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**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
OF
LANDMARK AT THE RIDGE**

A Common Interest Development

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
LANDMARK AT THE RIDGE
A Common Interest Development**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LANDMARK AT THE RIDGE ("Declaration") is made by BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company ("Declarant").

**ARTICLE I
INTENTION OF DECLARATION**

1.1 **FACTS:** This Declaration is made with reference to the following facts:

1.1.1 **Property Owned by Declarant:** Declarant is the owner of all the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, described as follows:

Lots 30 through 37, inclusive, as shown on the subdivision map of Northeast Ridge, filed for record on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Instrument Nos. 2002-091256, 2002-091258, 2002-091259 and 2002-091260 of said Official Records.

1.1.2 **Additional Property Owned by Declarant:** Declarant is also the owner of the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, described in Exhibit "A" attached hereto ("Additional Property"). **Prior to annexation, the Additional Property shall not be subject to any provision of this Declaration except as follows:** The portion of the Additional Property which is within the boundaries of the Map shall be subject to a non-exclusive easement for any and all utility pipes, wires, lines and conduits installed by Declarant for the benefit of the Project. The foregoing easement shall automatically and irrevocably terminate, on a Phase by Phase basis, upon the annexation of each Phase of the Additional Property to this Declaration and the conveyance of all Project Common Area in that Phase to the Association.

1.1.3 **Nature of Project:** Declarant intends to develop the Subject Property and the Additional Property as a Common Interest Development which shall be a planned development as defined in California Civil Code Section 1351(k). The Project is intended to be created in conformity with the provisions of the Davis-Stirling Common Interest Development Act (California Civil Code, Section 1350 et seq.). To establish the Project, Declarant desires to impose on the Subject Property, and any property annexed thereto, these mutually beneficial restrictions, easements, assessments and liens under a comprehensive general plan of improvement and development for the benefit of all of the Owners, the Lots and Common Area within the Subject Property and any property annexed thereto.

1.1.4 **Phases of Project:** The Subject Property and the Additional Property are intended to be developed in two (2) or more Phases. The first Phase consists of the Subject Property. Except as provided in Section 1.1.2, above, prior to annexation, the Additional Property shall not be subject to any

provision of this Declaration. Declarant may, but shall have no obligation to, annex all or any portion of the Additional Property to the Project by recording a Declaration of Annexation in compliance with the provisions of this Declaration.

1.2 **APPLICABILITY OF RESTRICTIONS:** Pursuant to California Civil Code Sections 1353 and 1354, Declarant hereby declares that the Project and all Improvements thereon are subject to the provisions of this Declaration. The Project shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the covenants, conditions and restrictions stated in this Declaration. All such covenants, conditions and restrictions are declared to be in furtherance of the plan for the subdivision, development and management of the Project as a Common Interest Development. All of the limitations, easements, uses, obligations, covenants, conditions, and restrictions stated in this Declaration shall run with the Project and shall inure to the benefit of and be binding on all Owners and all other parties having or acquiring any right, title or interest in any part of the Project. After recordation of a Declaration of Annexation, the property described therein shall constitute a part of the Project and shall be subject to this Declaration.

ARTICLE II DEFINITIONS

Unless otherwise defined or unless the context clearly requires a different meaning, the terms used in this Declaration, the Map and any grant deed to a Lot shall have the meanings specified in this Article.

2.1 **ADDITIONAL CHARGES:** The term "Additional Charges" shall mean costs, fees, charges and expenditures, including without limitation, attorneys' fees, late charges, interest and recording and filing fees actually incurred by the Association in collecting and/or enforcing payment of assessments, fines and/or penalties.

2.2 **ADDITIONAL PROPERTY:** The term "Additional Property" shall mean the real property described on Exhibit "A" and all Improvements situated on such real property.

2.3 **ALTERATION:** The term "Alteration" shall mean constructing, performing, installing, remodeling, repairing, replacing, demolishing and/or changing any Improvement or changing the color or shade of any Improvement.

2.4 **ARTICLES:** The term "Articles" shall mean the Articles of Incorporation of Landmark at the Ridge Owners Association, which are or shall be filed in the Office of the Secretary of State of the State of California.

2.5 **ASSOCIATION:** The term "Association" shall mean Landmark at the Ridge Owners Association, its successors and assigns, a nonprofit mutual benefit corporation incorporated under the laws of the State of California.

2.6 **BOARD:** The term "Board" shall mean the Board of Directors of the Association.

2.7 **BUDGET:** The term "Budget" shall mean a pro forma operating budget prepared by the Board in accordance with Section 6.7.1 of this Declaration.

2.8 **BYLAWS:** The term "Bylaws" shall mean the Bylaws of the Association and any amendments thereto.

2.9 **CITY:** The term "City" shall mean the City of Brisbane, California.

2.10 **COMMON AREA:** The term "Common Area" shall mean easements under, over, upon and across the Common Landscaped Area to Maintain landscaping and irrigation improvements. The term "Common Area" shall also mean any property described as Common Area in a Declaration of Annexation and any real property estate or interest owned by the Association. Common Area includes all Improvements situated thereon or therein.

2.11 **COMMON LANDSCAPED AREA:** The term "Common Landscaped Area" shall mean the portions of each Lot on which a completed Residence has been constructed which are not occupied by a Residence and which are not enclosed by a Residence and fences. The Common Landscaped Area includes the front yard of each Lot, but excludes enclosed side and rear yards. Each Common Landscaped Area includes all landscaping within the Common Landscaped Area and the landscape irrigation systems and components, for the Landscape Maintenance Area, including wiring, automatic valves, controllers and timers, wherever located.

2.12 **COUNTY:** The term "County" shall mean the County of San Mateo, State of California.

2.13 **DECLARANT:** The term "Declarant" shall mean BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company. The term "Declarant" shall also mean any person or entity if (i) a notice signed by Declarant and such person or entity has been recorded in the County in which such

person or entity assumes the rights and duties of Declarant to some portion of the Subject Property or the Additional Property, or (ii) such person or entity acquires all of the Subject Property and all of the Additional Property then owned by a Declarant which must be more than one (1) Lot. There may be more than one Declarant at any given time. In addition to the Declarant named above, upon annexation of Additional Property owned by Brookfield Northeast Ridge II Inc., a California corporation, Brookfield Northeast Ridge II Inc., a California corporation, shall become a Declarant with respect to such Additional Property.

2.14 **DECLARATION**: The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge and includes any subsequently recorded amendments.

2.15 **DECLARATION OF ANNEXATION**: The term "Declaration of Annexation" shall mean any instrument recorded in the County which extends the provisions of this Declaration to all or a portion of the Additional Property or any other property.

2.16 **FIRST MORTGAGE**: The term "First Mortgage" shall mean a Mortgage which has priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Lot.

2.17 **FIRST MORTGAGEE**: The term "First Mortgagee" shall mean the Mortgagee of a First Mortgage. The term "First Mortgagee" shall also include an insurer or governmental guarantor of a First Mortgage including, without limitation, the Federal Housing Authority and the Department of Veterans Affairs.

2.18 **IMPROVEMENTS**: The term "Improvements" shall mean everything constructed, installed or planted on real property, including without limitation, buildings, streets, fences, walls, paving, pipes, wires, grading, landscaping and other works of improvement as defined in Section 3106 of the California Civil Code, excluding only those Improvements or portions thereof which are dedicated to the public or a public or quasi-public entity or utility company, and accepted for maintenance by the public, such entity or utility company.

2.19 **INVITEE**: The term "Invitee" shall mean any person whose presence within the Project is approved by or is at the request of the Association or a particular Owner, including, but not limited to, lessees, tenants, and the family, guests, employees, licensees or invitees of Owners, tenants or lessees.

2.20 **LOT**: The term "Lot" refers to a Separate Interest as defined in California Civil Code Section 1351(l) and shall mean Lots 30 through 37, inclusive, as shown on the Map. The term "Lot" shall also mean any Lot described as such in a Declaration of Annexation. Lot includes all Improvements situated thereon or therein.

2.21 **MAINTAIN**: The term "Maintain" or "Maintained" (but not the word "maintenance") shall mean taking all actions reasonably necessary to keep an Improvement in first class condition and repair, which actions include but are not limited to regular inspections, painting, maintenance, refinishing, repairing, replacing and reconstructing the Improvement, and in the case of landscaping, irrigating and fertilizing the landscaping. The Owners and the Association shall have no responsibility to Maintain any Improvement Maintained by a third party or the public or a quasi-public entity or utility company even if the third party or the public or a quasi-public entity or utility company public fails to perform all actions required by this Section.

2.22 **MAINTENANCE AGREEMENT**: The term "Maintenance Agreement" shall mean the Maintenance Agreement dated May 22, 1995, between Declarant and City recorded on May 30, 1995, as Instrument No. 95-054911, as may be subsequently amended with the approval of the City.

2.23 **MAINTENANCE MANUAL**: The term "Maintenance Manual" shall mean the Association Maintenance Manual and the Owner Maintenance Manual, unless otherwise provided.

2.23.1 **Association Maintenance Manual**: The term "Association Maintenance Manual" shall mean the documents which establish procedures, practices, specifications, scopes and intervals for the Association to Maintain the Improvements for which the Association is responsible. The initial Association Maintenance Manual shall be provided to the Association by Declarant no later than the date that the Common Area is conveyed to the Association. There may be more than one (1) Association Maintenance Manual at any given time, each of which applies to different Improvements.

2.23.2 **Owner Maintenance Manual**: The term "Owner Maintenance Manual" shall mean the documents which establish procedures, practices, specifications, scopes and intervals for the Owner to Maintain the Improvements for which an Owner is responsible. Declarant shall provide each Owner that acquires a Lot from Declarant with the Owner Maintenance Manual applicable to that Lot no later than the time of the conveyance of that Lot by Declarant to the Owner.

2.24 **MAP**: The term "Map" shall mean the subdivision map of Northeast Ridge, recorded on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County, including any subsequently recorded amended final maps, parcel maps, certificates of correction, lot line adjustments and/or records of survey. The term "Map" shall also mean any recorded subdivision map described in a Declaration of Annexation.

2.25 **MEMBER**: The term "Member" shall mean an Owner.

2.26 **MORTGAGE**: The term "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Lot.

2.27 **MORTGAGEE**: The term "Mortgagee" shall mean a Mortgagee under a Mortgage as well as a beneficiary under a deed of trust.

2.28 **NOTICE AND HEARING**: The term "Notice and Hearing" shall mean the procedure which gives an Owner notice of an alleged violation of the Project Documents and the opportunity for a hearing before the Board.

2.29 **OWNER**: The term "Owner" shall mean the holder of record fee title to a Lot, including Declarant as to each Lot owned by Declarant. If more than one person owns a single Lot, the term "Owner" shall mean all owners of that Lot. The term "Owner" shall also mean a contract purchaser (vendee) under an installment land contract but shall exclude the contract vendor and any person having an interest in a Lot merely as security for performance of an obligation.

2.30 **PARTY FENCE**: The term "Party Fence" shall mean any portion of a fence which is constructed and placed so as to physically separate one (1) Lot from another Lot, whether the fence is situated approximately along a common Lot boundary or an easement boundary.

2.31 **PHASE**: The term "Phase" shall mean any Lots and/or Common Area which are simultaneously made subject to the provisions of this Declaration either by recording this Declaration or by recording a Declaration of Annexation.

2.32 **PROJECT**: The term "Project" shall mean the Subject Property and any property described in a Declaration of Annexation.

2.33 **PROJECT DOCUMENTS**: The term "Project Documents" shall mean the Articles, Bylaws, this Declaration and the Rules.

2.34 **PUBLIC REPORT**: The term "Public Report" shall mean a Final Subdivision Public Report issued by the Department of Real Estate of the State of California for one or more Phases of the Project.

2.35 **RESIDENCE**: The term "Residence" shall mean a dwelling situated on a Lot, including any garage also situated on a Lot.

2.36 **RIGHT TO REPAIR LAW**: The term "Right to Repair Law" shall mean Division 2 Part 2, Title 7 (commencing with Section 895) of the California Civil Code.

2.37 **RULES**: The term "Rules" shall mean the rules adopted by the Board, including architectural guidelines, restrictions and procedures.

2.38 **SLOPE AND DRAINAGE MAINTENANCE AGREEMENT**: The term "Slope and Drainage Maintenance Agreement" shall mean the Maintenance Agreement Regarding Private Slope and Drainage Facilities" dated May 22, 1995, between Declarant and City recorded on May 30, 1995, as Instrument No. 95-054910, as may be subsequently amended with the approval of the City.

2.39 **SLOPE AND DRAINAGE MAINTENANCE PLAN**: The term "Slope and Drainage Maintenance Plan" shall mean the Private Slope and Drainage Maintenance Plan attached to the Slope and Drainage Maintenance Agreement as Exhibit "A," as may be subsequently amended with the approval of the City.

2.40 **SUBJECT PROPERTY**: The term "Subject Property" shall mean Lots 30 through 37, inclusive, as shown on the Map and all Improvements thereon.

2.41 **VISIBLE**: The term "Visible" shall mean the item described can be seen by a six (6) foot tall person standing on the described area, or if no area is described, on any portion of the street which provides access to the Residence.

ARTICLE III OWNERSHIP AND EASEMENTS

3.1 **NON-SEVERABILITY**: The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. The ownership interests in the Common Area and Lots described in this Article are subject to the easements described, granted and reserved in this Declaration. Each of the easements described, granted or reserved herein shall be established upon the recordation of this Declaration and shall be enforceable as equitable servitudes and covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Project.

3.2 **OWNERSHIP OF LOTS**: Title to each Lot in the Project shall be conveyed in fee to an Owner subject to the easement in the Common Landscaped Area and any other easements described in this Article III or set forth in the initial grant deed which conveys the Lot from Declarant to an Owner.

3.3 **OWNERSHIP OF COMMON AREA**: Title to or a legal ownership interest in the Common Area in each Phase shall be conveyed to the Association prior to or concurrently with the conveyance of the first Lot in that particular Phase to an Owner. In addition to the Common Area, easements over real property adjacent to the Project, as shown on the Map or as otherwise established by Declarant, may be conveyed to the Association as an appurtenance to the Common Area. The Association shall be deemed to have accepted the Common Area conveyed to it when (i) a grant deed conveying title to the Common Area has been recorded in the Official Records of the County and (ii) assessments for the Phase in which the Common Area is located have commenced.

3.4 **OWNERSHIP OF PARTY FENCES**: Each Owner of a Lot upon which a Party Fence is situated shall own that portion of the fence from the surface which faces the Owner's Lot up to the center of the Party Fence.

3.5 **EASEMENTS**: The easements and rights specified in this Article are hereby created and shall exist whether or not they are also set forth in individual grant deeds to Lots. By reference to this Declaration, each grant deed to a Lot shall be deemed to be conveyed with the benefit of and subject to all applicable easements set forth in this Section.

3.5.1 **Additional Easements**: Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant to install and Maintain utilities and drainage facilities necessary for the development of the Project.

3.5.2 **Adjoining Property**: Declarant shall have, and hereby expressly reserves, a right and easement over and across the Common Area for the purposes of reasonable ingress to and egress from, over and across the Project, including private roads and pathways, to the Additional Property until all of the Additional Property is annexed to the Project.

3.5.3 **Annexation of Additional Property**: Upon the recordation of a Declaration of Annexation, the Lots and the Owners of Lots in the annexed Phase shall have all of the rights and easements specified in this Article and the Lots and the Owners of Lots in the Project prior to annexation shall have all of the easements specified in this Article as though the annexed Phase were initially part of the Project.

3.5.4 **Association**: The Association and its duly authorized agents and representatives shall have a non-exclusive right and easement as is necessary to perform the duties and obligations of the Association set forth in the Project Documents, including the right to enter upon Lots, subject to the limitations contained in this Declaration.

3.5.5 **Common Area:** Every Owner shall have a non-exclusive right and easement for the ingress, egress, use and enjoyment of the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to grant, convey and dedicate fee title to or easements over all or any portion of the Common Area; and

(b) Any easement which affects the Common Area or which is set forth in the deed which conveys the Common Area to the Association.

3.5.6 **Common Landscaped Area:** There is hereby reserved from the conveyance of each Lot and granted to the Association an easement to install and Maintain landscaping and irrigation improvements under, over, upon and across any Common Landscaped Area situated on that Lot.

3.5.7 **Encroachment:** Non-exclusive rights and easements are reserved and granted (i) for the benefit of each Lot, as dominant tenement, over, under and across each other Lot and the Common Area, as servient tenements, and (ii) for the benefit of the Common Area, as dominant tenement, over, under and across each Lot, as servient tenement. Such easements shall be for the purposes of encroachment, support, occupancy and use of such portions of Lots and/or Common Area as shall be encroached upon, used and occupied by the dominant tenement as a result of any original construction design, accretion, erosion, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof. If any portion of the Project is partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for maintenance of the encroaching Improvement shall exist for as long as the encroachment exists; provided, however, that no easement for encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement for encroachment may but need not be cured by repair or restoration of the Improvement.

3.5.8 **Governmental Entities:** All governmental and quasi-governmental entities, agencies and utilities and their agents shall have a non-exclusive easement over the Common Area (excluding Common Landscaped Area) for the purposes of performing their duties within the Project.

3.5.9 **Mailboxes:** Each Owner whose mailbox is located on a Lot other than that Owner's Lot shall have a non-exclusive easement to use and Maintain the mailbox over those portions of the Lot on which the mailbox is located. The Association shall have a non-exclusive easement to Maintain all mailboxes within the Project.

3.5.10 **Map:** The Common Area and Lots are subject to the easements and rights of way shown on the Map, provided, however, the Improvements intended to be constructed within the following easements, as shown on the Map, are not intended to be located within the areas shown on the Map, and such easements, as shown on the Map, will not be granted or established and shall be of no force or effect:

(a) the private storm drain easement shown on the southerly (rear) boundary lines of Lots 11, 12 and 13 (new private storm drain easements over these areas are shown on Exhibit "C");

(b) the private storm drain easement shown on the northerly (rear) boundary line of Lot 14;

(c) the private storm drain easement shown on the northerly (rear) boundary line of Lot 15 and the private sanitary sewer easement shown on the westerly boundary line of Lot 15;

(d) the private storm drain easement shown on the northerly (rear) boundary line of Lot 16 and the private sanitary sewer easement shown on the westerly boundary line of Lot 16;

(e) the private storm drain easement shown on the northerly (rear) boundary line of Lot 17 and the private sanitary sewer easement shown on the ***

(f) the private storm drain easement shown on the northerly (rear) boundary line of Lot 18 and the private sanitary sewer easement shown on the easterly boundary line of Lot 18;

(g) the private storm drain easement shown on the northerly (rear) boundary line of Lot 19 and the private sanitary sewer easement shown on the easterly boundary line of Lot 19;

***northwest corner of Lot 17;

- (h) the private storm drain easement shown on the northerly (rear) boundary line of Lot 20 and the private sanitary sewer easement shown on the easterly boundary line of Lot 20;
- (i) the private storm drain easement shown on the northerly (rear) boundary line of Lot 21 and the private sanitary sewer easement shown on the easterly boundary line of Lot 21;
- (j) the private storm drain easement shown on the northerly (rear) boundary line of Lot 22 and the private sanitary sewer easement shown on the easterly boundary line of Lot 22;
- (k) the private storm drain easement shown on the northerly (rear) boundary line of Lot 23 and the private sanitary sewer easement shown on the easterly boundary line of Lot 23;
- (l) the private sanitary sewer easement shown on the southerly boundary line of Lot 26 (a new private sanitary sewer easement over this area is shown on Exhibit "D");
- (m) the private storm drain easement and private sanitary sewer easement shown near the southerly boundary line of Lot 36 (a new private storm drain easement is shown on Exhibit "C" and a new private sanitary sewer easement is shown on Exhibit "D");
- (n) the private sanitary sewer easement shown of Lot 39; and
- (o) the private sanitary sewer easement shown on the easterly boundary line of Lot 40.

3.5.11 **Party Fences:** Each Owner of a Lot containing a Party Fence shall have a reciprocal non-exclusive easement over and across such portions of the contiguous Lot as are necessary to Maintain the Party Fence.

3.5.12 **Sanitary Sewer:** There are reserved and granted for the benefit of each Lot and the Common Area, under, across and through the sanitary sewer easements shown on the Map (excepting those not to be established as described in Section 3.5.10) and within the easements described in **Exhibit "D"** attached hereto. Additionally, this Declaration and each Lot and the Common Areas shall be subject to all easements granted by Declarant to install and Maintain sanitary sewer lines necessary for the development of the Project.

3.5.13 **Storm Drains:** There are reserved and granted for the benefit of each Lot and the Common Area, over, under, across and through the Project, except for portions of the Project on which a structure is situated, non-exclusive easements for surface and subsurface storm drains and the flow of storm waters in accordance with natural drainage patterns and the drainage patterns and Improvements installed or constructed by Declarant including, but not by way of limitation, within the storm drain easements shown on the Map (excepting those not to be established as described in Section 3.5.10) and within the easements described in **Exhibit "C"** attached hereto. Additionally, this Declaration and each Lot and the Common Areas shall be subject to all easements granted by Declarant to install and Maintain drainage Improvements necessary for the development of the Project.

3.5.14 **Support, Maintenance and Repair:** The Association and each Owner shall have a non-exclusive right and easement appurtenant to the Common Area and to all Lots through each Lot and the Common Area for the support, maintenance and repair of the Common Area and all Lots.

3.5.15 **Utilities:** Each Owner shall have a non-exclusive right and easement over, under, across and through the Project, except for portions of the Project on which a structure is situated, for utility lines, pipes, wires and conduits installed by Declarant. Additionally, this Declaration and each Lot and the Common Areas shall be subject to all easements granted by Declarant to install and Maintain utilities necessary for the development of the Project.

ARTICLE IV USE RESTRICTIONS

4.1 **AIR CONDITIONERS**: No window air conditioners or coolers are permitted anywhere in the Project. No air conditioner, condenser or compressor may be installed anywhere in the Project except entirely within an enclosed rear yard unless approved by the Architectural Committee. No air conditioner, condenser or compressor may be installed in violation of any applicable laws, codes or ordinances.

4.2 **ALTERATIONS**: Except as otherwise specifically provided in this Declaration, no Alteration may be made to any Improvement until plans have been submitted and approved pursuant to Article XI.

4.3 **ANIMALS**: An Owner may keep two (2) customarily uncaged household pets within the Owner's Lot. Each Owner may also keep a reasonable number of small caged animals, birds or fish. Unless the Rules increase the number or type of animals which may be kept, no other animals or pets are permitted in the Project. The Board shall have the right to prohibit the keeping of any pet which, after Notice and Hearing, is found to be a nuisance to other Owners. No animals may be kept for commercial purposes. No pet shall be allowed in the Common Area unless it is under the control of a responsible person by leash or other means. Each Owner or Invitee shall restore the Common Area to the condition it was in immediately preceding its use by any pet permitted on the Common Area by the Owner or Invitee.

4.4 **ANTENNAS AND SATELLITE DISHES**: No outside television antenna, microwave or satellite dish, aerial, or other such device (collectively "Video Antennas") with a diameter or diagonal measurement in excess of one (1) meter shall be erected, constructed or placed on any Common Area or Lot. Video antennas with a diameter or diagonal measurement of one (1) meter or less may be installed only if they conform to the Architectural Standards and, if then required by the Architectural Standards, any necessary approval is obtained in accordance with the provisions of Article XI. Reasonable restrictions which do not significantly increase the cost of the Video Antenna system or significantly decrease its efficiency or performance may be imposed.

4.5 **COMMON LANDSCAPED AREAS**: No Alteration may be made by an Owner within a Common Landscaped Area.

4.6 **CLOTHES LINES**: No outside clothes lines or racks are permitted anywhere in the Project.

4.7 **DRAINAGE**: No Owner shall make any Alteration to the drainage patterns and facilities in the Project until plans have been submitted and approved pursuant to Article XI and any public authority with jurisdiction over the Alteration.

This Declaration provides notice to each Owner to devote great care and attention to grading and to establishing and maintaining positive drainage away from the entire foundation line of the Owner's Residence. Positive drainage is achieved by shaping Lot grades, establishing drainage "swales" or installing underground area drains. The swales and drains provide a receptacle and conduit to drain water away from the foundation, and the rear, side and front of the Residence to offsite drainage disposal. Swales also prevent drainage water from moving across a Lot to another Lot or Common Area. This Declaration also provides notice to each Owner that if existing drainage swales established on the Lot and around the Residence are interrupted, blocked, filled, or otherwise altered, serious damage can result. Drainage must not be allowed to pond in a yard or run against or under a Residence, foundation, garage floor, driveway or other Improvement. Serious damage can result even during a short period of time.

If a Residence constructed by Declarant has a roof gutter system and downspouts which are directly connected to the Project's storm drainage system, the Residence shall remain connected to the Project storm drainage system at all times. The Owner of such a Residence may not alter the Residence in any manner which results in additional roof waters draining anywhere other than directly into the Project's storm drainage system.

4.8 **EXTERIOR LIGHTING:** No Owner shall remove, damage or disable any exterior light, regardless of where located, which is connected to the Association's electric service.

4.9 **HIGH VOLTAGE ELECTRIC TRANSMISSION LINES:** The City requires that Owners be advised as follows:

"The Project is located near Pacific Gas & Electric and the City of San Francisco high-voltage electric transmission lines. Residents should be aware that there is ongoing research on possible adverse health effects caused by the exposure to a magnetic field ("EMF") generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the basis for such a hypothesis is established. At this time no risk assessment has been made. Residents should be aware of the risk that certain pacemaker heart implant devices may not operate properly within transmission line right-of-ways. The susceptibility of the different types of pacemakers to electromagnetic interference should be discussed with a physician."

Several studies have been conducted related to exposure to EMFs. Those studies include, but are not limited to: National Academy of Sciences Report, *Possible Health Effects of Exposure to Residential Electric and Magnetic Fields*, National Academy Press, 1997 ISBN 0-309-05447-8, and the EMFRAPID Working Group, *Assessment of Health Effects from Exposure to Power-Line Frequency Electric and Magnetic Fields*, July 1998. If you wish to review these studies, you are encouraged to contact the National Institutes of Health, National Institute of Environmental Health Sciences¹, or the Electric and Magnetic Fields Program of the California Department of Health Services².

4.10 **INVITEES:** Each Owner shall be responsible for compliance with the provisions of the Project Documents by that Owner's Invitees. An Owner shall promptly pay any Reimbursement Assessment levied and/or any fine or penalty imposed against an Owner for violations committed by that Owner's Invitees.

4.11 **MINERAL EXPLORATION:** No Lot shall be used to explore for or to remove any oil, hydrocarbons or minerals of any kind without the approval of the Board and only if permitted by local ordinances.

4.12 **NORTHEAST RIDGE DISCLOSURE STATEMENT:** As required by the City, a disclosure statement ("Disclosure Statement") has been prepared by Declarant and approved by City. The City shall have the right, but not the duty, to request Declarant or the Association to make specific updates to the Disclosure Statement to reflect changes in material information. Changes to the Disclosure Statement may also be made by Declarant or the Association. Any change to the Disclosure Statement must be approved by the City. The Disclosure Statement will be prepared or revised based upon information known as of the date of the initial preparation or subsequent revision. No representation is made that the Disclosure Statement will be accurate or complete as of any other time when the same may be distributed to any Owner or Invitee. Except for changes requested by the City as provided herein, neither Declarant nor the Association has any liability or obligation to update the Disclosure Statement.

¹Division of Intramural Research Laboratory of Computational Biology and Risk Analysis, P.O. Box 12233, Research Triangle Park, NC 27709.

² 5900 Hollis Street, Suite E, Emeryville, CA 94608.

4.13 **PARKING**: Vehicles shall not be parked anywhere in the Project except wholly within garages, wholly within driveways (no portion of a vehicle may protrude into a sidewalk, walkway or public street) or upon public streets where parking is allowed by the City (collectively referred to as "Parking Areas"). All Parking Areas shall be used solely for the parking of motor vehicles used for personal transportation. No boat, trailer, camper, commercial vehicle, mobile home, recreational vehicle or any inoperable vehicle shall be parked or stored anywhere in the Project except entirely within a garage. Unless otherwise provided for in the Rules, garage doors shall remain closed except when in use. Garages shall be kept sufficiently clear so as to permit parking of the number of vehicles for which the garage was designed. With the exception of garages, no part of the Project shall be used for repair, construction or reconstruction of any vehicle. As long as applicable ordinances and laws are observed, including the requirements of Section 22658.2 of the California Vehicle Code, any vehicle which is in violation of this Declaration may be removed. No vehicle may be parked in a driveway for longer than seventy two (72) consecutive hours.

4.14 **PESTICIDE CONTROL**: No pesticides shall be applied to or used on, or permitted to be applied to or used on any portion of the Project in those circumstances where the use of such pesticides would require a special governmental agency permit, or which are applied by aircraft or helicopter, or which are applied on a large-scale basis (that is, in excess of 0.5 acres upon a single application) without the prior written approval of the Plan Operator for the San Bruno Mountain Area Habitat Conservation Plan and prior written notice to the United States Fish and Wildlife Service.

4.15 **RENTAL OF LOTS**: An Owner shall be entitled to rent or lease a Lot, if: (i) there is a written rental or lease agreement specifying that the tenant shall be subject to all provisions of the Project Documents and a failure to comply with any provision of the Project Documents shall constitute a default under the agreement; (ii) the period of the rental or lease is not less than thirty (30) days; (iii) the Owner gives notice of the tenancy to the Board and has otherwise complied with the terms of the Project Documents; and (iv) the Owner gives each tenant a copy of the Project Documents and the "Disclosure Statement" described in 4.12, above, prior to execution of the rental or lease agreement, or prior to the tenant's occupancy, whichever first occurs. Upon satisfaction of the foregoing conditions all rights to the use and enjoyment of the Common Area shall be exercised by the tenant rather than by the Owner of the leased or rented Lot; however, the Owner shall not be relieved of the obligations and duties imposed by this Declaration.

4.16 **RULES**: The Board may promulgate Rules concerning the use of the Project by Owners and their Invitees. Neither an Owner nor its Invitees shall violate any provision of this Declaration, the Bylaws or the Rules as the same may be amended from time to time.

4.17 **SIGNS**: All signs displayed in the Project shall be attractive and compatible with the design of the Project and shall comply with all applicable local ordinances. The only signs of any kind which may be displayed to the public view on or from any Lot or the Common Area shall be as follows:

4.17.1 **Declarant**: Signs may be displayed by Declarant on Common Area or unsold Lots, as Declarant deems appropriate;

4.17.2 **Legal Proceedings**: Signs required by legal proceedings may be displayed;

4.17.3 **Project Identification**: Appropriate signs may be displayed by the Association to identify the Project;

4.17.4 **Sale or Rent**: One (1) sign of reasonable dimensions (not exceeding six [6] square feet in size) may be placed on a Lot advertising the Lot for sale or rent; and

4.17.5 **Signs Approved By Board**: Other signs, posters and notices approved by the Board or specified in the Rules or in this Declaration may be posted in locations designated by the Board.

4.18 **SPORTS EQUIPMENT**: No basketball standards, fixed sports apparatus or similar equipment shall be attached to the exterior of any Residence or permanently placed on any Lot except within an enclosed rear yard. Portable or movable basketball equipment or other movable sports apparatus may not remain overnight on any Lot where Visible from adjacent Lots or streets without the prior approval of the Board.

4.19 **STORAGE**: Decks may not be used for storage purposes and no item may be stored on a deck so that it is Visible from adjacent Lots or streets unless expressly permitted by the Rules. All garbage, trash and accumulated waste material shall be placed in appropriate enclosed containers. Containers for recyclable materials need not be covered. Any containers provided by the Association may be stored in locations designated by the Board. Containers provided by Owners shall be kept in the Owner's garage (unless otherwise approved by the Board) except that they may be placed where Visible only on the night before and the day that pick-up is to occur.

4.20 **USE AND OCCUPANCY OF RESIDENCES**: Each Residence shall be used for residential purposes. Except for uses within Residences permitted by local ordinances, and except for the business of Declarant in completing the development and disposition of the Lots in the Project, no business of any kind shall be established, operated, permitted or constructed in any portion of the Project. No Residence shall be permanently occupied by any more than two (2) persons per bedroom. No Owner may permit or cause anything to be done or kept upon or in a Lot which might obstruct or interfere with the rights of other Owners or which would be noxious, harmful or unreasonably offensive to other Owners. Each Owner shall comply with all of the requirements of all federal, state and local governmental authorities, and all laws, ordinances, rules and regulations applicable to the Owner's Lot.

4.21 **USE OF COMMON AREA**: All use of Common Area is subject to the Rules. There shall be no use of the Common Area except by Owners and their Invitees. Notwithstanding the preceding sentence or any provision in this Declaration to the contrary, upon annexation of Lots 40 and 41, the walkway established in these lots (and which is intended to extend into other portions of the Additional Property) shall remain open to public use, subject to reasonable Rules adopted by the Association to protect the riparian corridor as provided in Section 5.6.3., below. All persons residing within the Project may enjoy the use of all facilities in the Common Area as long as they abide by the terms of the Project Documents. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior consent of the Board. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area without the prior consent of the Board. No Owner shall permit anything to be physically done or kept in the Common Area or any other part of the Project which might result in the cancellation of insurance on any part of the Common Area, which would interfere with rights of other Owners, or which would be a nuisance, noxious, harmful or unreasonably offensive to other Owners. No waste shall be committed in the Common Area. The provisions of this Declaration concerning using, Maintaining and managing Common Area are subject to any rights or limitations established by any easements or other encumbrances which encumber the Common Area.

