

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: J V
DEPUTY RECORDER
4437 PE3

W
TUCSON CITY CLERK
PICK UP



DOCKET: 12590
PAGE: 3510
NO. OF PAGES: 16
SEQUENCE: 20051310874
07/08/2005
REST 16:12

PICKUP

AMOUNT PAID \$ 20.00

When recorded return to:

Ross Cooper
Talaco Development Inc.
13047 n. 80th Place
Scottsdale, AZ 85260

NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VISTA MONTANA ESTATES PHASE TWO, LOTS 216 THRU 354 AND COMMON AREAS "A" (PRIVATE STREETS), "B" (PRIVATE RECREATION CENTER), "C" (PRIVATE DRAINAGE FACILITIES), "D" (PRIVATE LANDSCAPE AREAS) & "F" (PRIVATE ACCESS AREAS)

THIS NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (as amended from time to time, the "Neighborhood Declaration") is entered into as of the 29th day of April, 2005 by Talaco Development, Inc., an Arizona corporation ("Declarant").

RECITALS

A. Declarant executed and caused to be recorded in the official records of Pima County, Arizona, at Docket 12408, Page 771, that certain Declaration of Covenants, Conditions and Restrictions for Vista Montaña Estates (as amended from time to time, the "Master Declaration"). Declarant is named as the "Declarant" in the Master Declaration.

B. Declarant is the owner of that certain land described on Exhibit "A" attached hereto and incorporated herein by reference (the "Phase II Property"). The Phase II Property was annexed under the Master Declaration by that certain Supplemental Declaration for Phase II of Vista Montaña Estates dated December 15, 2004, recorded in the official records of Pima County, Arizona, at Docket 12449, Page 7514.

C. Section 16 of the Master Declaration provides for the recordation of a "Neighborhood Declaration" to set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to property in any "Neighborhood" within Vista Montaña Estates. This instrument constitutes a "Neighborhood Declaration" as provided for under Section 16 of the Master Declaration, and the Phase II Property constitutes a "Neighborhood" as provided for under Section 16 of the Master Declaration.

D. It is intended that the Association will own or control certain private wastewater lines and related facilities (the "Wastewater Line,") serving the Phase II Property.

E. Declarant desires to record this Neighborhood Declaration to set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements pertaining to, among other things, the Wastewater Line.

11-00000-00000-11

F. Defined terms used herein shall have the first letter of each word in the term capitalized. If not otherwise expressly provided herein, defined terms shall have the meanings given to them in the Master Declaration.

DECLARATIONS

NOW, THEREFORE, Declarant hereby declares as follows:

1. Neighborhood Declaration.

(a) The Phase II Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Neighborhood Declaration; provided, however, that any property owned by or dedicated to a governmental agency or the public shall not be subject to this Neighborhood Declaration while owned by any such governmental entity or the public, except that any restrictions imposed in this Neighborhood Declaration upon the Owners and Residents concerning the use and maintenance of such property shall be applicable at all times. This Neighborhood Declaration shall run with the Phase II Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association and all Owners and Residents of the Phase II Property and their successors in interest.

(b) This Neighborhood Declaration and all of its provisions (including, but not limited to, the Assessment provisions set forth in Section 4) are in addition to the Master Declaration and shall be subordinate to the Master Declaration; provided, however, in accordance with Section 16.4 of the Master Declaration, to the extent this Neighborhood Declaration includes any maintenance and similar standards that are more stringent or otherwise higher than similar standards set forth in the Master Declaration, the higher standards shall control.

(c) Nothing in this Neighborhood Declaration shall be construed to prevent Declarant from modifying that certain Final Plat for Vista Montaña Estates, recorded in Book 40 of Maps, at Page 3, official records of Pima County, Arizona (as amended from time to time, the "Parcel ___ Plat"), or any portion thereof, or the Master Declaration pursuant to the terms contained therein.

2. No Neighborhood Association. There shall be no Neighborhood Association for the Phase II Property. In addition to all of the rights, privileges and obligations that the Association has pursuant to the Master Declaration with respect to the Property (including the Phase II Property), the Association shall have all management, maintenance, administration and other rights, privileges and obligations with respect to the Phase II Property that are set forth in this Neighborhood Declaration.

