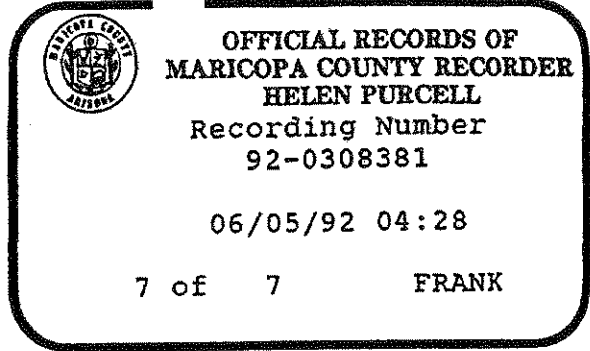


Return Originals :  
STEWART TITLE & TRUST OF PHOENIX

When recorded, return to:  
SNELL & WILMER  
3100 Valley Bank Center  
Phoenix, Arizona 85073  
Attn: Ms. Joyce K. Wright



STEWART TITLE & TRUST OF PHOENIX

THIRD SUPPLEMENTAL DECLARATION OF ANNEXATION TO  
CONDOMINIUM DECLARATION FOR  
SUNSET COVE AT GAINNEY RANCH  
(Formerly Tablero Dunes)

Return Originals to:  
STEWART TITLE & TRUST OF PHOENIX

THIS THIRD SUPPLEMENTAL DECLARATION OF ANNEXATION TO CONDOMINIUM DECLARATION FOR SUNSET COVE AT GAINNEY RANCH (the "Third Declaration of Annexation") is made as of the date hereinafter set forth by Markland Homes Inc., an Arizona corporation (the "Declarant").

W I T N E S S E T H :

WHEREAS, the "Condominium Declaration for Tablero Dunes, a Condominium Project at Gainey Ranch," was recorded on May 21, 1986, as Instrument No. 86-251813, records of Maricopa County, Arizona (the "Initial Declaration");

WHEREAS, an "Annexation Amendment," dated July 16, 1986, was recorded on July 22, 1986, as Instrument No. 86-378365, records of Maricopa County, Arizona (the "First Annexation Amendment"), adding additional property to the property covered by the Initial Declaration;

WHEREAS, the Initial Declaration was amended by that certain First Amendment to Condominium Declaration for Tablero Dunes, a Condominium Project at Gainey Ranch, dated December 23, 1991, and recorded January 3, 1992, as Instrument No. 92-0003329, records of Maricopa County, Arizona (the "First Amendment to Condominium");

WHEREAS, pursuant to a Second Amendment to Condominium Declaration for Tablero Dunes, a Condominium Project at Gainey Ranch, dated February 27, 1992, and recorded March 11, 1992, as Instrument No. 92-0127215, records of Maricopa County, Arizona (the "Second Amendment to Condominium"), the name of the condominium project was changed from Tablero Dunes to Sunset Cove at Gainey Ranch;

WHEREAS, a Second Supplemental Declaration of Annexation to Condominium Declaration for Sunset Cove at Gainey Ranch dated March 10, 1992, was recorded on March 20, 1992, as Instrument No. 92-0146487, records of Maricopa County, Arizona (the "Second Annexation Amendment") adding additional property to the property covered by the Initial Declaration in order to develop twelve (12), Units as Declarant's first phase of Sunset Cove at Gainey Ranch.

WHEREAS, the Initial Declaration, as amended by the First Annexation Amendment, First Amendment to Condominium, Second Amendment to Condominium, and Second Annexation Amendment is hereinafter referred to as the "Condominium Declaration");

WHEREAS, pursuant to an Election to become Declarant under Condominium Declaration for Tablero Dunes at Gainey Ranch, dated December 20, 1991, and recorded January 3, 1992, as Instrument No. 92-0003330, records of Maricopa County, Arizona, Markland Properties, Inc. ("MPI") elected to become Declarant under the Condominium Declaration;

WHEREAS, Declarant acquired a portion of the "Annexation Property" as defined in the Condominium Declaration from MPI and pursuant to an Assignment of Declarant's Rights under Condominium Declaration for Tablero Dunes dated February 27, 1992, and recorded March 9, 1992, as Instrument No. 92-0119246B, records of Maricopa County, Arizona, Declarant succeeded to the interest of MPI as "Declarant" under the Condominium Declaration; and

WHEREAS, pursuant to Article 26 of the Condominium Declaration, Declarant has the right to annex all or any portion of the Annexation Property to the Property and Declarant now desires to add a portion of the Annexation Property to the Property in order to develop sixteen (16) additional Units as Declarant's second phase of Sunset Cove at Gainey Ranch.

NOW, THEREFORE, pursuant to Article 26 of the Condominium Declaration, Declarant, as the owner of the Annexation Property, for the purpose of annexing a portion of the same to Sunset Cove at Gainey Ranch in connection with Declarant's second phase thereof and to amend and supplement the Condominium Declaration, Declarant hereby states as follows:

1. Definitions. All capitalized terms set forth in this Second Declaration of Annexation shall, except as hereby amended, have the meanings set forth in the Condominium Declaration.

2. Annexation of Annexation Land. Declarant hereby amends the Condominium Declaration in order to, and does hereby, annex that portion of the Annexation Property identified as Tract 11 and Part of Tracts 8, 10 and 12 (the "Annexation Land"), legally described on the Third Supplemental Condominium Plat for Sunset Cove at Gainey Ranch Tract 11 and Part of Tracts 8, 10 and 12 (Formerly Tablero Dunes Condominium), recorded on MAY 26, 1992, in Book 350 of Maps, page 30, records of Maricopa County, Arizona, attached hereto as Exhibit "A" (the "Third Supplemental Plat"), into the Property and hereby submits such Annexation Land to the Condominium Declaration, subject to the provisions of this Third Declaration of Annexation. The Units, Limited Common Elements, and Common Elements contained within the Annexation Land are set forth on the Third Supplemental Plat. All of the Annexation Land shall be held, sold and conveyed subject to the Condominium Declaration and subject to the functions, powers, and jurisdiction of the Sunset Cove at Gainey Ranch Condominium Association.

3. Interest in Common Elements. Upon recordation of this Third Declaration of Annexation, each Unit in the Condominium shall have an undivided interest in the Common Elements equal to 1/68.

4. Contraction of Condominium. As provided in Article 32 of the Condominium Declaration, portions of the Phase 2 Tract, including the Annexation Land, annexed to the Condominium may be withdrawn from the Condominium upon recordation of a Declaration of Withdrawal as described in said Article 32. With respect to the Annexation Land hereby annexed to the Condominium, without the approval of the Owners of the Units, the Association, the Mortgagees, or the Board, Declarant shall have the right, in one or more instances, to de-annex and withdraw all or part of the parcels legally described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Withdrawable Parcels"), by recording a Supplemental Declaration of Withdrawal, in which event such portion of the Withdrawable Parcels legally described in such Supplemental Declaration of Withdrawal, together with any improvements and fixtures located thereon, may be withdrawn and removed from the Property constituting the Condominium; provided, however, that a Withdrawable Parcel shall not be withdrawn from the Condominium after a Unit in that Withdrawable Parcel has been conveyed to a purchaser without the written consent of all Owners of Units and the Mortgagees; and provided further Declarant must, as part of the withdrawal of any Unit, withdraw all Units within the building that was to contain the withdrawn Unit and Declarant may not withdraw any Unit upon which construction has been commenced.

5. Full Force and Effect. All terms and provisions of the Condominium Declaration are hereby incorporated by reference. The Condominium Declaration, as hereby modified, is ratified and confirmed and shall remain in full force and effect.

DATED this 19th day of MAY, 1992.

MARKLAND HOMES INC.,  
an Arizona corporation

By *[Signature]*  
Its v.p.

STATE OF ARIZONA )  
                          ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 19th day of May, 1992, by STEPHEN J. BRUMBY the V.P. of MARKLAND HOMES INC., an Arizona corporation, on behalf of the corporation.

*Kathleen A. Lombardi*  
Notary Public

My Commission Expires:  
4/11/93

APPROVAL BY MASTER ASSOCIATION

The Gainey Ranch Community Association (which is defined as the Master Association in the Condominium Declaration) hereby approves the terms and conditions of this Third Declaration of Annexation and confirms that the aforesaid Third Declaration of Annexation complies with all required terms of the Master Declaration.

DATED this 4<sup>TH</sup> day of JUNE, 1992.

THE GAINNEY RANCH COMMUNITY ASSOCIATION, an Arizona non-profit corporation

By *Fred B. Shuler*  
Its PRESIDENT

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of June, 1992, by *Fred B. Shuler*, the President of THE GAINNEY RANCH COMMUNITY ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.

*Dyann J. Hudson*  
Notary Public

My Commission Expires:  
February 10, 1995

CONSENT

Canadian Imperial Bank of Commerce, a Canadian chartered bank, and Stewart Title & Trust of Phoenix, Inc., an Arizona corporation, as Beneficiary and Trustee respectively under that certain First Deed of Trust and Security Agreement, dated July 21, 1983, and recorded July 22, 1983, as Instrument No. 83 288224, and amended by that certain First Amendment to First Deed of Trust and Security Agreement, dated December 14, 1988, and recorded January 3, 1989, as Instrument No. 89-001419, and that certain Second Modification of Loan Agreement, Note and Deed of Trust, dated May 17, 1989, recorded August 4, 1989, as Instrument No. 89-361972, and that certain Third Amendment to First Deed of Trust and Security Agreement, dated February 3, 1992, and recorded February 13, 1992, as Instrument No. 92-075228, all in the records of Maricopa County, Arizona (collectively, the "Deed of Trust"), hereby consent to the foregoing Third Declaration of Annexation and covenant and agree that their interest in the Deed of Trust described above is subject and subordinate to the Third Declaration of Annexation, except to the extent specifically provided in Sections 17.1 and 25.2 of the Condominium Declaration.

DATED this 27 day of May, 1992.

CANADIAN IMPERIAL BANK OF  
COMMERCE, a Canadian chartered  
bank

By John Palom  
Its Managing Director

STEWART TITLE & TRUST OF  
PHOENIX, INC., an Arizona  
corporation

By Steven A. Burch  
Its V.P.

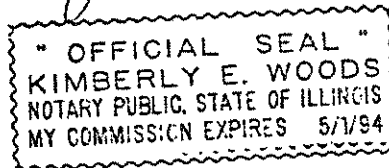
STATE OF Illinois )  
 ) ss.  
City of Chicago )

The foregoing instrument was acknowledged before me this 1st day of June, 1992, by John Palomo, the Managing Director of Canadian Imperial Bank of Commerce, a Canadian chartered bank, on behalf of the bank.

*Kimberly E. Woods*  
Notary Public

My Commission Expires:

5-1-94



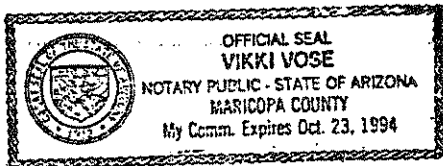
STATE OF Arizona )  
 ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 5th day of June, 1992, by Steven A. Gronek, the Vice President of Stewart Title & Trust of Phoenix, Inc., an Arizona corporation, on behalf of the corporation.

*Vikki Vose*  
Notary Public

My Commission Expires:

\_\_\_\_\_







92 308381

89 DR 85 43

AREA COMPRISING REAL ESTATE INCLUDED IN THIS SUPPLEMENTAL CONDOMINIUM PLAT.

RICK ENGINEERING COMPANY

1318 S. 13TH ST. SUITE 100  
DENVER, COLORADO 80202  
PHONE: 333-1111  
FAX: 333-1111  
SHEET: 1 OF 7

0.14 AC  
SUNSET COVE  
TRACT 10  
7-50-01, R-4E

CASAS DIA FESTIVO  
BK 175 PG 58 MCR

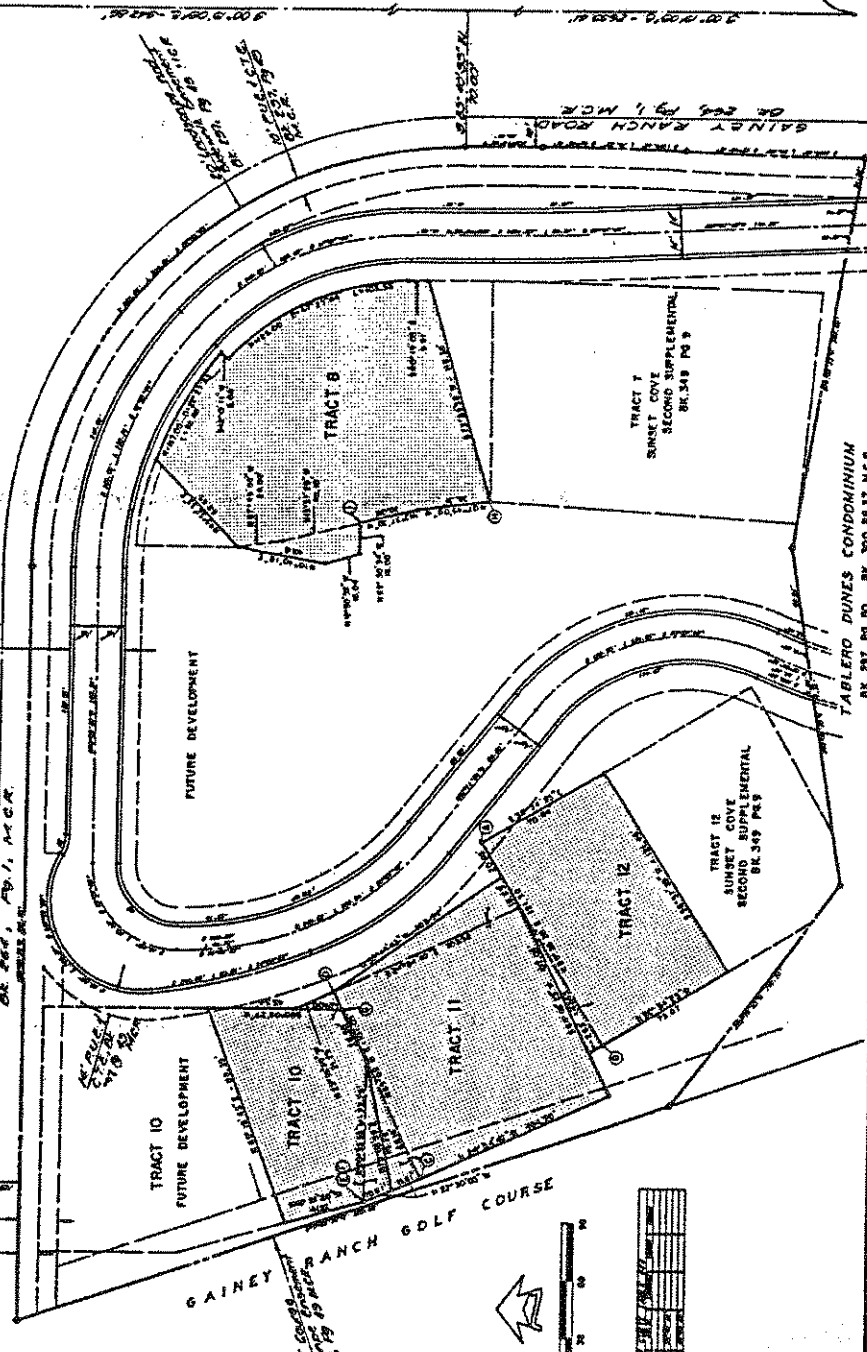
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SUNSET COVE  
TRACT 12  
7-50-01, R-4E

UNSUBDIVIDED  
GAINNEY RANCH ROAD  
BK 262 PG 11 MCR

0.07 AC  
SUNSET COVE  
TRACT 10  
7-50-01, R-4E

GAINNEY RANCH GOLF COURSE

TABLEAU DUNES CONDOMINIUM  
BK 207 PG 50, BK 300 PG 27 MCR



CONSENT

Canadian Imperial Bank of Commerce, a Canadian chartered bank, and Stewart Title & Trust of Phoenix, Inc., an Arizona corporation, as Beneficiary and Trustee respectively under that certain First Deed of Trust and Security Agreement, dated July 21, 1983, and recorded July 22, 1983, as Instrument No. 83 288224, and amended by that certain First Amendment to First Deed of Trust and Security Agreement, dated December 14, 1988, and recorded January 3, 1989, as Instrument No. 89-001419, and that certain Second Modification of Loan Agreement, Note and Deed of Trust, dated May 17, 1989, recorded August 4, 1989, as Instrument No. 89-361972, and that certain Third Amendment to First Deed of Trust and Security Agreement, dated February 3, 1992, and recorded February 13, 1992, as Instrument No. 92-075228, all in the records of Maricopa County, Arizona (collectively, the "Deed of Trust"), hereby consent to the foregoing Second Amendment to Condominium Declaration and covenant and agree that their interest in the Deed of Trust described above is subject and subordinate to this Second Amendment to Condominium Declaration, except to the extent specifically provided in Sections 17.1 and 25.2 of the Condominium Declaration.

DATED this 5<sup>th</sup> day of March, 1992.

CANADIAN IMPERIAL BANK OF  
COMMERCE, a Canadian  
chartered bank

By [Signature]  
Its Vice President -  
Managing Director

STEWART TITLE & TRUST OF  
PHOENIX, INC., an Arizona  
corporation

By [Signature]  
Its VP

State of  
PROVINCE OF ILLINOIS )  
County of COOK ) ss.  
City of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this 5th day of March, 1992, by John Palomo, the Managing Director of Canadian Imperial Bank of Commerce, a Canadian chartered bank, on behalf of the bank.

Mary Kay Hanrahan  
Notary Public

My Commission Expires:  
\_\_\_\_\_

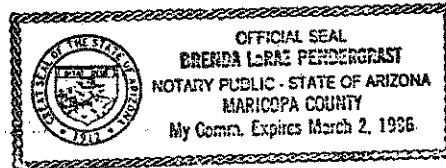


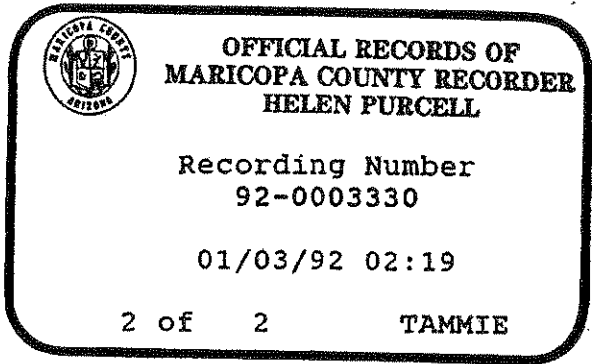
STATE OF Arizona )  
County of Maricopa ) ss.

The foregoing instrument was acknowledged before me this 11th day of March, 1992, by Steven A. Gronek, the Vice President of Stewart Title & Trust of Phoenix, Inc., an Arizona corporation, on behalf of the corporation.

Brenda Lora Pendergrast  
Notary Public

My Commission Expires:  
3-2-96





When Recorded Return To:  
Jay D. Wiley  
Snell & Wilmer  
3100 Valley Bank Center  
Phoenix, Arizona 85073

ELECTION TO BECOME DECLARANT  
UNDER CONDOMINIUM DECLARATION FOR  
TABLERO DUNES AT GAINNEY RANCH

THIS ELECTION TO BECOME DECLARANT UNDER CONDOMINIUM DECLARATION FOR TABLERO DUNES AT GAINNEY RANCH ("Election") is made this 20th day of December, 1991, by MARKLAND PROPERTIES, INC., an Arizona corporation ("Markland").

WITNESSETH:

WHEREAS, the "Condominium Declaration For Tablero Dunes, A Condominium Project at Gainey Ranch", was recorded on May 21, 1986, as Instrument No. 86 251813, records of Maricopa County, Arizona; and

WHEREAS, the Condominium Declaration was amended by that certain First Amendment to Condominium Declaration For Tablero Dunes, A Condominium Project at Gainey Ranch, dated December 23, 1991, and recorded immediately prior to this Election in the records of the County Recorder of Maricopa County, Arizona (which Condominium Declaration, as amended, is hereinafter referred to as the "Condominium Declaration"); and

WHEREAS, under Article 30 of the Condominium Declaration, Markland now has the right to elect to become the Declarant under the Condominium Declaration because Markland has become the owner of a portion of the "Annexation Property" as defined in the Condominium Declaration; and

WHEREAS, Markland now wishes to elect to become such Declarant;

NOW, THEREFORE, pursuant to Article 30 of the Condominium Declaration, and subject to and in accordance with all of the terms thereof, Markland hereby elects to become Declarant under the Condominium Declaration, which election shall be effective upon recordation of this Election in the records of the Maricopa County Recorder.

IN WITNESS WHEREOF, Markland has caused this Election to be executed by its duly authorized officer this 20 day of December, 1991.

MARKLAND PROPERTIES, INC.

By [Signature]  
Its VP-Finance

STATE OF ARIZONA )  
  ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 20th day of December, 1991, by STEPHEN J. BURMAN, the VP-FINANCE of MARKLAND PROPERTIES, INC., an Arizona corporation, on behalf of the corporation.

Elizabeth H. Thomas  
N.E.E. Elizabeth H. Kaye  
Notary Public

My Commission Expires \_\_\_\_\_



When recorded return to:

Fennemore, Craig, von Ammon,  
Udall & Powers  
6991 E. Camelback Road, #A-201  
Scottsdale, Arizona 85251-2466  
Attn: GTC

ANNEXATION AMENDMENT

This Annexation Amendment is made as of the 16TH day of JULY, 1986, for the Tablero Dunes condominium at Gainey Ranch.

RECITALS

A. The Condominium Declaration for Tablero Dunes recorded as Instrument No. 86-251813 in the County Recorder's office of Maricopa County, Arizona, provides, among other things, in Article 26 that the "Declarant" named in the Condominium Declaration may at any time without the approval, assent or vote of the Association or the Owners, within seven years from the date of recording of the Condominium Declaration, annex to the Property named in the Condominium Declaration all or any portion of the Annexation Property described on Exhibit "B" thereto, provided that Markland Properties has not, prior thereto, given proper notice of its intention to exercise the purchase rights described in Article 30 of the Condominium Declaration.

