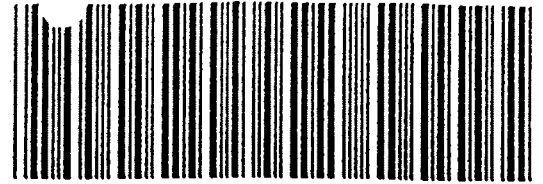


WHEN RECORDED, MAIL TO:

Fulton Homes Corp.
4625 S. Wendler Drive, Suite 204
Tempe, Arizona 85282

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
CAYMAN SQUARE UNITS I AND II
GILBERT, ARIZONA**

THIS DECLARATION is made and entered into on the date set forth at the end hereof by Fulton Homes Corporation, an Arizona corporation (the "Declarant"). Declarant is the Trustee of certain real property situated in the Town of Gilbert, County of Maricopa, State of Arizona legally described as follows:

Lots 1 through 145 inclusive and Tracts A through H of CAYMAN SQUARE UNIT I according to the Plat thereof recorded in Book 378 of Maps, Page 47 of the Official Records of Maricopa County, Arizona Recorder.

Lots 146 through 322 inclusive and Tracts I through N of CAYMAN SQUARE UNIT II according to the Plat thereof recorded in Book 378 of Maps, Page 48 of the Official Records of Maricopa County, Arizona Recorder.

Declarant hereby declares that the Project, as hereinafter defined, and all Lots and Common Area therein, shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, easements, covenants, conditions and restrictions, shall of which are and shall be interpreted to be for the purpose of enhancing and protecting the value and attractiveness of the Project and all Lots therein. All of the limitations, covenants, conditions and restrictions shall constitute covenants which shall run with the land and shall be binding upon Declarant, its successors and assigns and all parties having or acquiring any right, title or interest in or to any part of the Project.

ARTICLE I**DEFINITIONS****SECTION 1**

"Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating, insuring and managing, as applicable, the Common Area and operating the Association, which is to be paid by each Lot Owner as determined by the Association and as provided herein.

SECTION 2

"Association" shall mean the Cayman Square Homeowners Association, an Arizona nonprofit corporation. The Association shall be established by the filing of its Articles of Incorporation (the "Articles") and governed by its Bylaws (the "Bylaws").

SECTION 3

"Board" or "Board of Directors" shall mean the governing body of the Association.

SECTION 4

"Committee" shall mean the Architectural Control Committee for the Project established pursuant to Article VII of this Declaration.

SECTION 5

"Common Area" shall mean the landscaped areas including Tracts A through H located within CAYMAN SQUARE UNIT I and Tracts I through N located within CAYMAN SQUARE UNIT II.

Common Area shall include all structures, walls, improvements and landscaping thereon and all rights, easements and appurtenances relating thereof. The Common Area will be free of all monetary liens and encumbrances for the benefit of all of the Owners upon completion of all of the improvements designed therefor and approved by the Veteran's Administration (if that agency has approved the proposed development plans of the Project) and the Town of Gilbert prior to the conveyance of the First Lot in a Phase within which common area is included to an Owner other than the Declarant.

Every Owner shall have a right and easement of ingress and egress and enjoyment in, over and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to suspend the Association (with requisite Owner consent) to dedicate or transfer Common Area to any public agency, authority or utility company as provided in the Articles. Any Owner may delegate, in accordance with the Project Documents, his right of enjoyment to the Common Area facilities thereon to members of his family, tenants and contract purchasers who reside on his Lot.

SECTION 6

"Developer" shall mean Fulton Homes Corporation, an Arizona corporation, and its successors and assigns. Declarant and Developer are identified as the same entity.

SECTION 7

"First Mortgage" shall mean any mortgage (which includes a recorded deed of trust and a recorded contract of sale as well as a recorded mortgage) which is a first priority lien on any Lot.

SECTION 8

"First Mortgagee" shall mean the holder of a First Mortgage.

SECTION 9

"Lot" shall mean one of the separately designated Lots in the Project as shown on the Plat, together with any improvements thereon. Each numbered and lettered parcel in the Project is a separate freehold estate.

SECTION 10

"Member" shall mean those persons entitled to Membership in the Association as provided herein.

SECTION 11

"Owner" shall mean the record holder of title to a Lot in the Project. This shall include any person having fee simple title to any Lot in the Project, but shall exclude persons

or performance of any obligation. Further, if a Lot or other property is sold under a recorded contract of sale or subdivision trust to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner" as long as he or a successor in interest remains the contract purchaser or purchasing beneficiary under the recorded contract or subdivision trust.

SECTION 12

"Phase" shall mean those certain lots and tracts as sequenced by phased development of the Project and as provided for in Article VIII of this Declaration.

SECTION 13

"Plat" shall mean that certain plat of CAYMAN SQUARE UNIT I recorded in Book 378 of Maps, Page 47 and CAYMAN SQUARE UNIT II recorded in Book 378 of Maps, Page 48 of the Official Records of the Maricopa County, Arizona Recorder, together with any other plats of all or any portion of the Project, as the same are amended from time to time.

SECTION 14

"Project" shall mean only that certain real property shown on the Plat.

SECTION 15

"Project Documents" shall mean and include this Declaration, as it may be amended from time to time, the exhibits, if any, attached hereto, the Plat, the Articles and Bylaws and any "Rules and Regulations" adopted from time to time by the Association as provided herein or in the Bylaws.

ARTICLE II ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS OF THE ASSOCIATION

SECTION 1: BASIC DUTIES OF THE ASSOCIATION

The management of the Common Area shall be vested in the Association in accordance with this Declaration and the Articles and Bylaws. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of the Project

administration of the Project shall be in accordance with the provisions of the Project Documents, subject to the standards set forth in all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project. In addition to the duties and powers enumerated in the Bylaws and the Articles, and without limiting the generality thereof, the Association shall have the duties and powers as set forth in Article III below and elsewhere in this Declaration.

SECTION 2: MEMBERSHIP

The Owner of a Lot shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. Tenants shall not have any voting or Membership rights in the Association by virtue of their occupancy of any Lot or house thereon.

SECTION 3: TRANSFER OF MEMBERSHIP

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then automatically to the new Owner as provided in Section 2 of this article above. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Lot, the Association shall record the transfer upon its books, causing an automatic transfer of Membership as provided in Section 2 of this article above.

SECTION 4: MEMBERSHIP CLASSES

The Association shall have two (2) classes of voting Membership established according to the following provisions:

A. Class A Membership shall be that held by each Owner of a Lot other than Declarant (while two classes of Membership exist), and each Class A Member shall be entitled to one (1) vote for each Lot owner. If a Lot is owned by more than one (1) person, each such person shall be a Member of the Association but there shall be no more than one (1) vote for each Lot.

B. Class B Membership shall be that held by Declarant (including any successor or co-Declarant as provided in Section 4 of Article IX below) which shall be entitled to three (3) votes for each Lot owned by Declarant, provided that Class B Membership shall be converted to Class A Membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(1) One hundred twenty (120) days following the first date after Declarant has conveyed 242 Lots in the Project to Owners other than Declarant;

(2) The seventh anniversary of the close of escrow for the sale of the first Lot by Declarant.

In the event Declarant elects to partially assign or convey its Declarant rights reserved hereunder to a Developer as provided more fully in Section 4 of Article IX, the voting rights of all Lots owned by Declarant and said Developer as co-Declarant, and/or their successors and assigns, shall be added together solely for purposes of determining the conversion of Class B Membership to Class A Membership. Notwithstanding the foregoing, Declarant and any co-Declarant may voluntarily convert their respective Class B Membership to Class A Membership with the prior consent of the other Declarant(s) at any time by giving written notice to the Association.

SECTION 5: ASSOCIATION VOTING REQUIREMENTS

Any action by the Association which must have the approval of the Association Membership before being undertaken shall require (i) the vote of fifty-one percent (51%) of the Membership present and voting at a duly called and held meeting of the Membership; or (ii) the written assent of fifty-one percent (51%) of the Membership unless, in either case, another percentage is specifically prescribed by a provision within this Declaration, the Bylaws or the Articles.

SECTION 6: VESTING OF VOTING RIGHTS

Voting rights attributable to all Lots owned by Declarant shall vest immediately by virtue of Declarant's ownership thereof. Except for Declarant, no Owner of any Lot shall have any voting rights attributable to that Lot until an Assessment has been levied against that Lot and Owner by the Association pursuant to Article IV below.

SECTION 7: MEETINGS OF THE ASSOCIATION

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws.

SECTION 8: BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws.

