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DECLARATION OF RESTRICTIONS
FOR
REATA WAY 7
A PLANNED DEVELOPMENT

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DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS is made as of November 14, 2001, by REATA WAY 7 LLC, a California limited liability company (hereinafter referred to as "Declarant"), with reference to the following

RECITALS:

A. Declarant is the owner of the real property located in the City of San Diego, County of San Diego, California, described as:

Lots 1 through 7, inclusive of REATA WAY, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 14300, filed in the Office of the County Recorder of San Diego County, November 9, 2001 (the "Properties").

Lots 1 through 7 are residential "Lots" as that term is defined below.

B. It is planned to develop the Properties pursuant to this Declaration as a Common Interest Development described in Section 1351(k) of the California CIVIL CODE as a "Planned Development". If all of the Properties are developed, the Properties will consist of seven (7) single-family detached homes, together with common area and common maintenance areas as described in this Declaration. The development will be consistent with the overall development plan submitted to and approved by the City of San Diego, California. There is no guarantee that all of the Lots will be developed. Declarant reserves the right, during the development of the Properties, to change the design, size, type and prices of homes to be built on the Properties.

D. The owners of residential Lots will be members of REATA WAY 7 ASSOCIATION, a California nonprofit mutual benefit corporation ("Association"), which will own and maintain the open space lot ("Common Area") and may maintain portions of some residential lots or other areas outside the Properties ("Common Maintenance Area").

E. Before selling any of the residential Lots, Declarant wishes to impose on each the following plan of covenants and restrictions.

NOW, THEREFORE, Declarant hereby certifies and declares and does hereby establish the following general plan for the protection and benefit of the Properties described above and has fixed and does hereby fix the following protective covenants and restrictions upon each and every ownership interest in the Properties and under which covenants and restrictions each ownership interest shall be held, used, occupied, leased, sold, encumbered, conveyed and transferred. Each and all of the covenants and restrictions are for the purpose of protecting the desirability of and shall inure to the benefit of all of the Properties and shall run with and be binding upon and pass with the Properties and each and every

ownership interest therein and shall inure to the benefit of, apply to and bind the respective successors in title or interest of Declarant.

ARTICLE I

DEFINITIONS

Section 1.1. "Articles" – The Articles of Incorporation of the Association.

Section 1.2. "Association" – REATA WAY 7 ASSOCIATION, a California Nonprofit Mutual Benefit Corporation.

Section 1.3. "Board" – The Board of Directors of the Association.

Section 1.4. "Brush Management Plan" – the Brush Management Plan attached as Exhibit "A" to the Planned Residential Development Permit on file with the Office of Planning and Development Review of the City.

Section 1.5. "Bylaws" – The Bylaws of the Association.

Section 1.6. "City" – The City of San Diego, California.

Section 1.7. "Common Area" – All real property owned in fee by the Association. It is not presently intended that the Association will own any real property in fee.

Section 1.8. "Common Maintenance Area" – Those portions of Lots and other real property (other than Common Area) the maintenance of which is the responsibility of the Association as provided in the Declaration or by easement or agreement.

Section 1.9. "Declarant" – REATA WAY 7 LLC, a California limited liability company, its successors and assigns, if the rights of "Declarant" are assigned to such successors or assigns.

Section 1.10. "Declaration" – This Declaration of Restrictions.

Section 1.11. "Final Map" – Map No. 14300 of REATA WAY, filed in the Office of the County Recorder of San Diego County, California, on November 9, 2001.

Section 1.12. "Lot" – Any plot of land shown as a separate lot or parcel upon any recorded Final Map or Parcel Map of any portion of the Properties, with the exception of the Common Area.

Section 1.13. "Member" – An Owner who is entitled to membership in the Association as provided in the Declaration.

Section 1.14. "Mortgage" – A Deed of Trust as well as a mortgage encumbering a Lot.

Section 1.15. "Mortgagee" – The beneficiary of a Deed of Trust as well as the mortgagee of a Mortgage.

Section 1.16. "Owner" – The record owners, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation.

Section 1.17. "Planned Residential Development Permit" – Planned Residential Development and Hillside Review Permit No. 99-0515, dated December 7, 2000 and recorded March 7, 2001, as Document No. 01-130199 in the Official Records of San Diego County, California, approving the development of the Properties.

Section 1.18. "Properties" – The real property described in Recital A above.

Section 1.19. "Purchaser" – Any Owner of a Lot who acquires a Lot from Declarant for the Owner's own use, pursuant to a Final Subdivision Public Report. "Purchaser" does not include a successive Declarant.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREA

Section 2.1. Title to Common Area. Declarant will convey title to the Common Area, if any, to the Association prior to the first conveyance of a Lot to a Purchaser. Conveyance of the Common Area shall be free and clear of all monetary encumbrances and liens, except real property taxes and assessments which may be due but are not delinquent. Title to the Common Area will be conveyed subject to this Declaration and all easements, covenants, conditions, reservations, dedications and other exceptions to title then of record together with any encroachments which might exist on the Common Area.

Section 2.2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress, egress and of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to the Owner's Lot, subject to the following provisions:

(a) The right of the Board to suspend the voting rights and right to use of any recreational facilities on the Common Area by an Owner for any period during which any Association assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of the published rules and regulations of the Association. (No recreational facilities are planned for the Common Area.) No suspension shall be effective unless the Owner has been given fifteen (15) days' prior notice of the suspension and the reasons therefor and the Owner has been given an opportunity to be heard by the Board, orally or in writing, not less than five (5) days prior to the effective date of the suspension. Notice may be given to the Owner by any method reasonably calculated to provide actual notice, but if given by mail must be given by first-class or registered mail sent to the last address of the Owner shown on the records of the Association.

(b) The right of the Board to dedicate or transfer all or any part of the Common Area owned by the Association in fee to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. No dedication or transfer of all or substantially all of the assets of the Association shall be effective unless approved in accordance with the California CORPORATIONS CODE.

(c) The right of the Board, in accordance with the Articles and Bylaws, to borrow money for the purpose of improving the Common Area and, with the assent of two-thirds (2/3) of each class of Members, hypothecate any or all real or personal property owned by the Association.

(d) The right of access, ingress and egress of Owners over the Common Area and the right of installation and use of utilities on the Common Area for the benefit of Lots, subject to rules and regulations adopted by the Board.

(e) The right of the Board to grant maintenance, access and utility easements over the Common Area owned in fee by the Association to others and to convey portions of the Common Area owned in fee by the Association to others.

(f) The right of the Board to adopt rules and regulations relating to the use of the Common Area and the governance of the Properties.

(g) Subject to the obligation to restore and repair any damage, Declarant and its sales agents, employees and independent contractors shall have:

(i) A non-exclusive easement over the Common Area for the purpose of making repairs to the Common Area, and for the purpose of access for constructing, marketing (e.g., maintaining sales offices) and maintaining the Properties; and

(ii) The right to the non-exclusive use of the Common Area for the purpose of placing on the Common Area signs, flags and similar improvements reasonably necessary to market the Lots to the public. However, Declarant's right to place such improvements within the Common Area shall terminate upon the sale to Purchasers of all Lots within the Properties. The use of the Common Area by Declarant and its agents shall not unreasonably interfere with the use of the Common Area by the Class A Members of the Association.

Section 2.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his rights with respect to use of the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on his Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 3.1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot.

Section 3.2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for the Lot shall be exercised

as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of the earlier of the following to occur:

- (i) The total outstanding votes held by Class A members equal the total votes held by the Class B member; or
- (ii) Two (2) years following the date of the first conveyance of a Lot to a Purchaser.

Voting rights shall not commence with respect to a Lot until regular assessments by the Association have commenced as to the Lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 4.1. Creation of Lien and Personal Obligation for Assessments. Declarant, for each Lot owned, covenants, and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association: (a) regular assessments or charges which shall include an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area and Common Maintenance Area; and (b) special assessments. The regular and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall (except as otherwise provided in Section 4.4 below) be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien shall be effective upon recordation of a notice of delinquent assessment. Each assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment is due. The personal obligation for delinquent assessments shall not pass to successors in title of a Lot, unless expressly assumed by them; however, the delinquent assessment shall remain a lien on the Lot, subject to Section 4.10 below.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties, for the improvement and maintenance of the Common Area and Common Maintenance Area, and to reimburse the Association for the costs incurred in bringing an Owner into compliance with the Articles, Bylaws, Declaration and rules and regulations adopted by the Board. The regular assessment is the assessment determined annually by the Board to meet the expenses of the Association, including the establishment of reserve accounts, for the next fiscal year based upon the annual budget adopted by the Board pursuant to the Bylaws. A special assessment is an assessment the Board, in its discretion, determines necessary if the Association's available funds are or will become inadequate to meet the estimated expenses of the Association for the fiscal year. The Board may levy the entire special assessment immediately or levy it in installments over a period the Board determines appropriate. In addition, a special assessment against a particular Owner only may be levied by the Board as set forth in Section 4.4 of the Declaration. The Board shall provide notice by first-class mail to each Owner of any increase in the regular assessment or of any special assessment not fewer than thirty (30) days nor more than sixty (60) days prior to the increased assessment or special assessment becoming due.

Section 4.3. Limitation on Regular and Special Assessments. The Board shall levy regular and special assessments sufficient to perform the obligations of the Association as provided in the Declaration and Bylaws; provided, however, except for assessment increases necessary for emergency situations, the Board may not, without the approval of Owners casting a majority of the votes at a meeting or election of the Association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the California CORPORATIONS CODE and Section 7613 of the California CORPORATIONS CODE at which a quorum was present or participated:

(a) Increase the regular assessments for any fiscal year unless the Board has complied with the provisions of California CIVIL CODE Section 1365(a) (preparation and distribution of the budget); or

(b) Impose a regular assessment that is more than twenty percent (20%) greater than the regular assessment for the Association's preceding fiscal year nor special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expense of the Association for the fiscal year.

For purposes of this Section 4.3, "quorum" means more than fifty percent (50%) of the Owners. An emergency situation is any one of the following: (i) an extraordinary expense required by an order of a court; (ii) an extraordinary expense necessary to repair or maintain any part of the Properties for which the Association is responsible where a threat to personal safety in the Properties is discovered; and (iii) an extraordinary expense necessary to repair or maintain any part of the Properties for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget pursuant to CIVIL CODE Section 1365. However, prior to the imposition or collection of an assessment under Subsection (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of assessment. The term "regular assessment for the Association's preceding fiscal year" as used in this Section 4.3 is deemed to be the regular assessment which would have existed in the absence of any subsidy of assessments agreed to be paid by Declarant. Anything in this Section 4.3 to the contrary notwithstanding, the limitation on regular and special assessments shall comply with the laws of the State of California at the time the regular or special assessment is levied by the Association.

