**" means any structure or appurtenances thereto of every type and kind, including but not limited to, buildings, walkways, sprinkler pipes, carports, swimming pools, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, awnings, stairs, decks, lights, landscaping, hedges, windbreaks, exterior surfaces of any visible structure and the paint or finish on such surfaces, planted trees and shrubs, poles, signs, and water softener fixtures or equipment.

1.26 **"Lender"** means a person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. "Institutional Lender" means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). "First Lender" means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Lot or other portions of the Community. The term "Beneficiary" shall be synonymous with the term "Lender."

1.27 **"Lot"** [Civil Code §1351(l)] means all the residential Lots within the Community, including all Improvements now or hereafter thereon. Lot does not mean the Common Area.

1.28 **"Member"** [Corp. Code §5056] means every person or entity entitled to membership in the Association as provided in this Restated Declaration and the Bylaws.

1.29 **"Mortgage"** means a mortgage or deed of trust encumbering a Lot or any other portion of the Community. "First Mortgage" means a mortgage that has priority over all other mortgages encumbering the same Lot or other portions of the Community.

1.30 **"Notice and Hearing"** [Civil Code §1363(h) & Corp. Code §7341] means notice to an Owner and an opportunity for the Owner to be heard, prior to the imposition of any fine, penalty or other disciplinary measure, in the manner set forth in the Bylaws or other Governing Documents and in compliance with any Applicable Law.

1.31 **"Officers"** means the Officers of Association appointed by the Board of Directors pursuant to the Bylaws.

1.32 **"Original Declaration"** means the Declaration and Declarations of Annexation listed in Recital C of this Restated Declaration.

1.33 **"Owner"** means any natural person, firm, corporation, partnership, trust or other entity which owns a fee simple interest in any Lot, as shown on the most recent deed for the Lot recorded in the Office of the San Diego County Recorder, including Association, and any contract sellers under recorded contracts of sale. "Owner" shall not include any persons or entities that hold an interest in a Lot merely as security for performance of an obligation. For purposes of exercising membership rights, including the right to serve as a Director, and incurring membership obligations when an Owner is a corporation, firm, limited liability company or other legal entity, any Director, Officer, employee or agent designated in writing by the Owner may exercise the membership rights attributable to the Owner. When an Owner is a trust, the trustee may exercise the membership rights attributable to the trust unless otherwise designated in writing by the trustee.

1.34 **"Restated Declaration"** [Civil Code §1351(h)] means this Amended and Restated Declaration of Restrictions and any amendments hereto.

1.35 **"Rules"** [Civil Code §1357.100] means any Rules, including the Architectural Rules, for Association regulating the use of the Lots, the Common Areas, the Community and any facilities located thereon adopted by the Board pursuant to Subsection 3.5.2 and Section 8.6 herein.

1.36 **"Voting Power"** [Corp. Code §5078] means the total number of votes eligible to be cast in the Association based on one vote per Lot, less the votes of any Lot where voting rights have been suspended.

## ARTICLE 2 - THE COMMUNITY

2.1 **Community Subject to Restated Declaration.** The entire Community shall be subject to this Restated Declaration upon recordation hereof.

2.2 **Equitable Servitudes.** [Civil Code § 1354] The covenants and restrictions set forth in this Restated Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by any Owner or by Association or by both.

2.3 **Prohibition Against Partition.** There shall be no deannexation of any part of the Community without first obtaining the same approval of Owners as required by Article 14 herein for amendments to this Restated Declaration.

2.4 **Prohibition Against Severance of Elements.** Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Lot shall include all interests and appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's membership interest in Association. Any transfer that attempts to sever those component interests shall be void.

2.5 **Drainage Easements.** The Owner of a Lot shall permit free access by Owners of adjacent or adjoining Lots, or Association and its agents, to slopes or drainageways located on his or her Lot, when such access is essential for the maintenance or permanent stabilization of said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slopes or drainageways are located. The Owner of any Lot shall not in any way interfere with established slope ratios or create erosion or sliding problems. The Owner of any Lot shall not interfere with the established drainage pattern over his or her Lot from adjacent or adjoining Lots without prior Board approval and unless the Owner makes adequate provisions for continued drainage over his or her Lot from adjacent or adjoining Lots. Owners shall not enter onto any portions of slopes that are maintained by the Association without the prior consent of the Board. For the purpose herein, "established drainage" is defined as the drainage which occurred at the time the Dwelling was first built on the Lot.

2.6 **Association Easements Over Lots.** Association has an easement over each Lot, as the servient tenement, for the purpose of allowing Association's agents to enter the Lot to perform such duties and exercise such powers as may be set forth by the Governing Documents and any separately recorded easement agreements.

2.7 **Owner Easements Over Common Area.** Each Owner shall have a nonexclusive easement for use and enjoyment of the Common Area now or hereafter owned by Association and for ingress, egress, and support over and through the Common Area, except for the Cost Center Amenities. The Cost Center Amenities are reserved for the use of the Owners who own Lots within the Cost Center Area. These easements shall be appurtenant to, and shall pass with the title to each Lot and shall be subordinate to any exclusive easements granted elsewhere in this Restated Declaration, as well as to the right of Association pursuant to the Governing Documents to perform its obligations under this Restated Declaration, or otherwise regulate the Common Area as provided in the Governing Documents. Each of the easements reserved or granted herein shall be covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Community. Individual grant deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

2.8 **Association Grant of Easements.** Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining utilities and services, or for any other purpose reasonably related to the operation and maintenance of the Community. No such easement may be granted, however, if it would interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Lot without the approval of the affected Owner.

2.9 **Encroachment Easements.** The Community and the Lots are subject to the following encroachment easements:

2.9.1 There shall be valid easements over the Common Area or Lots for the maintenance of encroachments due to settlement or shifting of structures for so long as the encroachments shall exist; 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 conduct of said Owner or Owners. In the event a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the Owners of any adjoining Lots agree that any minor encroachments over the adjoining Lots which are similar to any encroachments which existed prior to the partial or total destruction shall be permitted and there shall be easements for maintenance of such encroachment so long as they shall exist.

2.9.2 Each fence and wall installed as part of the original construction of the Community to separate Lots or Lots and

Common Area at the boundaries between the Lots or Common Area shall establish the boundaries between the Lots or Lots and Common Area regardless of whether the fence or wall is located exactly on the boundary line. An easement exists for repair and replacement of the fence or wall by the responsible party in the location the fence or wall was originally constructed. The portions of land lying on the side of a fence or wall facing a Lot (when the fence or wall was intended to be on the boundary of a Lot), may be used by that Lot Owner for yard purposes, subject to any open space easements or other recorded restrictions. The portions of land lying on the side of a fence or wall which faces Common Area or an Association Maintenance Area may be used by the Association as Common Area or an Association Maintenance Area.

**2.10 Utility Easements.** In the case where utility facilities are located on a Lot or Lots owned by other than the Owner of a Lot served by the utility facilities, the Owners of any Lots served by the utility facilities shall have the right of reasonable access for themselves or their agents to repair, replace and generally maintain the utility facilities as and when the same may be necessary. A Lot Owner shall be entitled to reasonable access to the Common Area for the purpose of maintaining utility facilities servicing such Owner's Lot. The access shall be subject to the consent of Association, whose approval shall not be unreasonably withheld, and which may include such conditions as the Board determines reasonable.

In the case of utility facilities which serve more than one Lot, the Owner of each Lot served by the utility facilities shall be entitled to the full use and enjoyment of such portions of the utility facilities as service his or her Lot.

**2.11 Notice of Airport in Vicinity.** Civil Code section 1353 requires the following statement in this Restated Declaration:

#### NOTICE OF AIRPORT IN VICINITY

This Property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the Property before you complete your purchase and determine whether they are acceptable to you.

### ARTICLE 3 - ASSOCIATION

3.1 **Organization of Association.** Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. Association is created for the purpose of managing the Community and is charged with the duties and invested with the powers prescribed by Applicable Law and set forth in the Governing Documents.

3.2 **Board of Directors.** The affairs of Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in the Bylaws.

3.3 **Membership.** Every Owner, upon becoming an Owner, shall automatically become a Member of Association. Ownership of a Lot is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations as set forth in the Governing Documents. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Lot. All memberships shall be appurtenant to the Lot conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Lot shall automatically transfer the appurtenant membership to the transferee.

3.4 **Membership Class; Voting Rights.** Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents. On matters presented to the membership for a vote, each Lot shall be assigned one vote, subject to the provisions of the Bylaws.

3.5 **General Powers and Authority.** [Civil Code § 1363(c)] Association shall have all the powers of a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in the Governing Documents. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to:

3.5.1 The power to establish, fix, levy, collect, and enforce the payment of assessments against the Owners in accordance with the procedures set forth herein.

3.5.2 [Civil Code § 1357.130] The power to adopt reasonable Rules governing the use of the Lots, Dwellings, Common Area, and Association Maintenance Areas, and the conduct at Board and Members' meetings, in accordance with the following:

- (a) The Rules may include, but are not limited to:
  - (i) Reasonable restrictions on use of the Common Area, Association Maintenance Areas, Lots and

Dwellings by the Owners and their families, guests, employees, tenants and invitees.

- (ii) Reasonable restrictions on the conduct of Owners and their families, guests, employees, tenants and invitees as to activities on the Common Area, Lots and Dwellings.
  - (iii) The establishment of Notice and Hearing procedures and a schedule of monetary penalties and other disciplinary measures which may be imposed for violations of any provisions of the Governing Documents.
  - (iv) Campaign, election and voting information.
- (b) [Civil Code §§1357.110 *et seq.*] The Board must comply with any Applicable Law when adopting any Rules.
  - (c) A copy of the current Rules, if any, and all modifications, revisions and updates shall be given to each Owner within fifteen days of adoption by the Board.
  - (d) If any provision of the Rules conflicts with any provision of this Restated Declaration, the Articles, or the Bylaws, the Restated Declaration, Articles, or Bylaws shall control to the extent of the inconsistency.
  - (e) The Rules shall have the same force and effect as if they were set forth in and were part of this Restated Declaration and shall be binding on the Owners and their successors in interest whether or not actually received by them.

3.5.3 The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, as provided in any Applicable Law.

3.5.4 Subject to Notice and Hearing requirements, the right to discipline a Member for violation of any of the provisions of the Governing Documents by (a) suspending the Member's membership rights, including the Member's voting rights, the right to run as a candidate for election to the Board of Directors, and the rights and privileges to use the Common Area recreational facilities, (b) imposing monetary fines, and (c) recording a notice of noncompliance in the Office of the

County Recorder of San Diego County encumbering the Lot of the Owner, if allowed by Applicable Law.

- 3.5.5 The right for its agents and employees to enter any Lot when necessary in connection with any maintenance, landscaping, or construction work for which Association is or may be responsible or to reduce the likelihood of or prevent damage to the Common Areas or another Lot. This entry shall be made only upon reasonable notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable. Any entry by Association to investigate a reported or suspected water intrusion shall be deemed an emergency. Such person shall not be deemed guilty of trespass by reason of such entry.

3.6 **Duties of Association.** In addition to the duties of Association, its agents and employees set forth elsewhere in the Governing Documents, Association shall be responsible for the following:

- 3.6.1 Association, acting through the Board, shall operate, maintain, repair, and replace those components assigned to Association by Article 6 herein or contract for the performance of that work, subject to the provisions of the Governing Documents.
- 3.6.2 Association shall use the general operating fund described in Article 4 herein to, among other things, acquire and pay for goods and services for the Community.

#### ARTICLE 4 - ASSESSMENTS AND COLLECTION PROCEDURES

4.1 **Covenant to Pay.** [Civil Code § 1367.1] Each Owner by acceptance of the deed to the Owner's Lot is deemed to covenant and agrees to pay to Association all assessments described in this Article and all other charges duly levied by Association pursuant to the provisions of this Restated Declaration. An assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall also be a personal debt of each Owner of the Lot at the time the assessment or other sums are levied. Co-Owners of a Lot shall be jointly and severally liable for all charges levied by Association on that Lot. No Owner may waive or otherwise escape liability for these assessments by non-use of the Common Area or abandonment of the Owner's Lot.