4.22 **WINDOW COVERINGS**: All drapes, window shades or other window coverings installed in the windows of Residences which are Visible from the exterior of the Residence shall comply with the Rules, if applicable. Any drapes or other window covering installed in compliance with the Rules may remain for the useful life thereof. All window coverings shall be installed within ninety (90) days after the conveyance of the Lot, unless the Rules provide otherwise.

ARTICLE V IMPROVEMENTS

5.1 MAINTENANCE OF COMMON AREA AND IMPROVEMENTS:

5.1.1 **Generally:** Except as otherwise specifically provided in this Declaration, the Association shall be responsible to Maintain, manage and operate the Common Area and all Improvements situated in, upon or under the Common Area. The Association shall keep the Common Area and Improvements thereon in good condition and repair, including, but not by way of limitation, pathways, walls, sanitary sewer and water service laterals and storm drains (except for those Maintained by the Owners pursuant to Section 5.3.7, below), in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area in first class condition.

5.1.2 **Slope and Drainage Maintenance:** The Association shall at all times comply with the terms of the Slope and Drainage Maintenance Agreement which requires the observance and performance of the Slope and Drainage Maintenance Plan. This plan provides for specific maintenance measures and inspections to be performed by the Association on the Common Landscaped Area and other Common Area in the Project. **Failure to properly Maintain the devices associated with slope protection could result in severe property damage.**

5.1.3 **Fire Buffer Areas:** In areas where applicable, landscaping and irrigation systems shall at all times be Maintained in accordance with the requirements set forth in the Alternate Fire Buffer System approved by the City. The Regular Assessments set forth in the Budget and levied against the Owners shall provide for the collection of the amounts necessary for the Association to pay for such maintenance in accordance with the Final Habitat Fire Buffer Program. The Association shall levy Regular Assessments adequate to pay for the expenses of such maintenance. The Final Habitat Fire Buffer Program is on file with the City Planning Department and is incorporated within the Maintenance Agreement. Declarant shall provide a copy of the Final Habitat Fire Buffer Program to the Association which shall be kept on file by the Association. The City shall have the right to enter these areas to inspect and Maintain all fire detection and suppression equipment situated in these areas and to inspect the landscaping therein to ensure that it is Maintained in accordance with the approved Fire Buffer Program. If within thirty (30) days after receipt of a written demand, the Association fails to perform any maintenance requested by the City to conform to the approved Fire Buffer Program, the City shall have the right to enter these areas and perform the necessary maintenance at the expense of the Association. The Association shall annually (at its annual membership meeting) educate the Owners about the fire buffer and the importance of Maintaining landscaping in accordance with specific plant restrictions and other limitations. Notwithstanding the foregoing, the Association's maintenance responsibilities shall not commence with respect to any landscaping or irrigation system prior to the date that the lot on which it is situated is made subject to this Declaration.

5.1.4 **Association Maintenance Manual:** The Association shall Maintain the Project in compliance with all applicable requirements imposed by the Association Maintenance Manual. The Board shall regularly review the Association Maintenance Manual and update it as necessary to incorporate the Association's maintenance experience and other factors. The Association shall keep appropriate records to document that it has performed all inspections and Maintained all Improvements in compliance with the Association Maintenance Manual.

5.1.5 **Regular Inspections:** The Association shall regularly inspect all major components of the Common Area as required by the Association Maintenance Manual, but not less frequently than annually. One of the primary purposes of the inspection shall be to determine whether any maintenance should be performed to extend the life of Common Area Improvements, to prevent damage to Common

Area Improvements resulting from inadequate or neglected maintenance or to provide for the proper operation of Common Area Improvements.

5.1.6 City Maintenance/Improvement Districts: Notwithstanding paragraphs 5.1.1, above, or 5.1.7, the Association shall not be obligated to Maintain any landscaping, irrigation systems, drainage facilities, or Improvements which are owned by any district or governmental entity having responsibility for maintenance of the same. The Association shall have the right to Maintain the landscaping at the water pump station situated at the corner of Golden Aster Court and Silverspot Drive, should the City fail to do so.

5.1.7 Habitat Storm Drainage Easements: The Association shall Maintain all private Improvements constructed within the portions of Parcels A1 through A6, inclusive, identified on the Map as a Private Storm Drainage Easement, Private Sanitary Sewer Easement or Private Maintenance Easement, which are for the benefit of (a) one or more Lots, (b) the Common Area, or (c) other Improvements which the Association is required by this Declaration to Maintain.

5.2 ALTERATIONS TO COMMON AREA:

5.2.1 Approval: Alterations to any Improvements situated in, upon or under the Common Area may be made only by the Association. A proposal for an Alteration to an Improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws. The Board shall not approve any alteration without reviewing the soils reports for the Project which are available for inspection at the City.

5.2.2 Funding: Expenditures to Maintain an existing capital Improvement for which reserves have been collected may be made from the Reserve Account. Subject to the limitations set forth in Section 6.5, the Board may levy a Special Assessment to fund any Alteration of an Improvement for which no reserve has been collected.

5.3 MAINTENANCE OF LOTS AND RESIDENCES: Except as otherwise specifically provided in this Declaration, each Owner shall Maintain the Owner's Lot, including the Residence and other Improvements located thereon, in compliance with the provisions of the Owner Maintenance Manual, in a manner consistent with the standards established by the Project Documents and other well Maintained residential areas in the vicinity of the Project and in compliance with the Architectural Standards.

5.3.1 Common Landscaped Areas: The Association shall Maintain all landscaping within Common Landscaped Areas.

5.3.2 Driveways: Each Owner shall Maintain all driveway and walkways which are situated on the Owner's Lot; provided, however, driveways may not be widened and driveway designs may not be altered

5.3.3 Illuminated House Numbers: Each Owner shall at all times Maintain in good and operating condition (including a working light bulb) the illuminated house number installed on their Residence.

5.3.4 Lighting: Any lighting which is situated on a Lot shall be Maintained by the Owner of the Lot.

5.3.5 Mailboxes: The Association shall Maintain all mailboxes and the support structures for all mailboxes.

5.3.6 Sanitary Sewer: Each Owner shall Maintain the lateral that connects the Owner's Residence to the sanitary sewer system and any sanitary sewer pumping system which serves that Owner's Lot. If the lateral is situated on the Common Area, the Owner shall not enter upon the Common Area without first providing the Association with written notice of the Owner's intention to perform necessary

maintenance, repair and replacement. After completion of the work, the Owner shall have the duty to restore the Common Area to its original condition.

5.3.7 **Storm Drainage**: Each Owner shall regularly clear all storm drainage inlets and preserve the capacity and flow of all catch basins, surface and subsurface storm drainage Improvements within the Owner's Lot whether they serve solely that Owner's Lot or other real property in the Project. Each Owner shall at all times comply with the applicable portions of the Slope and Drainage Maintenance Plan with respect to the storm drainage Improvements situated in the Owner's Lot and all slopes within the enclosed portions of their Lot. This plan provides for specific maintenance measures and inspections to be performed on the Owner's Lot by the Owner and by the Association for the protection of slope areas.

5.3.8 **Water Lines**: Each Owner shall Maintain all domestic water lines within the Owner's Lot which connect the Owner's meter to the Owner's Residence.

5.3.9 **Fire Sprinkler Systems**: Each Owner shall at all times Maintain any fire sprinkler system installed by Declarant on or in the Owner's Residence, including any eave and deck fire sprinkler system, in accordance with any applicable requirements set forth in the Final Habitat Fire Buffer Program approved by the City.

5.4 **ALTERATIONS TO LOTS AND RESIDENCES**: Alterations may be made to the interior of an Owner's Residence, if the Alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding alterations and remodeling. Any proposals for Alterations on Lots or to the exteriors of Residences shall be made in accordance with the provisions of Article XI.

5.5 **FENCES**:

5.5.1 **Party Fences**: The Owners of a Party Fence shall Maintain it and shall share the costs of Maintaining it equally except that all costs of Maintaining the Party Fence which are a result of the negligent or willful action of an Owner shall be borne by that Owner. An Owner who Maintains a Party Fence is entitled to and has a right of contribution from the other Owners of the Party Fence which shall be appurtenant to the Lot and shall pass to the successor(s) in interest of the Owner entitled to contribution.

5.5.2 **Fences and Walls Separating Common Area and Lots**: Each fence or wall (including retaining walls) which separates a Lot from Common Area shall be Maintained by the Owner of the Lot. Maintenance shall include refinishing the exterior surface of a fence if that surface was previously finished with paint or stain.

5.5.3 **Other Fences on Lots**: Except as provided in 5.5.1 and 5.5.2, above, each Owner shall Maintain all fences, wall and retaining walls situated on their Lot.

5.5.4 **Fence Design**: All fences installed in the Project shall be of the same size, style, height, type and color as originally installed by Declarant.

5.6 **LANDSCAPING**: All landscaping in the Project shall be Maintained and cared for in a manner consistent with the standards of design and quality as originally established by Declarant and in a condition comparable to that of other well Maintained residential areas in the vicinity of the Project. All landscaping shall be Maintained in a neat and orderly condition. Any weeds shall be removed and any diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced with healthy landscaping. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed and thinned as appropriate. Regular landscape maintenance shall be performed which shall include regular fertilization and other landscape management practices necessary to promote a healthy weed free environment for optimum plant growth. No invasive plants, as identified in the Architectural Standards, shall be Maintained or permitted anywhere in the Project. Landscaping must be controlled to Maintain

proper clearance from chimneys in accordance with applicable industry standards and fire ordinances. Other specific restrictions on landscaping may be established in the Rules.

5.6.1 **Association:** The Association shall be responsible for all landscaping located on Common Landscaped Area and other portions of the Common Area. The Association's maintenance responsibilities on Common Landscaped Area shall extend beyond the boundary of the Common Landscaped Area and to the back of curb. The Association shall at all times comply with the terms of the Maintenance Agreement which requires, among other things, performance of the landscape maintenance responsibilities set forth in the "Northeast Ridge Landscape Maintenance Manual" incorporated therein by reference. The Maintenance Manual is on file with the City Planning Department and Declarant shall provide a copy to the Association which shall be kept on file by the Association. The Association shall retain a landscape maintenance company to perform all landscape maintenance in the Common Area. Any landscape maintenance company retained by the Association shall be duly licensed as a California Landscape Contractor, shall procure liability and worker's compensation insurance in amounts determined by the Board to be adequate.

5.6.2 **Owners:** Each Owner shall be responsible for all landscaping located within the Owner's Lot except for any portions of the Lot which are Common Landscaped Area. Each Owner shall install permanent landscaping within the enclosed portions of the Owner's Lot within six (6) months after the conveyance of the Lot to the Owner.

5.6.3 **Riparian Corridor:** Lots 40 and 41 are intended to be established as a special corridor for landscaping and habitat (it is intended that this special landscape corridor will extend into other portions of the Additional Property). The Association shall preserve and Maintain the landscaping on these lots in accordance with the landscape plans approved by the City.

5.6.4 **City:** If the Association or an Owner ("defaulting party") fails to Maintain any landscaping situated in the Project, the City shall have the right, but not the duty, to Maintain the landscaping at the sole cost and expense of the defaulting party. If the City desires to perform any such maintenance authorized by the preceding sentence, the City shall first notify the defaulting party in writing and provide the defaulting party with at least thirty (30) days from the date of the notice to perform such maintenance. If the defaulting party fails to commence and complete such maintenance within said thirty (30) day period, the City shall have the right to enter the Common Area or Lot on which the maintenance is required during reasonable business hours and perform such maintenance. The defaulting party shall reimburse the City for all costs incurred to perform such maintenance immediately upon receipt of an invoice setting forth the amount due. Should legal action become necessary in order to collect the amount due, the defaulting party shall be responsible for all costs and expenses the City may incur in connection therewith, including reasonable attorneys' fees.

5.6.5 **Restricted Planting Areas:** No landscaping may be installed within any portion of the Project which is subject to a private sanitary sewer easement or private storm drain easement, as shown on the Map (except for those easements which are not granted or established as provided in Section 3.5.10, above), or as described in Exhibits "C" or "D" attached hereto, except for ground cover or other landscape material approved the Board for planting in such areas. The purpose of this restriction is to avoid plant materials which develop root systems capable of causing damage to sanitary sewer or private storm drain pipes.

5.7 **ASSOCIATION RIGHT TO ENTER AND MAINTAIN:** If an Owner fails to Maintain an Improvement which that Owner is obligated to Maintain pursuant to this Declaration, and if the Association determines, after Notice and Hearing given pursuant to the provisions of the Bylaws, that work is required to Maintain the Improvement to preserve the attractiveness, quality, nature and/or value of the Project, the Association may Maintain the Improvement at the expense of the Owner which shall be charged to the Owner of the Lot as a Reimbursement Assessment. In order to effectuate the provisions of this Declaration, the Association may enter any Lot whenever entry is necessary to Maintain an Improvement which the Association is authorized to undertake pursuant to this Section. Entry within a Lot shall be made

with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than forty-eight (48) hours, except in emergency situations.

5.8 DAMAGE AND DESTRUCTION — ASSOCIATION: The term “restore” shall mean repairing, rebuilding or reconstructing a damaged Improvement to substantially the same condition and appearance in which it existed prior to fire or other casualty damage. If fire or other casualty damage extends to any Improvement which is insured under an insurance policy held by the Association, the Association shall proceed with the filing and adjustment of all claims arising under the existing policies. The insurance proceeds shall be paid to and held by the Association.

5.8.1 Bids: Whenever restoration is to be performed pursuant to this Section, the Board shall obtain such bids from responsible licensed contractors to restore the damaged Improvement as the Board deems reasonable; and the Board, on behalf of the Association, shall contract with the contractor whose bid the Board deems to be the most reasonable.

5.8.2 Sufficient Proceeds: The costs of restoration of the damaged Improvement shall be funded pursuant to the provisions and in the priority established by this Section 5.8.2. A lower priority procedure shall be utilized only if the aggregate amount of funds then available pursuant to the procedures of higher priority are insufficient to restore the damaged Improvement. The following funds and procedures shall be utilized:

1. The first priority shall be any insurance proceeds paid to the Association under existing insurance policies.

2. The second priority shall be all Reserve Account funds designated for the repair or replacement of the capital Improvement(s) which has been damaged.

3. The third priority shall be funds raised by a Special Assessment against all Owners levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in Section 6.5.

4. The fourth priority shall be any funds raised by a Special Assessment against Owners levied by the Board pursuant to a vote of the Members pursuant to Section 5.8.3.

5.8.3 Additional Special Assessment: If the total funds available to restore the damaged Improvement pursuant to the first three priorities described in Section 5.8.2 are insufficient to restore the damaged Improvement, then a special meeting of the Members shall be called for the purpose of voting whether to impose an additional Special Assessment and deciding upon the amount thereof. The Board shall then contract for the restoration of the damaged Improvement as described above, making use of whatever funds are then available to it.

5.9 DAMAGE OR DESTRUCTION — OWNERS: If all or any portion of a Lot or Residence is damaged by fire or other casualty and the loss is not covered by an insurance policy held by the Association, the Owner of the Improvement shall either (i) restore the damaged Improvements or (ii) remove all damaged Improvements, including foundations, and leave the Lot in a clean and safe condition. Any restoration under (i) preceding must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless the Owner complies with the provisions of Article XI. Unless extended by the Board, the Owner must commence such work within one hundred twenty (120) days after the damage occurs and must complete the work within one (1) year thereafter.

5.10 CONDEMNATION OF COMMON AREA: If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be deposited into the Current Operation Account until distributed. The Association shall distribute such funds equally to all Owners and shall represent the interests of all Owners.

ARTICLE VI
FUNDS AND ASSESSMENTS

6.1 **COVENANTS TO PAY:** Declarant and each Owner covenant and agree to pay to the Association the assessments and any Additional Charges levied pursuant to this Article VI.

6.1.1 **Liability for Payment:** The obligation to pay assessments shall run with the land so that each successive record Owner of a Lot shall in turn be liable to pay all such assessments. No Owner may waive or otherwise escape personal liability for assessments or release the Owner's Lot from the liens and charges hereof by non-use of the Common Area, abandonment of the Lot or any other attempt to renounce rights in the Common Area or the facilities or services within the Project. Each assessment shall constitute a separate assessment and shall also be a separate, distinct and personal obligation of the Owner of the Lot at the time when the assessment was levied and shall bind the Owner's heirs, devisees, personal representatives and assigns. Any assessment not paid when due is delinquent. The personal obligation of an Owner for delinquent assessments shall not pass to a successive Owner unless the personal obligation is expressly assumed by the successive Owner. No such assumption of personal liability by a successor Owner (including a contract purchaser under an installment land contract) shall relieve any Owner from personal liability for delinquent assessments. After an Owner transfers fee title of record to a Lot, the Owner shall not be liable for any charge thereafter levied against that Lot.

6.1.2 **Funds Held in Trust:** The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely to operate and Maintain the Project as provided in this Declaration.

6.1.3 **Offsets:** No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

6.2 **REGULAR ASSESSMENTS:**

6.2.1 **Payment of Regular Assessments:** Regular Assessments for each fiscal year shall be established when the Board approves the Budget for that fiscal year. Regular Assessments shall be levied on a fiscal year basis; however, each Owner shall be entitled to pay the Regular Assessment in twelve (12) equal monthly installments, one installment payable on the first day of each calendar month during the fiscal year, as long as the Owner is not delinquent in the payment of any monthly installment. If an Owner fails to pay any monthly installment by the sixtieth (60th) day after the date the installment was due, the Board may terminate that Owner's right to pay the Regular Assessment in monthly installments and declare the then unpaid balance of the Regular Assessment for that year immediately due and payable. Regular Assessments shall commence for all Lots in each Phase on the first day of the first month following the month in which the first Lot in that Phase is conveyed to an Owner and may commence prior to that date at the option of Declarant.

6.2.2 **Allocation of Regular Assessments:** The total amount of the Association's anticipated revenue attributable to Regular Assessments as reflected in the Budget for that fiscal year shall be allocated equally among the Lots. After annexation of each Phase, the allocation and assessment of the charges in the Budget shall be reallocated equally among all Lots in the Project, including those in the annexed Additional Property. For the first fiscal year, the Budget shall be substantially based upon the operating budget accepted by the Department of Real Estate of the State of California. After a new Phase has been annexed, the Board shall approve a Budget, which is substantially based upon the operating Budget accepted by the Department of Real Estate of the State of California in connection with the Public Report for that Phase, for the remainder of the current fiscal year for use upon the commencement of Regular Assessments against Lots in the new Phase.

6.2.3 Exemptions from Regular Assessment: Notwithstanding the provisions of Section 6.2, the Board shall exempt each Owner of a Lot which satisfies paragraph (a), below, and may exempt all Owners if paragraph (b), below, is satisfied, from the payment of a portion of the Regular Assessment levied against that Lot as described in those paragraphs.

(a) Lots: An Owner of a Lot is exempt from payment of that portion of the Regular Assessment which is allocated for defraying operating expenses and reserves directly attributable to landscaping situated on Lots for which the Association is responsible until any such landscaping which is to be installed on the Owner's Lot is installed and no one other than the Association has any obligation to Maintain the landscaping.

(b) Other Common Area: Each Owner may be exempted from payment of that portion of the Regular Assessment which is allocated for defraying operating expenses and reserves directly attributable to the existence and use of a common facility (including landscaping) that is not complete at the time Regular Assessments commence until the first to occur of the following events: (i) a notice of completion of the common facility is recorded; (ii) the common facility has been placed into use; or (iii) in the case of landscaping, the landscaping is installed and no one other than the Association has any obligation to Maintain the landscaping.

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

6.3 SPECIAL ASSESSMENTS: Subject to the limitations set forth in Section 6.5, Special Assessments may be levied in addition to Regular Assessments for (i) constructing capital Improvements, (ii) correcting an inadequacy in the Current Operation Account, (iii) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of Improvements in the Common Area, or (iv) paying for such other matters as the Board may deem appropriate for the Project. Special Assessments shall be levied in the same manner as Regular Assessments.

6.4 REIMBURSEMENT ASSESSMENTS: The Association shall levy a Reimbursement Assessment against an Owner to (a) reimburse the Association for the costs of repairing damage caused by that Owner or that Owner's Invitee or (b) if a failure to comply with the Project Documents has resulted in (i) an expenditure of monies, including attorneys' fees, by the Association to bring the Owner or the Owner's Lot or Improvements into compliance or (ii) the imposition of a fine or penalty. A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association until Notice and Hearing has been given in accordance with the Bylaws. Reimbursement Assessments may not be enforced by lien.

6.5 LIMITATIONS ON ASSESSMENTS: All Regular and Special Assessments levied by the Board must comply with the provisions of Section 1366 of the California Civil Code, including the written ballot limitations and special voting and quorum requirements.

6.6 ACCOUNTS:

6.6.1 Types of Accounts: Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a responsible financial institution, which accounts shall be clearly designated as (i) the Current Operation Account and (ii) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operation Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of major components which the Association is obligated to Maintain into the Reserve Account.

6.6.2 Reserve Account: Withdrawal of funds from the Reserve Account shall require the signatures of either two (2) Directors or one (1) Director and one (1) officer of the Association who is not

a Director. The Association may expend funds from the Reserve Account only for the purposes set forth in Section 1365.5 of the California Civil Code.

6.6.3 Current Operation Account: All other costs properly payable by the Association shall be paid from the Current Operation Account.

6.7 BUDGET, FINANCIAL STATEMENTS, REPORTS AND STUDIES:

6.7.1 Preparation and Distribution of Budget: The Board shall annually prepare, adopt and distribute a Budget in accordance with the requirements of Section 1365 of the California Civil Code. A summary of the Budget may be distributed in lieu of the entire Budget if the requirements set forth in Section 1365 of the California Civil Code are satisfied.

6.7.2 Annual Report: The Board shall annually prepare and distribute an annual report in accordance with the requirements of Section 1365 of the California Civil Code.

6.7.3 Assessments and Foreclosure: During the sixty (60) day period preceding the beginning of each Association fiscal year, the Association shall prepare and distribute the following notices to Owners by first-class mail:

(a) The notice required by Section 1365.1 of the California Civil Code;

(b) The statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Regular and Special Assessments, including the recording and foreclosing of liens against Lots required by Section 1365 of the California Civil Code; and

(c) Notice of any increase in Regular Assessments or the levy of any Special Assessments in accordance with the provisions of California Civil Code Section 1366.

6.7.4 Quarterly Reconciliation: If then required by Section 1365 of the California Civil Code, at least quarterly, the Board shall: (i) cause a current reconciliation of the Association's Operating Account(s) to be made and review the same; (ii) cause a current reconciliation of the Association's Reserve Account to be made and review the same; (iii) review the current year's actual reserve revenues and expenses compared to the current year's Budget; (iv) review the most current account statements prepared by the financial institution where the Association has its Operation and Reserve Accounts; and (v) review an income and expense statement for the Association's Operation and Reserve Accounts.

6.7.5 Reserve Account Study: The Board shall (i) cause a study of the Reserve Account to be conducted, (ii) review the study annually and (iii) consider and implement necessary adjustments to the Board's analysis of the Reserve Account requirements as a result of that review in compliance with the provisions of Section 1365.5 of the California Civil Code.

6.7.6 Statement of Outstanding Charges: Within ten (10) days of a written request by an Owner, the Association shall provide to the Owner a written statement which sets forth all information required by California Civil Code Section 1368. A charge for the statement may be made by the Association, not to exceed the reasonable costs of preparation and reproduction of the statement.

6.7.7 Schedule of Monetary Penalties: If the Board adopts a policy imposing any monetary penalty on or charging any fee to any Owner for a violation of the Project Documents by that Owner or that Owner's Invitee, the Board shall adopt a schedule of the monetary penalties that may be assessed for those violations. The penalties must be consistent with the Project Documents. A copy of the schedule shall be personally delivered or mailed by first-class mail, postage prepaid, to each Owner by the Board. Each time the schedule is modified, the Board shall again deliver a copy to each Owner, either personally or by first-class mail, postage prepaid.

6.8 **ENFORCEMENT OF ASSESSMENTS:** Prior to recording a lien against an Owner's Lot for failure to pay assessments, the Association shall prepare and serve the notice required by and in compliance with the provisions of California Civil Code Section 1367.1.

6.8.1 **Procedures:** In addition to all other remedies provided by law, the Association, or its authorized representative, may enforce the obligations of the Owners to pay each assessment provided for in this Declaration in any manner provided by law or by either or both of the following procedures:

(a) **By Suit:** The Association may commence and prosecute a suit at law against any Owner personally obligated to pay a delinquent assessment. The suit shall be prosecuted in the name of the Association. Any judgment rendered in any action shall include the amount of the delinquency, and such additional costs, fees, charges and expenditures ("Additional Charges") and any other amounts as the court may award. A proceeding to recover a judgment for unpaid assessments may be prosecuted without the necessity of foreclosing or waiving the lien established herein.

(b) **By Lien:** The Association or a trustee nominated by the Association may commence and prosecute proceedings to establish and/or foreclose assessment liens in accordance with the provisions of California Civil Code Section 1367.1.

6.8.2 **Additional Charges:** In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay such Additional Charges as the Association may incur or levy in collecting the monies due and delinquent from that Owner. All Additional Charges shall be included in any judgment in any suit or action brought to enforce collection of delinquent assessments or may be levied against a Lot as a Reimbursement Assessment. Additional Charges shall include, but not be limited to, the following:

(a) **Attorneys' Fees:** Reasonable attorneys' fees and costs incurred in the event an attorney(s) is employed to collect any assessment or sum due, whether by suit or otherwise;

(b) **Late Charges:** A late charge in an amount to be fixed by the Board in accordance with the then current laws of the State of California to compensate the Association for additional collection costs incurred in the event any assessment or other sum is not paid when due or within any "grace" period established by law;

(c) **Costs of Suit:** Costs of suit and court costs incurred as are allowed by the court;

(d) **Interest:** Interest on the delinquent assessment and Additional Charges at a rate fixed by the Board in accordance with the then current laws of the State of California; and

(e) **Other:** Any such other additional costs that the Association may incur in the process of collecting delinquent assessments or sums.

6.8.3 **Satisfaction of Lien:** All amounts paid by an Owner toward a delinquent assessment shall be credited first to reduce the principal amount of the debt. Within twenty-one (21) days of payment or other satisfaction of a delinquent assessment for which a Notice of Delinquent Assessment was recorded pursuant to California Civil Code Section 1367.1(d), the Association shall record a certificate stating the satisfaction and release of the assessment lien.

6.8.4 **Lien Eliminated By Foreclosure:** If the Association has recorded a Notice of Delinquent Assessment and the lien is eliminated as a result of a foreclosure of a Mortgage or a transfer pursuant to the remedies provided in the Mortgage, the new Owner of the Lot shall pay to the Association a pro-rata share of the Regular Assessment for each month remaining in the Association's fiscal year after the date of the foreclosure or transfer pursuant to the remedies provided in the Mortgage.

6.8.5 **Waiver of Homestead Protections:** Each Owner, does hereby waive, to the extent permitted by law, the protections of any declared homestead or homestead exemption or redemption laws

under the laws of California as applied to any action to enforce or collect assessments levied by the Association.

6.9 SUBORDINATION OF LIEN: Notwithstanding any provision to the contrary, the liens for assessments created pursuant to this Declaration shall be subject and subordinate to and shall not affect the rights of the holder of a First Mortgage made in good faith and for value. Upon the foreclosure of any First Mortgage on a Lot, any lien for assessments which became due prior to such foreclosure shall be extinguished; provided, however, that after such foreclosure there shall be a lien on the interest of the purchaser at the foreclosure sale to secure all assessments, whether Regular or Special, charged to such Lot after the date of such foreclosure sale, which lien shall have the same effect and shall be enforced in the same manner as provided herein. For purposes of this Section, a Mortgage may be given in good faith or for value even though the Mortgagee has constructive or actual knowledge of the assessment lien provisions of this Declaration.

6.10 SAN BRUNO MOUNTAIN AREA HABITAT CONSERVATION PLAN: The Project is located within the development areas encompassed by the San Bruno Mountain Area Habitat Conservation Plan ("HCP"). The HCP requires that annual assessments be levied against Units located within the area encompassed by the HCP ("HCP Assessments") in an amount and otherwise in accordance with the provisions of the Declaration of Covenants and Restrictions on Real Property on San Bruno Mountain recorded on May 30, 1995, as Document No. 95-054909, of the Official Records of the County Recorder ("HCP Declaration"). Prior to close of escrow for the conveyance of any Unit in the Project, the Association, Declarant and the HCP Trust shall enter into the Collection Agreement attached hereto as Exhibit "B" ("Collection Agreement"). The Regular Assessments set forth in the Budget and levied against the Owners shall provide for the collection of the amounts necessary for the Association to pay the HCP Assessments. The Association shall levy Regular Assessments adequate to pay the HCP Assessments levied annually against the Units in accordance with the Collection Agreement. All funds collected by the Association to pay the HCP Assessment shall be deposited into a separate interest bearing account with a bank or savings and loan association insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, to be called the "HCP Northeast Ridge II — San Bruno Mountain Area Habitat Conservation Trust Account" ("Trust Account"). So much of the funds in the Trust Account as shall be required to meet the lawful demands of the San Bruno Mountain Habitat Conservation Trust ("HCP Trust") shall be disbursed by the Board from the Trust Account to the trustees of the HCP Trust annually in advance on or before November 10th of each year, or such other date or at such more frequent intervals as the Trustees may designate. Any funds remaining in the Trust Account shall be retained therein as and for a reserve for delinquent accounts. Any interest earned on the funds in the Trust Account shall be disbursed to the HCP Trust or for the benefit of the HCP in accordance with the written directions of the HCP Plan Operator.

In addition, the Association shall pay to the County of San Mateo, as Plan Operator of the HCP Trust the costs of thinning any exotic woody plants and performing other maintenance in the low fuel maintenance zone as established by the Final Habitat Fire Buffer Program described in Section 5.1.3 ("Thinning and Maintenance Expense"). The Regular Assessments set forth in the Budget and levied against the Owners shall provide for the collection of the amounts necessary for the Association to pay the Thinning and Maintenance Expense. The Association shall levy Regular Assessments adequate to pay the Thinning and Maintenance Expense. All funds collected by the Association to pay the Thinning and Maintenance Expenses shall be disbursed by the Association to the Plan Operator on or before November 10th of each year, or such other date or at such more frequent intervals as the Plan Operator may designate.

The provisions of this Section 6.10 may be enforced by the HCP Trust and the Plan Operator as an intended third party beneficiary of this Section. The provisions of this Section 6.10 may be amended by the Board, with the approval of the City, to reflect any duly adopted subsequent modifications to the HCP and related documents.

ARTICLE VII
MEMBERSHIP IN AND DUTIES OF THE ASSOCIATION

7.1 THE ORGANIZATION:

7.1.1 **Generally:** The Association is a nonprofit mutual benefit corporation. Its affairs shall be governed by and it shall have the powers set forth in the Project Documents.

7.1.2 **Professional Management:** The Association shall retain a professional management consultant to assist the Board in governing the Project and administering the Association's maintenance responsibilities including, but not by way of limitation, landscape maintenance.

7.2 **MEMBERSHIP:** Each Owner (including Declarant for so long as Declarant is an Owner), by virtue of being an Owner, shall be a Member of the Association. No other person shall be accepted as a Member.

7.2.1 **Appurtenant to Ownership:** Association membership is appurtenant to and may not be separated from the ownership of a Lot. Membership shall terminate upon termination of Lot ownership. Ownership of a Lot shall be the sole qualification for Association membership. Membership shall not be transferred, pledged or alienated in any way except upon transfer of title to the Owner's Lot (and then only to the transferee of title to such Lot). Any attempt to make a prohibited transfer is void. Membership shall not be related to the use or non-use of the Common Area and may not be renounced. The rights, duties, privileges and obligations of all Members shall be as provided in the Project Documents.

7.2.2 **Annexation:** Upon the commencement of Regular Assessments in a subsequent Phase, the Owners of the Lots described in the Declaration of Annexation for that Phase shall become Members.

7.3 **VOTING:** Any action required by law or by the Project Documents to be approved by the Owners, the Members or each class of Members shall be approved, if at all, in accordance with the procedures set forth in the Bylaws.

7.4 **RULES:** The Board may propose, adopt, amend and repeal Rules appropriate for the management of the Project, which are consistent with the Project Documents. The Rules may also establish architectural controls and may govern the use of the Common Area by Owners or their Invitees. After adoption, a copy of the Rules shall be furnished to each Owner. Owners shall be responsible for distributing the Rules to their tenants.

7.5 **TRANSFERS OF COMMON AREA:** Subject to any applicable provision in the Bylaws, the Board shall have the power and right in the name of the Association and all of the Owners as their attorneys-in-fact to grant, convey, dedicate, mortgage, or otherwise transfer to any Owner or other person or entity, fee title, easements, exclusive use easements, security rights or other rights or licenses in, on, over or under the Common Area that, in the sole discretion of the Board, are in the best interests of the Association and its Members; provided however, any dedication, conveyance or mortgage made while there are two (2) classes of membership requires the prior approval of the Federal Housing Administration, if it is a First Mortgagee and the Department of Veterans Affairs, if it is a First Mortgagee. Notwithstanding anything herein to the contrary, in no event shall the Board take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of that Owner's Lot without the prior written consent of that Owner.

