

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS AND GRANT OF EASEMENTS

FOR  
WILMOT FARMS

This Declaration of Covenants, Conditions and Restrictions and Grant of Easements is made as of the 18th day of April, 1997, by Wilmot Farms, Inc., an Arizona corporation, and Fidelity National Title Agency, Inc., an Arizona corporation, as trustee of its Trust No. 10812, with reference to the following:

A. As of the date hereof, Trustee is the owner of fee title to the Property, and Declarant is the sole beneficiary of the trust pursuant to which Trustee holds such title.

B. The undersigned intend by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within the Property. The undersigned desire to provide a flexible and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

NOW, THEREFORE, the undersigned hereby declare that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said real property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof.

ARTICLE 1  
DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

1.1 "Annual Assessments" shall mean those Assessments designated as such in this Declaration and computed and levied as provided in Section 7.5.

1.2 "Articles" shall mean the articles of incorporation of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Bylaws and the statutes and regulations of the State of Arizona.

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1.3 "Assessments" shall mean the Annual Assessments and the Special Assessments (as well as any other amounts declared by this Declaration to be a part of the Assessments or declared by this Declaration to be secured by the lien created under Section 7.9).

1.4 "Association" shall mean Wilmot Farms Homeowners Association, an Arizona nonprofit corporation, and its successors and assigns.

1.5 "Association Rules" shall mean the reasonable rules and regulations adopted by the Association pursuant to Section 6.3.

1.6 "Board" shall mean the board of directors of the Association elected in accordance with the provisions of the Articles, the Bylaws and the statutes and regulations of the State of Arizona.

1.7 "Bylaws" shall mean the bylaws of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Articles and the statutes and regulations of the State of Arizona.

1.8 "Common Expenses" shall mean the expenses of operating the Association (including any reasonable reserves), of exercise by the Association of its rights hereunder and of fulfillment by the Association of its duties and obligations imposed hereby, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration or pursuant to the Articles or the Bylaws.

1.9 "Declarant" shall mean Wilmot Farms, Inc., an Arizona corporation, and its successors and assigns, subject to the further provisions of this Section. Declarant may assign all or any portion of its rights as Declarant hereunder to any person, provided that any assignment of the rights and duties of Declarant shall be evidenced by a duly executed and acknowledged Recorded instrument executed by the assigning Declarant which expressly makes such assignment. The mere conveyance by Declarant to another Person of fee title to (or other interest in) one or more Lots shall not, by itself, make such other Person a Declarant under this Declaration.

1.10 "Declarant Affiliate" means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.11 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions and Grant of Easements, as the same may be amended from time to time.

1.12 "Dwelling Unit" shall mean any building (including modular, manufactured, and site-built homes) or part thereof situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

1.13 "First Mortgage" shall mean a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.14 "Front Yard" shall mean that area on a Lot which is visible from ground level view from the street(s) running immediately in front of or along the side of the Dwelling Unit or other structure on such Lot.

1.15 "Lot" shall mean and refer to any lot as set forth in a subdivision plat now or hereafter Recorded with respect to all or any part of the Property. For purposes of this Declaration, a Lot shall be deemed to come into existence on and as of the date the plat depicting and establishing such Lot is Recorded.

1.16 "Maximum Annual Assessment" shall mean the amount determined for each fiscal year of the Association in accordance with **Section 7.7**.

1.17 "Member" shall mean any Person entitled to membership in the Association, as provided in this Declaration.

1.18 "Membership" means a membership in the Association.

1.19 "Mortgage" shall mean a deed of trust, as well as a mortgage, which, in either case, is Recorded against a Lot.

1.20 "Mortgagee" shall mean a beneficiary under a deed of trust, as well as a mortgagee under a mortgage, which, in either case, is Recorded against a Lot.

1.21 "Occupant" shall mean any Person other than an Owner who occupies or is in possession of a Lot, whether as a lessee under a lease or otherwise.

1.22 "Owner" shall mean the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), provided that: (a) the Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot with respect to which fee title is held by Declarant, a Declarant Affiliate or Trustee; (b) in the event that, and for so long as, the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots (other than by exercise of a right of first refusal or right of first offer), the Declarant shall also be deemed to be the "Owner" of each Lot with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to a Lot "owned

by" a Person, such phrase shall be deemed to refer to a Lot of which that Person is the Owner, as determined pursuant to this Section.

1.23 "Period of Declarant Control" means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the total number of Class A votes outstanding exceeds the total number of Class B votes outstanding; (b) December 31, 2004; or (c) the date the Declarant Records a written instrument expressly terminating the Period of Declarant Control.

1.24 "Person" means a natural person, corporation, partnership, trust, trustee or other legal entity.

1.25 "Perimeter Improvements" means those items for which the Association is responsible as described in **Section 3.1**.

1.26 "Plat" shall mean that certain Final Plat for Wilmot Farms, Lots 1 thru 121, recorded July 9, 1997 at Book 49 of Maps and Plats, Page 74, official records of Pima County, Arizona, as the same may be amended from time to time.

1.27 "Property" shall mean Lots 1 thru 121, as shown on the Plat, as such property may be further subdivided from time to time, and shall further refer to such additional property, if any, as is now or may hereafter be owned in fee simple by the Association, but shall not include real property, if any, which is deleted and removed from the Property pursuant to **Section 5.1**.

1.28 "Record," "Recording," "Recorded" and "Recordation" shall mean placing or having placed an instrument of public record in the official records of Pima County, Arizona, or of such other governmental authority, office or official with which or whom the applicable laws of the State of Arizona prescribe that documents affecting title to real property in the area including the Property are to be placed of public record.

1.29 "Retail Purchaser" shall mean any purchaser of a Lot except Declarant, a Declarant Affiliate or Trustee.

1.30 "Single Family" shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than three (3) unrelated persons maintaining a common household.

1.31 "Special Assessments" shall mean those Assessments levied in accordance with **Section 7.9**.

1.32 "Trustee" shall mean Fidelity National Title Agency, Inc., an Arizona corporation, as trustee of its Trust No. 10812, and its successors and assigns.

ARTICLE 2  
MEMBERSHIP AND VOTING RIGHTS

2.1 Membership and Right to Vote. Every Owner of a Lot, including Declarant, shall automatically be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the membership is attributable (except as otherwise provided in this Declaration as to the Class B Membership). In the event any Lot is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member, but the membership as to such Lot shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either: (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions before the Members; provided, however, that if any one of such Persons casts a vote representing a certain Lot without prior written objection to the Board from any other Person sharing ownership of such Lot, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot unless and until objection thereto is made to the Board, in writing.

2.2 Votes in the Association.

2.2.1 Each Owner (other than the Declarant during the Period of Declarant Control) shall be entitled to one vote and one Membership for each Lot owned by that Owner.

2.2.2 Until the expiration or termination of the Period of Declarant Control, the Declarant shall be entitled to the number of votes equal to three times the total number of Lots owned by the Declarant. After the expiration or termination of the Period of Declarant Control, the Declarant shall have one vote and one Membership for each Lot owned by the Declarant.

2.2.3 Until the expiration or termination of the Period of Declarant Control: (a) the Association shall be deemed to have two classes of Members, Class A and Class B; (b) the Declarant shall be the Class B Member, and all votes held by the Declarant shall be Class B votes; (c) all Owners other than Declarant shall be Class A Members, and all votes held by such Owners shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association shall be deemed to have a single class of Members and votes (which shall be designated "Class A" for purposes of this Declaration, the Articles and the Bylaws). Notwithstanding the foregoing, however, except as otherwise expressly provided in this Declaration, the Articles or the Bylaws, any

issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, regardless whether such votes are otherwise deemed to be Class A votes or Class B votes.