3. Wastewater Line.

(a) Grant of Easement. There is hereby created a blanket easement upon, across, over and under the Phase II Property, other than under or through a Dwelling Unit, for the installation, construction, replacement, repair, maintenance and operation of the Wastewater Line. By virtue of the foregoing easement, it shall be expressly permissible for the Association

and its successor in ownership of the Wastewater Line to erect (including, but not limited to, underground installation) and maintain the necessary facilities and related appurtenances and equipment on the Phase II Property.

(b) Maintenance Obligation. The Association shall be responsible for the installation, construction, replacement, repair, maintenance and operation of the Wastewater Line and shall construct, replace, repair, maintain and operate the facilities in a commercially reasonable manner and with the least practicable adverse impact on the Neighborhood. All costs of any such installation, construction, replacement, repair, maintenance and operation shall be paid as provided in this Neighborhood Declaration.

(c) Rights of Enjoyment in the Wastewater Line. Declarant, the Association, and every Owner, Occupant and Resident of the Phase II Property shall have a right of enjoyment in and to all of the Wastewater Line, which easement shall be appurtenant to, and shall pass with, the title to the Phase II Property subject to the following provisions:

(i) The right of the Association to suspend the voting rights by any Owner, Occupant, Resident or any other Person, for any period during which any Assessment against such Owner's Lot remains delinquent and remains unpaid, and for any period during which the Owner, Occupant, Resident or other Person is otherwise in default under this Neighborhood Declaration, after written notice of such failure to make payment or cure such default is given by the Board to the defaulting Person.

(ii) The right of the Association to regulate the use of the Wastewater Line through the Association Rules and to prohibit or limit use thereof for purposes not intended. The Association Rules shall be intended, in the absolute discretion of the Board to enhance the preservation of the Wastewater Line for the safety and convenience of the users thereof, and otherwise shall serve to promote the best interests of Declarant, Owners, Occupants and Residents of the Phase II Property.

(iii) The right of the Association to dedicate or transfer all or any part of the Wastewater Line to any public or quasi-public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association, so long as, in each case, (A) the Board determines that the Members who own Lots within the Phase II Property are not materially or adversely affected, and (B) so long as it owns any portion of the Phase II Property, Declarant has executed an instrument agreeing to such change, dedication or transfer.

(iv) The right of the Association to change the size, configuration or location of the Wastewater Line, to exchange the Wastewater Line for other property or interests therein that become a part of the Wastewater Line and to abandon or otherwise transfer the Wastewater Line (or portions thereof) so long as, in each case, (A) the Board determines that the Members who own Lots within the Phase II Property are not materially or adversely affected, and (B) so long as it owns any portion of the Phase II Property, Declarant has executed an instrument agreeing to such change in size, shape or location, exchange, abandonment or transfer.

4. Neighborhood Assessments; Neighborhood Expenses.

(a) Assessment Lien. Pursuant to Section 7.1 of the Master Declaration, the Neighborhood Assessments set forth in this Section 4 shall be secured by the Assessment Lien more particularly described in the Master Declaration and shall be the personal obligation of the Person who was the Owner of the Lot at the time the Neighborhood Assessment was due.

(b) Regular Assessments.

(i) To provide for the "Neighborhood Expenses" (as defined in Section 5(a)), the Board shall assess a Regular Assessment against each Membership in the Phase II Property. The amount of the Regular Assessment shall be determined with the objective of providing for the Neighborhood Expenses. The Board may, during an Assessment period, revise the amount of the Regular Assessment in order to meet Neighborhood Expenses that exceed the amounts anticipated by the Association and collect such increased Regular Assessments in accordance with the procedures in this Section 4. The Regular Assessment shall be assessed against each Member in the Phase II Property commencing with the year the first Lot in the Phase II Property is conveyed by the Declarant; provided, however, that in the event fulfillment of the purposes of the Association with respect to the Phase II Property does not require the imposition of a Regular Assessment at that time, the Board may delay the initial imposition of the Regular Assessment against each Member in the Phase II Property until such time as the fulfillment of the purposes of the Association with respect to the Phase II Property require such imposition.

(ii) Regular Assessments shall be collected on a monthly basis or such other periodic basis established by the Board from time to time.