ARTICLE III

DUTIES AND POWERS OF THE ASSOCIATION

SECTION 1: MAINTENANCE

The Association shall maintain, paint, repair, replace, restore, operate and keep in good condition all of the Common Area, and all facilities, improvements, walls, equipment and landscaping thereon. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants or invitees. The repair or replacement of a portion of the Common Area or any Lot resulting from such excluded items shall be the responsibility and duty and/or recover damages for the breach thereof. Liability hereunder shall be limited to that provided for or allowed in the statutory or case law of the State of Arizona.

SECTION 2: INSURANCE

A. Public Liability Insurance. The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant, any other Developers, the agents and employees of each and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Common Area, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners, other insurers or the Association. Such insurance shall be in amounts deemed appropriate by the Board but in no event shall the limits of liability for such coverage be less than \$1,000,000 for each occurrence with respect to bodily injury and property damage. In the event insurance proceeds are inadequate therefor, then the Association may levy a special Assessment on Lot Owners therefor as provided in Article IV. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the person or persons responsible, purposely or negligently, for the damage.

B. Fidelity Bonds and Other Insurance. The Association shall obtain and maintain bonds covering all persons or entities which handle funds of the Association, including without limitation, any professional manager employed by the Association and any of such professional manager's employees, in amounts not less than the maximum funds that will at any time be in the possession of the Association or any professional manager employed by the Association but in no event less than the total of Assessments for a three (3) month period on all Lots and all reserve funds maintained by the Association. With the exception of fidelity bond obtained by a professional manager covering such professional managers employees, all fidelity bonds shall name the Association as an obligee. In addition, all such bonds shall provide that the same

shall not be terminated, cancelled or substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain and maintain any insurance which may be required by law, including, without limitation, workmen's compensation insurance and director's and officer's liability insurance. The Association shall have the power and authority to obtain and maintain other and additional insurance coverage, including multi-peril insurance providing at a minimum fire and extended coverage on a replacement cost basis for the Common Areas improvements, if any, which additional insurance meet the insurance requirements established by the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC"), as applicable, so long as either FNMA or FHLMC is a Mortgagee or Owner of a Lot, except to the extent that such coverage is not available or has been waived in writing by FNMA or FHLMC. A First Mortgagee may pay overdue premiums on hazard insurance policies or secure new coverage for the Common Area in case of lapse of a policy, and the Association shall immediately reimburse the First Mortgagee therefor.

C. Repair and Replacement of Damage or Destroyed Property. Any Common Area Improvements damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners owning at least eighty (80%) of the Lots vote not to rebuild or restore them. The cost of repair or replacement in excess of insurance proceeds or condemnation awards and reserves shall be paid by the Association and, as provided above, the Association may specially assess the Owners therefor. Any excess or remaining insurance or condemnation proceeds which are not needed to restore the Common Area as provided above shall be distributed to the Owners on the basis of an equal share for each Lot. No provisions of the Project Documents shall give a Lot Owner or any other person priority in the case of payment to the Lot Owner of insurance proceeds or condemnation awards for losses to Common Area over any rights of First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the Declarant) of the individual Lots have given their prior written approval, the Association shall not be entitled to (i) use hazard insurance proceeds for losses to any Common Area other than for the repair, replacement or reconstruction of such Common Area; or (ii) fail to maintain hazard insurance on any insurable amenities, if any, on the Common Area.

SECTION 3: ENFORCEMENT

The Association shall enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions.

SECTION 4: MANAGEMENT AND OTHER CONTRACTS

The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project. Any agreement for professional management of the Project or any agreement providing for services by Declarant (or any affiliate of Declarant) shall provide for termination by either party without cause or payment of termination fee upon ninety (90) days or less written notice or for cause upon thirty (30) days or less written notice and without payment of a termination fee. Such agreement shall further provide for a reasonable contract term of from one (1) to three (3) years and be renewable only by consent of the Association and the other party. In addition to the foregoing provisions regarding Association management contracts and contracts with Declarant and its affiliates, Declarant shall not, and shall not have the authority or power to, bind the Association prior to termination of Class B Membership, either directly or indirectly, to contracts or leases unless the Association is provided with a right of termination of any such contract or lease, without cause, which is exercisable without penalty or the payment of a termination fee at any time after the first Board of Directors elected after Class B Membership expires takes office upon not more than ninety (90) days notice. The foregoing shall not apply to or limit the Declarant's right to enter into (or the terms of) contracts or leases with providers of cable TV or satellite communications services for the benefit of the Project provided that such entities are not affiliates of the Declarant.

SECTION 5: RULES

The Association may adopt reasonable rules not inconsistent with this Declaration, the Articles or the Bylaws in or relating to the use of the Common Area and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Project and other Owners.

SECTION 6: PENALTIES

The Association may adopt a schedule of reasonable monetary penalties for violation by Owners of the provisions of the Project Documents and impose the same according to procedures in the Bylaws.

ARTICLE IV

ASSESSMENTS AND CHARGES

SECTION 1: ASSESSMENT OBLIGATIONS

Each Owner of any Lot, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular annual Assessments to be paid on a monthly basis, (b) special Assessments for capital improvements and unexpected expenses, (c) initial Assessment, and (d) other charges made or levied by the Association against the Lot and the Owner thereof including, without limitation, interest, late charges, collection costs, costs and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration or the Bylaws (whether or not a lawsuit or other legal action is instituted or commenced) which charges are collectively referred to herein as the "Charges". Such Assessments Charges shall be established and collected as provided herein and in the Bylaws. Any part of any Assessment or Charge not paid within thirty (30) days of the due date therefor as established in this Article IV shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid and shall be subject to a reasonable late charge of twenty five percent (25%) of the delinquent amount or \$25.00, whichever is greater. The annual and special Assessments and any Charges made against a Lot and the Owner thereof pursuant to this Declaration or the Bylaws shall be charged and a continuing lien upon the Lot (hereinafter "Assessment Lien"). Each such Assessment and Charge shall also be the personal obligation of the person who was the Owner of such Lot at the time the Assessment or other Charge fell due as provided in this Article IV or elsewhere in this Declaration, but this personal liability shall not pass to successor Owners unless specifically assumed by them. The Assessment Lien on each Lot shall be prior and superior to all other liens except (a) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Lot. No Owner of a Lot may exempt himself from liability for Assessments and Charges by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Lot.

SECTION 2: PURPOSE OF ASSESSMENTS

The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Area as provided herein and for the common good of the Project. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Area, and other improvements which the Association is responsible for maintaining.

SECTION 3: ANNUAL ASSESSMENTS

The maximum annual Assessment amount in the year that Declarant first closes escrow for the sale of any Lot in the Project to an Owner other than Declarant shall be \$324 per year, to be paid as \$27 per month. The annual Assessment shall be prorated based on the number of months remaining before December 31 of such year as well as any partial months remaining. Without the vote or approval of the Members of the Association, the maximum annual Assessment amount set forth above shall be automatically increased each calendar year after the first year during which a Lot in the Project is assessed by the greater of five percent (5%) of the previous year's maximum annual Assessment or a percentage equal to the percentage increase, if any, in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (published by the Department of Labor, Washington, D.C.) for the year ending with the preceding July (or similar index chosen by the Board if the above-described Index is no longer published). The Board shall annually apply the foregoing formula and determine and fix the amount of the annual (calendar year) Assessment against each Lot, including those owned by Declarant and Developers. The maximum annual Assessment amount may be increased by an amount in excess of the amount produced by the foregoing formula or decreased by more than twenty percent (20%) of the annual Assessment against Lots for the prior calendar year only if such increase or decrease is approved by the affirmative vote for Declarant (while Class B Membership exists) and of two-thirds (2/3) of the voting power of Class A Members voting in person or by proxy at a meeting duly called for this purpose.

Notwithstanding anything to the contrary stated in this article, until Class B Membership is terminated pursuant to Section 4B of Article II above, Declarant shall be obligated to pay only twenty-five percent (25%) of the annual Assessment amount fixed on Lots pursuant to this section, and shall vary said percentage of the annual Assessment amount in the same manner established for payment of the annual Assessment amount by other Lot Owners, except that Declarant shall pay and be liable for the full Assessment amount for any Lot owned by Declarant, after said Lot and the house on the Lot are first rented or leased to or occupied by another person and Declarant to pay said reduced amount on a monthly basis. In the event said reduced Assessment amount for Lots owned by Declarant is insufficient to cover the reasonable share of those Lots contribution toward insurance costs and depreciation reserves for the Project, as determined by generally accepted cost accounting methods, Declarant shall also pay such amount monthly or quarterly, as applicable, in addition to said reduced Assessment amount for the Lots, as is necessary to cover those Lots contribution toward the insurance cost and depreciation reserves.