2.3 Right to Vote. No change in the ownership of a Parcel shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof. The vote for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. Any Owner of a Lot which is leased or which is subject to a valid, outstanding and Recorded executory agreement of sale may, in the lease, agreement of sale or other written instrument, assign the voting right appurtenant to the Lot to the lessee thereof or to the purchaser thereof under such agreement of sale, as applicable, provided that a copy of the written assignment of such voting rights is furnished to the Secretary of the Association prior to any meeting at which such lessee or purchaser seeks to exercise such voting right.

2.4 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules and any other rules and regulations adopted pursuant to any of the foregoing.

2.5 Transfer of Membership. Except as otherwise provided in this Declaration, the rights, duties and obligations of any Class A Member other than Declarant cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Member's Lot and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law, shall operate to transfer the membership appurtenant thereto to the new Owner and any attempt to make any other form of transfer shall be void.

### ARTICLE 3 MAINTENANCE

3.1 Association's General Responsibilities. The Association shall control, maintain, keep in good repair, and replace as necessary certain areas of the Property, as more expressly provided in this **Section 3.1**, and the costs of same shall be Common Expenses of the Association. The Association's responsibilities shall include, but not be limited to, maintenance, repair and replacement of landscaping materials, plants, irrigation and lighting systems, and perimeter or boundary walls, if any, surrounding the exterior boundaries of the Property and Property identification signs, if any, located along the exterior boundaries of the Property or located in or upon public rights-of-way immediately adjacent to the exterior boundaries of the Property (if the Association obtains, at its discretion, the legal right to maintain, repair and replace such items in the public right-of-way). The Association is hereby granted the easement on, over, across and through each

Lot to permit it to carry out any such maintenance, repair and replacement under this Section 3.1; and

3.2 Maintenance of Owner's Structures. Each Owner shall be responsible for the maintenance, cleaning, painting, repair and general care of all Dwelling Units or other structures existing or constructed upon such Owner's portion of the Property and, in particular, each Owner shall cause the exterior of said Dwelling Units or other structures to be maintained in good condition and repair and in an attractive state consistent with general community standards within the Property. In the event that the Board shall determine, after providing reasonable notice and an opportunity to be heard, that any Owner is in breach of such Owner's obligations under the preceding sentence, the Board shall promptly give such Owner written notice of such determination, including a reasonably detailed list or description of the repairs, maintenance or other work required to cure such Owner's breach, and in the event the Owner shall not have cured such breach within thirty (30) days after the date of said written notice, the Association may, in the discretion of the Board, cause the repairs, maintenance or other work to be performed so as to cure such Owner's breach, and the costs of doing so, together with interest from the date of expenditure at the rate set forth in Section 9.6, shall be the personal obligation of such Owner and shall constitute a lien on such Owner's Lot, which lien shall have the priority and may be enforced in the manner described in Section 7.3. The Association shall also have standing and authority to request that a court of competent jurisdiction compel such Owner to cure such breach, and to the extent not inconsistent with an order of such court, the Association may pursue either or both of the courses of action described in this sentence. The Association is hereby granted an easement on, over, across and through each Lot to permit it to carry out its duties and obligations under this Article 3.

3.3 Publicly-Dedicated Areas. Except as permitted in Subsection 3.1, and except as may otherwise be required by applicable law, the Association shall have no responsibility to maintain any areas within or outside the boundaries of the Property (including, but not limited to, public streets) which are dedicated to or the responsibility of a county or other governmental entity.

3.4 No Discrimination. The provision of services in accordance with this Article shall not be deemed to be discrimination in favor of or against any Owner.

#### ARTICLE 4 INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES

4.1 Insurance to be Obtained by the Association.

4.1.1 Hazard Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable

Perimeter Improvements (and equipment and personal property owned by the Association for use in the care and maintenance of such Perimeter Improvements) against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Arizona), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount equal to 100% of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage).

4.1.2 Liability Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times a commercial general liability policy insuring the Association, each member of the Board, each Member of the Association, the Declarant and, if the Declarant is a trustee under a trust, the beneficiary of such trust, against any liability to the public or to any Owner or Occupant (and such Owner's or Occupant's invitees, agents, employees, tenants, guests, servants and household members) for death, bodily injury and property damage arising out of or incident to the performance by the Association of its maintenance and other obligations hereunder. In no event shall said policy or policies provide coverage less than One Million Dollars (\$1,000,000.00) for death, bodily injury and property damage for any single occurrence. The Board, acting on behalf of the Association, shall also obtain and maintain at all times, by endorsement to the above-referenced commercial general liability policy or otherwise, a liability policy for hired and non-owned automobiles insuring the same Persons insured by the commercial general liability policy and with limits not less than the limits for such commercial general liability policy.

4.1.3 General Provisions Governing Insurance. The insurance required to be obtained under Subsections 4.1.1 and 4.1.2 shall be written with one or more companies authorized to provide such insurance in the State of Arizona. Exclusive authority to adjust losses under policies in force on property owned or insured by the Association shall be vested in the Board.

4.1.4 Fidelity Bonds. The Board, acting on behalf of the Association, shall obtain and maintain at all times adequate fidelity bond coverage to protect against dishonest acts on the part of officers, directors and employees of the Association and all others who handle, or are responsible for handling, funds held or administered by the Association, whether or not such officers, directors, employees or others receive compensation for services they render to or on behalf of the Association. Any independent management agent which handles funds for the Association shall also obtain (and pay for) such fidelity bond coverage with respect to its own activities (and those of its directors, officers and employees, whether or not such directors, officers or employees receive compensation for services rendered). Such fidelity bonds: (a) shall name the Association as obligee;



(b) shall be issued by one or more companies authorized to issue such bonds in the State of Arizona; and (c) shall be in an amount sufficient to cover the maximum total of funds reasonably expected by the Board to be in the custody of the Association or such agent at any time while such bond is in force. Each such fidelity bond shall provide that the issuer thereof shall provide not less than ten (10) days written notice to the Association before such bond may be cancelled or substantially modified for any reason.

4.1.5 Workers' Compensation Insurance. The Board, acting on behalf of the Association, shall obtain and maintain workers' compensation insurance if and to the extent necessary to meet the requirements of applicable law.

4.1.6 Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 4.1 shall be Common Expenses (except that, as provided in Subsection 4.1.4, the cost of the fidelity bond required to be furnished by any independent management agent shall be paid by such agent). The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Section 4.1, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such insurance coverage from reputable companies authorized to provide such insurance in the State of Arizona, or if such insurance coverage is available only at an unreasonable cost.

4.2 Insurance to be Obtained by the Owners.

4.2.1 Public Liability Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, public liability insurance as such Owner may desire against loss or liability for damages and any expense of defending against any claim for damages which might result from the ownership, use or occupancy of such Owner's property.

4.2.2 Hazard and Contents Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, fire, liability, theft and any other insurance covering: (a) any Dwelling Unit and any other structure on such Owner's property; and (b) any and all fixtures and personal property upon such Owner's property or in such Dwelling Unit or other structure(s).