B. The conditions of Article 26 of the Condominium Declaration for annexation of additional property to the Tablero Dunes Condominium are satisfied and the undersigned, as the Declarant named in the Condominium Declaration, desires to annex a portion of the Annexation Property to the Property.

DECLARATIONS

NOW, THEREFORE, the undersigned acting as Declarant hereby declares as follows:

1. This Annexation Amendment amends the Condominium Declaration by annexing to the Property tracts 3 and 4 as set forth on the condominium plat for Tablero Dunes Condominiums recorded on May 21, 1986, in the office of the County Recorder of Maricopa County, Arizona, in book 297 of maps, page 50.

2. Upon completion of the annexation provided for herein each Unit shall have an undivided interest in the Common Elements equal to 1/40.

3. The Units and the Common Elements contained in the portion of the Annexation Property being hereby annexed are as reflected on Exhibit "A" hereto, and on Plat recorded in Book 300 of Maps at page 27.

4. Except as expressly amended herein, the Condominium Declaration for Tablero Dunes shall remain in full force and effect. The defined terms appearing in the Condominium Declaration are incorporated herein by reference.

5. The annexation provided for in the Condominium Declaration shall be effective upon recording of this Annexation Amendment.

DECLARANT:

Brandon Arizona Investors 2 Limited Partnership, an Arizona limited partnership

By: Brandon Homes, Inc.,  
a Washington corporation,  
General Partner

By: William G. Kerr  
William G. Kerr  
Its: Vice President

STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa         )

The foregoing instrument was acknowledged before me this 16th day of July, 1986, by William G. Kerr, the Vice President of Brandon Homes, Inc., a Washington corporation, General Partner of Brandon Arizona Investors 2 Limited Partnership, an Arizona limited partnership, for and on behalf thereof.

[Signature]  
Notary Public

My commission expires:

10-23-86

Approved:

The Gainey Ranch Community Association

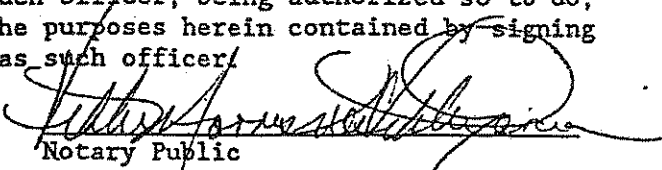
By: Fred B. Thielen  
Fred B. Thielen  
Its: Executive Director

STATE OF ARIZONA )

) ss.

County of Maricopa )

The foregoing instrument was acknowledged before me this 16 day of July, 1986, by Fred B. Thielen, who acknowledged himself to be the Executive Director of The Gainey Ranch Community Association, an Arizona nonprofit corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes herein contained by signing the name of the corporation, by himself as such officer.

  
Notary Public

My commission expires:

10-23-86



92 30 81

89 DR 85 43

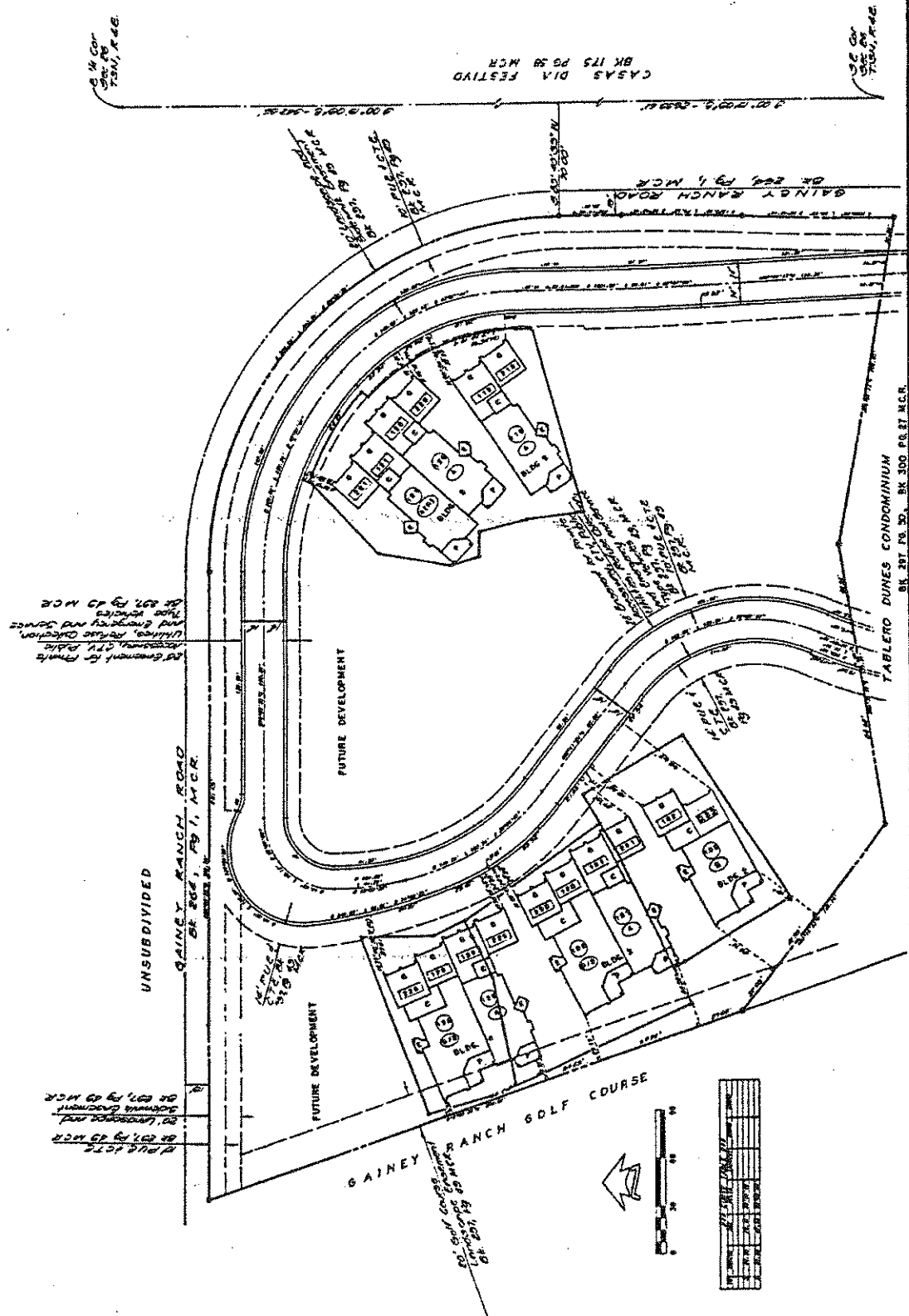
FIRST FLOOR LEVEL

RICK ENGINEERING COMPANY

1000 WEST 400 STREET  
SUITE 100  
DENVER, COLORADO 80202  
PHONE: 733-1111  
FAX: 733-1112

DATE: PROJECT NO: 92-30-81 SCALE: 1" = 40'

UNIT NUMBER	SQUARE FEET	SCHEDULE	FINISHES		SCHEDULE	SCHEDULE
			FLOOR	CEILING		
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104	1,010	101	101	101	101	101
105	1,010	101	101	101	101	101
106	1,010	101	101	101	101	101
107	1,010	101	101	101	101	101
108	1,010	101	101	101	101	101
109	1,010	101	101	101	101	101
110	1,010	101	101	101	101	101
111	1,010	101	101	101	101	101
112	1,010	101	101	101	101	101



(THIRD SUPPLEMENTAL) SUNSET COVE CONDOMINIUM - SHEET 3 OF 7

92 30 381

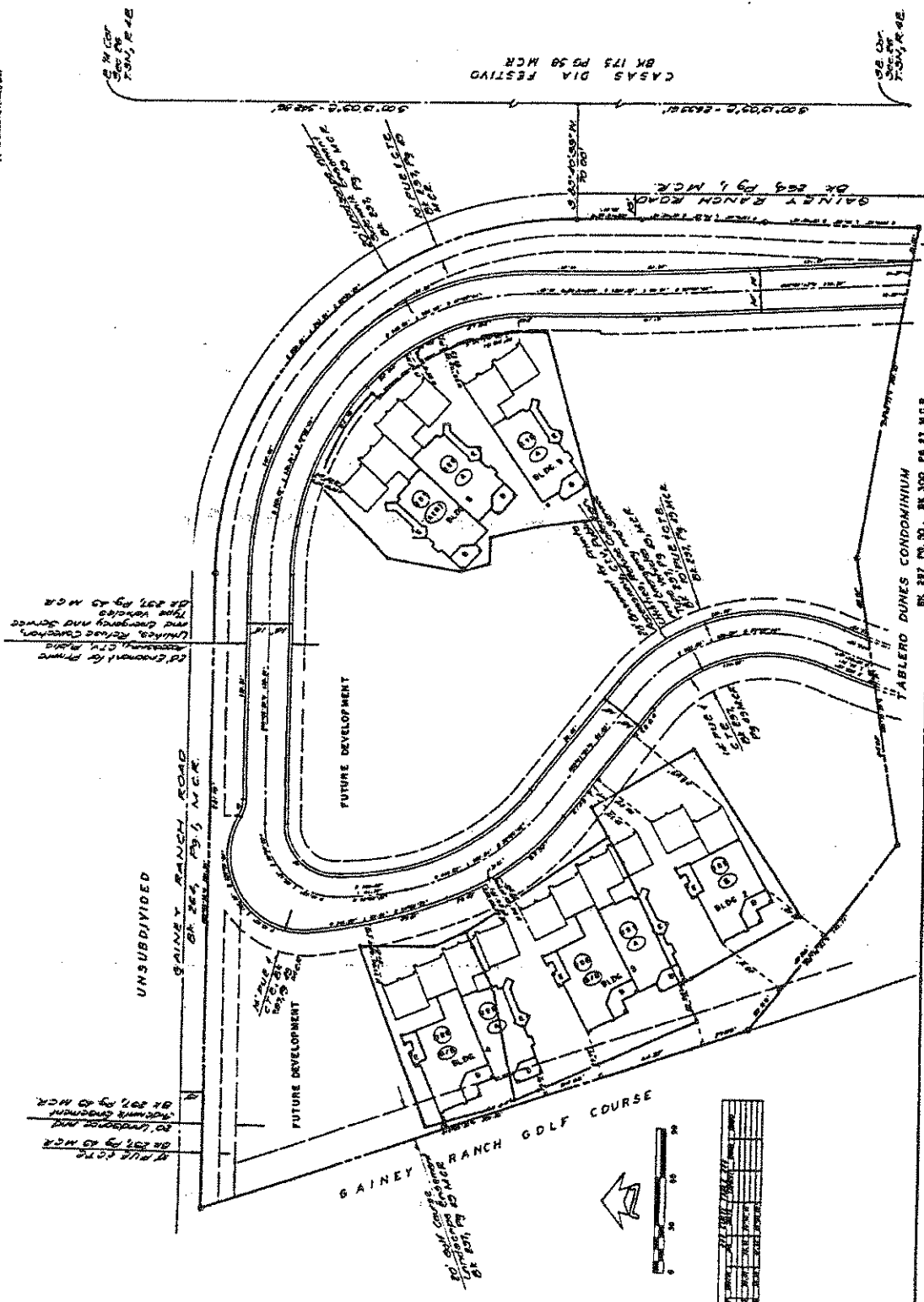


SECOND FLOOR LEVEL

RICK ENGINEERING COMPANY  
3100 WEST 40th STREET  
SUITE 200  
MIDLAND, TEXAS 79706  
PHONE: 339-1888  
FAX: 339-1889  
DATE: 11-89

(THIRD SUPPLEMENTAL) SUNSET COVE CONDOMINIUM SHEET 4 OF 7

UNIT NUMBER	SCHEDULED FINISH DATE	SCHEDULED FINISH DATE		SCHEDULED FINISH DATE
		DATE	DATE	
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UNSUBDIVIDED  
GAINNEY RANCH ROAD  
MCR 201, PG 42  
MCR 175, PG 59  
MCR 201, PG 42  
MCR 175, PG 59

GAINNEY RANCH GOLF COURSE  
MCR 201, PG 42  
MCR 175, PG 59  
MCR 201, PG 42  
MCR 175, PG 59

TABLEAU DUNES CONDOMINIUM  
MCR 201, PG 42  
MCR 175, PG 59  
MCR 201, PG 42  
MCR 175, PG 59

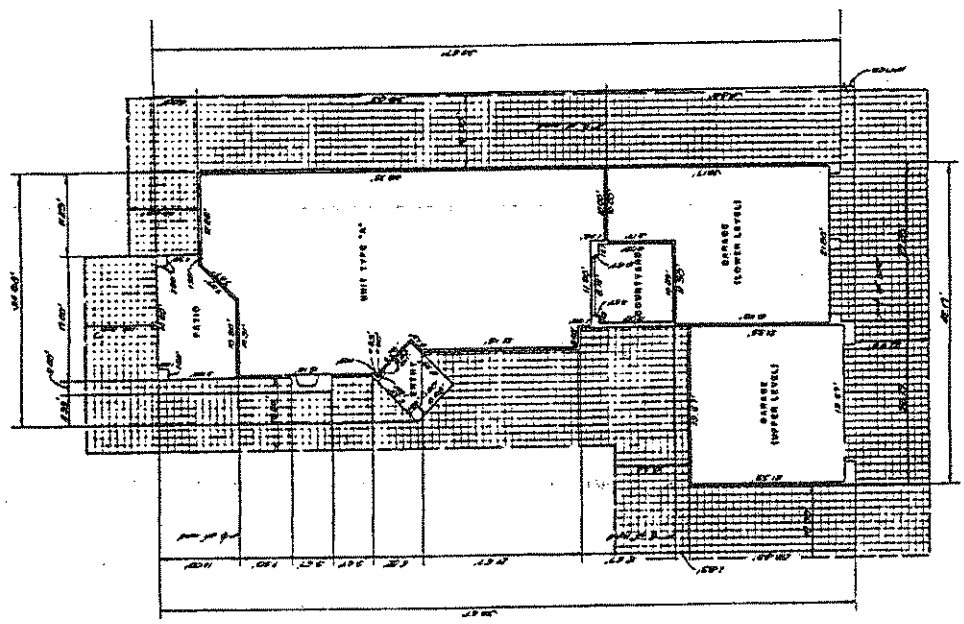
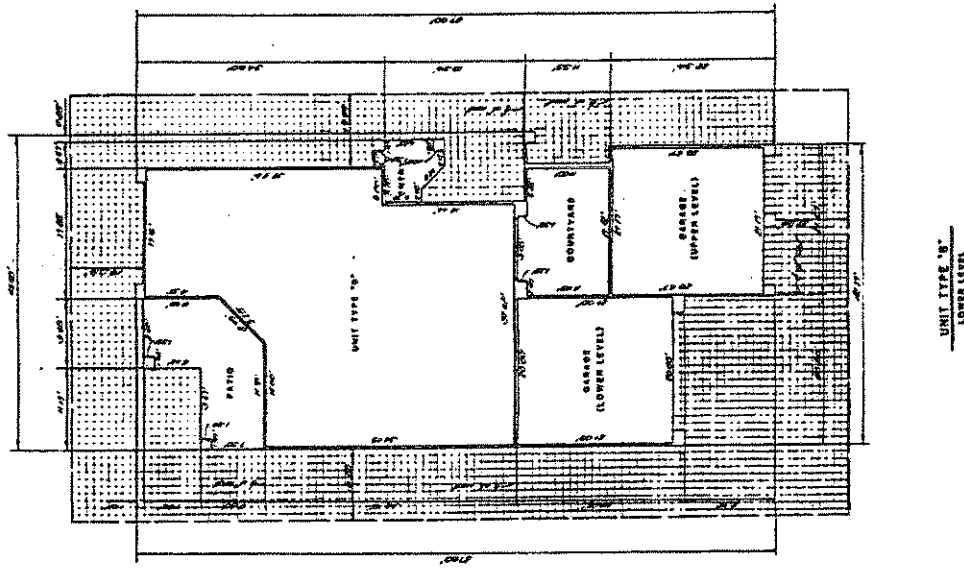
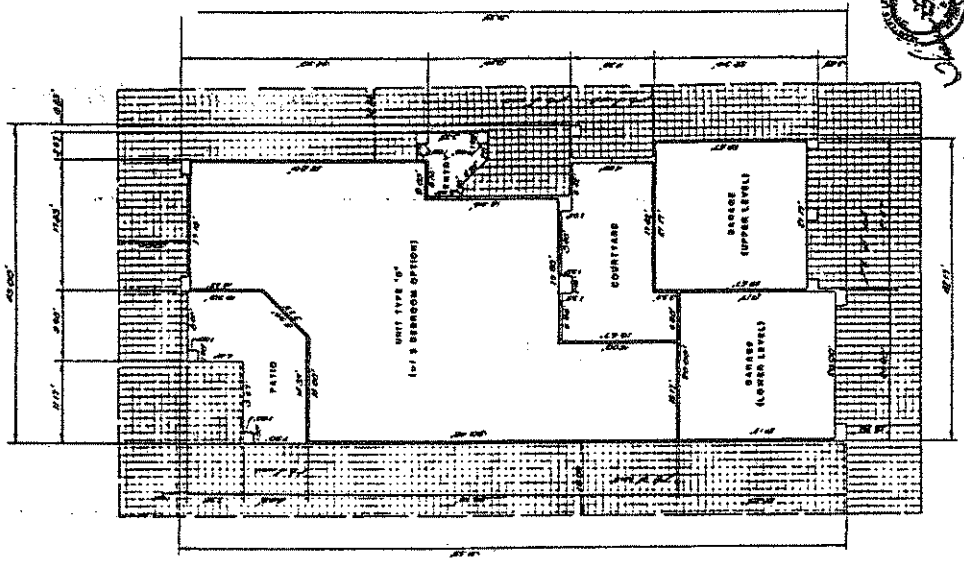


1	2	3	4	5	6	7	8	9	10
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92 307381



**RICK ENGINEERING COMPANY**  
 2700 WOODRIDGE AVENUE  
 SUITE 200  
 WILMINGTON, DELAWARE 19804  
 PROJECT NO. 1888  
 DATE: 10/1/88



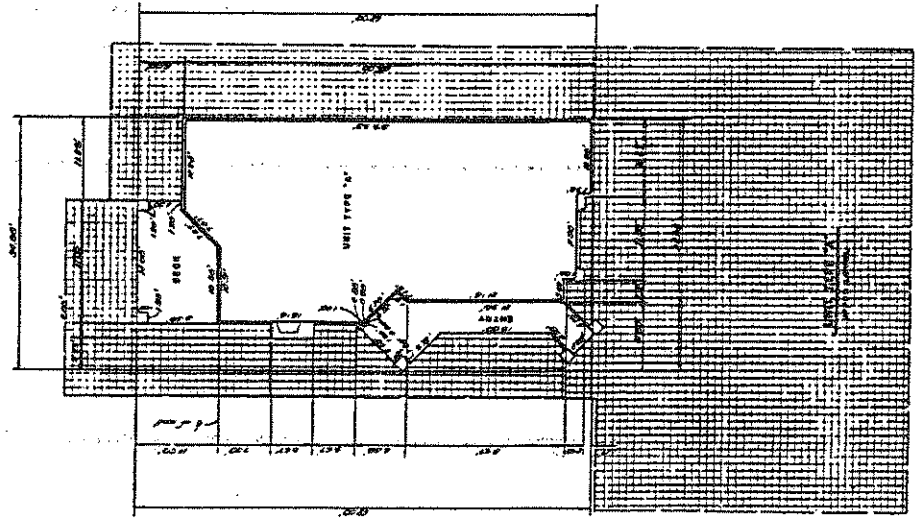
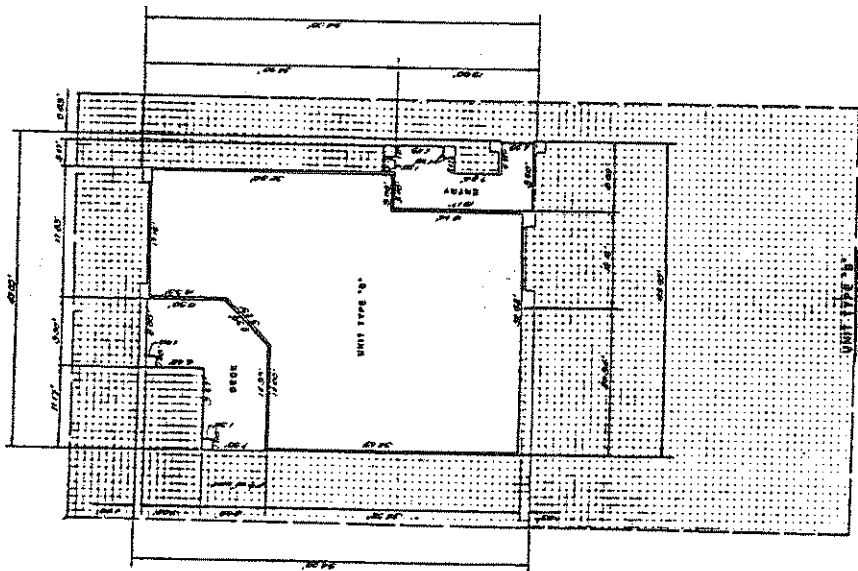
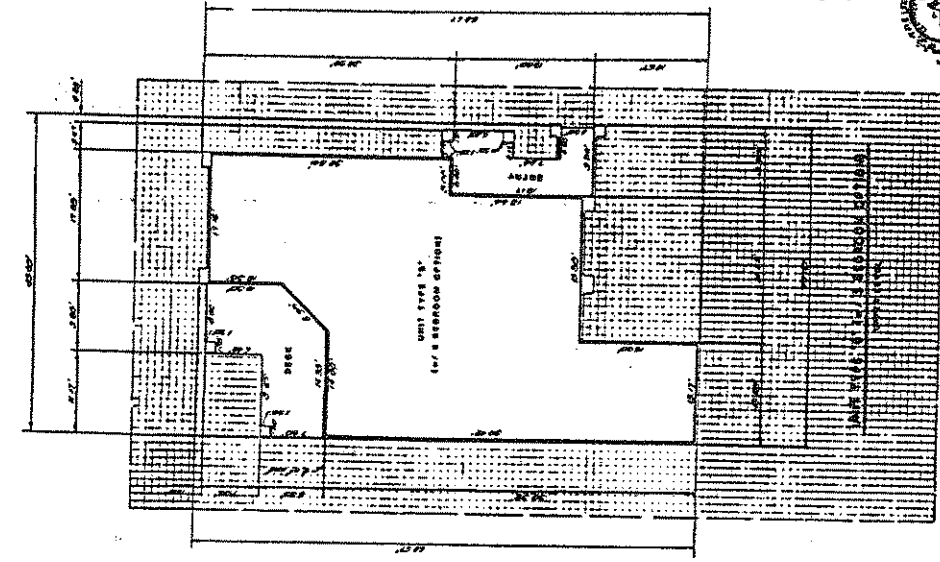
LEGEND: [Symbol] DEVELOPMENT RIGHTS RESERVED IN THE AREA