7.6 **INSURANCE:** The Board shall make every reasonable effort to obtain and keep in full force and effect the insurance policies as provided in this Section. If the Board is unable to purchase a policy

or if the Board believes that the cost of the policy is unreasonable, the Board shall call a special meeting of Members to determine what action to take. The Board shall comply with any resolution concerning insurance coverage adopted at such a meeting.

7.6.1 **General Provisions and Limitations:** All insurance policies shall be subject to and, where applicable, shall contain the following provisions and limitations:

(a) **Underwriter:** All policies (except earthquake insurance) shall be written with a company legally qualified to do business in the State of California and (i) holding a "B" or better general policyholder's rating and a "6" or better financial performance index rating as established by Best's Insurance Reports, (ii) reinsured by a company described in (i), above, or (iii) if such a company is not available, the best rating possible or its equivalent.

(b) **Named Insured:** Unless otherwise provided in this Section, the named insured shall be the Association or its authorized representative, as a trustee for the Owners. However, all policies shall be for the benefit of Owners and their Mortgagees, as their interests may appear.

(c) **Authority to Negotiate:** Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations related thereto.

(d) **Contribution:** In no event shall the Association's insurance coverage be brought into contribution with insurance purchased by Owners or their Mortgagees.

(e) **General Provisions:** To the extent possible, the Board shall make every reasonable effort to secure insurance policies providing for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Board, the manager, the Owners and their respective servants, agents and guests;

(ii) That the policy will be primary, even if an Owner has other insurance which covers the same loss;

(iii) That no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each First Mortgagee listed as a scheduled holder;

(iv) An agreed amount endorsement, if the policy contains a coinsurance clause;

(v) A guaranteed replacement cost or replacement cost endorsement; and

(vi) An inflation guard endorsement.

(f) **Term:** The period of each policy shall not exceed three (3) years. Any policy for a term greater than one (1) year must permit short rate cancellation by the insureds.

(g) **Deductible:** The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals replacement cost.

7.6.2 **Types of Coverage:** Unless the Association determines otherwise pursuant to Section 7.6, the Board shall obtain at least the following insurance policies in the amounts specified:

(a) **Property Insurance:** A Special Form or "All-Risk" policy of property insurance for all insurable Common Area Improvements, including fixtures and building service equipment, against loss or damage by fire or other casualty, in an amount equal to the full replacement cost (without respect to depreciation) of the Common Area, and exclusive of land, foundations, excavation and other items normally excluded from coverage. A replacement cost endorsement shall be part of the policy.

(b) **Liability Insurance:** A combined single limit policy of liability insurance in an amount not less than Three Million Dollars (\$3,000,000.00) covering the Common Area and all damage or injury caused by the negligence of the Association, the Board or any of its agents or the Owners against any liability to the public or to any Owner incident to the use of or resulting from any accident or intentional or unintentional act of an Owner or a third party occurring in or about any Common Area. If available, each policy shall contain a cross liability endorsement in which the rights of the named insured shall not be prejudiced with respect to any action by one named insured against another named insured.

(c) **Worker's Compensation:** Worker's compensation insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

(d) **Fidelity Bond:** A fidelity bond naming the Board, the Owners, the Association, the HCP Trustees and the Plan Operator (as defined in Section 6.10) and such other persons as the Board may designate as obligees, in an amount equal to the sum of (a) at least one-fourth ($\frac{1}{4}$) of the total sum budgeted for the Current Operation Account and Reserve Account for the current fiscal year, and (b) the total sum which the Association is required to collect annually for payment to the HCP Trust pursuant to the Collection Agreement referred to in Section 6.10, plus the amount the Association is required to collect annually for payment of Thinning and Maintenance Expenses to the HCP Plan Operator as set forth in Section 6.10. The fidelity bond shall contain a waiver of any defense based on the exclusion of persons serving without compensation.

(e) **Directors and Officers:** Errors and omissions insurance covering individual liability of Directors and officers for their negligent acts or omissions while acting in their capacities as Directors and officers in an amount equal to at least the minimum amount specified in Section 1365.7(a)(4) of the California Civil Code.

(f) **Other Insurance:** Other types of insurance as the Board determines to be necessary to fully protect the interests of the Owners.

(g) **Insurance by Owner:** Each Owner, at that Owner's sole cost and expense, shall obtain insurance coverage which the Owner considers necessary or desirable to protect that Owner and that Owner's Lot, Residence and personal property; provided, however, that no Owner shall be entitled to procure insurance coverage in a manner so as to decrease the amount which the Association, on behalf of all Owners and their Mortgagees, may realize under any insurance policy which the Association may have in effect at any time.

7.6.3 **Annual Review:** The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners of similar property in the area in which the Project is situated.

7.6.4 **Annual Notice to Members:** The Association shall provide a summary of the Association's property damage, general liability, earthquake and flood insurance policies as required by Section 1365 of the California Civil Code.

ARTICLE VIII

DEVELOPMENT RIGHTS

8.1 **LIMITATIONS OF RESTRICTIONS:** Declarant is undertaking the work of developing Lots and other Improvements within the Project. The completion of the development and the marketing, sale, lease, rental and/or other disposition of the Lots is essential to the establishment and welfare of the Subject Property and the Additional Property as a residential community. In order that the work may be completed and the Project established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be interpreted to deny Declarant the rights set forth in this Article.

8.2 **RIGHTS OF ACCESS AND COMPLETION OF CONSTRUCTION:** Until five (5) years after all of the Additional Property has been annexed to the Project, Declarant, its contractors and subcontractors shall have the right to: (i) obtain reasonable access over and across the Common Area of the Project and/or do within any Lot owned or controlled by it whatever is reasonably necessary or advisable in connection with the completion of the Project; and (ii) erect, construct and use on the Common Area of the Project and/or within any Lot owned or controlled by it such structures as may be reasonably necessary for the conduct of its business to complete the work, establish the Project as a residential community and dispose of the Project in parcels by sale, lease, rental or otherwise. Each Owner acknowledges that: (a) the construction of the Project may occur over an extended period of time; (b) the Owner's quiet use and enjoyment of the Owner's Lot may be disturbed as a result of the noise, dust, vibrations and other nuisances associated with construction activities; and (c) the nuisances will continue until the completion of the construction of the entire Project.

8.3 **SIZE AND APPEARANCE OF PROJECT:** Declarant shall not be prevented from increasing or decreasing the number of Lots that may be annexed to the Project or from changing the exterior appearance of Residences or Common Area structures, the landscaping or any other matter directly or indirectly connected with the Project in any manner deemed desirable by Declarant, if Declarant obtains all governmental consents required by law.

8.4 **MARKETING RIGHTS:** Declarant shall have the right to: (i) construct, establish and use model homes, signs, banners, flags, inflatable balloons, blimps, sales offices, leasing offices, rental offices, storage areas, parking lots and related facilities in any Lots owned or controlled by Declarant or Common Area within the Project as are necessary or reasonable, in the opinion of Declarant, for the sale, lease, rental or other disposition of the Lots; (ii) make reasonable use of the Common Area and facilities for the sale, lease, rental or other disposition of Lots; (iii) use any Lots owned or controlled by Declarant in accordance with any promotional programs established from time to time by Declarant; and (iv) conduct its business of disposing of Lots by sale, lease, rental or otherwise; provided, however, Declarant shall pay the Association reasonable rent for the use of any Common Area facilities, if Declarant's use of those Common Area facilities materially interferes with the full use and enjoyment of the Common Area facilities by Owners.

8.5 **TITLE RIGHTS:** This Declaration shall not be construed to constitute a limitation on Declarant's title rights to the Additional Property prior to its annexation, nor shall it impose any obligation on Declarant or any other person or entity to improve, develop or annex any portion of the Additional Property. This Declaration shall not be construed to limit the right of Declarant at any time prior to such an annexation to establish additional licenses, easements, reservations, restrictions and rights-of-way for itself, utility companies or others as reasonably necessary for the proper development and disposition of property owned by Declarant.

8.6 **AMENDMENT:** The provisions of this Article may not be amended without the written consent of Declarant until five (5) years after all of the Additional Property has been annexed to the Project.

ARTICLE IX
RIGHTS OF MORTGAGEES

9.1 **CONFLICT:** Notwithstanding any contrary provision in the Project Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees specified herein.

9.2 **INSPECTION OF BOOKS AND RECORDS:** Upon request, any Owner or First Mortgagee shall be entitled to inspect and copy the books, records and financial statements of the Association, the Project Documents and any amendments thereto during normal business hours.

9.3 **FINANCIAL STATEMENTS FOR MORTGAGEES:** If an audited financial statement for the immediately preceding fiscal year is available, the Association shall provide a copy to any Mortgagee who makes a written request for it. If an audited financial statement is not available and the Project then contains fifty (50) or fewer Lots, any Mortgagee who desires to have an audited financial statement of the Association may cause an audited financial statement to be prepared at the Mortgagee's expense. If an audited financial statement is not available and the Project then contains more than fifty (50) Lots, the Association, at its expense, shall prepare an audited financial statement for the immediately preceding fiscal year. The audited financial statement shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. The Association shall provide a copy of any audited financial statement to any Mortgagee who makes a written request for it.

9.4 **MORTGAGE PROTECTION:** A breach of any of the conditions or the enforcement of any lien provisions contained in this Declaration shall not defeat or render invalid the lien of any First Mortgage made in good faith and for value as to any Lot in the Project; but all of the covenants, conditions and restrictions contained in this Declaration shall be binding upon and effective against any Owner of a Lot if the Lot is acquired by foreclosure, trustee's sale or otherwise.

ARTICLE X
AMENDMENT AND ENFORCEMENT

10.1 **AMENDMENTS:** Prior to the conveyance of the first Lot to an Owner other than a Declarant, any Project Document may be amended by Declarant alone, except for those provisions referred to in Section 10.1.1. After the conveyance of the first Lot, the Project Documents may be amended by the approval of each class of Members; provided however, that (i) no provision of this Declaration which provides for a vote of more than fifty-one percent (51%) may be amended by a vote less than the percentage specified in the Section to be amended and (ii) any amendment made while there are two (2) classes of membership requires the prior approval of the Federal Housing Administration, if it is a First Mortgagee and/or the Department of Veterans Affairs, if it is a First Mortgagee.

10.1.1 **Approval By City:** No Amendment which deals with any of the following matters shall be effective without the prior written consent of the City:

(a) Any amendment, the design or purpose of which is to eliminate an obligation of the Association to manage or Maintain the Common Area or to lower the standards for Maintaining the Common Area.

(b) Amendments with regard to the fundamental purpose for which the Project was created (such as a change from residential use to a different use).

(c) Any amendment to Sections 4.2, 4.7, 4.9, 4.12, 4.13 (excluding the last sentence), 4.14, 4.15, 4.21, 5.1.2, 5.1.3, 5.1.7, 5.3 (including all subparagraphs), 5.6 (including all subparagraphs), 6.10, 7.1.2, 7.6.2(d), 10.1.1, 10.2.5 and 11.1.6, (which were required as a condition of tentative map approval).

10.1.2 **Restatement:** After an amendment is duly approved in accordance with the preceding requirements, the Board may prepare a restatement of the Declaration and record the restatement of the Declaration which restates the entire text of the original document, with these exceptions: (a) changes incorporating all amendments approved by the Owners; (b) changes made to rearrange or delete the text for consistency with the approved amendments; and (c) changes made to delete material no longer legally effective or legally required. Upon recordation of the restatement, the restatement shall supersede the Declaration and all prior amendments in their entirety, without, however, affecting the priority of the Declaration in the chain of title to all properties that are subject to the Declaration, as established by the Declaration's initial date of recordation.

10.1.3 **Recordation:** Any amendment to this Declaration shall be effective upon the recordation in the Official Records of the County of either (a) a restatement approved by the Board as provided above which includes a statement executed by the President and Secretary of the Association which certifies that the required percentage of Members has approved all amendments made by the restatement and that the form of the restatement was duly approved by a resolution of the Board, or (b) an amending instrument which sets forth the terms of the amendment and includes a statement executed by the President and Secretary of the Association which certifies that the required percentage of Members has approved all amendments made by the amending instrument.

10.2 **ENFORCEMENT:**

10.2.1 **Rights to Enforce:** Subject to the provisions of Sections 10.3, Declarant, the Association and/or any Owner shall have the power to enforce the provisions of the Project Documents in any manner provided by law or in equity and in any manner provided in this Declaration. In addition to instituting appropriate legal action, the Association may temporarily suspend an Owner's voting rights and/or levy a fine against an Owner in a standard amount to be determined by the Board from time to time. No determination of whether a violation has occurred shall be made until Notice and Hearing has been

provided to the Owner pursuant to the Bylaws. If legal action is instituted by the Association, any judgment rendered shall include all appropriate Additional Charges. Notwithstanding anything to the contrary contained in this Declaration, the Association shall not have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Lot and Residence, including access thereto, due to the Owner's failure to comply with the provisions of the Project Documents, unless the loss or forfeiture is the result of an order of a court, or an order pursuant to a final and binding, arbitration decision. The provisions of this Declaration are equitable servitudes, enforceable by any Owner or the Association against the Association or any other Owner or resident in the Project. Except as otherwise provided, Declarant, the Association or any Owner(s) has the right to enforce, in any manner permitted by law or in equity, any and all of the provisions of the Project Documents, including any decision made by the Association, upon the Owners, the Association or upon any property in the Project.

10.2.2 Violation of Law: The Association may treat any Owner's violation of any state, municipal or local law, ordinance or regulation, which creates a nuisance to the other Owners in the Project or to the Association, in the same manner as a violation of the Project Documents by making such violation subject to any or all of the enforcement procedures set forth in this Declaration, as long as the Association complies with the Notice and Hearing requirements.

10.2.3 Remedies Cumulative: Each remedy provided in this Declaration is cumulative and not exclusive.

10.2.4 Nonwaiver: The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of this Declaration.

10.2.5 Enforcement by City: The Project is expressly made subject to the California Vehicle Code, and all City vehicle and parking codes to the extent applicable to public streets within the City. The City shall have the power to enforce those codes in the same manner as they are enforced on public streets within the City. The City is hereby made a third party beneficiary of this Declaration as to Section 10.1.1 and the Sections listed in Section 10.1.1(c) and is granted the right but not the duty to enforce the provisions of those Sections.

10.3 DISPUTE WITH DECLARANT PARTIES: Any disputes (each, a "Dispute") between (a) the Association or any Owners, and (b) the Declarant or any director, officer, partner, shareholder, member, employee, representatives, contractor, subcontractor, design professional or agent of the Declarant (collectively, "Declarant Parties") arising under this Declaration or relating to the Project, but excluding any Defect Claims to be resolved with the prelitigation procedures in Chapter 4 of the Right to Repair Law, actions taken by the Association against Declarant to collect delinquent Assessments, and any action involving any Common Property completion bonds, where the amount in controversy is greater than Five Thousand Dollars (\$5,000), shall be subject to the following provisions:

10.3.1 Notice: Any Person with a Dispute shall give written notice of the Dispute by personal or mail service as authorized by Code of Civil Procedure Sections 415.10, 415.20, 415.21, 415.30 or 415.40 to the party to whom the Dispute is directed ("Respondent") describing the nature of the Dispute and any proposed remedy (the "Dispute Notice").

10.3.2 Right to Inspect and Correct: Commencing on the date the Dispute Notice is delivered to the Respondent and continuing until the Dispute is resolved, the Respondent and its representatives have the right to (i) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (ii) enter the Project to inspect any areas that are subject to the Dispute, and (iii) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Respondent. If Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Project to take and complete the corrective action. Respondent is not obligated to take any corrective action. Respondent, with the consent of Declarant, has the right to select the corrective action Respondent believes is appropriate. The right to inspect and correct granted in this

Section is in addition to the rights granted in California Civil Code Section 1375 ("Calderon Act"). The procedures established in the Calderon Act may be implemented, before, during or after the procedure in this Section is implemented.

10.3.3 **Mediation:** If the Dispute is not resolved within ninety (90) days after the Respondent receives the Dispute Notice, any party may submit the Dispute to mediation by delivering a request for mediation ("Mediation Notice") in the same manner as allowed for delivery of the Dispute Notice. The Dispute shall be mediated pursuant to (i) the American Arbitration Association ("AAA") mediation procedures in existence when the Dispute Notice is delivered, as modified by this Section, or (ii) the mediation procedures of any successor to the AAA in existence when the Dispute Notice is delivered, as modified by this Section, or (iii) mediation procedures approved by the parties of any entity offering mediation services that is acceptable to the parties to the Dispute ("Parties"). Except as provided in Section 10.3.5, no Person shall commence litigation regarding a Dispute without complying with this Section 10.3.3.

(a) **Selection of Mediator:** The mediator shall be selected within sixty (60) days from delivery of the Mediation Notice. The mediator shall be selected by mutual agreement of the Parties. If the parties cannot agree on a mediator, the mediator shall be selected by the entity providing the mediation service. No Person shall serve as a mediator in any Dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all Parties. Before accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(b) **Position Letter; Pre-Mediation Conference:** No later than sixty (60) days after selection of the mediator, each party to the Dispute shall submit a letter ("Position Statement") containing (i) a description of the party's position concerning the issues that need to be resolved, (ii) a detailed description of the defects allegedly at issue, and (iii) a suggested plan of repair, remediation or correction. The mediator may schedule a pre-mediation conference. All Parties shall attend unless otherwise mutually agreed. The mediation shall be commenced within twenty (20) days after submittal of all Position Statements and shall be concluded within fifteen (15) days after the mediation began unless either (a) the mediator extends the mediation period, or (b) the Parties mutually agree to extend the mediation period. The mediation shall be held in the County or another place mutually acceptable to the parties.

(c) **Conduct of Mediation:** The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate to achieve the goal of settling the Dispute. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement. The mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the Parties agree to and do assume the expenses of obtaining such advice. The mediator shall not have the authority to impose a settlement on the Parties.

(d) **Application of Evidence Code:** The provisions of California Evidence Code Sections 1115 through 1128 shall be applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these Sections, including the Sections which preclude use of material in future proceedings and the Sections which provide for confidentiality of material.

(e) **Parties Permitted at Mediation:** Persons other than the Parties, their liability insurers, Declarant, attorneys for the Parties, the liability insurers and Declarant and the mediator may attend mediation sessions only with the permission of the Parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the Parties.

(f) **Record:** There shall be no stenographic, video or audio record of the mediation process.

(g) **Expenses:** Each Party shall bear its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation including the fees charged by the

mediator and the cost of any proof or expert advice requested by the mediator, shall be borne equally by each of Declarant and the Declarant Parties to whom the Dispute is directed, unless the Parties agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

10.3.4 **Judicial Reference:** If a Dispute remains unresolved after the mediation required by Section 10.3.3 is completed, or if a Defect Claim is not resolved under the "prelitigation procedures" in Chapter 4 of the Right to Repair Law (a "Defect Dispute") any of the Parties may file a lawsuit, provided that the Association must obtain the vote or written consent of Owners other than Declarant who represent not less than sixty-seven percent (67%) of the Association's voting power (excluding the voting power of Declarant) prior to filing a lawsuit in a Dispute or Defect Dispute with Declarant or a Declarant Party. All lawsuits regarding Disputes or Defect Disputes must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645.1, as modified by this Section 10.3.4. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. No party shall be required to participate in the judicial reference proceeding if all parties against whom such party would have necessary or permissive cross-claims or counterclaims will not or cannot be joined in the judicial reference proceeding. The general referee shall have the authority to try all issues of fact and law and to report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to further refer any issues of fact or law to any other Person unless (a) all parties to the judicial reference proceeding consent, or (b) the referee determines that a conflict of interest or similar situation has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter. In the second alternative, an alternative judicial referee shall be selected in accordance with Section (b), below, solely for resolving or rendering a decision concerning the issue or matter involved in the conflict.

(a) **Place:** The proceedings shall be heard in the County.

(b) **Referee:** The referee shall be a retired judge who served on the Superior Court of the State of California in the County with substantial experience in the type of matter in dispute and without any relationship to the Parties or interest in the Project, unless the Parties agree otherwise. The parties to the judicial reference proceeding shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. Any dispute regarding selecting the referee shall be resolved by the court in which the complaint is filed.

(c) **Commencement and Timing of Proceeding:** The referee shall commence the proceeding at the earliest convenient date and shall conduct the proceeding without undue delay.

(d) **Pre-hearing Conferences:** The referee may require pre-hearing conferences.

(e) **Discovery:** The parties to the judicial reference proceeding shall be entitled only to limited discovery, consisting of the exchange of the following: (i) witness lists, (ii) expert witness designations, (iii) expert witness reports, (iv) exhibits, (v) reports of testing or inspections, and (vi) briefs. Any other discovery authorized in the California Code of Civil Procedure shall be permitted by the referee upon a showing of good cause or based on the consent of all parties to the judicial reference proceeding.

(f) **Motions:** The referee shall have the power to hear and dispose of motions, including motions relating to discovery, provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. The referee shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(g) **Record:** A stenographic record of the hearing shall be made which shall remain confidential except as may be necessary for post-hearing motions and any appeals.

(h) **Statement of Decision:** The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632. The decision of the referee shall stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, judgment may be entered thereon in the same manner as if the Dispute had been tried by the court.

(i) **Remedies:** The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding..

(j) **Post-hearing Motions:** The referee may rule on all post-hearing motions in the same manner as a trial judge.

(k) **Appeals:** The decision of the referee shall be subject to appeal in the same manner as if the Dispute had been tried by the court.

(l) **Expenses:** Each party shall bear its own attorneys' fees and cost incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by each of Declarant and the Declarant Parties to whom the Dispute or Defect Dispute is directed. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between Declarant and the Declarant Party.

10.3.5 **Statutes of Limitation:** Nothing in this Section 10.3 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties, the Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 10.3.

10.3.6 **Agreement to Dispute Resolution: Waivers of Jury Trial:** DECLARANT, THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 10.3 TO RESOLVE ALL DISPUTES AND DEFECT DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES AND DEFECT DISPUTES IN ANY OTHER MANNER. DECLARANT, THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AND DEFECT DISPUTES AS PROVIDED IN THIS SECTION 10.3, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES AND DEFECT DISPUTES TRIED BEFORE A JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 10.3 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

10.3.7 **Civil Code Section 1354:** Section 10.3 governs only the resolution of Disputes and Defect Disputes with Declarant Parties and shall not affect the subject matter of such Disputes or Defect Disputes. Unless the subject matter of a Dispute or Defect Disputes expressly involves enforcement of the Restrictions, such Dispute or Defect Disputes shall not be governed by the provisions of California Civil Code Section 1354, or any successor statute. Enforcement of Section 10.3 shall not entitle the prevailing party in any Dispute or Defect Disputes with a Declarant Party to recover attorney's fees or costs.

ARTICLE XI

ARCHITECTURAL AND LANDSCAPING CONTROL

11.1 APPLICABILITY:

11.1.1 **Generally:** Except as otherwise provided in this Declaration, proposals for Alterations (which includes all landscaping) are subject to the provisions of this Article and may not be made until approved in accordance with the provisions of this Article. No Owner may submit any application to the City for a building permit to construct an addition to a Residence unless the application has first been submitted and approved pursuant to this Article.

11.1.2 **Exceptions:** The provisions of this Declaration requiring architectural approvals do not apply to (1) repainting or refinishing any Improvement in accordance with the color palette (including hue, intensity, tone and shade) approved by the City at the time of recordation of this Declaration and on file with the Association, or (2) repairing any Improvement with the same materials with which it was originally constructed, or (3) installing or displaying flags or Brisbane Stars. The provisions of this Declaration requiring architectural approvals includes planting or removing landscaping. The Architectural Standards may establish additional exceptions from time to time.

11.1.3 **Declarant Exemption:** The provisions of this Declaration requiring architectural approvals do not apply to the original construction of any Improvements on a Lot by Declarant, its agents, contractors or employees. The provisions of this paragraph may not be amended without the consent of Declarant until all of the Additional Property has been annexed to the Project and all of the Lots in the Project owned by Declarant have been conveyed.

11.1.4 **Additional Requirement for Grading and Related Work:** No Owner shall grade or fill or otherwise alter the slope or contour of any Lot, construct or alter any drainage pattern or facility, construct or alter any foundation or permanent structure (including, but not by way of limitation, swimming pools, ponds and spas), or perform any earth work, including installation of irrigation, without first (i) retaining a soils engineer or civil engineer, as appropriate, duly licensed by the State of California, and receiving from such engineer written recommendations, plans and specifications regarding such proposed grade, fill, alteration, construction or earth work (collectively referred to as "Work"), (ii) obtaining the written approval of the Board (or the committee appointed by the Board to perform architectural review), and (iii) obtaining such permits and approvals from the City or any other governmental agency as may be required. No Owner shall perform any Work except in conformance with the recommendations, plans and specifications of such engineer. Each Owner, by acceptance of a deed to a Lot, shall be deemed to covenant and agree to comply with and conform to such recommendations, plans and specifications and shall indemnify the Association and Declarant against any losses, claims, liabilities, costs and/or attorneys' fees resulting from or related to any failure of that Owner or its engineers, contractors or agents to comply with this Section.

11.1.5 **Limitation of Liability:** Neither the Board nor any committee appointed by the Board to perform architectural review shall have any duty to (i) investigate the adequacy of any engineer's recommendations concerning the type of construction or adequacy or advisability of any proposed grading or other work to be performed on any Lot, or (ii) take any steps to ensure that the Owner complies with any such engineering recommendations.

11.1.6 **Governmental Approvals:** Proposals for Alterations may also be subject to review and approval by the City. No Owner may modify the exterior of their Residence, construct an addition or repaint the exterior of their Residence (except in the same color, hue, intensity, tone, and shade) without the approval of the City in accordance with Planned Development Permit PD-1-89 and Design Permit DP-89. Satisfying the provisions of this Declaration does not automatically satisfy any requirement for governmental approval, permitting or inspection. All approvals, permits and inspections which are

required under local, state or federal law for any proposed Alteration are the responsibility of the Owner and must be obtained by the Owner in addition to the approvals required by this Declaration.

11.2 **RESERVATION TO DECLARANT:** Notwithstanding the power of the Board to appoint committees, Declarant hereby reserves to itself the right to appoint an Architectural Committee in accordance with the provisions of this Article. When there is no longer any Member appointed by Declarant on the Committee, the Board may decide to dissolve the Committee and undertake the Committee's responsibilities.

11.3 **MEMBERS:** The Architectural Committee ("Committee") shall consist of a chairman and two (2) additional members. Persons appointed to the Committee by the Board shall be Members of the Association. Persons appointed to the Committee by the Declarant need not be Members of the Association. All members shall serve until the expiration of the term for which they were appointed, if specified by the Board, or until they resign or are replaced. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the Public Report for the first Phase of the Project. After the date which is one (1) year from the date of issuance of the Public Report for the first Phase of the Project and until the conveyance of ninety percent (90%) of the total of all Lots in the Project and all Lots proposed for the Additional Property or the fifth (5th) anniversary of the issuance of the Public Report for the first Phase of the Project, whichever first occurs, the Board shall have the power to appoint one member of the Committee and Declarant may appoint the remaining members of the Committee. Thereafter, the Board shall appoint all of the members of the Committee or dissolve the Committee as provided in Section 11.2, above. Upon the conveyance of one hundred percent (100%) of all Lots, the term of any remaining members appointed by Declarant shall terminate and replacement members shall be appointed by the Board. The Board may appoint a replacement for any member of the Committee originally appointed by the Board who resigns or otherwise fails to act. Declarant may appoint a replacement for any member of the Committee originally appointed by Declarant who resigns or otherwise fails to act, unless such member resigns in order to enable the Board to appoint a member as required by this Section. If Declarant fails to appoint a replacement it is authorized to appoint within fifteen (15) days after receiving notice of the vacancy, the Board shall appoint the replacement.

11.4 **DUTIES AND POWERS:**

11.4.1 **Duties:** The Committee shall review and approve, conditionally approve, or deny all plans, submittals, applications and requests made or tendered to it by Owners or their agents, pursuant to the provisions of this Declaration. In connection therewith, the Committee may investigate and consider the architecture, design, layout, landscaping, energy conservation measures, water conservation measures, fence detail, and other features of the proposed Improvements.

11.4.2 **Architectural Standards:** The Committee, from time to time and in its sole discretion, may adopt architectural rules, regulations and guidelines ("Architectural Standards"). The Architectural Standards may impose specific requirements on individual Lots if those requirements are reasonable in light of specific Lot topography, visibility or other factors. The Architectural Standards shall be effective when they are adopted by the Committee. The Architectural Standards shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, landscaping, fences, and similar features which may be used in the Project; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration. The Architectural Standards may include a schedule of fees for processing submittals (which shall not exceed the amount necessary to defray all costs incurred by the Committee in processing the submittals) and establish the time and manner in which such fees shall be paid. The Architectural Standards shall constitute Rules.

11.4.3 **Powers:** The Committee may adopt rules and regulations for the transaction of business, scheduling of meetings, conduct of meetings and related matters. The Committee may also adopt

criteria, consistent with the purpose and intent of this Declaration to be used in making its determination to approve, conditionally approve or deny any matter submitted to it for decision.

11.4.4 Consultants: With the consent of the Board, the Committee may hire and the Association shall pay consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Committee in performing its duties.

11.5 APPLICATION FOR APPROVAL OF IMPROVEMENTS: Any Owner, except Declarant and its designated agents, who wants to perform any Alteration for which approval is required shall notify the Committee in writing of the nature of the proposed work and shall furnish such information as may be required by the Architectural Standards or reasonably requested by the Committee.

11.6 BASIS FOR APPROVAL OF IMPROVEMENTS: The Committee may approve the proposal only if the Committee finds that (i) the plans and specifications conform to this Declaration and to the Architectural Standards in effect at the time the proposal was submitted, (ii) the proposed Alteration will be consistent with the standards of the Project and the provisions of this Declaration as to harmony of exterior design, visibility with respect to existing structures and environment, and location with respect to topography and finished grade elevation, and (iii) the exterior color (including hue, intensity, tone and shade) of the visible Improvements either conforms to the color palette approved by the City at the time of recordation of this Declaration (and on file with the Association) or is consistent with the historical design of the Residences.

11.7 FORM OF APPROVALS, CONDITIONAL APPROVALS AND DENIALS: All approvals, conditional approvals and denials must be in writing. Any denial of a proposal must state the reasons for the decision to be valid. Any proposal which has not been rejected in writing within sixty (60) days from the date of submission will be deemed approved.

11.8 PROCEEDING WITH WORK: Upon approval of the Committee, the Owner shall diligently proceed with the commencement and completion of all work so approved. Work must be commenced within one (1) year from the date of the approval. If the Owner fails to comply with the provisions of this Section, the approval given shall be deemed revoked unless the Committee extends the time for commencement. Any request for an extension shall be in writing. No extension shall be granted unless the Committee finds that there has been no change in the circumstances under which the original approval was granted.

11.9 FAILURE TO COMPLETE WORK: Completion of the work approved must occur within eighteen (18) months following the approval of the work unless the Committee determines that completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the Owner's control. If the Owner fails to complete the work within the eighteen (18) month period, the Committee may notify the Owner in writing of the non-compliance and shall proceed in accordance with the provisions of Section 11.11, below.

11.10 DETERMINATION OF COMPLIANCE: Any work performed, whether or not the Owner obtained proper approvals, shall be inspected and a determination of compliance shall be made as follows:

11.10.1 Notice of Completion: Within forty five (45) days after completion of any work performed by an Owner for which approval was required, the Owner shall give written notice of completion to the Committee.

11.10.2 Inspection: Within sixty (60) days after the Committee's receipt of the Owner's notice of completion, or, if the Owner fails to give a written notice of completion to the Committee within the completion period specified in Section 11.9, above, a designee of the Committee may inspect the work performed and determine whether it was performed and completed in substantial compliance with the approval granted. If the Committee finds that the work was not performed or completed in substantial compliance with the approval granted or if the Committee finds that the approval required was not

obtained, the Committee shall notify the Owner in writing of the non-compliance. The notice shall specify the particulars of non-compliance and shall require the Owner to remedy the non-compliance.

11.11 FAILURE TO REMEDY THE NON-COMPLIANCE: If the Committee has determined that an Owner has not constructed an Improvement consistent with the specifications of the approval granted or within the time permitted for completion and if the Owner fails to remedy such non-compliance in accordance with the provisions of the notice of non-compliance, then after the expiration of thirty (30) days from the date of such notification, the Committee shall notify the Board, and the Board shall provide Notice and Hearing to consider the Owner's continuing non-compliance. At the Hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board shall determine the estimated costs of correcting it. The Board shall then require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board's determination. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board may either remove the non-complying Improvement or remedy the non-compliance. The costs of such action shall be assessed against the Owner as a Reimbursement Assessment.