4.2 **Purpose of Assessments.** [Civil Code §1366] Except as provided herein, Association shall levy assessments sufficient to perform its obligations. The assessments levied by Association shall be used exclusively to promote the recreation and welfare of the Owners, for the operation, replacement, improvement, and maintenance of the Community, and to discharge any other obligations of Association

under this Restated Declaration. All assessment payments shall be put into general operating and reserve funds to be used for the foregoing purposes.

4.3 **Regular Assessments.** [Civil Code §§ 1365 & 1366] Concurrently with preparation of the financial documents and budget for each fiscal year, the Board shall estimate the net charges to be paid during that next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due. Failure of the Board to estimate the net charges within the time period stated herein shall not void any assessment imposed by the Board. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.

4.4 **Special Assessments.** If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the Common Expenses for the year due to the cost of any construction, unexpected repairs or replacements of Capital Improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed, subject to any limitations imposed by Applicable Law or the Governing Documents. Special assessments shall be levied equally against each Lot and collected in the same manner as regular assessments. The Board may levy a special assessment in one lump sum or in installments over a period of time the Board determines appropriate.

4.5 **Allocation of Regular and Special Assessments.** Regular and special assessments shall be divided equally among the Lots.

4.6 **Cost Center Assessments** Cost Center Assessments are an additional component of Association regular assessments or special assessments against the Lots which lie within the Cost Center Area exclusively for payment of the operating costs and reserves and other items applicable to the Cost Center Amenities within the Cost Center Area.

- 4.6.1 Cost Center Assessments may include, without limitation, estimated or actual costs and expenses incurred by the Association in connection with administrating the Cost Center Area, maintaining, repairing and replacing the Cost Center Amenities, obtaining and maintaining insurance coverage related to the Cost Center Amenities, providing utility services to the Cost Center Amenities and funding reasonable reserves for the repair or replacement of Cost Center Amenities

- 4.6.2 The Cost Center Assessments shall be uniform for all Lots within the Cost Center Area.
- 4.6.3 Cost Center Assessments shall be treated the same as regular and special assessments for all purposes except when applying the limitations of Section 4.7 below. When applying Section 4.7, the quorum and approval requirements shall apply only to the Members within the Cost Center Area.

**4.7 Limitations on Regular and Special Assessments.** [Civil Code § 1366] Except in emergency situations, the Board may not, without the approval of Members constituting a majority of the votes when a quorum of the Owners is established, impose a regular assessment per Lot that is more than twenty percent greater than the regular assessment for the preceding fiscal year, or levy special assessments that in the aggregate exceed five percent of the Budgeted Gross Expenses of Association for that fiscal year. For purposes of this Section, a "quorum" means more than fifty percent of the Owners of Association. These limitations shall not apply to assessment increases that are necessary for emergency situations. An emergency situation is an extraordinary expense defined by Applicable Law.

**4.8 Owner Notice of Regular and Special Assessments.** [Civil Code § 1366] Association shall provide notice by first-class mail to the Owners of any increase in the regular assessments or the imposition of a special assessment not less than thirty nor more than sixty days prior to the increase in the regular assessment or special assessment becoming due.

**4.9 Individual Assessments.** Subject to the limitations of the Governing Documents and in addition to regular and special assessments, the Board may levy Individual Assessments against Owners and Lots whenever Association (a) performs any service or accomplishes any item of repair or maintenance which is the duty of any Owner to accomplish, but which has not been accomplished by such Owner, or (b) incurs any costs which by Applicable Law or as required by the Governing Documents must be reimbursed by an Owner. Such individual assessment shall include the cost thereof, together with any financing costs and administrative costs incurred by Association. Prior to levying an individual assessment, the Board shall provide the Owner with a Notice and Hearing. The Notice and Hearing regarding the levy of an Individual Assessment may be combined with the Notice and Hearing regarding any underlying violation. Duly levied individual assessments shall be subject to the provisions in the Governing Documents regarding costs, late charges and interest for delinquent payment, and may become a lien on the Lot, in the same manner as regular and special assessments.

**4.10 Monetary Penalty Assessments.** [Civil Code § 1367] The Board of Directors may levy, subject to the limitations of the Governing Documents, monetary penalties or fines against an Owner and his or her Lot. In the event the Board of Directors imposes a monetary penalty, that monetary penalty shall be subject to costs, late charges and interest as described in this Article for delinquent payment, and may

become a lien on the Lot, collectible by Association through judicial foreclosure as allowed in this Article and shall also be a personal debt of each Owner of the Lot at the time the monetary penalty assessment is levied. In no event may Association collect a monetary penalty through nonjudicial foreclosure.

**4.11 Costs, Late Charges and Interest.** [Civil Code § 1366] Late charges may be levied by Association against an Owner for the delinquent payment of assessments, including monetary penalty assessments. An assessment, including any installment payment, is delinquent fifteen days after its due date. If an assessment is delinquent, Association may recover all of the following from the Owner:

- 4.11.1 Reasonable costs incurred in collecting the delinquent assessment, including actual attorneys' fees.
- 4.11.2 A late charge not exceeding ten percent of the delinquent assessment or ten dollars, whichever is greater, or the maximum amount allowed by Applicable Law.
- 4.11.3 Interest on the assessment and the foregoing sums, at an annual percentage rate of twelve percent commencing thirty days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. The amounts delinquent, including the entire unpaid balance and any related costs described herein, may be collected by Association as provided in this Article.

**4.12 Priority of Payments.** The Board, in its sole discretion, may enact policies, in compliance with Applicable Law, including Civil Code sections 1367 and 1367.1, regarding how payments received from Owners will be applied to any outstanding balances due Association from that Owner.

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

**4.14 Enforcement of Assessments and Late Charges.** [Civil Code §§ 1367, 1367.1, 1367.4 & 2924b] A delinquent assessment, and any related late charges, reasonable costs of collection (including actual attorneys' fees), and interest assessed in accordance with this Article, shall become a lien upon the Lot when a Notice of Assessment Lien is duly recorded as provided in Applicable Law. Unless otherwise provided by statute, the Notice of Assessment Lien shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Restated Declaration, the legal description of the Lot, the name of the purported Owner, and, if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by Association to enforce the lien by

sale. The Notice may be signed by any Officer or Director of Association, or any employee or agent of Association authorized to do so by the Board. The Notice shall be mailed by certified mail to every person whose name is shown as an Owner of the Lot in Association's records, and the notice shall be mailed no later than 10 calendar days after recordation.

Unless otherwise allowed by Applicable Law, the Notice of Assessment Lien may not be recorded until after Association has mailed, via certified mail, a written demand for payment to the delinquent Owner. The written demand shall comply with the requirements of Applicable Law.

If not paid in full within thirty days after recordation of the Notice of Assessment Lien, any lien described herein may be enforced in any manner permitted by Applicable Law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the Notice or by a trustee substituted pursuant to Applicable Law.

If all sums specified in the Notice of Assessment Lien are paid before the completion of any judicial or nonjudicial foreclosure, Association shall (i) record a notice of satisfaction and release of lien, and (ii) upon receipt of a written request by the Owner, shall also record a notice of rescission of any recorded notice of default and demand for sale.

The Notice of Assessment Lien is not required to be amended by Association or Trustee to reflect any partial payments made on the account of the delinquent Owner after its recordation, and any such partial payments received shall not be construed to invalidate the Notice of Assessment Lien. The Notice of Assessment Lien may be foreclosed upon as set forth herein even though the delinquent Owner has made one or more partial payments.

Notwithstanding any other provision herein, a monetary penalty may not become a lien on a Lot enforceable by the sale of the Lot through nonjudicial foreclosure. Any Notice of Assessment Lien recorded to enforce a monetary penalty must specifically state that such lien may not be enforceable by sale of the Lot through nonjudicial foreclosure.

**4.15 Ownership of Multiple Lots** If an Owner owns more than one Lot and is delinquent in the payment of any assessments, fees or charges due the Association from any single Lot, the Association may pursue the collection of the delinquent assessments, fees or charges against any one or all of the Lots owned by the Owner. This right of the Association to pursue collection of a delinquency against any Lot owned by the Owner includes the right to lien and foreclose and collect rent from any tenant as described in this Article 4.

**4.16 Assignment of Rent.** Each Owner does hereby presently assign to Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or rental agreement or

otherwise for the use or occupation of any or all parts of any Lot owned by the Owner. This assignment applies to any lease or rental agreement now existing or hereinafter made. This assignment is for the purpose of collecting all assessments due to Association pursuant to this Restated Declaration which are in default. Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or rental agreement as they become due and payable, provided that Association, at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any assessments due. Upon revocation of such authority, Association may collect and retain such rental monies, whether past due and unpaid or current. Association's rights under this Section are in addition to and not in place of, the rights described above to file a lien and foreclose upon a lien. Association's rights shall be subordinate to the rights of any First Mortgage.

Association shall only exercise its rights to collect rental monies in compliance with California Civil Code section 2938, as amended from time to time, or any successor statute. Further, Association shall only exercise this right after filing the lien described above and after providing the Owner with Notice and a Hearing pursuant to any Applicable Laws and the Bylaws.

By recordation of this Restated Declaration, each Owner expressly consents to this assignment of rents to Association.

**4.17 Priority of Assessment Lien.** [Civil Code § 1367.1(d)] As set forth hereinbelow, the assessment lien referred to in this Article shall be superior to all other liens, except (i) all taxes, bonds and governmental assessments which, by Applicable Law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record. Notwithstanding any other provision to the contrary, the following provisions shall govern the priority and obligation for payment of the assessment lien:

- 4.17.1 Only the judicial or nonjudicial foreclosure of the First Mortgage shall operate to transfer title free of the assessment lien or obligation for any assessment lien, and then only as to payments which became due prior to the date of the sale, and excluding those assessment liens recorded prior to the recording of the First Mortgage.
- 4.17.2 Neither the transfer of a Lot pursuant to a foreclosure of any Mortgage, nor an election by Association to proceed against any new Owner for payment, shall serve to cancel the personal obligation of the prior Owner for payment of the delinquent assessments and charges which accrued during such Owner's period of ownership.
- 4.17.3 No sale or transfer of any Lot shall relieve such Lot or its new Owner from liability for any future assessments which accrue during such Owner's period of ownership.

- 4.17.4 The personal obligation of any Owner for payment of delinquent assessments and charges may be satisfied, and therefore discharged, only by payment of the entire amount of the delinquent assessments and charges, whether or not such Owner remains in possession of his or her Lot.
- 4.17.5 To the extent permitted by Applicable Law, each Owner hereby waives the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereafter, to the extent of any liens created pursuant to the Governing Documents, whether such liens are now in existence or are created at any time in the future.

4.18 **Statement of Delinquent Assessment.** [Civil Code § 1368] Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Lot.

## ARTICLE 5 - USE RESTRICTIONS AND COVENANTS

5.1 **General.** [Civil Code § 1354] The use and enjoyment of the Community by Owners and their tenants, guests, invitees or any other person deriving rights from such Owner, shall be subject to the covenants and restrictions contained in the Governing Documents. Each such person shall comply with the provisions in the Governing Documents and be subject to any enforcement actions in the event of violations. As more fully set forth in this Restated Declaration, both Association, through the Board of Directors, and each Owner shall be entitled to enforce the Governing Documents.

5.2 **Affecting Association Insurance.** No one may perform any act or keep anything on or in any Lot or in the Common Area or Association Maintenance Areas that will increase the rate of insurance on the Common Area or Association Maintenance Areas without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept on his or her Lot or in the Common Area that would result in the cancellation of insurance on any Lot or on any part of the Common Area or that would violate any law.

5.3 **Alter Common Area and Association Maintenance Areas.** No one may alter, attach, construct, or remove anything on or from the Common Area or Association Maintenance Areas, except upon the written consent of the Board.

5.4 **Antennas and Satellite Dishes.** [Federal Telecommunications Act] Exterior antennas and satellite dishes, not exceeding one meter (39.37") in diameter, are permitted, but only in strict compliance with Applicable Laws and not on any portion of the Common Area. Except as permitted by Applicable Law, there shall be no outside television or radio antennae, satellite dishes, masts, poles or flag poles constructed, installed or maintained in the Community for any purpose whatsoever without the prior

written consent of the Board. The Board may adopt Rules restricting the construction, installation, maintenance or replacement of any such equipment as long as such restrictions do not conflict with Applicable Law.

5.5 **Brush and Weeds.** No one may allow brush, weeds, or undergrowth to accumulate upon any Lot so as to render the Lot or any portion of it a fire hazard, unsightly, or detrimental to other Lots or the Common Area.