92 30 381

89 DR 89 3

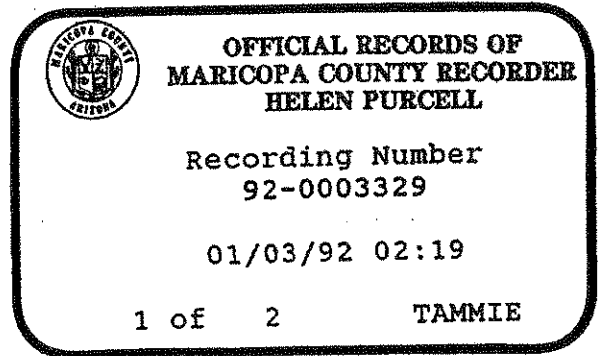


**RICK ENGINEERING COMPANY**  
 1105 NORTH 44TH STREET  
 SUITE 200  
 MINNEAPOLIS, MINN. 55412  
 PROJECT NO. 1889  
 DATE: 04-11-93



LEGEND: [Pattern] DEVELOPMENT RIGHTS RESERVED IN THIS AREA

When Recorded Return To:  
Jay D. Wiley  
Snell & Wilmer  
3100 Valley Bank Center  
Phoenix, Arizona 85073



FIRST AMENDMENT TO CONDOMINIUM DECLARATION  
FOR TABLERO DUNES

A CONDOMINIUM PROJECT AT GAINNEY RANCH

## CERTIFICATE OF ADOPTION OF AMENDMENTS

The undersigned hereby certifies that, at a meeting duly called and held on November 20, 1991, pursuant to the Articles and Bylaws of the Homeowners Association for Tablero Dunes at Gainey Ranch, an Arizona non-profit corporation (the "Association"), the Members of the Association cast at least sixty-seven percent (67%) of the votes eligible to be cast at such meeting in favor of those Amendments to the Condominium Declaration for Tablero Dunes, A Condominium Project at Gainey Ranch, recorded on May 21, 1986, as Instrument No. 86 251813, records of Maricopa County, Arizona (the "Condominium Declaration"), which are set forth in Sections 1-15 below (the "Amendments"); that written approval of the Amendments from Mortgagees holding at least seventy-five percent (75%) of the First Mortgages (as defined in the Condominium Declaration) has been obtained; and that therefore the provisions of the Condominium Declaration have been amended by the Amendments, with such Amendments to be effective in accordance with Section 25.1 of the Condominium Declaration upon recordation of this First Amendment to Condominium Declaration.

## AMENDMENTS ADOPTED

1. Association. Section 1.1.3 of the Declaration is hereby amended to read in full as follows:

"1.1.3 Association shall mean the Homeowners Association for Tablero Dunes at Gainey Ranch, an Arizona nonprofit corporation, which has been or will be formed prior to conveyance of the first Unit by Declarant to a third-party purchaser, its successors and assigns; provided, however, if Markland Properties, Inc., an Arizona corporation, becomes Declarant pursuant to Article 30 of this Declaration, Markland Properties, Inc., as Declarant, at any time, and from time to time, on or before the Transition Date may change the name of the Association to a name determined by the Declarant and may cause the Board to amend the Articles in order to reflect such name change."

2. Declaration. Section 1.1.10 of the Declaration is hereby amended to read in full as follows:

"1.1.10 Declaration shall mean this Condominium Declaration for Tablero Dunes, as it may from time to time be amended; provided, however, if Markland Properties, Inc., as Declarant, changes the name of the Association as permitted under Section 1.1.3 of this Declaration, such Declarant may also record a notice in the public records that the name of the development upon the Property has been changed to a specified name consistent with the new name of the Association and, upon recordation of such a notice, the name of this Declaration shall also be changed to be the Condominium Declaration for the development under its new name, which name shall apply to all Units on the Property. Markland Properties, Inc., as Declarant, shall also be authorized to take such action as Declarant may deem necessary or appropriate to cause the new name of the development to be reflected on the Plat, any Annexation Amendments and Annexation Plats and other public records which indicate that the name of the Condominium project on the Property is "Tablero Dunes".

3. Definitions. Article 1 of the Declaration is hereby amended by adding thereto Sections 1.1.23, 1.1.24, 1.1.25, 1.1.26 and 1.1.27, which Sections 1.1.23, 1.1.24, 1.1.25, 1.1.26 and 1.1.27 shall read in full as follows:

"1.1.23 Annexation Amendment shall mean an amendment to this Declaration, including an Annexation Plat, which annexes all or portion of the Annexation Property to the Property and the plan of this Declaration as more fully defined and described in Article 26 of this Declaration.

1.1.24 Annexation Plat shall have the meaning set forth in Section 26.2 of this Declaration.

1.1.25 Development Rights shall mean the rights of Declarant set forth in Section 2.2 and Articles 26, 31 and 32 of this Declaration and any other rights which are both allowed by the Condominium Statute and granted to the Declarant by the provisions of this Declaration.

1.1.26 Phase 2 Tracts shall mean Tracts 7, 8, 9, 10, 11 and 12 as set forth on the Condominium Plat for Tablero Dunes Condominiums recorded on May 21, 1986, in the office of the County Recorder of Maricopa County, in Book 297 of Maps, Page 50, as such Condominium Plat and Tracts may be modified pursuant to Articles 2, 26, 31 and/or 32 of this Declaration.

1.1.27 Phase 2 Units shall mean the Units constructed or to be constructed on the Phase 2 Tracts by Declarant."

4. Submission of the Property to the Condominium Statute; Development Rights. Article 2 of the Condominium Declaration is hereby amended by changing the title of such Article to "Submission of the Property to the Condominium Statute; Development Rights", by inserting the following prior to the existing paragraph in Article 2 so that such paragraph becomes Section 2.1 of the Declaration:

"2.1 Submission of the Property to the Condominium Statute."

and by adding the following sections as Sections 2.2, 2.3 and 2.4 of Article 2:

"2.2 Reservation of Certain Development Rights. Declarant intends to develop the Phase 2 Tracts in one or more legal phases and possibly one or more construction phases within each legal phase so that Declarant will have flexibility to change the layout of the Phase 2 Units and the Common Elements and Limited Common Elements in the vicinity of the Phase 2 Units. Without the approval of the Owners or the Board



for the Mortgagees, Declarant, in addition to any Development Rights set forth elsewhere in this Declaration, hereby reserves, and Declarant shall have, the additional Development Rights set forth in clauses (a) and (b) of this Section 2.2. The Development Rights described in this Section 2.2 shall be exercised by preparing, executing and recording an amendment to the Declaration called a Supplemental Declaration and an amendment to the Plat which will be called a Supplemental Plat. No Supplemental Declaration or Supplemental Plat shall alter or diminish the rights of any existing Owner (other than Declarant) to the exclusive Limited Common Elements shown on the original Plat. Development Rights specifically reserved by Declarant pursuant to this Section 2.2 shall be the following:

(a) The right to create easements over the Common Elements for the benefit of all of the Units, including the Phase 2 Units;

(b) The right to create easements over the Common Elements which are for the benefit of one or more of the Units so long as any easement so created is reasonably necessary for the use and enjoyment of the Unit on a basis similar to other Units and does not materially and adversely affect the owners of other Units, which permitted easements shall be limited generally to those for access, drainage, utilities, construction and similar purposes; and

(c) The right to convert Phase 2 Units or Phase 2 Tracts, in whole or in part, to Common Elements or Limited Common Elements.

2.3 Limitation on Development Rights. Anything in the foregoing to the contrary notwithstanding, the Development Rights of Declarant under this Declaration are limited as follows:

(i) The Development Rights may be exercised at any time, except that the right to annex additional Units shall expire as provided in Article 26; and

(ii) The minimum size of any Phase 2 Unit will be 1,100 square feet of livable space.

2.4 Protection of Development Rights. Any amendment of this Declaration shall not terminate or decrease any unexpired Development Right, including but not limited to the period of Declarant control or the exemption of Declarant under Section 9.11 of this Declaration, unless Declarant in writing consents to such termination or decrease."

5. Prohibition Against Abandonment, Partition, etc. The first sentence of Section 5.3 of the Declaration is hereby modified to read in full as follows:

"Except for the exercise by Declarant of the Development Rights, the Owners shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements and no other person shall have the right to have them partitioned or divided."

6. Alteration of Common Elements. Section 9.6 of the Declaration is hereby modified to read in full as follows:

"9.6 Alteration of Common Elements. Except for the exercise by Declarant of the Development Rights, nothing shall be altered or constructed in or removed from the Common Elements except upon the prior written consent of the Board."

7. Initial Construction. A new Section 9.11 is hereby added to the Declaration, which Section 9.11 shall read in full as follows:

"9.11 Initial Construction.

Anything in this Declaration to the contrary notwithstanding, the Declarant shall not be required to obtain architectural or other approval of the Board, any committee of the Board, the Owners or the Mortgagees with respect to any improvements (including but not limited to Common Elements and Units), alterations, repairs, excavations, grading, landscaping, additions or changes installed or made, or to be installed or made, by Declarant with respect to the Property; provided, however, (a) Declarant shall not demolish or remove from the Common Elements any structural amenity, such as a lake or swimming pool, in existence on February 1, 1991; and (b) except as permitted in Article 31 of this Declaration, Declarant shall not convert any Common Elements to Phase 2 Units. In addition, if Declarant shall be required after the Transition Date to obtain the approval of the Architectural Committee of the Master Association (as defined in Section 12.13.1) to any improvement, alteration, repair, excavation, grading, landscaping, addition or other change to the Property which is not substantially in accordance with the plans identified on Exhibit D attached hereto (except for adjustments thereto for the location of patio areas, patio walls, driveways, walks, landscape walls and other limited common elements), Declarant shall submit to the Board a copy of the package which Declarant submits to the Architectural Control Committee of the Master Association as part of such approval request, and Declarant shall not commence any such work for a period of at least ten (10) days after submission of the package to the Board and, during such 10-day period, the Declarant will review and consider any comments, suggestions and requests which the Board may wish to make with respect to the proposed work; provided, however,

Declarant shall not be required to obtain the approval of the Board with respect to any such work and the sole right and power of the Board shall be to submit to the Declarant the thoughts and comments of the Board for the Declarant's consideration."

8. Transition Date. The second sentence of Section 14.1 of the Declaration is hereby modified to read in full as follows:

"The Transition Date will be the earlier of (i) ninety (90) days following the date when Declarant has transferred title to seventy-five percent (75%) of the Units which may be created by this Declaration to purchasers other than Declarant or an affiliate of Declarant; (ii) if Declarant commences the sale of Units in the Phase 2 Tracts, then the date thereafter which is one (1) year after Declarant has ceased to offer Units in Phase 2 Tracts for sale in the ordinary course of business; or (iii) June 30, 1996."

9. Assessments. Section 16.3.3 of the Declaration is hereby amended to read in full as follows:

"Notwithstanding anything foregoing in this Section 16.3 to the contrary, Declarant shall not be obligated to pay regular monthly assessments (including any amounts added thereto as a result of the application of Section 16.4 below) on any Unit owned by Declarant for the period of such ownership before the Unit is substantially complete but shall, instead, pay to the Association an amount equal to 25% of the otherwise applicable regular assessment for such period. However, Declarant shall be obligated to pay to the Association any deficiencies in monies available to pay common expenses due to the Declarant having paid a reduced assessment and which are necessary for the Association to be able to pay, in a timely manner,

all common expenses incurred during the period Declarant is paying such reduced assessment. In addition, Declarant may at any time after the Transition Date elect, by written notice to the Satellite Association, to pay 100% of all assessments against all Units owned by the Declarant and, in the event of such election, Declarant shall have no obligation, pursuant to the immediately preceding sentence or otherwise, to pay any deficiencies to the Association which arise after such election."

10. Expiration of Annexation Right. The first sentence of Article 26 of the Declaration is hereby amended to read in full as follows:

"Notwithstanding any other provision of this Declaration, Declarant may, without the approval, assent or vote of the Association, the Mortgagees or the Owners, at any time and from time to time on or before June 30, 1996, annex to the Property all or any portion of the real property (the "Annexation Property") described on Exhibit B, if Declarant is then the Owner thereof; provided, however, that nothing contained in this Declaration shall obligate Declarant to annex all or any portion of the Annexation Property at any particular time prior to such date, and no portion of the Annexation Property shall become subject to this Declaration unless and until an amendment to this Declaration and the Plat (an "Annexation Amendment") shall be recorded as herein provided."

11. Time of Annexation (Condition of Units). The next to last sentence of Section 26.1 of the Declaration is hereby modified to read in full as follows:

"Any improvements which may be constructed by Declarant in subsequent phases of the Property shall be consistent in quality of construction and architectural style with the improvements constructed in connection with the first phase; provided,

however, (i) Declarant makes no representations concerning, does not give any assurances whatsoever concerning, and reserves the right to alter, the exact number, size, configuration, design or location of any phase, building or Unit as provided herein; (ii) improvements which feature colors, landscaping, elevations, roof lines, ornamental lines, and details which are substantially in accordance with the plans identified on Exhibit D to this Declaration (subject to adjustments for the location of patio areas, patio walls, driveways, walks, landscape walls and other Limited Common Elements that may be made on a Unit by Unit basis) shall be deemed consistent in quality of construction and architectural style with the improvements constructed in connection with the first phase; and (iii) improvements need not be commenced or completed prior to the annexation of the applicable Tracts and Units but the Association shall not have any duty to assume maintenance responsibility for the Common Elements located within or comprising a building constructed on a Phase 2 Tract, including but not limited to responsibility for the appearance, structural integrity, repair or operational costs of such Common Elements, until construction of the entire building has been substantially completed. Any Unit annexed by Declarant shall be deemed owned by Declarant as of the date of such annexation."

12. Increase in the Number of Phase 2 Units within a Phase 2 Tract. A new Section 26.5 is hereby added to the Declaration, which Section 26.5 shall read in full as follows:

"26.5 Increase in the Number of Phase 2 Units within a Phase 2 Tract. As more fully described in Section 32.1 of this Declaration, Declarant may wish to adjust the number of Phase 2 Units within a Phase 2 Tract after the Phase

2. Tract has been annexed pursuant to this Article 26. If such adjustment results in an increase in the number of Phase 2 Units within a Phase 2 Tract, such adjustment shall be made as provided in Section 26.2 of this Declaration by preparing and recording a new Annexation Amendment with respect to the Phase 2 Tract in which the number of Phase 2 Units will be increased; any increase in the number of Phase 2 Units shall be subject to the limitation on the total number of Units which may be included in the Condominium pursuant to Sections 2.3(ii) and 26.1 of this Declaration. Any increase in the number of Phase 2 Units in a Phase 2 Tract shall also result in an adjustment of the undivided interest of each Unit in the Common Elements as provided in Section 26.3 of this Declaration."

13. Markland Properties, Inc. A new sentence is hereby added at the end of, and as a part of, Article 30 of the Declaration, which new sentence shall read in full as follows:

"Markland Properties may also assign all of its rights under this Section 30 to any other person or entity who acquires all or any portion of the Annexation Property for the purpose of constructing Units thereon."

14. Conversion of Common Elements. The phrase "within 10 feet of the perimeter boundaries" is hereby changed to "within 20 feet of the perimeter boundaries" where such phrase appears in Article 31 of the Declaration.

15. Contraction of the Condominium. A new Article 32 shall be added to the Declaration, which Article 32 shall read in full as follows:

"ARTICLE 32

CONTRACTION OF THE CONDOMINIUM

32.1 Reservation of Option to Withdraw Real Estate. Declarant intends to develop the Phase 2 Tracts

in several construction phases and to construct various numbers of Phase 2 Units in each Phase 2 Tract. Each annexation of all or any portion of a Phase 2 Tract shall indicate the number of buildings to be constructed on the real property so annexed and the number of Phase 2 Units to be located in each such building. After annexation of a Phase 2 Tract, Declarant may elect to change its plans (including the number and layouts of the Phase 2 Units) within any such Phase 2 Tract or elect not to construct a building on such Phase 2 Tract. Without the approval of the Owners of any of the Units in the Condominium, the Association, the Mortgagees or the Board, Declarant shall have the right, in one or more instances, to de-annex and withdraw from the Condominium all or any part of a Phase 2 Tract, or any Phase 2 Unit within a Phase 2 Tract, by recording a Declaration of Withdrawal, in which event such portion of the Phase 2 Tracts or Phase 2 Units legally described in such Declaration of Withdrawal shall be withdrawn and removed from the Property constituting the Condominium; provided, however, Declarant must, as part of the withdrawal of any Unit, withdraw all Units within the building that was to contain the withdrawn Unit; and provided further the Declarant shall not have the right to de-annex or withdraw any Phase 2 Unit upon which construction has been commenced.

### 32.2 Declaration of Withdrawal.

A Declaration of Withdrawal shall be a written instrument in recordable form, recorded in the Office of the County Recorder of Maricopa County, Arizona, which de-annexes and withdraws all or a portion of the Phase 2 Tracts and/or Phase 2 Units under this Declaration. Upon recordation of the Declaration of Withdrawal, Declarant shall have the right to designate all or any such portion of the Phase 2 Tracts or Phase



2 Units which have been withdrawn from the Condominium as part of the Annexation Property which may later be annexed into the Condominium in accordance with the provisions of Article 26 of this Declaration.

32.3 Adjustment of Undivided Interest. In the event a portion of the Phase 2 Tracts or Phase 2 Units is withdrawn from the Condominium in accordance with this Article 32, the undivided interest in the Common Elements appurtenant to each Unit in the Property shall, as of the effective date of such withdrawal, be adjusted to equal the fraction, the numerator of which is one and the denominator of which is the total number of all Units then remaining within the Property (i.e. exclusive of any Units withdrawn from the Property). Notwithstanding the foregoing, the undivided interest in the Common Elements of any Unit shall in no event be greater than one/fortieth (1/40th), nor less than one/eightieth (1/80th)."

IN WITNESS WHEREOF, the undersigned has executed this First Amendment this 23rd day of December, 1991.

*Fred B. Thielen*  
Fred B. Thielen, President of the Homeowners Association for Tablero Dunes at Gainey Ranch

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

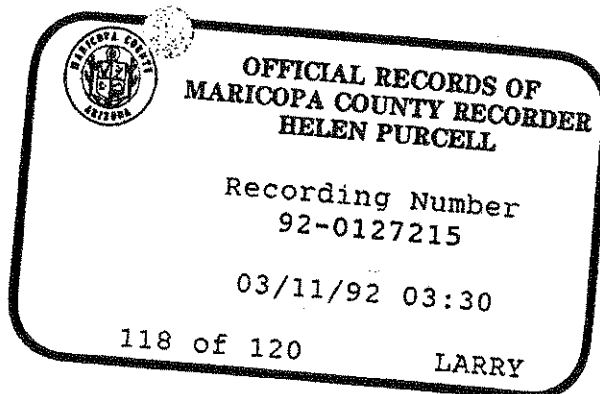
The foregoing instrument was acknowledged before me this 23rd day of December, 1991, by Fred B. Thielen, President of the Homeowners Association for Tablero Dunes at Gainey Ranch, an Arizona non-profit corporation, on behalf of the corporation.

*[Signature]*  
Notary Public

My Commission Expires:  
March 25, 1995  
2652r

Recorded at the request of  
STEWART TITLE & TRUST OF PHOENIX, INC.  
(Non-insured)

When recorded, return to:  
SNELL & WILMER  
3100 Valley Bank Center  
Phoenix, Arizona 85073  
Attn: Mr. Jay D. Wiley



SECOND AMENDMENT TO  
CONDOMINIUM DECLARATION FOR

TABLERO DUNES,

A CONDOMINIUM PROJECT AT GAINNEY RANCH

(CONDOMINIUM NAME CHANGED TO  
SUNSET COVE AT GAINNEY RANCH)

THIS SECOND AMENDMENT TO CONDOMINIUM DECLARATION FOR TABLERO DUNES (the "Second Amendment to Condominium") is made as of the date hereinafter set forth by Markland Homes Inc., an Arizona corporation (the "Declarant").

W I T N E S S E T H:

WHEREAS, the "Condominium Declaration for Tablero Dunes, a Condominium Project at Gainey Ranch," was recorded on May 21, 1986, as Instrument No. 86-251813, records of Maricopa County, Arizona (the "Initial Declaration");

WHEREAS, an "Annexation Amendment," dated July 16, 1986, was recorded on July 22, 1986, as Instrument No. 86-378365, records of Maricopa County, Arizona (the "First Annexation Amendment"), adding additional property to the property covered by the Initial Declaration;

WHEREAS, the Initial Declaration was amended by that certain First Amendment to Condominium Declaration for Tablero Dunes, a Condominium Project at Gainey Ranch, dated December 23, 1991, and recorded January 3, 1992, as Instrument No. 92-0003329, records of Maricopa County, Arizona (the "First Amendment to Condominium");

WHEREAS, the Initial Declaration, as amended by the First Annexation Amendment, First Amendment to Condominium, and this Second Amendment to Condominium is hereinafter referred to as the "Condominium Declaration";

WHEREAS, pursuant to an Election to become Declarant under Condominium Declaration for Tablero Dunes at Gainey Ranch, dated December 20, 1991, and recorded January 3, 1992, as Instrument No. 92-0003330, records of Maricopa County, Arizona, Markland Properties elected to become Declarant under the Condominium Declaration;

WHEREAS, Declarant acquired a portion of the "Annexation Property" as defined in the Condominium Declaration from Markland Properties, Inc., and pursuant to an Assignment of Declarant's Rights under Condominium Declaration for Tablero Dunes dated February 27, 1992, and recorded March 9, 1992, as Instrument No. 92-0119246B, records of Maricopa County, Arizona, Declarant succeeded to the interest of Markland Properties, Inc., as "Declarant" under the Condominium Declaration;

WHEREAS, pursuant to Sections 1 and 2 of the First Amendment to Declaration, Declarant has the right to change the name of the condominium development upon the Property and to cause the Board to change the name of the Association; and

WHEREAS, Declarant desires by this Second Amendment to effect such a name change and to provide notice thereof in the public records;

NOW, THEREFORE, Declarant hereby amends the Condominium Declaration as follows:

1. Definitions. All terms and provisions of the Condominium Declaration are hereby incorporated by reference. All capitalized terms set forth in this Second Amendment to Condominium shall, except as amended herein, have the meanings set forth for such terms in the Condominium Declaration.