11.12 WAIVER: Approval of any plans, drawings or specifications for any work proposed, or for any other matter requiring approval shall not be deemed to constitute a waiver of any right to deny approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

11.13 APPEAL OF DECISION OF COMMITTEE: This Section does not apply if the Board has dissolved the Committee or during the period of time that a majority of the Members of the Architectural Committee have been appointed by Declarant. If the Owner who applied or who the Committee determined should have applied for approval of an Alteration on a Lot or Residence disputes the jurisdiction or powers of the Committee or any requirement, rule, regulation or decision of the Committee applicable to the denial or conditional approval of the Owner's application (collectively referred to as "decision"), that Owner may appeal such decision to the Board. The Board shall notify the Owner of the time, date and place of a hearing to review the decision of the Committee. The notice shall be given at least fifteen (15) days prior to the date set for the hearing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first class, postage prepaid, addressed to the Owner at the address given by the Owner to the Board for the purpose of service of notices or to the address of the Owner's Lot if no other address has been provided. After the hearing has taken place, the Board shall notify the Owner of its decision. The decision shall become effective not less than five (5) days after the date of the hearing. The determination of the Board shall be final.

11.14 LIABILITY: If members of the Architectural Committee have acted in good faith, neither the Committee nor any member shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Project; or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct.

11.15 EVIDENCE OF APPROVAL OR DISAPPROVAL: After a determination of compliance is made pursuant to Section 11.10, the Board may issue a written Notice of Architectural Determination. The Notice of Architectural Determination shall be executed by any two (2) Directors and shall certify that as of the date of the Notice either (i) the work completed complies with the provisions of this Declaration and the approval(s) issued by the Architectural Committee ("Notice of Approval") or (ii) the work completed does not comply with the provisions of this Declaration or the approval(s) issued by the Architectural Committee ("Notice of Disapproval"). A Notice of Disapproval shall also identify the particulars of the non-compliance. Any successor in interest of the Owner shall be entitled to rely on a Notice of Architectural Determination with respect to the matters set forth. Each Owner shall disclose to the Owner's subsequent purchaser any Notice of Disapproval unless the Owner has a subsequently issued

Notice of Approval which covers the same Alteration. The Notice of Architectural Determination shall be conclusive as between the Association, the Architectural Committee, Declarant and all Owners and such persons deriving any interest through any of them. Any Owner may make a written request that the Board prepare and execute a Notice of Architectural Determination, and the Board shall do so within sixty (60) days of its receipt of the request.

ARTICLE XII ANNEXATION

12.1 **PROPERTY WHICH MAY BE ANNEXED:** Property may be added to the Project by annexation only in accordance with the provisions of this Article.

12.1.1 **Additional Property:** All or any portion of the Additional Property may be added to the Project as one or more subsequent Phases without the approval of the Association or any Owner.

12.1.2 **Other Property:** Property other than the Additional Property may be annexed to the Project only with the approval of two-thirds (2/3) of each class of Members; provided however, any annexation made while there are two (2) classes of membership requires the prior approval of the Federal Housing Administration, if it is a First Mortgagee and/or the Department of Veterans Affairs, if it is a First Mortgagee.

12.2 **PROCEDURE FOR ANNEXATION:** In addition to any required approval by Members, a final subdivision map(s) or final parcel map(s) and a Declaration of Annexation for the property to be annexed must be recorded. The Declaration of Annexation shall: (i) describe the portion of the Additional Property to be annexed; (ii) describe any Common Area within the Additional Property to be annexed; (iii) set forth the ownership of any such Common Area; and (iv) specify that all of the covenants, conditions and restrictions of this Declaration shall apply to the annexed Additional Property in the same manner as if it were originally covered by this Declaration. The Declaration of Annexation shall also provide that if and only if at the time of the first conveyance of a Lot in a Phase Declarant has rented or leased Lots in that Phase for a period of at least one (1) year after the most recent review of a budget for that Phase by the Department of Real Estate, Declarant shall pay to the Association the following amount: an amount equal to that portion of the Regular Assessment which would have been attributable to each Lot in that Phase and which would have been allocable to reserves for replacement and deferred maintenance of Common Area Improvements had Regular Assessments in that Phase commenced at the time of the most recent review of a budget for that Phase. Such amount, if any, shall be paid to the Association prior to or concurrently with the first conveyance of a Lot in that Phase. The Declaration of Annexation may also (i) impose any additional covenants, conditions and restrictions on the Additional Property that are necessary to include the property in the Project and to reflect differences in nature, if any, of the Improvements to be constructed on the Additional Property and (ii) provide for a specified date on which assessments shall commence for Lots in that Phase, provided that the date specified may not be later than the first day of the first month following the month in which the first Lot in that Phase is conveyed to an Owner. No Declaration of Annexation shall diminish the covenants, conditions or restrictions established by this Declaration nor shall it discriminate between the Owners in the Project. No Declaration of Annexation shall alter or change the general common plan or scheme created by this Declaration nor shall it affect the provisions hereof as covenants running with the land or as equitable servitudes.

12.3 **EFFECT OF ANNEXATION:** After complying with the procedures for annexation and upon the commencement of assessments for Lots in the annexed Phase, Owners of Lots in the annexed Phase shall be Members, shall be subject to this Declaration and shall be entitled to use all Common Area in the Project. The Association shall reallocate the Regular Assessments so as to assess each Owner of a Lot in the Project for a proportionate share of the total expenses of the Project.

12.4 **DEANNEXATION AND AMENDMENT:** Declarant has the right, at its sole option, to (i) amend a Declaration of Annexation by executing and recording an amendment of the Declaration of Annexation provided that the amendment is consistent with this Article, or (ii) remove from the Project any property described in a recorded Declaration of Annexation for a Phase by executing and recording a rescission of the Declaration of Annexation, as long as all of the following conditions are satisfied at the time of the execution and recordation of the amendment or rescission: (a) no Lot in that Phase has been

conveyed to an Owner; (b) no Common Area in that Phase has been conveyed to the Association; and (c) assessments have not commenced for any Lot in the annexed property.

12.5 AMENDMENT: This Article may not be amended without the written consent of Declarant unless all of the Additional Property has been annexed to the Project.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

13.1 **TERM OF DECLARATION**: This Declaration shall continue for a term of fifty (50) years from its date of recordation. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years until two-thirds (2/3) of the Owners approve a termination of this Declaration.

13.2 **CONSTRUCTION OF PROVISIONS**: The provisions of this Declaration are to be liberally construed to effect its purpose of creating a uniform plan for the development and operation of a planned development pursuant to the provisions of the Davis-Stirling Common Interest Development Act, Section 1350 et seq. of the California Civil Code.

13.3 **BINDING**: This Declaration is for the benefit of and binding upon all Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, tenants, encumbrancers, donees, grantees, mortgagees, lienors and assigns.

13.4 **SEVERABILITY OF PROVISIONS**: The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

13.5 **GENDER, NUMBER AND CAPTIONS**: As used herein, the singular shall include the plural and masculine pronouns shall include feminine pronouns, where appropriate. The title and captions of each paragraph hereof are not a part thereof and shall not affect the construction or interpretation of any part hereof.

13.6 **DOCUMENTS TO BE GIVEN TO PURCHASERS**: As soon as practical before transferring title to the Lot, the Owner shall give to the purchaser copies of all documents and statements required by California Civil Code Section 1368.

13.7 **EXHIBITS**: All exhibits attached to this Declaration are incorporated by this reference as though fully set forth herein.

13.8 **BONDED OBLIGATIONS**: When Common Area Improvements have not been completed prior to the issuance of the original Public Report to which the Common Area is subject and the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of Declarant to complete the Improvements, the following provisions shall apply.

13.8.1 **Improvements Complete**: If all Improvements in the planned construction statement appended to the Bond are covered by one or more recorded notices of completion, the Board shall execute whatever documents are required by the surety to release the Bond.

13.8.2 **Improvements Not Complete**: If a notice of completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the planned construction statement appended to the Bond, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond. If the Association has given a written extension for the completion of any Common Area Improvements, the Board shall consider and vote whether to take action if a notice of completion has not been filed within thirty (30) days after the expiration of the most recent extension.

13.8.3 **Action by Members**: If the Board decides not to act or fails to initiate action to enforce bonded obligations, then upon receipt by the Board of a petition for a special meeting signed by Members entitled to cast five percent (5%) or more of the total number of votes which may be cast by the Members, the Board shall call a special meeting of the Members. If the Board has failed to initiate action, the Members shall determine whether they wish to initiate action. If the Board has decided not to initiate

action, the Members shall determine whether to override the Board's decision. The meeting shall be held not less than thirty-five (35) nor more than forty-five (45) days after receipt of the petition by the Board. At the meeting, the approval of the Members, excluding the vote of Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association. The Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

13.8.4 Release of Bond: On satisfaction of the Declarant's obligation to complete the Common Area Improvements, the Association shall acknowledge in writing that it approves the release of the Bond and shall execute any other documents as may be reasonably necessary to effect the release of the Bond. The Association shall not condition its approval on the satisfaction of any condition other than completion of the Common Area Improvements. If the Association breaches any of the foregoing obligations, it shall be liable to the Declarant for any damages incurred thereby, including reasonable attorneys' fees. Any dispute between the Declarant and the Association regarding the completion of Common Area Improvements shall be resolved in accordance with the provisions of the escrow instructions which accompany the bond.

13.9 REQUIRED ACTIONS OF ASSOCIATION: The Association shall at all times take all reasonable actions necessary for the Association to comply with the terms of this Declaration or to otherwise carry out the intent of this Declaration.

13.10 SUCCESSOR STATUTES: Any reference in the Project documents to a statute shall be deemed a reference to any amended or successor statute.

13.11 CONFLICT: In the event of a conflict, the provisions of this Declaration shall prevail over the Bylaws and the Rules. To the extent there are conflicts or inconsistencies between the Maintenance Manual and this Declaration, the provision which requires the highest standard of Maintenance shall prevail.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the 9th day of October, 2003.

DECLARANT:

BROOKFIELD NORTHEAST RIDGE II LLC
a Delaware limited liability company

By: [Signature]
Name: John J. Ryan
Title: President

STATE OF CALIFORNIA
COUNTY OF Contra Costa }

On October 9, 2003, before me,
Kelley Heinke, personally
appeared John J. Ryan,
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/ their signature(s)
on the instrument, the person(s) or the entity upon behalf of
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]



EXHIBIT "A"

All of the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, within the boundaries of the subdivision map of Northeast Ridge, filed for record on May 30, 1995, in Book 125 of Maps at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Instrument Nos. 2002-091255, 2002-091256, 2002-091257 and 2002-091258, of said Official Records excepting therefrom, the real property described in Section 1.1.1 of the Declaration.

10/07/03

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

COLLECTION AGREEMENT
between the
SAN BRUNO MOUNTAIN AREA
HABITAT CONSERVATION TRUST
and
LANDMARK AT THE RIDGE OWNERS ASSOCIATION

THIS COLLECTION AGREEMENT ("Agreement") is made effective as of the Effective Date by and among the Trustees of the SAN BRUNO MOUNTAIN AREA HABITAT CONSERVATION TRUST ("HCP Trust"), BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company ("Landowners") and LANDMARK AT THE RIDGE OWNERS ASSOCIATION, a non-profit mutual benefit corporation incorporated under the laws of the State of California ("Association").

R E C I T A L S:

1. Each of the parties enters into this Agreement in recognition of the following facts:

A. The 10(a) Permit issued by the United States Fish and Wildlife Service to the County of San Mateo, California and the Cities of Brisbane, Daly City and South San Francisco, California, under which Landowners are authorized to build a residential housing project, including other related uses, known as "Northeast Ridge" in the City of Brisbane, requires that there be a permanent funding source for habitat preservation and that requirement must be met.

B. The Trustees of the HCP Trust, the Association and Landowners have determined that it is in the best interests of both the HCP Trust and the future owners of single family Units in Northeast Ridge that during such periods as the funding source set forth in Article VI.A.2. of the HCP Agreement is operative, that the payments of the HCP Assessments to the HCP Trust by individual Unit Owners who are members of the Association be made through the Association acting as collection agent on behalf of the HCP Trustees pursuant to this Agreement.

2. Definitions: For the purpose of this Agreement, the following capitalized terms shall have the following meanings:

2.2 Effective Date: The term "Effective Date" means the date on which the last party to sign this Agreement signs the same as evidenced by the date opposite the signatures of the parties hereto.

2.3 HCP Agreement: The term "HCP Agreement" means the "Agreement With Respect To The San Bruno Mountain Area Habitat" entered into as of the 4th day of March, 1983, by and among the United States Fish and Wildlife Service, California Department of Fish and Game, California Department of Parks and Recreation, the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco, Visitacion Associates and others as set forth on Exhibit "A" thereto, and recorded March 22, 1983, Series Number 83026343, Official Records of San Mateo County, and any amendments thereto.

2.4 HCP Assessment: The term "HCP Assessment" means the assessments levied by the HCP Trust pursuant to the HCP Declaration.

2.5 HCP Declaration: The term "HCP Declaration" means the Declaration of Covenants and Restrictions on Real Property on San Bruno Mountain recorded on May 30, 1995, in the Official Records of San Mateo County, State of California, as Document No. 95-054909, pursuant to the requirement of Article VI.A.2 of the HCP Agreement.

2.6 Project: The term "Project" means the portions of the Northeast Ridge project created pursuant to the Project Declaration.

2.7 Project Declaration: The term "Project Declaration" means the Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded or to be recorded in the Official Records of San Mateo County, State of California.

2.8 Trust Account: The term "Trust Account" means the trust account referred to in Paragraph 3 of this Agreement.

2.9 Trust Account Reserve: The term "Trust Account Reserve" or "Reserve" means the reserve referred to in Paragraph 3.2 of this Agreement.

2.10 Unit Owners: The term "Unit Owner" means the Owner of a single family Unit in the Project.

2.11 Other Capitalized Terms: Any other capitalized term contained in this Agreement, unless the context clearly indicates a different meaning, shall have the meaning given to it in the HCP Agreement if such term is defined therein, or the meaning given it in the Project Declaration if such term is defined therein, provided that where a term is used in both the HCP Agreement and the Project Declaration, such term shall have the meaning given it in the HCP Agreement.

3. Trust Account.

3.1 Establishment of Trust Account: Prior to close of escrow for the sale of the first Unit in the Project, the Association shall open an interest bearing trust account with a bank or savings and loan association insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, to be called the "HCP Northeast Ridge II - San Bruno Mountain Area Habitat Conservation Trust Account." The Trust Account shall be established and maintained by the Association for the benefit of the HCP Trustees and funds shall be withdrawn therefrom by officers of the Association only for the benefit of the HCP Trust in accordance with Paragraph 6.10 of the Project Declaration and the terms of this Agreement.

3.2 Trust Account Reserve: The Association acknowledges that the HCP Trustees intend that the Trust Account shall constitute, in part, a reserve fund against potential future delinquencies by Unit Owners in the payment of the HCP Assessments and that the HCP Trustees desire to maintain a balance in the Trust Account in an amount equal to 25% of the total annual HCP Assessments for Units in the Project (as adjusted to reflect changes in the value of the Dollar) as set forth in the most recent notification from the HCP Trustees pursuant to Paragraph 5 hereof ("Reserve Amount"). The HCP Trustees acknowledge, however, that the Reserve Amount may drop below 25% when occasioned by payments therefrom to the HCP Trust of amounts representing delinquencies in payments of the HCP Assessment by Unit Owners. In the event the balance in the Trust Account at any time is less than the Reserve Amount, the Board of the Association shall notify the HCP Trustees and annually on October 1 in any event, the Board of the Association shall furnish to the HCP Trustees all statements prepared by the depository showing all activity in the Trust Account during the preceding year and the current Trust Account balance.

3.3 Landowners Funding of Reserve Amount: Prior to or concurrently with close of escrow for Landowners's sale of the first Unit in the Project, Landowners shall deposit in the Trust Account an amount equal to \$640.15 representing the initial Reserve Amount, being 25% of the total annual HCP Assessments which would be levied against the total number of Units planned in the Project at the rate of \$36.58 per Unit per annum. After such deposit has been made, Landowners shall have fully performed its obligations under this Agreement and Landowners shall have no further obligations of any kind or nature under this Agreement. Notwithstanding the foregoing, Landowners shall remain obligated to perform its separate obligations, if any, as a Landowner under the HCP Agreement and to pay assessments levied pursuant to the terms of the Project Declaration and the HCP Declaration to the extent it is a Unit Owner in the Project.

3.4 HCP Assessment for Reserve: If after its initial funding by Landowners pursuant to Paragraph 3.3, above, the balance in the Trust Account at any time is less than the Reserve Amount, the HCP Trustees shall add to the HCP Assessment as otherwise determined pursuant to the HCP Declaration an amount not to exceed 25% in any one year until the Reserve Amount is reestablished. Whenever thereafter the HCP Trustees learn that the Reserve Amount has been reduced below the level established hereinabove, the HCP Trustees shall include an amount in the next HCP Assessment sufficient to restore the Reserve Amount to such level. In making the calculations for this purpose, the HCP Trustees may include a reasonable projection of the delinquency factor in the making of payments of the HCP Assessment.

4. Notice of HCP Assessment; Collection of HCP Assessments: On or before October 1 of each year, the HCP Trustees shall give notice in writing to the Board of the Association of the amount of the next year's HCP Assessment as adjusted in accordance with the terms of the HCP Declaration to reflect changes in the value of the Dollar and as augmented by the amount, if any, determined by the Trustees to be necessary to set or maintain the Reserve Amount in the HCP Trust Account at the Reserve Amount established in Paragraph 3.2 hereof. On or before October 10 of each year, or such other date or at such more frequent intervals as the HCP Trustees in writing may designate, the Board of the Association shall give notice in writing to each Unit Owner subject to the HCP Assessment, of the amount of his, her or its assessment as set forth in such notice from the Trustees. Thereafter, the Association shall collect the amount of the HCP Assessments from Unit Owners pursuant to the collection authority contained herein and shall deposit all HCP Assessments so collected in the Trust Account.

5. Payment to HCP Trust: On or before November 10 of each year or such other date or at such more frequent intervals as the HCP Trustees in writing may designate (provided such earlier designation

corresponds to the earlier levy of assessments pursuant to Paragraph 4, above), the Board of Association shall pay or cause to be paid from the Trust Account to the HCP Trust in accordance with this Agreement so much of the funds in the Trust Account as shall be required to meet the lawful demands of the HCP Trust as established in the HCP Declaration. From the Reserve Amount the Association shall pay the HCP Assessment of any Unit Owner or Unit Owners who have failed to currently pay the HCP Assessment. If the Reserve Amount in the HCP Trust Account is not sufficient to pay the amount of all delinquent HCP Assessments in full, if any, the Board of the Association shall immediately notify the HCP Trustees. The Association shall have no responsibility to pay any deficiency in HCP Assessments from the Association's own funds so long as the Association's obligations under this Agreement have been met.

6. HCP Assessment Lien: In every case where the Association has caused payment to be made to the HCP Trust from the Reserve Amount for any Unit Owner who is delinquent in making payment of his, her or its HCP Assessment, the Association thereby and thereupon shall be empowered to enforce the lien for delinquent assessments conferred upon the HCP Trust by the HCP Declaration and the Association, as collection agent under this Agreement, shall be entitled to recover all attorneys' fees, costs and expenses incurred by it in accordance with the provisions of the HCP Declaration. This Agreement shall constitute a complete delegation of authority from the HCP Trustees to the Board of the Association to enforce the HCP Declaration lien against the Unit of any delinquent Unit Owner to the full extent of the payment or payments the Association has made to the HCP Trust from the Reserve Amount, and no further action by the HCP Trustees is required to perfect such authority in the Board of the Association.

7. Amendment: This Agreement can be amended only by a writing executed by all of the parties hereto, provided that Landowners and its assigns or successors in interest shall cease to be a party for any purpose when the Trust Account has been funded as provided in Paragraph 3.3.

8. Alternate Financing of HCP: If financing of habitat conservation under the HCP Agreement is hereafter provided by an assessment or other tax collection mechanism by which an amount equivalent to the HCP Assessment must be paid directly by Unit Owners to the County or a City incident to the collection of taxes as envisaged in Article VI.A.4. of the HCP Agreement ("Alternative Financing"), then the obligations created by this Agreement shall cease and remain dormant until such time, if ever, as the Alternative Financing method becomes inoperative. The HCP Trustees shall notify the Association of the nature of the Alternative Financing that has been adopted, the date or dates on which the rights and duties of the parties to this Agreement shall, until further notice, cease and the terms of the transfer of the balance in the HCP Trust Account to the County (or other entity conducting the Alternative Financing assessment proceedings) to be applied by it against the first, and if sufficient funds remain, subsequent years' assessments.

9. Covenants to Run With Land: Without limiting the legal effect of other provisions of this Agreement, the parties declare it to be their intention that the rights and duties established by this Agreement are intended to implement the 10(a) Permit, the Project Declaration, the HCP Agreement and the HCP Declaration, and as such shall run with the land and be binding upon and inure to the benefit of their respective assigns or successors in interest. This Agreement affects the title of the lands within the Project and of the Conserved Habitat of the San Bruno Mountain Area, as defined in the HCP Agreement, and the covenants and conditions herein relate to the beneficial use and enjoyment of all such lands. The provisions of this Agreement shall benefit and shall be binding upon each of the parties hereto and their respective successors in interest.

10. Miscellaneous Provisions:

10.1 No Fee for Services: The Association acknowledges that this Agreement provides the Unit Owners with a convenient and efficient mode of collection of the HCP Assessment, and therefore the Association agrees that it will perform the collection service provided for herein without fee and that it shall receive no compensation or reimbursement from the HCP Trust for the performance of its duties hereunder except for costs and attorneys' fees authorized under Paragraph 6 hereof.

10.2 Termination of Agreement: The HCP Trustees may terminate this Agreement by providing notice of the intention to do so in accordance with the provisions of paragraph 10.3 hereof. Termination of the Agreement shall be effective thirty (30) days after notice is given. Upon termination of the Agreement, the Association shall deliver to the HCP Trustees any books and other records relating to the collection of HCP Assessments under this Agreement, and shall remit to the HCP Trust any and all funds that the Association is then holding for the benefit of the HCP Trust. Upon termination of the Agreement, the Association shall have no further duty to collect HCP assessments.

10.3 Notices: Notices provided for herein may be personally delivered to the person occupying the position set forth below or shall be deemed given five days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or to such other address of which a party from time to time may give notice to the other parties:

HCP:	SAN BRUNO MOUNTAIN AREA HABITAT CONSERVATION TRUST c/o San Mateo County Director of Environmental Services County Government Center Redwood City, CA 94063
Landowners:	BROOKFIELD NORTHEAST RIDGE II LLC 500 La Gonda Way, Suite 100 Danville, CA 94526 651 Gateway Blvd., Suite 400
Association:	LANDMARK AT THE RIDGE OWNERS ASSOCIATION c/o Brookfield Northeast Ridge II LLC 500 La Gonda Way, Suite 100 Danville, CA 94526 651 Gateway Blvd., Suite 400

10.4 Agreement to be Recorded: This Agreement shall be recorded in the Official Records of the County Recorder, County of San Mateo, State of California.

10.5 Costs of Litigation: If legal action is required to interpret or enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs of litigation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth opposite their respective signatures.

**SAN BRUNO MOUNTAIN AREA HABITAT
CONSERVATION TRUST**

BROOKFIELD NORTHEAST RIDGE II LLC,
a Delaware limited liability company

By: _____
Marcia Raines
San Mateo County
Director of Environmental Services Agency

By: _____
Name: _____
Title: _____

Dated: _____, 2003

Dated: _____, 2003

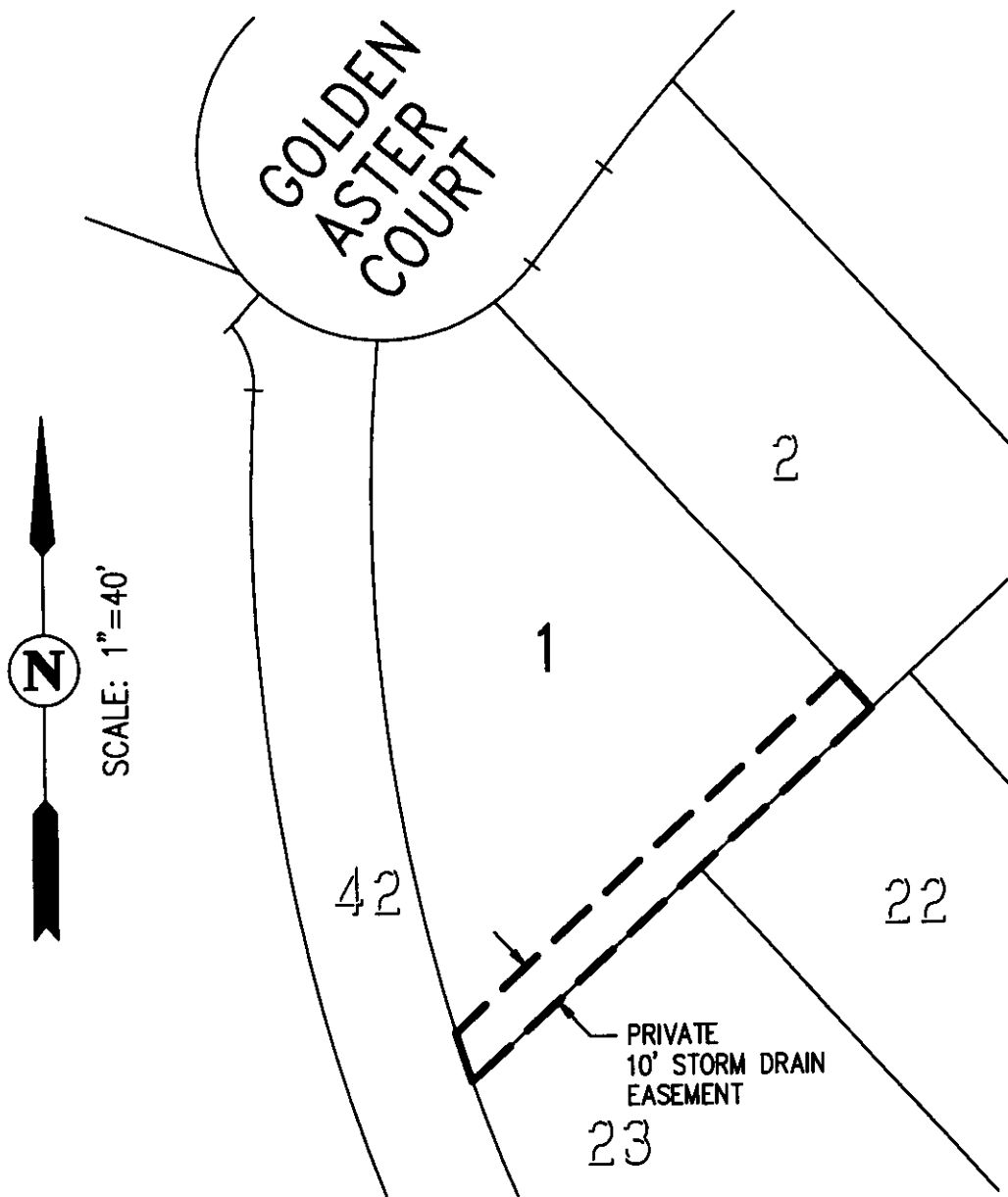
**LANDMARK AT THE RIDGE
OWNERS ASSOCIATION,**
a California nonprofit mutual benefit corporation

By: _____
President

By: _____
Secretary

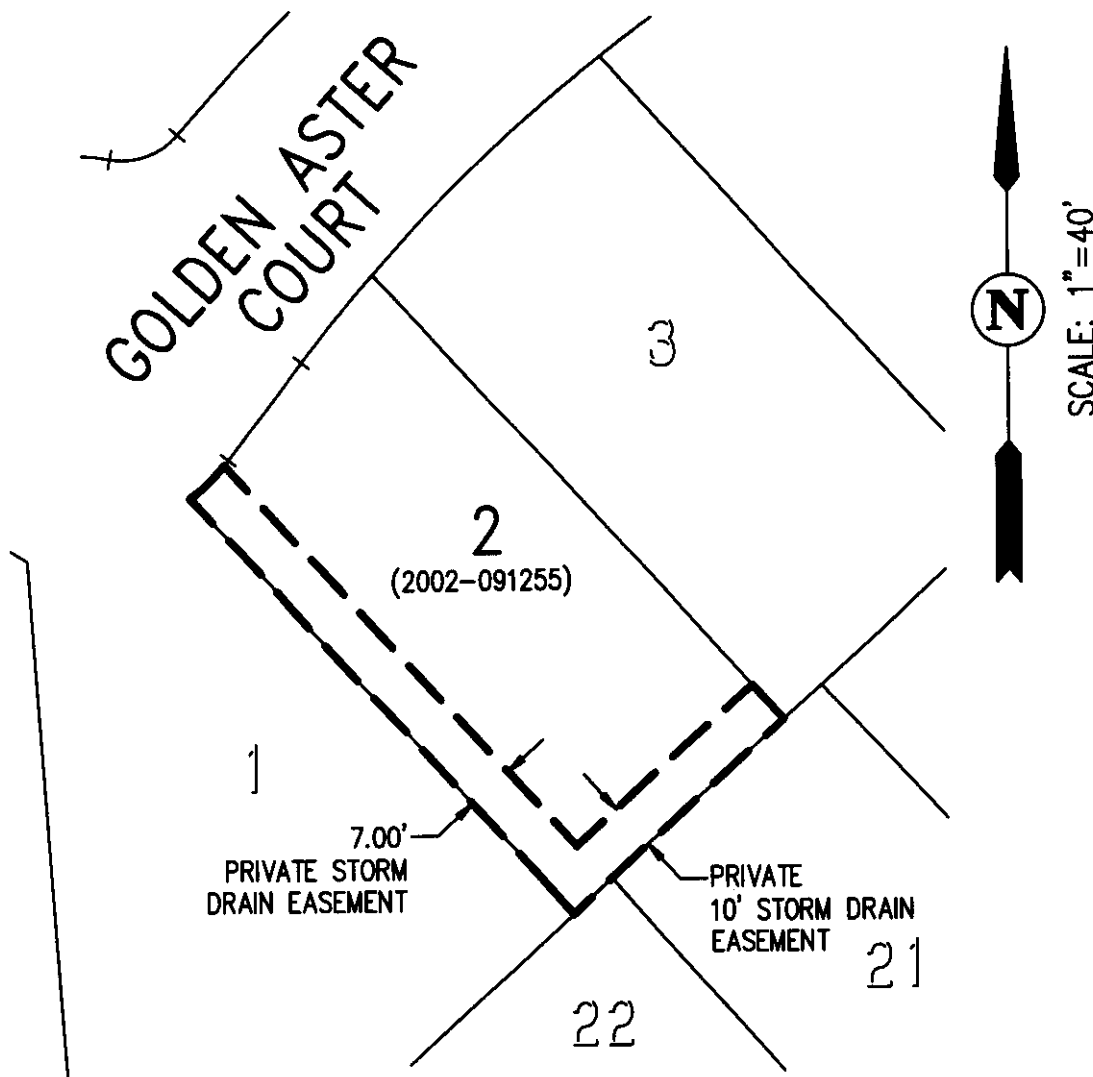
Dated: _____, 2003

EXHIBIT “C”
Storm Drainage Easements



PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 1, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

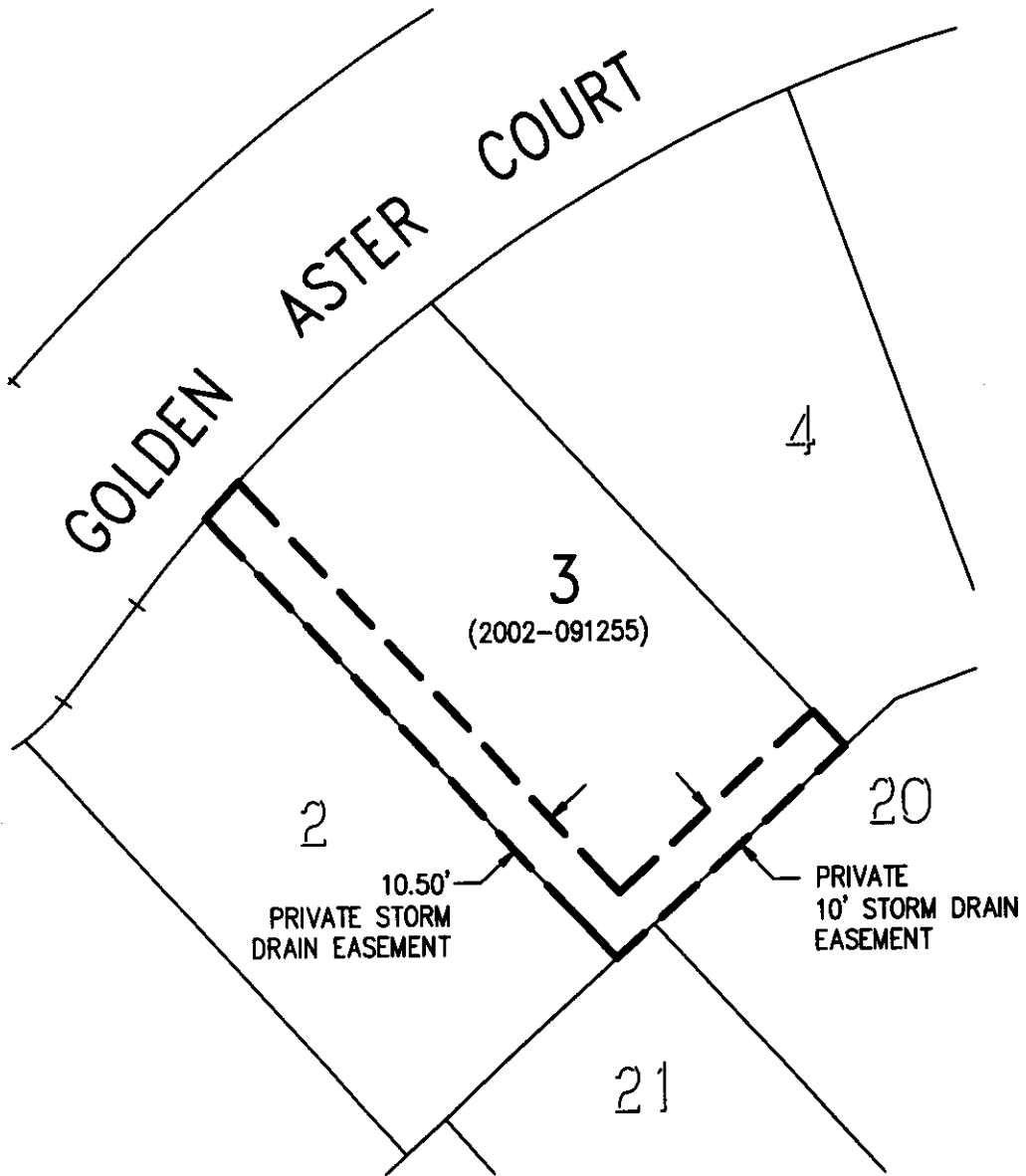


PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 2, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091255)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'