5.6 **Burning.** There shall be no exterior fires whatsoever except barbecue fires located upon a Lot and contained within receptacles designed for such purpose. Otherwise, outside fires are not permitted unless prior written approval is given by the Association and the Owner acts in compliance with all local governmental fire safety and permit regulations. No Owner shall permit any condition to exist on a Lot, including, without limitation, trash piles or weeds, which creates a fire hazard or is in violation of local fire regulations and fuel modification and brush management requirements.

5.7 **Common Area and Association Maintenance Areas.** The following provisions govern the use and enjoyment of the Common Area:

- 5.7.1 Owners may use the Common Area Association Maintenance Areas subject to the provisions of this Restated Declaration.
- 5.7.2 An Owner who has sold his or her Lot to a contract purchaser or who has leased or rented the Lot shall be deemed to have delegated his or her rights to use and enjoy the Common Area to such contract purchaser or tenant, subject to reasonable regulation by the Board. If the Owner is deemed to have delegated such rights, the Owner and the Owner's family, guests, employees, and invitees shall not be entitled to use and enjoy the Common Area for so long as the delegation remains effective. The rights of a contract purchaser or tenant shall be subject to the same restrictions and regulations in the Governing Documents as are applicable to Owners.
- 5.7.3 The Board may:
  - (a) Adopt and enforce reasonable Rules for the use of the Community.
  - (b) Reasonably limit the number of guests and tenants using all or any portion of the Common Area.
  - (c) Charge a fee or deposits for any private parties, special or extraordinary use of any Common Area recreational facilities and Improvements.

- (d) Set fees and deposits for supplying and replacing access devices to Common Areas, including charges calculated to limit distribution and deter loss of access devices.
- (e) Establish speed limits and other traffic regulations within the Community.
- (f) Establish fire gates and lanes within the Common Area and restrict parking on or near the gates and lanes.
- (g) Assign, rent, lease or otherwise control the use of any unassigned parking spaces within the Common Area.
- (h) Require the use of parking passes or decals.
- (i) Remove any vehicle within the Community parked in violation of this Restated Declaration or the Rules of the Board in accordance with the provisions of any Applicable Law.
- (j) Suspend the right of any Owner, and the persons deriving rights from any Owner, to use and enjoy the Common Area recreational facilities for any period during which the Owner is delinquent in the payment of any assessment, is in violation of the Governing Documents, or as otherwise provided in the Governing Documents.
- (k) Cause the construction of additional Improvements in the Common Area, or cause the alteration or removal of existing Improvements on the Common Area, subject to any applicable limitations on the Board's powers.
- (l) Dedicate, grant, or join in the grant or conveyance of permits, easements, licenses or rights-of-way in, on and over the Common Area as may be determined by the Board to be in the best interests of Association; provided that no such permit, easement, license or right-of-way may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of the Owner's Lot without the approval of the affected Owner.
- (m) Approve any proposed alteration of or modification to the Common Area and Association Maintenance Areas, subject to any applicable limitations of the Board's powers.

- 5.7.4 [Civil Code § 1363.07] Notwithstanding any nonexclusive easement rights to the Common Area granted herein or by any deed or other conveyance, the right to allow one or more Owners to exclusively use portions of the Common Area, provided that such portions of the Common Area are nominal in area and adjacent to the Owner's Lot, and, provided further, that such use does not unreasonably interfere with any other Owner's use or enjoyment of the Community unless that Owner consents to the use.

5.8 **Damage Liability.** Each Owner shall be liable to Association for any damage to the Common Area or to Association Maintenance Areas, including any access control systems, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installation, repair, or maintenance of any Improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. Association may repair the damage and assess the cost of the work to the Owner as an individual assessment. In the case of joint ownership of a Lot, the liability of the co-owners shall be joint and several, unless the co-owners and Association have agreed in writing to an alternative allocation of liability.

5.9 **Discharge into Streets or Gutters.** No one may discharge anything other than water and residue allowed by applicable water quality ordinances into the streets, gutters and drains of the Association or into the Common or Area Association Maintenance Areas.

5.10 **Emissions into the Air.** No one may discharge or cause the emission of any dust, sweepings, dirt, cinders, odors, gases, mold spores, or other substances into the atmosphere other than those caused by normal residential use.

5.11 **Fire Protection Requirements.** The Brush Management Areas on portions of certain Lots are subject to the fire protection requirements of the City. The Brush Management Areas are described in exhibits to the Declaration and some of the Declarations of Annexation. Each Owner of a Lot with a Brush Management Area shall maintain the Lot in accordance with the City's requirements unless the Brush Management Area on the Lot is located within an Association Maintenance Area. The Association shall maintain all Brush Management Areas within Association Maintenance Areas subject to the fire protection requirements of the City. Brush clearance as required by the City may change the character and appearance of the Community and Association shall not be liable to any Owner for work performed in compliance with the City requirements. There is no guarantee or assurance that compliance with the City requirements will prevent damage or destruction by fire.

5.12 **Harassment.** No one may engage in any type of harassment, illegal, noxious or offensive activity toward any Owners, residents, Association representatives, management representatives, Board members and/or vendors working in the Community. If any Owner needs or wishes to contact an Association vendor or contractor, the Owner must notify the Association's management and communicate

through management unless expressly given permission by the Board to contact the vendor or contractor directly.

**5.13 *Leasing or Renting Lot.*** No one may lease or rent a Lot in violation of the following:

- 5.13.1 All leases and rental agreements must be in writing.
- 5.13.2 All leases and rental agreements must be for the entire Dwelling, and not merely parts thereof, unless the Owner remains in occupancy. A garage may not be leased or rented separate and apart from the Dwelling to which it is appurtenant.
- 5.13.3 No lease or rental shall be for a period of less than thirty days or for hotel, transient, fractionalized ownership interest or time-share purposes.
- 5.13.4 Any Owners leasing or renting their Lot shall promptly notify Association in writing of the names of all tenants and members of a tenant's family occupying such Lot, provide the make, model and license number of all residents' vehicles, a telephone number for the tenant, the number and type of pets kept by the tenants, keep all information current, and provide Association with a complete copy of the lease or rental agreement and any other information reasonably needed and requested by Association.
- 5.13.5 Any Owners leasing or renting their Lot shall promptly notify Association of the address and telephone number where such Owner can be reached.
- 5.13.6 Each Owner-lessor shall provide any tenant or lessee with a current copy of all Governing Documents and shall be responsible for compliance by the tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the Lot.
- 5.13.7 All leases and rental agreements shall be subject in all respects to the Governing Documents, and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease which may be cured by eviction of the tenant either by the Owner or Association.
- 5.13.8 All leases and rental agreements shall provide that any failure of a lessee or tenant to comply with the terms of any Governing Document relating to residential leases, property

use restrictions, or the use and enjoyment of any portion of the Common Area shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy on 30 days' written notice.

- 5.13.9 If any tenant or lessee fails to honor the provisions of any Governing Document, Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances to preserve the quiet enjoyment of other Owners and residents of the Community. Without limitation, Association's actions in response to a tenant's violation of the Governing Documents may include the imposition of fines and penalties against the Owner-lessor of the Lot.
- 5.13.10 In the event a tenant or lessee of a Lot fails to comply with the provisions of the Governing Documents then, in addition to all other remedies which it may have, Association may notify the Owner of such violation(s) and demand that it be remedied through the Owner's efforts within thirty days of such notice. If such violation(s) is not remedied within that thirty day period, then the Owner shall immediately, at his or her own cost and expense, institute and diligently prosecute an eviction action (unlawful detainer) against his tenant or lessee on account of such violation(s). Such eviction action shall not be compromised or settled without the prior written consent of Association. In the event the Owner fails to commence the foregoing obligation within fifteen days of being required to do so, or commences the action but fails to diligently prosecute the action, then the Board shall have the right, but not the duty, to notify the Owner that Association will prosecute such action as attorney-in-fact for the Owner and at the Owner's sole cost and expense, including all legal fees incurred. Upon notification to Owner of Association's intent to prosecute the action, the right to possession of Owner's Lot shall pass to Association until such time as the tenant or lessee has vacated the Lot. The Owner shall cooperate with Association in the prosecution of the eviction action. All costs and attorneys' fees not collected from the tenant or lessee shall be paid by the Owner and failure to pay may be the basis for imposing an Individual Assessment for the fees and costs.

5.14 ***Mechanic's Lien.*** [Civil Code § 1369] No labor performed or services or materials furnished with the consent of, or at the request of, an Owner, the Owner's agents or contractors shall be the basis for the filing of a lien against any other Lot or Common Area or any other Owner in the Community unless that other Owner has expressly consented to or requested the performance of the labor or furnishings of the

materials or services. However, express consent shall be deemed to have been given by the Owner of any Lot in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Common Areas, if duly authorized by Association, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner of any Lot may remove his or her Lot from a lien against two or more Lots or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien which is attributable to the Owner's Lot.

5.15 **Modification to Lot or Dwelling.** No one may modify, construct, build or otherwise alter any portion of a Lot or Dwelling other than as provided in Article 8, below.

5.16 **Offensive Activity.** No one may engage in any illegal, noxious or offensive activity in any part of the Community, or do any act which unreasonably threatens the health, safety and welfare of other residents of the Community.

5.17 **Owner Responsibility.** Owners shall be responsible for their family members, guests, tenants, contract purchasers, and invitees while in the Community and may be held responsible for any violations of the Governing Documents committed by such persons.

5.18 **Pets.** [Civil Code § 1360.5] No one may keep pets or other animals in violation of the following:

- 5.18.1 Owners or residents of the Community may keep up to three usual and ordinary domestic pets on the Lot subject to the provisions of the Rules; provided, however, that no Owner or other occupant of a Lot may keep any pet which interferes with, or has a reasonable likelihood of interfering with, the rights of any Owner or other occupant of a Lot to the peaceful and quiet enjoyment of the Lot. In the event the Board determines that any pet or other animal creates an unreasonable annoyance or nuisance to any Owner or other occupant of a Lot, the keeping thereof shall be discontinued within a reasonable time after such determination.
- 5.18.2 No pets or other animals shall be permitted in the Common Area except as specifically permitted by the Rules, and then only when on a leash held by a person capable of controlling the animal.
- 5.18.3 Any person with a pet in the Community must clean up after the pet whether on the Lot, Common Area, Association Maintenance Areas, or the public streets and parkways.
- 5.18.4 No Owners may keep animals for commercial purposes.

- 5.18.5 Association, its Board, Officers, employees and agents shall have no liability to any Owner, their family members, guests, invitees, tenants and contract purchasers, or any other person in the Community, for any damage or injury to persons or property caused by any pet, absent any willful or wanton negligence on the part of Association, or its Board, Officers, employees and agents.

5.19 **Post-Tension Slabs.** Each Owner acknowledges that the concrete slab for some or all of the Lots may have been reinforced with a grid of steel cable which was installed in the concrete and then tightened to create a very high tension. This type of slab is commonly known as a "post-tension slab." Each Owner further acknowledges that cutting into a post-tension slab for any reason (e.g., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Dwelling and/or personal injury. By accepting a grant deed to a Lot, each Owner specifically covenants and agrees that:

- 5.19.1 An Owner shall not cut into or otherwise tamper with a post-tension slab;
- 5.19.2 An Owner shall not knowingly permit or allow any other person to cut into or tamper with a post-tension slab, other than a licensed contractor who has been informed that the slab is post-tension and who has identified the location of the cables running within the slab;
- 5.19.3 An Owner shall disclose the existence of the post-tension slab (if any) to any tenant, subsequent purchaser or lessee of the Lot; and
- 5.19.4 An Owner shall indemnify and hold Association and its Directors, Officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees) arising from any breach of this Section.

5.20 **Power Equipment.** No one may set up a hobby shop for commercial purposes, except upon the written consent of the Board. Use of power equipment may be subject to reasonable Rules as to the time and duration of use and the level of noise.

5.21 **Residential Use of Lot.** Lots shall be used for residential purposes only. No Lot may be used for time share purposes, or any other similar transitory use through fractionalized ownership or any other similar arrangement. Lots are intended to be used as a primary residence. A Lot may be used for in-home professional or administrative occupations or similar home office use so long as only minimal external evidence is observable, and if: (i) such occupations are merely incidental to the use of the Lot as a residence, (ii) employees or business invitees do not regularly visit or conduct business

in the Community, and (iii) the occupation is conducted in conformity with any Applicable Law, including permit requirements, and the Rules. The Board may require the immediate termination of any use that violates the requirements herein or in any Rules.