4.3 Casualty Losses.

4.3.1 Damage and Destruction.

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the property required to be insured by the Association under Section 4.1, the Board or its duly authorized agent shall: (i) proceed with the filing and adjustment of all claims arising under such insurance;

(ii) obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property; and (iii) upon receipt of the proceeds of such insurance and except as is otherwise provided in this **Subsection 4.3.1**, use such proceeds to repair or reconstruct the damaged or destroyed property. The terms "repair" and "reconstruction" (or variants thereof), as used in this **Article 4** shall mean repairing or restoring the property in question to substantially the same condition as that in which it existed prior to the fire or other casualty (or, where applicable, replacing the damaged or destroyed property with property substantially similar to the damaged or destroyed property as it existed prior to such damage or destruction).

(b) If any improvement that is required to be insured by the Association under **Section 4.1** suffers physical damage or destruction that impairs the value of that improvement by an amount equal to 25% or more of the replacement value of that improvement, the improvement shall be repaired or reconstructed unless: (i) at a special meeting of the Members of the Association duly noticed and convened within ninety (90) days after the occurrence of such damage or destruction, the Members determine, by a vote of Persons holding at least seventy-five percent (75%) of all votes of Members represented in person or by valid proxy, not to so repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made or become reasonably available. The Board shall determine whether any minor damage or destruction to any improvement that is required to be insured by the Association under **Section 4.1** should be repaired or reconstructed.

(c) In the event that it is determined in the manner described above that the damage or destruction of any improvement that is required to be insured by the Association under **Section 4.1** shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event such property shall be maintained by the Association in a neat and attractive condition.

**4.3.2 Excess or Deficiency of Proceeds.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to pay the cost thereof, the Board shall, without the necessity of a vote of the Members, levy assessments against the Owners of Lots, which assessments shall be allocated as described in **Section 7.5**. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Any assessments levied pursuant to this **Subsection 4.3.2** shall be deemed to be a part of the Assessments and shall be secured by the lien created by **Section 7.3**. If the funds available from insurance exceed the cost of repair, such excess shall be used to meet Common

Expenses or, in the discretion of the Board, placed in a reserve account for contingencies or capital improvements.

4.3.3 Repair or Reconstruction of Dwelling Units or Other Structures. In the event of the destruction of a Dwelling Unit or other structure on a Lot, or of damage to such Dwelling Unit or other structure which, in the reasonable judgment of the Board, materially affects the exterior appearance thereof, the Board shall have the right, at its option, exercisable by written notice to the Owner of the property upon which such Dwelling Unit or other structure is situated, to require such Owner to repair or reconstruct (or cause to be repaired or reconstructed), at such Owner's expense, such Dwelling Unit or other structure within such reasonable period of time as shall be specified by the Board in such notice. The Board may exercise such right and establish such time period notwithstanding such Owner's failure to maintain hazard or casualty insurance upon such Owner's property or any Dwelling Unit or other structures thereon and notwithstanding any unavailability or delay in receipt of proceeds of any insurance policy or policies, although the Board may take such matters into account in establishing or extending the time period within which such repair or reconstruction must be completed. Any such repair or reconstruction work shall be performed in compliance with all applicable provisions thereof, and the Owner shall take such steps as are reasonably necessary to prevent damage to surrounding property and injury to persons as may result from or arise in connection with the destroyed or damaged Dwelling Unit or other structure or the repair or reconstruction activities with respect thereto.

## ARTICLE 5 DE-ANNEXATION

5.1 De-Annexation. Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time so long as Declarant owns any portion of the Property, at its sole option and without the consent of any other Person (except as provided in this Article 5), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, provided, however, that: (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant (or by a Declarant Affiliate or by a trustee of a trust of which Declarant or a Declarant Affiliate is the beneficiary) or, in the case of a deletion and removal of a portion of the Property at the request of the owner(s) of such portion, Declarant executes and Records an instrument approving such deletion and removal; (b) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Units have been constructed thereon; and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights under this Article 5 in each case

by executing and causing to be Recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of: (i) the date such instrument is Recorded; or (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Article 5, the portion of the Property so deleted and removed shall thereafter for all purposes no longer be deemed a part of the Property or subject to this Declaration, and the owner(s) thereof (or of interests therein) shall not be deemed to be Owners or Members or have any other rights or obligations hereunder. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed.

## ARTICLE 6 RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

6.1 Perimeter Improvements. The Association shall be responsible for the maintenance, repair, and replacement of the Perimeter Improvements.

6.2 Personal Property and Real Property for Common Use. The Association, through action of the Board, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within, adjacent to or related to all or any part of the Property as may be conveyed or assigned to the Association by Declarant.

6.3 Rules and Regulations. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Property. Upon adoption, the Association rules shall have the same force and effect as if they were set forth herein. Sanctions for violation of the Association Rules or of this Declaration may be imposed by the Board and may include suspension of the right to vote and may also include reasonable monetary fines (so long as such fines are nondiscriminatory and are in accordance with a general schedule of fines adopted or amended by the Board prior to the date of the particular violation for which a fine is to be imposed). No suspension of an Owner's right to vote due to a violation of the Association Rules may be for a period longer than sixty (60) days (except where such Owner or Occupant fails or refuses to cease or correct an on-going violation or commits the same or another violation, in which event such suspension may be extended for

additional periods not to exceed sixty (60) days each until such violation ceases or is corrected).

6.4 Availability of Books, Records and Other Documents. The Association shall maintain complete and current copies of this Declaration, the Articles, the Bylaws and the Association Rules (as well as any amendments to the foregoing) and of the books, records and financial statements of the Association, and, upon the prior written request to the Association by any Owner, shall make the same available for inspection, at reasonable times and under reasonable circumstances, by such Owner.

6.5 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

6.6 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager, which compensation shall be a Common Expense.

## ARTICLE 7 ASSESSMENTS

7.1 Creation of Assessment Right. In order to provide funds to enable the Association to meet its financial and other obligations and to create and maintain appropriate reserves, there is hereby created a right of assessment exercisable on behalf of the Association by the Board. Annual Assessments and Special Assessments shall be for Common Expenses and shall be allocated equally among all Lots, except that, notwithstanding any other provisions of this Declaration to the contrary, Declarant shall not be obligated to pay Annual Assessments or Special Assessments for Lots owned by Declarant (or by a Declarant Affiliate or by the trustee of any trust of which Declarant or a Declarant Affiliate is the beneficiary) unless such Lots are leased, rented, or otherwise occupied as a Dwelling Unit (excluding use as a model home).

7.2 Covenants with Respect to Assessments. Each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner's Lot, together with interest from the date due at a rate equal to the greater of: (a) ten percent (10%) per annum; or (b) the annual prime rate of interest then being charged by Norwest Bank Arizona, N.A. (or its successor), plus four percent (4%), and together with such costs and

reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments. Each of the Assessments with respect to a Lot, together with interest, costs and reasonable attorneys' fees as provided in this Section 7.2, shall also be the personal obligation of the Person who or which was the Owner of such Lot at the time such Assessment arose with respect to such Lot, provided, however, that the personal obligation for delinquent Assessments shall not pass to a successor in title of such Owner unless expressly assumed by such successor. No Owner shall be relieved of his, her or its obligation to pay any of the Assessments by abandoning or not using his, her or its Lot, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Lot. However, upon transfer by an Owner of fee title to such Owner's Lot, as evidenced by a Recorded instrument, such transferring Owner shall not be liable for any Assessments thereafter levied against such Lot. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner of a Lot. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, the Articles or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