Until Class B Membership is terminated pursuant to Section 4B of Article II above, Declarant shall be responsible for prompt payment on a current basis of all costs and expenses related to maintenance and repair of the Common Area and other areas required to be maintained by the Association hereunder, if any, in the event and to the extent that the funds available to the Association are inadequate for payment of such costs and expenses on a current

basis. Declarant's failure to perform the requirements contained in this section shall constitute a default under this Declaration entitling any Lot Owner or First Mortgagee to record a notice of lien against Declarant's property interest in the Project to enforce the provisions of this section.

SECTION 4: SPECIAL ASSESSMENTS

In addition to the regular annual Assessments authorized above, the Board may levy in any Assessment year a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or any other improvements the Association is responsible for maintaining (including fixtures and personal property related thereto); (ii) any unanticipated or underestimated expense normally covered by a regular Assessment; and (iii) where necessary, for taxes assessed against the Common Areas, provided however, that in all events, no such special Assessment shall be made without the affirmative vote of Declarant (while Class B Membership exists) and of two-thirds (2/3) of the voting power of Class A Members voting in person or by proxy at a meeting duly called for this purpose.

SECTION 5: OWNER'S INITIAL ASSESSMENT

In addition to any other assessment or charge authorized by this Article IV, the Association may levy an Owner's Initial Assessment against any owner, other than Declarant, payable upon close of escrow or other transfer of title to any lot or other portion of the assessable property to any owner. The amount of such Owner's Initial Assessment shall not exceed the sum of two (2) months of the Annual Assessment applicable to the Lot or other portion of Assessable Property being acquired by Owner, calculated pursuant to Section 1 above. Such payment shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

SECTION 6: PROCEDURES FOR VOTING ON ASSESSMENTS

Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this article shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Member or proxies therefor entitled to cast sixty percent (60%) of all of the votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding

meeting. While Class B Membership exists, the quorum requirements described above shall apply to both classes and quorum shall not exist for a meeting unless a quorum of each class is present.

SECTION 7: ALLOCATION OF ASSESSMENTS

The Owners of each Lot shall bear an equal share of each regular and special Assessment except as otherwise specified in Section 3 of this Article and elsewhere in this Declaration.

SECTION 8: COMMENCEMENT OF ASSESSMENTS

The regular annual Assessments provided for herein shall commence as to each Lot in the Project on the first day of the month following the close of escrow of the sale of the first Lot in the Project by Declarant to a Developer or another person. Due dates of Assessments shall be established by the Board and notice shall be given to each Lot Owner at least forty-five (45) days prior to any due date; provided, however, that Owners shall continue to pay Assessments at the last established rate until the Board gives notification of any change in accordance with this Section 8. At the option of the Board, all annual Assessments shall be payable in twelve (12) equal monthly installments or four (4) equal quarterly installments and if Assessments are to be due on a monthly basis, no notice of such Assessments shall be required other than an annual notice setting forth the amount of the monthly Assessment and the day of each month on which each Assessment is due.

SECTION 9: EFFECT OF TRANSFER OF LOT BY SALE OR FORECLOSURE

The sale or transfer of any Lot shall not affect the Assessment Lien or liability or Assessments or Charges due and payable except as provided below. No sale or transfer of a Lot shall relieve such Lot Owner from liability for any Assessments or Charges thereafter becoming due or release his Lot from the Lien therefor. When, however, the First Mortgagee or another person obtains title to a Lot as a result of the foreclosure, trustee's sale or deed in lieu thereof of any First Mortgage, such First Mortgagee or other person shall not be liable for the Assessments and Charges chargeable to such Lot which became due prior to the acquisition of title to such Lot by the First Mortgagee or other person, and the Assessment Lien therefor shall be extinguished. Such unpaid Assessments and Charges shall be deemed to be common expenses collectible from the Owners of all of the Lots through regular or special Assessments or a separate Charge against a Lot as provided herein. In a voluntary conveyance of a Lot, the grantee of the same shall not be personally liable for Assessments or other Charges due to the Association in connection with that Lot which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee. Any grantee, mortgagee or other lienholder

shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments and Charges due the Association for a reasonable preparation charge. The grantee or other person entitled to receive the statement shall not be liable for, nor shall the Lot conveyed be subject to, a Lien for any unpaid Assessments or Charges in excess of the amount set forth in the statement, provided however, the grantee shall be liable for any such Assessment or Charge becoming due after the date of any such statement.

SECTION 10: REMEDIES FOR NONPAYMENT

When any Assessment or Charge due from an Owner to the Association on behalf of any Lot is not paid within thirty (30) days after the due date, the Assessment Lien therefor may be enforced by foreclosure of the Lien and/or sale of the Lot by the Association, its attorney or other person authorized by this Declaration or by law to make the sale. The Assessment Lien may be foreclosed and the Lot sold in the same manner as a realty mortgage and property mortgaged thereunder, or the Lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Lot, the solvency of the Owner thereof or the relative size of the Owner's default. Upon the sale of a Lot pursuant to this section the purchaser thereof shall be entitled to a deed to the Lot and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or their relief for the purpose of acquiring such possession, subject to applicable laws. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including but not limited to court costs, other litigation costs, costs and attorneys' fees incurred by the Associations, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchasers shall take the interest in the Lot sold subject to this Declaration. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at any sale and to acquire and hold, lease, mortgage or convey the same. In the event the Owner against whom the original Assessment or Charge was made is the purchaser or redemptioner, the Assessment Lien securing that portion of the Assessment or Charge remaining unpaid following the sale shall continue in effect and said Lien may be enforced by the Association or by the Board for the Association as provided herein. Further, notwithstanding any foreclosure of the Assessment Lien or sale of the Lot, any Assessments and Charges due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting Owner of the Lot to the Association, and the Board may use reasonable effort to collect the same from said Owner even after he is no longer a Member of the Association.

SECTION 11: SUSPENSION OF RIGHTS

In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may temporarily suspend the Association voting rights of a Lot Owner who is in default in the payment of any Assessment or any other amount due to the Association, as provided in the Bylaws.

SECTION 12: OTHER REMEDIES

The rights, remedies and powers created and described in Sections 10 and 11 of this Article IV and elsewhere in the Project Documents are cumulative and may be used or employed by the Association in any order or combination. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments and Charges, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the Liens created for Assessments or Charges due hereunder.

ARTICLE V**USE RESTRICTIONS****SECTION 1: USE OF LOTS AS A SINGLE FAMILY SUBDIVISION; LEASES; NO PARTITION**

All Lots within the Project shall be known and described as residential Lots and shall be occupied and used for single family residential purposes only. Business and/or trades uses in the Project shall be restricted as provided in Section 4 of this article below.

No Owner may rent his/her Lot and the single family house and related improvements thereon for transient or hotel purposes or shall enter into any lease for less than the entire Lot. No lease shall be for a rental period of less than thirty (30) days. Subject to the foregoing restrictions, the Owners of Lots shall have the absolute right to lease their respective Lots provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations, and uses contained in this Declaration and the Bylaws and reasonable Rules and Regulations adopted by the Association. A copy of any such lease shall be delivered to the Association prior to the commencement of the term of the lease.

No Owner shall bring any action for or cause partition of any Lot, it being agreed that this restriction is necessary in order to preserve the rights of the Owners. Judicial partition by sale of a single Lot owned by two or more persons or entities and the division of the sale

proceeds is not prohibited (but partition of title to a single Lot is prohibited). Notwithstanding the foregoing, a vacant Lot may be split between the Owners of the Lots adjacent to such Lot so that each portion of such Lot would be held in common ownership with another Lot adjacent to that portion, subject to any further requirements or restrictions imposed by the Town of Gilbert. No condominium or time share use shall be created within the Project.

SECTION 2: NATURE OF BUILDINGS/STRUCTURES

No buildings or structures shall be moved from other locations on to any Lot, and all improvements erected on a Lot shall be of new construction. No structure of a temporary character and no trailer, snack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No unsightly structure, object or nuisance shall be erected, placed or permitted on any Lot.

SECTION 3: ANIMALS

No animals, livestock or poultry shall be raised, bred or kept on any Lot except that customary household pets such as dogs, cats and household birds may be kept but only such number and types shall be allowed which will not create a nuisance or disturb the health, safety, welfare or quiet enjoyment of other Lot Owners. All animals shall be kept under reasonable control at all times and in accordance with applicable laws and any Rules and Regulations adopted by the Association. All animal wastes must be promptly disposed of in accordance with applicable city or county regulations. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether a particular animal constitutes a customary household pet or is a nuisance, or whether the number of animals or birds maintained on any portion of the Project is reasonable. Any decision rendered by the Board shall be final.