Section 4.4. Individual Special Assessments. The Association may also impose a special assessment against an Owner to reimburse the Association for costs incurred in bringing an Owner or the Owner's Lot into compliance with the provisions of the Declaration, the Articles, the Bylaws and the Association rules and regulations, which assessment may be imposed upon the vote of the Board after notice and an opportunity for a hearing which satisfy the requirements of Section 7341 of the California CORPORATIONS CODE; provided, however, that except to the extent the special assessment is to reimburse the Association for the cost of collecting assessments, a special assessment levied pursuant to this Section 4.4 shall not constitute a lien on the Owner's Lot.

Section 4.5. Uniform Rate of Assessment. Both regular and special assessments (other than a special assessment levied against an Owner to bring the Owner or the Owner's Lot into compliance with the Declaration, Articles, Bylaws or rules and regulations of the Association) shall be fixed at a uniform rate for all Lots and may be collected on a quarterly, monthly or other periodic basis as determined by the Board.

Section 4.6. Date of Commencement of Regular Assessments; Due Dates. Regular assessments shall commence as to all Lots on the first day of the month following the first conveyance of a Lot to a Purchaser. The Board shall fix the amount of the regular assessment against each Lot at least thirty (30) days in advance of each regular assessment period. Written notice of the regular assessment shall be sent to every Owner. The due dates for payment of assessments shall be established by the Board.

Section 4.7. Uncompleted Facilities. The Board may exclude from assessments that portion which is for the purpose of defraying expenses and reserves directly attributable to the existence of a Common Area or Common Maintenance Area improvement that is not complete at the time the assessments commence. Any such exemption from assessments attributable to an Association maintained facility shall be in effect only until the earliest of the following events: (i) the improvement has been completed as evidenced by the recordation of a Notice of Completion; or (ii) the improvement has been installed and placed into use.

Section 4.8. Effect of Non-Payment of Assessments; Remedies of Association. Any assessment made in accordance with the Declaration shall be a debt of the Owner of a Lot at the time the assessment is due. Any assessment not paid within thirty (30) days after the due date shall bear interest from thirty (30) days following the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the assessment and, in addition thereto or in lieu thereof, may foreclose the lien against the Lot.

Before the Association may place a lien upon a Lot to collect a debt which is past due, the Association shall notify the Owner in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the principal owed, any late charges and the method of calculation, any attorney's fees and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. Any payments toward such a debt shall be first applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses.

Any assessment not paid within fifteen (15) days after the due date shall be delinquent. Except as otherwise provided in Section 4.4 above, the amount of any delinquent assessment plus costs of collection, late charges, penalties, interest and attorney's fees, shall be and become a lien upon the Lot when the Association causes to be recorded with the County Recorder of San Diego County, California, a Notice of Delinquent Assessment. The Notice of Delinquent Assessment shall state the amount of the delinquent assessment and the other charges as may be authorized by the Declaration, a description of the Lot against which the assessment has been made, the name of the record owner of the Lot and, in order for the lien to be foreclosed by non-judicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be signed by the person designated by the Association for that purpose or, if no one is designated, by the President of the Association, and mailed in the manner set forth in CIVIL CODE Section 2924b to all record owners of the Owner's interest in the Properties no later than ten (10) calendar days after recordation of the Notice of Delinquent Assessment. Upon payment of the delinquent assessment and charges in connection with which the Notice of Delinquent Assessment has been recorded, or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the assessment lien.

The assessment lien may be enforced by sale by the Association after failure of the Owner to pay the assessment and expiration of thirty (30) days following the recording of a lien created pursuant to this Section. The sale shall be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the California CIVIL CODE applicable to the exercise of powers of sale in mortgages or in any other manner permitted by law. The Association shall have the power to purchase the Lot at the foreclosure sale and to hold, lease, mortgage and convey the Lot. Suit to recover a money judgment for unpaid assessments, rent and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the assessment.

Section 4.9. Subordination of the Lien to First Mortgages. The assessment lien shall be subordinate to the lien of any first Mortgage, and the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of the assessment as to payments which became due prior to the sale or transfer. No sale or transfer shall relieve the Lot from lien rights for any assessments thereafter becoming due. When the Mortgagee of a first Mortgage or other purchaser of a Lot obtains title to the Lot as a result of foreclosure, the acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to the Lot which was due prior to the acquisition of title to the Lot by such acquirer, except for a share of the charges or assessments resulting from a re-allocation of the charges or assessments which are made against all Lots.

Section 4.10. Estoppel Certificate. The Association shall furnish or cause an appropriate officer to furnish, upon demand by any person, a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 4.11. Personal Liability of Owner. No Owner may exempt himself or herself from personal liability for assessments levied by the Association, nor release the Lot owned by the Owner from the liens and charges for assessments, by waiver of the use and enjoyment of the Common Area or by abandonment of the Owner's Lot.

Section 4.12. Exempt Property. All properties dedicated to and accepted by a local public authority, and all properties owned by a charitable nonprofit organization exempt from taxation by the laws of the State of California, shall be exempt from assessment by the Association. However, no land or improvements devoted to dwelling use shall be exempt from assessments by the Association.

Section 4.13. Schedule of Monetary Penalties. If the Association adopts a policy of imposing any monetary penalty, including any fee, on any Owner for violation of this Declaration or the rules of the Association, including any monetary penalty relating to the activities of a guest or invitee of an Owner, the Board shall adopt and distribute to each Owner, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with the authorization for Owner discipline set forth in this Declaration and the Bylaws. The Board shall not be required to distribute any additional schedules of monetary penalties unless there are changes from the schedule that was adopted and distributed to the Owners pursuant to this Section.

Section 4.14. Treatment of Monetary Penalty. A monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Declaration, Bylaws or rules of the Association or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area for which the Member was allegedly

responsible or in bringing the Member and his Lot into compliance with the Declaration, Bylaws or rules of the Association, shall not be treated as an assessment which may become a lien against the Member's Lot enforceable as provided in California CIVIL CODE Section 1367. This Section shall not apply to charges imposed against an Owner which are reasonable late payment penalties for delinquent assessments nor charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent assessments.

ARTICLE V

GOVERNMENTAL REGULATIONS

The Properties and their use are subject to the jurisdiction of the City, and the ordinances, regulations and permits issued by the City, including the conditions to approval of the tentative tract map for the Final Map (VTM 99-0515), the Planned Residential Development Permit, and any City approved site development plans applicable to the Properties. Each Owner shall at all times comply with each governmental ordinance, regulation, restriction or permit which is applicable to such Owner's Lot.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 6.1. Architectural Committee. No construction, development, alteration, grading, landscaping, addition, excavation, modification, decoration, redecoration, painting or reconstruction of the visible exterior of any improvement on a Lot, including a residence, patio cover or fence, landscaping or other yard improvements, shall be commenced or maintained until the plans and specifications therefor showing the nature, design, kind, shape, height, width, color, materials and location have been submitted to and approved in writing by a committee of not less than three (3) nor more than five (5) persons ("Committee"). All members of the Committee may be appointed and replaced by Declarant until one year following issuance by the California Department of Real Estate of the original Final Subdivision Public Report for the Properties. Thereafter, a majority of the members of the Committee may be appointed and replaced by Declarant and a minority of the members of the Committee may be appointed or replaced by the Board until ninety percent (90%) of the Lots in the Properties have been conveyed of record to Purchasers or until five (5) years following issuance by the California Department of Real Estate of the Final Subdivision Public Report for the Properties, whichever shall first occur. Thereafter, all members of the Committee may be appointed or replaced by the Board. Committee members need not be Members of the Association. Persons submitting proposals or plans and specifications to the Committee (each person is referred to as the "Applicant") must obtain a dated, written receipt for such plans and specifications and furnish the Committee with the address to which communications from the Committee to the Applicant are to be directed. No building additions shall be permitted without the prior approval of the City, as well as of the Committee. No approval shall be required to repaint the exterior of a residence with the original color used by Declarant.

Section 6.2. Committee Approval. The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alteration, addition or other construction activity contemplated thereby in the locations indicated will not be detrimental to the appearance of the Properties and surrounding real property as a whole, and that the appearance of any structure or other improvement will be in harmony with the surrounding structures and improvements. However, the Committee shall have the right from time to time categorically to exempt certain types of improvements from review by the Committee.

Section 6.3. Approval With Conditions. The Committee may condition its approval of proposals or plans and specifications on such changes thereto as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may adopt, amend or supplement the architectural guidelines (i) concerning design and materials standards, rules and guidelines for construction activities, (ii) setting forth procedures for the submission of plans for approval, (iii) requiring a reasonable fee ("Review Fee") payable to the Committee for any costs involved to accompany each application for approval, and (iv) specifying additional factors which it will take into consideration in reviewing submissions. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of plantings, exterior materials and colors. Until receipt by the Committee of all plans, specifications or other materials deemed necessary by the Committee, the Committee may postpone review of any plans submitted for approval.

Section 6.4. Notification. Decisions of the Committee and the reasons therefor shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within forty-five (45) days after receipt by the Committee of all materials required by the Committee. Any application submitted pursuant to this Article VI shall be deemed approved, unless the Committee's written disapproval or a request for additional information or materials is transmitted to the Applicant within forty-five (45) days after the date of receipt by the Committee of all required materials.

Section 6.5. Waiver. The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 6.6. No Liability. Neither the Committee, nor any members of the Committee, nor their duly authorized representatives, shall be liable to any Applicant or Lot Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties, unless due to the willful misconduct of the Committee.

Section 6.7. Design Criteria. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration, addition or other construction activity on the basis of satisfaction of the Committee with the grading plan, location of the improvements on the Lot, the finished ground elevation, the color scheme, finish, design, proportions, architecture, shape, height, style, appropriateness of proposed improvements, effect on adjoining Lots, the materials to be used, the kinds, pitch or type of roof proposed, the planting, landscaping, size, height or location of vegetation on a Lot, and on the basis of aesthetic considerations and the overall benefit or detriment to the Properties and surrounding real property generally which would result from such improvement, alteration, addition or other construction activity. Although the Committee may consider view issues when rendering its decisions, neither the Committee nor Declarant makes any representation that any view or privacy from any Lot will be protected, and neither the Committee nor Declarant has any obligation to maintain, protect, enhance or preserve any view from any Lot or other portion of the Properties. In addition, although the Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color, schemes, exterior finishes and materials, and similar features, it shall not be responsible for reviewing, nor shall its approval of any plans or design be deemed approval of any plan or design from the standpoint of adequacy of drainage,

structural safety or conformance with building or other codes. The Committee approval of any particular construction activity shall expire and the plans and specifications therefor shall be resubmitted for Committee approval if substantial work pursuant to the approved plans and specifications is not commenced within six (6) months after the Committee's approval of such construction activity. All construction activities shall be performed as promptly and as diligently as possible and shall be completed within such reasonable period of time specified by the Committee.