(iii) With regard to all Members in the Phase II Property other than Declarant and the Designated Builder(s), the Regular Assessments must be fixed at a uniform rate for each Lot within the Phase II Property. With regard to each of Declarant and the Designated Builder(s), the Regular Assessments shall be an amount per Lot in the Phase II Property equal to twenty-five percent (25%) of such uniform rate set in the preceding sentence of this Section 4(b)(iii).

(iv) The Board shall adopt a budget for the Neighborhood Expenses of the Phase II Property for each fiscal year of the Association, which budget shall serve as the basis for determining the Regular Assessments for the applicable fiscal year. Within a reasonable period following the meeting of the Board at which it adopts the budget for the year in question, the Board shall make available to each Owner in the Phase II Property, upon request, a copy of the budget and a statement of the amount of Regular Assessments to be levied against such Owner's Lot for that year. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Neighborhood Assessments provided for therein) for the year immediately preceding shall remain in effect. Neither the budget nor any Neighborhood Assessment levied pursuant thereto shall be required to be approved by the Owners in the Phase II Property.

(c) Special Neighborhood Assessments for Capital Improvements and Extraordinary Expenses.

(i) In addition to the Regular Assessments authorized above, the Association may levy, in any Assessment period, a "Special Neighborhood Assessment" applicable to that Assessment period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Wastewater Line, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses which, in the judgment of the Board, should be borne by the Owners in the Phase II Property rather than all Owners; provided that any such Special Neighborhood Assessment must be approved by seventy-five percent (75%) of the votes of each class of Members within the Phase II Property who are voting in person or by proxy at a meeting duly called for such purpose and, Declarant if it still holds a Class B Membership. The provisions of this Section 4(c) shall not preclude or limit the assessment, collection or use of Neighborhood Assessments for the aforesaid purposes.

(ii) Special Neighborhood Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members in the Phase II Property approving the Special Neighborhood Assessment.

(iii) All Special Neighborhood Assessments shall be on a uniform basis per Lot in the Phase II Property.

(iv) Special Neighborhood Assessments may not be assessed until the completion, and conveyance to and acceptance by the Association, of all Neighborhood Common Area improvements and landscaping.

(d) Deficits. In the event that the Neighborhood Assessments set forth in this Section 4 are insufficient to meet the Neighborhood Expenses, Declarant and the Designated Builder(s) shall subsidize the difference, the subsidy being allocated between Declarant and the Designated Builder(s) as follows: beginning on the date that the Wastewater Line is conveyed to and accepted by the Association and continuing for ninety days thereafter, and for each successive ninety-day period, Declarant and the Designated Builder(s) shall allocate the percentage amount of any deficit for such ninety day period (with expenses to be allocated to ninety-day periods on an accrual basis) that each shall contribute based on the number of Lots in the Phase II Property that each respectively owns on the first day of each such ninety-day period divided by the total number of Lots in the Phase II Property owned by Declarant and the Designated Builder(s) on that same day. Notwithstanding any other provision of this Section 4(d), in no event shall the sum of the Neighborhood Assessment and subsidy paid by each of Declarant or the Designated Builder(s) per year exceed the total amount that each respectively would have paid had they been required to pay the full Neighborhood Assessment rate per Lot in the Phase II Property.

(e) Notice and Quorum for Any Action Authorized Under Section 4(c)(i). Written notice of any meeting called for the purpose of taking any action authorized under Section 4(c)(i) of this Neighborhood Declaration shall be sent to all Members in the Phase II Property subject to such Assessment no less than ten days nor more than fifty days in advance of

the meeting. At the first such meeting called, the presence of Members in the Phase II Property or of proxies of Members in the Phase II Property entitled to cast 50% of all the votes (exclusive of suspended voting rights) of each class of Membership in the Phase II Property shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting. Any Member in the Phase II Property can waive notice to a meeting and right to vote may be exercised by proxy pursuant to such rules as the Board may from time to time promulgate.

(f) Property Exempted from Neighborhood Assessments, Special Neighborhood Assessments and Neighborhood Capital Reserve Assessments. Exempt Property shall be exempted from the Neighborhood Assessments, Special Neighborhood Assessments and Neighborhood Capital Reserve Assessments; provided, however, that if any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall, to the extent applicable, be subject to the Neighborhood Assessments, Special Neighborhood Assessments and Neighborhood Capital Reserve Assessments.