SECTION 4: SIGNS; RESTRICTIONS ON COMMERCIAL USES

No sign of a commercial nature, except, for one "For Rent" or one "For Sale" sign per Lot of no more than five (5) square feet, shall be allowed in the Project. No institution or other place for the care or treatment of the sick or disabled, physically or mentally (except as provided by the Arizona Developmental Disabilities Act of 1978 #36-551 et seq., or other applicable federal or state law) shall be placed or permitted to remain on any of the Lots and no theater, bar, restaurant, saloon, or other place of entertainment may ever be erected or permitted on any Lot. Further, no trade or business of any kind may be conducted in or from any Lot except that an Owner may conduct a business activity within in a single-family house located on a Lot so long as the existence or operation of the business activity (a) is not apparent or detectable by sight, sound, or smell from the exterior of the single-family house;

(b) conforms to all zoning requirements for the Project; (c) does not increase the liability or casualty insurance obligation or premium of the Association; and (d) is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use including, without limitation, excessive or unusual traffic or parking of vehicles in the vicinity of any Lot or the Common Area as may be determined in the sole discretion of the Board. The terms "business" and "trade", as used in the previous sentence, shall be construed to have their ordinary and generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on any ongoing basis which involves providing goods or services to persons other than the provider's family and for which the persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration regardless of whether (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; (c) a license is required therefor.

Notwithstanding any provision contained herein to the contrary, it shall be expressly permissible for Declarant and any other Developers to move, locate and maintain, during the period of construction and sale of Lots, on such portions of the Project owned by that party as that party may from time to time select, such facilities as in the sole opinion of that party shall be reasonably required, convenient or incidental to the construction of houses and sale of Lots, including but not limited to business offices, storage areas, trailers, temporary buildings, construction yards, construction materials and equipment of every kind, signs, models, and sales offices, except that in the case of Developers, the foregoing shall be subject to the prior approval of the Declarant from whom any such Developer took title to its Lots.

SECTION 5: USE OF GARAGES

No garage may be converted to living space without the prior written consent of the Committee except that Declarant and/or Developers may use a garage area in a model home or models for a sales office. Owners shall keep their garages neat, clean and free from clutter, debris or unsightly objects and shall at all times keep garages doors closed except as reasonably necessary for ingress and egress.

SECTION 6: SIZE OF HOUSES

Unless approved in writing by the Committee, no house having less than 1,100 total livable square feet, exclusive of open porches, ramadas, patios, balconies, pergolas, carports, or attached garage, if any, shall be erected, permitted or maintained on any Lot in the Project.

SECTION 7: SOLAR COLLECTORS/ANTENNAS/SATELLITE DISHES

Solar collectors and related equipment may not be installed on roofs of houses but may be located elsewhere on the Lots not visible from other Lots, the Common Area or the street. An Owner must obtain the prior written approval from the Committee pursuant to Article VII prior to installing the same. The Association, through the Committee, may from time to time adopt guidelines concerning the types of solar collectors and related equipment which may be installed in the Project and acceptable means of installation thereof. The installation of any antenna shall be subject to review in advance by the Committee. Satellite dishes for the reception of television signals are subject to review in advance by the Committee.

SECTION 8: STORAGE SHEDS AND SWINGS

No storage sheds or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the fence on or adjoining said Lot or if such object is visible from the front of the Lot. All swings and slides (including those used in connection with a swimming pool) shall be at least seven (7) feet from all fences located on or near perimeter Lot lines, subject to any further requirements or restrictions of the Town of Gilbert. The foregoing improvements shall also be subject to the prior approval of the Committee.

SECTION 9: SCREENING MATERIALS

All screening areas, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of the improvements by the Declarant, or as approved by the Committee pursuant to Article VII.

SECTION 10: NUISANCES; GARBAGE AND RUBBISH; STORAGE AREAS

No unsightly objects or nuisance shall be erected, placed or permitted on any Lot, nor shall any use, activity or thing be permitted which may endanger the health or unreasonably disturb the Owner or occupant of any Lot. No noxious, illegal or offensive activities shall be conducted on any Lot. Each Lot shall be maintained free from rubbish, trash, garbage or other unsightly items and the same shall be promptly removed from each Lot and not allowed to accumulate thereon and further, no garbage, trash or other waste materials shall be burned on any Lot. Garbage cans, clotheslines, woodpiles and areas for the storage of equipment and

unsightly items shall be kept screened by adequate fencing or other aesthetically pleasing materials acceptable to the Committee so as to conceal same from the view of adjacent Lots and streets. Garbage cans may be in view only on collection days and thereafter they must be promptly stored out of sight as provided therein.

SECTION 11: VEHICLES

No commercial vehicles or "Recreational Vehicles" (including, without limitation, campers, boats, trailers, mobile homes or similar type vehicles) shall be parked in front of a Lot or in a front driveway or otherwise on a Lot where it can be seen from any street or from any other lot, except for temporary parking only not exceeding four (4) consecutive hours. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Committee. No vehicles, Recreational Vehicles, or other mechanical equipment may be dismantled or repaired (except for ordinary maintenance and repair of such vehicles, Recreational Vehicles and equipment inside an enclosed garage, and emergency repairs elsewhere for a time period not exceeding forty-eight (48) hours) or allowed to accumulate on any Lot or in front of any Lot. No vehicle which is abandoned or inoperative shall be stored or kept on any Lot or in front of any Lot in such manner as to be visible from any other Lot or any street or alleyway within or adjacent to the Project.

SECTION 12: LIGHTS

Except as initially installed by Declarant, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other Lot or adjacent street, or any part thereof except as approved by the Committee.

SECTION 13: SANITARY FACILITIES

None of the Lots shall be used for residential purposes prior to the installation thereon of water-flushed toilets and all bathrooms, toilets and sanitary conveniences shall be inside the house permitted hereunder on each Lot.

SECTION 14: WINDOW COVER MATERIALS

Within sixty (60) days after the date of close of escrow, each Owner shall install permanent draperies or suitable window coverings on windows facing the street. All such window coverings facing the street must show white, beige, earth tone or pastel colors unless otherwise approved in writing by the Committee.

Prior to installation of any reflective materials on the windows or any portion of the house or any other area on any Lot, approval and consent must be obtained from the Committee pursuant to Article VII, except such consent shall not be required for any such installations made by the Declarant or any Developer.

SECTION 15: DRILLING AND MINING

No oil drilling, oil development operations, oil refining, quarrying or mining of any kind shall be permitted upon or in any Lot, nor shall oil or water wells, tanks, tunnels, mineral extractions, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

SECTION 16: LANDSCAPING

Subject to the variance provision of Section 4 of Article VII below, unless installed by the Developer of a Lot, the landscaping on each Lot must be installed and substantially completed in an attractive manner by the Owner within sixty (60) days from the date of close of escrow based upon plans therefor approved in advance by the Committee pursuant to Article VII below. The landscape plans submitted to the Committee must include proposed changes in grade to be accomplished as part of the landscape development. Landscaping at all times must be maintained by each Owner in a neat and attractive manner and alterations or modifications made to the original landscaping of a Lot as originally installed shall be approved in advance by the Committee. Further, each Owner must maintain, repair and restore any and all grades, slopes, retaining walls and drainage structures (collectively "Lot Improvements") as installed by Declarant or a Developer on a Lot or which has been approved by the Committee. If any Owner does not (i) install and complete approved landscaping within the sixty (60) day period described above, (ii) maintain his landscaping in a neat and attractive manner, or (iii) maintain all Lot Improvements on a Lot, the Declarant, the Developer of the Lot or the Committee, after giving the Owner fifteen (15) days written notice to cure any such default, shall have the right to cause the necessary landscaping work or Lot Improvement to be done and the Owner in default shall be responsible for the cost thereof. Additionally, the party expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended together with interest thereon at the rate of fifteen percent (15%) per annum until paid. In addition to the foregoing, any party may utilize remedies available under Section 1 of Article IX below, for such Owner's default.

SECTION 17: NO WARRANTY OF ENFORCEABILITY; DECLARANT'S EXEMPTION

While Declarant has no reason to believe that any of the restrictive covenants contained within this Article VI or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any of the restrictive covenants. Any Owner acquiring a Lot in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

Also with respect to the restrictive covenants set forth in this Article V, Declarant shall be exempt from the effect of said restrictions except as otherwise provided by the State of Arizona or the Town of Gilbert.