Section 6.8. Variances. The Committee may authorize variances from compliance with any of the architectural provisions of this Article VI, including, without limitation, restrictions on height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be in writing, and must be signed and acknowledged by at least a majority of the members of the Committee. The granting of such a variance shall not operate to waive any of the terms and provisions of this Article VI for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all laws and regulations of any governmental authority affecting the use of his Lot, including, but not limited to, zoning and building requirements of any governmental agency or entity having jurisdiction over the Lot.

Section 6.9. Committee Guidelines. The Committee shall adopt rules for the conduct of its affairs and design guidelines for construction activities. The architectural guidelines of the Committee may provide for the pre-approval of certain specified types or categories of construction activities, provided that such pre-approved construction activities are implemented by the affected Owner in conformance with the standards for design, materials and other criteria established in the architectural guidelines for such pre-approved construction activities. The Committee may from time to time adopt, supplement or amend architectural guidelines to establish, expand, limit or otherwise modify the categories and criteria for any pre-approved construction activities.

Section 6.10. Declarant Exemption. This Article VI shall not apply to, and the Committee shall have no authority or responsibility to review or approve, any improvements made by Declarant on any Lot or to the Common Area or Common Maintenance Area.

ARTICLE VII

USE RESTRICTIONS

Section 7.1. Outside Antennae. No exterior radio antenna, television antenna, "C.B." antenna, satellite dish, earth receiving station or other antenna, transmitting or receiving device of any type shall be erected or maintained on any Lot without the approval of the Committee; provided, however, that the Committee shall not impose any requirement which precludes reception of an acceptable quality signal from or unreasonably delays, prevents or unreasonably increases the costs of the installation, maintenance or use of any antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter. In addition, the Committee shall not impose any requirements in violation of applicable law or regulations, including those promulgated by the Federal Communications Commission ("FCC") from time to time. In this regard, current FCC regulations would prohibit any unreasonable interference with or burden upon an Owner's installation or maintenance of (i) an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel distribution services, instructional television fixed services and local multipoint distribution services and that is one meter or less in

diameter or diagonal measurement; or (ii) an antenna that is designed to receive television broadcast signals.

Section 7.2. Solar Heating. Each Owner shall have the right to place and maintain on his or her Lot equipment and facilities related to the installation and maintenance of individual solar heating systems. The installation and maintenance of any solar heating system by an Owner shall be subject to all applicable zoning regulations, the UNIFORM BUILDING CODE and associated ordinances. No solar heating panels or other solar energy collection equipment shall be installed on any portion of any Lot unless the equipment is installed in a location and manner as to be screened from the view of other persons in the Properties to the greatest degree practicable without significantly decreasing its efficiency. No person shall install any solar heating panel or equipment without the prior written consent of the Board which shall have the right to reasonably restrict the nature, size, shape, color, style, materials or location of any such panels or equipment within the Properties, subject to the provisions of California CIVIL CODE Section 714 as the same may be amended from time to time.

Section 7.3. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within a Lot, and no odor shall be permitted to arise therefrom so as to render the Lot or any portion thereof unsanitary, unsightly or offensive from any street or from any portion of the Properties, or vicinity thereof, or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Lot so as to be unreasonably offensive or detrimental to any other part of the Properties or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or other items which may unreasonably disturb other Owners or their tenants shall be located, used or placed on any Lot. No vehicles may be operated upon any portion of the Properties not improved as a private drive, driveway or parking area. Alarm devices used exclusively to protect the security of a residence and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. Outdoor lighting on a Lot shall be shaded and adjusted so the light falls only on the Lot on which the lighting is located and does not fall or reflect on other Lots.

Section 7.4. Exterior Maintenance and Repair; Owner's Obligations. No improvement within a Lot shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair by the Owner of the Lot.

Section 7.5. Drainage.

(a) ***Established Surface Drainage.*** There shall be no interference with the established surface drainage pattern over any Lot which affects any other portion of the Properties, unless an adequate alternative provision is made for proper surface drainage and it is in accordance with all applicable governmental codes and ordinances. "Established surface drainage" is defined as the drainage which exists at the time the overall grading and landscaping of the Properties is completed by Declarant pursuant to grading plans approved by the City.

(b) ***Non-Exclusive Drainage Easements.*** There are created, granted and reserved non-exclusive easements appurtenant to each Lot in the Properties for drainage according to the patterns for drainage created by the approved grading plans for the Properties, as well as according to the actual, natural and existing patterns for drainage. Each Owner covenants and agrees not to obstruct or otherwise interfere with the drainage patterns of waters from adjacent

Lots in the Properties over his Lot or, in the alternative, that in the event it is necessary and essential to alter the drainage pattern for the protection and use of the Owner's Lot, the Owner will make adequate provisions for proper drainage in accordance with the applicable governmental grading ordinance.

(c) ***Drainage Facilities Maintenance.*** All drainage facilities and improvements located on a Lot shall be maintained in good working condition by the Owner of the Lot unless the drainage facilities or improvements are within Common Maintenance Area.

(d) ***Brow Ditch.*** A concrete brow ditch (the "Brow Ditch") has been (or will be) installed on Lots 1, 2, 3, 4, 5 and 6 of the Final Map (the "Brow Ditch Lots"). Declarant hereby reserves in favor of each Brow Ditch Lot a non-exclusive appurtenant easement to drain water through the Brow Ditch over those portions of Lots 2, 3, 4 and 5 as described and shown on Exhibit "A" attached hereto. Declarant reserves in favor of the Association a non-exclusive easement for access to and the maintenance, repair and replacement of the Brow Ditch. The Owners of Lots 2, 3, 4 and 5 shall not obstruct or interfere with the proper operation of the portion of the Brow Ditch on such Owner's Lot.

(e) ***Catch Basin and Drainage Channel.*** A catch basin and drainage channel have been installed on Lot 4 of the Final Map. Declarant reserves in favor of the Association a non-exclusive easement for access to and the maintenance, repair and replacement of the catch basin and drainage channel. The Owner of Lot 4 shall not obstruct or interfere with the proper operation of the catch basin and drainage channel.

Section 7.6. Water and Sewer Systems. No individual water supply system, water softener system or sewage disposal system shall be permitted on Lot unless the system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any applicable water district, the City and any applicable governmental health authority having jurisdiction.

Section 7.7. No Hazardous Activities. No activities shall be conducted nor shall any improvements be constructed anywhere on a Lot which are or might be unsafe or hazardous to any person or property.

Section 7.8. Unsightly Articles. No unsightly articles, including clotheslines, shall be permitted to remain on any portion of a Lot so as to be visible from any street or from any other Lot. Without limiting the generality of the foregoing, refuse, garbage and trash shall be kept at all times in covered, sanitary containers commercially designed for such purpose (i.e., oil drums or similar substitutes for commercially designed refuse receptacles are prohibited) and located within an enclosed area or areas appropriately screened from the view from any other Lot. The containers shall be exposed to the view from neighboring Lots only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). There shall be no exterior fires, except barbecue fires contained within receptacles designed therefor which do not create a fire hazard.

Section 7.9. Temporary and Prefabricated Structures. No tent, shack, trailer or any temporary building, improvement or structure shall be placed upon any portion of a Lot. The foregoing excludes construction trailers and other temporary or prefabricated structures or improvements utilized during construction and sales activities.

Section 7.10. Mining and Drilling. The surface of a Lot shall not be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, geothermal heat, minerals, rocks, stones, gravel or earth, nor shall oil wells, tanks, tunnels, mineral or geothermal excavations or shafts be permitted upon the surface of any portion of a Lot.

Section 7.11. View Corridors. All trees and other vegetation shall be trimmed by the Owner of the Lot upon which the same are located to avoid any substantial obstruction of the views from other Lots within the Properties. Similarly, no Owner shall place accessory structures on the Owner's Lot in a manner which would substantially obstruct views from other Lots within the Properties.

Section 7.12. Residential Use. All Lots within the Properties shall be improved and used solely for single-family residential use. No lease shall be for a term of less than thirty (30) days. No Lot shall be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other non-residential purposes; except Lots may be used by Declarant for model home sites, construction offices, a design center, and display and sales office purposes during the construction and sales period. The provisions of this Section shall not preclude professional or administrative occupations without external evidence thereof, for so long as such occupations (i) are conducted in conformance with all applicable governmental ordinances, (ii) are merely incidental to the use of the Lot as a residence, and (iii) the patrons or clientele of such professional or administrative occupation do not regularly visit or conduct business on the Lot.

Section 7.13. Residential Area Improvements.

(a) ***Residence.*** No Lot shall be improved except with one residence designed to accommodate no more than a single family and its servants and occasional guests, plus a garage, a Second Unit (if any), fencing and such other improvements as are necessary or customarily incident to a single-family residence.

(b) ***Utilities.*** All utility and storage areas or structures must be (i) completely concealed from the view from any other Lot or street, or (ii) constructed of such design, materials, configuration and in such location as to be compatible with the residence and other improvements on the Lot.

Section 7.14. Landscaping-Front Yards. Within six (6) months after the later to occur of (i) close of escrow for the sale of a Lot by Declarant to a Purchaser, or (ii) issuance of a Certificate of Occupancy for a residence constructed on such Lot should the Lot have been transferred to the Purchaser without a residence having been constructed, the Owner shall install and shall thereafter maintain plants, shrubs, trees and any other appropriate landscaping improvements, pursuant to plans and specifications approved by the Committee, on the front yard portions of his or her Lot. The front yard portions of a Lot refer to those portions of the Lot (other than any portions of the Lot within the Common Maintenance Area) which have not been landscaped by Declarant but are visible from any street within the Properties.

Section 7.15. Maintenance of Yards. Each Owner shall properly maintain and periodically replace when necessary all trees, plants, grass, vegetation and other landscaping and other improvements located on the Owner's Lot (except for any Common Maintenance Area). No plants or seeds infected with insects or plant diseases shall be brought upon, grown or maintained upon any Lot. If any Owner fails to install or maintain landscaping in conformance with architectural guidelines or allows his or her landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the Committee,

upon thirty (30) days' prior written notice to the Owner, shall have the right either to seek any remedies at law or in equity which it may have or to correct such condition and to enter upon the Owner's property for the purpose of doing so, and the Owner shall promptly reimburse the Committee for the cost thereof.

Section 7.16. Parkway and Street Tree Maintenance. For purposes of this Section, "Parkways" are hereby defined as the portion of an Owner's Lot which consists of the landscaped area within a public right-of-way between the public sidewalk and the curb of the adjacent public street. "Street Trees" refer to any trees which the City required to be planted on a Lot regardless of whether the trees are within the public right-of-way. The Owner of the Lot on which a Parkway or Street Tree(s) is located shall maintain the landscaping and irrigation improvements within the Parkway and the Street Tree(s). Such maintenance shall be in compliance with the City's Landscape Technical Manual and City-wide Landscape Regulations. No Parkway landscaping or Street Trees shall be removed or modified without the written consent of the City.