2. Name of Development. Pursuant to Section 1.1.10 of the Condominium Declaration (as set forth in Section 2 of the First Amendment to Condominium), Declarant hereby provides notice of the change in the name of the condominium development upon the Property from "Tablero Dunes at Gainey Ranch" to "Sunset Cove at Gainey Ranch". Hereafter, the name of the Condominium Declaration shall be "Condominium Declaration for Sunset Cove, A Condominium Project at Gainey Ranch" and such name shall apply to all Units, Common Elements, and Limited Common Elements on the Property.

3. Name of Association. Pursuant to Section 1.1.3 of the Condominium Declaration (as set forth in Section 1 of the Second Amendment to Condominium), Declarant has caused, or shall cause, the Board to amend

the Articles of the Association to change the name of the Association from "Homeowners Association for Tablero Dunes at Gainey Ranch," an Arizona nonprofit corporation, to "Sunset Cove at Gainey Ranch Condominium Association," an Arizona nonprofit corporation.

4. Full Force and Effect. The Condominium Declaration, as modified herein, is ratified and confirmed and shall remain in full force and effect.

DATED this 27<sup>th</sup> day of FEBRUARY, 1992.

MARKLAND HOMES INC., an Arizona corporation

By [Signature]  
Its VP

STATE OF ARIZONA )  
                          ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of FEBRUARY, 1992, by STEPHEN J. BRUMM, the V.P. of MARKLAND HOMES INC., an Arizona corporation, on behalf of the corporation.

Kathleen A. Lombardi  
Notary Public

My Commission Expires:

APRIL 11, 1993

3453u

APPROVAL BY MASTER ASSOCIATION

The Gainey Ranch Community Association (which is defined as the Master Association in the Condominium Declaration) hereby approves the terms and conditions of this Second Amendment to Condominium Declaration and confirms that the aforesaid Second Amendment to Condominium Declaration complies with all required terms of the Master Declaration.

DATED this 3<sup>RD</sup> day of March, 1992.

THE GAINNEY RANCH COMMUNITY ASSOCIATION, an Arizona non-profit corporation

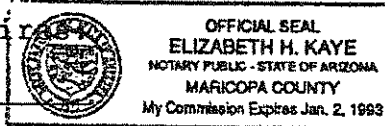
By Fred B. Thiele  
Its President

STATE OF ARIZONA )  
                          ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of March, 1992, by Fred B. Thiele, the President of THE GAINNEY RANCH COMMUNITY ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.

Elizabeth H. Thoms  
N.E.E. Elizabeth H. Thoms  
Notary Public

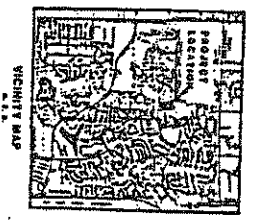
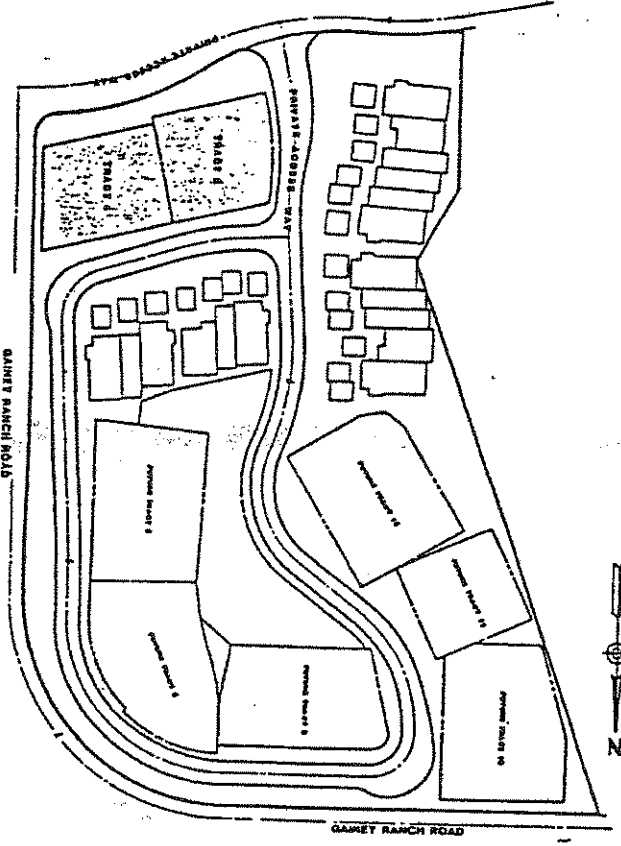
My Commission Expires



3453u

**TRACTS 3 & 4 OF TABLERO DUNES CONDOMINIUMS**  
**A 16 UNIT CONDOMINIUM OF TRACTS 3 & 4 OF**  
**TABLERO DUNES CONDOMINIUMS AS RECORDED**  
**IN BOOK 297, PAGE 50, M.C.R.**  
**MARICOPA COUNTY, ARIZONA**

**EXHIBIT A**



**VICINITY MAP**

**LEGEND:**  
 1. UNIT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16  
 2. COMMON AREA  
 3. PRIVATE ACCESS WAY  
 4. GAMEY RANCH ROAD

**DEDICATION**

That the undersigned, in order to expedite the construction of the project, hereby dedicates to the public use of the State of Arizona the following described property, to-wit: ...

**ACKNOWLEDGEMENT**

I, the undersigned, do hereby certify that the above described property is being dedicated to the public use of the State of Arizona ...

**NOTES**

1. All measurements shall be taken from the centerline of the road.
2. All measurements shall be taken from the centerline of the road.
3. All measurements shall be taken from the centerline of the road.

**INDEX MAP**  
**SCALE - 1"=400'**

**APPROVALS:**

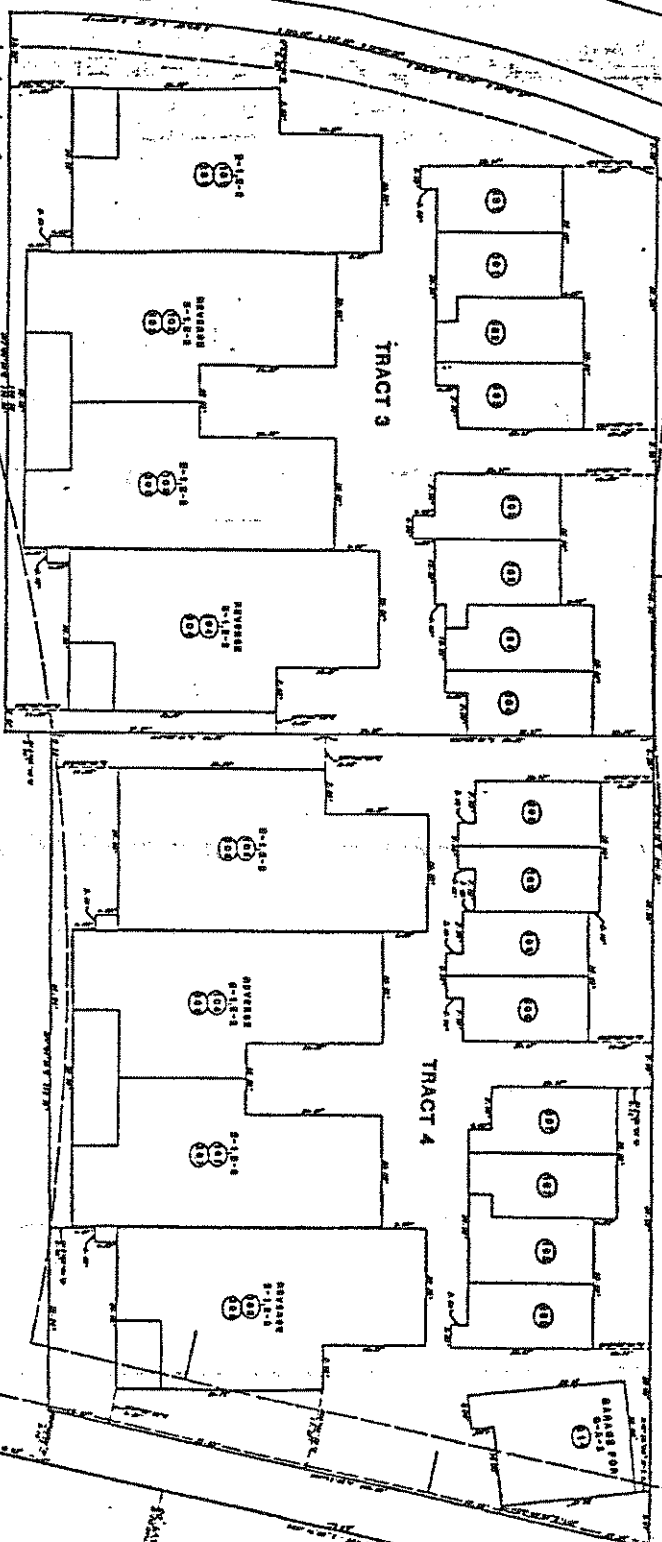
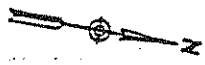
Approved by the Project Engineer and the Project Survey Engineer  
 at Phoenix, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

**CERTIFICATION:**

This is to certify that the survey and data hereon were made in accordance with the provisions of the Arizona Statutes relating to the practice of the profession of land surveying and that the same were made by the undersigned during the month of \_\_\_\_\_, 1984.

**EXHIBIT A**  
**COVER SHEET**  
**SHEET 1 OF 3**  
**TABLERO DUNES CONDOMINIUM PLAY SHEET 1 OF 3**

PVT. ACCESS WAY



PVT. ACCESS WAY

# EXHIBIT A

PVT. ACCESS WAY

ALL BUILDINGS AND PERMITS SHALL BE SUBJECT TO THE CITY OF DUNES, FLORIDA, AND THE STATE OF FLORIDA. THE CITY OF DUNES, FLORIDA, IS THE RECORDING JURISDICTION FOR THIS PLAN. THE STATE OF FLORIDA IS THE RECORDING JURISDICTION FOR THIS PLAN.

### LEGEND

- ① INDICATES THAT FLOOR SWELLING UNIT NO.
- ② INDICATES SECOND FLOOR SWELLING UNIT NO.
- ③ INDICATES GARAGE SWELLING UNIT NO.
- ④-⑧ INDICATES SWELLING UNIT TYPE
- ⑨ INDICATES SPACES OF TRACTS 3 & 4 - SEE V/P SHEETS
- ⑩ INDICATES POND V/P SHEETS

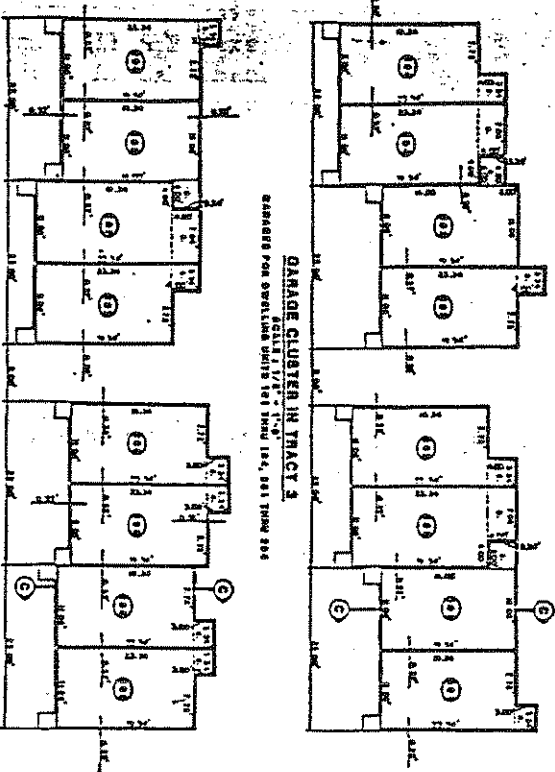
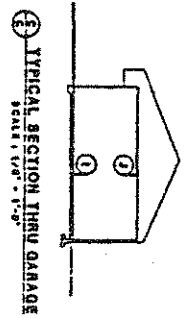
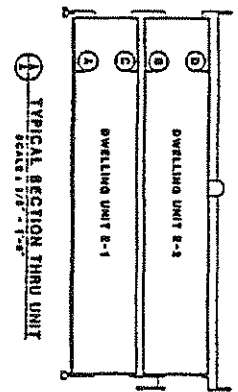
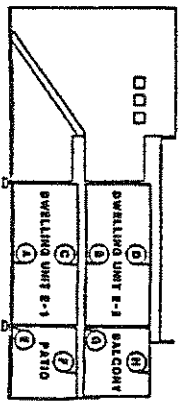
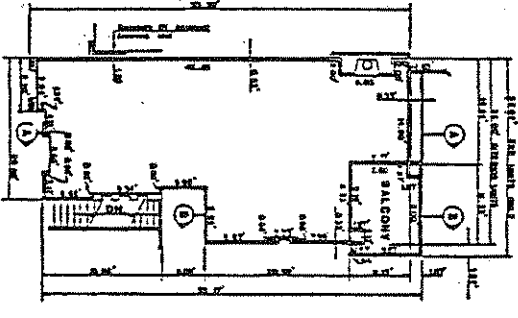
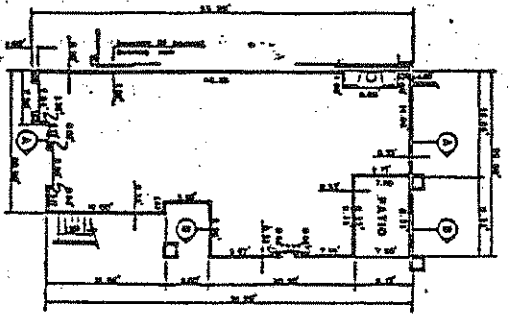
ALL BUILDINGS AND PERMITS SHALL BE SUBJECT TO THE CITY OF DUNES, FLORIDA, AND THE STATE OF FLORIDA. THE CITY OF DUNES, FLORIDA, IS THE RECORDING JURISDICTION FOR THIS PLAN. THE STATE OF FLORIDA IS THE RECORDING JURISDICTION FOR THIS PLAN.

GAINEY RANCH RD.



EXHIBIT A  
BLDG. CLUSTER PLAN  
SHEET 1 OF 3  
DATE: 10/15/2011  
BY: [Signature]

# EXHIBIT A



**PROFILE ELEVATION SCHEDULE**

UNIT	TYPE	DESCRIPTION	ELEVATION	FINISH	REMARKS
101	101	101	101	101	101
102	102	102	102	102	102
103	103	103	103	103	103
104	104	104	104	104	104
105	105	105	105	105	105
106	106	106	106	106	106
107	107	107	107	107	107
108	108	108	108	108	108
109	109	109	109	109	109
110	110	110	110	110	110

- LEGEND**
- INDICATES BOUNDARY OUTLINE OF DWELLING UNIT, GARAGE, BALCONY, PATIO & STORAGE
  - INDICATES PLUMB OF OUTSIDE WALL
  - INDICATES ELEVATION AS SHOWN IN THE PROFILE ELEVATION SCHEDULE
  - INDICATES STORAGE AREA
  - INDICATES GARAGE FOR DWELLING UNIT NO.

EXHIBIT A  
FLOOR PLANS & SEC. ELEVATIONS  
SHEET 1 OF 3  
DATE: 1/1/1988  
BY: [Signature]

TABLENO DUNE8 - CONDOMINIUM PLAT SHEET 3 OF 3



92 3083 J 1

DESIGNATES LOCATION OF PARCELS OF REAL ESTATE SUBJECT TO DEVELOPMENT RIGHT OF WITHDRAWAL

RICK ENGINEERING COMPANY  
1310  
DATE: 11, 1987

3 1/4 AC.  
SEC. 20  
T34N, R. 4E.

CASAS DIA FESTIVO  
BK 175 PG 58 MCR

3 1/4 AC.  
SEC. 20  
T34N, R. 4E.

UNSUBSIDIZED  
GAINNEY RANCH ROAD  
24' 200', PG 71, MCR.

UNSUBSIDIZED  
GAINNEY RANCH ROAD  
24' 200', PG 71, MCR.

UNSUBSIDIZED

GAINNEY RANCH ROAD  
24' 200', PG 71, MCR.

GAINNEY RANCH GOLF COURSE

FUTURE DEVELOPMENT

TRACT 10

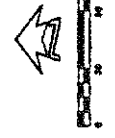
TRACT 7

SUNSET COVE  
SECOND SUPPLEMENTAL  
BK 349 PG 9

TRACT 12

SUNSET COVE  
SECOND SUPPLEMENTAL  
BK 349 PG 9

TABLEAU DUNES CONDOMINIUM  
BK 301 PG 30, BK 302 PG 17 MCR.



Legend table with columns for 'Symbol' and 'Description'. Symbols include a grid for 'Future Development', a dashed line for 'Tableau Dunes Condominium', and a solid line for 'Gainney Ranch Road'.

STEWART TITLE & TRUST OF PHOENIX

When recorded return to:  
Fennemore, Craig, von Ammon,  
Udall & Powers  
6991 E. Camelback Rd., #A-201  
Scottsdale, Arizona 85251-2466  
(Attn: GTC)

3/ 85990007 H

86 251813

MOD RSTR (DF)

CONDOMINIUM DECLARATION

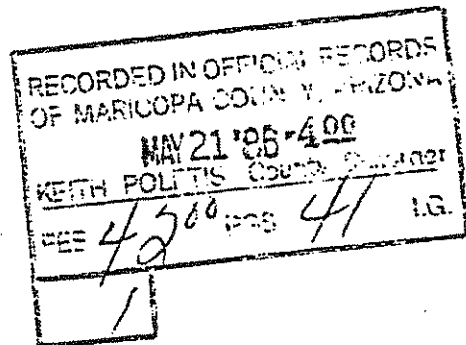
FOR

TABLERO DUNES

A Condominium Project

at

Gainey Ranch



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ARTICLE 1. DEFINITIONS

1.1 Words Defined. For the purposes of this Declaration and any amendments hereto, the following definitions shall apply:

1.1.1 Annexation Property is defined in Article 26 hereof.

1.1.2 Articles shall mean the articles of incorporation of the Association defined below.

1.1.3 Association shall mean the Homeowners Association for Tablero Dunes at Gainey Ranch, an Arizona nonprofit corporation, which has been or will be formed prior to conveyance of the first Unit by Declarant to a third-party purchaser, its successors and assigns.

1.1.4 Board shall mean the board of directors of the Association.

1.1.5 Bylaws shall mean the bylaws of the Association.

1.1.6 Common Elements shall mean the "common elements," as that term is defined in A.R.S. § 33-1202(7), including all portions of the Condominium other than the Units.

1.1.7 Condominium shall have the meaning set forth in A.R.S. § 33-1202(10).

1.1.8 Condominium Statute shall mean A.R.S. § 33-1201 through § 33-1259.

1.1.9 Declarant shall mean Brandon Arizona Investors 2 Limited Partnership, an Arizona limited partnership, and its representatives, successors, and assigns. In the event that Markland Properties, Inc., an Arizona corporation, exercises the rights described in Article 30 hereof to reacquire all or part of the Property or the Annexation Property from the Declarant named herein and further elects to assume the rights and responsibilities of the Declarant hereunder, then from the date of such acquisition and election and subject to the provisions of A.R.S. § 33-1244 the term "Declarant" shall refer to said Markland Properties, its successors and assigns.

1.1.10 Declaration shall mean this Condominium Declaration for Tablero Dunes, as it may from time to time be amended.

1.1.11 First Mortgage and First Mortgagee shall mean, respectively, (a) a recorded Mortgage on a Unit that has legal priority over all other Mortgages thereon, and (b) the holder of a First Mortgage.

1.1.12 Institutional Holder of a Mortgage shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation in the business of owning or servicing real estate mortgages, or



insurance company, or any federal or state agency, which purchases any note, or guarantees or insures the payment of any note, secured by a Mortgage.

1.1.13 Managing Agent shall mean the person, if any, designated by Declarant under Section 14.2 or by the Board under Section 15.4 hereof, subject to the provisions of Section 12.13.2 concerning maintenance and management functions performed for the Association by the Master Association.

1.1.14 Master Declaration and Master Association Documents are defined in Section 12.13 hereof.

1.1.15 Mortgage shall mean any recorded, filed or otherwise perfected instrument pertaining to a Unit or Units (which is not a fraudulent conveyance under Arizona law), given in good faith and for valuable consideration as security for the performance of an obligation, including without limitation deeds of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.1.16 Mortgagee shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Unit created by a Mortgage.

1.1.17 Owner shall mean the record owner, whether one or more persons or entities, of fee simple title to any Unit, whether or not subject to any Mortgage, including contract purchasers (as defined in A.R.S. § 33-741), but excluding those having such interest merely as security for the performance of an obligation. In the case of Units to which the fee simple title is vested of record in a trustee pursuant to A.R.S. § 33-801 et seq., fee simple title shall be deemed to be in the trustor.

1.1.18 Person shall mean a natural individual, corporation, business trust, partnership, association, trustee, or other legal entity capable of holding title to real property under the laws of the State of Arizona.