ARTICLE VI

FENCES AND EASEMENTS

SECTION 1: FENCE REQUIREMENTS

All Lots, when developed, shall be improved with fences as approved by the Committee, subject to Declarant's exemption under Article VII below. Except as may be installed by Declarant, no view side or rear fence and no side or rear wall, other than the wall of the house constructed on said Lot, shall be more than six (6) feet in height subject to the variance provisions of Section 4 of Article VII below. Notwithstanding the foregoing, prevailing governmental regulations shall take precedence over these restrictions if said regulations are more restrictive. Unless otherwise approved by the Committee, all fencing and any materials used for fencing, dividing or defining the Lots must be of cement block construction and of new materials. The color(s) of the fencing for all Lots will be as selected by the Developer thereof with the prior approval of the Committee and shall not be changed without the prior approval of the Committee. This restriction shall not apply to the Declarant. All fences shall be maintained in good condition and repair, and fences, upon being started, must be completed within a reasonable time not exceeding three (3) months from commencement of construction. If any fence originally installed by an Owner is wholly or partially damaged by any cause, it shall be removed in its entirety or returned to its original condition within three (3) months from the date of damage; any fences originally installed by any Developer-installed fence was originally erected, must be promptly restored to their original condition by the Owner(s) of the adjacent Lots.

SECTION 2: FENCES AS PARTY WALLS

A. Fences which may be constructed upon the dividing line between Lots, or near or adjacent to said dividing line because of minor encroachments due to engineering errors (which are hereby accepted by all Owners in perpetuity) or because existing easements prevent a fence from being located on the dividing line), by the Developer are "Party Walls" and shall be maintained and repaired at the joint cost and expense of the adjoining Lot Owners. Fences constructed upon the back of any Lot (which do not adjoin any other Lot) by the Developer shall be maintained and repaired at the cost and expense of the adjoining Lot Owner on whose Lot (or immediately adjacent to whose Lot) the fence is installed. Such Party Walls and fences shall not be altered, or changed in design, color, material or construction from the original installation made by the Developer without the approval of the adjoining Owner(s), if any, and the Committee. In the event any Party Wall is damaged or destroyed by the act or acts of one of the adjoining Lot Owners, his family, agents, guests or tenants, that Owner shall be responsible for said damage and shall promptly rebuild and repair the Party Wall(s) to its/their prior condition, at his sole cost and expense. In all other events when any Party Wall is wholly or partially damaged in need of maintenance or repair, each of the adjoining Owners shall share equally in the cost of replacing the Party Wall or restoring the same to its original condition. For this purpose, said adjoining Owners shall have an easement as more fully described in Section 3(A)(2) of this article. All gates shall be as high as the Party Wall or fence.

B. In the event of a dispute between Owners with respect to the repair or rebuilding of a Party Wall, then, upon written request of one of such Owners addressed to the Committee, the matter shall be submitted to the Committee for arbitration under such rules as may from time to time be adopted by the Committee. If no such rules have been adopted, the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third arbitrator to be chosen within five (5) days by any judge of the Superior Court of Maricopa County. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners who shall share the cost of arbitration equally. In the event one Owner fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other Owner, then said requesting Owner shall have the right and power to choose both arbitrators.

C. Wherever the words "Party Walls," "fence," "fences" or "fencing" appears in this Declaration, they include block walls, view fences including wrought iron and other materials used as a fence, fences, wall or walls (except a wall which is part of a house) subject to the provisions of Section 1 of this Article VI requiring cement block construction.

SECTION 3: EASEMENTS**A. General Easements**

(1) Easement for installation and maintenance of utilities and drainage facilities have been created as shown on the Plat, and additional easements may be created by grant or reservation by the Developer of a portion of the Project for the foregoing purposes. Except as may be installed by any Developer, no structure, planting or other materials shall be placed or permitted to remain within these easements which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, if any, or which may obstruct or retard the flow of water through the channels in the drainage easements, if any. The easement area of each Lot and all improvements located thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, and except for any easement area referred to in Subsection 3(A)(3) below, which will be maintained by the Owner of the Lot who has use of the easement.

(2) For the purpose of repairing and maintaining any Party Wall, an easement not to exceed five (5) feet in width is hereby created over the portion of every Lot immediately adjacent to any Party Wall to allow the adjoining Owner access for maintenance purposes as set forth herein and other purpose.

(3) In addition to the foregoing, if a Party Wall is not located between Lots, an easement is hereby created for six (6) months after a house is constructed on any Lot for the purpose of constructing and maintaining said Party Wall. With respect to any Party Wall not located on a dividing line between Lots but located near or adjacent to such dividing line, and Owner of a Lot shall have and is hereby granted a permanent easement over any property immediately adjoining said Owner's Lot up to the middle line of said Party Wall for the use and enjoyment of the same.

(4) Each Lot within the Project is hereby declared to have an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to minor engineering errors, errors in either the original construction or reconstruction of the buildings on the Lots, or the settlement or shifting of buildings or any other similar cause. There shall be valid easements for the maintenance of said encroachments as long as they exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting, provided however, that in no event shall a valid easement for the encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

B. Declarant Easements.

(1) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area while the Declarant sells Lots in the Project.

(2) Declarant shall have the right and an easement on and over the Common Area to construct there on all buildings and improvements the Declarant may deem necessary, and to use the Common Area and any Lots owned by Declarant for construction and renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies, and fixtures, and the performance of work respecting the Project.

(3) The Declarant shall have an easement on, over and through the Lots (but not through any houses thereon) for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

C. Association Easements

Declarant hereby creates the following easements in favor the Association and its directors, officers, agents, employees and independent contractors over the Lots (but not the houses thereon):

(1) For inspection of the Lots in order to verify the performance of all Owners of all items of maintenance and repair for which they are responsible;

(2) For inspection, maintenance, repair and replacement of the Common Area accessible from the Lots; and

(3) For the purpose of enabling the Association, the Board, the Committee or any other committee appointed by the Board, to exercise and discharge their respective rights, powers and duties under the Project Documents. No Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under the powers or easements reserved under this Declaration.

ARTICLE VII**ARCHITECTURAL CONTROL****SECTION 1: CREATION OF COMMITTEE**

The Board shall establish an Architectural Committee consisting of not less than three (3) members appointed by the Board to regulate the external design, appearance, and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board. No Improvement of any kind may be made on any Lot without prior approval from the Architectural Committee and no change to an Improvement previously approved by the Architectural Committee may be made without prior written approval of the Architectural Committee."

After ninety percent (90%) of the Lots in the Project have been conveyed to individual home purchasers (as evidenced by recorded deeds or agreements of sale of purchasers), a new Committee shall be appointed by the Board of the Association. However, until ninety percent (90%) of the Lots are sold as evidenced by recorded deeds to purchasers at least one member of the Architectural Committee shall be represented by the Original Developer, or current Developer, if different from the Original. If no such Committee is appointed, then and in such event, the members of the Committee appointed by the Declarant, and/or its successors and assigns, may, but are not obligated to, continue to act until such time as the Board appoints a new Committee. Members of the Committee appointed by the Board shall serve for a period of one (1) year or until their successors are duly appointed, whichever is later or until they are removed by action of the Board.

A majority of the Committee shall be entitled to take action and make decisions for the Committee. Except for Committee members appointed by the Declarant, all Committee members shall be Owners or representatives of Owners.

SECTION 2: REVIEW BY COMMITTEE (NON-DEVELOPER IMPROVEMENTS)

No building or exterior or structural improvements of any kind, fences, walls, Party Walls, solar collectors, antennas(including customary TV antennas), satellite dishes, underground TV apparatuses, broadcasting towers, other structures, Lot Improvements, landscaping or landscaping changes, or changes to the exterior colors of any of the foregoing (collectively, the "Alterations") shall be commenced, erected, made, structurally repaired, replaced or altered (except as set forth below) until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, location and approximate cost of same shall have been submitted to and approved by the Committee. The Committee shall have the right to refuse to approve any Alteration which is not suitable or desirable in their opinion

for aesthetic or other reasons, and they shall have the right to take into consideration (i) the suitability of the proposed Alteration; (ii) the material (including type and color) of which it is to be built; (iii) the site (including location, topography, finished grade elevation) upon which it is proposed to be erected; (iv) the harmony thereof with the surroundings (including color and quality of materials and workmanship); and (v) the effect of the Alteration as planned on the adjacent or neighboring property (including visibility and view). Failure of the Committee to reject in writing said plans and specifications within forty-five (45) days from the date the same were submitted shall constitute approval of said plans and specifications, provided the design, location, color and kind of materials in the Alteration shall be governed by all of the restrictions herein set forth. With respect to review an Owner's plans and specifications, the Committee shall have the right to employ professional consultants to review the same to assist it in discharging its duties. In the event the Committee elects to employ such consultant, the Committee shall first give notice to the Owner of the fee required for purposes of hiring any such consultant and the Owner shall promptly pay said consultant's fee to the Committee prior to the Committee being obligated to proceed further with its review of said Owner's submission. The restrictions and conditions set forth in this paragraph or in Section 3 of this Article VII below shall not be applicable to any original construction whatsoever undertaken by Declarant.