Section 7.17. Parking and Vehicular Restrictions. None of the following (collectively "Prohibited Vehicles") shall be parked, stored or kept within the Properties: any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck); any recreational vehicle (including, but not limited to, any camper unit, house/car or motor home); any bus, trailer, trailer coach, camp trailer, boat, aircraft or mobile home; any inoperable vehicle or any other similar vehicle; or any vehicle or vehicular equipment, mobile or otherwise, constituting a nuisance. No Prohibited Vehicle shall be parked, stored or kept on any Lot except either: (a) wholly within an enclosed garage, and then only if the garage door is capable of being fully closed; or (b) in the case of a motor home or similar recreational vehicle of reasonable and customary size, out of view from any street or other Lot behind a privacy screen (comprised of fencing, walls, landscaping, or a combination thereof) approved by the Committee, in its sole discretion, pursuant to the terms of Article VI. Prohibited Vehicles shall not be allowed in any driveway or other exposed parking areas or street, except for the purposes of loading, unloading, making deliveries or emergency repairs ("Transitory Use"), provided that no Transitory Use shall extend over more than twenty-four hours during any seven (7) consecutive days. Vehicles owned, operated or within the control of an Owner, or of a resident of Owner's Lot, shall be parked in the garage or other assigned parking space to the extent of the maximum designed capacity of the garage or parking space. Garage doors shall be kept fully closed except as reasonably necessary for ingress and egress from the garage. Garages or other parking areas shall be used only for parking authorized vehicles, and shall not be used for storage, living, recreational, business or other purposes. No repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle or equipment shall be conducted upon any street, Lot or elsewhere within the Properties, except wholly within an enclosed garage; provided, however, that such activity is not undertaken as a business, and provided further that such activity may be prohibited entirely if it constitutes a nuisance. No street parking is allowed on the cul-de-sac on Reata Way; the conditions of approval of the Tentative Map require that the curb of the entire cul-de-sac be painted red to allow enough area for vehicle turn-around purposes.

Section 7.18. Driveway Easement; Use Restrictions; Maintenance and Enforcement.

(a) ***Driveway Easement.*** A driveway easement is hereby established, reserved and granted to the Owner of Lot 4 in, on, over and under those portions of Lot 5 shown on Exhibit "B" attached hereto. This easement is appurtenant to Lot 4 and is for the purposes of providing pedestrian and vehicular access to Lot 4, and for replacing, repairing and maintaining the common driveway located within the easement area, and for the construction, installation,

repair, maintenance, use, operation, removal and replacement of underground utilities in the easement area.

(b) **Use Restrictions.** There shall be no parking within the driveway easement area. No repairs or restorations of any vehicle or equipment shall be conducted upon any part of the driveway easement area.

(c) **Maintenance.** The Owners of Lots 4 and 5 shall each have the nonexclusive right to use the common driveway and shall share the obligation of maintenance of the common driveway. The Owner of Lot 5 shall be solely responsible for the installation, maintenance, repair and replacement of any landscaping, irrigation, fencing or other improvements (other than the driveway) within the Easement Area. No Owner shall impair in any way the structural integrity of a common driveway. In the event that the common driveway is damaged by the Owner of only one of the Lots, that Owner shall, at its expense, be responsible for the repair of the damage to the common driveway. In the event that the common driveway is damaged from any cause other than the act or negligence of any one Owner, it shall be repaired or replaced at the equal expense of both Owners.

(d) **Enforcement.** In the event of a dispute arising in connection with a common driveway, a driveway easement or the provisions of this Section, the matter shall be submitted to and decided by binding arbitration. Each party to the dispute shall choose one arbitrator and those arbitrators shall choose one additional arbitrator. The decision shall be rendered by a majority of all arbitrators in accordance with the American Arbitration Association Commercial Rules of Arbitration. The prevailing party in such dispute, as determined by the arbitrator, shall be entitled to recover such sum as the arbitrator deems reasonable for attorneys' fees.

Section 7.19. Further Subdivision. No Lot may be further subdivided (including division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that nothing in this Section shall be deemed to prevent an Owner from: (i) selling a Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property; (ii) leasing or renting by any Owner of all of his Lot by means of a written lease or rental agreement; or (iii) adjusting the boundary of a Lot by boundary adjustment, Parcel Map or other procedure authorized by the City. The provisions of this Section 7.19 shall not apply to any Lot owned by Declarant.

Section 7.20. Pets; Animals. No turkeys, geese, ducks, chickens, pigeons, fowl, goats, rabbits, hares, horses or other animals usually known as "farm animals" shall be kept on any Lot. No animals shall be kept, bred or raised within any Lot by any person for commercial purposes or in quantities deemed by the Board to be unreasonable, nor in violation of any applicable law or ordinance. No animal shall be maintained in any Lot which constitutes a nuisance to other Owners of Lots. Animals belonging to Owners, occupants or their licensees, tenants or invitees must be either kept within an enclosure, within an enclosed yard, or on a leash being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, each Owner shall be liable to each and all other Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by the Owner or by members of his family, his tenants or his guests; and it shall be the duty and responsibility of such Owner to clean up any excrement or other unclean or unsanitary condition caused by such animal within the Properties. Each Owner shall comply with the rules and regulations governing pets adopted by the Board from time to time.

Section 7.21. Signs. No sign, poster, billboard, balloon or other display or advertising device of any kind shall be displayed on, over or from any portion of the Properties, except: (i) such signs (regardless of size or configuration) as may be used by Declarant in connection with the development of the Properties and the sale, lease or other disposition thereof; (ii) entry monuments and similar community identification signs, if any; and (iii) one sign which may be displayed on each Lot advertising the Lot for sale or lease; provided that such for sale or lease signs (a) shall not be larger than eighteen inches (18") by thirty inches (30") in size, (b) shall not be attached to the ground by means other than a conventional single vertical stake which shall not exceed two inches (2") by three inches (3") in diameter (i.e., posts, pillars, frames or similar arrangements are prohibited), and (c) shall not exceed three feet (3') in height above the ground level. All signs shall conform to the City Sign Ordinance and shall be reviewed and approved by the City prior to installation.

Section 7.22. Slope Control, Use and Maintenance. Each Lot Owner will keep, maintain, water, plant and replant all slope banks located on the Owner's Lot (other than slopes within the Common Maintenance Area) to prevent erosion and to create an attractive appearance. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on any slope banks which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels.

Section 7.23. Common Walls and Fences Between Lots. There is created, established and granted an easement appurtenant to all Lots in the Properties for the placement of all common fences and walls, where the fences or walls were originally installed by Declarant, regardless of whether the fences and walls are located precisely upon the boundary separating two (2) Lots. Those Owners who have a common fence or wall which adjoins their Lots and effectively creates the boundary line between the Lots shall equally have the right to use the fence or wall, and each shall have the exclusive right to the use and the obligations of maintenance of the interior surface of the fence or wall facing the Owner's residence. Neither Owner shall drive nails, screws, bolts or other objects more than half way through any common fence or wall, or impair in any way the structural integrity of the common wall or fence. In the event that any portion of the common fence or wall, except the interior surface of one (1) side, is damaged from any cause other than the act or negligence of either party, it shall be replaced or rebuilt at their joint expense. In the event any portion of the common fence or wall is damaged by the Owner of only one of the Lots, that Owner shall, at his expense, be responsible for the repair of the damage to the fence or wall. In the event of a dispute arising in connection with a common boundary fence or wall or the provisions of this Section, the matter shall be submitted to and decided by binding arbitration. Each party to the dispute shall choose one arbitrator and those arbitrators shall choose one additional arbitrator. The decision shall be rendered by a majority of all arbitrators in accordance with the American Arbitration Association Commercial Rules of Arbitration.

Section 7.24. Easement Reservations for Utilities. The rights and duties of the Owners of Lots with respect to sanitary sewer, water, electricity, gas, television cable (or CATV service) and telephone lines, and other facilities, shall be governed by the following:

(a) Each Owner shall maintain those facilities and connections located upon his or her Lot which are not maintained by the respective utility company or public agency.

(b) Wherever sanitary sewer, water or gas connections, television cables, electricity or telephone lines are installed within the Properties and it becomes necessary to gain access to

the connections, cables and/or lines through a Lot owned by someone other than the Owner of the Lot served by the connections, cables and/or lines, the Owner of the Lot served by the connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary, to enter upon such other Lot or to have the utility companies enter upon such other Lot to repair, replace and generally maintain the connections, cables and/or lines.

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

(d) In the event of a dispute between Owners with respect to the repair or rebuilding of the connections, cables and/or lines, or the sharing of the cost of maintenance, the matter shall be submitted to and decided by binding arbitration. Each party to the dispute shall choose one arbitrator and those arbitrators shall choose one additional arbitrator. The decision shall be rendered by a majority of all arbitrators in accordance with the American Arbitration Association Commercial Rules of Arbitration.

(e) No Owner shall construct any improvements on any utility easement area of record which will unreasonably interfere with the maintenance and repair of the facilities located in the easement, without the prior written consent of the appropriate utility company or easement owner.

Section 7.25. Post-Tensioned Slabs. Each Owner acknowledges that the concrete slab for some or all of the homes constructed on Lots within the Properties 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-tensioned slab". Each Owner further acknowledges that cutting into a post-tensioned 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 unit and/or personal injury. By accepting a grant deed to a Lot, each Owner specifically covenants and agrees that:

(a) An Owner shall not cut into or otherwise tamper with a post-tensioned slab;

(b) An Owner shall not knowingly permit or allow any other person to cut into or tamper with a post-tensioned slab, other than a licensed contractor who has been informed that the slab is post-tensioned and who has identified the location of the cables running within the slab;

(c) An Owner shall disclose the existence of the post-tensioned slab (if any) to any tenant, subsequent purchaser or lessee of the Lot; and

(d) An Owner shall indemnify and hold Declarant, its respective managers, members, officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorney's fees) arising from any breach of this Section.

Section 7.26. Adjacent Open Space. Battle Mountain and open space areas are located adjacent to the Properties to the north and northwest. Certain inconveniences and hazards are inherent

in living adjacent to undeveloped, open space areas. These rural surroundings and undeveloped areas may provide habitat for various forms of wildlife (including, but not limited to, deer, squirrels, rabbits, skunks, raccoons, coyotes, snakes, insects, poison ivy, poison oak, etc.) The natural open space area is not intended for recreational use, and walking or hiking in such area may be hazardous. Additionally, wildlife may venture from the natural open space area and into the Properties. By accepting a deed to a Lot, each Owner, on behalf of itself and its family, tenants and guests, assumes all risks pertaining to such wildlife and releases Declarant, the Association and all of their respective officers, directors, shareholders, employees, consultants and agents from any and all claims, damages, costs, expenses, losses and other liability (including actual attorney's fees) for death or injury to any person or damage to any property arising from or otherwise relating to such wildlife.