1.1.19 Plat shall mean the survey map of the Property, of easements and dedications, and of all Units hereby submitted to this Declaration, as more fully described in A.R.S. § 33-1219 and initially attached hereto as Exhibit C, and as thereafter from time to time amended, and shall include any Annexation Plat recorded in accordance with the terms hereof. Notwithstanding anything herein to the contrary, in no event shall inclusion of any property within a Plat subject such property to the provisions of this Declaration unless and until such property is annexed to the Condominium as provided in Article 26 hereof.

1.1.20 Property shall include the parcel or tract of real estate hereby submitted to this Declaration (but not including any portion of the Annexation Property unless and until annexed as provided herein), the Units, the Common Elements, and all easements, rights and appurtenances thereto.

1.1.21 Transition Date is defined in Section 14.1 hereof.

1.1.22 Unit shall mean a part of the Property, including but not limited to one or more rooms (and any garage, whether attached to or detached from the residential unit) situated in a building comprising a part of the Property, designed or intended for separate ownership or occupancy as permitted hereunder and as set forth on the Plat. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes shown on the Plat and as further described herein. No structural components of the building in which each Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit, and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of an Unit, but any such portion of the Property lying partially within and partially outside of the designated boundaries of a Unit shall be a Limited Common Element to the extent that it serves only that Unit and shall be a Common Element to the extent that it serves other Units or Common Elements. If at the time any Unit is conveyed, one or more buildings in which Units shown on the Plat are to be located have not yet been built, each such Unit shall be deemed to have the boundaries shown on the Plat until such time as all buildings and Units have been built. A Unit is a "unit" within the meaning of A.R.S. § 33-1202, and includes all rights appurtenant to such Unit and an undivided interest in the Common Elements as set forth herein.

*Per Gary Wiley  
Condominium Act.*

1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably as the context requires.

ARTICLE 2. SUBMISSION OF THE PROPERTY TO THE CONDOMINIUM STATUTE

Declarant, being the sole owner of the Property, makes this Declaration for the purpose of submitting the Property to the condominium form of use and ownership and to the provisions of the Condominium Statute. Declarant declares that the Property shall be held, used, conveyed, encumbered, leased, occupied, rented, and improved subject to the covenants, conditions and restrictions stated in this Declaration, all of which are in furtherance of the division of the Property into condominium Units and Common Elements and shall be deemed to run with the land and be a burden and benefit to Declarant and all persons who own or acquire an interest in the Property or any part thereof, and their grantees, successors, heirs, executors, personal representatives, devisees and assigns.

ARTICLE 3. DESCRIPTION OF LAND

The land on which the buildings and improvements provided for in this Declaration are or will be located is described in Exhibit A hereto.

ARTICLE 4. UNIT NUMBERS, LOCATION, AND DESCRIPTION

The cubic content space of each Unit shall consist of, and be measured by, the entire space within the Unit's upper, lower and lateral

boundaries shown or described on the Plat. Each Unit's upper boundary is a plane (extending to the lateral boundaries) which corresponds with the interior unfinished surface of the ceiling. Each Unit's lower boundary is a plane (extending to the lateral boundaries) which corresponds with the interior unfinished surface of the floor. Each Unit's lateral boundaries at perimeter Unit walls are the planes (extended to the upper and lower boundaries) of the interior unfinished surface of the wall as shown on the Plat. Reference is hereby made to the Plat for further description of the dimensions by which the cubic content space of each Unit may be calculated and the number and location or planned location within the buildings of each such Unit.

#### ARTICLE 5. COMMON ELEMENTS

5.1. Description. The Common Elements include the following:

5.1.1 The roofs, foundations, columns, girders, studding, joists, beams, supports, main walls (excluding only non-bearing interior partitions of Units), bearing walls, floors, ceilings, windows, doors outside of Units, and all other structural parts of the buildings, and any replacements thereto, whether any of the foregoing are within Units or without; provided that any lath, furring, wallboard, plasterboard, plaster, paneling, paint, wallpaper, carpeting, tiles and other such decorative surface coverings or finishes of Common Elements within or on Unit boundaries are not Common Elements but are part of the Unit.

5.1.2 Installations of services serving more than a single Unit, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, pipes, conduits, wires (wherever they may be located, whether in partitions or otherwise), tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use wherever located on the Property, within Units or without.

5.1.3 The grounds, trees, gardens, landscaped areas, exterior fixtures, walkways, and driveways.

5.1.4 Any attics and crawl spaces in the buildings.

5.1.5 Certain items located outside of Unit boundaries, which might ordinarily be considered Common Elements, such as, but not limited to, air conditioning units, screen doors, window screens, awnings, planter boxes and the like serving single Units, shall be Limited Common Elements to be furnished and maintained by Owners of the Units served at their individual expense, in good order, according to standards and requirements set forth in the Bylaws or by rule adopted by the Board. Each Owner shall have the right to the exclusive use and possession of, and shall be responsible for the care of, any space between his Unit's boundary and the interior surface of any window or door on a perimeter wall of the Unit, any storage area adjacent to his Unit, any patio, balcony, or landscaped entryway contiguous to his Unit (including any such area between the residential and garage portions of his Unit), any driveway or walkway leading from common streets or walks solely to such Unit and any other similar area which would normally be subject to the exclusive use of an

Owner. Conveyance of a Unit includes the exclusive rights to the use of the Limited Common Elements appurtenant to that Unit.

5.2 Use. Each Owner shall have the right to use the Common Elements (except the Limited Common Elements reserved for other Units and subject to the provisions of Section 5.1.5 above) in common with all other Owners. The right to use the Common Elements shall extend not only to each Owner, but also to his agents, servants, tenants, family members, invitees, and licensees. The right to use the Common Elements, including the Limited Common Elements, shall be governed by the provisions of the Condominium Statute, this Declaration, the Bylaws, and the rules and regulations of the Association.

5.3 Prohibition Against Abandonment, Partition, etc. The Owners shall not by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements and no other person shall have the right to have them partitioned or divided. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Elements by the Owners shall not be deemed a partition or division.

#### ARTICLE 6. ACCESS

Each Unit has a right of direct access to the Common Elements adjacent to the Unit entrance and thence across the Common Elements to the public streets and sidewalks. Further, subject to the terms and conditions hereof, each Unit shall have a nonexclusive right of access to all Common Elements (other than Limited Common Elements reserved for exclusive use of a single Unit as provided herein). These rights of ingress and egress shall be perpetual and appurtenant to each Unit.

#### ARTICLE 7. PERCENTAGE INTEREST IN THE COMMON ELEMENTS

The designation of each Unit shall be as shown on the Plat. Each of the Units shall have an undivided fractional or percentage interest in the Common Elements that is appurtenant to each such Unit. The percentage interest of a Unit shall be a fraction, the numerator of which is one and the denominator of which is the total number of all Units subject to this Declaration at the time of calculation.

#### ARTICLE 8. PARKING

8.1 Assignment to Units. Parking spaces may be assigned to Units on the Plat or by an amendment to this Declaration whereupon any such space shall be deemed thereafter to be appurtenant to that Unit. Parking spaces that have not been assigned to a Unit shall be held for common parking in accordance with such rules or regulations as the Board may from time to time adopt.

8.2 Rental of Parking Space. The Owner of a Unit may rent an appurtenant parking space or the garage portion of the Owner's Unit to the

occupant of another Unit, but such rental shall be subject to termination upon 15 days' notice. Rental of a parking space or garage shall be terminated automatically and without notice upon the transfer of title of the Unit to which it is appurtenant.

8.3 Use of Parking Spaces. Garages and open parking spaces may be used for the parking of operable passenger motor vehicles, and use of parking spaces for parking trucks, trailers, or recreational vehicles, or for other purposes shall be permitted only to the extent expressly allowed by rules and regulations adopted by the Board and by the Master Association Documents. The Board may prohibit or restrict the parking of automobiles owned by Owners or their tenants in the parking spaces held for common parking. The Board may direct that any vehicle or other thing improperly parked or kept in a parking space be removed, and if it is not removed within 10 days the Board may cause it to be removed at the risk and cost of the owner thereof. Any common parking spaces in the Property are intended to be used for guest parking, not for regular use by Owners or occupants. The Board may adopt a rule that no resident of the Property shall be permitted to use a guest parking space for more than 24 hours or to make regular use of guest parking spaces for his or her own parking. The Board may also adopt rules requiring the garage doors, if any, be kept closed when the garage is not being used for ingress, egress or other similar temporary activities.

ARTICLE 9. PERMITTED USES; MAINTENANCE OF UNITS; CONVEYANCES

9.1 Residential Use. The Units are intended for and restricted to use as single family residences only, on an ownership, rental, or lease basis, and for social, recreational, or other reasonable activities normally incident to such use, and for the purposes of operating the Association and managing the Property, if required. In this context, "single family" shall mean related by blood, marriage or adoption or a group of not more than three individuals not all so related who maintain a common household in a Unit. In addition to the foregoing, Declarant may use Units and Common Elements as offices and models for sales and leasing of Units and for management purposes related to the Property and the Annexation Property. Except as expressly authorized herein, no part of the Property may be used for any commercial purposes.

9.2 Leases. With the exception of a Mortgagee in possession of a Unit following a default in a First Mortgage, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure, no Owner or other Person shall be permitted to lease or otherwise grant occupancy rights to a Unit for a term less than 30 days. No lease or rental of a Unit may be of less than the entire Unit except that the garage may be rented separately from the rest of the Unit of which it is a part. Any lease or rental agreement must provide (i) that its terms shall be subject in all respects to the provisions of this Declaration and the Bylaws and rules and regulations of the Association, (ii) that any failure by the tenant to comply with the terms of such documents, rules, and regulations shall be a default under the lease or occupancy agreement, and (iii) that the Owner grants to the Board and Managing Agent the authority to evict the tenant on the Owner's behalf for such default, upon only such notice as is required by law. If any lease or occupancy agreement does not contain the foregoing

provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding upon the Owner and the tenant by reason of their being stated in this Declaration. Neither the Board nor the Managing Agent shall be liable to the Owner or the tenant for any eviction under this section that is made in good faith. All leases and occupancy agreements shall be in writing. Copies of all leases and occupancy agreements shall be delivered to the Association before the tenancy commences. Other than as stated in this Section 9.2, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

9.3 Maintenance of Units and Common Elements Subject to Owner's Control. Each Owner shall, at the Owner's sole expense, keep the interior of the Unit and its equipment, appliances, and appurtenances in a clean and sanitary condition, free of rodents, and pests, and in good order, condition, and repair and shall do all redecorating and painting at any time necessary to maintain the good appearance and condition of the Unit. Each Owner shall be responsible for the maintenance, repair, or replacement of any plumbing fixtures, water heaters, fans, heating equipment, air conditioning and ventilating equipment, intercoms and security systems, telephone equipment and facilities, electrical fixtures, or appliances which are in the Unit or portions thereof that serve that Unit only, and shall replace any glass in the windows and in the exterior doors of the Unit that becomes cracked or broken. Each Owner will be responsible for care, maintenance, cleanliness, and orderliness of the Limited Common Elements that are within his exclusive (or joint, if the Limited Common Elements serve more than one Unit) control pursuant to the terms hereof, except that sweeping and maintenance of the parking areas shall be the responsibility of the Association. Owners may not, however, modify, paint or otherwise decorate, or in any way alter such Limited Common Elements without prior written approval of the Board.

9.4 Exterior Appearance. In order to preserve a uniform exterior appearance of buildings constructed on the Property, the Board shall provide for the painting or staining of the buildings and prescribe the type and color of paint or stain. No Owner may modify or decorate the exterior of any building, or screens, doors, awnings, or other portions of any Unit visible from outside the Unit without the prior written consent of the Board. No exterior radio or television antennae or other device capable of or intended for receiving broadcast signals of any character may be installed without the prior written consent of the Board and the Architectural Control Committee of the Master Association. The Board may also require use of a uniform color and fabric for draperies, under-draperies, or drapery lining for all Units to the extent that such are visible from outside of the Unit.

9.5 Effect on Insurance. Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance on the Property or any portion thereof without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in any Common Elements that will result in the cancellation of insurance on any part of the Property, or that would be in violation of any laws or other applicable requirements of governmental authorities having jurisdiction.

9.6 Alteration of Common Elements. Nothing shall be altered or constructed in or removed from the Common Elements except upon the prior written consent of the Board.

9.7 Signs. Except as may be required or the prohibition of which is forbidden by law, no sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements or Limited Common Elements without the prior consent of the Board; provided, that the Board shall (subject to the consent and approval of the Master Association) designate an area or areas for display of "For Sale" or "For Rent" signs. This section shall not apply to Declarant so long as Declarant owns any property subject to this Declaration.

9.8 Pets. Domesticated animals, birds, or reptiles (herein referred to as "pets") may be kept in any Unit or in the Common or Limited Common Elements subject to rules and regulations adopted by the Board, or Bylaws adopted by the Association and to the provisions of the Master Association Documents; provided such pets are not kept for commercial purposes. The Board may at any time require the removal of any pet which it finds is disturbing other Owners unreasonably, and may exercise this authority for specific pets even though other similar pets are permitted to remain.

9.9 Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or the Common Elements, nor shall anything be done therein that the Board determines may be or become an unreasonable annoyance or nuisance to other Owners.

9.10 Conveyances; Notice Required. The right of an Owner to sell, transfer, or otherwise convey a Unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. An Owner intending to sell a Unit shall deliver a written notice to the Board, at least two weeks before closing, specifying the Unit being sold; the name and address of the purchaser, of the closing agent, and of the title insurance company insuring the purchaser's interest; and the estimated closing date. The Board shall have the right to notify the purchaser, the title insurance company, and the closing agent of the amount of unpaid assessments and charges outstanding against the Unit, whether or not such information is requested.

#### ARTICLE 10. ENTRY FOR REPAIRS

The Association and its agents or employees may enter any Unit and Common Elements to effect repairs, improvements, replacement, or maintenance deemed by the Board to be necessary in the performance of its duties, to do necessary work that the Owner has failed to perform, or to prevent damage to the Common Elements or to another Unit. Except in cases of great emergency that preclude advance notice, the Board shall cause the Unit occupant to be given notice and an explanation of the need for entry as far in advance of entry as is reasonably practicable. Such entry shall be made with as little inconvenience to the affected Owner and occupants as practicable. Any damage caused by such entry shall be repaired by the Association as a common

expense unless the repairs or maintenance were necessitated by the acts or default of an Owner or occupant of a Unit, in which event the costs of the repairs or maintenance shall be specially assessed to that Unit.

#### ARTICLE 11. SERVICE OF PROCESS

After organization of the Association, service of process on the Association shall be made upon the designated statutory agent of the Association. The Board may at any time designate a different person for such purpose by filing appropriate instruments with the Arizona Corporation Commission or by such other procedure as may be authorized by law at that time.

#### ARTICLE 12. ASSOCIATION

12.1 Form of Association. The Association has been, or prior to the conveyance by Declarant of the first Unit to a third-party purchaser will be, formed so as to satisfy the requirements of the Condominium Statute. The Association will be a nonprofit corporation formed under the laws of the State of Arizona and will be known as the Homeowners Association for Tablero Dunes at Gainey Ranch. It will be governed by a board of directors of not fewer than three nor more than seven directors who will be, except for directors selected by Declarant prior to the Transition Date, elected from the Owners. The preceding sentence shall in no way limit rights otherwise possessed by the Master Association under the Master Declaration to assume control of the Association or its Board (as described in Section 15.2 hereof). The rights and duties of the members and of the corporation shall be governed by the provisions of the Condominium Statute and of this Declaration.

12.2 Articles and Bylaws. Declarant has caused or promptly following the recording of this Declaration shall cause Articles of Incorporation to be adopted and, under its authority to act as the Board of Directors of the Association prior to the Transition Date, will promptly thereafter cause Bylaws to be adopted to supplement this Declaration and to provide for administration of the Association and the Property and for other purposes not inconsistent with the Condominium Statute or this Declaration. Before the Transition Date, the Declarant may not amend the Articles or Bylaws without the prior written approval of the Veterans Administration if such Administration is then an Institutional Holder of a Mortgage. After the Transition Date, the Bylaws may be amended at any duly called regular or special meeting of the Association at which a quorum is present in person or by proxy by the affirmative vote of not less than 60% of the votes of all Owners then eligible to vote under the Articles and Bylaws. However, no material amendment of the Articles or Bylaws may be made without the prior written approval of the holders of 75% of the First Mortgages on Units held by Institutional Holders. At no time may the Articles, Bylaws or rules and regulations of the Association be amended without the express written consent of the Master Association.

12.3 Qualification for Membership. Each Owner of a Unit (including Declarant) shall be a member of the Association and shall be



entitled to one membership for each Unit owned; provided, that if a Unit has been sold on contract, the contract buyer shall exercise the rights of the Unit Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Unit shall be the sole qualification for membership in the Association.

12.4 Transfer of Membership. The Association membership of each Owner (including Declarant) shall be appurtenant to the Unit giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Unit and then only to the transferee of title to the Unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association to the new Owner.

12.5 Number of Votes. One vote shall be appurtenant to ownership of each Unit. A Person (including Declarant) who owns more than one Unit shall have the votes appertaining to each Unit owned. No vote allocated to a Unit owned by the Association shall be cast or be counted for the purposes of determining the number of votes entitled to be cast. Any reference herein or in the Articles or Bylaws to a vote or approval by a specified percentage of Owners eligible to vote or of votes eligible or entitled to be cast, or similar language, shall refer to and include in the calculation of both a total and the specified percentage the votes of all Owners, whether present in person, by proxy or not, except Owners whose voting rights have been suspended because of a delinquency in paying assessments, a violation of the provisions of this Declaration or the rules and regulations of the Association, or otherwise pursuant to this Declaration or the Articles or Bylaws. Any reference to the vote or approval of a specified percentage of Owners present and entitled to vote or of votes present and eligible or entitled to be cast, or similar language, shall refer to and include in the calculation of both a total and the specified percentage only those votes eligible to be cast (as described above) which are represented at a meeting in person or by proxy.

12.6 Voting Representative. An Owner may, by written notice to the Board, designate a voting representative for the Unit. The voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in a Unit, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Unit, except in cases in which the person designated is a Mortgagee of the Unit. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact for the Owner under a durable power of attorney, and the personal representatives or executors of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Unit shall be the Owner or the group composed of all of its Owners, as the case may be. If a Unit is owned by a husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

12.7 Joint Owner Disputes. The vote for a Unit must be cast as a single vote. Fractional votes shall not be allowed. If only one of the

multiple Owners of a Unit is present (in person or by proxy) at a meeting of the Association, he is entitled to cast the vote allocated to that Unit. If more than one of the multiple Owners of a Unit are present (in person or by proxy), the vote allocated to the Unit may be cast only if all Owners of the Unit who are present in person or by proxy agree. An agreement among all Owners of a Unit present in person or by proxy at a meeting of the Association shall be presumed if any one of such Owners casts the vote allocated to the Unit without protest being made promptly in person or by proxy to the person presiding over the meeting by any of the other Owners of the Unit.

12.8 Pledged Votes. An Owner may, but shall not be obligated to, pledge his or her vote on all issues or on specific issues to a Mortgagee. If an Owner is in default under a First Mortgage on the Unit for 90 consecutive days or more, the Mortgagee shall automatically be authorized to declare at any time thereafter that the Owner has pledged his or her vote on all issues to the Mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

12.9 Annual and Special Meetings. There shall be an annual meeting of the members of the Association in the first quarter of the fiscal year at the address of the Association or at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than 30 days nor more than 60 days before the meeting. The audited financial statement for the preceding year and the budget the Board has adopted for the current year shall be presented at the annual meeting for the information of the members. Special meetings of the members or the Association may be called at any time, in the manner provided in the Bylaws, by the President of the Association, by a majority of the Board, or by Owners holding 25% (or such lower percentage as the Bylaws may specify) of the votes entitled to be cast for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any First Mortgagee may attend or designate a representative to attend the meetings of the Association. The notice of any meeting shall state the time and place of the meeting. Any notice of a special meeting shall also state the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes and any proposal to remove a director or officer.

12.10 Audits. As soon as is convenient after the close of each fiscal year, the Board shall have an unaudited financial statement prepared for that year. The financial statement shall be completed (if reasonably possible) in time for the Association's annual meeting and in any event within 90 days following the end of the fiscal year. Any Mortgagee will, upon request, be entitled to receive the annual financial statement within 90 days following the end of the fiscal year. The Board, or Owners having not less than one-third of the votes of the Association eligible to vote, may require that an audit of the Association and management books be presented at a special meeting. An Owner or Mortgagee may at any reasonable time conduct an audit of the books of the Board and Association at the Owner's or Mortgagee's sole expense.

12.11 Books and Records. The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures of the Association, in a form that complies with generally accepted accounting principles.

12.12 Inspection of Condominium Documents, Books, and Records. During normal business hours and at other reasonable times, this Declaration, the Articles, the Bylaws, and other rules governing the operation of the Property shall be available for inspection by the Owners, Mortgagees, prospective purchasers and their prospective mortgagees, and the agents or attorneys of any of them and, in addition, at such times the books and records, authorizations for payment of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for inspection by the Owners and Mortgagees, and the agents or attorneys of either of them.

12.13 Master Association.

12.13.1 The Condominium is a part of a master planned community known as Gainey Ranch. The Condominium shall be subject to the terms and conditions of the Gainey Ranch Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements dated March 23, 1984 and recorded on March 29, 1984 as Instrument No. 84-130211, records of Maricopa County, Arizona and the First Amendment to Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements dated September 19, 1984, and recorded December 26, 1984, as Instrument No. 84-553071, records of Maricopa County, Arizona (collectively, the "Master Declaration"), and the Articles of Incorporation, Bylaws, any Architectural Committee standards or guidelines (collectively the "Master Association Documents") of The Gainey Ranch Community Association (the "Master Association"), including all amendments to the Master Declaration or the Master Association Documents. In the event of a conflict between the terms of the Master Association Documents and the terms of this Declaration (or the Articles and Bylaws of the Association established hereunder) the provisions of the Master Association Documents shall control. All assessments and other amounts payable pursuant to this Declaration shall be in addition to any amounts payable by Owners to the Master Association pursuant to provisions of the Master Declaration and the Master Association Documents, and all consents required by this Declaration or the Board or any Committee of the Board or the Association shall be in addition to any consents required under the terms of the Master Declaration or the Master Association Documents.