The Committee's approval of Alterations shall not be interpreted or deemed to be an endorsement or verification of safety, structural integrity or compliance with applicable laws or building ordinances of the Alterations and the Owner and/or its agents shall be solely responsible therefor. The Committee and its members shall have no liability for any lack of safety, integrity or compliance thereof. The Committee and its members shall have no personal liability for judicial challenges to its decisions and the sole remedy for a successful challenge to a decision of the Committee shall be an order overturning the same without creating a right, claim or remedy for damages. The Committee may adopt and amend, from time to time, architectural control guidelines consistent with this section and the Project Documents.

Unless at least two-thirds (2/3) of the First Mortgagees (based upon one (1) vote for each First Mortgage owned) or Owners (other than Declarant) of the individual Lots have given their prior written approval, the Association shall not by act or omission, change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots, the maintenance of the Common Area, Party Walls, fences and driveways, or the upkeep of landscaping in the project.

SECTION 3: REVIEW BY COMMITTEE (DEVELOPER IMPROVEMENTS)

The plans, specifications and elevations of all houses, buildings or other improvements, landscaping and other structures or other items that a Developer (other than Declarant) intends to construct, install or erect in the Project, whether or not the same is visible from another Lot

or public street, shall be subject to the review and approval of the Committee prior to the commencement thereof in accordance with the procedures set forth above. In addition to the foregoing requirements, such standards adopted by Declarant from time to time for the Project sole discretion, provided that any such Developer may continue construction within the Project in accordance with plans, specifications and elevations consistent with the standards in effect at the time the plans, specifications and elevations were submitted to Declarant. The Committee shall refuse approval of any such Developer's plans, specifications and elevations if the same do not comply with the standards then in effect. Further, the Declarant or the Committee shall have the right from time to time to promulgate and amend reasonable rules and regulations concerning the conduct and operations and building activities of any other Developer (except Declarant) who shall be bound thereby.

SECTION 4: VARIANCES

The Committee may (with Board approval in its sole discretion and in extenuating circumstances) grant minor variances from the restrictions set forth in Article V and Article VI of this Declaration and any of the requirements set forth in this Article VII if the committee determines that (a) either (i) a restriction would create an unreasonable and substantial hardship or burden on an Owner or (ii) a change of circumstances has rendered a restriction obsolete and (b) the activity permitted under the variance will not have a substantially adverse effect on other Owners and is consistent with the high quality of life intended for the Project.

SECTION 5: DECLARANT'S EXEMPTION; RIGHT TO REPLAT

The restrictions and conditions set forth in this Article VII shall not be applicable to any original construction whatsoever undertaken by the Declarant. In addition to the foregoing, Declarant hereby reserves the right, in its sole discretion, and without the consent of the Committee or any other Owner or lienholder (except as provided herein), to amend the Plat with regard to any Lots which Declarant owns from time to time. Notwithstanding the foregoing, such replatting shall not affect the boundaries of any other Owner's Lot or the Common Area and shall always comply with all zoning and other applicable statutes, rules, ordinances and regulations of any governmental or quasi-governmental agency having jurisdiction over the Project. Subject to satisfaction of the foregoing conditions, any amendment to the Plat prepared and recorded by Declarant may reconfigure Declarant's Lots and/or create additional Lots.

ARTICLE VIII**PLANNED PHASING OF DEVELOPMENT****SECTION 1: PHASE ONE**

Declarant intends to develop the Project in four Phases. Phase One consists of 78 lots (Lots 146-223, inclusive) as described in or shown as Phase One on Exhibit A which is attached hereto and incorporated herein by this reference.

SECTION 2: SUBSEQUENT PHASES; CHANGES TO SUBSEQUENT PHASES

The portions of the Project lying outside Phase One (described on Exhibit A) are hereby submitted to this Declaration as Phases Two, Three, and Four of the Project. Phase Two shall contain 82 lots, (Lots 1-82, inclusive) as described in or shown as Phase Two on Exhibit B which is attached hereto and incorporated herein by this reference; Phase Three shall contain 99 lots, (Lots 224-322, inclusive, and Tracts I through N), as described in or shown as Phase Three on Exhibit C which is attached hereto and incorporated herein by this reference; Phase Four shall contain 63 lots, (Lots 83-145, inclusive, and Tracts A-H), as described in or shown as Phase Four on Exhibit D which is attached hereto and incorporated herein by this reference.

Declarant may change the size, number or contents of phases, except Phase One. In the event the sequence of development described above is not followed, Declarant shall record an Amendment to this Declaration setting forth the actual sequence of development.

SECTION 3: REQUIREMENTS TO BE SATISFIED PRIOR TO CONVEYANCE OF THE FIRST LOT IN A PHASE

All intended and planned improvements located or to be located on the Common Area in a Phase must be substantially completed prior to the conveyance of the first Lot therein and the conveyance of the Common Areas to the Association. Declarant makes no assurances as to the nature or type of improvements which may be constructed on any Lot in a new Phase, but such improvements shall be consistent in terms of quality of construction with the improvements built in the Project as originally constituted under this Declaration.

All taxes, assessments, mechanic's liens, and other charges affecting the Common Area in a new Phase, shall be paid or otherwise provided for by Declarant in a manner satisfactory to the Federal Housing Administration or Veterans Administration so that any liens arising in connection upon said Property will not adversely affect the rights of existing Lot Owners.

ARTICLE IX**GENERAL****SECTION 1: EFFECT OF DECLARATION AND REMEDIES**

The declarations, limitations, easements, covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing (or whose title is acquired by foreclosure, deed in lieu thereof, trustee's sale or otherwise) or occupying any Lot in the Project after the date on which this Declaration is recorded. In the event of any violation or attempted violation of these covenants, conditions, and restrictions, they may be enforced by an action brought by the Association, Committee or by the Owner or Owners (not in default) of any Lot or Lots in the Project or by Declarant, at law or in equity. Declarant has no duty to take action to remedy any such default. Remedies shall include but not be limited to damages, injunctive relief and/or any and all other rights or remedies pursuant to law or equity and the prevailing party shall be entitled to collect all costs incurred and reasonable attorneys' fees sustained in commencing and/or defending and maintaining such lawsuit. Any breach of these covenants, conditions and restrictions, or any remedy by reason thereof, shall not defeat nor affect the lien of any mortgage or deed of trust made in good faith and for value upon the Lot in question and the breach of any of these covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust.

All instruments of conveyance of any interest in any Lot shall contain (and if not, shall be deemed to contain) a reference to this Declaration and shall be subject to the declarations, limitations, easements, covenants, conditions and restrictions herein as fully as though the terms and conditions of this Declaration were therein set forth in full; provided, however, that the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in any instrument of conveyance. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions and restrictions.

SECTION 2: PLURALS; GENDER

Whenever the context so requires, the use of the singular shall include and be construed as including the plural and the masculine shall include the feminine and neuter.

SECTION 3: SEVERABILITY

Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.

SECTION 4: TRANSFER BY DECLARANT

Wherever Declarant is granted certain rights and privileges hereunder, Declarant shall have the right to fully or partially assign and transfer any of such rights and privileges as to the Lots which it owns to any other Developer as evidenced by a written instrument recorded in the office of the Maricopa County Recorder which describes in detail the particular Declarant's right or rights being assigned (if less than all such Declarant rights) and said instrument shall state that, in such case, the assignee is a co-Declarant or if Declarant has assigned all its rights in said instrument, it shall state that the assignee is a successor Declarant. If the operation of this Section 4 results in there being more than one Declarant at any one time, all such Declarants shall be co-Declarant holding the rights assigned to them by their original assignor. Upon an assignment by Declarant of its rights hereunder, Declarant shall thereafter have no further liability, responsibility or obligations for future acts or responsibilities of the successor or co-Declarant hereunder and the successor or co-Declarant shall be solely responsible therefor (to the extent of the assignment) and all parties shall look to the successor or co-Declarant therefor. At any time, Declarant may, by a written, recorded notice, relinquish all or any portion of its rights hereunder and all parties shall be bound thereby, except that no Declarant, nor its successors or assigns, may relinquish its Class B Membership without the consent of any other co-Declarant. Notwithstanding anything provided herein to the contrary, if any lender to whom Declarant has assigned or hereafter assigns all or substantially all of the Project as security succeeds to the interests of Declarant by virtue of said assignment, such lender will automatically be successor Declarant hereunder and the Class B Memberships shall not be terminated thereby.