Section 7.27. Brush Management Zones

(a) **Zone One.** Portions of Lots 4, 5, 6 and 7 are located within Brush Management Zone One, as shown on Exhibit "C" attached hereto. Each Owner shall at all times comply with the applicable requirements and restrictions imposed by the City, including but not limited to, restrictions on development in the brush management zone. The Planned Residential Development Permit provides:

"Within Zone One, combustible accessory structures (including but not limited to balconies, decks, trellises gazebos, etc.) with less than a one hour fire rating are not permitted. Non-combustable accessory structures and combustible accessory structures with a fire rating of more than one hour may be approved subject to Fire Marshall and City Manager approval."

As a result, some insurance companies may include all or part of the Project in a high risk fire area, which may cause increased premiums.

(b) **Zones Two and Three.** Portions of Lots 5, 6 and 7 are located within Brush Management Zones Two and Three, as shown on Exhibit "C" attached.

ARTICLE VIII

INSURANCE AND CONDEMNATION

Section 8.1. Insurance.

(a) The Association shall keep (i) any buildings on the Common Area (none is planned) insured against loss by fire and the risks covered by a Standard All Risk of Loss Perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value thereof, and (ii) all personalty owned by the Association (if valued in excess of \$10,000 in 1998 dollars) insured with coverage in the maximum insurable fair market value of personalty as determined annually by an insurance carrier selected by the Association. Insurance proceeds for improvements in the Common Area and personalty owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction of the Common Area or Common Maintenance Area, the Association shall cause the same to be replaced, repaired or rebuilt. In the event the cost of such replacement, repair or rebuilding of Common Area or Common Maintenance Area (A) exceeds the insurance proceeds

available therefor, or (B) no insurance proceeds are available therefor, the deficiency or full cost thereof shall be assessed to the Owners as a special assessment pursuant to Section 4.3 above. In the event of any loss, damage or destruction to improvements on a Lot (other than that portion thereof within the Common Maintenance Area), the Owner of the Lot shall cause the same to be replaced, repaired or rebuilt at no cost to the Association.

(b) The Association shall procure and keep in force a general liability insurance policy in the name of the Association and the Owners against any liability for personal injury or property damage resulting from any occurrence in or about the Common Area or Common Maintenance Area in an amount not less than \$2,000,000 in indemnity against the claims of one or more persons in one accident or event, and not less than \$100,000 for damage to property.

(c) The Association shall maintain a fidelity bond in an amount equal to the amount of funds held by the Association during the term of the bond but not less than one-fourth (¼) of the annual assessments, plus reserves, naming the Association as obligee and insuring against loss by reason of the acts of the Board, officers and employees of the Association, and any management agent and its employees, whether or not such persons are compensated for their services.

(d) Copies of all insurance policies (or certificates) showing the premiums to have been paid shall be retained by the Association and open for inspection by Owners at any reasonable time(s). All insurance policies shall (i) provide that they shall not be cancelable by the insurer without first giving at least ten (10) days' prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.

(e) Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC") so long as FNMA or FHLMC, respectively, holds a mortgage on or owns any Lot.

(f) Section 1365.7 of the California CIVIL CODE provides for a partial limitation on the liability of volunteer officers and directors of the Association, provided that certain requirements, as set forth in CIVIL CODE Section 1365.7, are satisfied. The requirements include that general liability insurance and officers' and directors' liability insurance be carried by the Association in specified amounts. The Association shall maintain general liability insurance and officers' and directors' liability insurance in amounts which satisfy the requirements of CIVIL CODE Section 1365.7 (or any successor, replacement or similar statute) to limit the liability of volunteer officers and directors of the Association.

(g) In the event any insurance policy deductible amount relating to an Owner's property loss is charged to the Association, the Owner shall reimburse the Association upon written demand for the amount charged to the Association.

(h) Association insurance policy premiums paid by Declarant shall be prorated between Declarant and the Association as of the date of the first closing of a sale of a Lot to a Purchaser, and the Association shall refund to Declarant upon demand the amount of the proration attributable to the period following the proration date.

Section 8.2. Condemnation. In the event the Common Area or any portion thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, then the award or consideration for such taking or transfer shall be paid to and belong to the Association.

ARTICLE IX

COMMON AREA AND COMMON MAINTENANCE AREA: MAINTENANCE RESPONSIBILITIES

Section 9.1. Common Area. The Association shall maintain and use the Common Area in accordance with the following standards:

- (a) The Common Area shall be kept clear and clean of litter and debris. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris.
- (b) All drainage facilities and structures located on the Common Area shall be maintained by the Association in good working condition.
- (c) The Association shall comply with any applicable requirement of the City which applies to the Common Area.
- (d) Any entry monuments or other improvements located on the Common Area shall be maintained in a clean and attractive appearance.
- (e) The Association shall comply with each applicable requirement of any City-imposed brush management zone, "fuel modification" or other fire prevention zone which applies to the Common Area. Portions of Lots 4, 5, 6 and 7 are located within Brush Management Zones One, Two and Three.

Section 9.2. Common Maintenance Area. It is intended that portions of the Common Maintenance Area will be transferred to the Association by separate instrument. It is currently intended that the Common Maintenance Area will include those portions of Lots 1 through 5, inclusive, of the Final Map described on Exhibit "D" attached hereto.

Section 9.3. Association Maintenance. The Association shall maintain and provide for the maintenance of all the Common Area and Common Maintenance Area and all improvements thereon in good repair and appearance as set forth in the Declaration and in accordance with the requirements of the City. All drainage facilities and improvements located within the Common Maintenance Area shall be maintained by the Association. The Association shall provide landscaping and gardening properly to maintain and periodically replace when necessary the trees, plants, grass and other vegetation, originally placed in the Common Area and Common Maintenance Area by Declarant pursuant to landscape plans approved by the City. The Association shall have the right to enter onto any Lot (but not within the dwelling thereon) as may be necessary for the construction, maintenance or emergency repair of the Common Area or Common Maintenance Area or, if necessary, for the benefit of the Owners in common, including the maintenance and repair of surface and subsurface drainage and irrigation pipes and facilities. Any damage caused to a Lot by entry of the Association shall be repaired by the Association.

at its expense. The Association shall comply with each applicable requirement of any City-imposed brush management zone, "fuel modification" or other fire prevention zone which applies to the Common Maintenance Area. Unless a deed of conveyance states otherwise, the Association's obligation to maintain the Common Area or Common Maintenance Area shall commence upon conveyance of the Common Area or Common Maintenance Area to the Association.

Section 9.4. Owner Maintenance. Each Owner shall keep and maintain in good repair and appearance all portions of the Owner's Lot and improvements thereon (other than that portion the maintenance of which is the responsibility of the Association or a public maintenance assessment district), including, but not limited to, the driveway, any fence or wall, and any drainage facilities and improvements which are located on the Owner's Lot and not within the Common Maintenance Area. The Owner of each Lot shall water, weed, maintain and care for the landscaping located on the Owner's Lot (other than that portion the maintenance of which is the responsibility of the Association) so that the same presents a neat and attractive appearance, free from weeds, trash and debris. No Owner shall interfere with or damage the Common Area or Common Maintenance Area nor interfere with or impede Declarant, the Association in connection with the maintenance of the Common Maintenance Area. An Owner is obligated to maintain, repair and replace any fence or wall which separates the Owner's Lot from another Lot or from Common Area (unless the fence or wall is part of the Common Maintenance Area pursuant to Section 9.2 above).

Section 9.5. Rear Yard Masonry Wall. A six foot (6') high masonry wall has been (or will be) installed on Lots 5, 6 and 7 as shown on the Final Map pursuant to the Brush Management Plan. The Owners of Lots 5, 6 and 7 shall each be responsible for the maintenance, repair and replacement of the portion of the wall located on the Owner's Lot in compliance with the Brush Management Plan and applicable laws.

Section 9.6. Sound Walls. A six foot (6') high masonry wall has been (or will be) installed on Lots 1, 2, 3 and 4 as shown on the Final Map as a "sound wall" to reduce noise from traffic on Pomerado Road. The Owners of Lots 1, 2, 3 and 4 shall each be responsible for the maintenance, repair and replacement of the portion of the wall located on the Owner's Lot.

Section 9.7. Association's Right to Repair Neglected Lots. In the event an Owner of a Lot should fail to maintain his Lot and improvements situated thereon in a manner satisfactory to the Board, the Association, after approval by two-thirds ($\frac{2}{3}$) vote of the Board, shall have the right through its agents and employees, to enter onto the Lot and to repair, maintain and restore the Lot and exterior of the building and any other improvements erected thereon. However, no entry into a dwelling may be made without the consent of the Owner, and such entry shall be made only after not less than three (3) days' notice has been given to the Owner. Entry by the Association shall be made with as little inconvenience to the Owner as possible and any damage caused by the Association shall be repaired by the Association. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such Lot is subject, but the cost shall not be a lien on the Lot. There is hereby created an easement in favor of the Association to enter onto each Lot which is subject to assessment by the Association to provide maintenance as provided in this Section 9.7, subject to the foregoing notice and consent requirements.

ARTICLE X

ANNEXATION

Section 10.1. By Association. Additional residential property, Common Area and Common Maintenance Area may be annexed to the Properties and to the Declaration upon the vote or written assent of two-thirds (2/3) of the voting power of Members of the Association, excluding the vote of Declarant. Upon approval by Members of the Association, the owner of the property wishing it to be annexed may file of record a Declaration of Annexation which shall extend the provisions of this Declaration to the property being annexed.

ARTICLE XI

RIGHTS OF LENDERS

Section 11.1. Payments of Taxes or Premiums by First Mortgagees. First Mortgagees may, jointly or severally, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless the taxes or charges are separately assessed against the Owners, in which case, the rights of first Mortgagees shall be governed by the provisions of their Mortgages. First Mortgagees may, jointly or severally, also pay overdue premiums on casualty insurance policies, or secure a new casualty insurance coverage on the lapse of a policy for the Common Area; first Mortgagees making such payments shall be owed immediate reimbursement from the Association. Entitlement to reimbursement shall be reflected in an agreement in favor of any first Mortgagee who requests the same to be executed by the Association.

Section 11.2. Priority of Lien of Mortgage. No breach of the covenants or restrictions in the Declaration shall affect, impair, defeat or render invalid the lien or charge of any first Mortgage made in good faith and for value encumbering any Lot, but all of the covenants and restrictions shall be binding upon and effective against any Owner whose title to a Lot is derived through foreclosure or trustee's sale, or otherwise.

Section 11.3. Curing Defaults. A first Mortgagee who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is non-curable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is non-curable or not feasible to cure shall be final and binding on Mortgagees.