12.13.2 The Association is a Satellite Association as defined in Article I, Section Tt of the Master Declaration. The Master Declaration provides that the Master Association shall be responsible for maintaining the Common Elements and that the Master Association shall function as manager of the Property although the expense of such maintenance and management is to be borne by the members of the Association. To the extent the Master Association assumes these responsibilities, any provisions for the same contained in this Declaration shall be superseded. If the Master Association assumes maintenance and management responsibilities for the Association as provided in the Master Declaration and as described above in this Section 12.13.2, the Master Association shall not be deemed to be

acting pursuant to a contract with a Managing Agent and the provisions of Section 15.4 hereof shall not be applicable to such relationship.

### ARTICLE 13. NOTICES

13.1 Form and Delivery of Notice. All notices given under the provisions of this Declaration or the Bylaws or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered upon being deposited in the United States mail, first class, postage prepaid, addressed to the person entitled to such notice at the most recent address known to the Board. Notice to the Owner of any Unit shall be sufficient if mailed to the Unit if no other mailing address has been given to the Board. Mailing addresses may be changed by notice in writing to the Board. Except as provided in Article 11 hereof, notices to the Board shall be given to Declarant until the Transition Date and thereafter shall be given to the president or secretary of the Association.

13.2 Notices to Mortgagees. Any Mortgagee may file with the secretary of the Board a written request that it be given copies of notices. Until such time thereafter as the Mortgagee withdraws the request or satisfies the Mortgage of record, the Board shall send to the requesting Mortgagee a copy of (1) all notices of meetings of the Association; (2) all other notices sent to the Owner of the Unit covered by the Mortgagee's Mortgage; (3) within 90 days following the end of any fiscal year, financial statements prepared pursuant to Section 12.10; and (4) notices of any intention of the Association to transfer any part of the Common Elements, withdraw the Property from the Condominium hereby established, or terminate professional management of the Property. Holders of First Mortgages shall be entitled to prompt notice of any default in an Owner's obligations under any of the documents that create or govern the Condominium, or its rules and regulations, that is not cured within 30 days of the date of default and to notices under Article 22 (Damage and Repair of Damage to Property) and Article 23 (Condemnation) irrespective of whether they have filed requests for notices. The provisions of this Section 13.2 shall prevail over any inconsistent or contrary provisions in this Declaration or in the Articles or Bylaws.

### ARTICLE 14. ADMINISTRATION OF PROPERTY; RIGHTS RETAINED BY DECLARANT

14.1 Transition Date. The "Transition Date" shall be the date upon which the authority and responsibility to control the Association and thereby administer and manage the Condominium subject to this Declaration and the Bylaws, passes from Declarant alone acting through a Board selected by it, to the members of the Association as their interests may appear. The Transition Date will be the earlier of (i) 90 days following the date when Declarant has transferred title to 75% of the Units to purchasers other than Declarant or an affiliate of Declarant or (ii) four years after Declarant has ceased to offer Units for sale in the ordinary course of business. In the event that the Transition Date occurs and additional Units are thereafter annexed to the Property in accordance with the provisions of Article 26, which Units, when added to the Units subject to this Declaration prior to such annexation, cause the conditions of Transition no longer to be

satisfied, then control by Declarant of the Association provided for herein shall be reestablished until such time as the requirements of this Section 14.1 are again satisfied, taking into account all Units then subject to this Declaration. Upon or promptly following the Transition Date, Declarant shall (i) deliver to the Association any operating and reserve funds collected from Owners by Declarant, any insurance policies held by Declarant with respect to Common Elements, and all rights to utility deposits made with respect to Common Elements by Declarant which are necessary for service on such date, and (ii) contribute to the Association an amount sufficient, in the determination of the Master Association, to cause the Association to have an operating reserve fund equal to 5% of all operating and maintenance costs incurred on an annual basis by the Association and Declarant with respect to the Property from the recordation of this Declaration to the Transition Date.

14.2 Declarant's Powers Until Transition Date. Until the Transition Date and subject to the provisions of Section 15.2 hereof, Declarant shall have the full power and authority, acting through the Board selected by it, to exercise all of the rights, duties, and functions of the Board of Directors and the officers of the Association, including but not limited to the adoption of rules and regulations, contracting for the purchase of goods and services, buying insurance, and collecting and expending all assessments and other Association funds through the exclusive right to elect and replace from time to time the directors and officers of the Association. Pursuant to the foregoing sentence, Declarant shall have the power to contract with an experienced professional Managing Agent and delegate to the Managing Agent all of the powers and duties of the Board that the Board is authorized to delegate under Section 15.4. All such management contracts made by Declarant shall be subject to the same requirements as are set forth in Section 15.4 for management contracts made by the Board (and to the last sentence of Section 12.13.2). Subject to the provisions of the Master Declaration for control of the Association by the Master Association (described in Section 15.2 hereof), Declarant may at such times as it deems appropriate select and from time to time replace an interim Board of three to five directors, who need not be Owners, who shall have all the powers, duties, and functions of the Board of Directors. In selecting directors for the interim Board, Declarant will have in mind the desirability of early participation in the management of the Condominium by able purchasers of Units. Any contract made by Declarant, its Managing Agent, or the interim Board (including management contracts) that would otherwise extend beyond the Transition Date shall be terminable by the Board after the Transition Date upon 30 days' notice; provided, however, that such termination powers shall not be applicable to any contract(s) for cable television service entered into by the Master Association and the Association under which the Association shall be obligated to reimburse or otherwise pay its share of cable television costs.

## ARTICLE 15. AUTHORITY OF THE BOARD

15.1 Adoption of Rules and Regulations. The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to ensure compliance with the general guidelines of this Declaration and to

promote the comfortable use and enjoyment of the Property. The rules and regulations of the Association shall be in writing, shall be distributed to all Owners when adopted and shall thereafter be binding upon all Owners and occupants and all other persons claiming any interest in the Property.

If any Owner commits an infraction of any of the rules or regulations promulgated hereunder, the Board may suspend the voting rights and the right to use of the common recreational facilities of such Owner and any occupant of his Unit, for a period not to exceed 60 days. If any occupant commits an infraction of any of the rules or regulations promulgated hereunder, the Board may suspend the voting rights of the Owner of the Unit occupied by such occupant and the right of such Owner and occupant to use of the common recreational facilities, in each case for a period not to exceed 60 days. The board may also suspend the voting rights of an Owner for any period during which assessments payable by such Owner are delinquent. Notwithstanding anything foregoing to the contrary, in no event may the Board limit the right of an Owner or an occupant of a Unit to use the Common Elements to the extent necessary for reasonable ingress and egress between dedicated public streets and Units.

15.2 Enforcement of Declaration, Etc. The Board (or Declarant, Declarant's Managing Agent, or the interim Board of Directors until the Transition Date) and any Owner shall have the power and the duty to enforce the provisions of this Declaration, the Articles, the Bylaws, and the rules and regulations of the Association, as the same may be lawfully amended from time to time, for the benefit of the Association; provided, however, that no Owner shall hereby be authorized to cause such enforcement except through proper legal proceedings or by petition to the Board. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Articles, the Bylaws, or the rules or regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs, and attorneys' fees in the amount awarded by the court. In the event that the Board fails to levy and collect sufficient assessments to pay the Association's obligations to the Master Association or fails, in the opinion of the Board of Directors of the Master Association, otherwise to perform its functions and duties in a manner consistent with the standards established by other Satellite Associations in Gainey Ranch or necessary for the maintenance of the high quality of residential development envisioned by the Master Declaration for the residential areas of Gainey Ranch, then the Master Association shall have the right to take temporary control of the Association to the extent and in the manner authorized by the Master Association Documents.

15.3 Goods and Services. The Board shall acquire and pay for as common expenses of the Association all goods and services reasonably necessary or convenient for the efficient and orderly functioning of the Property (and may acquire and pay for as common expenses such other goods and services as the Board may reasonably deem appropriate including but not limited to cable television service availability for all Units). The goods and services shall include (by way of illustration and not limitation) utility services for the Common Elements and for Units (when not separately metered to each Unit); policies of insurance and fidelity bonds; legal and accounting services; maintenance, repair, landscaping, gardening, and general upkeep of the Common Elements; and all supplies, materials,

fixtures, and equipment that are in the Board's judgment necessary or desirable for the operation of the Property and enjoyment of it by the Owners. The Board may hire such full-time or part-time employees as it considers necessary.

15.4 Managing Agent. The Board may contract with an experienced professional Managing Agent to assist the Board in the management and operation of the Property and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate, except as limited herein. Subject to the last sentence of Section 14.2, the prior written approval of the holders of 75% of the First Mortgages held by Institutional Holders shall be required before the Board may terminate a professional management contract and assume self-management. The Managing Agent shall not enter any Unit (directly or through agents) without the consent of the occupant unless entry has been directed by the Board. Only the Board can approve an annual budget or a supplemental budget, and only the Board can impose a special assessment on a Unit or authorize foreclosure of an assessment lien. Subject to the provisions of Section 12.13.2 hereof, any contract with a Managing Agent shall have a term no longer than one year (but may be renewable by agreement of the parties for successive one-year periods) and shall be terminable by the Board (subject to the last sentence of Section 14.2) without payment of a termination fee, either (1) for cause, on 30 days' written notice, or (2) without cause, on not more than 90 days' written notice. In the event of any conflict between the provisions of this Section 15.4 and the provisions of the Master Association Documents concerning management functions to be performed for Satellite Associations by the Master Association, the provisions of the Master Association Documents shall prevail.

15.5 Protection of Property. The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Property, settle claims, or otherwise act in what it considers to be the best interests of the Property or the Association.

#### ARTICLE 16. BUDGET AND ASSESSMENT FOR COMMON EXPENSES

16.1 Fiscal Year. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted and approved by the Master Association, the fiscal year will be the calendar year.

16.2 Preparation of Budget. Not less than 30 days before the end of the fiscal year, the Board shall prepare or cause to be prepared a budget for the Association for the coming year. In preparing its budget, the Board shall estimate the common expenses (including any payments to be made to the Master Association) of the Association to be paid during the year, make suitable provision for accumulation of reserves, and shall take into account any surplus or deficit carried over from the preceding year and any expected income to the Association. Declarant or the interim Board shall prepare a budget for the remainder of the fiscal year in which this Declaration is recorded and for subsequent years until the Transition Date. If, during the year, the budget proves to be inadequate for any reason, including nonpayment of any Owner's assessment, the Board may prepare a

supplemental budget for the remainder of the year and adjust assessments to be consistent with the supplemental budget.

### 16.3 Monthly Assessments for Common Expenses.

16.3.1 The sums required by the Association for common expenses as reflected by the annual budget and any supplemental budgets shall be divided into equal installments to be paid each month over the period of time covered by the budget or supplemental budget. Except as provided below in Subsection 16.3.3, the monthly installments shall be assessed to the Units (including Units owned by Declarant) and their respective Owners in proportion to the Units' percentages of undivided interest in the Common Elements. Assessments begin accruing with respect to all Units at such date as may be selected by the Board but in any event not later than the Transition Date. During such time as garbage collection charges and any other utility or service charges are based on the number of occupied Units, any Unit owned by Declarant and not occupied shall be exempt from assessment for such charges. Until the Association imposes a common expense assessment, Declarant shall pay all common expenses.

16.3.2 Prior to December 31 of the first full calendar year immediately following conveyance of the first Unit by Declarant to an Owner, the maximum amount which any Owner shall be required to pay as his proportionate share of the common expenses may not exceed \$1,500 per year. The Board may fix and thereafter adjust the assessment payable by Owners for common expenses at such amounts as the Board reasonably determines to be necessary to meet the obligations of the Association, provided the maximum amount payable by each Owner does not exceed the maximum set forth in the preceding sentence prior to such December 31 deadline.

16.3.3 Notwithstanding anything foregoing in this Section 16.3 to the contrary, prior to the Transition Date Declarant shall not be obligated to pay regular monthly assessments on any Unit owned by Declarant for the period of such ownership before the Unit is substantially complete but shall, instead, pay to the Association an amount equal to 25% of the otherwise applicable regular assessment for such period except to the extent that a greater percentage shall be necessary prior to December 31 of the first full calendar year immediately following conveyance of the first Unit by Declarant to an Owner so that assessments paid to the Association shall not be less than common expenses (and amounts due the Master Association) for such period.

16.4 Special Assessments. In addition to annual assessments, the Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement on or constituting a part of the Common Elements, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses. If a special assessment becomes chargeable against a Unit under the authority of this Declaration or the Bylaws, the Board shall determine the amount of such special assessment and fix the month or months in which it is to be paid. The special assessment shall be added to the Unit's monthly installment of common expenses and be included in the assessment against the Unit. No special assessments for capital improvements shall be imposed without the



prior approval of the Owners representing at least two-thirds of the votes of all Owners entitled to be cast.

16.5 Notice of Assessment. The Board shall notify each Owner in writing of the amount of the monthly assessments to be paid for his Unit and shall furnish copies of each budget on which the assessments are based to all Owners and, if so requested, to their respective Mortgagees.

16.6 Payment of Monthly Assessments. On or before the first day of each calendar month and subject to the provisions of Section 16.3, each Owner shall pay or cause to be paid to the treasurer of the Association or to the Master Association if the Master Association so elects, the assessment against the Unit for that month. Any assessment not paid by the first day of the calendar month for which it is due shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 17.

16.7 Proceeds Belong to Association. All assessments and other receipts received by the Association on behalf of the Property shall belong to the Association.

16.8 Failure to Assess. Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the monthly assessment amount established for the preceding year shall continue until a new assessment is established.

16.9 Certificate of Unpaid Assessments. Upon the request of any Owner or Mortgagee of a Unit, the Board will furnish a certificate in recordable form stating the amounts, if any, of unpaid assessments charged to the Unit. The certificate shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the certificate in favor of all purchasers and Mortgagees of the Unit who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

#### ARTICLE 17. LIEN AND COLLECTION OF ASSESSMENTS

17.1 Assessments Are a Lien; Priority. Subject to the provisions of Section 16.3, all unpaid sums assessed by the Association for the share of the common expenses chargeable to any Unit and any sums specifically assessed to any Unit under the authority of this Declaration or the Bylaws (together with interest, late charges, costs and attorneys' fees in the event of delinquency) shall constitute a continuing lien on the Unit and all its appurtenances from the date the assessment became due until fully paid. The lien for such unpaid assessments shall be subordinate to tax liens on the Unit in favor of any assessing unit and/or special district, to all sums unpaid on all First Mortgages of record, and to any lien arising under the Master Declaration but shall have priority over all other liens against the Unit. A Mortgagee of a First Mortgage of record of a Unit that obtains title through a Mortgage foreclosure or deed of trust sale, or by taking a deed in

lien of foreclosure or sale, or a purchaser at a foreclosure sale, or the Administrator of Veterans Affairs if he is grantee of a deed in lieu of foreclosure, shall take the Unit free of any claims chargeable to the Unit that became due before taking title, but will be liable for the common expenses and assessments that accrue after taking title; in which event the Unit's past-due share of common expenses or assessments shall become new common expenses chargeable to all of the Owners, including the Mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to their respective percentages of undivided interest in the Common Elements; however, the Owner shall continue to be personally liable for such past-due assessments, as provided in Section 17.3. For the purpose of this section, the term "Mortgages" and "Mortgagee" shall not mean real estate contracts or a vendor or a designee or assignee of a vendor under a real estate contract.

17.2 Lien May be Foreclosed. The lien for delinquent assessments may be foreclosed by suit by the Managing Agent or the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The Managing Agent or the Board, acting on behalf of the Association, shall have the power to bid in the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

17.3 Assessments are Personal Obligations. In addition to constituting a lien on the Unit and its appurtenances, all sums assessed by the Association chargeable to any Unit (together with interest, late charges, costs and attorneys' fees in the event of delinquency) shall constitute the personal obligation of the Person who was the Owner of such Unit at the time such payment fell due. The personal obligation for delinquent payments shall not pass to an Owner's successor in title or interest unless expressly assumed by him. In the event that an Owner fails to pay when due any assessments owed by him or applicable to his Unit, the Board may suspend his voting rights and the right of such Owner (and any occupant of his Unit) to use any common recreational facilities during the period of any such payment default. Notwithstanding anything foregoing to the contrary, in no event may the Board limit the right of an Owner or an occupant of a Unit to use the Common Elements to the extent necessary for reasonable ingress and egress between dedicated public streets and Units.

17.4 Late Charges and Interest on Delinquent Assessments. The Board may from time to time establish late charges and a rate of interest to be charged on assessments that may thereafter become delinquent. In the absence of another established non-usurious rate, delinquent assessments shall bear interest at the rate of 12% per annum.

17.5 Recovery of Attorneys' Fees and Costs. In any action to collect delinquent assessments or otherwise to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover as a part of its judgment a reasonable sum for attorneys' fees and expenses reasonably incurred in connection with the action, in addition to taxable costs permitted by law.

17.6 Remedies Cumulative. The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may

be available under law although not expressed herein, either concurrently or in any order.

ARTICLE 18. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER

The failure of the Board in any instance to insist upon the strict compliance with this Declaration or the Bylaws or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition, or restriction. The receipt by the Board of payment of an assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for the Board. This Article also extends to Declarant, Declarant's Managing Agent and the interim Board of Directors, exercising the power of the Board before the Transition Date, and to the Master Association and Master Association Board exercising the powers provided for in the Master Declaration including without limitation the powers described in Sections 12.13.2 and 15.2 hereof.

ARTICLE 19. LIMITATION OF LIABILITY

So long as a Board member, or Association committee member, or Association officer, or Declarant or the Managing Agent or officer, director, or committee member of the Master Association has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such person, no such person shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such person; provided, that this Section shall not apply where the consequences of such act, omission, error, or negligence is covered by insurance obtained by the Board.

ARTICLE 20. INDEMNIFICATION

Each Board member and Association committee member and Association officer, and Declarant and the Managing Agent and each officer, director, and committee member of the Master Association shall be indemnified to the full extent permitted by law by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by any type of insurance and except in such cases wherein such person is adjudged guilty of willful misfeasance in the performance of his or her duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

ARTICLE 21. INSURANCE

21.1 General Requirements. Commencing not later than the time of the first conveyance of a Unit to a Person other than Declarant or an affiliate of Declarant, the Board shall cause the Association, to the extent reasonably available, to purchase and maintain at all times as a common expense a policy or policies and bonds necessary to provide casualty insurance; comprehensive liability insurance; fidelity bonds; worker's compensation insurance to the extent required by applicable laws; insurance against loss of personal property of the Association by fire, theft, or other causes with such deductible provisions as the Board deems advisable; insurance, if reasonably available, for the protection of the Association's directors, officers, and representatives' from personal liability in the management of the Association's affairs; and such other insurance as the Board deems advisable. The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained if reasonably available from an insurance carrier designated Class X or better by Best's Key Rating Guide or equivalent rating service, and licensed to do business in the State of Arizona. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect casualty, flood, and liability insurance and a fidelity bond that meets the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association and the Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Unit within the Property, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association. The Board shall require that any insurer issuing an insurance policy under this Section issue certificates or memoranda of insurance to the Association and, on written request, to any Owner or Mortgagee (or designated servicer of a Mortgage). All such insurance policies and fidelity bonds shall provide that coverage may not be cancelled or substantially reduced (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named therein, and, in any event, to the Association and to any Owners, Mortgagees, and designated servicers of Mortgagees to whom a certificate or memorandum of insurance was issued. In the event that the casualty and liability insurance required under this Section is not available, the Board shall give prompt notice to all Owners.

21.2 Casualty Insurance. The casualty insurance shall, at the minimum, consist of a standard form of fire insurance policy with extended coverage endorsement in an amount equal to the full replacement cost at the time the insurance is purchased and at each renewal date (i.e., 100% of current replacement cost exclusive of land, foundation, excavation, and other items normally excluded from coverage) of the Common Elements, Units, and all fixtures and equipment belonging to the Association with an "Agreed Amount Endorsement" or its equivalent, if available, or an Inflation Guard Endorsement, and, if required by Federal National Mortgage Association, a "Demolition and Contingent Liability from Operation of Building Laws Endorsement," an "Increased Cost of Construction Endorsement," an "Earthquake Damage Endorsement," and such other endorsements as Federal National Mortgage Association deems necessary and are reasonably available. In addition to protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, the policy shall

provide protection against loss or damage from sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as are customarily covered with respect to residential condominium projects of similar construction in the local metropolitan area. The policy or policies shall provide for separate protection for each Unit to the full insurable replacement value thereof (limited as above provided), and a separate loss payable endorsement in favor of the Mortgagee or Mortgagees of each Unit. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies. The policy or policies shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

21.3 Comprehensive Public Liability Insurance. The comprehensive policy of public liability insurance shall insure the Board, the Association, the Owners, Declarant, and the Managing Agent, and cover all of the occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or of another Owner, and shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered with respect to residential condominium projects of similar construction in the local metropolitan area. The limits of liability shall be not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence.

21.4 Additional Policy Provisions. The insurance obtained pursuant to Sections 21.2 and 21.3 shall contain the following provisions and limitations, if applicable:

21.4.1 The named insured shall be the Association, as trustee for each of the Owners in accordance with their respective percentages of undivided interest in the Common Elements. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee. The Board shall have exclusive authority to negotiate losses under the policies. Each Owner shall be an insured person under the public liability policy with respect to liability arising out of his interest in the Common Elements or membership in the Association.

21.4.2 Policies shall not provide for contribution by or assessment against Mortgagees or become a lien on the Property superior to the lien of a First Mortgage.

21.4.3 In no event shall the insurance coverage be brought into contribution with insurance purchased by the Owners of the Units or their Mortgagees; the Association's coverage shall in all events be primary.

21.4.4 Coverage shall not be prejudiced by (a) any act or neglect of an Owner when such act or neglect is not within the control of the Association and the Owner is not acting within the scope of his authority on behalf of the Association, or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control.