7.3 Lien for Assessments; Foreclosure. There is hereby created and established a lien against each Lot which shall secure payment of all present and future Assessments assessed or levied against such Lot or the Owner or Occupant thereof (together with any present or future charges, fees, fines, penalties or other amounts levied against such Lot or the Owner or Occupant thereof pursuant to this Declaration or the Articles, the Bylaws or the Association Rules). Such liens are and shall be prior and superior to all other liens affecting the property in question, 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 made in good faith and for value. Such liens may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any property pursuant to a judicial or nonjudicial foreclosure of any First Mortgage made in good faith and for value, or any proceeding in lieu thereof, shall extinguish the above-described liens as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such property from liability for any payments becoming due after such sale or transfer, or from the lien thereof. The Association shall have the power to bid for any property at any sale to foreclose the Association's lien on the property, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot is owned by the Association, no right to vote shall be exercised with respect to said Lot and no Assessments (whether Annual Assessments or Special Assessments) shall be assessed or levied on or with respect to said Lot. The Association may maintain a suit to recover a money judgment for unpaid Assessments, rent, interest and attorneys' fees and/or charges, fines, penalties, other amounts levied against property or the Owner thereof, together with interest and attorney's fees, without foreclosing or waiving the lien securing same. Recording

of this Declaration constitutes record notice and perfection of the liens established hereby, and further Recordation of any claim of a lien for Assessments or other amounts hereunder shall not be required, whether to establish or perfect such lien or to fix the priority thereof, or otherwise (although the Board shall have the option to Record written notices of claims of lien in such circumstances as the Board may deem appropriate).

**7.4 Dates Assessments Commence.** Assessments shall be payable in respect of a Lot from the date upon which title to said Lot shall first be conveyed to a Retail Purchaser, and such Assessments shall be payable regardless of whether a Dwelling Unit or other structure shall be situated upon such Lot on such date. As to any Lot conveyed to a Retail Purchaser, Assessments as to such Lot shall be prorated as of the close of escrow with respect to such Lot (or, if no escrow is utilized, as of the date of Recordation of the deed conveying such Lot to such Retail Purchaser). The numbers on the Plat assigned to the Lots are for reference only, and Declarant shall retain full discretion as to the order and timing of its development and sales of Lots within property owned by Declarant.

**7.5 Computation of Assessments; Annual Budget.** The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Association, which annual budget shall serve as the basis for determining the Annual Assessments for the applicable fiscal year (subject to the limitations of **Section 7.7** hereof). Such budget shall take into account the estimated Common Expenses and cash requirements of the Association for the year. The annual budget shall also provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. Not later than sixty (60) days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a copy of the budget and a statement of the amount of the Annual Assessments to be levied against such Owner's Lot for the fiscal year in question. 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 Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of this **Section 7.5** and of **Sections 7.7** and **7.9**, neither the annual budget (nor any amended budget) adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by **Section 7.7**) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to **Section 7.9**. Within sixty (60) days after adoption of the amended budget (if the Board elects to levy an additional Annual Assessment), the Board shall cause a copy of the amended

budget and a statement of the additional Annual Assessments to be levied against the Lots to be delivered or mailed to each Owner; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such meeting, shall cause a statement of the Special Assessment to be levied against each Lot to be promptly mailed or delivered to each Owner.

7.6 Due Dates. Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, payable not more frequently than monthly nor less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of the applicable period during that fiscal year. Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, in the event any Assessments (or installments thereof) with respect to a Lot are delinquent, the Board shall have the right, in its sole discretion, to accelerate the date on which all Assessments with respect to such Lot are due and payable. For purposes of this Declaration, Assessments shall be deemed "paid" when actually received by the Association or by its manager or agent designated by the Association to collect the same (provided, however, that if any Assessments were paid by check and the bank or other institution upon which such check is drawn thereafter dishonors and refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due).

7.7 Maximum Annual Assessment. The Annual Assessments provided for herein shall not at any time exceed the Maximum Annual Assessment, as determined in accordance with this Section 7.7. For the fiscal year ending December 31, 1997, the Maximum Annual Assessment shall be Four Hundred Eighty Dollars (\$480.00) for each Lot. Thereafter, unless a greater increase is approved by the affirmative vote of at least two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, the Maximum Annual Assessment for any fiscal year shall be equal to the Maximum Annual Assessment for the immediately preceding fiscal year increased at a rate equal to the greater of: (a) the percentage increase for the first month of the applicable fiscal year over the first month of the immediately preceding fiscal year in the Consumer Price Index - All Urban Consumers - All Items (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the index most similar in composition to such index; or (b) ten percent (10%). Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the Maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to meet any increases over the preceding fiscal year in: (i) premiums for any insurance coverage required by the Declaration



to be maintained by the Association; or (ii) charges for utility services necessary to the Association's performance of its obligations under this Declaration, in either case (i) or (ii) notwithstanding the fact that the resulting increase in the Maximum Annual Assessment is at a rate greater than otherwise permitted under the preceding sentence. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the Maximum Annual Assessment for such fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the Maximum Annual Assessments for any fiscal year shall not prevent the Board from levying Annual Assessments in subsequent fiscal years in the full amount of the Maximum Annual Assessment for such subsequent fiscal year (as determined in accordance with this Section 7.7). In the event that, for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the Maximum Annual Assessment for such fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

7.8 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 7.9 hereof; or (b) approving any increase in the Maximum Annual Assessment greater than that permitted by application of the formula as set forth in Section 7.7, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Annual Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

7.9 Special Assessments. In addition to the Annual Assessments, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of at least seventy-five percent (75%) of the votes of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment. Subject to Sections 7.1 and 7.4, Special Assessments shall be allocated equally among all Lots.

7.10 Certificates. The Association shall, upon the written request of any Owner, and upon payment of such reasonable charge as may be determined by

the Board, furnish to the requesting party a certificate, executed by an officer of the Association, stating the date to which Assessments with respect to such Owner's Lot have been paid and the amount, if any, of any Assessments which have been levied with respect to said Lot but which remain unpaid as of the date of such certificate. Said certificate shall be binding upon the Association as to the matters set forth therein as of the date thereof.

7.11 Surplus Monies. Unless otherwise expressly determined by the Board, any surplus monies of the Association shall be held by the Association and placed in one or more reserve accounts as determined by the Board, and shall not be paid to the Owners or credited against the Owners' respective liabilities for Assessments.

7.12 Declarant's Obligation for Deficiencies. Notwithstanding any other provision of this Declaration to the contrary, no Assessments shall be levied against Lots owned by the Declarant (or by a Declarant Affiliate or by the trustee of any trust of which Declarant or a Declarant Affiliate is the beneficiary), except to the limited extent provided in Section 7.1. During the Period of Declarant Control, the Declarant shall subsidize the Association for the amount by which (i) the cost of operating and administering the Association exceeds (ii) the total amount of Assessments levied against Lots owned by Owners other than the Declarant. The subsidy required of Declarant under this Section 7.12 may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make payments or contributions in respect of its subsidy obligations under this Section 7.12 at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly); at the end of each fiscal year of the Association, either: (1) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this Section 7.12 for such fiscal year; or (2) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this Section 7.12.

7.13 Expenses Resulting from Misconduct. Notwithstanding any other provision of this Article 7, if any expense of the Association is caused by the misconduct of any Owner (or of any Occupant, tenant, employee, servant, agent, guest or invitee for whose actions such Owner is responsible under applicable law), the Association may assess that expense exclusively against such Owner and such Owner's property, which amount (together with any and all costs and expenses,

including but not limited to attorneys' fees incurred by the Association in recovering the same) shall be secured by the lien created pursuant to Section 7.3.