Section 11.4. Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Lots or Common Area, unless the Mortgagees of first Mortgages encumbering sixty-seven percent (67%) or more of the Lots which are subject to a Mortgage or Owners representing sixty-seven percent (67%) of the voting power of the Association (excluding the vote of Declarant) have given their prior written approval, the Association shall not:

(a) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes shall not be deemed a transfer within the meaning of this subsection.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.

(c) By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or exterior appearance of residences, the exterior maintenance of residences, the maintenance of Common Area walks or common fences and driveways, or the upkeep of lawns and plantings in the project.

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

(e) Use hazard insurance proceeds for losses to any portion of the Common Area for other than the repair, replacement or reconstruction of the Common Area.

Section 11.5. Restoration of Common Area. Any restoration or repair of the Common Area after partial condemnation or damage due to an insurable event, shall be performed substantially in accordance with the Declaration and original plans and specifications unless other action is approved by holders of first Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to Mortgage holders.

Section 11.6. Professional Management. When professional management has been previously required by a first Mortgage holder, a decision to establish self-management by the Association shall require the consent of at least sixty-seven percent (67%) of the voting power of Members of the Association and the approval of holders of first Mortgages on Lots, the Owners of which have at least fifty-one percent (51%) of the votes of Lots encumbered by Mortgages.

Section 11.7. Notice to Mortgagees. Upon written request to the Association identifying the name and address of the holder and the Lot number or address, any first Mortgage holder will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot on which there is a first Mortgage held by the Mortgage holder.

(b) Any delinquency in the payment of assessments or charges owed by an Owner subject to a first Mortgage held by the Mortgage holder which remains uncured for a period of sixty (60) days.

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

(d) Any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 11.8. Documents to be Available. The Association shall make available to Owners and Mortgagees, and holders, insurers or guarantors of any first Mortgage, current copies of the Declaration, the Bylaws, other rules concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. The holders of first Mortgages encumbering fifty-one percent (51%) or more of the Lots subject to a Mortgage shall be entitled to have an audited statement for the

immediately preceding fiscal year prepared at their expense if one is not otherwise available. Any financial statement so requested shall be furnished within a reasonable time following the request.

Section 11.9. Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of the Declaration, the provisions of this Article shall control.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Enforcement. Except as otherwise provided in Section 12.2 below, the Association, Declarant and any Owner shall have the right to enforce by any proceedings at law or in equity, all covenants, restrictions and reservations now or hereafter imposed by the provisions of the Declaration. Each Owner shall have a right of action against the Association for any failure of the Association to comply with the provisions of the Declaration or of the Bylaws or Articles. Failure by the Association, Declarant or any Owner to enforce any covenant, restriction or reservation in the Declaration shall not be deemed a waiver of the right to do so thereafter.

Section 12.2. Severability. Should any provision in the Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions shall be and remain in full force and effect.

Section 12.3. Amendments Prior to Escrow Closings. Prior to the date escrow closes for any sale of a Lot to a Purchaser, this Declaration may be unilaterally amended by Declarant.

Section 12.4. Amendments After Escrow Closings. The following provisions shall apply after the close of the first escrow for a sale of a Lot to a Purchaser. Except as may otherwise be stated in the Declaration, during the period of time prior to conversion of the Class B membership in the Association to Class A membership, this Declaration may be amended at any time and from time to time by the vote or written consent of sixty-seven percent (67%) of the voting power of each class of Members of the Association, any which amendment shall become effective upon recording with the Office of the County Recorder of San Diego County, California. After conversion of the Class B membership in the Association to Class A membership, the Declaration may be amended at any time and from time to time by the vote or written consent of (a) sixty-seven percent (67%) of the total voting power of the Association, and (b) at least sixty-seven percent (67%) of the voting power of Members of the Association other than Declarant. Notwithstanding the above provisions, the percentage of the voting power necessary to amend a specific clause or provision in the Declaration shall not be less than the percentage of affirmative votes necessary for action to be taken under that clause or provision. The percentage of membership votes or written consents required to amend the Declaration may be reduced under certain circumstances by Court Order obtained pursuant to California CIVIL CODE Section 1356. So long as Declarant owns any portion of Properties, no provision of the Declaration which provides rights to Declarant shall be amended without the written approval of Declarant attached to the instrument of amendment.

Section 12.5. Mortgagee Approval of Amendment. Anything herein stated to the contrary notwithstanding, no material amendment may be made to this Declaration without the prior written consent of Mortgagees of first Mortgages encumbering fifty-one percent (51%) or more of the Lots within the Properties which are subject to a Mortgage. "Material amendment" shall mean, for purposes of this Section 12.5, any amendments to provisions of this Declaration governing any of the following subjects:

- (a) The fundamental purpose for which the project was created (such as a change from residential use to a different use).
- (b) Assessments, assessment liens or the priority of assessment liens.
- (c) Reserve for maintenance, repair and replacement of the Common Area or Common Maintenance Area.
- (d) Responsibilities for maintenance and repairs.
- (e) Insurance or fidelity bonds.
- (f) Restoration or repair of the Properties after a hazard damage or partial condemnation.
- (g) Rights to use the Common Area or Common Maintenance Area.
- (h) Expansion or contraction of the Properties or the addition, annexation or withdrawal of property to or from the Properties.
- (i) Voting rights.
- (j) Convertibility of Lots into Common Area or of Common Area into Lots.
- (k) Redefinition of boundaries of any Lot or the Common Area.
- (l) The interests in the Common Area or Common Maintenance Area.
- (m) Leasing of Lots.
- (n) Imposition of any restrictions on the right of an Owner to sell or transfer his Lot.
- (o) Any action to terminate the legal status of the Association after substantial destruction or condemnation.
- (p) The requirement of retention of professional management of the Association.
- (q) Any provision which is expressly for the benefit of first Mortgagees or insurers or guarantors of first Mortgages.

An amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification. A first Mortgagee who receives a written request delivered by certified or registered mail, return receipt requested, to approve amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days, shall be deemed to have approved the request.

Section 12.6. Extension of Declaration. Each and all of the covenants and restrictions shall run with and bind the land for a term of sixty (60) years from the date the Declaration is recorded, after

which date they shall automatically be extended for successive periods of ten (10) years, unless the Owners of two-thirds (2/3) of the Lots subject to the Declaration have executed and recorded at any time within six (6) months prior to the end of the sixty (60) year period, or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a written instrument in which it is agreed that the restrictions shall terminate at the end of the sixty (60) year period or at the end of any the ten (10) year period.

Section 12.7. Encroachment Easements. The following easements are hereby reserved by Declarant, subject to all items of record, including, but not limited to, the general utility easements of record:

(a) It is intended that, unless Declarant decides to relocate the same, each fence or wall installed by Declarant with the intention of separating Lots from one another, or separating a Lot from Common Area, or separating a Lot from Common Maintenance Area shall establish the usable boundaries between the affected Lots, the Lots and Common Area and the Lots and Common Maintenance Area, respectively, regardless of whether the fence or wall lies exactly on the boundary line. An easement is hereby reserved for each such fence or wall to be repaired and replaced by the party(ies) obligated to maintain the same, in the location where such fence or wall was so installed by Declarant. Declarant shall have the right, but not the obligation, to relocate any such fence or wall to the applicable boundary line during the period of time that Declarant owns any Lot within the properties. The portions of land lying inside a fence or wall may be used by the adjoining Owner for yard purposes, subject to any open space easements or other items of record. The portions of land lying outside a fence or wall which adjoin Common Area or Common Maintenance Area may be used by the Association for such purposes.

(b) In the event any improvement to a Lot encroaches upon the Common Area or Common Maintenance Area or any Common Area or Common Maintenance Area improvement encroaches upon any Lot as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion thereof, an easement for the encroachment and for its maintenance is hereby reserved for so long as the encroachment exists; provided, however, in no event shall an easement for encroachment be created in favor of an Owner or the Association if the encroachment occurred due to the willful misconduct of the Owner or the Association. In the event a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the minor encroachments over adjoining Common Area and Common Maintenance Area shall be permitted and there shall be easements for maintenance of the encroachments so long as they shall exist. "Improvement" as used in this subsection does not include a fence or wall (fences and walls are the subject of Section 12.7(a)).

(c) An easement is hereby reserved in favor of each Lot over adjoining Lots for the purpose of accommodating encroachments due to design, construction, engineering errors, errors in construction, settlement or shifting of the building, roof overhangs, architectural or other appendants, leach lines and drainage of water from roofs. There shall be easements for the maintenance of encroachments so long as they shall exist; provided, however, that no easement is created in favor of an Owner if the encroachment occurred due to the willful misconduct of the Owner. In the event a structure on any Lot is partially or totally destroyed and then rebuilt or repaired, the minor encroachments over adjoining Lots shall be permitted and there shall be easements for maintenance of encroachments so long as they shall exist.

Section 12.8. Special Responsibilities of Association. In the event improvements to be installed by Declarant to the Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report, and in the further event the Association is the obligee under a bond to secure the obligation of Declarant to complete the improvements, then if the improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any improvement, then the Board shall consider and vote on the question if the improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then, in either event, upon petition signed by Members representing five percent (5%) or more of the voting power of the Association (excluding the voting power of Declarant), the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. The meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At the meeting, a vote of a majority of the voting power of Members of the Association, excluding the vote of Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

Section 12.9. Litigation. In the event of litigation or arbitration arising out of or in connection with the Declaration, the prevailing party shall be entitled to receive costs of suit and such sum for attorney's fees as the Court deems reasonable.

Section 12.10. Documents to be Provided to Prospective Purchaser. Each Owner, other than Declarant, shall, as soon as practicable before transfer of title to a Lot, provide to the prospective purchaser the disclosures, information and documents required by law, as the law may from time to time be changed. As of the date of this Declaration, these disclosures, information and documents include, but are not limited to, those items required by California CIVIL CODE Section 1368.

Section 12.11. Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential dwellings and incidental improvements upon the Properties. The completion of that work, and the sale, rental and other disposal of dwellings is essential to the establishment and welfare of the Properties as a residential community. In order that the work may be completed and the Properties be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to prevent Declarant from constructing, marketing and selling lots and homes within the Properties, subject only to the time limitation set forth in Section 2.2(g)(ii) with respect to the placing of signs, flags or similar marketing improvements on the Common Area. In particular, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors or subcontractors from doing on the Common Area or any Lot whatever is reasonably necessary or advisable in connection with the completion of the work, including access over the Properties to other portions of the Properties; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Properties owned by Declarant, such structures as may be reasonable and necessary for the conduct of its business of completing the work and establishing

the Properties as a residential community and transferring the Properties in parcels by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on any part of the Properties owned by Declarant its business of completing the work, and of establishing a plan of ownership and of transferring the Properties by sale, lease or otherwise; or

(d) Prevent Declarant from making changes to, repairing or replacing the Common Area as may be reasonably necessary to satisfy or comply with the requirements of the City or other applicable public agencies; or

(e) Prevent Declarant from exercising its rights to: (i) modify all unsold Lots in the Properties, including increasing or decreasing the size or number of Lots; (ii) complete construction of any improvements in the Properties; (iii) redesign or otherwise change the style, square footage, color or appearance of any improvement in any portion of the Properties owned or controlled by Declarant; (iv) construct such additional improvements on any portion of the Properties owned or controlled by Declarant; and/or (v) otherwise control all aspects of designing and constructing the improvements and selling or leasing Lots in the Properties, provided prior approval of the appropriate governmental agencies, if applicable, is obtained by the Declarant. Declarant hereby reserves unto itself, and its successors and assigns, a non-exclusive easement for ingress and egress on, over and across the private streets within the Properties as necessary to construct improvements and market homes and lots; or

(f) Prevent Declarant from establishing additional licenses, easements and rights-of-way for building, constructing or installing any utility or other similar facilities over any portion of the Properties owned by Declarant, in favor of Declarant, utility companies or others, as may, from time to time be reasonably necessary for the development of the Properties.