5.22 **Signs.** [Civil Code §§ 712, 713 & 1353.6] No one may erect or display any sign on or from any Lot except as allowed by Applicable Law and the Rules. No signs may be erected or displayed on the Common Area without the prior written approval of the Board.

5.23 **Solar Panels.** Rooftop panels installed for the collection of solar energy shall be permitted on roofs at locations that maximize the southerly exposure for the collection of solar energy. Solar panels installed to serve recreational pools and spas shall be permitted but shall not be located on any section of the roof surface or other portion of a Lot which is viewable from a public or private street, unless location elsewhere would significantly increase the cost of the system or significantly decrease its efficiency as defined by Applicable Law.

5.24 **Storage in Common Area.** No one may permit anything to obstruct the Common Area or store anything on the Common Area without the prior written consent of the Board, except as otherwise provided in the Governing Documents.

5.25 **Storage of Flammable or Hazardous Materials.** No one may store gasoline, kerosene, cleaning solvents, or other flammable liquids or substances, or any toxic or hazardous materials on the Common Area or in any Lot; provided, however, that amounts of these liquids, substances or materials which are reasonable for household use may be placed in appropriate containers and properly stored.

5.26 **Subdividing Lot.** No one may attempt to further subdivide a Lot.

5.27 **Trash.** No one may allow rubbish, trash, and garbage to accumulate within the Lot or Common Area.

5.28 **Vacating Dwelling; Costs.** [Civil Code § 1364] Association shall have the power to temporarily remove any Dwelling resident for such periods and at such times as may be necessary in connection with any maintenance or repair work performed by Association. The Owner shall provide Association access as needed for maintenance or repair work by Association. The costs of any temporary relocation, including loss of rental income, during such maintenance or repair work shall be paid by the Dwelling Owner affected unless another Owner is responsible for the damages pursuant to the Governing Documents. If another Owner is responsible for the damages, the responsible Owner shall pay the relocation costs. Except in case of emergency, Association shall give notice of the need to temporarily vacate a Dwelling to the Owners and occupants not less than fifteen days or more than thirty days prior to the date of the temporary relocation. The notice shall state the reason for the relocation, the date and time of the beginning of work, the anticipated date and time of

termination of work and that the occupants will be responsible for all necessary accommodations during the relocation.

5.29 **Vehicle Maintenance.** Except for minor maintenance and repair, no one may perform any vehicle overhaul, repair, or non-emergency maintenance within the Community.

5.30 **Vehicle Use and Parking.** The parking of any vehicles is subject to the following:

- 5.30.1 No Owner may park any vehicle in a manner so that Association determines that the vehicle unreasonably extends beyond the driveway over the sidewalk and into the streets.
- 5.30.2 The following vehicles are Authorized Vehicles: standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten or fewer people, motorcycles and pick-up trucks having a manufacturer's rating or payload capacity of one ton or less. Authorized Vehicles may be parked in any portion of the Community intended for parking of motorized vehicles, subject to the Rules. Association has the power to identify additional vehicles as Authorized Vehicles in the Rules to adapt this restriction to all types of vehicles produced by manufacturers.
- 5.30.3 The following vehicles are Prohibited Vehicles: (i) recreational vehicles (e.g., motorhomes, travel trailers, camper vans, jet skis and boats), (ii) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines. 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 Board of Directors, (iii) buses or vans designed to accommodate more than ten people, (iv) vehicles having more than two axles, (v) trailers, (vi) inoperable vehicles or parts of vehicles, (vii) unregistered vehicles, (viii) aircraft, (ix) other similar vehicles, or (x) any vehicle or vehicular equipment deemed a nuisance by the Board. Association has the power to identify additional vehicles as Prohibited Vehicles in the Rules to adapt this restriction to all types of vehicles produced by manufacturers.
- 5.30.4 Prohibited Vehicles may not be parked, stored or kept on any public or private street within the Community or in a driveway unless they are parked for brief periods defined in the Rules.

Prohibited Vehicles may only be parked within an Owner's fully enclosed garage with the door closed.

- 5.30.5 If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle, unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board.
- 5.30.6 Noisy or smoky vehicles or any vehicle deemed a nuisance by the Board may not be operated in the Community.
- 5.30.7 The Board, in its discretion, may adopt reasonable Rules governing the operation, maintenance, storage and parking of any vehicle, trailer or watercraft on the Common Area, the Lots, including within the garages or driveways, and the public and private streets within the Community.

## ARTICLE 6 – ASSOCIATION MAINTENANCE

6.1 **Areas to Be Maintained.** The Association shall maintain the following:

- 6.1.1 The Common Area lots owned by the Association, except any portion for which the City or CFD accepted maintenance, and the Cost Center Amenities.
- 6.1.2 The Association Maintenance Areas described in the exhibits to the Declaration and the Declarations of Annexation and certain Brush Managements Areas assigned to the Association by the exhibits to the Declaration and the Declarations of Annexation.
- 6.1.3 Certain fencing and walls assigned to the Association by the exhibits to the Declaration and the Declarations of Annexation.
- 6.1.4 The block wall located between the Community and the Villages of Hampton Hill, subject to the terms of the "Agreement Concerning Real Property and Grant of Permission to Grade" recorded on May 26, 1999 as Document No. 1999-0362580 in the Office of the County Recorder of San Diego County.
- 6.1.5 The fences and walls described in Section 6.5 below.

6.2 **Level of Landscape Maintenance.** The Association shall provide landscaping, pruning and gardening properly to maintain and periodically replace when necessary the trees, plants, grass and other vegetation originally placed in areas it is obligated to maintain and to remove trash and debris from these areas. The

Association shall take such maintenance actions as are necessary to avoid erosion and to assure proper drainage of all areas it is obligated to maintain. The Association in its maintenance activities shall comply with any City and other governmental standards, requirements or restrictions which are applicable to the Community, including any City brush removal requirements. All landscaping within the Community to be maintained by the Association shall be maintained in a healthy and thriving condition, free from pests, weeds, trash and debris and shall be maintained at least to the standards set by the City. Notwithstanding the foregoing, the Association shall at all times comply with any City open space regulations or other applicable restrictions pertaining to the Community.

6.3 **Private Drainage Within Community.** The Association shall maintain in good condition all drainage systems, including but not limited to the surface and subsurface drains within the Common Area, Association Maintenance Areas or which otherwise are not solely within the boundaries of a Lot.

6.4 **CFD Maintained Areas.** The desiltation basins and the public equestrian and pedestrian trail system within or adjacent to the Community, including but not limited to the public park, adjacent to the Community will be maintained by the CFD. The Association will not have the right or obligation to maintain these areas. Each Lot is subject to a special tax by the CFD. The Association has no control over the special tax levied by the CFD. An easement or right of entry is provided to the CFD over any portions of the Community which the CFD is obligated to maintain.

6.5 **Association Fences or Walls Adjoining Lots.** The following provisions shall apply with respect to only those fences or walls which (i) have been identified as part of the Common Area or Association Maintenance Area, (ii) have been placed at the approximate boundary between the Common Area or Association Maintenance Area and the adjoining Lot, and (iii) therefore physically separate the Common Area or Association Maintenance Area from an adjoining Lot. (Most fences and walls between Lots and Association Maintenance Areas or Common Areas have not been identified as part of the Association Maintenance Areas or Common Areas and are the responsibility of the Owners as described in Section 7.4.2 below.) Unless otherwise provided in a Notice of Declaration of Annexation:

6.5.1 **Boundary.** The actual location of the fence or wall shall establish the boundary between the Common Area or Association Maintenance Area and the adjoining Lot. The Association shall have an easement for the continuation, repair and replacement of the fence or wall by the Association regardless of whether the fence or wall lies exactly on the boundary line or within the Lot. Should the fence or wall be located inside the Common Area, the Owner shall have an easement to allow the Owner of the Lot adjoining the wall or fence to use the Common Area which lies between the fence or wall and the Lot, subject to any open space restrictions or other dedications or reservations or items of title.

- 6.5.2 Maintenance. The Association shall be responsible to maintain, repair and replace certain perimeter masonry walls and metal fencing, including the structure and the interior and exterior of the walls and fences which are located within the Common Area or Association Maintenance Area.

## ARTICLE 7 OWNER MAINTENANCE

7.1 **Obligation to Maintain.** Each Owner shall keep the Lot free from weeds and all debris and shall keep all Improvements located on the Lot in good condition and repair, unless a responsibility has been assigned to the Association pursuant to Section 6.1 herein. All landscaping shall be maintained in a healthy and thriving condition, free from weeds, pests, trash and debris, and maintained in good appearance at all times. No Lot shall be permitted to fall into disrepair or an unsightly condition.

7.2 **Indemnification of Association.** Each Owner, personally and for its family members, contract purchasers, tenants, guests and invitees, agrees to indemnify each and every other Owner and the Association, and to hold harmless such Owners and the Association from, and to defend him against, any claim of bodily injury or property damage occurring within the Dwelling of that Owner arising out of the failure of the Owner to maintain the Lot as set forth herein, except where another Owner's or the Association's gross negligence or willful misconduct is the sole and exclusive cause of any claim, demand or cause of action.

7.3 **Drainage Facilities.** Unless the Association has assumed the maintenance of a drainage facility on a Lot, the Owner of a Lot shall be responsible to maintain all drainage facilities, including, but not limited to, concrete terrace drains, located on that Lot. The Owner shall keep the drainage facility or portions of it on the Lot in good repair and working condition free from obstructions and shall not interfere with the operation of the drainage facility.

### 7.4 **Walls and Fences.**

7.4.1 Walls and Fences Between Lots. The interior surface of a fence or wall located between two Lots shall be maintained by the respective Owners and the respective Owners shall share equally in the cost of maintaining, repairing or replacing the structure of any such fence except for damage caused by one such Owner. Should an Owner cause any damage to a fence or wall, such Owner shall be solely responsible to repair the same.

7.4.2 Walls and Fences Between Lots and Association Maintenance Areas or Common Area. Each Owner shall be obligated to maintain, replace and repair any fence or wall (including the structure and both the interior and exterior surfaces) which

separates the Owner's Lot from Association Maintenance Areas or Common Area.

**7.5 No Encroachment or Modification of Walls Owned by the Association.** No Owner shall modify or supplement any wall or other Improvement located within the Common Area or Association Maintenance Area nor shall any Owner install or construct any improvements which encroach on land within the Common Area or Association Maintenance Area.

**7.6 Owner Improvements.** Each Owner shall be responsible for the maintenance, repair, and replacement of any Improvements installed or planted anywhere within the Community by the Owner, any resident in the Owner's Dwelling, or the Owner's predecessor in interest. The Owner is also responsible for any damages to the Common Area or Association Maintenance Area caused by such installation, maintenance, use, or repair. Installation of any Improvement within the Community is subject to the architectural review provisions herein. Any unauthorized Improvement in the Common Area or Association Maintenance Area shall be considered a trespass on the Common Area or Association Maintenance Area and shall give the Board the right to remove the unauthorized Improvement summarily and without compensation to the party who installed it. See also Section 8.12 herein.

**7.7 Access over Common Area or Association Maintenance Area.** The Owner of the Lot shall be entitled to reasonable access over and through the Common Area or Association Maintenance Area, subject to the prior written consent of Association and to any other conditions reasonably imposed by Association, for the purposes of performing any maintenance, repairs or replacement as required by the Governing Documents. Association's consent shall not be unreasonably withheld.

**7.8 Failure to Maintain.** If an Owner fails to maintain, repair or replace the areas described herein pursuant to the standards set by the Board, the Board may notify the Owner of the work required and request that the same be done within a reasonable time from the giving of such notice. If the Owner fails to complete such maintenance within said time period, the Board may, following a Notice and Hearing, cause such work to be done and the cost thereof shall immediately be paid by such Owner to Association and until paid shall bear interest at the rate of twelve percent per annum (but no greater than the maximum rate authorized by Applicable Law). Association shall have an easement over the Lots pursuant to Section 2.6 herein for the purpose of performing the work described herein.