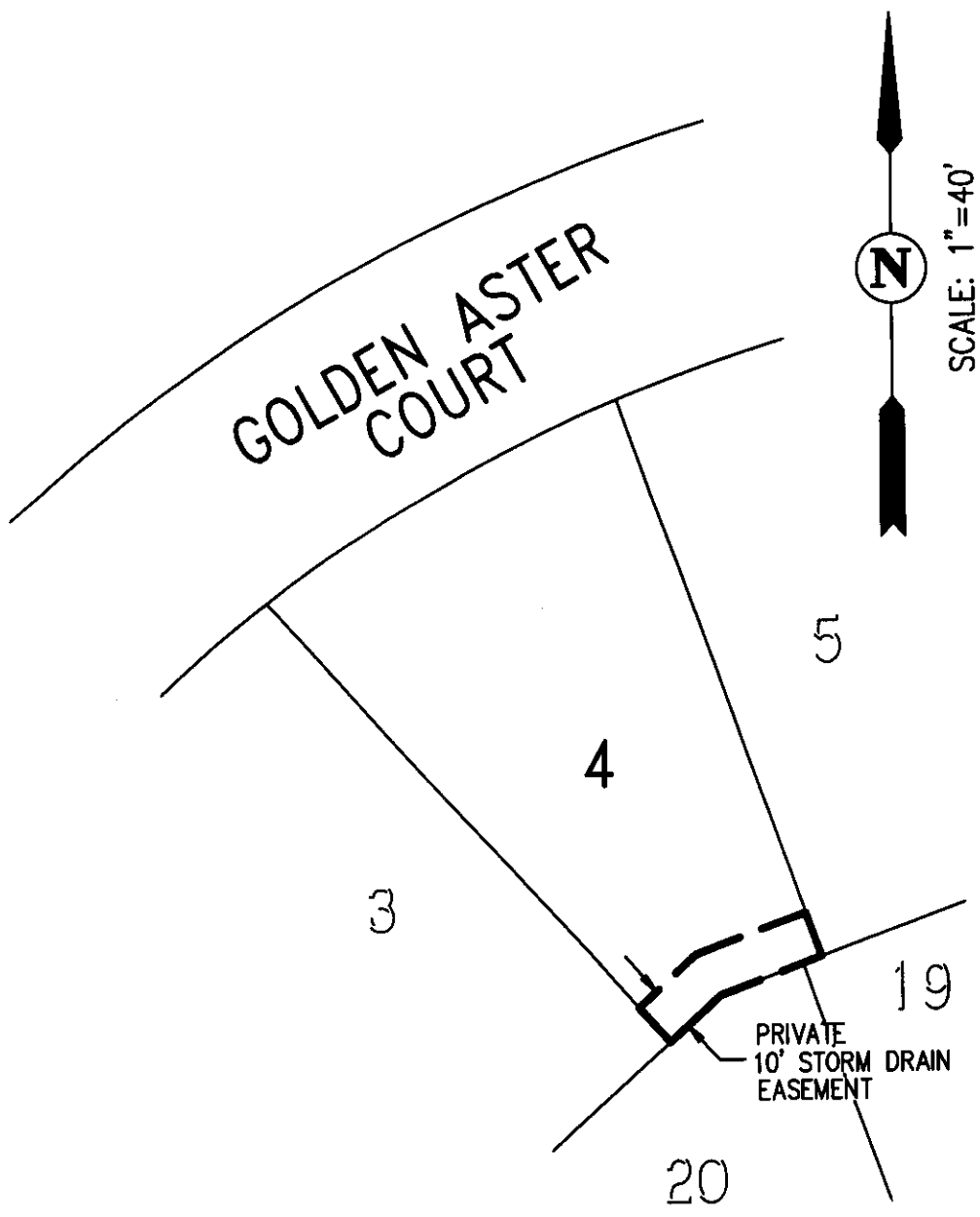
PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 3, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091255)
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 4, NORTHEAST RIDGE, UNIT NO. 1 (125 M 28)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'

GOLDEN ASTER COURT

4

5

40

PRIVATE
10' STORM DRAIN
EASEMENT

19

20

PLAT

PRIVATE 10' STORM DRAIN EASEMENT
LOT 5, NORTHEAST RIDGE, UNIT NO. 1 (125 M 28)
BRISBANE, CALIFORNIA

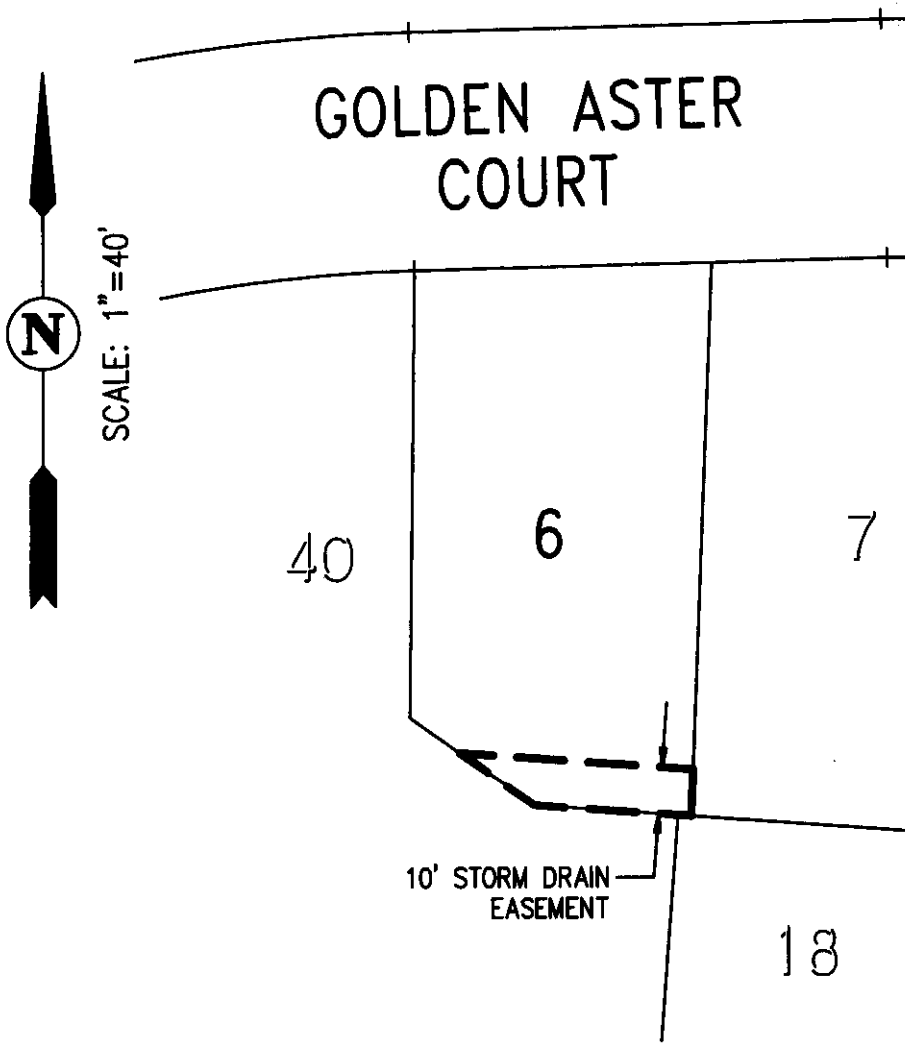
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



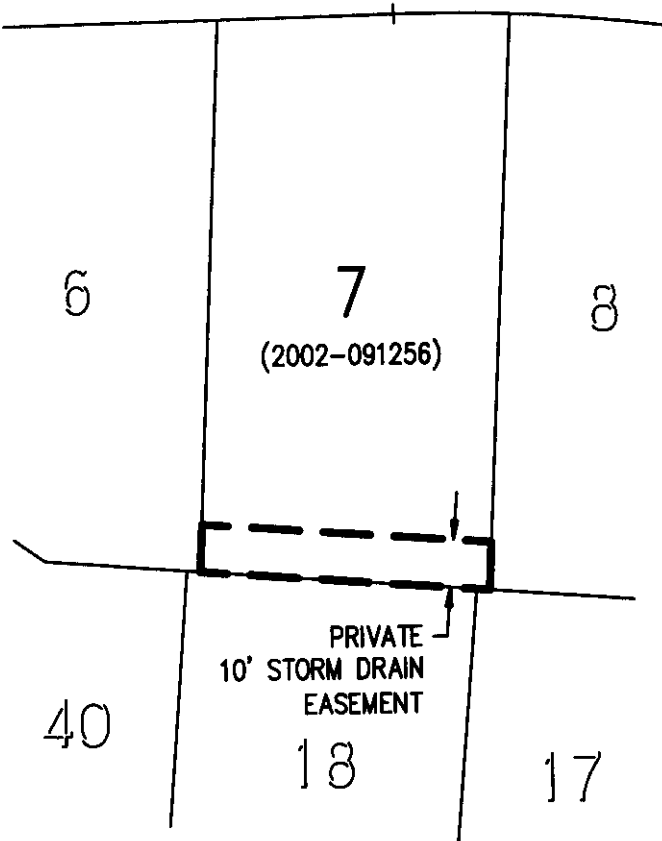
PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 6, NORTHEAST RIDGE, UNIT NO. 1 (125 M 28)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'

GOLDEN ASTER COURT



PLAT

PRIVATE 10' STORM DRAIN EASEMENT

NEW LOT 7, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091256)

BRISBANE, CALIFORNIA

DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

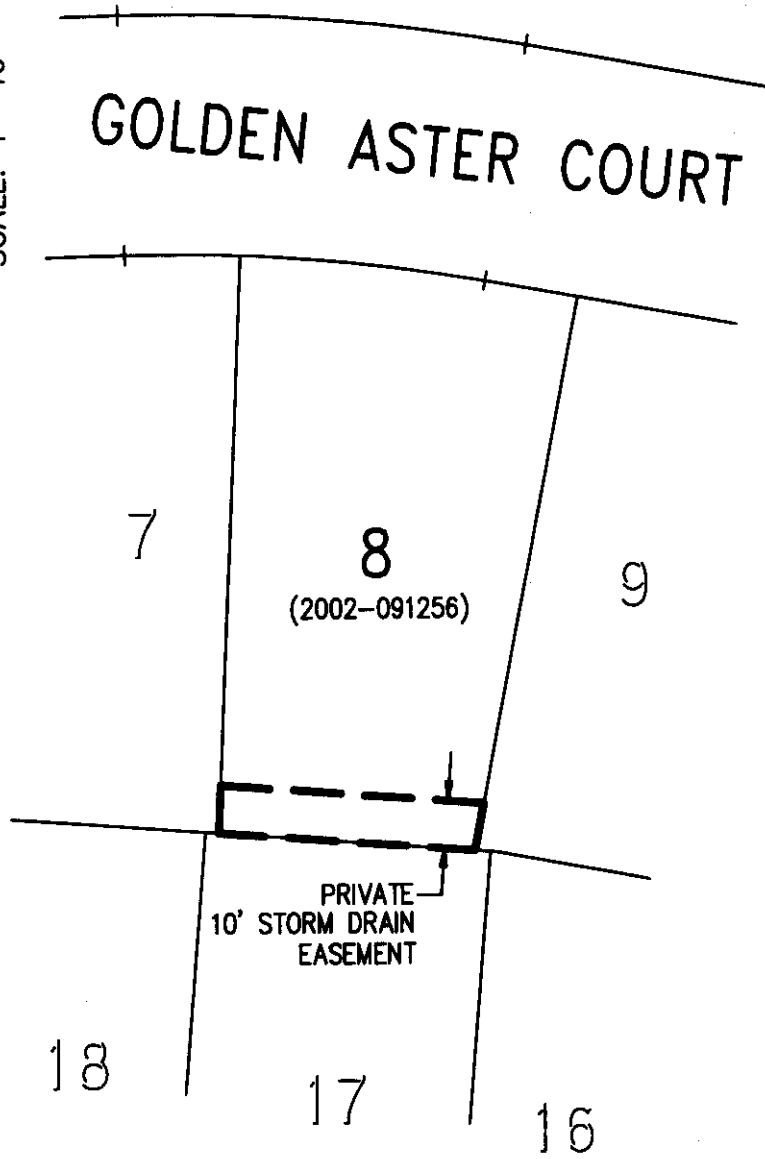
CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'



PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 8, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091256)
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

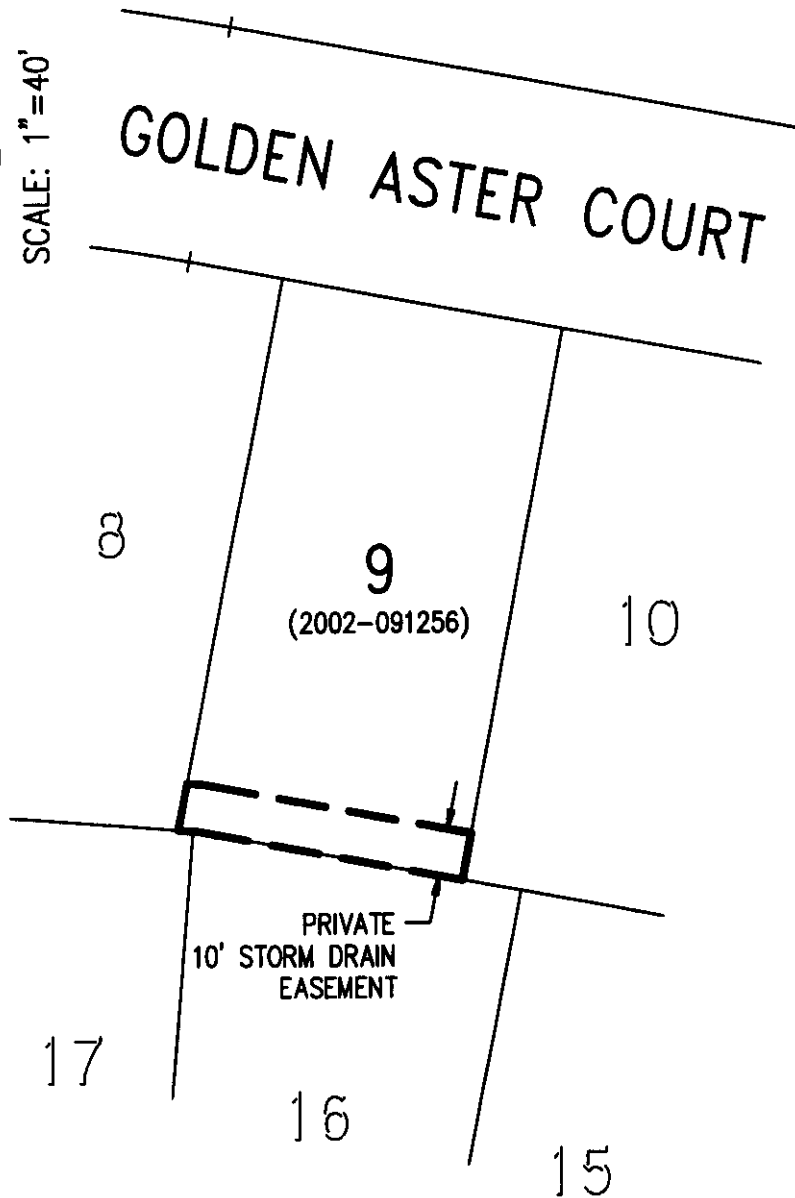
CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'

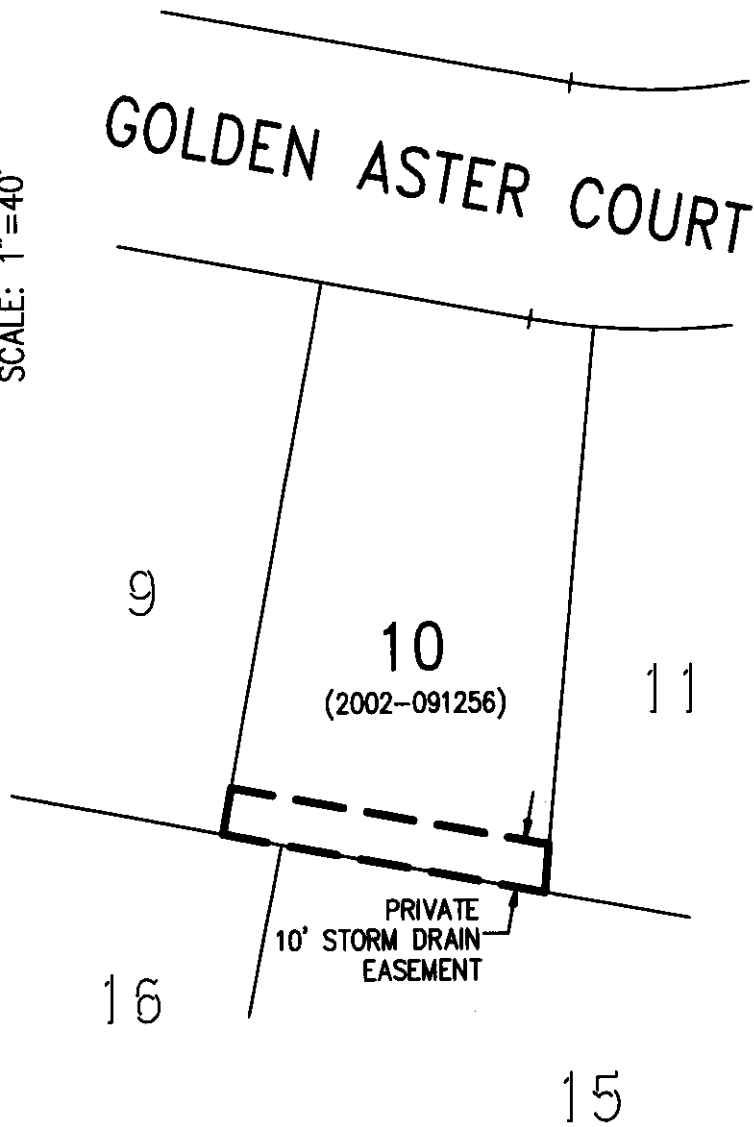


PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 9, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091256)
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'



PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 10, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091256)
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

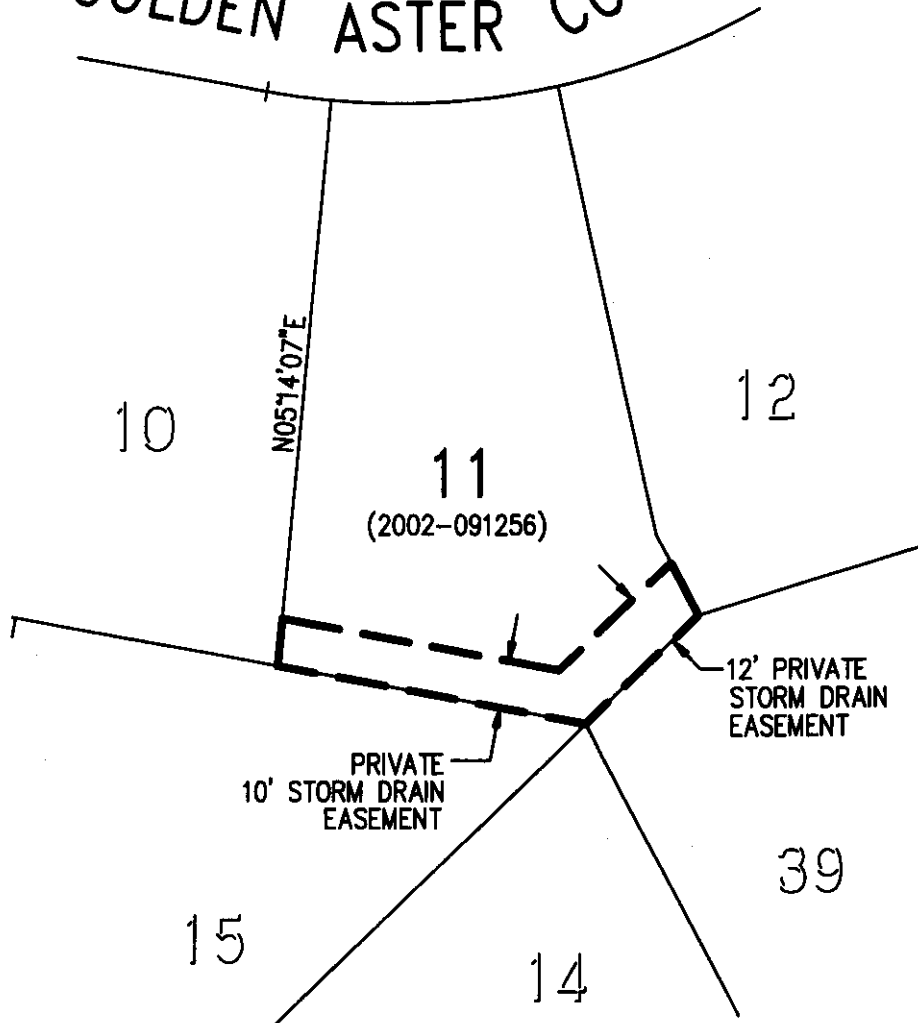
Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

GOLDEN ASTER COURT



SCALE: 1"=40'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 11, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091256)
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

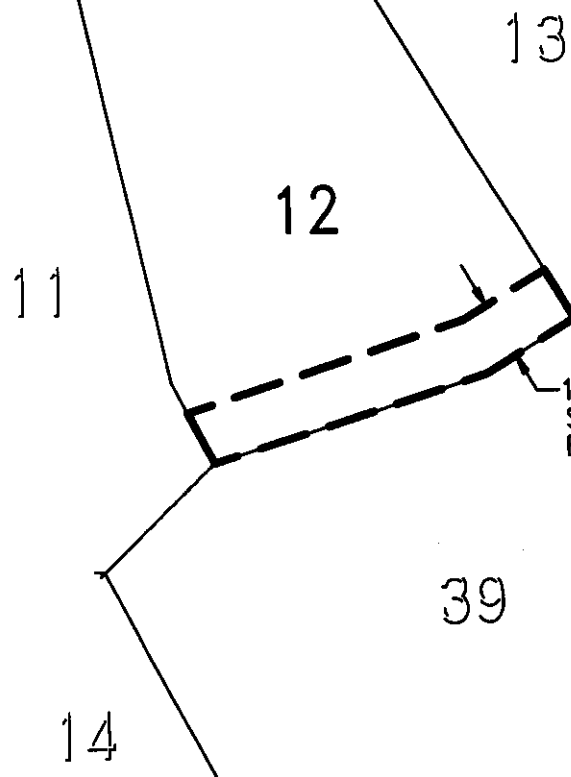
Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

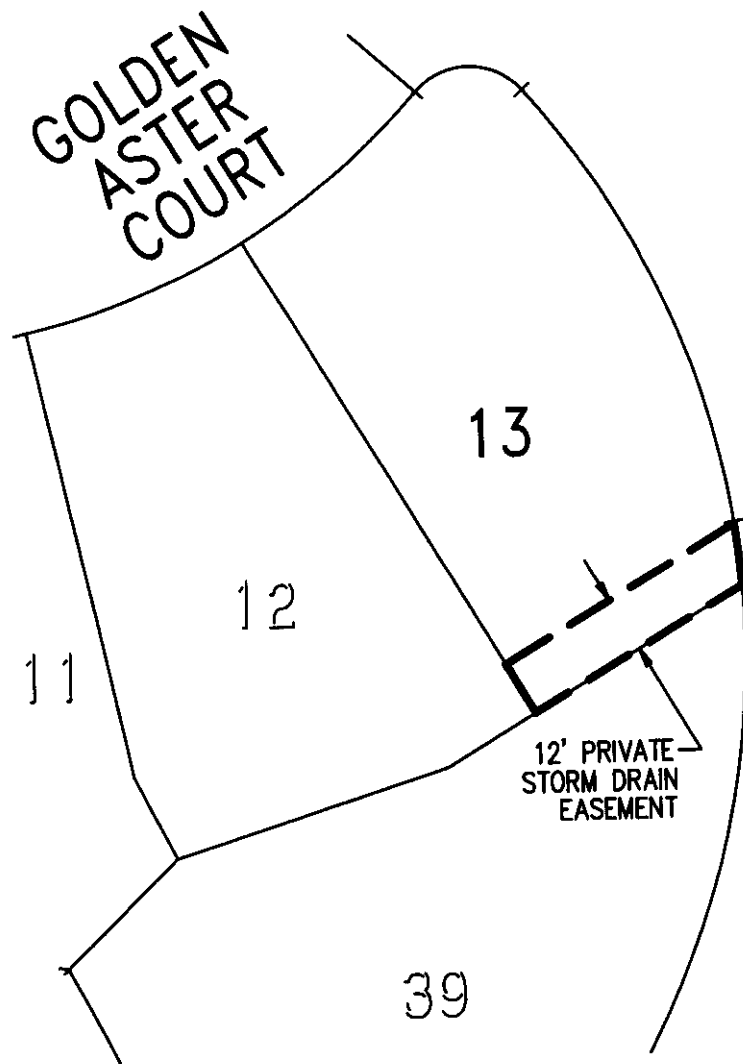
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

GOLDEN ASTER COURT



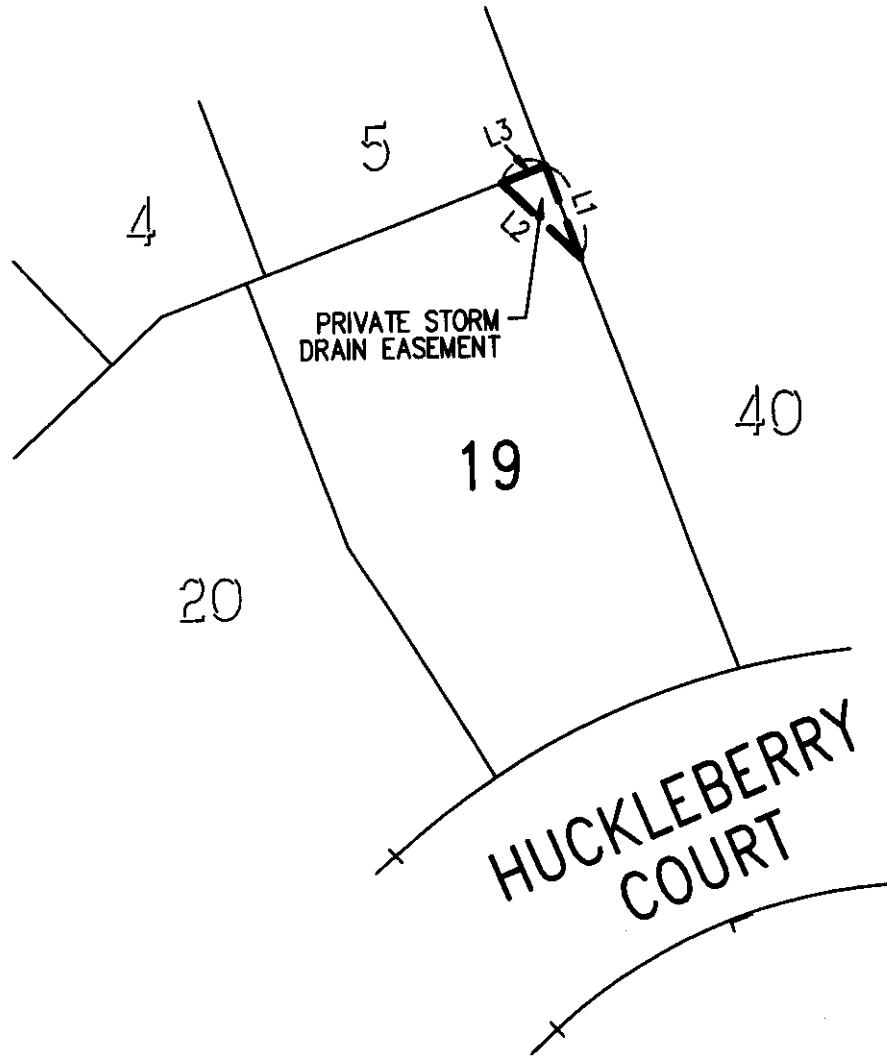
PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 12, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 13, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

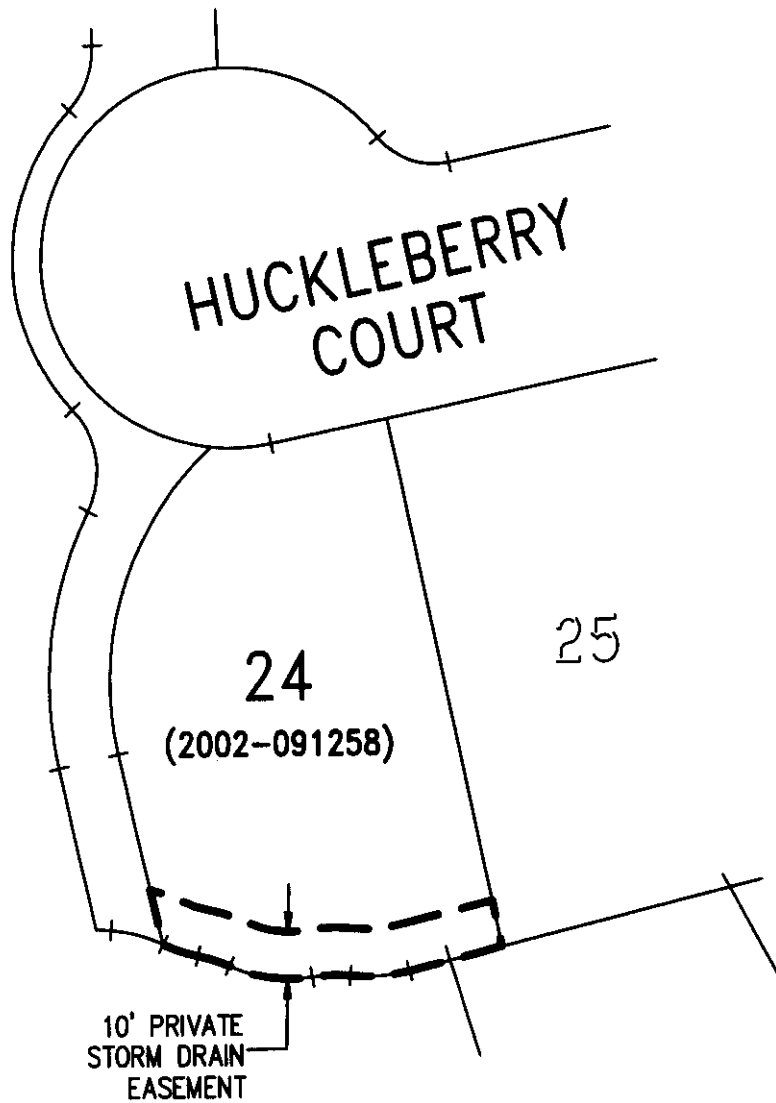
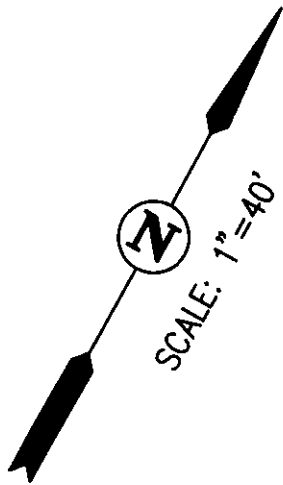


LINE TABLE		
NO.	BEARING	DISTANCE
L1	S19°55'11"E	20.47'
L2	N45°40'02"W	22.68'
L3	N69°49'13"E	9.85'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 19, NORTHEAST RIDGE, UNIT NO. 1 (125 M 28)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