The rights of Declarant provided in Subsections (a) through (f) above, may be exercised during the period of time commencing when the Lots are first sold or offered for sale to the public and ending when all the Lots are sold and conveyed by Declarant to separate Owners, or seven (7) years following the date of conveyance of the first Lot from Declarant to a retail purchaser, whichever shall first occur. So long as Declarant, its successors and assigns, owns one or more of the Lots described herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration. Declarant, in exercising its rights under this Section 12.11, shall not unreasonably interfere with the use of the Common Area by any Owner.

Section 12.12. Conflict of Provisions. In the event of a conflict among the provisions of the Declaration, the Articles and the Bylaws, the provisions of the Declaration shall control. In the event of a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this instrument as of the date first hereinabove written.

REATA WAY 7 LLC, a California limited liability company

BY: KEYSTONE COMMUNITIES INC., a California corporation, Manager

By [Signature]
Gary S. Copson, President

STATE OF CALIFORNIA)
COUNTY OF San Diego) ss.

On 11-15-01, before me, Katherine M. Katcher, Notary Public, personally appeared Gary S. Copson, personally known to me (or 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.

WITNESS my hand and official seal.

Signature Katherine M. Katcher



(Seal)

SUBORDINATION AGREEMENT

CALIFORNIA BANK & TRUST, a California banking corporation, being the beneficiary under deed of trust recorded February 13, 2001 as Document No. 2001-0093423 with the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of the deed of trust are and shall be subordinate to the Declaration of Restrictions to which this Subordination Agreement is attached.

CALIFORNIA BANK & TRUST, a California banking corporation

By [Signature]

Title Vice President

By Kathy M. Galvin

Title V.P.

STATE OF CALIFORNIA)
COUNTY OF San Diego) ss.

On 11-27-01, before me, Berry P. Fieck, Notary Public, personally appeared David R. Bale and Kathy M. Galvin, personally known to me (or 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.

WITNESS my hand and official seal.

Signature Berry P. Fieck



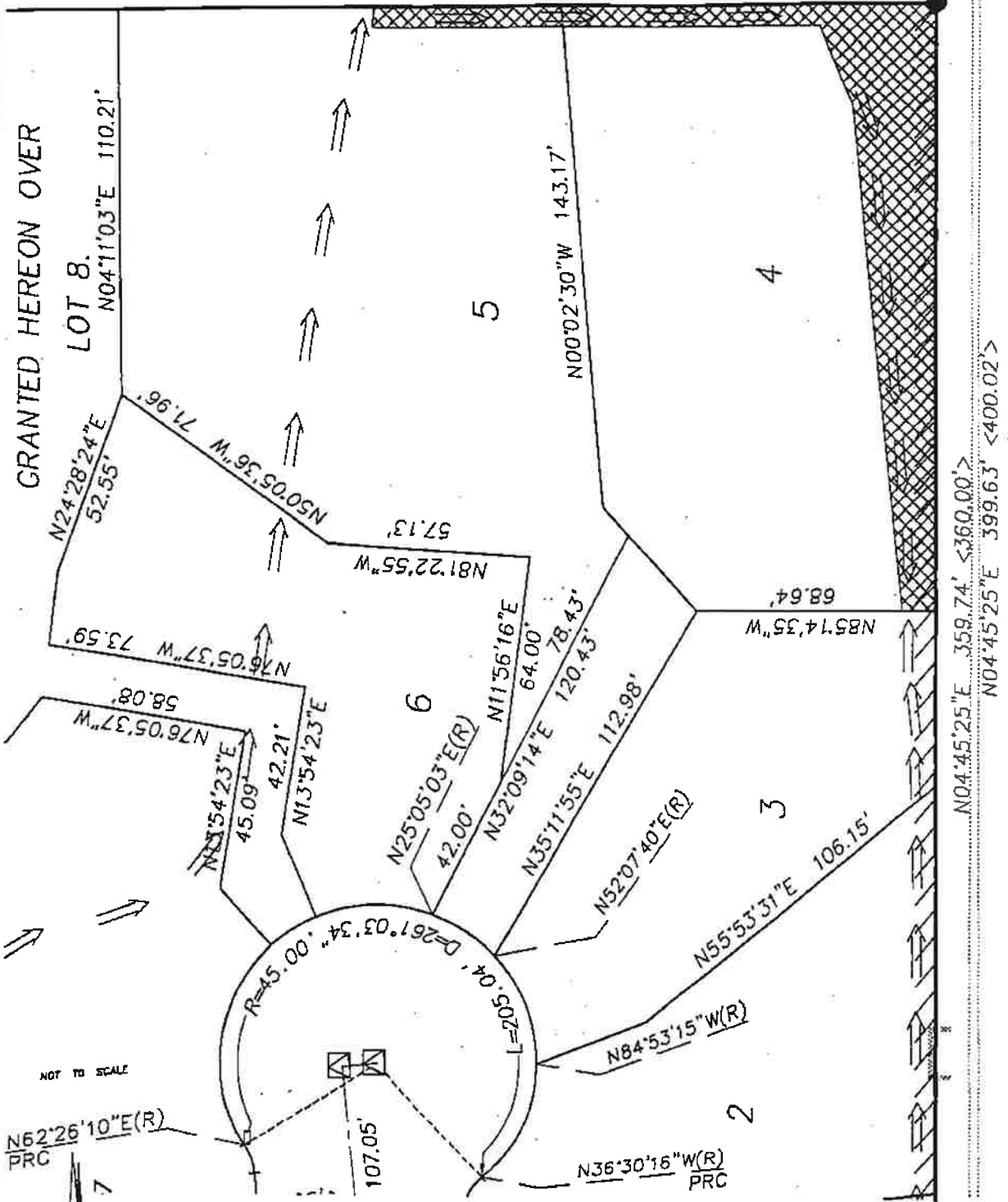
(Seal)

EXHIBIT "A"

Plat(s) of Brow Ditches on Lots 1 through 6

[to be attached]

'N85°45'22"W 462.48' PER MAP NO. 12768)



NOT TO SCALE

LEGEND



INDICATES PROPOSED BROW DITCH



INDICATES PROPOSED BROW DITCH EASEMENT

ENGINEER OF WORK

LANDMARK CONSULTING
9555 GENESEE AVENUE
SAN DIEGO, CA 92121 (858) 587-8070

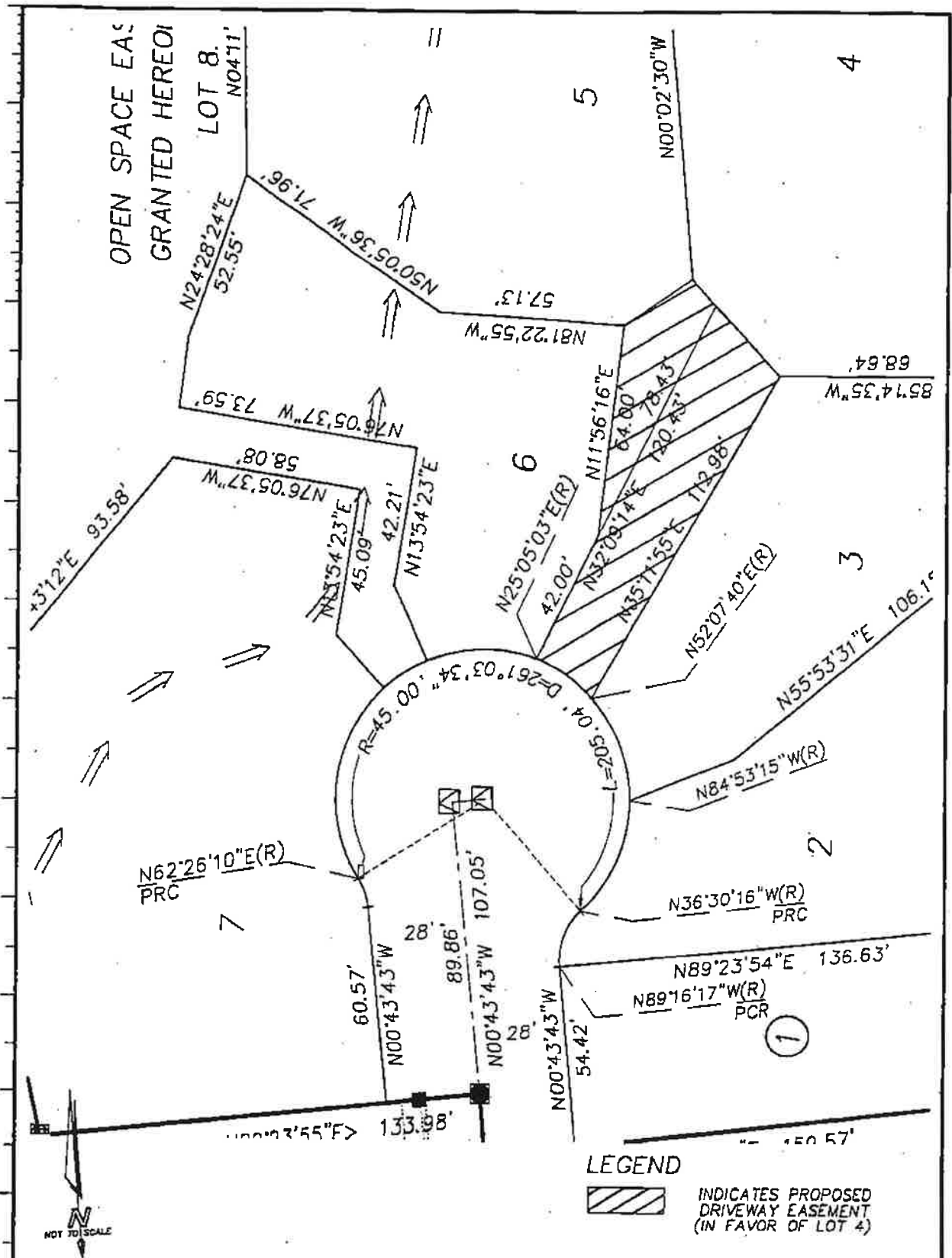
MARK A. BRENCICK L.S. 7226
EXP. DATE 12-31-04