**7.9 Damage Caused by Owner or Item Under Control of Owner.** [Civil Code § 1367] Should any damage to the Common Area, any Lot or Dwelling result from the willful or negligent act or neglect of any Owner, or such Owner's tenants, guests, invitees, pets or other person or entity deriving any interest through such Owner, or from the maintenance, repair or replacement of any item for which the Owner is responsible, the cost of all repairs shall be borne solely by the responsible Owner.

Association shall be responsible for performing the repair of any damage to the Common Area or Improvements over which Association has control at the responsible Owner's expense. The responsible Owner shall perform the repair of any damage to his or her own property. If the Owner fails to make the repairs, the Association may perform the work and after Notice and Hearing, and charge the cost of those repairs to such Owner as an individual assessment, with the full authority to lien on such amount in the event of non-payment and may also seek repayment as a personal debt of the Owner. The Owner of any other property which sustained damage shall perform the repair of any such damage, and may charge the cost of repairs and any relocation costs to the responsible Owner.

If the responsible Owner disputes or refuses to pay any repair costs incurred by Association or the Owner of any other property which sustained damage, the Association, after Notice and Hearing, may charge the cost of those repairs to such Owner as an individual assessment, with the full authority to lien on such amount in the event of non-payment and may also seek repayment as a personal debt of the Owner.

If the damage is an Owner's responsibility pursuant to the first paragraph of this Section 7.9 and if such damage may be covered by any insurance carried by Association, the Board may, in its sole discretion, elect to submit the claim for the cost of repairs to its insurance carrier. If the claim is covered by the Association's insurance, the responsible Owner shall remain responsible for the total cost of repair, including, but not limited to, the cost of any deductible applicable to the covered claim and any amount not covered by the Association's insurance. Even if all or portion of the claim is covered by the Association's insurance, the Association and its insurance carrier may seek reimbursement from the responsible Owner for the full cost of repair.

All repairs performed to correct any damage shall be sufficient to return the damaged property only to its condition prior to the damage, with upgrades as may be required to conform to any applicable building codes in effect at the time the damage is repaired.

**7.10 *Limitation of Liability.*** Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any property, or the cost of repair or replacement of any damaged property or portions of such Owner's Lot unless such damage is caused by the gross negligence of Association, its Board, Officers, agents or employees.

**7.11 *Damages to Lot; Water Intrusion Damage.*** Each Owner shall be solely responsible for the repair of any damage to any and all interior items of his or her Dwelling and Lot, except any Association Maintenance Area on the Lot, and the cost thereof, including, but not limited to, any personal property, decorations, interior surfaces, floor and wall coverings, appliances, fixtures or other items therein, or any exterior items such as landscaping, caused by any Common Area or Association Maintenance Area component or Improvement or any other component or Improvement maintained by Association, including water intrusion from any Common Area or Association Maintenance Area source. Association shall not be liable for damage to

property in the Lot or Dwelling resulting from water which may leak or flow from outside of any Lot, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the gross negligence of Association, its Board, Officers, agents or employees.

Owners shall cause notice to be given to Association of any water within, or water intrusion into, their Lot immediately upon discovery of such leak or water intrusion. Within twenty-four hours or sooner of the discovery of a leak or water intrusion, Owner shall cause all water to be extracted, and the Dwelling and Lot cleaned. If Owner has not had water extraction and cleaning performed within forty-eight hours of discovery of the leak or water intrusion, Association may cause such work to be done and assess the cost of the work to the Owner as an individual assessment. Association is authorized to enter the Lot to perform water extraction and related repairs on an emergency basis. If repairs are required to a Dwelling or Lot following a leak or water intrusion, Owner shall cause all work to be performed by a licensed contractor experienced in water extraction and mold remediation. Containment procedures designed to prevent contamination of the affected Lots, other Lots and the Common Areas shall be utilized. If the Owner or occupants are required to vacate the Dwelling during the water extraction or repairs, Section 5.28 shall apply. Owner and his or her tenants, guests, invitees, agents and employees shall hold Association harmless for any claim for property damage or personal injury alleged to arise from the presence of mold or fungi in his or her Lot unless the damages or injuries were caused by the gross negligence of Association, its Board, Officers, agents or employees.

7.12 **Owner Notification to Association.** If, at any time, an Owner discovers or otherwise becomes aware of any condition within the Common Area that may constitute a risk to the health, safety or welfare of the Owners, their family members, tenants, and any other persons entering the Community, the Owner shall notify Association representatives of the condition as soon as possible.

## ARTICLE 8 - ARCHITECTURAL AND DESIGN CONTROL

8.1 **General.** [Civil Code § 1378] Any change or Improvement to the exterior of a Dwelling or a Lot shall be governed by this Article. Changes or Improvements to the Common Area by Association do not need to comply with the requirements of this Article. The powers and duties set forth in this Article shall be vested in, and exercised by, the Board. The Board may establish an Architectural Committee as provided herein to assist the Board in reviewing architectural submittals, and to provide recommendations to the Board with regard to approval or disapproval of any submittal. The foregoing notwithstanding, the Board shall be solely responsible for approving or rejecting any architectural submittal.

8.2 **General Modifications Requiring Prior Approval.** Nothing may be erected, placed or planted on the exterior of any Dwelling or Lot or on the Common Area by any Owner, nor may any excavation or demolition commence without the prior written approval of the Board in accordance with this Article. Additionally, and except as

provided in Section 8.4 below, prior written Board approval shall be required for any alteration, modification, painting or other change, addition or deletion to any existing Improvement or landscaping.

8.3 **Specific Modifications.** The following provisions govern the specific changes and modifications outlined below:

- 8.3.1 Modifications or alterations of the exterior of any Dwelling or other portion of the Lot or Common Area to facilitate handicapped access as provided by Applicable Law must be made at the Owner's expense and must have the prior written consent of the Board. Any approval of such handicapped access modification to the Common Area may be conditioned on such modification's removal by the Owner at his or her sole expense once the handicapped access is no longer necessary for the Lot.
- 8.3.2 Installation and removal of any landscaping, either "hard-scape" or "soft-scape," must have prior written approval of the Board. Replacement of landscaping will require approval only if it differs from the landscaping being replaced (e.g., replacing stone walkway with concrete or annual flowers with shrubs). If landscaping is installed removed, or replaced without the required prior written Board approval, the Board may, after Notice and Hearing, require the Owner to remove, replace, or install landscaping at the Owner's expense. Further, if the Owner refuses to remove, replace or install landscaping after being directed by the Board to do so, the Association may perform the required landscaping removal, replacement or installation and charge the cost to the Owner as an individual assessment.
- 8.3.3 No Owner may enclose any front porch, patio, balcony, or deck without the prior written consent of the Board.
- 8.3.4 Maintenance of the landscaping, Lot and Dwelling (e.g., pruning trees, trimming shrubs, replacing annual flowers, etc.) shall not be considered a modification for purposes of this Article.
- 8.3.5 Interior shutters, blinds, curtains, drapes or other appurtenances in or on any window or door do not need prior approval but must be in conformance with any standards established in the Rules. Owners shall be responsible for correcting any nonconforming appurtenances.

- 8.3.6 Except as provided by the Governing Documents, Owners shall not have the right to paint, decorate, remodel or alter the Common Area or Association Maintenance Areas without the prior written consent of the Board.
- 8.3.7 No sheds shall be placed on a Lot within public view without the prior written consent of the Board.
- 8.3.8 No one may convert any garage to living area or office use without prior written consent of the Board.

8.4 **Architectural Changes Not Requiring Prior Approval.** Notwithstanding Sections 8.2 and 8.3 above, no permission or approval shall be required to repaint in accordance with the original color scheme or as previously approved by the Board, or to rebuild or replace in accordance with plans and specifications previously approved by the Board. Nothing contained herein shall be construed to limit the right of an Owner to paint the interior of his or her Dwelling any color desired, or to improve or alter any Improvements within the interior of the Dwelling; provided such Improvement or alteration does not impair or alter the Common Area, any utilities, or other systems servicing the Common Area or other Lots.

8.5 **Procedure for Obtaining Approval of Architectural Changes.** The procedure for obtaining approval of any architectural change shall be as follows:

- 8.5.1 Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used and location of any proposed Improvements, alterations or landscaping, as well as the proposed contractor and any other information as required by the Board, shall be prepared by the requesting Owner and submitted to the Architectural Committee along with any fee or deposit established in the Architectural Rules. A duplicate request shall be submitted to the Board at the same time as the submittal to the Architectural Committee. The Board may establish a construction deposit and require that it be paid with the plans and specifications.
- 8.5.2 The Architectural Committee shall review the submission and provide a written recommendation as to approval or disapproval of any such submission, including the reasons for any decision, to the Board and the requesting Owner.
- 8.5.3 The Board shall review such recommendation within thirty days after receipt of the Architectural Committee's written recommendation, or within sixty days after receipt of the submission, whichever is earlier, and provide a written response to the requesting Owner, including an explanation of the reasons for any disapproval.

- 8.5.4 In the event the Board fails to provide a written response to the requesting Owner within sixty days after receipt of the request from the Owner, the Owner may notify the Board in writing that a response has not been received. If the Board fails to respond within thirty days of the receipt of the notice, approval will not be required and the related covenants shall be deemed to have been fully satisfied, so long as the proposed Improvement does not violate any requirements of the Governing Documents or Applicable Law.
- 8.5.5 Once an Owner has obtained approval for an architectural submittal, work on such approved submittal shall promptly commence and shall be completed within a reasonable time.

8.6 **Architectural Rules.** [Civil Code § 1357.130] The Board may, in its sole discretion, adopt, amend and repeal, as it deems necessary, Architectural Rules. The Architectural Rules shall interpret and implement the provisions of this Article by setting forth the standards for review by the Board and Architectural Committee and guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Community; provided, however, that said Architectural Rules shall not be in violation of the standards required by this Restated Declaration. The Architectural Rules may also address the information which is required to be presented in connection with an architectural submittal. Unless any such Architectural Rules are complied with, an Owner's plans and specifications shall be deemed incomplete and not submitted.

8.7 **Standard of Architectural Review.** An architectural submittal made by an Owner shall be reviewed for conformity with the Architectural Rules. Additional factors to be considered include, but are not limited to, the quality of proposed workmanship, the design and harmony of the Improvement with existing structures, the location of the Improvement in relation to surrounding structures, topography, and finish grade elevation, Owner and contractor insurance coverage, compliance with governmental permit requirements and contractor license status.

8.8 **Architectural Committee.** The Architectural Committee shall consist of at least one member, formed as follows:

- 8.8.1 The Board shall have the right to appoint all of the members of the committee.
- 8.8.2 Members appointed to the committee by the Board need not be Members of the Association.
- 8.8.3 Members shall be appointed for terms as prescribed by the Board. All members of the committee may be removed by the Board at any time with or without cause.

- 8.8.4 The committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.
- 8.8.5 The vote or written consent of the majority of the committee shall be required for any recommendation.

8.9 **Fee for Review.** The Board shall have the right to establish a fee for the review and approval of plans and specifications which must be submitted to it pursuant to the provisions of this Article, which shall be reasonably related to the duties performed. Owners shall be responsible for Association's costs incurred for review of their plans, including the costs of any consultants and experts.

8.10 **Compensation.** The members of the Board and Architectural Committee shall receive no compensation for services rendered, other than reimbursement by Association for expenses incurred by them in the performance of their duties hereunder. However, the Board may hire an architect or other professional to consult with the committee and Board, and the Association may compensate the architect or professional for services rendered to Association.

8.11 **Liability.** Neither the Board, the Architectural Committee nor any member thereof shall be liable to Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (c) the development of any property within the neighborhood; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him or her.

8.12 **Effect of Owner-Installed Improvements.** This Section shall apply to all Improvements installed on any Lot or elsewhere in the Community, either by a current or former Owner or by that Owner's family members, agents, tenants, or anyone exercising the Owner's powers, and without regard to whether the Owner first complied with the requirements of this Article, including without limitation, the requirement for seeking and obtaining prior written approval before installing any such Improvements.

Owner shall pay all costs and expenses incurred in the construction and installation of any such Improvements, and shall be fully responsible for the maintenance, repair and replacement of such Improvements. Each Owner shall be responsible for any damages to persons, property or otherwise which result from the construction, maintenance, use or continued existence of such Improvements and shall hold Association free and harmless from any and all costs and expenses attributable to the construction, installation, maintenance, repair, or replacement of such Improvements or to their continued existence or use. Association shall have no responsibility either for securing or maintaining insurance for any such Improvements.