5. Purposes for which Neighborhood Assessments May Be Used.

(a) The Association shall apply all funds collected and received by it pursuant to this Neighborhood Declaration for the common good and benefit of the Phase II Property and the Members and Residents of the Phase II Property for costs associated with the installation, construction, replacement, repair, maintenance and operation of the Wastewater Line; replacement and maintenance reserves for the Wastewater Line; obtaining liability insurance for the Wastewater Line; and supplying of utilities and other public services to the Wastewater Line (collectively, the "Neighborhood Expenses").

(b) The Association shall not be obligated to spend in any year all the sums received by it in such year pursuant to this Neighborhood Declaration, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Neighborhood Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association with respect to the Phase II Property and the accomplishment of its purposes pursuant to this Neighborhood Declaration.

6. Enforcement.

(a) The Declarant, for so long as it holds a Class B Membership, and the Association, as the agent and representative of the Members owning Lots within the Phase II Property, and each of the Members who own a Lot within the Phase II Property shall have the exclusive right to enforce the provisions of this Neighborhood Declaration.

(b) Any amounts owing the Declarant or Association hereunder as a result of a default by any Owner within the Phase II Property and that are not paid within thirty (30) days after such amounts are due shall be immediately subject to a late payment penalty as may be set

by the Board from time to time (not to exceed the greater of ten percent (10%) of the amount owed or \$15.00), plus default interest on the amount of such late payment and such late payment fee, at a per annum rate equal to eighteen percent (18%).

(c) In the event of a default of any provisions hereof, the Association or Declarant shall be entitled to obtain, in addition to any other rights or remedies at law or in equity, immediate injunctive relief. Each Owner agrees that damages are an inadequate remedy for any violation of any term or provision of this Neighborhood Declaration.

7. Term; Amendments; Termination.

(a) Term; Method of Termination. This Neighborhood Declaration shall be effective upon the date of its Recordation and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date the Master Declaration was Recorded. From and after said date, this Neighborhood Declaration shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Neighborhood Declaration by the then Members within the Phase II Property casting ninety percent (90%) of the total votes cast at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. This Neighborhood Declaration may be terminated at any time if ninety percent (90%) of the votes cast by each class of Members within the Phase II Property shall be cast in favor of termination at a meeting held for such purpose. Notwithstanding anything to the contrary in this Neighborhood Declaration, no vote to terminate this Neighborhood Declaration shall be effective unless and until (i) the Association has approved an alternative method for funding the Neighborhood Expenses; (ii) written consent of the Declarant has been obtained (so long as Declarant owns any property within the Phase II Property); and (iii) written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from the holders of Recorded first mortgages or deeds of trust to which the Assessment Lien is subordinate pursuant to Section 8.3 of the Master Declaration, on seventy-five percent (75%) of the Lots within the Phase II Property upon which there are such Recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be Recorded with the County Recorder of Pima County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Neighborhood Declaration shall have no further force and effect. Notwithstanding anything to the contrary herein, upon termination of the Master Declaration in accordance with its terms for any reason, this Neighborhood Declaration shall be deemed to terminate automatically.

(b) Amendments. This Neighborhood Declaration may be amended by Recording with the County Recorder of Pima County, Arizona, a Certificate of Amendment, duly signed and acknowledged. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 7(c) and 7(d) of this Neighborhood Declaration, shall certify that, at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws: (i) Members within the Phase II Property holding not less than seventy-five percent (75%) of the Class A Membership votes within the Phase II Property entitled to be cast voted affirmatively for the adoption of the amendment, (ii) so long as the Class B Membership is

in existence, the Members holding not less than seventy-five percent (75%) of the Class B Membership votes within the Phase II Property then entitled to be cast voted affirmatively for the adoption of the amendment; (iii) so long as Class B Membership is in existence, the Declarant has consented to the adoption of the amendment; and (iv) so long as Class B Membership is in existence and a Designated Builder(s) owns any Lots within the Phase II Property, that particular Designated Builder(s) has consented to the adoption of the amendment, but the consent of a particular Designated Builder shall not be required in the event that such Designed Builder is then in default under its option agreement to acquire any portion of the Phase II Property.