ARTICLE 8  
USE RESTRICTIONS AND OTHER COVENANTS,  
CONDITIONS AND EASEMENTS

8.1 Residential and Recreational Purpose. Except as provided in this Section 8.1, no portion of the Property shall be used for other than Single Family residential purposes. Single Family residences shall be limited to modular, manufactured, and site-built homes. All manufactured homes must be of model year 1990 or newer and shall be fully perimeter skirted with masonry block on a concrete footer within sixty (60) days of placement on a Lot. No manufactured home that is not being used for Single Family residential purposes or that is used for storage shall be permitted on any Lot. No Lot shall be used, directly or indirectly, for any business or other similar purpose, except for (i) those business uses allowed in accordance with applicable zoning ordinance and which constitute a secondary use of the Lot and are compatible with a residential neighborhood, and (ii) use by Declarant (or a Declarant Affiliate or assignee of Declarant) or by a builder who has been specifically authorized in writing by Declarant, for a period not to exceed ten (10) years after the date this Declaration is Recorded, in connection with construction and sales activities with respect to the Property (including, but not limited to, maintenance and operation of model homes, sales offices and signs advertising the Property or portions thereof).

8.2 Garages and Driveways. All garages situated on a Lot shall be used for parking vehicles and storage only, and shall not be used for living or commercial activities.

8.3 Signs. No billboards or signs of any type or character shall be erected or permitted on any Lot, except for signs used by Declarant (or a Declarant Affiliate or assignee of Declarant) or a builder who has been specifically authorized in writing by Declarant, to advertise the Property or model homes (or to identify builders, contractors or lenders) during the construction and sales period. Nothing herein shall be deemed to prohibit attachment to the exterior of a Dwelling Unit of a professionally made single name and address plate, not exceeding two (2) square feet in area, identifying the occupant and the address of such Dwelling Unit or the placing upon the exterior of any Dwelling Unit (or upon the Lot containing the Dwelling Unit) of a single "For Sale" or "For Lease" sign, not exceeding four (4) square feet in area, provided that such name and address plates shall be subject to the rules and regulations of the Association. Further, nothing herein shall be deemed to prohibit installation and maintenance of directional signs, subdivision identification signs, street signs or similar signs as may be approved by Declarant or by the Association.

8.4 Solar Collecting Panels or Devices. Solar collecting panels and devices may be placed, constructed or maintained upon any Lot (including upon the

roof of any Dwelling Unit or other structure), so long as either: (a) such solar collecting panels and devices are placed, constructed and maintained so as not to be visible from ground level view from any other portion of the Property; or (b) such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment so as to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed by a person six feet tall standing at ground level on any other portion of the Property.

8.5 Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, or tower on any Lot shall exceed by more than four feet the roof line of the tallest Dwelling Unit or other structure on the Lot nor shall the same be placed or constructed within a Front Yard. Satellite dishes shall not exceed 36 inches in diameter. Notwithstanding the foregoing, the Association may adopt a rule or regulation permitting the installation and maintenance of a flagpole upon portions of the Property, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Association and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Association. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by **Section 8.6.**

8.6 Basketball Goals or Similar Structures. No basketball goal or similar structure or device (whether mounted on a pole, wall or roof) shall be placed or constructed upon or within a Front Yard.

8.7 Tanks. No tank of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on the Property. Nothing herein shall be deemed to prohibit use or storage upon the Property of propane or similar fuel tanks with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace.

8.8 Vehicles.

8.8.1 No private passenger automobiles or pickup trucks shall be parked upon the Property or any roadway adjacent thereto except within a garage, in a private driveway appurtenant to a Dwelling Unit, or within areas designated for such purpose and approved by the Association.

8.8.2 Other vehicles (including, but not limited to, motor homes, boats, recreational vehicles, trailers, trucks exceeding one ton in designated capacity, campers, permanent tents or similar vehicles or equipment) shall be kept, placed or maintained at least 50 feet from any street shown on the Plat except if within a fully enclosed garage appurtenant to a Dwelling Unit.

8.8.3 No vehicle (including, but not limited to, those enumerated in **Subsections 8.8.1 and 8.8.2**) shall be constructed, reconstructed or repaired

upon or within a Front Yard or any roadway adjacent thereto. Vehicle construction, reconstruction or repair for a period in excess of seven (7) days must occur within a fully enclosed garage or in an area fully screened and concealed from view from all of the portions of the Property.

8.8.4 No motor vehicles of any kind which are not in operating condition shall be parked in any unenclosed parking areas (including, but not limited to, private driveways appurtenant to a Dwelling Unit).

8.8.5 The provisions of this Section 8.8 shall not apply to vehicles of Declarant or of builders specifically authorized in writing by Declarant or their employees, agents, affiliates, contractors or subcontractors during the course of construction activities upon or about the Property.

8.9 Underground Facilities. No cesspool, septic tank or well may be dug or installed without the prior written approval of the Association.

8.10 Outdoor Burning: There shall be no outdoor burning of trash or other debris, provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills or outdoor fireplaces.

8.11 Sanitation. Garbage and refuse facilities, containers and the like shall be attractively screened or placed in such manner as to conceal them from the view of neighboring Lots, Dwelling Units, property, roads or streets (except during reasonable periods to allow for collection by the appropriate sanitation service) and as to make such containers and the like safe from spillage by wind or animals. All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and sanitary condition. All rubbish, trash and garbage shall be kept only in containers meeting applicable governmental sanitation requirements (and any applicable reasonable rules and regulations of the Association), shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

8.12 Walls, Fences, Interferences and Obstructions. All walls and fences shall be of split rail, pool fencing, brick, pipe, redwood slats, masonry block, or similarly attractive materials and, except as otherwise approved by the Association, shall be painted or colored to match the exterior of the Dwelling Unit or other structure(s) enclosed by or upon the same Lot as such wall or fence. No wall or fence shall exceed six and one-half (6 1/2) feet in height, provided that no wall or fence within fifty (50) feet of any street shown on the Plat or located in a Front Yard shall exceed four (4) feet in height (provided that the Association shall have the authority to establish and enforce even more restrictive limitations on the height, locations and appearance of fences and walls, either in individual cases or as a general restriction on portions or all of the Property, where necessary or appropriate, in the reasonable judgment of the Association, to comply with applicable zoning, building or public safety ordinances). All walls and fences shall be constructed in such manner as to prevent sagging, bends, and breaks and shall

be properly permitted and meet professional installation standards. The foregoing shall not apply to boundary walls or fences (if any) constructed by Declarant or the Association along property lines bounding public rights-of-way, provided, however, that such boundary walls or fences shall be constructed so as to comply with applicable zoning and other laws and ordinances. No fence shall be permitted to interfere with existing recorded restrictions, drainage ways or easements. Notwithstanding the foregoing to the contrary, chainlink fences, wire fences that are net, woven, barbed, or twisted may be used for the penning or corralling of animals, but such pens or corrals shall not be located closer than seventy-five (75) feet to any street shown on the Plat

8.13 Nuisance. No rubbish or debris of any kind shall be placed or permitted to accumulate for any unreasonable length of time on any portion of the Property, and no odors shall be permitted to arise therefrom, so as to render the Property or any portion thereof unsanitary, unsightly or offensive or detrimental to any other portion of the Property in the vicinity thereof. No noxious, destructive or offensive activity, or any activity constituting an unreasonable source of annoyance, shall be conducted on any portion of the Property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except ordinary intercom systems or security devices used exclusively for security purposes, shall be located, used or placed on any Lot. The Board in its discretion shall have the right to determine the existence of any such activity or item. The Association shall have the standing and authority to institute legal proceedings to abate such activity or to secure the removal of such item. Furthermore, the Board shall have the right to remove any such activity or item at the expense of the Owner responsible for the nuisance (or at the expense of the Owner whose tenant, occupant or guest is responsible for such activity or item). Each Owner and Occupant shall refrain from any act on or use of his, her or its Lot which could reasonably cause embarrassment, discomfort or annoyance to other Owners or Occupants and the Board shall have the power to make and enforce reasonable rules and regulations in furtherance of this provision.