21.4.5 A waiver of subrogation by the insurer as to any and all claims against the Master Association, the Association, any Owner, and/or the respective agents, employees, household members or tenants of any of the foregoing, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

21.4.6 A standard Mortgagee clause which shall:

(a) Provide that any reference to a Mortgagee in the policy shall mean and include all holders of Mortgages of any Unit or Unit lease or sublease in their respective order of preference, whether or not named therein;

(b) Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board or Owners or any persons under any of them;

(c) Waive any provision invalidating such Mortgagee clause by reason of the failure of any Mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the Mortgagee pay any premium thereon, and any contribution clause; and

(d) Provide that, without affecting any protection afforded by such Mortgagee clause, any proceeds payable under such policy shall be payable to the Board or the insurance trustee.

21.5 Fidelity Bonds. The required fidelity bonds shall afford coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association or the Managing Agent and all other persons who handle or are responsible for handling funds of the Association and be in an amount that will provide a level of coverage generally considered adequate by prudently managed business concerns in the county where the Property is located, but not less than 150% of the estimated annual operating expenses of the Association, including reserves. In determining the level of coverage, the Board may rely on the advice of a competent, independent insurance broker. All such fidelity bonds shall name the Association as an obligee and contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

21.6 Owners' Individual Insurance. Each Owner may obtain additional insurance on his Unit and its contents at his own expense but

only to the extent that the Owner's insurance does not decrease the amount that the Association, or any trustee for the Association, on behalf of all of the Owners, will realize under any insurance policy that the Association may have in force on the Property. Each Owner shall notify the Board of all improvements by the Owner to his Unit the value of which is in excess of \$1,000. Any Owner who obtains individual insurance policies covering any portion of the Property other than personal property belonging to him shall file a copy of his individual policy or policies with the Board within 30 days after he buys it, and the Board shall immediately review its effect with the Board's insurance broker, agent, or carrier.

## ARTICLE 22. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY

22.1 Initial Board Determination. In the event of damage to any part of the Property, the Board shall promptly, and in all events within 30 days after the date of damage, make the following determinations with respect thereto, employing such advice as the Board deems advisable:

22.1.1 The nature and extent of the damage, together with an inventory of the improvements and property directly affected thereby.

22.1.2 A reasonably reliable estimate of the cost to repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

22.1.3 The expected insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

22.1.4 The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds, and the amount of the assessments that would have to be made against each Unit if the excess cost were to be paid as a common expense and specially assessed against all the Units in proportion to their percentages of undivided interest in the Common Elements.

22.1.5 The Board's recommendation whether the damage should be repaired.

22.2 Notice of Damage. The Board shall promptly, and in all events within 30 days after the date of damage, provide each Owner and each First Mortgagee with a written notice describing the damage and summarizing the initial Board determinations made under Section 22.1. If the Board fails to do so within said 30 days, any Owner or Mortgagee may make the determinations required under Section 22.1 and give the notice required under this Section 22.2.

22.3 Definitions: Damage, Substantial Damage, Repair, Emergency Work. As used in this Article 22:

22.3.1 Damage shall mean all kinds of damage, whether of slight degree or total destruction.

22.3.2 Repair shall mean restoring the improvements to substantially the condition they were in before they were damaged, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. Modifications to conform to applicable governmental rules and regulations or available means of construction may be made.

22.3.3 Emergency Work shall mean work that the Board deems reasonably necessary to avoid further damage or substantial diminution in value to the improvements and to protect the Owners from liability from the condition of the site.

#### 22.4 Execution of Repairs.

22.4.1 The Board shall promptly repair damage and use available insurance proceeds therefor unless before the repairs (other than emergency work) are begun (i) the Owners decide in accordance with this Article not to repair, (ii) the Condominium is terminated, or (iii) repair or replacement would be illegal under any state or local health or safety statute or ordinance. If the cost of repair exceeds the available insurance proceeds, the Board shall impose a special assessment against all Units in proportion to their percentages of undivided interest in the Common Elements in an amount sufficient to pay the excess costs.

22.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others, and take such other action as is reasonably necessary to make the repairs. Contracts for the repair work shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provided for paying the cost. The Board may authorize the insurance carrier to make the repairs if the Board is satisfied that the work will be done satisfactorily, and if such authorization does not contravene any insurance trust agreement or requirement of law.

22.4.3 The Board may enter into a written agreement with a reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to collect the insurance proceeds and carry out the provisions of this Article 22.

22.4.4 Either the Board or the requisite number of Owners, within 15 days after the notice required under Section 22.2 has been given, may but shall not be required to, call a special Owners' meeting in accordance with Section 12.9 and the Bylaws to decide whether to repair the damage.

22.4.5 Except for emergency work, no repairs shall be commenced until after the 15-day period and until after the conclusion of the special meeting if such a special meeting is called within the 15 days.

22.4.6 A decision by Owners holding 80% of the votes entitled to be cast including every Owner of a Unit or allocated Limited Common Element not to be rebuilt or repaired and, in addition, the consent of First Mortgagees holding 80% of the Mortgages including each Mortgagee of a Unit or allocated Limited Common Element not to be rebuilt will be



required to elect not to repair damage. The failure of the Board and the Owners within the 15-day period to call a special meeting shall be deemed a decision to repair the damage.

22.5 Effect of Decision not to Repair. If a decision is made not to repair and restore all damage, the following shall apply:

22.5.1 Insurance proceeds attributable to damaged Common Elements shall be used to restore damaged areas to a condition compatible with the remainder of the Condominium.

22.5.2 Insurance proceeds attributable to Units and allocated Limited Common Elements which are not to be rebuilt shall be distributed to Owners of such Units and the Owners of the Units to which the Limited Common Elements were allocated, in proportion to their interests in the Common Elements, or to lienholders as their interests may appear.

22.5.3 Any insurance proceeds remaining after the application or distribution provided for in Sections 22.5.1 and 22.5.2 shall be distributed to all Owners or lienholders as their interests may appear in proportion to the interests of all Owners in the Common Elements.

22.5.4 If a decision is made not to rebuild any damaged Unit, that Unit's allocated interests are automatically reallocated upon such decision as if the Unit had been condemned and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations.

22.5.5 Notwithstanding anything foregoing in this Section 22.5 to the contrary, if repairs are not to be made because the Condominium is being terminated, the provisions of this Declaration pertaining to termination of the Condominium shall govern distribution of insurance proceeds.

22.6 Termination of Condominium. In the event of a decision to terminate the Condominium hereby established, whether as a result of damage, condemnation, or otherwise, the following shall apply:

22.6.1 Except in the event of a taking of all Units by eminent domain, termination of the Condominium shall require the agreement of Owners holding at least 80% of the votes of the Association entitled to be cast and the Master Association.

22.6.2 An agreement to terminate the Condominium shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. The termination agreement shall specify a date after which the agreement will be void unless the agreement has been recorded. The termination agreement and any ratifications shall be recorded in the office of the County Recorder of Maricopa County and shall be effective only upon recording.

22.6.3 A termination agreement may provide that all the Common Elements and Units shall be sold following termination. If, pursuant to any such agreement, any real estate in the Condominium is to be sold

following termination, the termination agreement shall set forth the minimum terms of sale.

22.6.4 The Association, on behalf of Owners, may contract for the sale of real estate in the Condominium but no such contract will be binding on Owners until approved in accordance with the provisions of Sections 22.6.1 and 22.6.2 above. If any real estate in the Condominium is to be sold following termination, title to such real estate vests upon termination in the Association as trustee for the holders of all interests in the Units. Thereafter, the Association has all powers necessary or appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and lienholders as their interests may appear in proportion to the respective interests of the Owners described in Section 22.6.7. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate following termination each Owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted such Owner's Unit and any Limited Common Elements allocated to it. During the period of such occupancy rights, each Owner and his successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration or the provisions of the Condominium Statute.

22.6.5 If the real estate constituting the Condominium is not to be sold following termination, title to all the real estate in the Condominium vests upon termination in Owners as tenants in common in proportion to their respective interests described in Section 22.6.7 and liens on Units automatically attach to such new interests. While the tenancy in common exists, each Owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his Unit and any Limited Common Elements allocated to it.

22.6.6 Following termination of the Condominium, the proceeds of any sale of real estate, together with any assets of the Association, are to be held by the Association as trustee for Owners and holders of liens on Units as their interests may appear. Following a termination, creditors of the Association holding liens on Units, which were recorded before termination, may enforce those liens in the same manner as any lienholder.

22.6.7 The respective interests of Owners referred to in Sections 22.6.4 through 22.6.6 are to be determined as follows:

(a) Except as provided in subsection (b) below, the respective interest of each Owner is determined on the basis of the fair market value of the Unit, allocated Limited Common Elements and proportionate share of Common Elements for each such Owner immediately prior to termination, as established by an independent appraiser selected by the Association. The determination of the appraiser shall be distributed to Owners and shall become final unless disapproved within 30 days after distribution by a vote of Owners holding at least 50% of the votes entitled to be cast. The proportion of any Owner's interest to that of all

Owners shall be computed by dividing the fair market value of the Owner's Unit, Limited Common Elements and Common Elements interest by the total fair market value of all Owners' Units, Limited Common Elements and Common Elements interests.

(b) If any Unit or Limited Common Element is destroyed to the extent that an appraisal of fair market value before destruction cannot reasonably be made, the interests of all Owners shall be determined from their interests in the Common elements immediately before the termination.

#### ARTICLE 23. CONDEMNATION

23.1 Taking of a Unit. If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award must compensate the Owner for his Unit and its interest in the Common Elements, regardless of whether any Common Elements are acquired. On acquisition, unless the decree otherwise provides, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this Section becomes a Common Element.

23.2 Partial Taking of a Unit. Except as provided in Section 23.1, if part of a Unit is acquired by eminent domain the award must compensate the Owner for the reduction in value of the Unit and its interest in the Common Elements, regardless of whether any Common Elements are acquired. On acquisition, unless the decree otherwise provides, all of the following apply:

23.2.1 The Unit's allocated interests are reduced in proportion to the reduction in the size of the Unit.

23.2.2 The portion of the allocated interests divested from the partially acquired Unit is automatically reallocated to that Unit and the remaining Units in proportion to the respective allocated interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interests.

23.3 Taking of Common Elements. If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association for the benefit of the Owners. Any portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

23.4 Complete Taking. If all of the Units of the Condominium are acquired by eminent domain, the Condominium is terminated and the provisions of Section 22.6 apply.

23.5 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 22 for repair of damage, provided that the Board may retain and apply such portion of each Owner's share of the award as is necessary to discharge the Owner's liability for any special assessment arising from the operation of Article 22.

#### ARTICLE 24. EASEMENTS

24.1 In General. Each Unit has an easement in and through each other Unit and the Common Elements and facilities for all support elements and utility, wiring, heat, and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium. In addition, each Unit and all the Common Elements are specifically subject to easements as required for the electrical wiring and plumbing for each Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate any general easement for common facilities reserved by law. Should any supplier of utility or similar services (including, without limitation, water, sewer, electric, gas, telephone, cable TV and security services) request a license or easement by separate recordable instrument, the Board shall have the right to grant such license or easement, subject to the provisions of this Declaration and the Condominium Statute.

24.2 Encroachments. Each Unit and all Common Elements are hereby declared to have an easement over all adjoining Units and Common Elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching Units and Common Elements so long as the encroachments shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Unit if the encroachment was caused by the willful act with full knowledge of the Owner. The encroachments described in this Section 24.2 shall not be construed to be encumbrances affecting the marketability of title to any Unit.

24.3 Easement Specifically Reserved by Declarant. Declarant reserves an access and temporary construction easement over, across, and through the Common Elements for the purpose of completing any unfinished Units or other improvements in the Property or in the Annexation Property and exhibiting and preparing Units for sale or lease. Further, Declarant expressly reserves the right to construct on the Property improvements contemplated by this Declaration and the Plat, or by any amendments thereto including without limitation any amendment for the purpose of annexing additional real property pursuant to Article 26 hereof.

ARTICLE 25. AMENDMENTS OF DECLARATION OR PLAT

25.1 Amendments by the Association. Except as may be otherwise provided by A.R.S. § 33-1227(A), an Owner may propose amendments to this Declaration or the Plat to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of the Units in the Condominium, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of persons entitled to vote, after notice has been given to all persons (including Mortgagees) entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners (or others authorized to cast Owners' votes) eligible to vote shall be required for adoption of either (1) an amendment altering the percentages of undivided interest in the Common Elements (except in the case of an Annexation as hereinafter provided) or (2) an amendment of Section 12.8 or of this Article 25. All other amendments (except in the case of an Annexation as hereinafter provided) shall be adopted if approved by not less than 67% of the votes eligible to be cast and there is compliance with Section 25.2. Once an amendment has been adopted by the Association and any necessary approval of Mortgagees has been obtained, the amendment will become effective when the amendment, executed by the President of the Association or such other officer as may be designated by the Bylaws, has been recorded in the public records. The Association shall in any event record the amendment within 30 days after all required approvals are given. Notwithstanding anything in this Declaration to the contrary, amendments to the Declaration must be approved by the Board of the Master Association and, prior to the Transition Date, by the Declarant.

25.2 Requirement of Mortgagee Approval. In addition to other requirements of this Declaration and of the Condominium Statute, the prior written approval of Mortgagees holding at least 75% of the First Mortgages will be required for any material amendment of this Declaration or the Bylaws, including, but not limited to, any amendment that would change the percentages of undivided interest in the Common Elements of the Owners. In addition, any amendment to this Declaration shall require the prior written consent of the Veteran's Administration if such Administration is, at the time of the amendment, an Institutional Holder of a Mortgage.

25.3 Amendments to Conform to Construction and Meet Lender and Title Company Requirements. Declarant may at any time until the Transition Date record amendments to the Declaration and the Plat, signed by Declarant alone, notwithstanding the prior conveyance of one or more Units to Unit purchasers to conform the Declaration and the Plat to the actual location of any of the constructed improvements or as may reasonably be required by lenders or investors, or by title insurance companies to correct errors so as to meet reasonable requirements for title insurance or to comply with the rules or guidelines of any governmental or quasi-governmental entity or

federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments.

#### ARTICLE 26. ANNEXATION OF ADDITIONAL PROPERTY

Notwithstanding any other provision of this Declaration, Declarant may, without the approval, assent or vote of the Association or the Owners, within seven years from the date of recording of this Declaration (and provided that Markland has not, prior thereto, given proper notice of its intention to exercise the purchase rights described in Article 30 hereof), annex to the Property the real property (the "Annexation Property") described on Exhibit B, if it is then the owner thereof; provided, however, that nothing contained in this Declaration shall obligate Declarant to annex all or any portion of the Annexation Property at any particular time prior to such seven-year deadline, and no portion of the Annexation Property shall become subject to this Declaration unless and until an amendment to this Declaration and the Plat (an "Annexation Amendment") shall have been recorded as herein provided. In the event that Markland Properties, Inc. becomes the owner of the Annexation Property by foreclosure, trustee's sale or otherwise, pursuant to any lien perfected by Markland Properties or by reason of any option or right of first refusal held by Markland to purchase the Annexation Property, Markland shall have the right but no obligation to cause the annexation of such property as herein provided without the further consent of Declarant or other Owners and without regard to whether Markland exercises the election described in Article 30 hereof to become the Declarant hereunder.

26.1 General Plan of Development. Declarant intends to sequentially develop the Property (including any portion of the Annexation Property which is ultimately annexed to the Property) on a phased basis. It is anticipated that the first phase will consist of 24 Units as shown on the Plat. Succeeding phases will consist of additional buildings or groups of buildings, which may be developed in any order, and may consist of any number, configuration or combination of Units, in the sole discretion of Declarant. In the event all anticipated phases are developed and the entire Annexation Property is annexed to the Property as provided herein, Declarant contemplates that the Property ultimately will consist of a total of 80 Units. Any improvements which may be constructed by Declarant in subsequent phases of the Property shall be consistent in quality of construction and architectural style with the improvements constructed in connection with the first phase and shall be substantially completed prior to annexation; provided, however, that Declarant makes no representations or gives any assurances whatsoever concerning, and reserves the right to alter, the exact number, size, configuration, design or location of any phase, building or Unit. The Property shall in no event exceed a maximum of 80 Units.

26.2 Annexation Amendments. An Annexation Amendment shall be a writing in recordable form which annexes the Annexation Property to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements, definitions and other provisions of this Declaration and shall state, with respect to the phase intended to be developed on the Annexation Property so annexed, the number and description of the Units and the Common Elements included within such

phase, and the undivided interest in the Common Elements within the Project as a whole which is appurtenant to each Unit within such phase and the Property. The annexation shall become effective only upon recordation of the Annexation Amendment, including any plat (the "Annexation Plat") required to describe such portion of the Annexation Property and buildings and Units included in such phase (unless a description of such matters is contained in any Plat already appearing in the public record). The effective date of the annexation shall be the date of recordation of the Annexation Amendment, or such later date as may be specified in the Declaration of Annexation. An Annexation Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexation Property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Annexation Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

26.3 Adjustment of Undivided Interest. In the event additional property is annexed to the Property in accordance with this Article 26, the undivided interest in the Common Elements appurtenant to each Unit in the Property (including any additional property annexed to the Property) shall, as of the effective date of the annexation, be adjusted to equal the fraction, the numerator of which is one and the denominator of which is the total number of all Units then included within the Property, including any Units annexed to the Property. Notwithstanding the foregoing, the undivided interest in the Common Elements of any Unit shall in no event be greater than 1/24, nor less than 1/80.

26.4 Completion of Annexation. The recordation of an Annexation Amendment and any required Annexation Plat shall, as of the effective date of the annexation, constitute and complete the annexation of the portion of the Annexation Property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said portion of the Annexation Property shall be part of the Property for all intents and purposes of this Declaration, all of the Owners in said Annexation Property shall automatically be Owners in accordance with this Declaration, and all Owners shall have the undivided interest in the Common Elements stated in the Annexation Amendment, as computed in accordance with Section 26.3. All taxes, assessments, mechanics liens and other charges relating to all or a part of the Annexation Property prior to annexation of such property in accordance with this Article 26 are the sole responsibility of Declarant.

#### ARTICLE 27. SEVERABILITY

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remainder complies with the Condominium Statute or, as covenants, effect the common plan.

ARTICLE 28. EFFECTIVE DATE

This Declaration shall take effect upon recording.

ARTICLE 29. ASSIGNMENT BY DECLARANT

Declarant reserves the right to assign, transfer, sell, release, or rent all or a portion of the Property then owned by it and reserves the right to assign all or any of its rights, duties, and obligations created under this Declaration; however, such assignment shall not diminish Declarant's duties and obligations.

ARTICLE 30. MARKLAND PROPERTIES, INC.

If Markland Properties, Inc., an Arizona corporation, becomes the owner of all or any part of the Property or the Annexation Property by foreclosure, trustee's sale or otherwise, pursuant to any lien perfected by Markland Properties against the Property or any portion of the Annexation Property, or by reason of any option or right of first refusal held by Markland Properties to purchase all or any part of the Property or the Annexation Property, Markland Properties shall have the right to elect to become the Declarant under this Declaration and to succeed to all rights, options and duties of the Declarant hereunder, including but not limited to the right under Article 26 hereof to annex and make subject to this Declaration any portion of the Annexation Property; provided, however, that (i) Markland Properties shall not become the Declarant hereunder and shall not succeed to any of the rights, options or duties of the Declarant unless Markland Properties so elects by written instrument recorded in the Office of the Maricopa County Recorder, (ii) if such an election is recorded, Markland Properties shall have no liability for any actions taken by the Declarant prior to the recording of such election, and (iii) if at the time of the recording of such election, Brandon Arizona Investors 2 Limited Partnership ("Brandon Arizona"), its successors or assigns, still owns any portion of the Property, Brandon Arizona, its successors and assigns, shall be entitled to the exemptions provided the Declarant in this Declaration with respect to the portions of the Property which it owns and shall not be required to obtain the approval of the Board for the construction of improvements on the portions of the Property owned by Brandon Arizona.

ARTICLE 31. CONVERSION OF COMMON ELEMENTS

Prior to the expiration of the annexation powers reserved to Declarant under Article 26 of this Declaration, Declarant or Markland, with respect to Tracts owned by each, may at any time and from time to time without the vote or assent of any other Owner or Mortgagee on the Association convert all or any portion of the Common Elements in the area within 10 feet of the perimeter boundaries of Tracts 2, 3, 4, 7, 8, 9, 10, 11 and 12 as shown on the Plat into Units or Limited Common Elements in connection with the annexation of such Tracts into the Condominium. To exercise the conversion rights provided for in this Article 31, Declarant shall prepare, execute and record an amendment to the Declaration, which



shall contain a new Plat, conforming with the requirements of this Declaration and the Condominium Statute. Any amendment to the Declaration required to effect such a conversion of Common Elements may be included in an Annexation Amendment or may be reflected by a separate recordable instrument.

DECLARANT:

Brandon Arizona Investors 2 Limited Partnership, an Arizona limited partnership

By: Brandon Homes, Inc., a Washington corporation, General Partner

By William G. Kerr  
Its VICE-PRESIDENT

STATE OF Arizona )  
County of Maricopa ) ss.

The foregoing instrument was acknowledged before me this 20 day of MAY, 1986, by William G. Kerr, the Vice-President of Brandon Homes, Inc., a Washington corporation, General Partner of Brandon Arizona Investors 2 Limited Partnership, an Arizona limited partnership, for and on behalf thereof.

[Signature]  
Notary Public

My commission expires:  
10-23-86

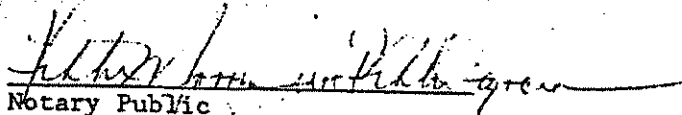
Approved:

The Gainey Ranch Community Association

By [Signature]  
Its EXECUTIVE DIRECTOR

STATE OF ARIZONA )  
                          ) ss.  
County of Maricopa )

On this 20 day of May, 1986, before me, the under-  
signed Notary Public, personally appeared Fred B. Thiel  
who acknowledged himself to be the Executive Director of The  
Gainey Ranch Community Association, an Arizona nonprofit corporation, and  
that he, as such officer, being authorized so to do, executed the foregoing  
instrument for the purposes therein contained by signing the name of the  
corporation, by himself as such officer.