Each Owner covenants and agrees that any such Improvements shall be constructed in strict compliance with the plans and specifications and in the exact location approved by Association, if so approved, and shall be maintained in good condition and repair in accordance with generally accepted construction, maintenance and repair practices, and shall comply with all Applicable Laws. Owner shall be obligated to obtain any necessary building permits and inspections and to verify compliance with all requirements imposed by law. Association's approval of any such Improvements, if given, is limited to an approval based solely on the criteria contained in the Governing Documents and does not include a review for compliance with Applicable Laws.

All such Improvements shall be subject to the jurisdiction of Association, acting through the Board, and to the Governing Documents; and shall be subject to an easement in favor of Association to perform its duties under the Governing Documents. As such, each Owner shall pay all costs and expenses incurred in removing and replacing or completing the Improvements, if such removal, replacement or finishing is required by Association, in its sole discretion, to perform its maintenance and repair responsibilities under the Governing Documents. Association shall exercise such discretion reasonably and not arbitrarily.

Owner shall defend, indemnify and hold harmless the Association, its Members, Board, Officers, agents and employees from and against any and all injuries, damages, causes of action or claims which may exist or be instituted against any or all of said parties because of, or in any manner arising from or connected with, the granting of written confirmation of approval for any Improvements, the power to grant and confirm such approval in writing, or the construction, maintenance, repair, replacement, existence or use of any such Improvements.

Each Owner releases Association, its Members, Board, Officers, agents and employees from any duty or obligation to pay, or otherwise be responsible, for the cost of construction, maintenance, repair or replacement of any such Improvements, and releases said parties from any and all claims, injuries, damages and causes of action which may arise as a result of the construction, maintenance, repair or replacement of the Improvements or the continued existence or use of the Improvements.

If any Owner fails to construct, maintain or use such Improvements in accordance with any architectural approval granted by Association and according to the terms of this Article, Association shall have the power, at Owner's expense, either to maintain, repair, replace, or finish the Improvements or to remove the Improvements, in the Association's sole discretion. The Association may enter the Lot for this purpose and may recover its costs through an individual assessment collectible through the lien and foreclosure process or by a personal action against the Owner.

Association shall have the power, but not the obligation, unilaterally to record a document against the title to Owner's Lot identifying the nature, description and location of any Improvements installed by Owner, whether installed with or without

Association's approval, to put subsequent Owners on notice of their duties and obligations with respect to such Improvements under this Article.

8.13 **Enforcement.** In addition to other enforcement remedies set forth in this Restated Declaration, the Board shall have enforcement rights with respect to any matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity in accordance with this Section.

- 8.13.1 No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation or commencement of a suit to enjoin such work.
- 8.13.2 The Board shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Board, or if it does not conform to the plans and specifications submitted to the Board.
- 8.13.3 The Board or committee may periodically enter any Lot to ensure that construction is proceeding according to any approved plans.
- 8.13.4 If the Owner fails to remedy any noticed noncompliance within the time specified by the Board, the Board shall provide Notice and Hearing regarding the alleged noncompliance.
- 8.13.5 At the hearing, the Owner, any representative(s) of the Architectural Committee and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance.
- 8.13.6 If a noncompliance is determined to exist, the Board shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Board, at its discretion, may grant.
- 8.13.7 If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board at its option, may pursue all legal and equitable remedies available to remedy or remove the non-complying Improvement, including entry onto the Lot to complete or remove incomplete construction work or remove non-conforming work is proceeding without approval of the Board or in a manner that is different than that approved by the Board it, and the Owner shall reimburse Association for

all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to Association, the Board may recover such expenses through the levy of an Individual Assessment against such Owner and collect thru the lien and foreclosure process or by a personal action against the Owner.

8.13.8 The approval by the Board of any plans, drawings or specifications for any work or Improvement done or proposed, or for any other matter requiring the approval of the Board under this Restated Declaration, or any waiver thereof, 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 by the same or some other Owner. Different location for Improvements, the size of the structure, proximity to other Dwellings or the Common Area and other factors may be taken into consideration by the Board and Architectural Committee in reviewing a particular submittal.

8.13.9 Notwithstanding any other provisions herein, the Board of Directors shall have the authority to obtain a restraining order or injunction at any time after discovery that work is proceeding without approval of the Board or in a manner that is different than that approved by the Board, if the Board deems such action necessary to protect Association's interests.

8.14 **Noncompliance with Applicable Laws.** Neither Association, the Board, nor the Architectural Committee shall be responsible for any noncompliance with any Applicable Law of any Improvement erected, constructed, installed, placed, altered or maintained in accordance with or pursuant to any plans and specifications approved by the Board or any defect in any conditions or requirements they may have imposed with respect thereto.

8.15 **Governmental Approval.** Prior to commencing any alteration or Improvements approved by the Board, the Owner shall comply with all Applicable Laws. Association shall not be obligated to enforce the provisions of this Section. Approval by the Board shall not be considered to satisfy any Applicable Law, nor shall the approval of any governmental entity be considered to satisfy the requirement of Board approval. An Owner's failure to comply with any Applicable Law may subject such Owner to certain penalties imposed by the governmental entity, notwithstanding the approval of the Board, which penalties shall be the responsibility of such Owner. Each Owner, by accepting a deed to his or her Lot, agrees to reimburse Association for any loss resulting from the violation of any Applicable Laws.

8.16 **Conflicts Between Applicable Law and Association.** In the event of any conflict between any Applicable Law and Association's Governing Documents or other requirements, the more restrictive of such conditions shall be controlling. Further, nothing herein shall limit Association from imposing conditions of approval of any proposed Improvements which are more restrictive than any Applicable Law.

## ARTICLE 9 - INSURANCE

9.1 **Commercial Insurance.** At a minimum, Association shall obtain and maintain an insurance policy or policies of property coverages, including but not limited to, fire, lightning, extended coverage and causes of loss special form for ninety percent of the full insurable replacement cost of the Improvements in the Common Area and Association Maintenance Areas and for which Association is responsible pursuant to the Governing Documents. Association may obtain, but is not required to obtain, insurance that will insure components that this Section does not require. The Association shall have no obligation to insure the Lots or Dwellings. The amount of any deductible shall be determined by the Board. This insurance shall be maintained for the benefit of Association, as named insured and for the benefit of the Owners and the Lenders on their Lots, as their interests may appear, subject, however, to any loss payment requirements set forth in this Restated Declaration. If required by any First Lender who notifies the Association of its requirement, such policies shall contain the First Lender's required coverages if economically feasible and available.

9.2 **General Liability Insurance.** [Civil Code §§ 1365.7 & 1365.9] The Association shall obtain and maintain a commercial general liability policy or policies including, but not limited to, premises, operations, products, completed operations, broad form contractual, owners and contractors protective, personal and advertising injury, insuring Association, its Officers, Directors, agents, employees, and the Owners against liability for bodily injury, death, and property damage arising from ownership and use of the Common Area, Association Maintenance Areas, and any Lots owned by Association or other acts or omissions of the Association. Limits of liability under the insurance shall not be less than the amounts required by Applicable Law covering all claims for bodily injury, death, and property damage arising out of a single occurrence.

9.3 **Automobile Liability Insurance** Association shall obtain and maintain a commercial automobile liability policy or policies for automobiles used in conducting Association business, including owned, non-owned, and hired automobiles, insuring Association, its Officers, Directors, and employees against liability for bodily injury, death, and property damage. Limits of liability shall be established by the Board.

9.4 **Directors and Officers Liability Insurance.** [Civil Code § 1365.7] Association shall obtain and maintain one or more policies of insurance which include coverage for individual liability of Officers and Directors of Association for negligent acts, errors or omissions of those persons acting in their capacity as Officers and Directors. Limits of liability under this insurance shall be determined by the Board in its sole discretion.

9.5 **Fidelity Coverage.** Association shall purchase and maintain fidelity coverage for any person or entity handling funds of Association, whether or not such persons or entities are compensated for their services. If an agent handles Association funds, such agent shall be covered by Association's coverage, unless such agent provides similar coverage. Association's coverage may be in the form of a separate bond, a separate policy (e.g., crime policy), or may be added by endorsement to the general policies carried by Association. The Board shall have the discretion to determine the amount of coverage.

9.6 **Other Association Insurance.** Association shall purchase and maintain Worker's Compensation and Employer's Liability insurance applicable to the State of California to the extent necessary to comply with any Applicable Laws. The Employer's Liability insurance limit shall be not less than one million dollars per occurrence. Association may purchase such other insurance that the Board considers necessary or advisable.

9.7 **Review of Insurance; Notice of Cancellation or Modification.** The limits and coverage of insurance carried by Association shall be reviewed at least annually by the Board and increased or decreased in its discretion. All policies shall include a provision for at least thirty days' prior written notice to the Association of any cancellation or change except for cancellation due to nonpayment of premium, which shall require at least ten days' prior written notice to the Association.

9.8 **Qualifications of Insurance Carriers.** Association shall use generally acceptable insurance carriers with a Best Rating of not less than B++XII from which to purchase and maintain the coverage required herein, preferably from carriers that are admitted to sell insurance in the State of California to the extent such insurance is available at a reasonable premium.

9.9 **Failure to Acquire Insurance.** Association, and its Directors and Officers, shall have no liability to any Owner or Lender if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or Association Members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Lender entitled to notice that the specific insurance will not be obtained or renewed.

Association, and its Directors and Officers, shall also have no liability to any Owner or Lender if it does not obtain any of the insurance referenced hereunder which is not required but may be obtained at the discretion of Association. The Board may, in good faith in its sole discretion, determine that obtaining any of the discretionary insurance is unreasonable or unnecessary under the circumstances. In making a determination as to whether to acquire any such discretionary insurance, the Board may, but is not required to, base its decision upon, among other things, a vote of the Owners.

9.10 **Trustee for Policies.** Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by Association. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

9.11 **Insurance Premiums.** Insurance premiums for any insurance coverage obtained by Association shall be a Common Expense.

9.12 **Insurance Policy Deductibles.** [Civil Code § 1365(f)] The Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

- 9.12.1 Owners shall be responsible for the cost of any deductible if the damage or loss occurs to the Owners' real or personal property ("Owner Property").
- 9.12.2 Association shall be responsible for the cost of any deductible if the damage or loss occurs to any real or personal property owned by Association, or for which Association is responsible ("Association Property").
- 9.12.3 If the damage or loss occurs to any Owner Property and any Association Property or to more than one Owner's Property, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each party's insured loss to the total insured loss under that policy.
- 9.12.4 The foregoing notwithstanding, if the Board determines the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner or is the Owner's responsibility pursuant to Section 7.9 herein, such Owner shall be liable for the full amount of the deductible and reimbursement of all costs as more fully described in Section 7.9.

9.13 **Owner Notification of Insurance.** [Civil Code § 1365] Association shall disclose such information regarding insurance coverage as and when required by any Applicable Law. Failure to disclose such information shall not impose any liability upon Association or Board other than that provided for in such Applicable Law.

9.14 **Individual Property Insurance.** All Owners shall obtain and maintain insurance, at their sole expense, to protect against any damage to, or loss of the Owner's real or personal property, and the cost of repair or replacement of damaged items, including, but not limited to, any Improvements made by an Owner, any personal property, decorations, floor and wall coverings, appliances, cabinets, fixtures or other items therein, or any exterior items for which the Owner is responsible for maintenance, repair and replacement by the terms of this Restated Declaration, or any exterior items for which such Owner is responsible such as landscaping. The Association shall have no obligation to verify that Owners obtain and maintain the policy or policies required by this Section 9.14. Owner and his or her tenants, guests, invitees, agents and employees shall hold Association, its Officers, Directors, agents and employees harmless for any claim for damages alleged to arise from the failure of Association, its Officers, Directors, agents or employees to verify and ensure that every Owner has complied with this requirement to obtain and maintain insurance.

## ARTICLE 10 - DAMAGE OR DESTRUCTION

10.1 **Duty to Restore Lot.** [Civil Code § 1364] If all or any portion of any Lot or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Lot to rebuild, repair or reconstruct the Dwelling and the Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the Board. The Owner of any damaged Lot or Dwelling and the Board shall be obligated to proceed with all due diligence hereunder, and such Owner shall mitigate any danger presented by such damage or destruction and thereafter cause reconstruction to commence within three months after the damage occurs and be completed within one year after damage occurs, unless prevented by causes beyond his or her reasonable control.