8.14 Drainage Alteration; Easements. No vegetation may be planted or permitted to remain on areas subject to drainage easements, as shown on Recorded plats, in such manner as to interfere with drainage or which shall be deemed by the Association to be a detriment to utilities located under or near such vegetation. Notwithstanding anything in this Declaration to the contrary, including, without limitation, the terms of Section 8.12, fences or walls to be constructed within areas depicted as floodplain or erosion hazards setback on the Plat shall not be constructed of block or brick, or by other construction technique which would impede the flow of flood waters.

8.15 Clothes-Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained within twenty-five (25) feet of any Lot line or within a Front Yard.

8.16 Pets Livestock, horses, chickens and other farm animals are permitted on the Property, subject to rules and regulations adopted by the Board. Notwithstanding the foregoing, no animals may be kept upon the Property which, in the opinion of the Board, result in any annoyance or are obnoxious to Owners or Occupants of other Lots. The housing, corralling and penning of any animals on the Property shall conform to all applicable laws. Animal waste shall be removed by the Owner or Occupant of any Lot not less frequently than weekly and disposed of lawfully. Except for household pets, no animal may be tied, penned, housed or corralled closer than seventy-five (75) feet to the front Lot line or closer than twenty-five (25) feet to any other Lot line.

8.17 Leasing; Obligations of Tenants and Other Occupants.

8.17.1 All leases of any portion of the Property shall be in writing and shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules. All tenants shall be subject to the terms and conditions of this Declaration, the Articles, the Bylaws and the Association Rules (except that such tenant shall not have any voting rights appurtenant to the Lot occupied by such tenant except pursuant to an express written assignment complying with Section 2.4). Each Owner shall cause his, her or its tenants or other Occupants to comply with this Declaration, the Articles, the Bylaws and the Association Rules and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or Occupants, notwithstanding the fact that such tenants or Occupants are also fully liable for any violation of each and all of those documents.

8.17.2 In the event that a tenant or other Occupant violates any provision of this Declaration, the Articles, the Bylaws or the Association Rules, the Association shall have the power to bring an action or suit against such tenant or other Occupant to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity. The Association's costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest as provided in Section 9.6, shall be reimbursed by the tenant or other Occupant to the Association (or, in the absence of reimbursement by the tenant or other Occupant, or at the election of the Board, by the Owner of the portion of the Property occupied by such tenant or other Occupant) and constitute a lien on the applicable portion of the Property which shall have the priority, and may be enforced in the manner, described in Section 7.3.

8.17.3 Subject to any limitations or requirements imposed by applicable law, the Board shall also have the power where approved by Members holding a majority of votes represented in person or by valid proxy at a meeting of Members duly called for such purpose, to impose reasonable monetary fines upon the tenant or the Owner, or both for any violation by the tenant or Occupant of any duty imposed under this Declaration, the Articles, the Bylaws or the Association Rules.

8.17.4 No Owner may lease less than his, her or its entire Lot. No Lot may be leased for a period of less than thirty (30) days. Upon leasing his, her or its Lot, an Owner shall promptly notify the Association of the commencement and termination dates of the lease and the names of each tenant or other Person who will occupy the Lot during the term of the lease.

8.17.5 The provisions of this Section 8.17 shall not apply to Declarant's use of Lots owned by (or leased to) Declarant as model homes or offices or for marketing purposes pursuant to Section 8.1.

8.18 Landscaping and Maintenance. Except as provided for in Section 3.1, each Owner shall maintain the landscaping on such Owner's property and shall keep the land free of debris and weeds at all times and promptly repair portions of the landscaping which have been damaged. Each Owner shall maintain the aforementioned landscaping and exterior of the Owner's Dwelling Unit and other structures in accordance with standards prescribed by the Board and otherwise in a manner and to a level not less than the standards of quality established by the Board with respect to the quality, quantity and frequency of watering, mowing, weeding, trimming, fertilizing, painting and the like. In the event any Owner fails to perform the obligations provided herein, the Association may, at the discretion of the Board, perform those obligations at the expense of such Owner, which expense, together with attorneys' fees and interest as provided in Section 9.6, shall be secured by the lien on such Owner's property established by Section 7.3. The provisions of this Section 8.18 shall not apply to any property owned by Declarant.

8.19 Miscellaneous. The Board, in its good faith discretion, is hereby authorized to grant such waivers of the restrictions contained in this Article 8 as it shall deem appropriate in the circumstances, so long as the use permitted by such waiver shall not result in an unsafe, unsanitary or aesthetically displeasing condition and shall not result, in the Board's discretion, in a substantial departure from the common plan of development contemplated by this Declaration. In addition, all portions of the Property shall continue at all times to be subject to any and all applicable zoning laws and ordinances, provided, however, that where the provisions of this Declaration are more restrictive than such laws or ordinances, the provisions of this Declaration shall control.

## ARTICLE 9 GENERAL PROVISIONS

9.1 Term. Subject to the provisions of Section 9.2, the covenants, conditions and restrictions of this Declaration: (a) shall run with and bind the Property as real covenants and equitable servitudes; (b) shall inure to the benefit of and shall be enforceable by the Association or by any Owner, their respective legal representatives, heirs, successors and assigns at law and in equity; and (c) shall remain in full force and effect until January 1, 2046, at which time said conditions, covenants and restrictions, unless revoked at any time as provided in



Section 9.2, shall automatically be extended for successive periods of twenty-five (25) years each, until revoked or amended in the manner provided in Section 9.2.

9.2 Amendment of Declaration. Except as otherwise provided herein (and subject to the provisions of Section 9.8), this Declaration may be amended or revoked, in whole or in part, at any time and from time to time, during the initial term and any extension thereof, but only by the affirmative vote (in person or by proxy) or written consent of Members holding at least sixty-seven percent (67%) of the votes then entitled to be cast in each class of Members. Amendments or revocations to this Declaration need not uniformly affect all portions of the Property. No amendment or revocation of this Declaration shall be effective unless and until such amendment or revocation is Recorded. Further, so long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing in its right to approve such amendments).

9.3 Indemnification. The Association shall indemnify each and every officer and director of the Association (including, for purposes of this Section, former officers and directors of the Association) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director of the Association in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an officer or director of the Association, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except indirectly to the extent that such officers or directors may also be Members of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless from and against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director of the Association, may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any director or officer (or former director or officer) of the Association who may be entitled to indemnification hereunder to enable such Person to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Person by reason of his or her being, or having been, an officer or director of the Association. In the event it is ultimately determined that a current or former officer or director to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 9.3 or otherwise under the Articles, Bylaws or applicable law, such current or former officer or director shall promptly upon demand repay to the Association the total of such funds advanced by the

Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

9.4 Severability; Interpretation; Exhibits; Gender. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. The provisions hereof shall be construed and interpreted with reference to the laws of the State of Arizona. References in this Declaration to Articles, Sections and Subsections shall be deemed to be references to the specified Articles, Sections and Subsection of this Declaration (unless otherwise specifically stated), whether or not phrases such as "of this Declaration," "hereof" or "herein" are used in connection with such references. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof. Where the context hereof so requires, any personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all genders, and the singular shall include the plural and vice versa. Titles of Articles and Sections are for convenience only and shall not affect the interpretation hereof.