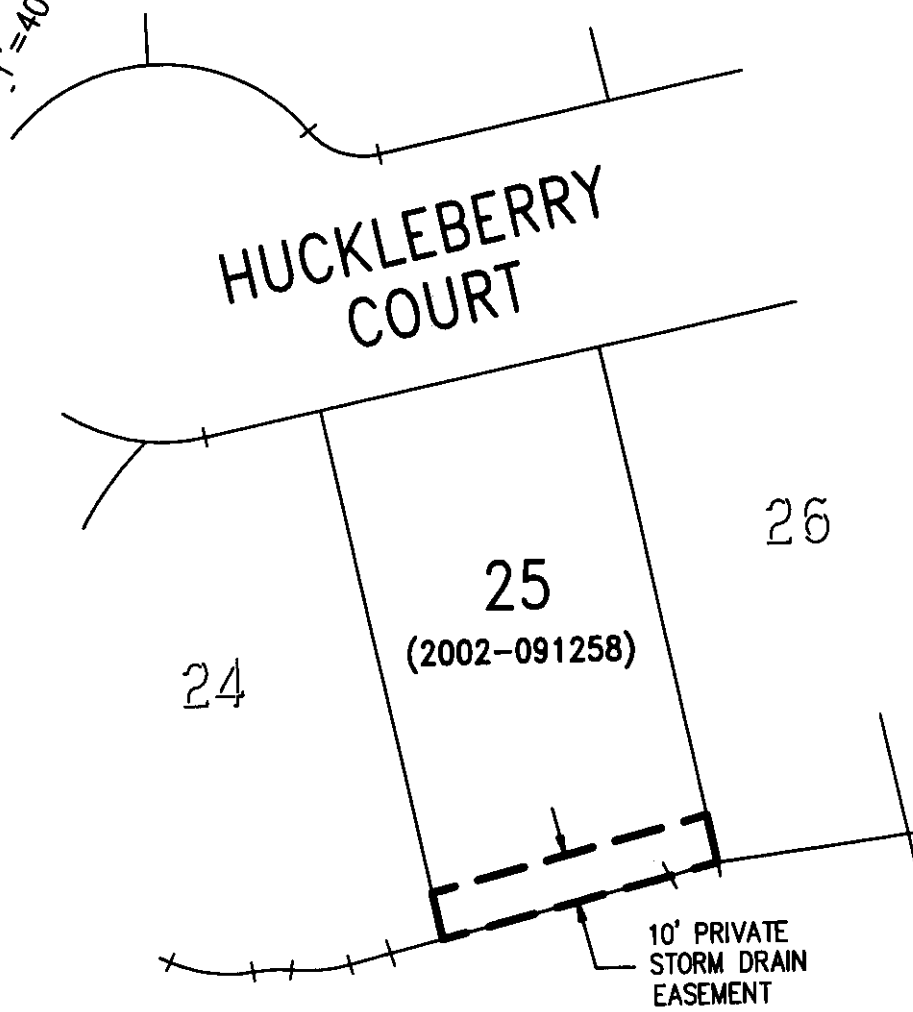
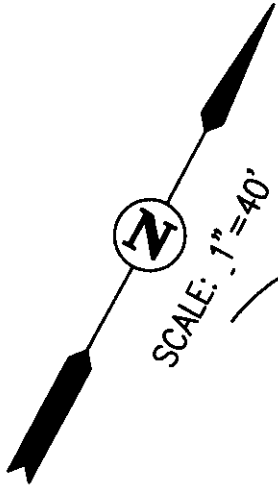
PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 24, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

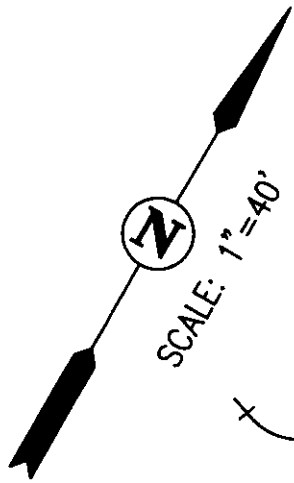
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



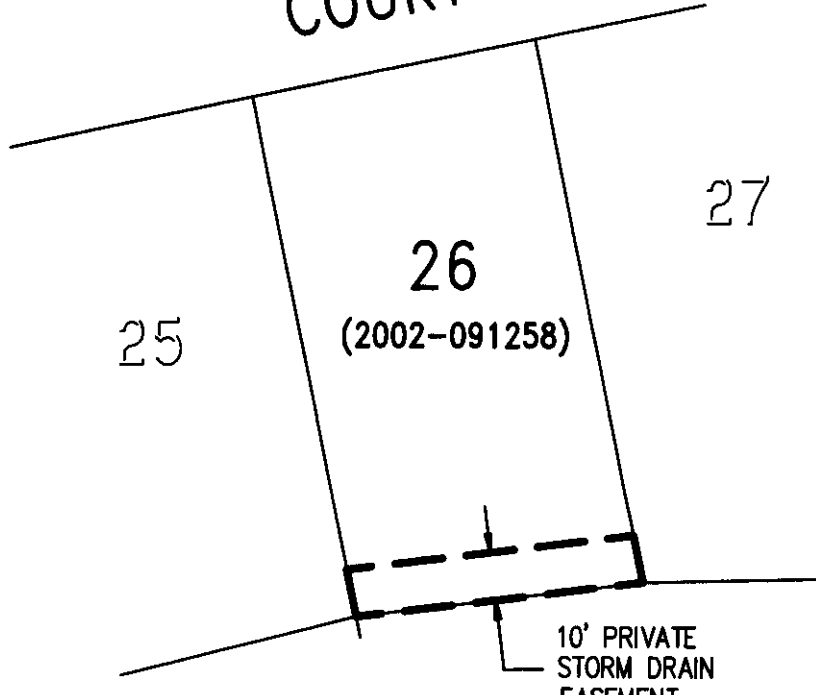
PLAT
10' PRIVATE STORM DRAIN EASEMENT
LOT 25, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



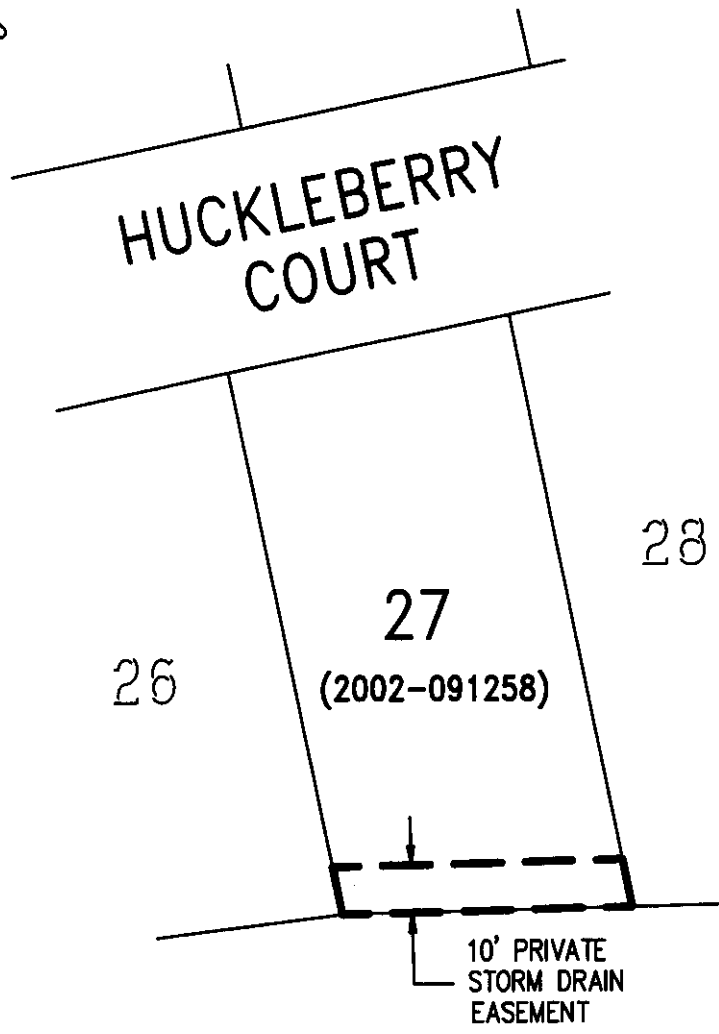
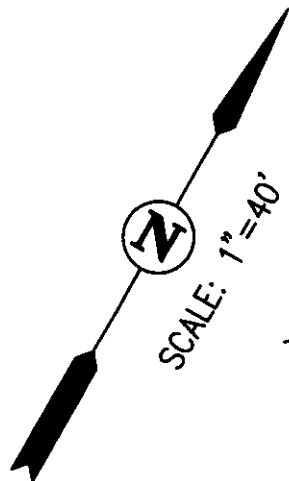
HUCKLEBERRY COURT



PLAT
10' PRIVATE STORM DRAIN EASEMENT
LOT 26, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

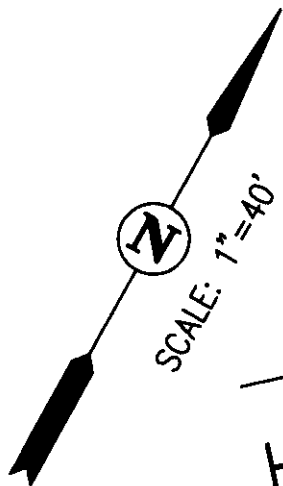
Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



PLAT
PRIVATE 10' STORM DRAIN EASEMENT
LOT 27, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



HUCKLEBERRY
COURT

27

28

(2002-091258)

41

10' PRIVATE
STORM DRAIN
EASEMENT

PLAT

10' PRIVATE STORM DRAIN EASEMENT
LOT 28, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA

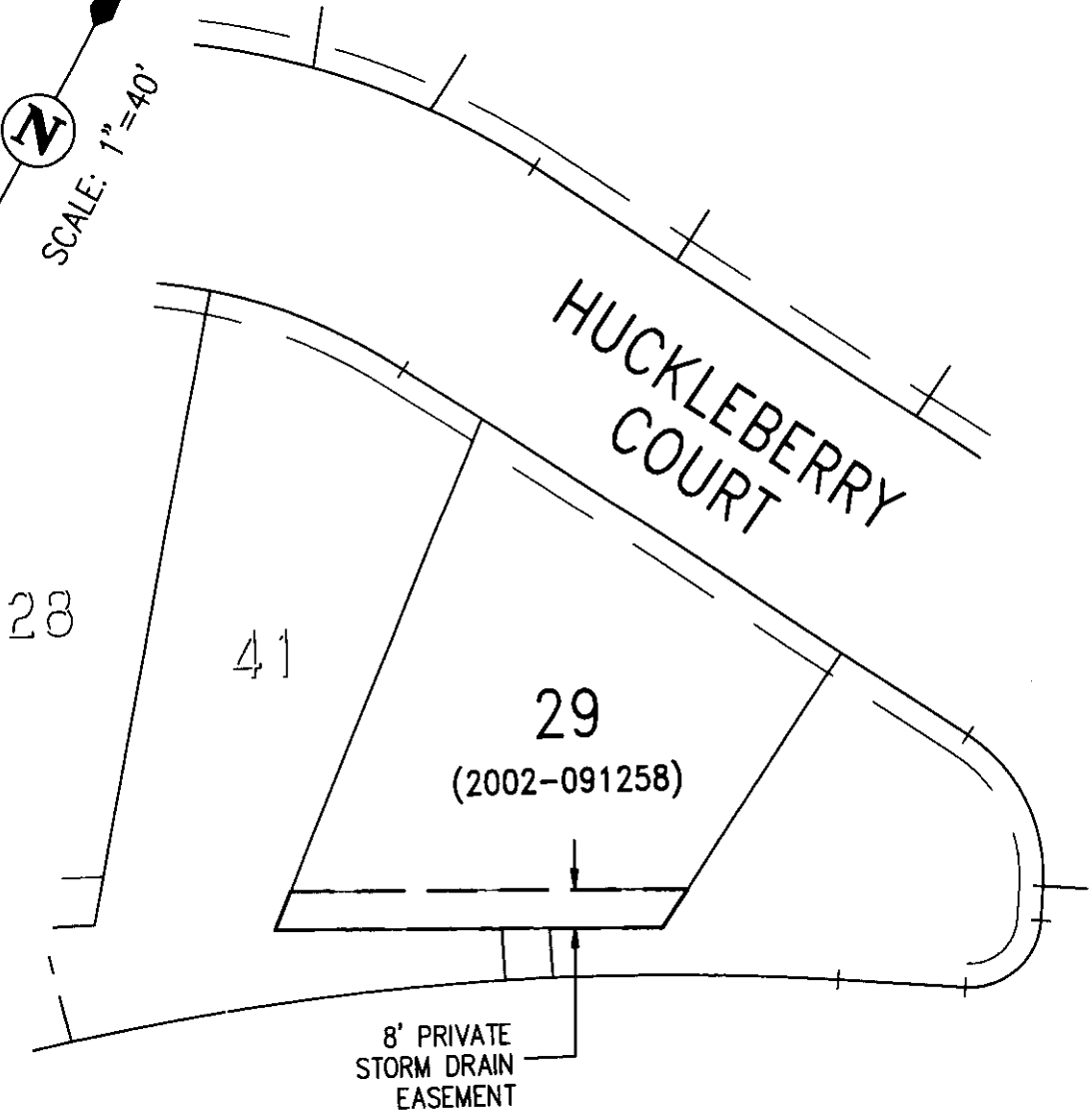
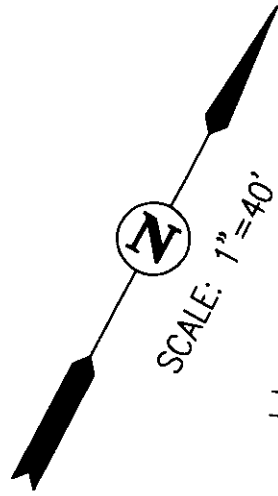
DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

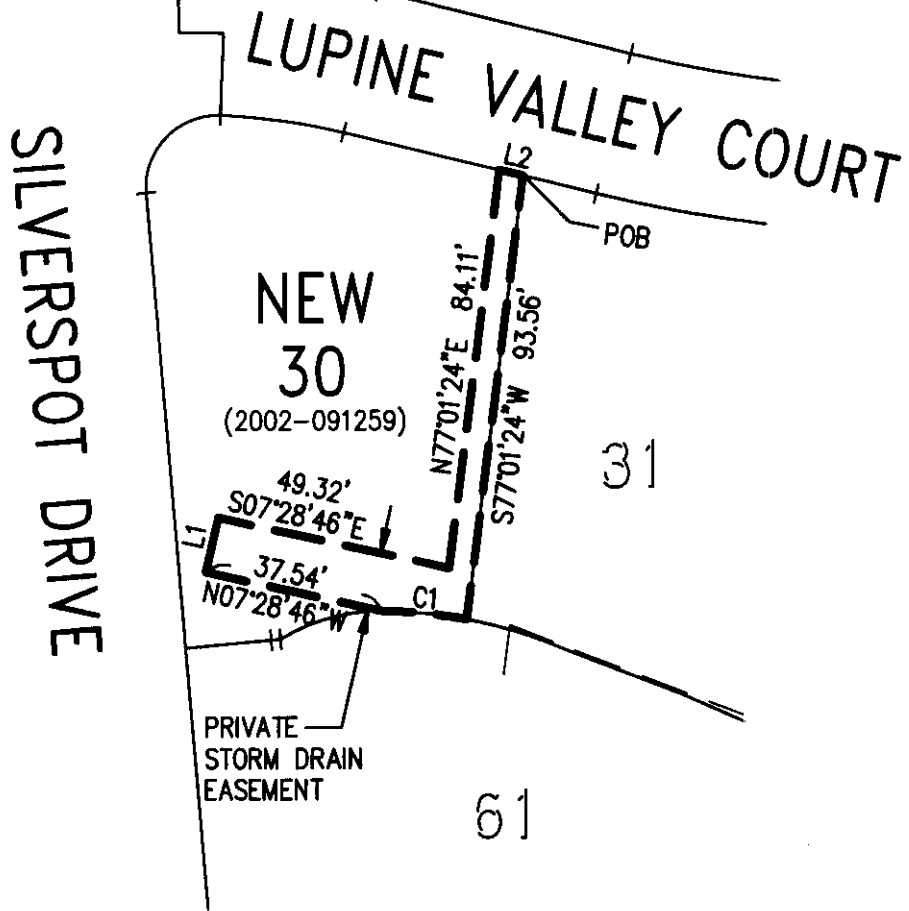
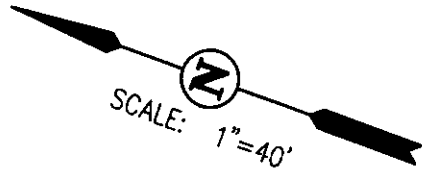


SILVERSPOT DRIVE

PLAT
8' PRIVATE STORM DRAIN EASEMENT
NEW LOT 29, NORTHEAST RIDGE, UNIT NO. 1
SAN JOAQUIN COUNTY, CALIFORNIA
DATE: SEPTEMBER, 2003

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100, SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

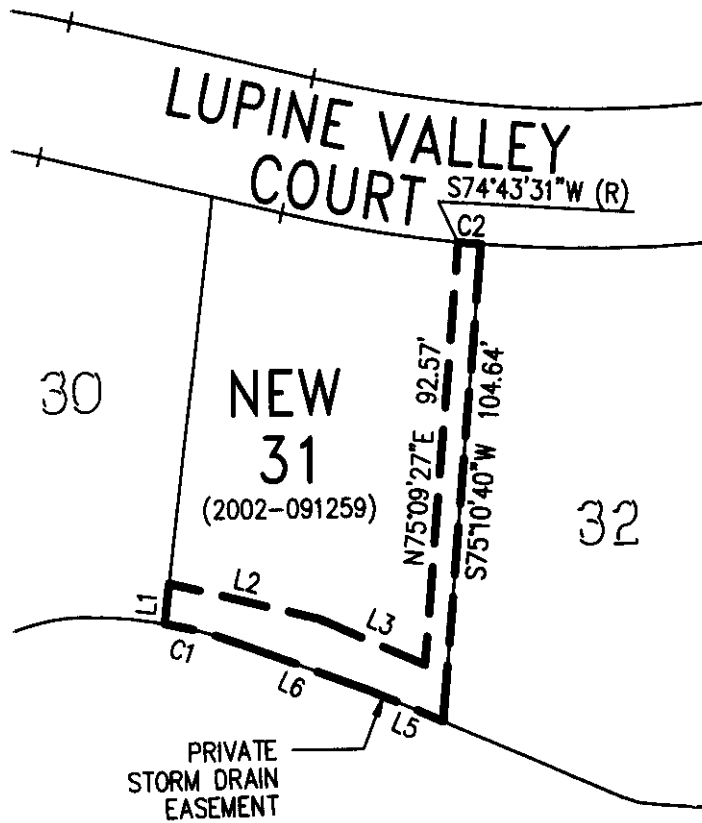
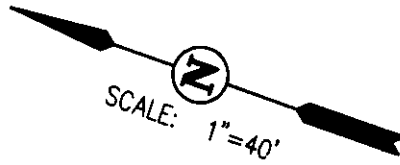


LINE TABLE		
NO.	BEARING	DISTANCE
L1	N82°31'14"E	11.74'
L2	S06°11'09"E	5.04'

CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	10°24'25"	98.41'	17.87'

PLAT
PRIVATE STORM DRAIN EASEMENT
NEW LOT 30, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091259)
BRISBANE, CALIFORNIA
 DATE: SEPTEMBER 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



30

NEW
31

(2002-091259)

32

61

CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	10°20'29"	98.41'	17.76'
C2	00°59'05"	291.00'	5.00'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N77°01'24"E	8.77'
L2	S06°04'33"E	33.82'
L3	N04°33'47"E	25.03'
L4	S77°01'24"W	10.17'
L5	S03°48'55"W	17.24'
L6	S00°55'07"W	29.62'

PLAT

PRIVATE STORM DRAIN EASEMENT

NEW LOT 31, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091259)

BRISBANE, CALIFORNIA

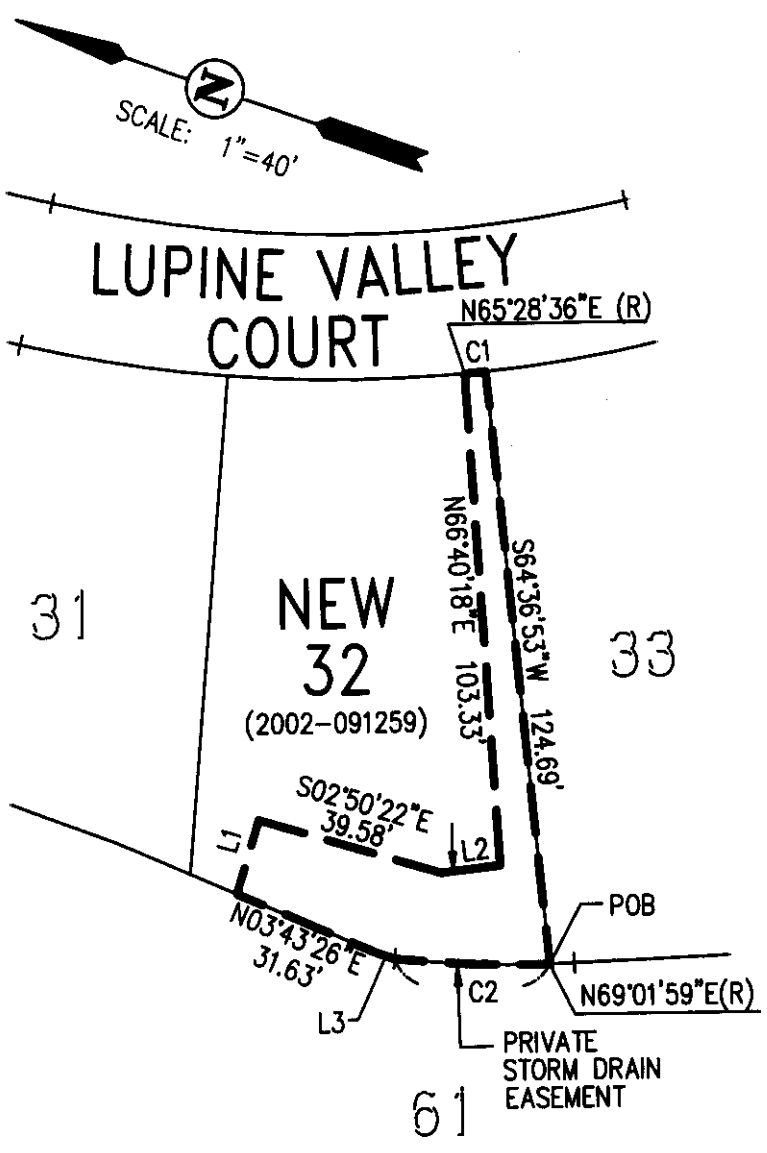
DATE: SEPTEMBER 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

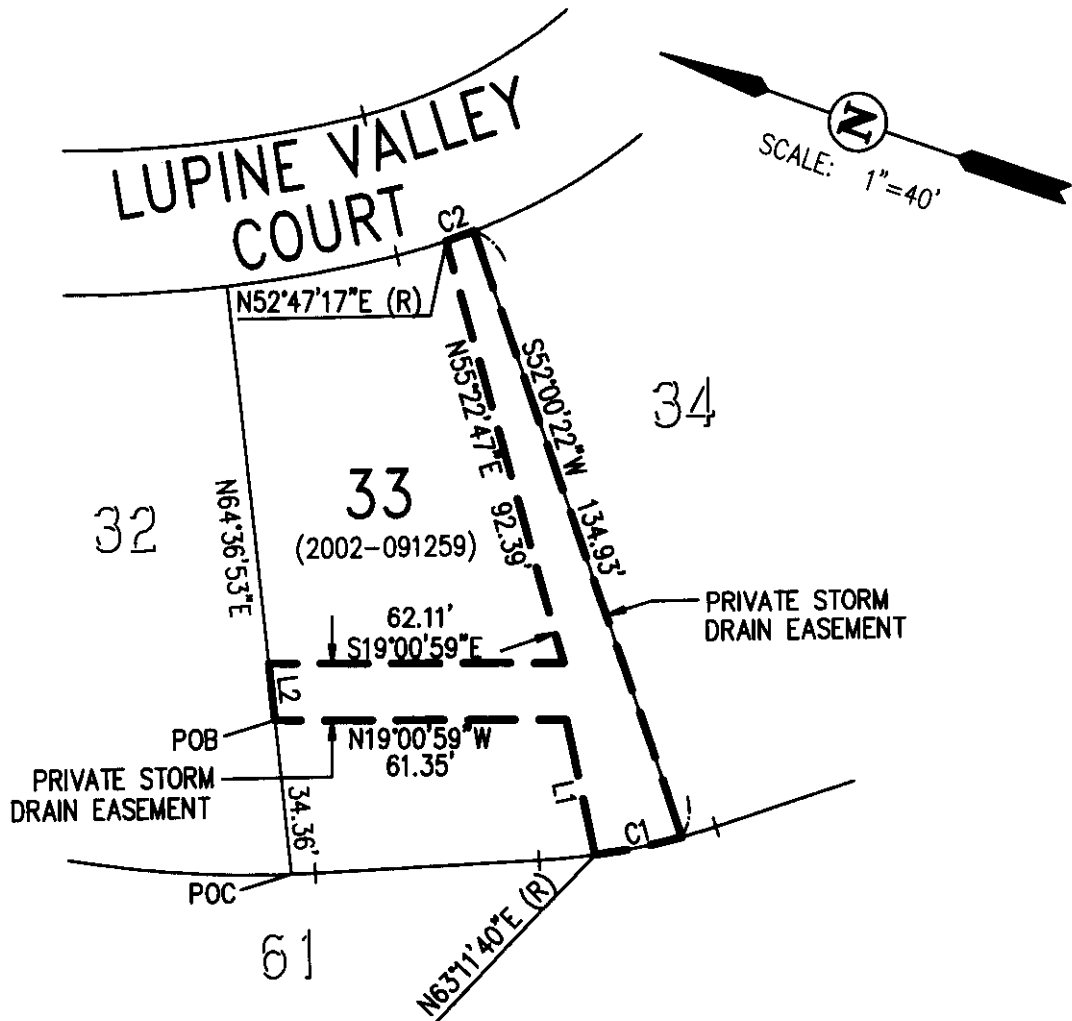


CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	00°51'43"	291.00'	4.38'
C2	07°33'23"	245.00'	32.31'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N87°09'38"E	16.10'
L2	S26°29'57"E	12.34'
L3	N02°02'59"W	3.88'

PLAT
PRIVATE STORM DRAIN EASEMENT
NEW LOT 32, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091259)
BRISBANE, CALIFORNIA
 DATE: SEPTEMBER 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

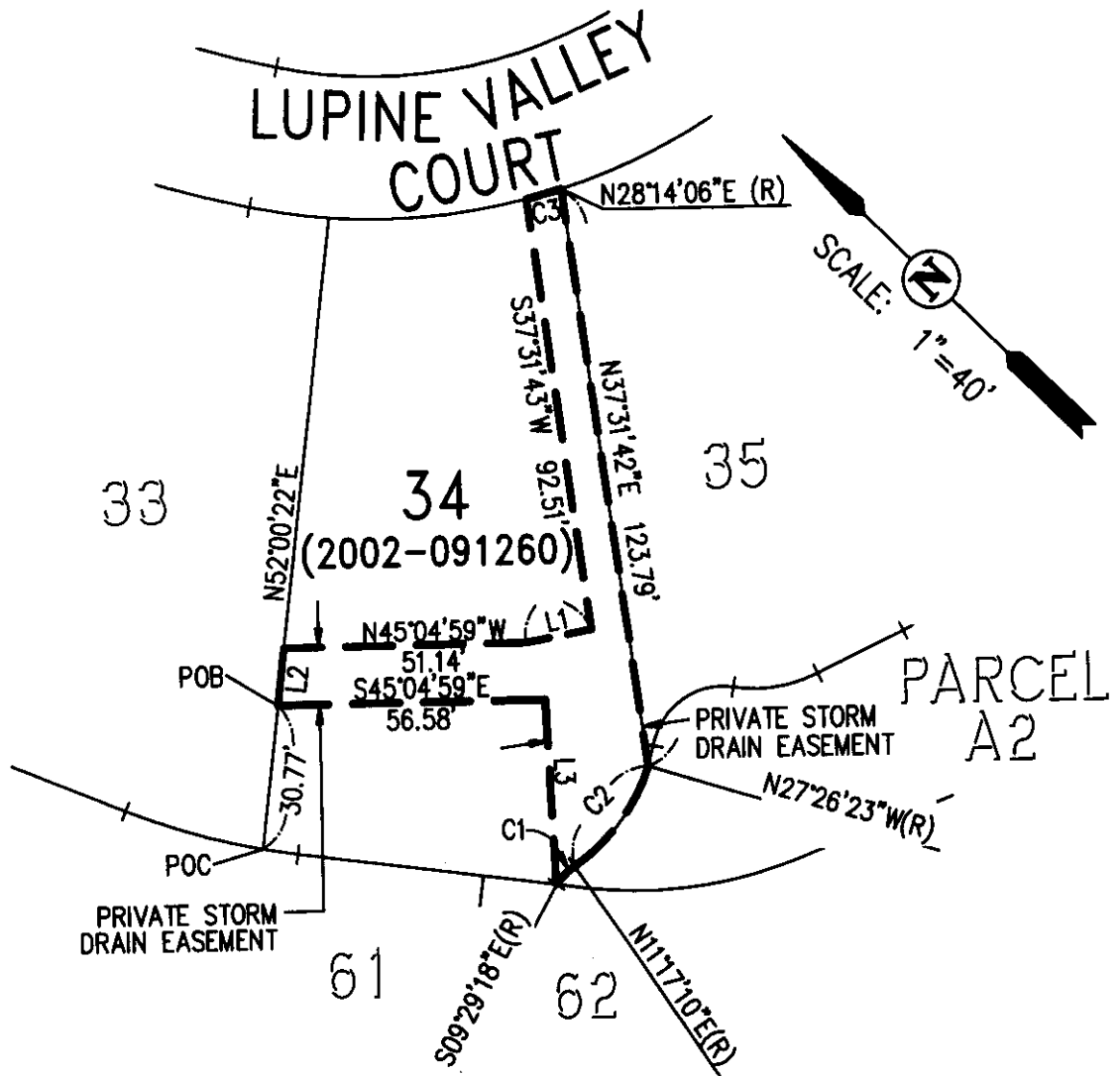


CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	07°24'00"	145.00'	18.73'
C2	02°45'11"	131.00'	6.29'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N58°55'14"E	28.86'
L2	N64°36'53"E	12.07'
L3	S58°55'14"W	30.78'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 33, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091259)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



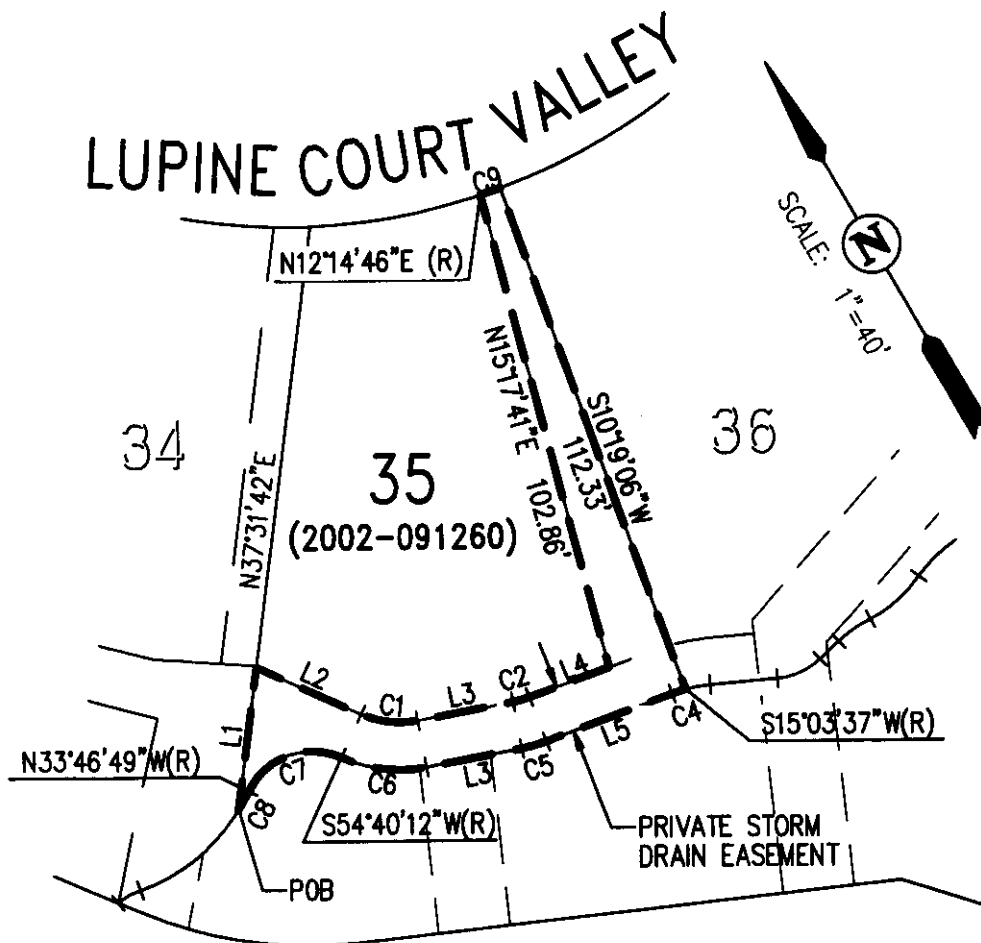
CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	20°46'28"	15.00'	5.44'
C2	38°43'33"	40.00'	27.04'
C3	03°21'17"	131.00'	7.67'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N55°39'37"W	14.25'
L2	S52°00'22"W	12.09'
L3	S42°32'54"W	39.40'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 34, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	35°09'25"	20.00'	12.27'
C2	10°06'17"	20.00'	3.53'
C4	05°39'07"	30.00'	2.96'
C5	10°06'17"	30.00'	5.29'
C6	35°09'25"	30.00'	18.41'
C7	88°27'01"	15.00'	23.16'
C8	06°20'26"	40.00'	4.43'
C9	01°55'40"	131.00'	4.41'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N37°31'42"E	30.35'
L2	S35°19'48"E	24.30'
L3	S70°29'13"E	20.31'
L4	S80°35'30"E	17.98'
L5	N80°35'30"W	28.19'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 35, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091260)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=20'