10.2 **Duty to Restore Common Area.** If all or any portion of the Common Area is damaged or destroyed, it must be repaired or replaced promptly by Association unless:

- 10.2.1 The Community is terminated.
- 10.2.2 Repair or replacement would be illegal under an Applicable Law.
- 10.2.3 The damaged or destroyed portion of the Community is deannexed in accordance with Section 2.3, above.

10.3 **Cost of Repair.** Any cost of repair or replacement of the Common Area in excess of insurance proceeds and reserves shall be a Common Expense, levied against Lots as a special assessment unless an individual Owner is responsible pursuant to Section 7.9 herein.

10.4 **Repair Plans.** The Common Area must be repaired and restored in accordance with either the original plans and specifications or other plans and

specifications which have been approved in writing by the Board. Updates to conform to currently applicable building codes shall be deemed to be repairs and restoration in accordance with the original plans.

10.5 **Insurance Proceeds.** An insurance trustee appointed by the Board or insurance company, or if there is no trustee, then the Board, acting as provided in Section 9.10, shall hold any insurance proceeds in trust for Association, Owners and Lenders. Subject to the provisions of this Restated Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property. Association shall receive any excess proceeds left after restoration or repair of the damaged property. The Owners and Lenders are not entitled to receive payment of any portion of the excess proceeds unless the Community is terminated.

10.6 **Disbursements to Owners and Lenders if Community is Terminated.** If the Community is terminated, any insurance proceeds distributed to Owners and Lenders shall be distributed proportionately according to the fair market values of the Lots at the time of the destruction as determined by an independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Board and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

10.7 **Certificates By Board.** The trustee, if any, may rely on the following certifications in writing made by the Board:

- 10.7.1 Whether or not damaged or destroyed property is to be repaired or restored; and
- 10.7.2 The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

10.8 **Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Owners or Lenders, then the Board and the trustee, if any, shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Official Records of the County Recorder, stating the names of the Owners and the Lenders.

## ARTICLE 11 - EMINENT DOMAIN

11.1 **Association as Trustee for Owners.** If all or part of the Common Area is threatened to be, or shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be payable to Association as trustee for all Owners and Lenders according to the loss or damages to their respective interests in the Common Area. Association, acting through the Board, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with

respect to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints Association as his or her attorney in fact for such purposes. The Owners shall hold the Association free and harmless from any liability for its decisions and actions in carrying out this Section.

11.2 **Condemnation of a Lot.** If all or any part of a Lot is taken by eminent domain, the award shall be disbursed to the Owner of the Lot subject to the rights of the Owner's Lenders. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the Community, including membership in the Association, and the interest of the remaining Owners shall be adjusted accordingly.

## ARTICLE 12 - RIGHTS OF LENDERS

12.1 **General.** No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Lender on any Lot made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

12.2 **No Right of First Refusal.** This Restated Declaration neither contains nor shall be amended to contain any provision creating a "right of first refusal" to Association before a Lot can be sold. Should any such rights nevertheless be created in the future, such rights shall not impair the rights of any First Lender to: (a) foreclose or take title to a Lot pursuant to the remedies provided in the mortgage, (b) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a Borrower, or (c) sell or lease a Lot acquired by the Lender.

12.3 **Unpaid Dues or Charges.** Where the Lender of a First Mortgage of record or other purchaser of a Lot obtains title to the same pursuant to the remedies in the Mortgage or as a result of foreclosure, such acquirer of title, his or her successors and assigns, shall not be liable for the share of the Common Expenses or assessments made by Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Lots, including such acquirer, his or her successors and assigns.

12.4 **Action Requiring Lender Approval.** Except as provided by statute in case of condemnation or substantial loss to the Lots and Common Area, approval by at least two-thirds of the Eligible Lenders (based upon one vote for each Mortgage owned), is needed to:

- 12.4.1 Abandon or terminate the Community (except for abandonment or termination provided by Applicable Law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain).

- 12.4.2 Change the pro rata interest or obligations of any individual Lot for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Lot in the Common Area, provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner.
- 12.4.3 Partition or subdivide any Lot.
- 12.4.4 Abandon, partition, subdivide, encumber, sell or transfer the Common Area, or any property owned, directly or indirectly, by Association (the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by Association is not a transfer in the meaning of this clause).
- 12.4.5 Use hazard insurance proceeds for losses to any of the Community (whether to Lots or to Common Area) for other than the repair, replacement or reconstruction of such property.

12.5 **Payment of Taxes and Insurance.** First Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area property. First Lenders making such payments shall be owed immediate reimbursement from Association.

12.6 **Priority of Distribution of Proceeds or Awards.** Any other provision herein contained to the contrary notwithstanding, no provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the First Lender pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.7 **Notification of Lender.** Upon written request to Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any Eligible Lender will be entitled to timely written notice of:

- 12.7.1 Any condemnation loss or any casualty loss which affects a material portion of the Community or the Lot insured or guaranteed by such Eligible Lender;
- 12.7.2 Any default in the performance by an Owner of any obligation under the Governing Documents not cured within sixty days;

- 12.7.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by Association; and
- 12.7.4 Any proposed action which would require the consent of a specified percentage of Eligible Lenders as required by the Governing Documents.

12.8 **Inspection of Documents, Books and Records.** Association shall make available to Eligible Lenders, current copies of the Governing Documents and the accounting books, records and financial statements of Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

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

12.10 **Lenders Furnishing Information.** Any Lender shall be entitled and authorized to furnish information to the Board concerning the status of any Mortgage.

12.11 **Termination without Substantial Destruction.** Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Community, the consent of a majority of the Owners voting when at least a quorum of the Voting Power is represented and the approval of fifty-one percent of Eligible Lenders shall be required to terminate the Community; provided that if termination is for reasons other than substantial destruction or condemnation, the agreement of sixty-seven percent of Eligible Lenders is required.

12.12 **Eligible Lender Approval Response.** An Eligible Lender who receives a written request to approve any action under this Article by certified or registered mail, return receipt requested, addressed to the address provided by such Eligible Lender, who does not deliver or post to the requesting party a negative response within thirty days after the notice of the proposed action, shall be deemed to have approved such request. No Lender may charge a fee in connection with reviewing a request for a response. Any response from a Lender which only requests a fee for review shall not be deemed a "negative response" for the purposes of determining Lender consent within the meaning of this Article.

## ARTICLE 13 - ENFORCEMENT

13.1 **Right to Enforce; Remedies.** [Civil Code §§ 1354, 1363.810 et seq., 1369.510 et seq.; Corp. Code § 7231] Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the Governing Documents.

Each remedy provided in this Article, this Restated Declaration and under Applicable Law shall be considered cumulative and not exclusive.

13.2 **Board Discretion Whether to Enforce.** In deciding whether to take any action to enforce the restrictions, conditions, covenants, reservations, liens and changes in the Governing Documents, the Board may exercise its discretion using the business judgment rule of Corporations Code section 7231.

13.3 **Nuisance.** The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance, and every remedy allowed by Applicable Law or equity against a nuisance, either public or private, shall be applicable against every act or omission or incident resulting in a nuisance and may be exercised by any Owner and Association.

13.4 **Failure to Enforce.** Failure by Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

13.5 **Nonwaiver of Remedies.** Each remedy provided for in this Restated Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

13.6 **Violation of Applicable Law.** Any violation of any Applicable Law pertaining to the ownership, occupancy or use of any Lot within the Community is declared to be a violation of this Restated Declaration and subject to any or all of the enforcement procedures herein set forth.

13.7 **Compliance with Applicable Law.** [Civil Code §§ 1354, 1363.810 et seq., 1369.510 et seq.; Corp. Code § 7231] All activities to enforce the provisions of the Governing Documents shall be conducted in accordance with all Applicable Laws. This Section shall apply to both Association and to all Owners.

13.8 **Attorneys' Fees.** [Civil Code § 1354] In the event an attorney is engaged by the Board to enforce the Governing Documents, Association shall be entitled to recover from the adverse party to the controversy its attorneys' fees and costs so incurred, whether or not such controversy proceeds to litigation. In the event litigation is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys' fees and costs. Said costs and attorneys' fees shall constitute a lien on the Lot which is enforceable as an assessment pursuant to the Governing Documents. This Section shall also apply to attorneys' fees incurred to collect any post-judgment costs.

## ARTICLE 14 - AMENDMENTS

14.1 **Owner Approval of Amendments.** [Civil Code §§ 1355, 1356 & 1363.03] Subject to this Article, this Restated Declaration may be amended by the following procedure or as otherwise specified in Section 14.4 herein.

First, the vote will be conducted by a secret ballot in accordance with the requirements of Applicable Law. Second, the total number of ballots returned must come from at least twenty-five percent of the Voting Power. Third, the vote must remain open for at least thirty days after the date the ballots are mailed, but the initial deadline may be extended periodically after that date, if a quorum of ballots has not been received by the initial deadline, and may be extended automatically for additional periods of time until a quorum of ballots has been returned. Fourth, the amendment must be approved by the affirmative vote of at least fifty percent of the ballots cast. A blank ballot or other action indicating an intention to abstain will be deemed to have a neutral effect, so it will be counted toward the quorum only, but it will not be counted as a ballot cast for purposes of computing the fifty percent approval.

An amendment becomes effective after (a) the approval of the required percentage of Owners has been given, (b) that fact has been certified in the form of a written document executed and acknowledged by an Officer designated by Association for that purpose or, if no such designation is made, by the President of the Association and (c) the document has been recorded in San Diego County.

An amendment may change this Restated Declaration in any manner, including adding or deleting restrictions or increasing or decreasing the burdens on the Lots as long as the amendment is approved as specified herein or pursuant to Civil Code section 1356.

14.2 **Eligible Lender Approval of Amendments.** In addition to the approval required by Section 14.1 above, the approval of fifty-one percent of Eligible Lenders shall be required to add or amend (i) any provision which is for the express benefit of holders or insurers of First Mortgages, or (ii) any material provisions of this Restated Declaration which establish, provide for, govern or regulate:

- 14.2.1 Voting rights;
- 14.2.2 Increases in assessments greater than twenty-five percent, assessment liens or the priority of such liens;
- 14.2.3 Reductions in reserves for maintenance, repair and replacement of the Common Area;
- 14.2.4 Insurance or fidelity bonds;
- 14.2.5 Rights to use the Common Area;

- 14.2.6 Responsibility for maintenance and repair of the several portions of the Community;
- 14.2.7 Expansion or contraction of the Community, or the addition to, annexation to, or withdrawal of property from the Community.
- 14.2.8 Restoration or repair of the Community after damage or partial condemnation, in a manner other than that specified in the Governing Documents;
- 14.2.9 Convertibility of Lots into Common Area, or Common Area into Lots;
- 14.2.10 Restrictions on leasing of Lots;
- 14.2.11 Imposition of any restriction on the right of an Owner to sell, transfer or otherwise convey his or her Lot; or
- 14.2.12 Any provisions that expressly benefit mortgage holders, insurers or guarantors.

14.3 **Eligible Lender Approval Response.** An Eligible Lender who receives a written request to approve additions or amendments by certified or registered mail, return receipt requested, addressed to the address provided by such Eligible Lender, who does not deliver or post to the requesting party a negative response within thirty days after the notice of the proposed addition or amendment, shall be deemed to have approved such request. No Lender may charge a fee in connection with reviewing a request for a response. Any response from a Lender which only requests a fee for review shall not be deemed a "negative response" for the purposes of determining Lender consent within the meaning of this Section.

14.4 **Amendment of Restated Declaration or Bylaws by Board Vote.** The Board of Directors shall have the power to amend this Restated Declaration or the Bylaws, as the case may be, but only as this Section permits. By a majority vote of the full Board, the Board shall have the power to prepare and adopt or, in the case of the Restated Declaration, to record an amendment for the following purposes:

- 14.4.1 To correct any printing or grammatical error or omission in this Restated Declaration or the Bylaws.
- 14.4.2 To make any change in the Restated Declaration or Bylaws required by a change in any Applicable Law, including court decisions, which obligate Association, the Board or the Owners to conform their conduct to the terms of the Applicable Law.

- 14.4.3 To make any change in the Restated Declaration or Bylaws needed to comply with any requirements of an Institutional Lender.