9.5 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

9.6 Enforcement. The Association and/or any Owner shall have the standing and power to enforce the provisions of this Declaration, the Articles, the Bylaws and the Association Rules at both law and in equity, including without limitation, actions for damages and suits for injunctive relief, and its costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest thereon from the date the costs are expended at a rate equal to the greater of: (a) ten percent (10%) per annum; or (b) the annual prime rate of interest then being charged by Norwest Bank Arizona, N.A. (or its successor) plus four percent (4%) shall constitute a lien on all portions of the Property owned by the Owner or Owners against whom the action is taken (or against whose Occupants the action is taken), which lien shall have the priority and may be enforced in the manner described in Section 7.3. The prevailing party in an action or suit to enforce the provisions of this Declaration, the Articles, the Bylaws and/or the Association Rules shall be entitled to an award by the court of its reasonable attorneys' fees, costs and the interest described above in addition to any other relief granted. Failure by the Association or any Owner to take any such enforcement action shall in no event be deemed a waiver of the right to do so thereafter.

9.7 Property Held in Trust. Any and all portions of the Property which are now or hereafter held in a subdivision trust, so called "Illinois land trust," or similar trust or trusts (or similar means of holding title to property), the

beneficiary of which trust(s) is Declarant or Declarant Affiliate, shall be deemed for all purposes under this Declaration to be owned by Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by Declarant or any such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by Declarant or a Declarant Affiliate to any such trust (or the trustee thereof) or to Declarant by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.8 Amendments Requested by Governmental Agency.

Notwithstanding any other provision of this Declaration, the Articles or the Bylaws, Declarant shall have the right to amend all or any part of this Declaration, the Articles or the Bylaws to such extent and with such language as may be requested by the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or other governmental or quasi-governmental agency which issues, guarantees, insures or purchases Mortgages (or securities or other debt instruments backed or secured by Mortgages), or otherwise governs transactions involving Mortgages or instruments evidencing same, or otherwise governs development of the Property, as a condition to such agency's approval of this Declaration or the Property. Any such amendment to this Declaration shall be effected by Declarant's Recording an instrument executed by Declarant and appropriately acknowledged, specifying the governmental or quasi-governmental agency requesting such amendment and setting forth the appropriate amendatory language. Recording of such amendment shall constitute conclusive proof of such governmental or quasi-governmental agency's request for such amendment. Such amendment shall be effective, without the consent or approval of any other Person, on and as of the date the same is Recorded, and shall thereupon and thereafter be binding upon any and all Owners or other Persons having any interest in all or any part of the Property. Any such amendment to the Articles shall be effected by Declarant's filing articles of amendment to the Articles in accordance with applicable law, and such filing shall constitute conclusive proof of the applicable agency's request for such amendment, and shall be effective, without the consent or approval of any other Person, upon such filing. Any such amendment to the Bylaws shall be effected by Declarant's executing and filing in the Association's corporate records the amendment to the Bylaws with a certificate executed by Declarant specifying the governmental or quasi-governmental agency requesting the amendment, and the filing of such amendment and certificate in the Association's corporate records shall constitute conclusive proof of such agency's request for such amendment, and such amendment shall be effective, without the consent or approval of any other Person, as of the effective date specified in the amendment or certificate. Except as expressly provided in this Section, neither Declarant nor any other Person(s) shall have the right to amend this Declaration, the Articles or the Bylaws except in accordance with and pursuant to the other provisions and requirements of this Declaration, the Articles and the Bylaws.

9.9 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

9.10 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of this Declaration, the Articles, the Bylaws or the Association Rules. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the portion of the Property against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the portion of the Property in question, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the portion of the Property against which the notice of violation was recorded, the Recording date of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

9.11 Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Wilmot Farms can or will be carried out, or that any real property now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained 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 such restrictive covenant or that such restrictive covenant will not be subsequently eliminated or modified through an amendment to this Declaration. Any Owner acquiring a portion of the Property in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to that portion of the Property agrees to hold Declarant harmless therefrom.

9.12 Declarant's Rights. Subject to Section 1.9, any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, that no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly Recorded. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry, and to permit builders specifically authorized in writing by Declarant to maintain and carry, upon portions of the Property such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by Declarant as models, sales offices and other purposes related to Declarant's sales activities on the Property. So long as Declarant continues to have rights under this Section, no Person shall Record any subdivision plat or map, any declaration of covenants, conditions and restrictions, any declaration of condominium or any similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted Recordation without compliance herewith shall result in such subdivision plat or map, declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant. This Section may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of: (a) the date when neither Declarant nor any Declarant Affiliate is the Owner of any Lot; or (b) the date which is ten (10) years after the date this Declaration is Recorded.

9.13 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon Declarant or any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as Declarant, any Declarant Affiliate or a trustee for the benefit of Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of Declarant.

9.14 Counterparts. This Declaration may be signed in one or more identical counterparts.

#### ARTICLE 10 FHA/VA PROVISIONS

10.1 Approvals During Period of Declarant Control. Notwithstanding any other provision of this Declaration or of any of the other Documents to the

contrary, during the period: (a) commencing with the earlier of: (i) the date FHA or VA first approves the Property for single family residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan on any Lot within the Property; and (b) ending with the expiration or termination of the Period of Declarant Control:

10.1.1 property shall not be annexed to the Property without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Property);

10.1.2 no amendment to this Declaration or to the Articles or Bylaws shall be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections); and

10.1.3 the Association shall not be dissolved, or merged or consolidated with any other entity, without the prior approval of FHA or VA.

10.2 Obtaining Approvals. As to any action required by this Article 10 to be approved by FHA or VA before becoming effective or before being taken, such action shall be submitted to FHA or VA for approval, and if the agency whose approval is requested does not disapprove the same, by written notice to the Association, the Declarant or other Person requesting such approval, within thirty (30) days after delivery to such agency of the request for approval, the action in question shall be deemed approved by such agency.

10.3 Approval Not Required. Notwithstanding anything in this Article 10 to the contrary: (a) if at the time in question FHA has neither approved the Property for any single family residential loan insurance or guarantee program offered by FHA, nor insured or guaranteed a loan secured by a Lot, no consent or approval by FHA as to any matter shall be required under this Article 10; and (b) if at the time in question VA has neither approved the Property for any single family residential loan insurance or guarantee program offered by VA, nor insured or guaranteed a loan secured by a Lot, no consent or approval by VA as to any matter shall be required under this Article 10.

10.4 Definitions. For purposes of this Article 10, the term "FHA" means the Federal Housing Administration (or its successor federal agency), and the term "VA" means the Veterans Administration (or its successor federal agency).

IN WITNESS WHEREOF, the undersigned has executed this Declaration  
as of the day and year first set forth above.

DECLARANT:

WILMOT FARMS, INC., an Arizona  
corporation

By *Harold Lay*  
Its *President*

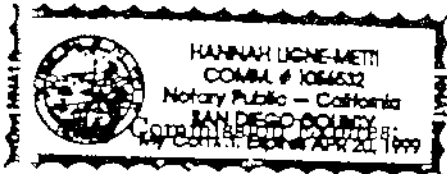
TRUSTEE:

FIDELITY NATIONAL TITLE AGENCY,  
INC., an Arizona corporation, as trustee of  
its Trust No. 10812 and not personally

By *Kevin French*  
Kevin French  
Its Sr. Trust Officer

STATE OF California  
County of San Diego ) SS.