LUPINE COURT VALLEY

N08°13'03"W (R) C2

PRIVATE STORM
DRAIN EASEMENT

35

36
(2002-091260)

37

N04°43'57"W 87.40'

S10°34'31"E 118.26'

N13°52'23"E(R)

S 71°5'52" W 52.73'

N15°03'37"E(R)

N01°20'33"W(R)

PLAT
PRIVATE STORM DRAIN EASEMENTS
LOT 36, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091260)
BRISBANE, CALIFORNIA

DATE: AUGUST 2003

PAGE 1 OF 2

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	11°10'41"	40.00'	7.80'
C2	02°27'01"	131.00'	5.60'
C3	22°56'46"	30.00'	12.01'
C4	45°47'54"	30.00'	23.98'
C5	26°07'06"	30.00'	13.68'
C6	15°45'38"	30.00'	8.25'
C7	38°53'17"	15.00'	10.18'
C8	09°59'27"	30.00'	5.23'

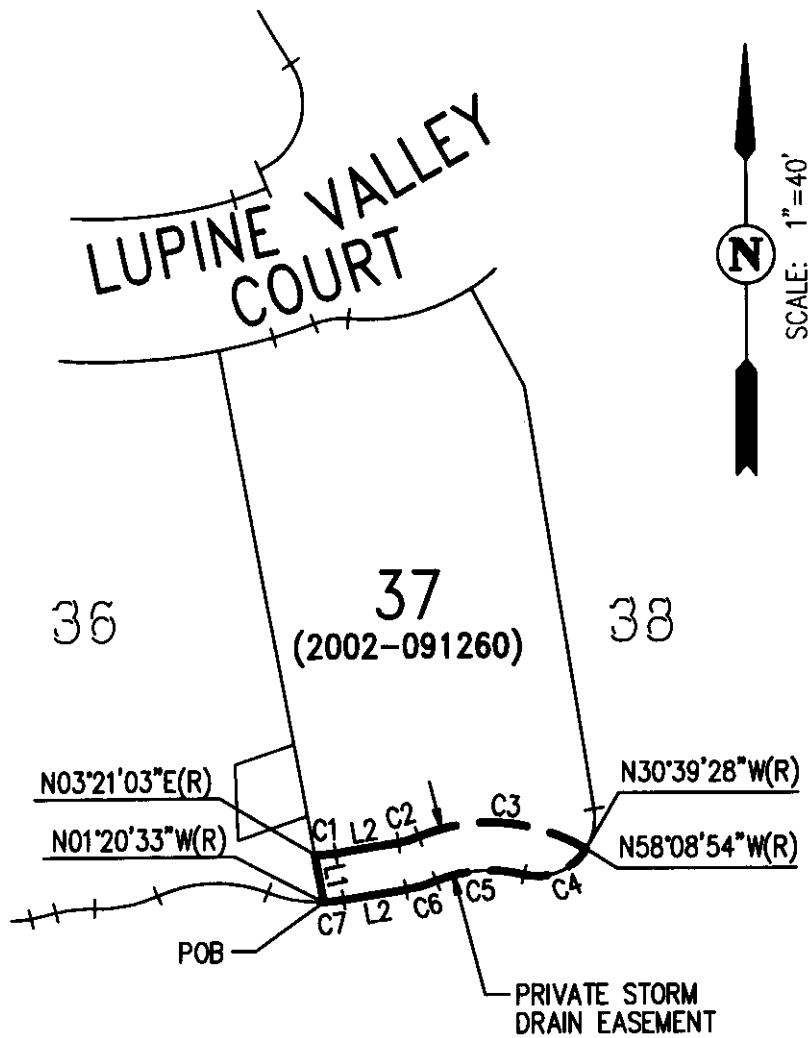
LINE TABLE		
NO.	BEARING	DISTANCE
L1	N10°19'06"E	10.03'
L2	S64°56'56"E	10.18'
L3	S23°54'33"W	3.00'
L4	N76°09'47"E	5.40'
L5	N64°56'56"E	14.21'

PLAT
PRIVATE STORM DRAIN EASEMENTS
LOT 36, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091260)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

PAGE 2 OF 2

Carlson, Barbee, & Gibson, Inc.

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 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	12°30'15"	20.00'	4.36'
C2	12°37'35"	20.00'	4.41'
C3	52°26'15"	40.00'	36.61'
C4	72°12'30"	12.00'	15.12'
C5	35°50'23"	30.00'	18.77'
C6	12°37'35"	30.00'	6.61'
C7	07°48'39"	30.00'	4.09'

LINE TABLE		
NO.	BEARING	DISTANCE
L1	N10°34'31"W	10.20'
L2	N80°50'48"E	13.33'

PLAT
PRIVATE STORM DRAIN EASEMENT
LOT 37, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO. 2002-091260)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

EXHIBIT “D”
Sanitary Sewer Easements

SEPTEMBER 4, 2003
JOB NO.: 779-30

**LEGAL DESCRIPTION
PRIVATE SANITARY SEWER EASEMENT
NEW LOT 36, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF BRISBANE, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF NEW LOT 36, AS SAID NEW LOT 36 IS DESCRIBED IN THAT CERTAIN DEED RECORDED MAY 9, 2002, IN DOCUMENT NO. 2002-091260 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID NEW LOT 36;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE EASTERN LINE OF SAID NEW LOT 36, NORTH $10^{\circ}34'31''$ WEST 18.35 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID EASTERN LINE, SOUTH $71^{\circ}15'52''$ WEST 58.65 FEET;

THENCE, SOUTH $23^{\circ}54'33''$ WEST 2.06 FEET TO A POINT ON THE SOUTHERN LINE OF SAID NEW LOT 36;

THENCE, ALONG SAID SOUTHERN LINE, THE FOLLOWING THREE (3) COURSES:

- 1) SOUTH $76^{\circ}09'47''$ WEST 2.13 FEET,
- 2) ALONG THE ARC OF A TANGENT 15.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF $38^{\circ}53'17''$, AN ARC DISTANCE OF 10.18 FEET, AND
- 3) NORTH $64^{\circ}56'56''$ WEST 3.83 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH $23^{\circ}54'33''$ EAST 13.00 FEET;

THENCE, NORTH $71^{\circ}15'52''$ EAST 67.38 FEET TO A POINT ON SAID EASTERN LINE OF NEW LOT 36;

LEGAL DESCRIPTION
PAGE TWO

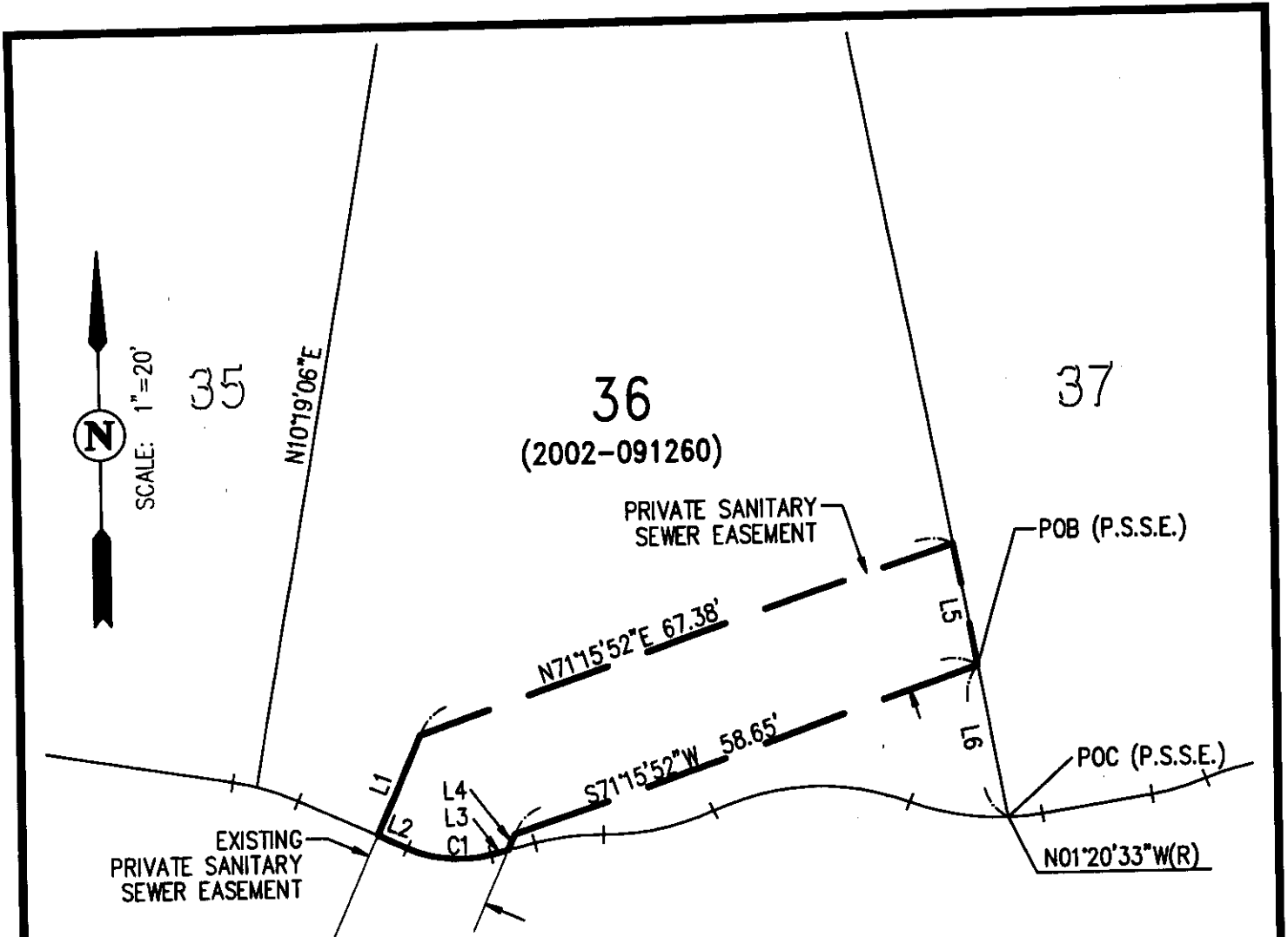
SEPTEMBER 4, 2003
JOB NO.: 779-30

THENCE; ALONG SAID EASTERN LINE, SOUTH 10°34'31" EAST 15.15 FEET TO SAID
POINT OF BEGINNING.

END OF DESCRIPTION



Christopher S. Harmison
CHRISTOPHER S. HARMISON
L.S. NO. 7176
EXPIRES: DECEMBER 31, 2003

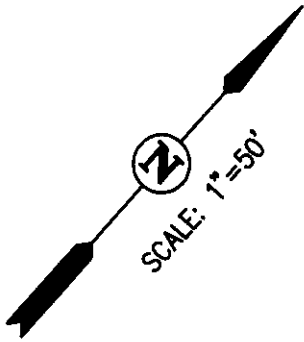


CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	38°53'17"	15.00'	10.18'

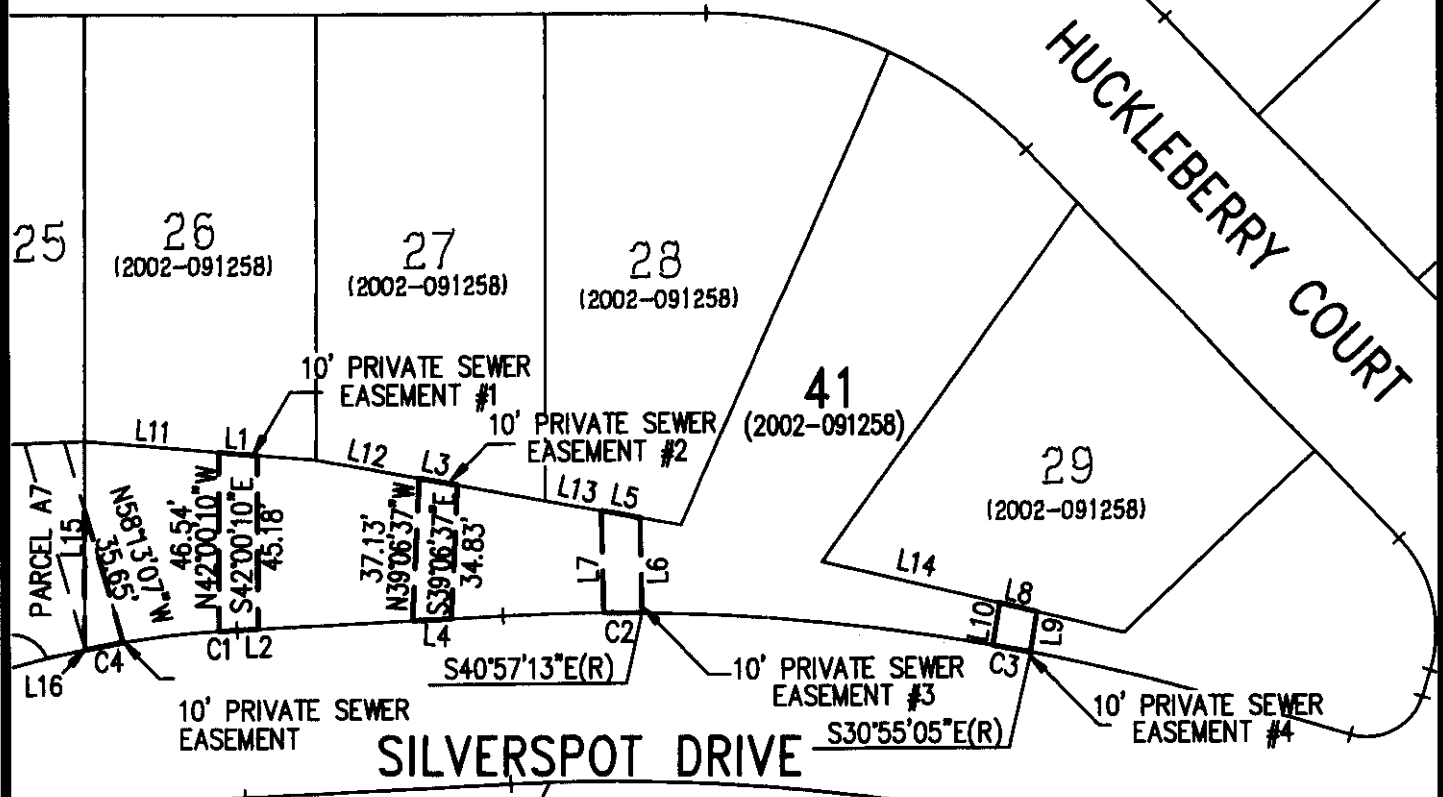
LINE TABLE		
NO.	BEARING	DISTANCE
L1	N23°54'33"E	13.00'
L2	N64°56'56"W	3.83'
L3	S76°09'47"W	2.13'
L4	S23°54'33"W	2.06'
L5	S10°34'31"E	15.15'
L6	N10°34'31"W	18.35'

PLAT TO ACCOMPANY LEGAL DESCRIPTION
PRIVATE SANITARY SEWER EASEMENT
LOT 36, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA
 DATE: SEPTEMBER 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	01°00'54"	262.00'	4.64'
C2	00°59'06"	582.00'	10.01'
C3	00°59'04"	582.00'	10.00'
C4	02°11'51"	262.00'	10.06'



LINE TABLE		
NO.	BEARING	DISTANCE
L1	N53°01'19"E	10.04'
L2	S45°27'09"W	5.37'
L3	N58°33'24"E	10.09'
L4	S45°27'09"W	10.05'
L5	N58°33'24"E	10.21'

LINE TABLE		
NO.	BEARING	DISTANCE
L6	S42°56'55"E	24.75'
L7	N42°56'55"W	26.52'
L8	N61°19'36"E	10.02'
L9	S32°24'15"E	10.47'
L10	N32°24'15"W	10.95'

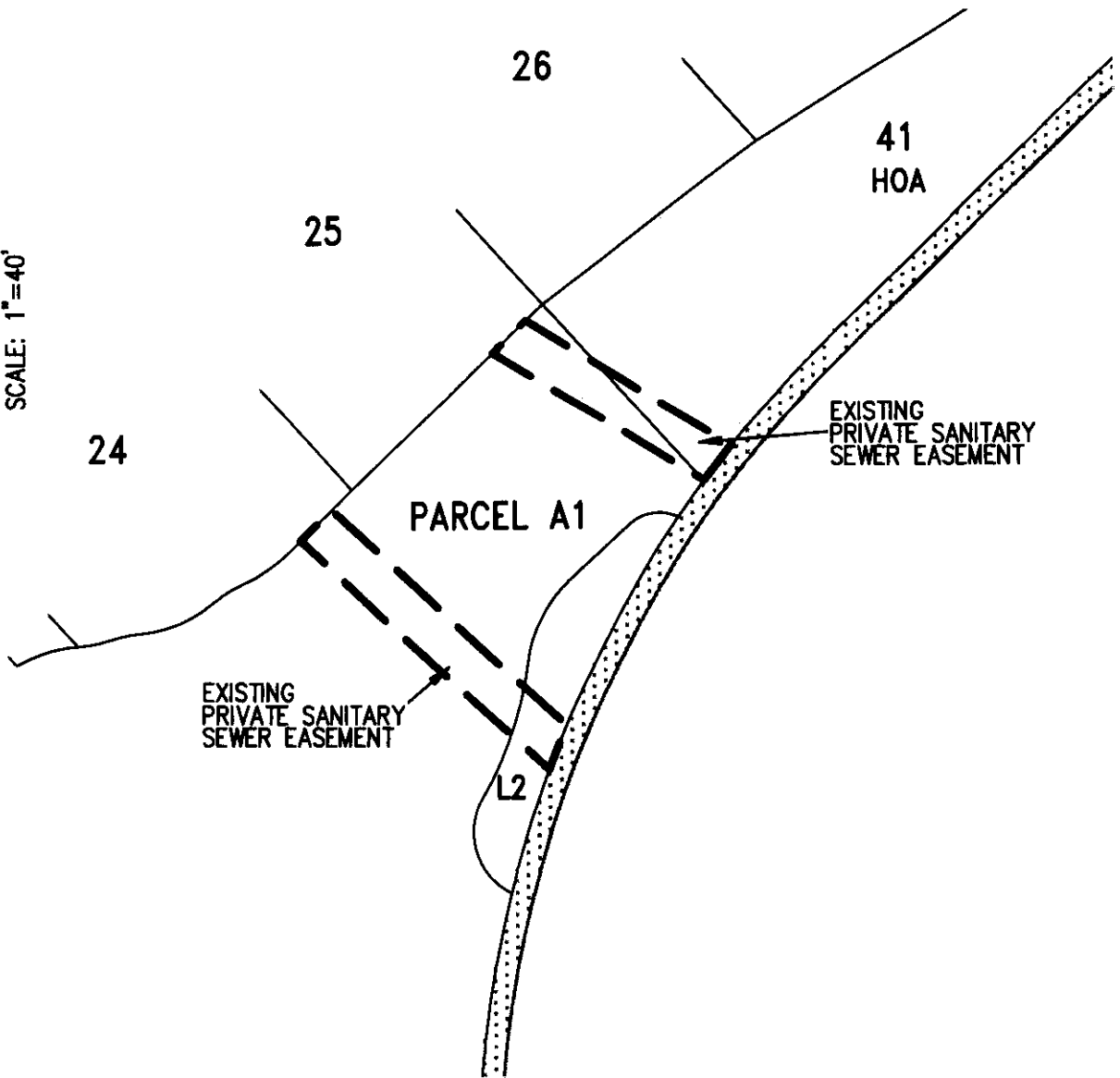
LINE TABLE		
NO.	BEARING	DISTANCE
L11	N53°01'19"E	35.37'
L12	N58°33'24"E	27.15'
L13	N58°33'24"E	14.93'
L14	N61°19'36"E	47.59'
L15	N41°45'56"W	35.31'
L16	N41°45'56"W	0.75'

PLAT
10' PRIVATE SEWER EASEMENTS
LOT 41, NORTHEAST RIDGE, UNIT NO. 1 (SERIES NO.2002-091258)
BRISBANE, CALIFORNIA
 DATE: AUGUST 2003

Carlson, Barbee, & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



SCALE: 1"=40'



PLAT
EXISTING PRIVATE SANITARY SEWER EASEMENTS
PARCEL A1, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA

DATE: SEPTEMBER, 2003

SHEET 1 OF 1

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



33

LUPINE VALLEY COURT

34

35

36

37

61

EXISTING PRIVATE SANITARY SEWER EASEMENT

EXISTING PRIVATE SANITARY SEWER EASEMENT

PARCEL A2

EXISTING PRIVATE SANITARY SEWER EASEMENT

62

PLAT

EXISTING PRIVATE SANITARY SEWER EASEMENT
PARCEL A2, NORTHEAST RIDGE, UNIT NO. 1
BRISBANE, CALIFORNIA

DATE: SEPTEMBER 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583

TELEPHONE: (925) 866-0322 FAX: (925) 866-8575

2003-305800

02:17pm 10/23/03 DR Fee: 16.00

Count of pages 4

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



RECORDED AT THE REQUEST OF:

First American Title
#990492/CK

WHEN RECORDED RETURN TO:

Brookfield Homes
500 La Gonda Wy, Ste 100
Danville, CA 94526

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
LANDMARK AT THE RIDGE**

4p

THIS FIRST AMENDMENT TO DECLARATION ("Amendment") is made this 22nd day of October, 2003, by BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company ("Declarant").

Declarant is the owner of all the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, described as follows:

Lots 1 through 13, inclusive, and 30 through 37, inclusive, as shown on the subdivision map of Northeast Ridge, filed for record on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Instrument Nos. 2002-091255, 2002-091256, 2002-091257, 2002-091258, 2002-091259 and 2002-091260 of said Official Records.

No lots within said real property have been conveyed by Declarant.

On October 14, 2003, Declarant recorded its Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge in the Office of the County Recorder of San Mateo County, California, as Document No. 2003-295992 of the Official Records ("Declaration") and its Declaration of Annexation and Supplemental Restrictions for Landmark at the Ridge — Phase 2 ("Declaration of Annexation") as Document No. 2003-295993. Subsequent to the recordation of the Declaration, a lot line adjustment was recorded on October ____, 2003, as Instrument No. cancel to this ("New LLA").

By this document, the Declaration, as imposed by the Declaration of Annexation, is amended pursuant to the provisions of Section 10.1 thereof.

JAN 125-028-000-01T thru 13T
30T thru 37T

1. Section 3.3 of Exhibit "B" as attached to the Declaration is hereby amended to read as follows:

3.3 Landowners Funding of Reserve Amount: Prior to or concurrently with close of escrow for Landowners's sale of the first Unit in the Project, Landowners shall deposit in the Trust Account an amount equal to \$1280.30 representing the initial Reserve Amount, being 25% of the total annual HCP Assessments which would be levied against the total number of Units planned in the Project at the rate of \$73.16 per Unit per annum. After such deposit has been made, Landowners shall have fully performed its obligations under this Agreement and Landowners shall have no further obligations of any kind or nature under this Agreement. Notwithstanding the foregoing, Landowners shall remain obligated to perform its separate obligations, if any, as a Landowner under the HCP Agreement and to pay assessments levied pursuant to the terms of the Project Declaration and the HCP Declaration to the extent it is a Unit Owner in the Project.

2. The real property removed by the New LLA from Lots 30,31 & 32, as shown on the Map, is hereby removed from the Declaration.

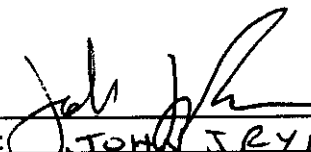
3. Invalidation of any provision contained in this Amendment by judgment, court order, or otherwise, shall in no way affect any other provision contained herein, or in the Declaration, which shall remain in full force and effect.

4. All terms used in this Amendment which are defined in the Declaration shall have the same meaning as in the Declaration.

IN WITNESS WHEREOF, Declarant has executed this Amendment on the day and year first written above.

DECLARANT:

BROOKFIELD NORTHEAST RIDGE II LLC
a Delaware limited liability company

By: 
Name: JOHN J. RYAN
Title: President

STATE OF CALIFORNIA }
COUNTY OF Contra Costa }

On October 22, 2003, before me, Debra L. Levine, personally appeared John J. Ryan, personally known to me (or ~~proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies); and that by his/~~her/their~~ signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Debra L. Levine

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Contra Costa

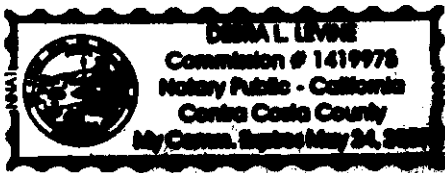
} ss.

On October 27, 2009 before me, Debra L. Levine
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared John J. Ryan
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

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



WITNESS my hand and official seal.

Debra L. Levine
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: First Amendment to CCR

Document Date: _____ Number of Pages: _____

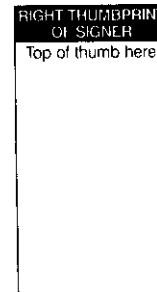
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



ILLEGIBLE NOTARY SEAL DECLARATION

(Government Code 27361.7)

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY
SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS
ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: Debra Levine

COMMISSION NUMBER: 1419976
(IF APPLICABLE)

DATE COMMISSION EXPIRES: May 24-09

STATE: C.A.

COUNTY: Contra Costa

PLACE OF EXECUTION OF THIS DECLARATION:
Recode

DATE: 10-23-07

SIGNATURE: [Signature]

AGENT FOR: First American

①

RECORDED AT THE REQUEST OF:
RECORDING REQUESTED BY
FIRST AMERICAN TITLE

WHEN RECORDED RETURN TO:

Brookfield Homes
500 La Gonda Way
Suite 100
Danville, CA 94526

2006-168384

01:55pm 11/07/06 A3 Fee: 43.00

Count of pages 13

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



NOTICE OF ADOPTION OF AMENDMENT

137

The undersigned are the President and Secretary, respectively of LANDMARK AT THE RIDGE OWNERS ASSOCIATION, a California nonprofit mutual benefit corporation. The undersigned hereby certify that the following amendment was duly adopted by a vote of Owners representing fifty-one percent (51%) of the total voting power of each class of Members of the Association.

“SECOND AMENDMENT TO
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
LANDMARK AT THE RIDGE”

This Second Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge (“**Amendment**”) is made on the terms and conditions herein stated.

RECITALS:

1. All of the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, described as

Lots 1 through 42, inclusive, as shown on the subdivision map of Northeast Ridge Unit No. 1, filed for record on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Instrument Numbers 2002-091255, 2002-091256, 2002-091257, 2002-091258, 2002-091259 and 2002-091260 of said Official Records (Said map, as amended by said lot line adjustments, is referred to in this Declaration of Annexation as “**Map I**”)

is subject to the Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded on October 14, 2003, as Document No. 2003-295992, (“**Declaration**”) and amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded on October 23, 2003, as Document No. 2003-305800 (“**First Amendment**”), both in the Official Records of the County of San Mateo, State of California.

2. All of the real property and Improvements thereon located in the City of Brisbane, County of San Mateo, State of California, described as

Lots 1 through 11, inclusive, as shown on the final map of Northeast Ridge Unit II Adjacent to Unit I – Golden Aster Court filed for record on July 24, 2006 in Book 134 of Maps at Pages 31 through 37, inclusive, in the Official Records of the County of San Mateo, State of California (“**Map II**”)

shall be made subject to the Declaration and the First Amendment when the Declaration of Annexation and Supplemental Restrictions for Landmark at the Ridge – Phase 5 is recorded.

3. Section 6.2.2 of the Declaration is deleted and the following new section is substituted in lieu thereof:

6.2.2 Allocation of Regular Assessments: The total amount of the Association’s anticipated revenue attributable to Regular Assessments as reflected in the Budget for that fiscal year shall be allocated among the Lots as provided in this Section. After annexation of each Phase, the allocation and assessment of the charges in the Budget shall be reallocated among all Lots in the Project, including those in the annexed portions of the Annexable Property, as provided in this Section.

(a) HCP Assessments for Map I Lots: The HCP Assessments (as defined in Section 6.10) for Lots 1 through 42, inclusive, as shown on Map I (“**Map I Lots**”), shall be allocated entirely to and equally against all Map 1 Lots.

(b) HCP Assessments for Subsequent Lots: HCP Assessments (as defined in Section 6.10) for Lots 1 through 11, inclusive, as shown on Map II, and all Lots annexed to the Project subsequent to the recordation date of this Second Amendment (collectively referred to as “**Subsequent Lots**”) shall be allocated entirely to and equally against all Subsequent Lots.

(c) To All: The total amount of the Association’s anticipated revenue attributable to Regular Assessments as reflected in the Budget for that fiscal year, less the amounts described in (a) and (b), above, shall be allocated equally among all Lots.

4. Section 6.7.1 of the Declaration is deleted and the following new section is substituted in lieu thereof:

6.7.1 Preparation and Distribution of Budget: The Board shall annually prepare, adopt and distribute a Budget in accordance with the requirements of California Civil Code Section 1365. A summary of the Budget may be distributed in lieu of the entire Budget if the requirements set forth in California Civil Code Section 1365 are satisfied. Each Budget or summary shall be accompanied by the disclosure required by California Civil Code Section 1363.850. After a new Phase has been annexed, the Board shall approve a Budget, which is substantially based upon the operating Budget accepted by the Department of Real Estate of the State of California in connection with the Public Report for that Phase, for the remainder of the current fiscal year for use upon the commencement of Regular Assessments against Lots in the new Phase. Each Budget shall separately identify HCP Assessments for Map I Lots and HCP Assessments for Subsequent Lots so that those costs can be allocated as provided in Section 6.2.2 (Allocation of Regular Assessments).

(a) HCP Assessments for Map I Lots: HCP Assessments for Map I Lots shall include all amounts described in the Collection Agreement Between the San Bruno Mountain Area Habitat Conservation Trust and Landmark at the Ridge Owners Association, recorded October 23, 2003, as Instrument No. 2003-305801, in the Official Records of the County.

(b) HCP Assessments for Subsequent Lots: HCP Assessments for Subsequent Lots shall include all amounts described in the Collection Agreement Between the San Bruno Mountain Area Habitat Conservation Trust and Landmark at the Ridge Owners Association, attached here as Exhibit "A." Prior to close of escrow for the conveyance of any Subsequent Lot, the Association, Declarant and the HCP Trust shall enter into a Collection Agreement in the form attached hereto as Exhibit "A."

5. Except as expressly stated herein, all of the provisions of the Declaration, as amended by the First Amendment, are restated and affirmed and shall remain in full force and effect.

6. This Amendment shall be effective upon the date of its recordation in the Official Records of the County of San Mateo, State of California."

IN WITNESS WHEREOF, the undersigned have executed this Notice of Adoption of this Second Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge on this 27, day of October, 2006.

LANDMARK AT THE RIDGE OWNERS
ASSOCIATION,
a California nonprofit mutual benefit corporation

By: [Signature]
Name: KEVIN POTTERSON
President

By: [Signature]
Name: Stephen Holmes
Secretary

EXHIBITS

- A** **Collection Agreement Between the San Bruno Mountain Area Habitat Conservation Trust and Landmark at the Ridge Owners Association**

STATE OF CALIFORNIA }
COUNTY OF Contra Costa } ss.

On October 27, 2006, before me, Debra L. Levine, Notary Public,
personally appeared Kevin Johnson & Stephen Holmes,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Debra L. Levine
Notary Public

STATE OF CALIFORNIA }
COUNTY OF _____ } ss.

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

WITNESS my hand and official seal.

Notary Public

EXHIBIT A

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

COLLECTION AGREEMENT
between the
SAN BRUNO MOUNTAIN AREA
HABITAT CONSERVATION TRUST
and
LANDMARK AT THE RIDGE OWNERS ASSOCIATION

THIS COLLECTION AGREEMENT ("Agreement") is made effective as of the Effective Date by and among the Trustees of the SAN BRUNO MOUNTAIN AREA HABITAT CONSERVATION TRUST ("HCP Trust"), and BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company ("Landowners"), and LANDMARK AT THE RIDGE OWNERS ASSOCIATION, a non-profit mutual benefit corporation incorporated under the laws of the State of California ("Association").