EXHIBIT A

EXHIBIT "B"

Plat of Driveway Easement Area on Lot 5

[to be attached]



ENGINEER OF WORK
 LANDMARK CONSULTING
 9555 GENESEE AVENUE
 SAN DIEGO, CA 92121 (858) 587-8070

MARK A. BRENCICK L.S. 7226
 EXP. DATE 12-31-04

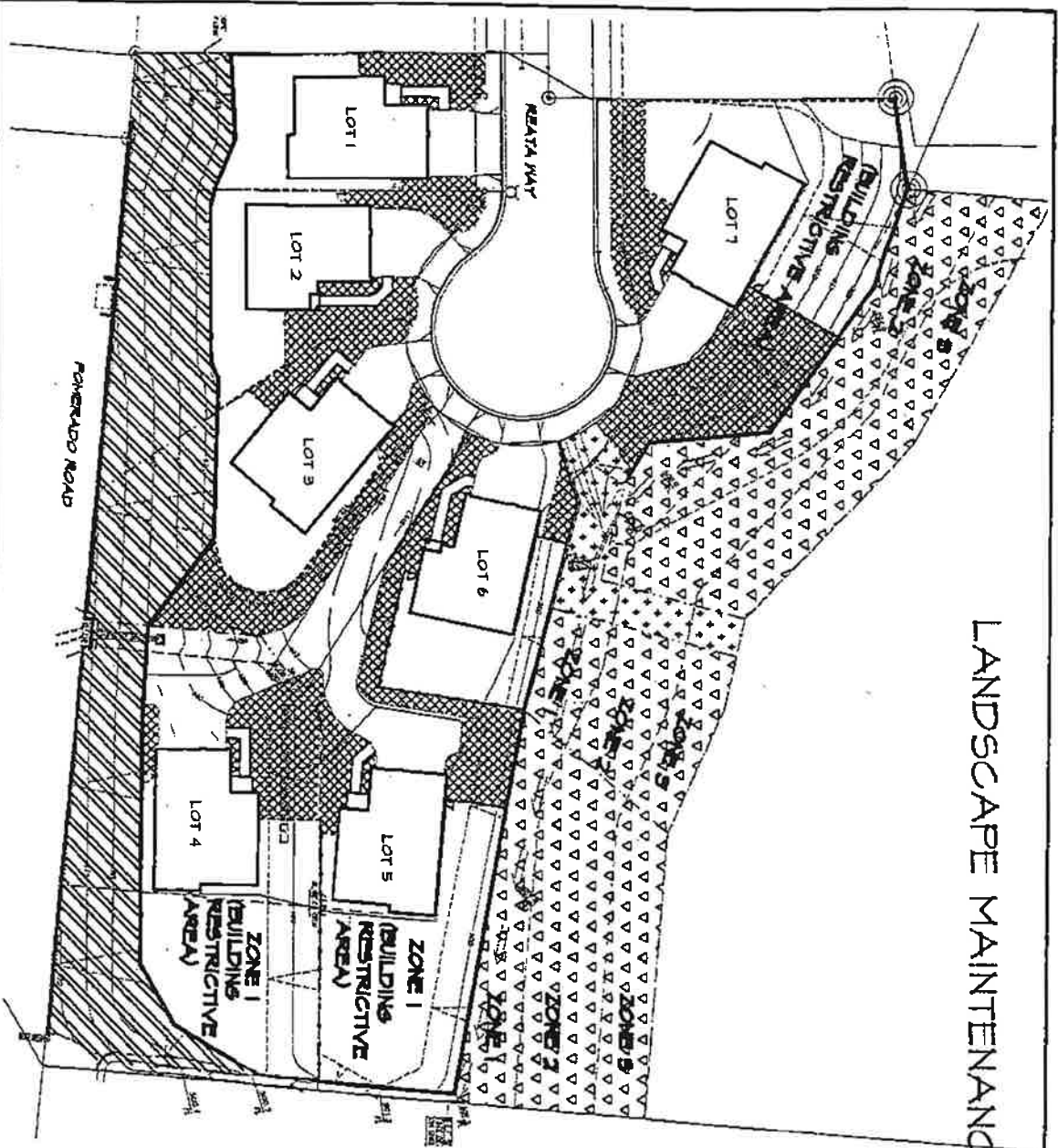
EXHIBIT B

EXHIBIT "C"

Plat(s) of Brush Management Areas

[to be attached]

LANDSCAPE MAINTENANCE RESPONSIBILITY MAP



MAINTENANCE RESPONSIBILITY LEGEND

- SYMBOL DESCRIPTION
- H.O.A. MAINTENANCE RESPONSIBILITY
- SLOPES
- PRIVATE HOME OWNER MAINTENANCE RESPONSIBILITY
- BRUSH MANAGEMENT
- SLOPES & FRONT YARDS
- CITY OF SAN DIEGO MAINTENANCE
- BRUSH MANAGEMENT



PRIVATE CONTRACT

REATA WAY

CITY OF SAN DIEGO, CALIFORNIA

PERMIT POSITION

DATE 06-08-01

BY J. J. JENSEN

PROJECT 34022-0

DATE 06-08-01

BY J. J. JENSEN

PROJECT 34022-0



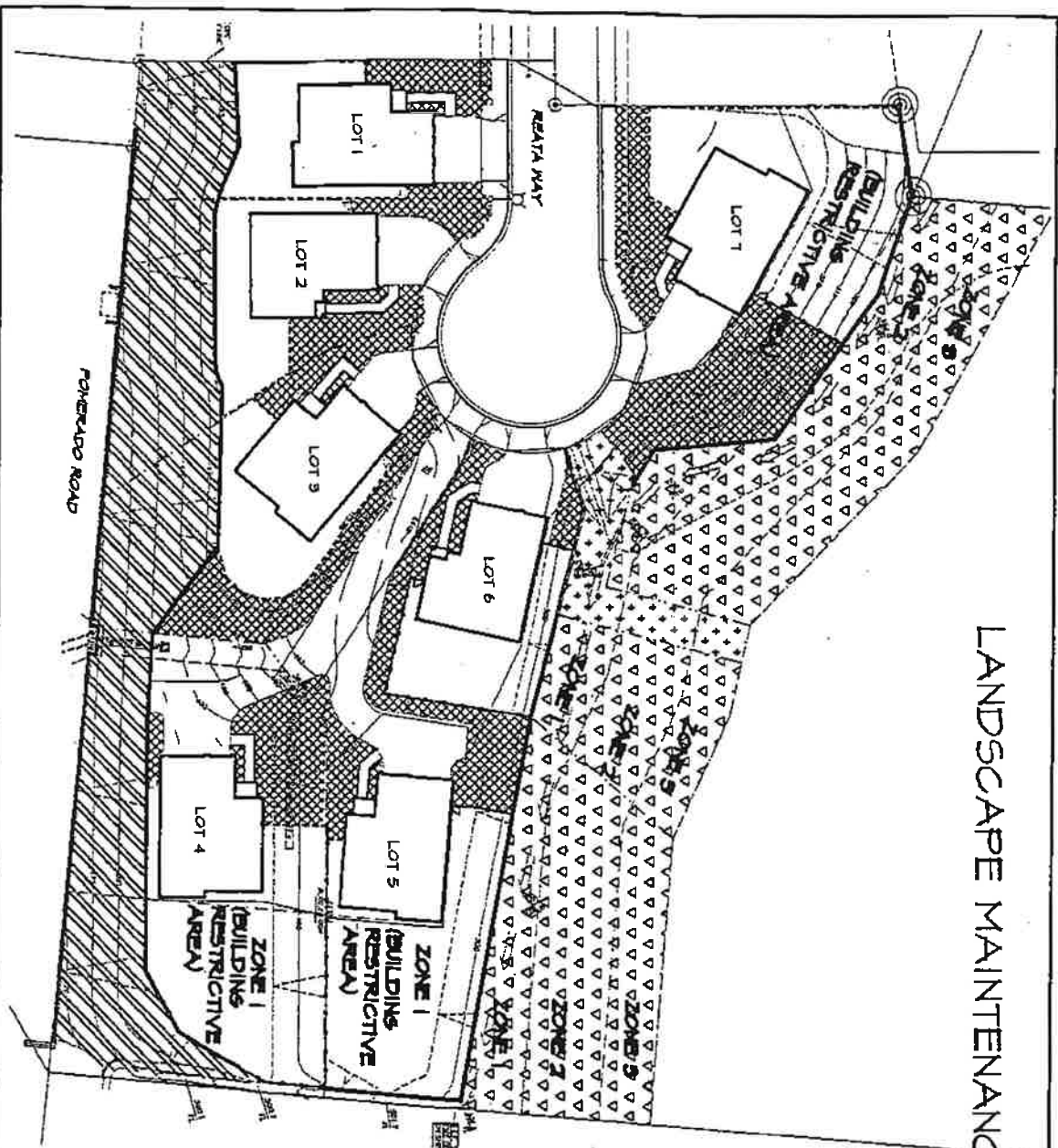
4400 IMPERIAL AVENUE, SUITE 100
SAN DIEGO, CALIFORNIA 92121
TEL: 619-594-1111
FAX: 619-594-1112
WWW.GILBERTDESIGNGROUP.COM

EXHIBIT "D"

Plat(s) of Common Maintenance Areas

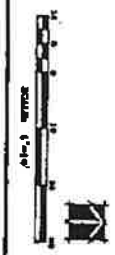
[to be attached]

LANDSCAPE MAINTENANCE RESPONSIBILITY MAP



MAINTENANCE RESPONSIBILITY LEGEND

- SYMBOL DESCRIPTION
- HOA MAINTENANCE RESPONSIBILITY
- SLOPES
- PRIVATE HOME OWNER MAINTENANCE RESPONSIBILITY
- BRUSH MANAGEMENT
- SLOPES & FRONT YARDS
- CITY OF SAN DIEGO MAINTENANCE
- BRUSH MANAGEMENT



PRIVATE CONTRACT	
REATA WAY	
CITY OF SAN DIEGO, CALIFORNIA	
SHEET NO. 1 OF 1	
DATE	10-1-01
BY	10-1-01
CHECKED BY	10-1-01
APPROVED BY	10-1-01
DESIGNED BY	10-1-01
DRAWN BY	10-1-01
PROJECT NO.	10-1-01
SHEET NO.	10-1-01



THE CITY OF SAN DIEGO, CALIFORNIA
 1234 MAIN STREET
 SAN DIEGO, CA 92101
 TEL: 619-495-1000
 FAX: 619-495-1001
 WWW.CITYOFSD.ORG

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