(c) Right of Amendment if Requested by Governmental Agency or Lending Institutions. Notwithstanding anything contained herein to the contrary, Declarant reserves the right to amend all or any part of this Neighborhood Declaration to such an extent and with such language as may be requested by the FHA, the VA, the FNMA or the FHLMC and to further amend to the extent requested by any other federal, state or local governmental agency that requests such an amendment as a condition precedent to such agency's approval of this Neighborhood Declaration, or by any federally or state chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) within the Phase II Property or any portions thereof. Any such amendment shall be effected by the Recording, by Declarant, of a Certificate of Amendment duly signed and acknowledged on behalf of Declarant specifying the federal, state or local governmental agency or the federally or state chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. The Recording of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when Recorded, shall be binding upon all of the Phase II Property and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section 7(c) deletes, diminishes or alters such control, Declarant shall have the right to prepare, provide for and adopt, as an amendment hereto, other and different control provisions. Except as provided in this Section 7(c) and Section 7(d), Declarant shall not have any right to amend this Neighborhood Declaration otherwise than in accordance with and pursuant to the provisions of Section 7(b) above.

(d) Declarant's Rights of Amendment. Notwithstanding anything in this Section 7 to the contrary, Declarant shall, for so long as it possesses a Class B Membership, be entitled to unilaterally amend this Neighborhood Declaration to correct minor errors and omissions.

(e) Association's Right to Consent. Notwithstanding anything in this Section 7 to the contrary, no termination or amendment of this Neighborhood Declaration shall be effective without the Board's consent.

8. Miscellaneous Provisions.

(a) Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Neighborhood Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions

hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the provisions hereof.

(b) Severability. Any determination by any court of competent jurisdiction that any provision of this Neighborhood Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

(c) Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Neighborhood Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States on the date hereof.

(d) References to Neighborhood Declaration in Deeds. Deeds to, and instruments affecting, any Lot or any part of the Phase II Property may reference this Neighborhood Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the provisions of this Neighborhood Declaration shall be binding upon the grantee/Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

(e) Successors and Assigns of Declarant. Any reference in this Neighborhood Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder, provided that Declarant's rights and powers may only be assigned by a written, Recorded instrument expressly assigning such rights and powers.

(f) Gender and Number. Wherever the context of this Neighborhood Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

(g) Captions and Titles. All captions, titles or headings in this Neighborhood Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

(h) Declarant Rights. Notwithstanding anything contained in this Neighborhood Declaration to the contrary, restrictions contained in this Neighborhood Declaration shall not be construed or deemed to limit or prohibit any act of Declarant or a Designated Builder(s), or their employees, agents and subcontractors or parties designated by them in connection with the construction or completion of improvements upon or sale or leasing of the Lots or any other properties in the Phase II Property.

(i) FHA/VA Approval. For as long as there is a Class B Membership and if VA or FHA certification is desired by Declarant or (if appropriate notice is given as set forth below) the Designated Builder(s), approval of the VA or FHA shall be required for amendment of provisions in this Neighborhood Declaration to the extent required to be approved by the FHA or VA pursuant to their rules and regulations, unless such agencies have waived such

requirements or unless the last sentence of this Section 8(i) applies. Consent of the FHA and VA to the foregoing will not be required if the FHA and VA have elected not to approve the Phase II Property for certification or if such approval has been revoked, withdrawn, canceled or suspended. If a Designated Builder(s) desires VA or FHA approval, the Designated Builder(s) shall notify the Declarant in writing. Consent of the FHA or VA will be deemed to have been given if the matter has been submitted to the agency for approval and the agency has failed to respond within 30 days of such submittal.

(j) Counterparts. This Neighborhood Declaration may be executed by the signing in counterparts of this instrument. The execution by the parties hereto by each signing an original counterpart of this instrument shall constitute a valid execution, and this instrument and all of its counterparts so executed shall be deemed for all purposes to be a single agreement.