  
Notary Public

My Commission Expires:

10-23-86

Being a portion of the SouthEast quarter of Section Twenty-six (26), Township Three (3) North., Range Four (4) East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the East quarter of the said Section Twenty-six (26); THENCE South 0 degrees 19 minutes 05 seconds East along the East line of said SouthEast quarter for a distance of 342.86 feet; THENCE South 89 degrees 40 minutes 55 seconds West 70.00 feet to the True Point of Beginning; THENCE South 0 degrees 19 minutes 05 seconds East 38.81 feet to the beginning of a tangent curve bending to the right having a radius of 1570.00 feet; THENCE Southerly along the arc of said curve through a central of 2 degrees 42 minutes 45 seconds for a distance of 74.33 feet to the beginning of a curve bending to the left the center of which bears South 87 degrees 36 minutes 20 seconds East 2000.00 feet; THENCE Southerly along the arc of said curve through a central angle of 2 degrees 42 minutes and 45 seconds for a distance of 94.69 feet; THENCE South 0 degrees 19 minutes 05 seconds East parallel with and 74.00 feet West of the East line of said SouthEast quarter for a distance 274.78 feet to the beginning of a tangent curve bending to the said right having a radius of 25.00 feet; THENCE SouthWesterly along the arc of said curve through a central angle of 87 degrees 17 minutes 56 seconds for a distance of 38.09 feet to the beginning of a curve bending to the left the center of which bears South 3 degrees 01 minute 09 seconds East for a distance of 315.00 feet; THENCE Westerly along the arc of said curve through a central angle of 30 degrees 28 minutes 09 seconds for a distance of 167.51 feet to the beginning of a curve bending to the right the center of which bears North 33 degrees 29 minutes 18 seconds West 250.00 feet; THENCE Westerly along the arc of said curve through a central angle of 30 degrees 24 minutes 20 seconds for a distance of 132.67 feet to the beginning of a curve bending to the right the center of which bears North 3 degrees 04 minutes 58 seconds West 335.00 feet; THENCE Westerly along the arc of said curve 8 degrees 08 minutes 05 seconds for a distance of 47.56 feet to the beginning of a curve bending to left the center of which bears South 5 degrees 03 minutes 07 seconds West 365.00 feet; THENCE Westerly along the arc of said curve through a central angle of 15 degrees 13 minutes 16 seconds for a distance of 96.96 feet; THENCE North 167.70 feet; THENCE North 28 degrees 16 minutes 58 seconds East 86.90 feet; THENCE North 19 degrees 09 minutes 36 seconds West 613.42 feet to a point on a line which runs parallel with and 125.00 feet South of the North line of the SouthEast quarter of said Section Twenty-six (26); THENCE South 89 degrees 53 minutes 33 seconds East along said line 391.39 feet to the beginning of a tangent curve bending to the right having a radius of 220.00 feet; THENCE Southeasterly along the arc of said curve through a central angle of 89 degrees 34 minutes 28 seconds for a distance of 343.94 feet to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM Tracts Three (3), Four (4) and Seven (7) through Twelve (12) inclusive as set forth on The Condominium Plat for Tablero Dunes Condominiums.

86 251813

EXHIBIT "B"

Tracts Three (3), Four (4) and Seven (7) through Twelve (12) inclusive  
as set forth on The Condominium Plat for Tableero Dunes Condominiums.

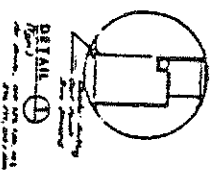


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1	1000	1	1	1	1	1	1	1	1	1	1	1	1	1	1
2	1000	1	1	1	1	1	1	1	1	1	1	1	1	1	1
3	1000	1	1	1	1	1	1	1	1	1	1	1	1	1	1
4	1000	1	1	1	1	1	1	1	1	1	1	1	1	1	1
5	1000	1	1	1	1	1	1	1	1	1	1	1	1	1	1

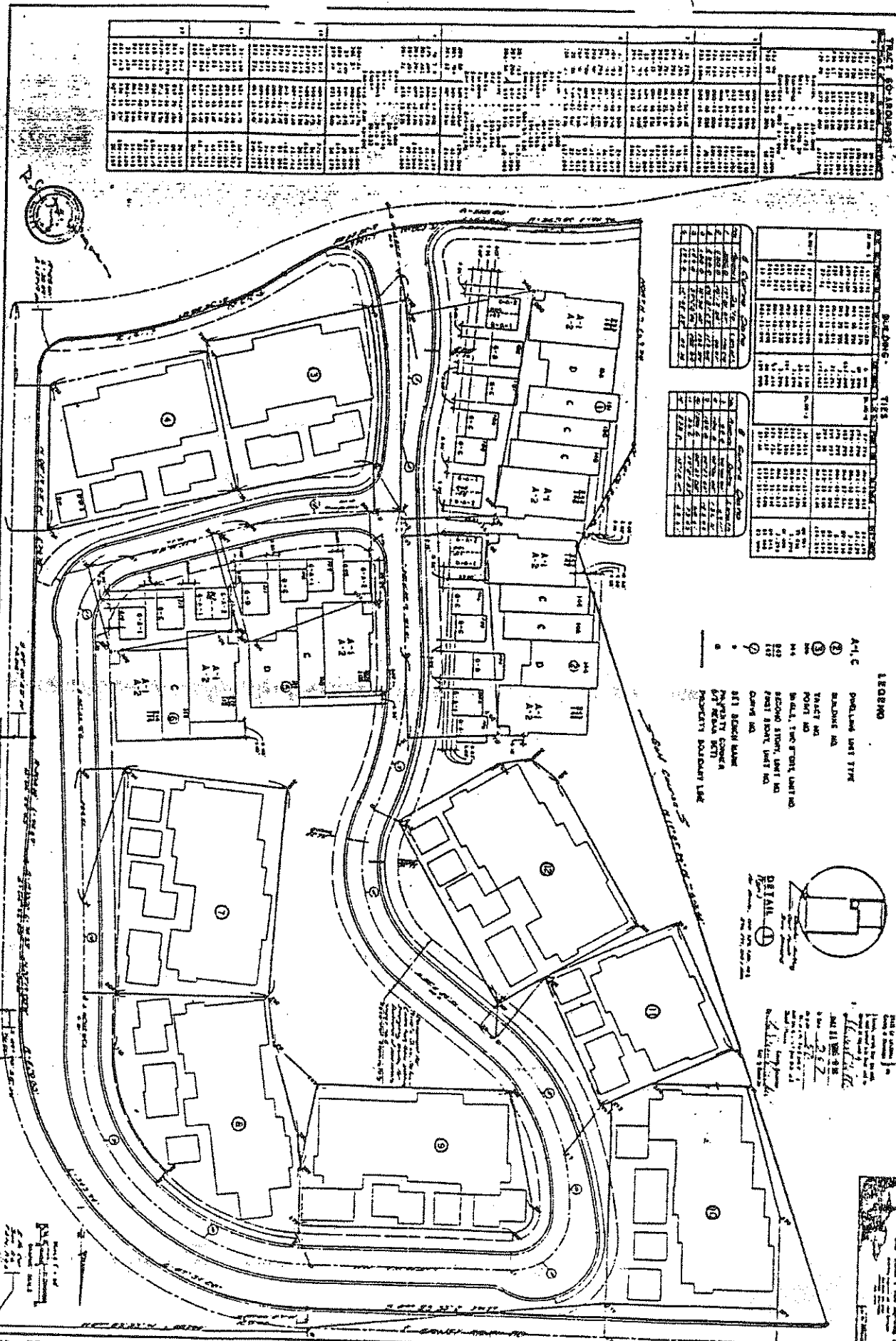
TRACT	TIER	SCHEDULE	AREA	VOLUME	HEIGHT	DISTANCE	BEARING
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2	1	1	1	1	1	1	1
3	1	1	1	1	1	1	1
4	1	1	1	1	1	1	1
5	1	1	1	1	1	1	1

**LEGEND**

- A-1 C BUILDING UNIT TYPE
- ① BUILDING NO.
- ② TRACT NO.
- ③ POINT NO.
- ④ SMALL TYPED STORY, UNIT NO.
- ⑤ SECOND STORY, UNIT NO.
- ⑥ FIRST STORY, UNIT NO.
- ⑦ DRIVE NO.
- ⑧ SET BACK LINE
- ⑨ PROPERTY CORNER
- ⑩ PROPERTY BOUNDARY LINE



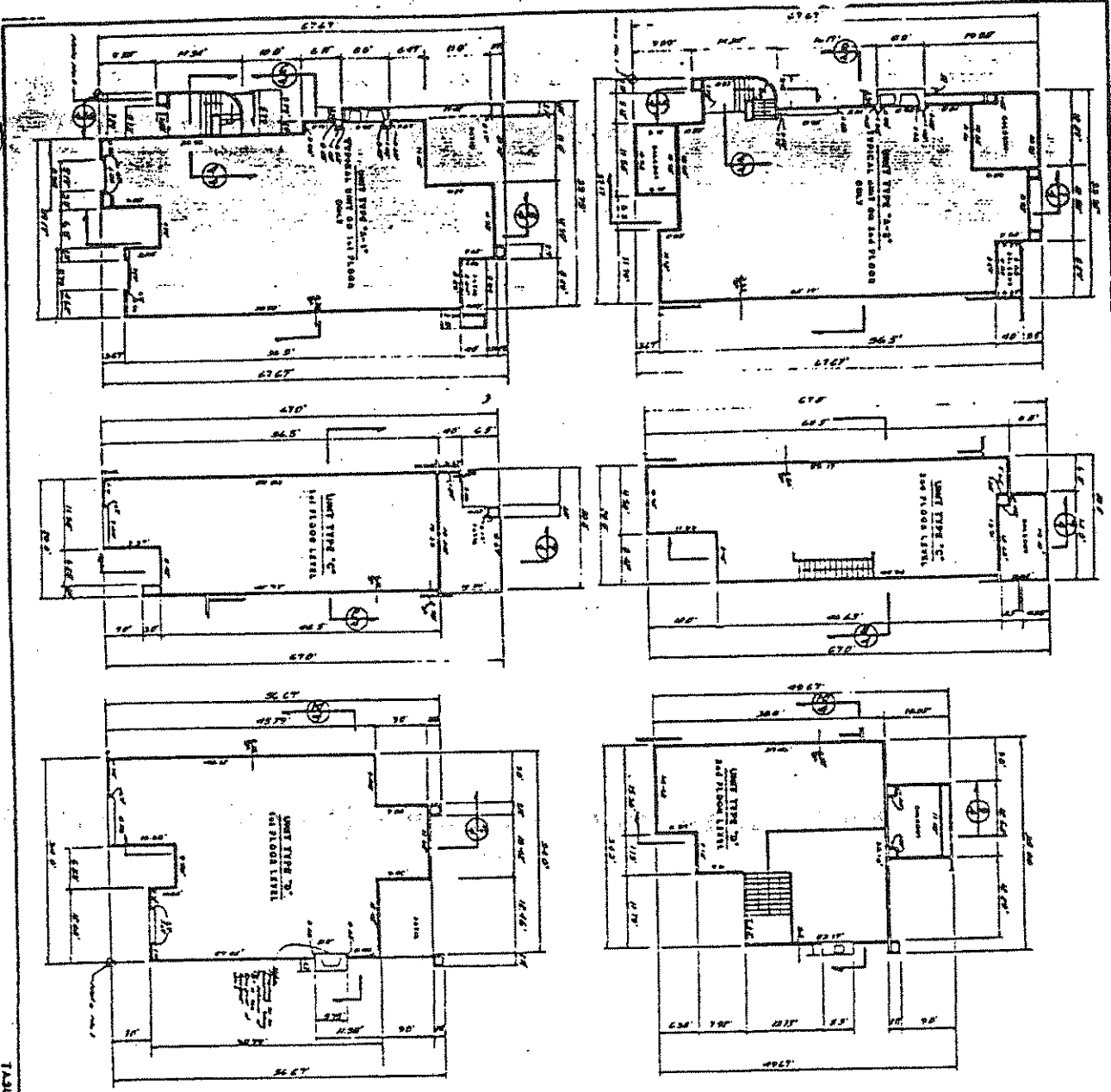
Scale 1" = 20' (approx.)  
 Date: 1/15/57  
 Project: TALENG DUNE COMMUNITIES  
 Drawing No: 251812



TALENG DUNE COMMUNITIES HORIZONTAL PROPERTY REGIME SHEET 3 OF 4

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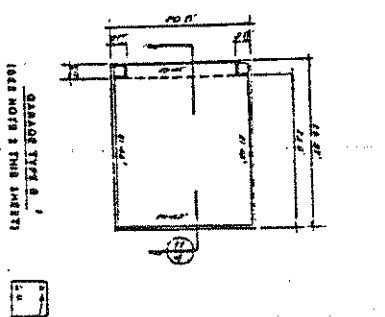
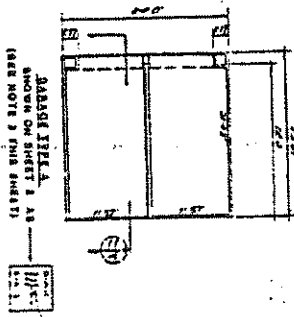
EXHIBIT C



TALLINO PARK'S CONDOMINIUMS HORIZONTAL PROPERTY REQUIRE SHEET 3 OF 4

**NOTE**  
 1. If a unit is to be used for other than residential purposes, the owner shall obtain the necessary permits from the appropriate authorities.  
 2. The owner shall be responsible for the maintenance and repair of the unit and its contents.

**LEGEND**  
 - - - - - Common Area  
 - - - - - Unit Boundary  
 - - - - - Structural Wall  
 - - - - - Structural Column  
 - - - - - Structural Beam  
 - - - - - Structural Slab  
 - - - - - Structural Foundation  
 - - - - - Structural Footing  
 - - - - - Structural Pier  
 - - - - - Structural Wall  
 - - - - - Structural Column  
 - - - - - Structural Beam  
 - - - - - Structural Slab  
 - - - - - Structural Foundation  
 - - - - - Structural Footing  
 - - - - - Structural Pier



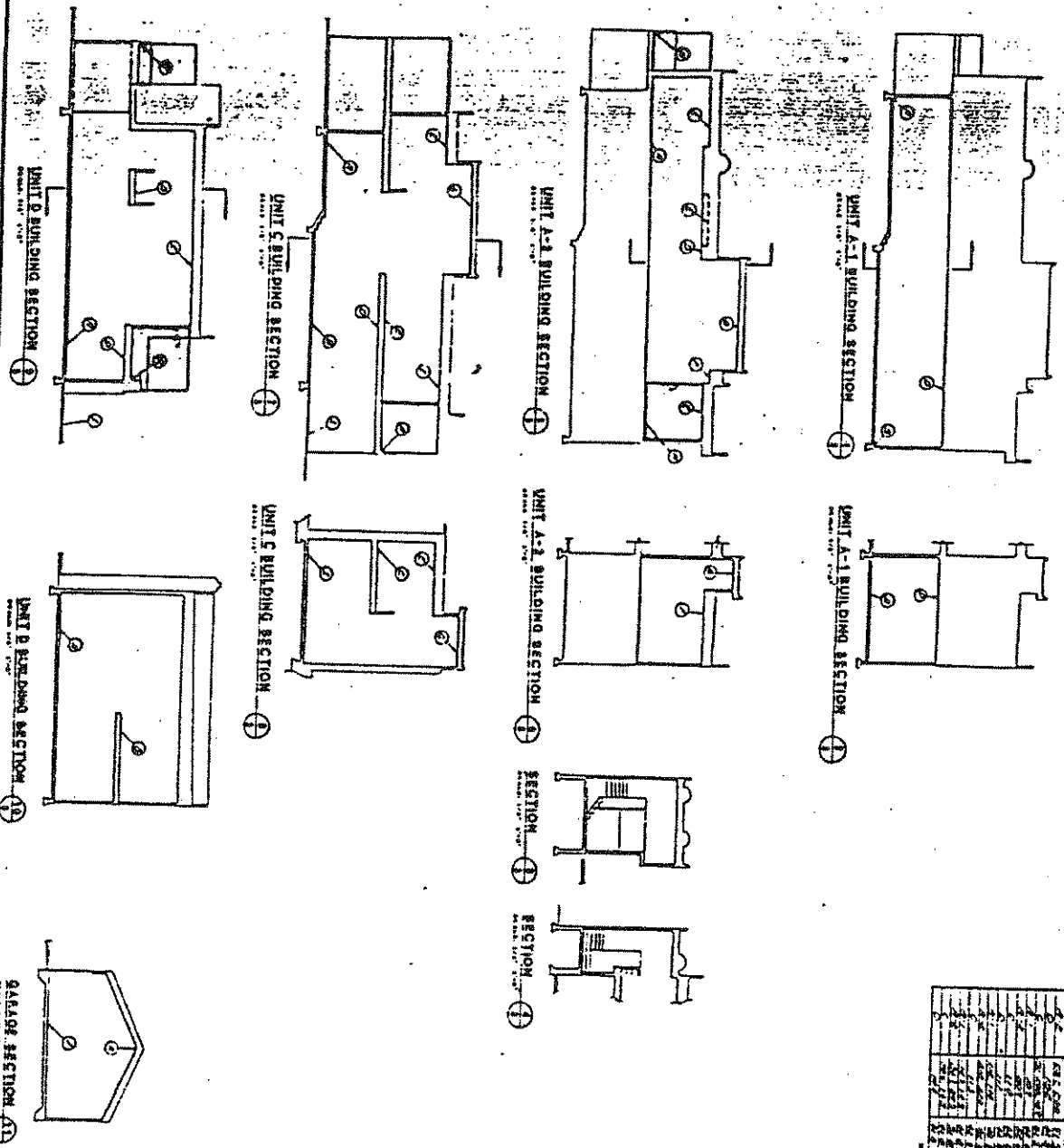
**LEGEND**  
 - - - - - Common Area  
 - - - - - Unit Boundary  
 - - - - - Structural Wall  
 - - - - - Structural Column  
 - - - - - Structural Beam  
 - - - - - Structural Slab  
 - - - - - Structural Foundation  
 - - - - - Structural Footing  
 - - - - - Structural Pier



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PROFILE ELEVATION SCHEDULE

NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL
1	...	...	...	...	...
2	...	...	...	...	...
3	...	...	...	...	...
4	...	...	...	...	...
5	...	...	...	...	...
6	...	...	...	...	...
7	...	...	...	...	...
8	...	...	...	...	...
9	...	...	...	...	...
10	...	...	...	...	...
11	...	...	...	...	...
12	...	...	...	...	...
13	...	...	...	...	...
14	...	...	...	...	...
15	...	...	...	...	...
16	...	...	...	...	...
17	...	...	...	...	...
18	...	...	...	...	...
19	...	...	...	...	...
20	...	...	...	...	...
21	...	...	...	...	...
22	...	...	...	...	...
23	...	...	...	...	...
24	...	...	...	...	...
25	...	...	...	...	...
26	...	...	...	...	...
27	...	...	...	...	...
28	...	...	...	...	...
29	...	...	...	...	...
30	...	...	...	...	...
31	...	...	...	...	...
32	...	...	...	...	...
33	...	...	...	...	...
34	...	...	...	...	...
35	...	...	...	...	...
36	...	...	...	...	...
37	...	...	...	...	...
38	...	...	...	...	...
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42	...	...	...	...	...
43	...	...	...	...	...
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45	...	...	...	...	...
46	...	...	...	...	...
47	...	...	...	...	...
48	...	...	...	...	...
49	...	...	...	...	...
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51	...	...	...	...	...
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77	...	...	...	...	...
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82	...	...	...	...	...
83	...	...	...	...	...
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86	...	...	...	...	...
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88	...	...	...	...	...
89	...	...	...	...	...
90	...	...	...	...	...
91	...	...	...	...	...
92	...	...	...	...	...
93	...	...	...	...	...
94	...	...	...	...	...
95	...	...	...	...	...
96	...	...	...	...	...
97	...	...	...	...	...
98	...	...	...	...	...
99	...	...	...	...	...
100	...	...	...	...	...



LEGEND

- Symbol 1: ...
- Symbol 2: ...
- Symbol 3: ...

TABLETS PAGES CONCORDING AT DAINET RANCH HORIZONTAL PROPERTY REGIME SHEET 4 OF 4



CERTIFICATE OF CHANGE OF NAME OF  
HOMEOWNERS ASSOCIATION FOR TABLERO DUNES  
AT GAINNEY RANCH  
TO  
SUNSET COVE AT GAINNEY RANCH  
CONDOMINIUM ASSOCIATION

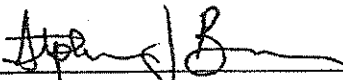
THE UNDERSIGNED Secretary of Sunset Cove at Gainney Ranch Condominium Association (the "Association") hereby certifies that by Action of Unanimous Written Consent of the Board of the Association dated FEBRUARY 27, 1992, and in accordance with the authority granted to the Board by that certain First Amendment to Condominium Declaration for Tablero Dunes at Gainney Ranch, dated December 23, 1991, approved by the Members of the Association and Lenders, as required by said Condominium Declaration, the Board changed the name of the Association from "Homeowners Association for Tablero Dunes at Gainney Ranch" to "Sunset Cove at Gainney Ranch Condominium Association." The Board further directed the undersigned to reflect such name change on the records of the Association as follows:

1. The Bylaws of the Homeowners Association for Tablero Dunes at Gainney Ranch, an Arizona nonprofit corporation, are hereby renamed "BYLAWS OF SUNSET COVE AT GAINNEY RANCH CONDOMINIUM ASSOCIATION."

2. All references to Homeowners Association for Tablero Dunes at Gainney Ranch in the Bylaws and other Association documents shall hereafter be deemed to refer to SUNSET COVE AT GAINNEY RANCH CONDOMINIUM ASSOCIATION.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 6<sup>th</sup> day of MARCH, 1992.

SUNSET COVE AT GAINNEY RANCH  
CONDOMINIUM ASSOCIATION

By   
Its Secretary