SECTION 5: RIGHTS OF FIRST MORTGAGEES AND INSURERS OR GUARANTORS OF FIRST MORTGAGES

Upon written request to the Association identifying the name and address of the First Mortgagee for any Lot or the insurer or guarantor of any such First Mortgagee or insurer or guarantor of such First Mortgage or insurer or guarantor of such First Mortgage will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor, as applicable;

(b) Any delinquency in the payment of Assessments or Charges owed or other default in the performance of obligations under the Project Documents by an Owner of a Lot subject to a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor which remains uncured for a period of sixty (60) days;

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as described in this Declaration.

SECTION 6: MISCELLANEOUS

This Declaration shall remain and be in full force and effect for an initial term of thirty-five (35) years from the date this Declaration is recorded. Thereafter, this Declaration shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked by an instrument in writing, executed and acknowledged by the then Owners of not less than seventy-five percent (75%) of the Lots in the Project, and by "Eligible First Mortgagees" (those First Mortgagees who have filed a written request with the Association requesting notice of certain matters set forth in Section 5 of Article IX of this Declaration) holding First Mortgages on Lots which have at least sixty-seven percent (67%) of the votes of Lots subject to First Mortgages held by Eligible First Mortgagees, which said instrument shall be recorded in the office of the Maricopa County Recorder's Office, Arizona, not earlier than ninety (90) days prior to the expiration of the initial effective period hereof, or any ten (10) year extension. If there is any conflict between any of the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to the Project Documents in the following order: the Plat, Articles, Bylaws and Rules and Regulations of the Association. As long as there is Class B Membership, the following actions require the prior approval of the Federal Housing Administration or the Veterans Administration if either of those agencies has approved the development plan of the Project: annexation of additional properties, dedication of the Common Area, amendment of this Declaration and withdrawal or deannexation of any property from this Declaration.

SECTION 7: AMENDMENTS

At any time, this Declaration may be amended by an instrument in writing, executed and acknowledged by the then Owners of not less than sixty-seven percent (67%) of the Lots in the Project; provided however, that the Declarant, while Class B Membership exists, may amend this Declaration to comply with the guidelines or regulations of any governmental or quasi-governmental agency insuring, guaranteeing or purchasing loans in the Project, without the consent of any other Owner or lienholder including First Mortgagees. The approval of Eligible First Mortgagees on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to First Mortgages held by Eligible First Mortgagees shall be required to add to or amend any "material" provisions of the Project Documents establish, provide for, govern and regulate any of the following:

- (a) voting;
- (b) Assessments, Assessment Liens or subordination of such Liens;

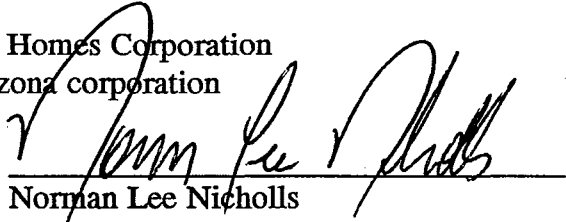
- (c) reserves for maintenance, repair and replacement of the Common Area;
- (d) insurance or fidelity bonds;
- (e) rights to use of or reallocation of interests in the Common Area;
- (f) responsibility for maintenance and repair of the various portions of the Project;
- (g) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (h) conversion of Lots into Common Area or Common Area into Lots;
- (i) leasing of Lots;
- (j) imposition of any right of first refusal or similar restriction on the right of a Lot Owner to sell, transfer or otherwise convey his Lot;
- (k) any provisions which are for the express benefit of First Mortgagees, Eligible First Mortgagees or Insurers or Guarantors of First Mortgages on Lots held by Eligible First Mortgages;
- (l) boundaries of any Lot except as expressly provided in Section 4 of Article VII above;
- (m) a decision by the Association to establish self-management when professional management had been required previously by the Project Documents or an Eligible First Mortgagee;
- (n) restoration or repair of the Project (after hazard damage or partial condemnation) in a manner other than as specified in the Project Documents; and
- (o) any action to terminate the legal status of the Project after substantial destruction or condemnation occurs.

An addition or amendment to the Project Documents shall not be considered "material" if it is for the purpose of correcting technical errors or for clarification only. An Eligible First Mortgagee which receives written request to approve additions or amendments pursuant to this paragraph and which does not deliver or post to the requesting party a negative response within thirty (30) days after such notice was delivered thereto by certified or registered mail, return receipt requested, shall be deemed to have approved such request. The consents required under this Section 7 shall not apply to amendments recorded by Declarant to comply with governmental or quasi-governmental agency regulations as described above.

DATED THIS 28th DAY OF June, 1994.

Fulton Homes Corporation
an Arizona corporation

By:




Norman Lee Nicholls

Its: President

STATE OF ARIZONA)
) ss.
COUNTY of Maricopa)

The foregoing instrument was acknowledged before me this 28th day of June, 1994 by Norman Lee Nicholls, President of Fulton Homes Corporation, an Arizona corporation, on behalf of said corporation.


Notary Public

My Commission Expires:

1-31-96



EXHIBIT A
PHASE ONE
LOTS 146 - 223

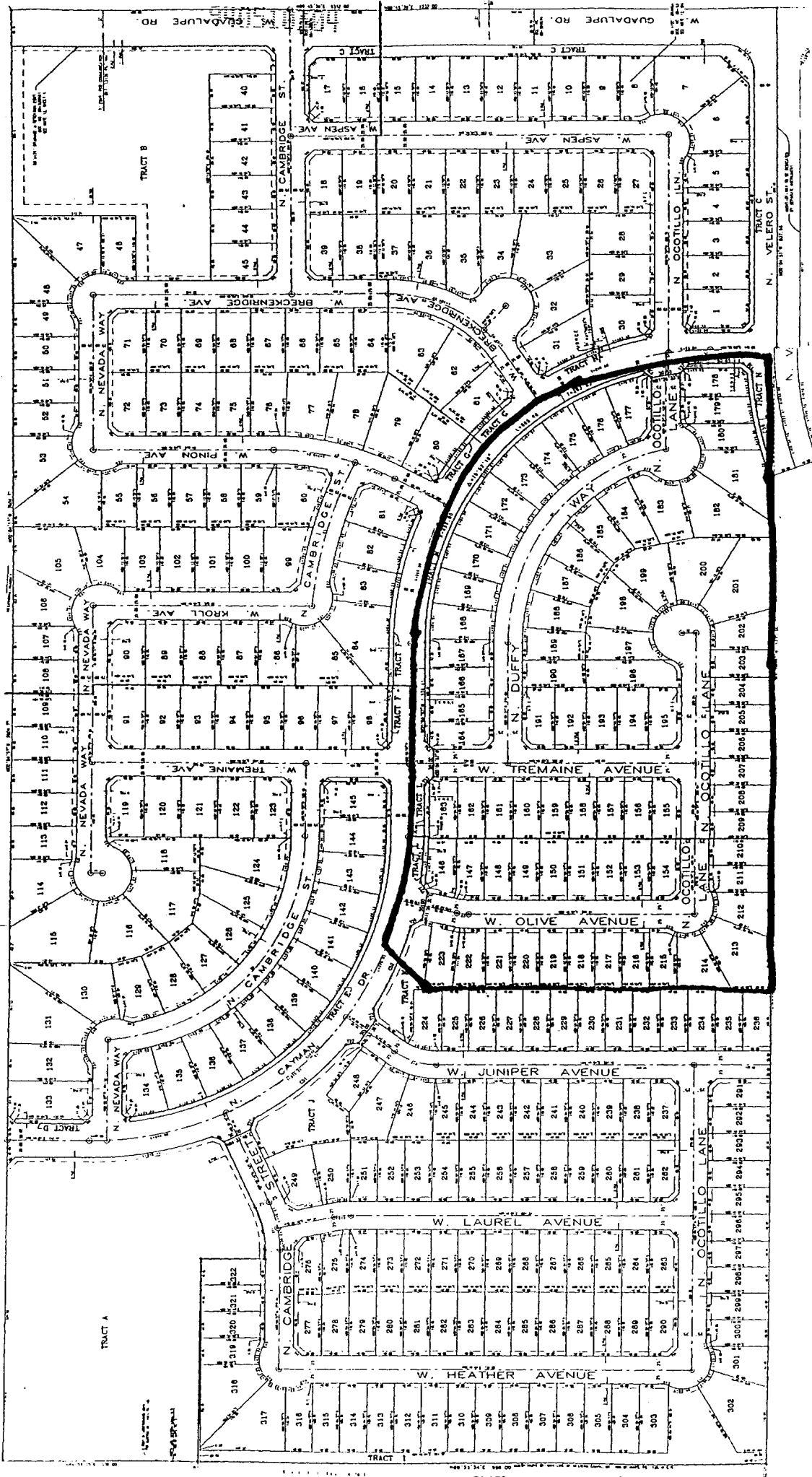


EXHIBIT B
PHASE TWO
LOTS 1 - 82

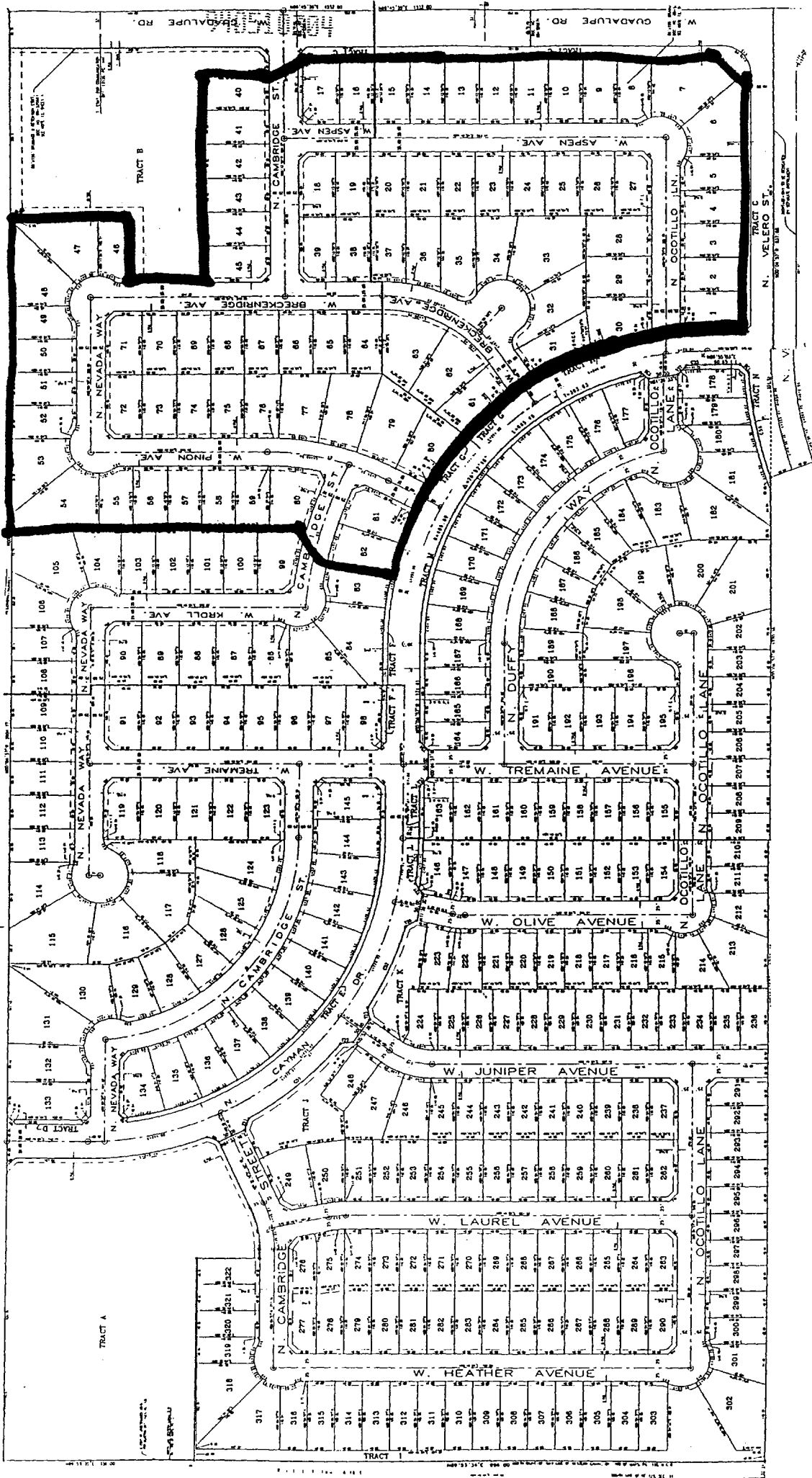


EXHIBIT C
PHASE THREE
LOTS 224 - 322 AND TRACTS I - N

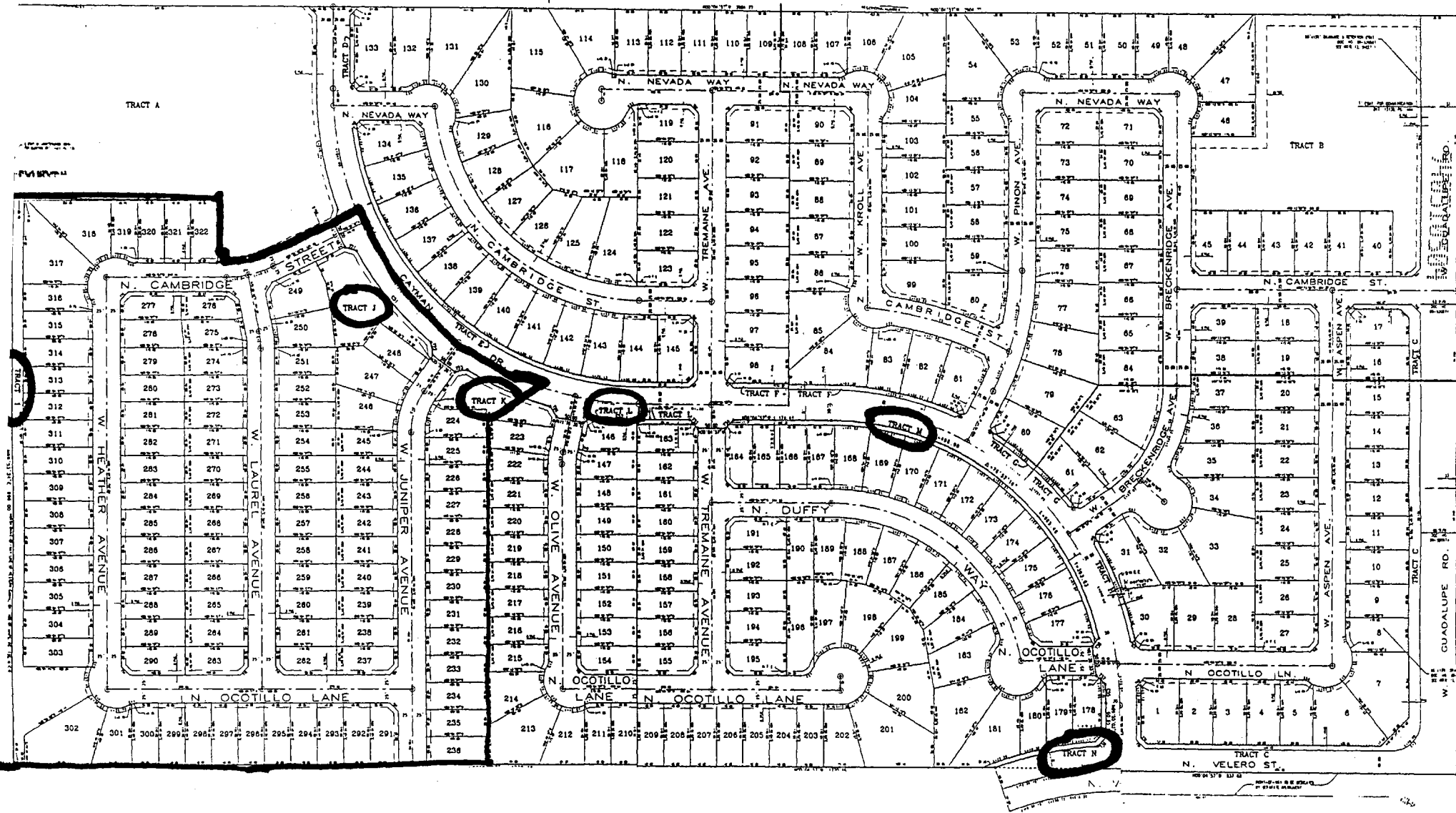


EXHIBIT D
PHASE FOUR
LOTS 83 - 145 AND TRACTS A - H