(k) Provisions of the Master Declaration. As more particularly described in Section 1(a) of this Neighborhood Declaration, this Neighborhood Declaration is subordinate to the Master Declaration and shall be subject to all of the terms of the Master Declaration, including Section 17 thereof. In the course of addressing the operation, maintenance and administration of the Phase II Property and the Neighborhood Common Areas, certain provisions have been included in this Neighborhood Declaration that are similar or identical to provisions that are included in the Master Declaration. The inclusion of certain provisions that are similar or identical to provisions in the Master Declaration and the exclusion of other provisions from the Master Declaration shall not be construed, in any way, to impact the applicability of the Master Declaration to the Phase II Property, nor shall the inclusion or exclusion of provisions from the Master Declaration have any bearing upon the interpretation of this Agreement.

IN WITNESS WHEREOF, Declarant has caused its name to be signed by the signature of its duly authorized representative as of the date and year first above written.

DECLARANT:

TALACO DEVELOPMENT, INC., an
Arizona corporation

By: Ross M. Cooper
Name: Ross M. Cooper
Title: Secretary

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29 day of April 2005, by Ross Cooper the SECRETARY of Talaco Development, Inc., an Arizona corporation, on behalf thereof.

Mari Allen
Notary Public

My Seal and Commission Expiration Date: Oct. 8th 2005.

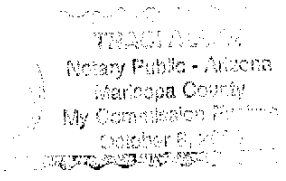


PHOTO COPY

EXHIBIT "A"

Legal Description of the Phase II Property

PHX/1596347.1/93393.001

Phase 2 Parcel (East of El Paso Natural Gas Parcel)

All that portion of the southwest one-quarter of Section 19, Township 15 South, Range 15 East, Gila and Salt River Meridian, Pima County, Arizona and being more particularly described as follows:

Commencing at the southwest corner of said Section 19, thence South 88° 00' 00" East along the southerly line of said Section 19 a distance of 1058.46 feet measured (1058.45 feet record) to the southeasterly corner of a parcel of land conveyed to El Paso Natural Gas according to Docket 687 at page 562 , records of Pima County, Arizona designated as Parcel "E";

Thence leaving said southerly line , North 00° 04' 14" East along the easterly line of said parcel of land a distance of 75.05 feet to here-in-after described Point " B " on the northerly right-of-way of Herman's Road according to Docket 11114 at page 930, records of Pima County, Arizona and True Point of Beginning;

Thence continuing North 00° 04' 14" East along the easterly line of said El Paso Natural Gas parcel, 812.07 feet;

Thence South 89° 55' 46" East, 45.20 feet;

Thence North 36° 53' 04" East, 78.77 feet;

Thence North 48° 38' 26" East, 71.25 feet

Thence North 66° 56' 27" East, 192.44 feet;

Thence South 49° 14' 23" East along a non-tangent bearing, 101.54 feet to a point of curvature;

Thence northeasterly along said curve concave to the northwest, having a central angle of 12° 14' 30", a radius of 205.09 feet and an arc length of 43.82 feet, the radial bearing from said point bears North 48° 37' 53" West;

Thence from a non-tangent bearing to said curve, South 48° 37' 53" East, 60.00 feet to a point of curvature;

Thence northeasterly along said curve concave to the northwest having a central angle of 04° 54' 52" a radius of 265.09 feet and an arc length of 22.74 feet to a point of tangency;

111114-0001-0001

Thence North $36^{\circ} 27' 15''$ East, 65.29 feet;

Thence South $53^{\circ} 36' 36''$ East, 160.13 feet;

Thence South $00^{\circ} 02' 00''$ East, 375.54 feet to here-in-after described Point " A ";

Thence continuing South $00^{\circ} 02' 00''$ East, 543.76 feet to the northerly right-of-way line of Herman's Road;

Thence North $88^{\circ} 00' 17''$ West along said northerly line, 661.11 feet to the True Point of Beginning.

EXCEPTING THEREFROM the following described recreational center.