R E C I T A L S:

1. Each of the parties enters into this Agreement in recognition of the following facts:

A. The 10(a) Permit issued by the United States Fish and Wildlife Service to the County of San Mateo, California, and the Cities of Brisbane, Daly City and South San Francisco, California, under which Landowners are authorized to build a residential housing project, including other related uses, known as "Landmark at the Ridge" in the City of Brisbane, requires that there be a permanent funding source for habitat preservation and that requirement must be met.

B. The Trustees of the HCP Trust, the Association and Landowners have determined that it is in the best interests of both the HCP Trust and the future owners of single family Units in Landmark at the Ridge that during such periods as the funding source set forth in Article VI(A)(2) of the HCP Agreement is operative, that the payments of the HCP Assessments to the HCP Trust by individual Unit Owners who are members of the Association be made through the Association acting as collection agent on behalf of the HCP Trustees pursuant to this Agreement.

2. Definitions: For the purpose of this Agreement, the following capitalized terms shall have the following meanings:

2.1 Effective Date: The term "Effective Date" means the date on which the last party to sign this Agreement signs the same as evidenced by the date opposite the signatures of the parties hereto.

2.2 HCP Agreement: The term “**HCP Agreement**” means the “**Agreement With Respect to the San Bruno Mountain Area Habitat Conservation Plan**,” recorded on March 22, 1983, as Document No. 83026343 in the Official Records of San Mateo County, State of California, among the United States Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco, Visitacion Associates, Cadillac-Fairview Homes West, W.W. Dean & Associates, Presley of Northern California, Inc., and Foxhall Investment, Ltd.

2.3 HCP Assessment: The term “**HCP Assessment**” means the assessments levied by the HCP Trust pursuant to the HCP Declaration.

2.4 HCP Declaration: The term “**HCP Declaration**” means the Declaration of Covenants and Restrictions on Real Property on San Bruno Mountain described in Exhibit “A,” pursuant to the requirement of Article VI(A)(2) of the HCP Agreement.

2.5 Map I Lots: The term “**Map I Lots**” means Lots 1 through 42, inclusive, as shown on the subdivision map of Northeast Ridge Unit No. 1, filed for record on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Document Nos. 2002-091255, 2002-091256, 2002-091257, 2002-091258, 2002-091259 and 2002-091260 of the Official Records of the County (“**Map I**”).

2.6 Project: The term “**Project**” means the Subsequent Lots. Other portions of Landmark at the Ridge are subject to a previously executed Collection Agreement which shall remain in full force and effect with respect to the Map 1 Lots.

2.7 Project Declaration: The term “**Project Declaration**” means the Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded October 14, 2003 as Document No. 2003-295992 in the Official Records of San Mateo County, State of California, as amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded on October 23, 2003, as Document No. 2003-305800 (“**First Amendment**”), in the Official Records of the County of San Mateo, State of California.

2.8 Subsequent Lots: The term “**Subsequent Lots**” means Lots 1 through 11, as shown on the final map of Northeast Ridge Unit II Adjacent to Unit I – Golden Aster Court filed for record on July 24, 2006 in Book 134 of Maps at Pages 31 through 37, inclusive, in the Official Records of the County of San Mateo, State of California, and all Lots annexed to the Project subsequent to the recordation date of the Second Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge, recorded _____, as _____ in the Official Records of San Mateo County, State of California.

2.9 Trust Account: The term “**Trust Account**” means the trust account referred to in Paragraph 3 of this Agreement.

2.10 Trust Account Reserve: The term “**Trust Account Reserve**” or “**Reserve**” means the reserve referred to in Paragraph 3.2 of this Agreement.

2.11 Unit Owners: The term “**Unit Owner**” means the Owner of a single family Unit in the Project.

2.12 Other Capitalized Terms: Any other capitalized term contained in this Agreement, unless the context clearly indicates a different meaning, shall have the meaning given to it in the HCP Agreement if such term is defined therein, or the meaning given it in the Project Declaration if such term is defined therein, provided that where a term is used in both the HCP Agreement and the Project Declaration, such term shall have the meaning given it in the HCP Agreement.

3. Trust Account.

3.1 Establishment of Trust Account: Prior to close of escrow for the sale of the first Unit in the Project, the Association shall open an interest bearing trust account with a bank or savings and loan association insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, called the "HCP Northeast Ridge II: Subsequent Lots — San Bruno Mountain Area Habitat Conservation Trust Account." The Trust Account shall be established and maintained by the Association for the benefit of the HCP Trustees, and funds shall be withdrawn therefrom by officers of the Association only for the benefit of the HCP Trust in accordance with Section 6.10 of the Project Declaration and the terms of this Agreement.

3.2 Trust Account Reserve: The Association acknowledges that the HCP Trustees intend that the Trust Account shall constitute, in part, a reserve fund against potential future delinquencies by Unit Owners in the payment of the HCP Assessments and that the HCP Trustees desire to maintain a balance in the Trust Account in an amount equal to 25% of the total annual HCP Assessments for Units in the Project (as adjusted to reflect changes in the value of the Dollar) as set forth in the most recent notification from the HCP Trustees pursuant to Paragraph 5 hereof ("**Reserve Amount**"). The HCP Trustees acknowledge, however, that the Reserve Amount may drop below 25% when occasioned by payments therefrom to the HCP Trust of amounts representing delinquencies in payments of the HCP Assessment by Unit Owners. In the event the balance in the Trust Account at any time is less than the Reserve Amount, the Board of the Association shall notify the HCP Trustees and annually on October 1 in any event, the Board of the Association shall furnish to the HCP Trustees all statements prepared by the depository showing all activity in the Trust Account during the preceding year and the current Trust Account balance.

3.3 Landowners Funding of Reserve Amount: All of the Subsequent Lots shown on a single recorded subdivision map are referred to as a "**Subsequent Phase**" for purposes of this Paragraph 3.3. Prior to or concurrently with the close of escrow for Landowners' sale of the first Unit in each Subsequent Phase, Landowners shall deposit in the Trust Account an amount equal to Twenty-Five Percent (25%) of the total number of Subsequent Lots in that Subsequent Phase multiplied by Eight Hundred Dollars (\$800). This amount represents the initial Reserve Amount for Subsequent Lots in that Subsequent Phase, being 25% of the total annual HCP Assessments which would be levied against the total number of Subsequent Lots in that Subsequent Phase, at the rate of Eight hundred dollars (\$800) per Unit per annum. After such deposits have been made, Landowners shall have fully performed their obligations under this Agreement and Landowners shall have no further obligations of any kind or nature under this Agreement. Notwithstanding the foregoing, Landowners shall remain obligated to perform their separate obligations, if any, as a Landowner under the HCP Agreement and to pay assessments levied pursuant to the terms of the Project Declaration and the HCP Declaration to the extent it is a Unit Owner in the Project.

3.4 HCP Assessment for Reserve: If after its initial funding by Landowners pursuant to Paragraph 3.3 above, the balance in the Trust Account at any time is less than the Reserve Amount, the HCP Trustees shall add to the HCP Assessment as otherwise determined pursuant to the HCP Declaration an amount not to exceed 25% in any one year until the Reserve Amount is reestablished. Whenever thereafter the HCP Trustees learn that the Reserve Amount has been reduced below the level established hereinabove, the HCP Trustees shall include an amount in the next HCP Assessment sufficient to restore the Reserve

Amount to such level. In making the calculations for this purpose, the HCP Trustees may include a reasonable projection of the delinquency factor in the making of payments of the HCP Assessment.

4. Notice of HCP Assessment; Collection of HCP Assessments: On or before October 1 of each year, the HCP Trustees shall give notice in writing to the Board of the Association of the amount of the next year's HCP Assessment as adjusted in accordance with the terms of the HCP Declaration to reflect changes in the value of the Dollar and as augmented by the amount, if any, determined by the Trustees to be necessary to set or maintain the Reserve Amount in the HCP Trust Account at the Reserve Amount established in Paragraph 3.2 hereof. On or before October 10 of each year, or such other date or at such more frequent intervals as the HCP Trustees in writing may designate, the Board of the Association shall give notice in writing to each Unit Owner subject to the HCP Assessment, of the amount of his, her or its assessment as set forth in such notice from the Trustees. Thereafter, the Association shall collect the amount of the HCP Assessments from Unit Owners pursuant to the collection authority contained herein and shall deposit all HCP Assessments so collected in the Trust Account.

5. Payment to HCP Trust: On or before November 10 of each year or such other date or at such more frequent intervals as the HCP Trustees in writing may designate (provided such earlier designation corresponds to the earlier levy of assessments pursuant to Paragraph 4, above), the Board of Association shall pay or cause to be paid from the Trust Account to the HCP Trust in accordance with this Agreement so much of the funds in the Trust Account as shall be required to meet the lawful demands of the HCP Trust as established in the HCP Declaration. From the Reserve Amount the Association shall pay the HCP Assessment of any Unit Owner or Unit Owners who have failed to currently pay the HCP Assessment. If the Reserve Amount in the HCP Trust Account is not sufficient to pay the amount of all delinquent HCP Assessments in full, if any, the Board of the Association shall immediately notify the HCP Trustees. The Association shall have no responsibility to pay any deficiency in HCP Assessments from the Association's own funds so long as the Association's obligations under this Agreement have been met.

6. HCP Assessment Lien: In every case where the Association has caused payment to be made to the HCP Trust from the Reserve Amount for any Unit Owner who is delinquent in making payment of his, her or its HCP Assessment, the Association thereby and thereupon shall be empowered to enforce the lien for delinquent assessments conferred upon the HCP Trust by the HCP Declaration, and the Association, as collection agent under this Agreement, shall be entitled to recover all attorneys' fees, costs and expenses incurred by it in accordance with the provisions of the HCP Declaration. This Agreement shall constitute a complete delegation of authority from the HCP Trustees to the Board of the Association to enforce the HCP Declaration lien against the Unit of any delinquent Unit Owner to the full extent of the payment or payments the Association has made to the HCP Trust from the Reserve Amount, and no further action by the HCP Trustees is required to perfect such authority in the Board of the Association.

7. Amendment: This Agreement can be amended only by a writing executed by all of the parties hereto, provided that Landowners and its assigns or successors in interest shall cease to be a party for any purpose when the Trust Account has been funded as provided in Paragraph 3.3.

8. Alternate Financing of HCP: If financing of habitat conservation under the HCP Agreement is hereafter provided by an assessment or other tax collection mechanism by which an amount equivalent to the HCP Assessment must be paid directly by Unit Owners to the County or a City incident to the collection of taxes as envisaged in Article VI(A)(4) of the HCP Agreement ("**Alternative Financing**"), then the obligations created by this Agreement shall cease and remain dormant until such time, if ever, as the Alternative Financing method becomes inoperative. The HCP Trustees shall notify the Association of the nature of the Alternative Financing that has been adopted, the date or dates on which the rights and duties of the parties to this Agreement shall, until further notice, cease and the terms of the transfer of the balance in the HCP Trust Account to the County (or other entity conducting the Alternative Financing assessment

proceedings) to be applied by it against the first, and if sufficient funds remain, subsequent years' assessments.

9. Covenants to Run With Land: Without limiting the legal effect of other provisions of this Agreement, the parties declare it to be their intention that the rights and duties established by this Agreement are intended to implement the 10(a) Permit, the Project Declaration, the HCP Agreement and the HCP Declaration, and as such shall run with the land and be binding upon and inure to the benefit of their respective assigns or successors in interest. This Agreement affects the title of the lands within the Project and of the Conserved Habitat of the San Bruno Mountain Area, as defined in the HCP Agreement, and the covenants and conditions herein relate to the beneficial use and enjoyment of all such lands. The provisions of this Agreement shall benefit and shall be binding upon each of the parties hereto and their respective successors in interest.

10. Miscellaneous Provisions:

10.1 No Fee for Services: The Association acknowledges that this Agreement provides the Unit Owners with a convenient and efficient mode of collection of the HCP Assessment, and therefore the Association agrees that it will perform the collection service provided for herein without fee and that it shall receive no compensation or reimbursement from the HCP Trust for the performance of its duties hereunder except for costs and attorneys' fees authorized under Paragraph 6 hereof.

10.2 Termination of Agreement: The HCP Trustees may terminate this Agreement by providing notice of the intention to do so in accordance with the provisions of paragraph 10.3 hereof. Termination of the Agreement shall be effective thirty (30) days after notice is given. Upon termination of the Agreement, the Association shall deliver to the HCP Trustees any books and other records relating to the collection of HCP Assessments under this Agreement, and shall remit to the HCP Trust any and all funds that the Association is then holding for the benefit of the HCP Trust. Upon termination of the Agreement, the Association shall have no further duty to collect HCP assessments.

10.3 Notices: Notices provided for herein may be personally delivered to the person occupying the position set forth below or shall be deemed given five days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or to such other address of which a party from time to time may give notice to the other parties:

HCP:	San Bruno Mountain Area Habitat Conservation Trust c/o San Mateo County Director of Environmental Services County Government Center Redwood City, CA 94063
Landowners:	BROOKFIELD NORTHEAST RIDGE II LLC 500 La Gonda Way, Suite 100 Danville, CA 94526 651 Gateway Blvd., Suite 400
Association:	LANDMARK AT THE RIDGE OWNERS ASSOCIATION c/o The Helsing Group 2000 Crow Canyon Place, Suite 420 San Ramon, CA 94583

10.4 Agreement to be Recorded: This Agreement shall be recorded in the Official Records of the County Recorder, County of San Mateo, State of California.


10.5 Costs of Litigation: If legal action is required to interpret or enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs of litigation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth opposite their respective signatures.

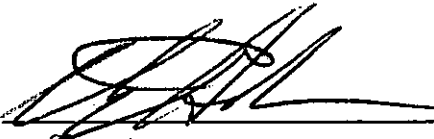
SAN BRUNO MOUNTAIN AREA HABITAT
CONSERVATION TRUST

LANDMARK AT THE RIDGE
OWNERS ASSOCIATION,
a California nonprofit mutual benefit corporation

By: _____
Marcia Raines,
Director of San Mateo County
Environmental Services Agency


By: 
President


Dated: _____, 2006

By: 
Secretary

BROOKFIELD NORTHEAST RIDGE II LLC,
a Delaware limited liability company

Dated: _____, 2006

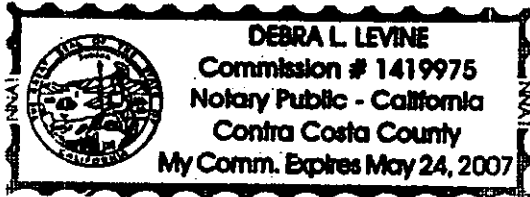
By: 
Name: DAVID L. VERJEMA
Title: VP, CFO

By: 
Name: KEVIN POTTER
Title: VP

Dated: 10.19, 2006

STATE OF CALIFORNIA
COUNTY OF Contra Costa } ss.

On October 23, 2006, before me, Debra L. Levine, Notary Public,
personally appeared David Webkeman & Kevin Pohlson,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

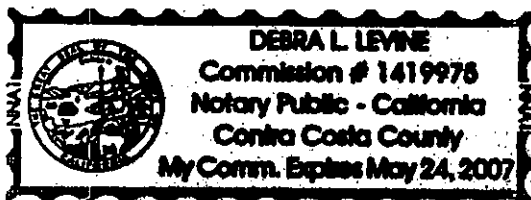


WITNESS my hand and official seal.

Debra L. Levine
Notary Public

STATE OF CALIFORNIA
COUNTY OF Contra Costa } ss.

On October 23, 2006, before me, Debra L. Levine, Notary Public,
personally appeared ~~David Webkeman~~ Kevin Pohlson,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

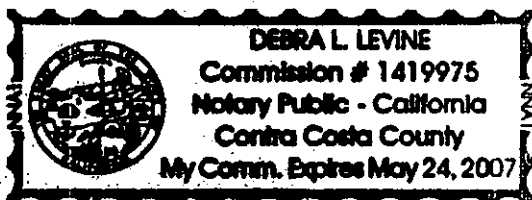


WITNESS my hand and official seal.

Debra L. Levine
Notary Public

STATE OF CALIFORNIA
COUNTY OF Contra Costa } ss.

On October 23, 2006, before me, Debra L. Levine, Notary Public,
personally appeared Stephen Holmes,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Debra L. Levine
Notary Public

STATE OF CALIFORNIA }
COUNTY OF _____ } ss.

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

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA }
COUNTY OF _____ } ss.

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

WITNESS my hand and official seal.

Notary Public

RECORDED AT THE REQUEST OF:

Thomas F. Casey III, County Counsel, County of San Mateo

WHEN RECORDED RETURN TO:

Thomas F. Casey III
San Mateo County Counsel
400 County Center, 6th Flr
Redwood City, CA 94063-1662
*Exempt from recording fees
Govt Code sec. 6103*

2007-014448

02:20pm 01/29/07 AG Fee: NO FEE

Count of pages 8

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



COLLECTION AGREEMENT
between the
SAN BRUNO MOUNTAIN AREA
HABITAT CONSERVATION TRUST
and
LANDMARK AT THE RIDGE OWNERS ASSOCIATION

THIS COLLECTION AGREEMENT (“**Agreement**”) is made effective as of the Effective Date by and among the Trustees of the SAN BRUNO MOUNTAIN AREA HABITAT CONSERVATION TRUST (“**HCP Trust**”), and BROOKFIELD NORTHEAST RIDGE II LLC, a Delaware limited liability company (“**Landowners**”), and LANDMARK AT THE RIDGE OWNERS ASSOCIATION, a non-profit mutual benefit corporation incorporated under the laws of the State of California (“**Association**”).

ST

RECITALS:

1. Each of the parties enters into this Agreement in recognition of the following facts:
 - A. The 10(a) Permit issued by the United States Fish and Wildlife Service to the County of San Mateo, California, and the Cities of Brisbane, Daly City and South San Francisco, California, under which Landowners are authorized to build a residential housing project, including other related uses, known as “Landmark at the Ridge” in the City of Brisbane, requires that there be a permanent funding source for habitat preservation and that requirement must be met.
 - B. The Trustees of the HCP Trust, the Association and Landowners have determined that it is in the best interests of both the HCP Trust and the future owners of single family Units in Landmark at the Ridge that during such periods as the funding source set forth in Article VI(A)(2) of the HCP Agreement is operative, that the payments of the HCP Assessments to the HCP Trust by individual Unit Owners who are members of the Association be made through the Association acting as collection agent on behalf of the HCP Trustees pursuant to this Agreement.
2. Definitions: For the purpose of this Agreement, the following capitalized terms shall have the following meanings:
 - 2.1 Effective Date: The term “**Effective Date**” means the date on which the last party to sign this Agreement signs the same as evidenced by the date opposite the signatures of the parties hereto.

2.2 HCP Agreement: The term “**HCP Agreement**” means the “**Agreement With Respect to the San Bruno Mountain Area Habitat Conservation Plan**,” recorded on March 22, 1983, as Document No. 83026343 in the Official Records of San Mateo County, State of California, among the United States Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco, Visitacion Associates, Cadillac-Fairview Homes West, W.W. Dean & Associates, Presley of Northern California, Inc., and Foxhall Investment, Ltd.

2.3 HCP Assessment: The term “**HCP Assessment**” means the assessments levied by the HCP Trust pursuant to the HCP Declaration.

2.4 HCP Declaration: The term “**HCP Declaration**” means the Declaration of Covenants and Restrictions on Real Property on San Bruno Mountain described in Exhibit “A,” pursuant to the requirement of Article VI(A)(2) of the HCP Agreement.

2.5 Map I Lots: The term “**Map I Lots**” means Lots 1 through 42, inclusive, as shown on the subdivision map of Northeast Ridge Unit No. 1, filed for record on May 30, 1995, in Book 125 of Maps, at Page 28 et seq., in the Official Records of the County of San Mateo, State of California, as amended by the Lot Line Adjustments recorded on May 9, 2002, as Document Nos. 2002-091255, 2002-091256, 2002-091257, 2002-091258, 2002-091259 and 2002-091260 of the Official Records of the County (“**Map I**”).

2.6 Project: The term “**Project**” means the Subsequent Lots. Other portions of Landmark at the Ridge are subject to a previously executed Collection Agreement which shall remain in full force and effect with respect to the Map I Lots.

2.7 Project Declaration: The term “**Project Declaration**” means the Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded October 14, 2003 as Document No. 2003-295992 in the Official Records of San Mateo County, State of California, as amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge recorded on October 23, 2003, as Document No. 2003-305800 (“**First Amendment**”), in the Official Records of the County of San Mateo, State of California.

2.8 Subsequent Lots: The term “**Subsequent Lots**” means Lots 1 through 11, as shown on the final map of Northeast Ridge Unit II Adjacent to Unit I – Golden Aster Court filed for record on July 24, 2006 in Book 134 of Maps at Pages 31 through 37, inclusive, in the Official Records of the County of San Mateo, State of California, and all Lots annexed to the Project subsequent to the recordation date of the Second Amendment to Declaration of Covenants, Conditions and Restrictions of Landmark at the Ridge, recorded _____, as _____ in the Official Records of San Mateo County, State of California.

2.9 Trust Account: The term “**Trust Account**” means the trust account referred to in Paragraph 3 of this Agreement.

2.10 Trust Account Reserve: The term “**Trust Account Reserve**” or “**Reserve**” means the reserve referred to in Paragraph 3.2 of this Agreement.

2.11 Unit Owners: The term “**Unit Owner**” means the Owner of a single family Unit in the Project.

2.12 Other Capitalized Terms: Any other capitalized term contained in this Agreement, unless the context clearly indicates a different meaning, shall have the meaning given to it in the HCP Agreement if such term is defined therein, or the meaning given it in the Project Declaration if such term is defined therein, provided that where a term is used in both the HCP Agreement and the Project Declaration, such term shall have the meaning given it in the HCP Agreement.

3. Trust Account.

3.1 Establishment of Trust Account: Prior to close of escrow for the sale of the first Unit in the Project, the Association shall open an interest bearing trust account with a bank or savings and loan association insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, called the "HCP Northeast Ridge II: Subsequent Lots — San Bruno Mountain Area Habitat Conservation Trust Account." The Trust Account shall be established and maintained by the Association for the benefit of the HCP Trustees, and funds shall be withdrawn therefrom by officers of the Association only for the benefit of the HCP Trust in accordance with Section 6.10 of the Project Declaration and the terms of this Agreement.

3.2 Trust Account Reserve: The Association acknowledges that the HCP Trustees intend that the Trust Account shall constitute, in part, a reserve fund against potential future delinquencies by Unit Owners in the payment of the HCP Assessments and that the HCP Trustees desire to maintain a balance in the Trust Account in an amount equal to 25% of the total annual HCP Assessments for Units in the Project (as adjusted to reflect changes in the value of the Dollar) as set forth in the most recent notification from the HCP Trustees pursuant to Paragraph 5 hereof ("**Reserve Amount**"). The HCP Trustees acknowledge, however, that the Reserve Amount may drop below 25% when occasioned by payments therefrom to the HCP Trust of amounts representing delinquencies in payments of the HCP Assessment by Unit Owners. In the event the balance in the Trust Account at any time is less than the Reserve Amount, the Board of the Association shall notify the HCP Trustees and annually on October 1 in any event, the Board of the Association shall furnish to the HCP Trustees all statements prepared by the depository showing all activity in the Trust Account during the preceding year and the current Trust Account balance.

3.3 Landowners Funding of Reserve Amount: All of the Subsequent Lots shown on a single recorded subdivision map are referred to as a "**Subsequent Phase**" for purposes of this Paragraph 3.3. Prior to or concurrently with the close of escrow for Landowners' sale of the first Unit in each Subsequent Phase, Landowners shall deposit in the Trust Account an amount equal to Twenty-Five Percent (25%) of the total number of Subsequent Lots in that Subsequent Phase multiplied by Eight Hundred Dollars (\$800). This amount represents the initial Reserve Amount for Subsequent Lots in that Subsequent Phase, being 25% of the total annual HCP Assessments which would be levied against the total number of Subsequent Lots in that Subsequent Phase, at the rate of Eight hundred dollars (\$800) per Unit per annum. After such deposits have been made, Landowners shall have fully performed their obligations under this Agreement and Landowners shall have no further obligations of any kind or nature under this Agreement. Notwithstanding the foregoing, Landowners shall remain obligated to perform their separate obligations, if any, as a Landowner under the HCP Agreement and to pay assessments levied pursuant to the terms of the Project Declaration and the HCP Declaration to the extent it is a Unit Owner in the Project.

3.4 HCP Assessment for Reserve: If after its initial funding by Landowners pursuant to Paragraph 3.3 above, the balance in the Trust Account at any time is less than the Reserve Amount, the HCP Trustees shall add to the HCP Assessment as otherwise determined pursuant to the HCP Declaration an amount not to exceed 25% in any one year until the Reserve Amount is reestablished. Whenever thereafter the HCP Trustees learn that the Reserve Amount has been reduced below the level established hereinabove, the HCP Trustees shall include an amount in the next HCP Assessment sufficient to restore the Reserve

Amount to such level. In making the calculations for this purpose, the HCP Trustees may include a reasonable projection of the delinquency factor in the making of payments of the HCP Assessment.

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5. Payment to HCP Trust: On or before November 10 of each year or such other date or at such more frequent intervals as the HCP Trustees in writing may designate (provided such earlier designation corresponds to the earlier levy of assessments pursuant to Paragraph 4, above), the Board of Association shall pay or cause to be paid from the Trust Account to the HCP Trust in accordance with this Agreement so much of the funds in the Trust Account as shall be required to meet the lawful demands of the HCP Trust as established in the HCP Declaration. From the Reserve Amount the Association shall pay the HCP Assessment of any Unit Owner or Unit Owners who have failed to currently pay the HCP Assessment. If the Reserve Amount in the HCP Trust Account is not sufficient to pay the amount of all delinquent HCP Assessments in full, if any, the Board of the Association shall immediately notify the HCP Trustees. The Association shall have no responsibility to pay any deficiency in HCP Assessments from the Association's own funds so long as the Association's obligations under this Agreement have been met.

6. HCP Assessment Lien: In every case where the Association has caused payment to be made to the HCP Trust from the Reserve Amount for any Unit Owner who is delinquent in making payment of his, her or its HCP Assessment, the Association thereby and thereupon shall be empowered to enforce the lien for delinquent assessments conferred upon the HCP Trust by the HCP Declaration, and the Association, as collection agent under this Agreement, shall be entitled to recover all attorneys' fees, costs and expenses incurred by it in accordance with the provisions of the HCP Declaration. This Agreement shall constitute a complete delegation of authority from the HCP Trustees to the Board of the Association to enforce the HCP Declaration lien against the Unit of any delinquent Unit Owner to the full extent of the payment or payments the Association has made to the HCP Trust from the Reserve Amount, and no further action by the HCP Trustees is required to perfect such authority in the Board of the Association.

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8. Alternate Financing of HCP: If financing of habitat conservation under the HCP Agreement is hereafter provided by an assessment or other tax collection mechanism by which an amount equivalent to the HCP Assessment must be paid directly by Unit Owners to the County or a City incident to the collection of taxes as envisaged in Article VI(A)(4) of the HCP Agreement ("**Alternative Financing**"), then the obligations created by this Agreement shall cease and remain dormant until such time, if ever, as the Alternative Financing method becomes inoperative. The HCP Trustees shall notify the Association of the nature of the Alternative Financing that has been adopted, the date or dates on which the rights and duties of the parties to this Agreement shall, until further notice, cease and the terms of the transfer of the balance in the HCP Trust Account to the County (or other entity conducting the Alternative Financing assessment

proceedings) to be applied by it against the first, and if sufficient funds remain, subsequent years' assessments.

9. Covenants to Run With Land: Without limiting the legal effect of other provisions of this Agreement, the parties declare it to be their intention that the rights and duties established by this Agreement are intended to implement the 10(a) Permit, the Project Declaration, the HCP Agreement and the HCP Declaration, and as such shall run with the land and be binding upon and inure to the benefit of their respective assigns or successors in interest. This Agreement affects the title of the lands within the Project and of the Conserved Habitat of the San Bruno Mountain Area, as defined in the HCP Agreement, and the covenants and conditions herein relate to the beneficial use and enjoyment of all such lands. The provisions of this Agreement shall benefit and shall be binding upon each of the parties hereto and their respective successors in interest.

10. Miscellaneous Provisions:

10.1 No Fee for Services: The Association acknowledges that this Agreement provides the Unit Owners with a convenient and efficient mode of collection of the HCP Assessment, and therefore the Association agrees that it will perform the collection service provided for herein without fee and that it shall receive no compensation or reimbursement from the HCP Trust for the performance of its duties hereunder except for costs and attorneys' fees authorized under Paragraph 6 hereof.

10.2 Termination of Agreement: The HCP Trustees may terminate this Agreement by providing notice of the intention to do so in accordance with the provisions of paragraph 10.3 hereof. Termination of the Agreement shall be effective thirty (30) days after notice is given. Upon termination of the Agreement, the Association shall deliver to the HCP Trustees any books and other records relating to the collection of HCP Assessments under this Agreement, and shall remit to the HCP Trust any and all funds that the Association is then holding for the benefit of the HCP Trust. Upon termination of the Agreement, the Association shall have no further duty to collect HCP assessments.

10.3 Notices: Notices provided for herein may be personally delivered to the person occupying the position set forth below or shall be deemed given five days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or to such other address of which a party from time to time may give notice to the other parties:

HCP:	San Bruno Mountain Area Habitat Conservation Trust c/o San Mateo County Director of Environmental Services County Government Center Redwood City, CA 94063
Landowners:	BROOKFIELD NORTHEAST RIDGE II LLC 500 La Gonda Way, Suite 100 Danville, CA 94526 651 Gateway Blvd., Suite 400
Association:	LANDMARK AT THE RIDGE OWNERS ASSOCIATION c/o The Helsing Group 2000 Crow Canyon Place, Suite 420 San Ramon, CA 94583

10.4 Agreement to be Recorded: This Agreement shall be recorded in the Official Records of the County Recorder, County of San Mateo, State of California.

10.5 Costs of Litigation: If legal action is required to interpret or enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs of litigation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth opposite their respective signatures.

SAN BRUNO MOUNTAIN AREA HABITAT
CONSERVATION TRUST

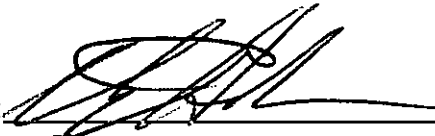
By: 

David G. Holland
Director of San Mateo County
Parks and Recreation

Dated: 12-27-2006, 2006

LANDMARK AT THE RIDGE
OWNERS ASSOCIATION,
a California nonprofit mutual benefit corporation

By: 
President

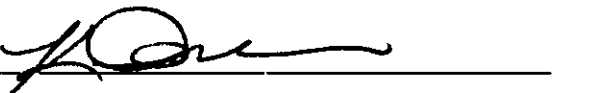
By: 
Secretary

Dated: 10-33, 2006

BROOKFIELD NORTHEAST RIDGE II LLC,
a Delaware limited liability company

By: 

Name: DAVID L. VERKLEMAN
Title: VP, CFO

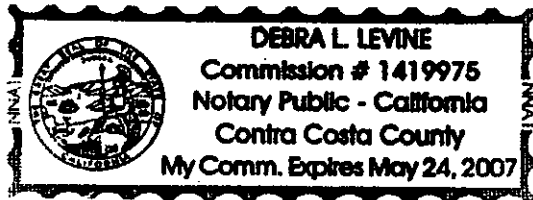
By: 
Name: KEVIN POTL
Title: VP

Dated: 10.19, 2006

STATE OF CALIFORNIA } ss.
COUNTY OF Contra Costa

On October 23, 2006, before me, Debra L. Levine, Notary Public, personally appeared David Webkeman & Kevin Pohlson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

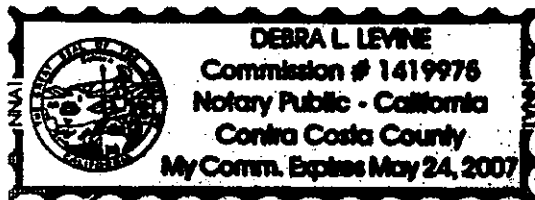


Debra L. Levine
Notary Public

STATE OF CALIFORNIA } ss.
COUNTY OF Contra Costa

On October 23, 2006, before me, Debra L. Levine, Notary Public, personally appeared ~~David Webkeman~~ Kevin Pohlson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

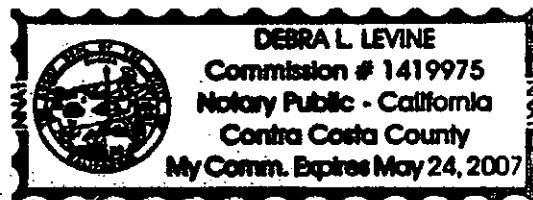


Debra L. Levine
Notary Public

STATE OF CALIFORNIA } ss.
COUNTY OF Contra Costa

On October 23, 2006, before me, Debra L. Levine, Notary Public, personally appeared Stephen Holmes, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

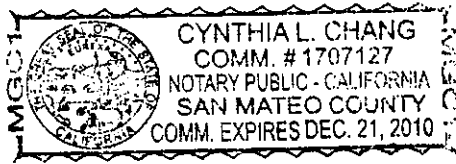


Debra L. Levine
Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN MATEO } ss.

On DECEMBER 27, 2006, before me, CYNTHIA L. CHANG, Notary Public,
personally appeared DAVID G. HOLLAND,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Cynthia L. Chang
Notary Public

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

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

WITNESS my hand and official seal.

Notary Public