If the Board approves an amendment using the procedure in this Section, the amendment shall not be recorded or filed until the following procedure is implemented. The Board shall first send notice of such action to the Owners, which notice shall include the text of the proposed amendment and an opinion from legal counsel that the proposed change in the Governing Documents falls within one of the purposes listed above. An amendment shall be considered ratified, unless within thirty days after the date such notice is sent to the Owners, the Owners entitled to cast twenty percent of the votes in Association sign a written petition to reconsider the Board's action and file it with the Board. If such a petition is filed, the Board shall conduct a vote of the Members to reconsider the Board's action. The vote shall be conducted by secret ballot as provided in Civil Code Section 1363.03 or other Applicable Law for the approval of amendments to the Governing Documents. In the voting, unless a majority of the Voting Power of the Association rejects the proposed amendment, the amendment shall be considered ratified, whether or not a quorum of votes has been cast.

This Section shall not restrict the powers of the Owners to amend this Restated Declaration or the Bylaws by any other method, but is intended to authorize a simple process for amendment where the property rights of Owners are not materially or adversely affected.

14.5 **Statute of Limitations to Challenge Amendments.** No action to challenge the terms or validity of any amendment to this Restated Declaration or to the Bylaws may be made more than one year after the recording date in the case of an amendment to the Restated Declaration, or more than one year after the official tally of the vote in the case of an amendment to the Bylaws.

## ARTICLE 15 - GENERAL PROVISIONS

15.1 **Term.** The provisions of this Restated Declaration shall continue in effect for a term of fifty years from the date of recording. Thereafter, it shall be automatically extended for successive periods of ten years, until the membership of Association decides to terminate it. This Section shall not preclude amending this Restated Declaration during the term of its existence.

15.2 **Severability.** The provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision. If for any reason this Restated Declaration is declared completely invalid in its entirety, the Original Declaration shall be deemed to have survived and thereafter become effective without any further action.

15.3 **Binding.** This Restated Declaration, as well as any amendment thereto and any valid action or directive made pursuant to it, shall be binding on the Owners and their heirs, grantees, tenants, successors, and assigns.

15.4 **Interpretation.** [Civil Code §1370] The provisions of this Restated Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a common interest development. All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Board, and its decision shall be final, binding and conclusive on all of the parties affected.

15.5 **Limitation of Liability.** The liability of any Owner for performance of any of the provisions of this Restated Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Lot but only with respect to obligations arising from and after the date of the divestment.

15.6 **Fair Housing.** [Gov't. Code §12956.1] Neither Association nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Lot to any person on the basis of race, color, sex, sexual orientation, religion, ancestry, national origin, age, marital status, physical handicap or any other classification prohibited by Applicable Law.

15.7 **Number and Headings.** As used in this Restated Declaration, the singular shall include the plural, unless the context requires the contrary. The headings are not a part of this Restated Declaration, and shall not affect the interpretation of any provision.

15.8 **Variances.** The Board may authorize variances from compliance with any of the architectural or use provisions of this Restated Declaration as follows:

- 15.8.1 Variances may be granted, without limitation, to restrictions upon use, restrictions on repair and maintenance, and architectural restrictions, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations warrant.
- 15.8.2 Variances shall be in writing and shall become effective upon final approval by the Board.
- 15.8.3 When a variance is granted, no violation of the Restated Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the particular property and particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all Applicable Laws affecting the use of the premises, including, but not limited to, zoning

ordinances and Lot set back lines or requirements imposed by the County of San Diego or any other governmental authority.

- 15.8.4 Association may charge a reasonable fee to cover any costs associated with the variance approval process, or for issuance of a variance.
- 15.8.5 The Board may enact additional Rules regarding the variance approval process, the circumstances under which a variance may be granted, and may require the execution of indemnity or other agreements by the Owner as a condition to issuance of a variance.

**15.9 Governing Document Priorities.** In the event of a conflict among the Governing Documents, or any provision thereof, the following documents shall take precedence in the order given: (1) this Restated Declaration, (2) the Articles, (3) the Bylaws, and (4) the Rules.

**15.10 Conflict with Applicable Laws.** Provided any Applicable Law is inconsistent with any provision or provisions of the Governing Documents, and compliance with that Applicable Law is mandatory, neither Association, the Board, nor any member thereof shall have any liability for complying with the Applicable Law and not with the inconsistent provision or provisions of the Governing Documents.

**15.11 References to Code Sections.** Statutes or administrative regulations that are shown in brackets at the beginning of a section or paragraph in this Restated Declaration are intended to show that the respective section or paragraph is based on the particular statute or administrative regulation referred to in the brackets. Unless otherwise noted, all references are to statutes and administrative regulations of the State of California. Any issues not addressed expressly by the Governing Documents shall be controlled by relevant provisions of the Davis-Stirling Common Interest Development Act (Civil Code Section 1350 et seq.) and the California Corporations Code and by judicial interpretations of these statutes, whether the Association is incorporated or not. In the event any of the Applicable Laws referenced herein are amended, modified, or otherwise changed, the references herein shall be deemed to refer to the Applicable Laws as amended, modified or otherwise changed. If an Applicable Law is deleted, any reference herein shall be deemed to refer to any successor Applicable Law.

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Declaration of Restrictions this 31<sup>st</sup> day of JANUARY, 2012

DECLARANT:

**RANCHO DORADO OWNERS ASSOCIATION**  
a California nonprofit mutual benefit corporation

By:

  
\_\_\_\_\_  
President

By:

  
\_\_\_\_\_  
Secretary

NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO)

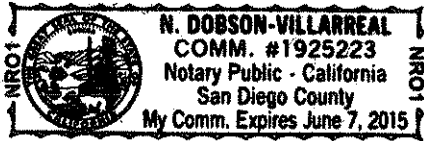
On 1/31/2012, before me, Nancy Dobson Villarreal  
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")  
personally appeared Tony S. Beckerman  
Name of Signer

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

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

WITNESS my hand and official seal.

Nancy Dobson Villarreal



Place Notary Seal Above  
Signature of Notary Public

OPTIONAL

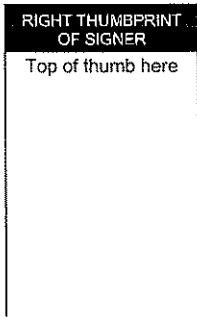
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: AMENDED CCIRK  
Document Date: 1/31/2012 Number of Pages: 63  
Signer Other Than Named Above: \_\_\_\_\_

CAPACITY(IES) CLAIMED BY SIGNER(S)

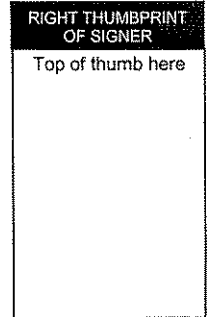
- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer
  - Title: \_\_\_\_\_
  - Partner –  Limited  General
  - Attorney-in-Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_



Signer is Representing:  
\_\_\_\_\_

CAPACITY(IES) CLAIMED BY SIGNER(S)

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer
  - Title: \_\_\_\_\_
  - Partner –  Limited  General
  - Attorney-in-Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_



Signer is Representing:  
\_\_\_\_\_

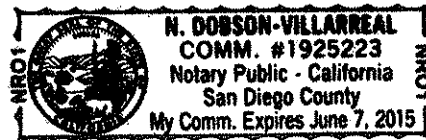
# Acknowledgement

State of California

County of San Diego

On 1/31/2012 before me, Nancy Dobson-Villarreal Notary Public personally appeared Robert Wong who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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



WITNESS my hand and official seal.

Signature N. Dobson-Villarreal (Seal)

Date of Document 1/31/2012  
Title of Document Amended CC's  
Pages of document 02

**EXHIBIT "A" - COMMUNITY LEGAL DESCRIPTION****Phase 1 - La Fuente Phase 1****Phase 1 Residential Lots:**

Lots 14 through 19, inclusive, and Lots 40 through 56, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 6, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13923, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

**Phase 1 Common Area Lots:**

Lots P and Q of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 6, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13923, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

**Phase 2 - Monte Verde Phase 1****Phase 2 Residential Lots:**

Lots 1 through 5, inclusive, and 56 through 61, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 3 - Loma Real Phase 1****Phase 3 Residential Lots:**

Lots 91 through 94, inclusive, 104, and 132 through 136, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 4 - La Fuente Phase 2****Phase 4 Residential Lots:**

Lots 20 through 39, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 6, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13923, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

**Phase 4 Common Area Lots:**

Lot O of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 6, in the City of San Marcos, County of San Diego, State of California, according to Map

thereof No. 13923, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

### **Phase 5 - Loma Real Phase 2**

#### **Phase 5 Residential Lots:**

Lots 140 and 141 of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 3, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13914, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

Lots 105 through 108, inclusive, and 137 through 139, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

### **Phase 6 - Monte Verde Phase 2**

#### **Phase 6 Residential Lots:**

Lots 48 through 55, inclusive, and 62 through 65, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

### **Phase 7 - Los Reyes Phase 1**

#### **Phase 7 Residential Lots:**

Lots 168 through 173, inclusive, and 207 through 210, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

### **Phase 8 - La Fuente Phase 3**

#### **Phase 8 Residential Lots:**

Lots 1 through 13, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 5, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13922, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

#### **Phase 8 Common Area Lots:**

Lots K, L and M, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 5, in the City of San Marcos, County of San Diego, State of

California, according to Map thereof No. 13922, filed in the Office of the County Recorder of San Diego County, February 1, 2000.

**Phase 9 - Monte Verde Phase 3**

**Phase 9 Residential Lots:**

Lots 9 through 17, inclusive, and 28 through 32, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 10 - Loma Real Phase 3**

**Phase 10 Residential Lots:**

Lots 109 through 118, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 11 - Los Reyes Phase 2**

**Phase 11 Residential Lots:**

Lots 161 through 167, inclusive, and 202 through 206, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

**Phase 12 - Monte Verde Phase 4**

**Phase 12 Residential Lots:**

Lots 33 through 47, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 13 - Loma Real Phase 4**

**Phase 13 Residential Lots:**

Lots 119 through 126, inclusive, and 142 through 146, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 3, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13914, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 14 - Los Reyes Phase 3****Phase 14 Residential Lots:**

Lots 159, 160, 200 and 201 of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

Lots 155 through 158, inclusive, and 195 through 199, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 3, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13914, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 15 - Loma Real Phase 5****Phase 15 Residential Lots:**

Lots 127 through 131, inclusive, and 147 through 154, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 3, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13914, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 16 - Monte Verde Phase 5****Phase 16 Residential Lots:**

Lots 6 through 8, inclusive, and 18 through 27, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

**Phase 17 - Los Reyes Phase 4****Phase 17 Residential Lots:**

Lots 211 through 220, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

**Phase 18 - Loma Real Phase 6****Phase 18 Residential Lots:**

Lots 74 through 77, inclusive, 87 through 90, inclusive, and 95 through 97, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map

thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

#### **Phase 19 - Los Reyes Phase 5**

##### **Phase 19 Residential Lots:**

Lots 174 through 178, inclusive, and 188 through 194, inclusive of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

#### **Phase 20 - Loma Real Phase 7**

##### **Phase 20 Residential Lots:**

Lots 78 through 86, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

#### **Phase 21 - Los Reyes Phase 6**

##### **Phase 21 Residential Lots:**

Lots 179 through 187, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13535, filed in the Office of the County Recorder of San Diego County, February 25, 1998.

#### **Phase 22 - Loma Real Phase 8**

##### **Phase 22 Residential Lots:**

Lots 66 through 73, inclusive, 98 through 103, inclusive, of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

##### **Phase 22 Common Area Lots:**

Lots C, I, J and K of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 3, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13914, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

Parcel G of Parcel Map No. 18573 in the City of San Marcos, County of San Diego, State of California, according to Map thereof filed in the Office of the County Recorder of San Diego County, October 31, 2000. 11571

Lot D of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 4, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13915, filed in the Office of the County Recorder of San Diego County, January 14, 2000.

Parcel D of Parcel Map No. 18670, in the City of San Marcos, County of San Diego, State of California, according to Map thereof filed in the Office of the County Recorder of San Diego County, April 1, 2001

Lots A, G and H of SAN MARCOS TRACT NO. 391, MEADOWLARK ESTATES UNIT NO. 2, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 13913, filed in the Office of the County Recorder of San Diego County, January 14, 2000.