Commencing at above described Point " A ",thence South $89^{\circ} 58' 51''$ West, 86.14 feet to a point of curvature;

Thence southwesterly along said curve concave to the southeast having a central angle of $72^{\circ} 08' 31''$, a radius of 18.00 feet and an arc length of 22.66 feet to a point of reverse curvature and from which point the radius point of said following curve bears North $72^{\circ} 09' 40''$ West;

Thence southwesterly along said curve concave to the northwest having a central angle of $16^{\circ} 56' 59''$ a radius of 447.00 feet and an arc length of 132.24 feet to a point of compound curvature and from which point the radius of said following curve bears North $55^{\circ} 12' 41''$ West;

Thence southwesterly , westerly and northwesterly along said curve concave to the north having a central angle of $115^{\circ} 32' 22''$, a radius of 200.00 feet and an arc length of 403.31 feet to a point of compound curvature and from which point the radius point of said following curve bears North $60^{\circ} 19' 40''$ East;

Thence northwesterly along said curve concave to the east , having a central angle of $30^{\circ} 49' 52''$, a radius of 615.00 feet and an arc length of 330.93 feet to a point of reverse curvature and from which point the radius point of said following curve bears North $53^{\circ} 42' 09''$ West;

Thence northeasterly along said curve concave to the northwest, having a central angle of $07^{\circ} 55' 34''$,a radius of 160.00 feet and an arc length of 22.13 feet to a point of reverse curvature and from which point the radius point of said following curve bears South $61^{\circ} 37' 43''$ East;

Thence northeasterly along said curve concave to the southeast having a central angle of $53^{\circ} 08' 40''$ a radius of 297.00 feet and an arc length of 275.48 feet to a point of reverse curvature and from which point the radius point of said following curve bears North $08^{\circ} 29' 04''$ West;

Thence northeasterly along said curve concave to the northwest having a central angle of $40^{\circ} 08' 52''$ a radius of 205.09 feet and an arc length of 143.70 feet;

PLANNING CORPORATION

Thence leaving said curve on a non-tangent bearing, South 48° 37' 53" East, 60.00 feet to a point of curvature from which point the radius point of said curve bears South 48° 37' 53" East;

Thence southeasterly along said curve concave to the southeast having a central angle of 87° 43' 13" a radius of 18.00 feet and an arc length of 27.56 feet to a point of tangency;

Thence South 46° 21' 06" East, 14.14 feet to a point of curvature;

Thence southeasterly along said curve concave to the southwest having a central angle of 30° 38' 41" a radius of 265.00 feet and an arc length of 141.74 feet to a point of compound curvature;

Thence southerly along said curve concave to the west having a central angle of 25° 10' 09" a radius of 447.00 feet and an arc length of 196.36 feet to a point of reverse curvature;

Thence southeasterly along said curve concave to the northeast having a central angle of 99° 28' 52" a radius of 18.00 feet and an arc length of 31.25 feet to a point of tangency;

Thence North 89° 58' 51" East, 70.08 feet;

Thence South 00° 02' 00" East, 30.00 feet to the True Point of Beginning.

Rec. Center area 5.585 acres of land more or less.

Additional Portion of Phase 2 (West of El Paso Natural Gas Parcel)

Commencing at before described Point " B " , thence North 88° 00'00" West along the northerly right-of-way line of Herman's Road a distance of 65.99 feet to the westerly line of El Paso Natural Gas Parcel and True Point of Beginning of additional portion of Phase 2;

Thence continuing North 88° 00' 00" West along said northerly line, 917.54 feet to the easterly right-of-way line of Wilmot Road;

Thence North 00° 01' 11" West along said easterly right-of-way line, 874.44 feet;

Thence South 87° 59' 42" East, 145.05 feet;

Thence South 00° 02' 00" East, 190.94 feet;

Thence South 88° 00' 20" East, 110.07 feet;

Thence South 00° 02' 00" East, 11.14 feet to a point of curvature;

PLANNING CONSULTANTS

Thence southeasterly along said curve concave to the northeast having a central angle of $87^{\circ} 58' 20''$ a radius of 18.00 feet and an arc length of 27.64 feet to a point of tangency;

Thence South $88^{\circ} 00' 20''$ East, 646.02 feet;

Thence South $00^{\circ} 04' 13''$ West, 655.01 feet to the True Point of Beginning.

Total area for both parcels in phase 2 is 23.298 acres of land more or less.(Excludes Rec. Center Area).

PLANNING CONSULTANTS