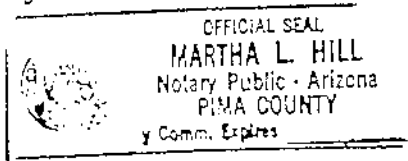
The foregoing instrument was acknowledged before me this 11 day of March, 1997 by HAROLD LAZ, the President of WILMOT FARMS, INC., an Arizona corporation, on behalf of the corporation.



Hannah Ligne-Metti  
Notary Public

STATE OF ARIZONA )  
County of Pima ) SS.

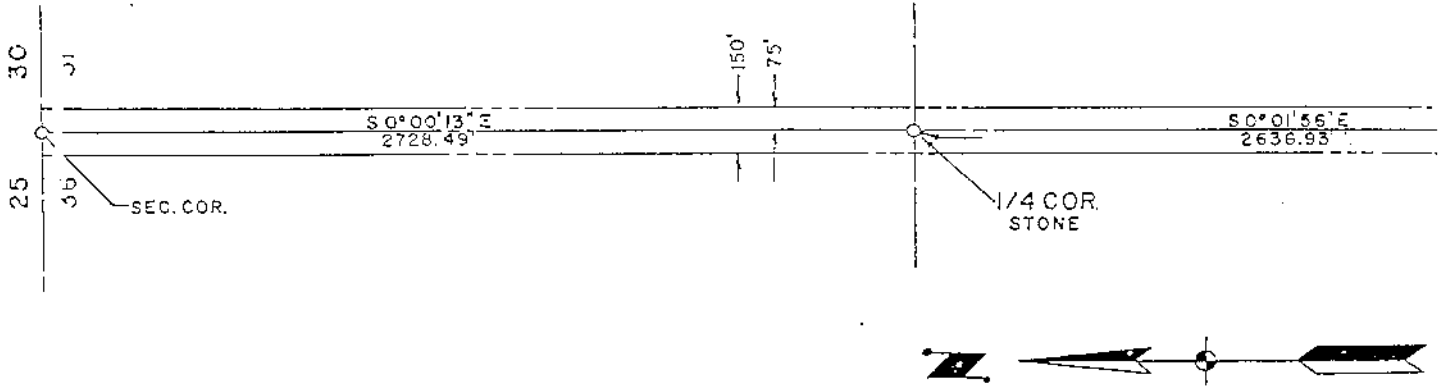
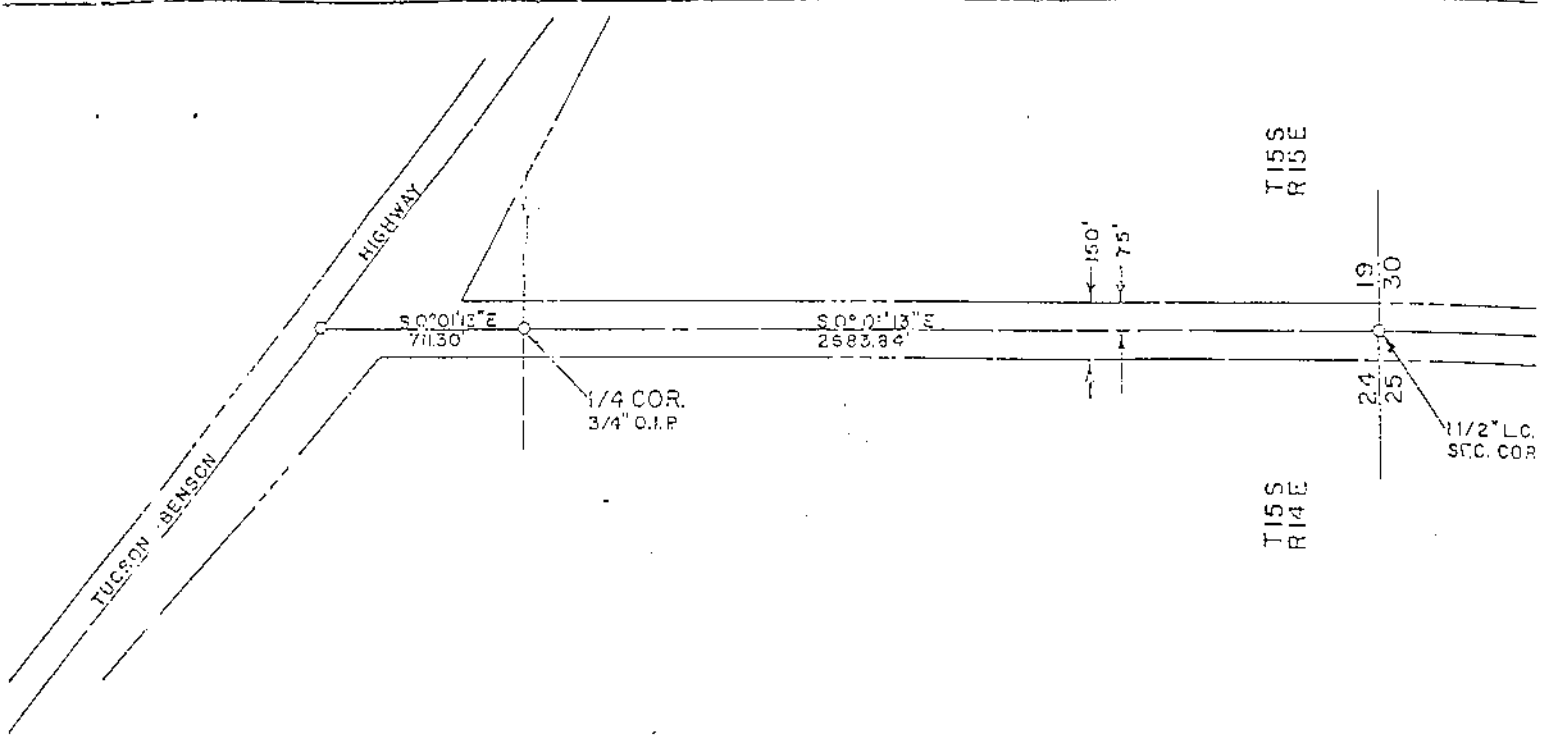
The foregoing instrument was acknowledged before me this 18th day of April, 1997, by Kevin French the Sr. Trust Officer of FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, on behalf of the corporation in its capacity as trustee of its Trust No. 10812, and not personally.



Martha L Hill  
Notary Public

My Commission Expires:  
8-27-97





**ESTABLISHMENT PROCEEDINGS NO. 955**

I, WALTER A. BURG, COUNTY ENGINEER OF PIMA COUNTY, ARIZONA, DO HEREBY CERTIFY AND AFFIRM THAT THIS IS A TRUE AND EXACT COPY OF THE OFFICIAL MAP OF THE SURVEY OF THE ESTABLISHMENT OF WILMOT ROAD.

ALL OF WHICH WAS MADE UNDER MY DIRECTION AND IN ACCORDANCE WITH THE RESOLUTION ADOPTED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, STATE OF ARIZONA, ON THE 21 DAY OF JANUARY, 1958 AND RECORDED AS INSTRUMENT NO. 4329 AS PETITIONED BY TEN TAXPAYERS OF THIS COUNTY PURSUANT TO THE PROVISIONS OF THE ARIZONA CODE.

*Walter A. Burg*  
 COUNTY ENGINEER



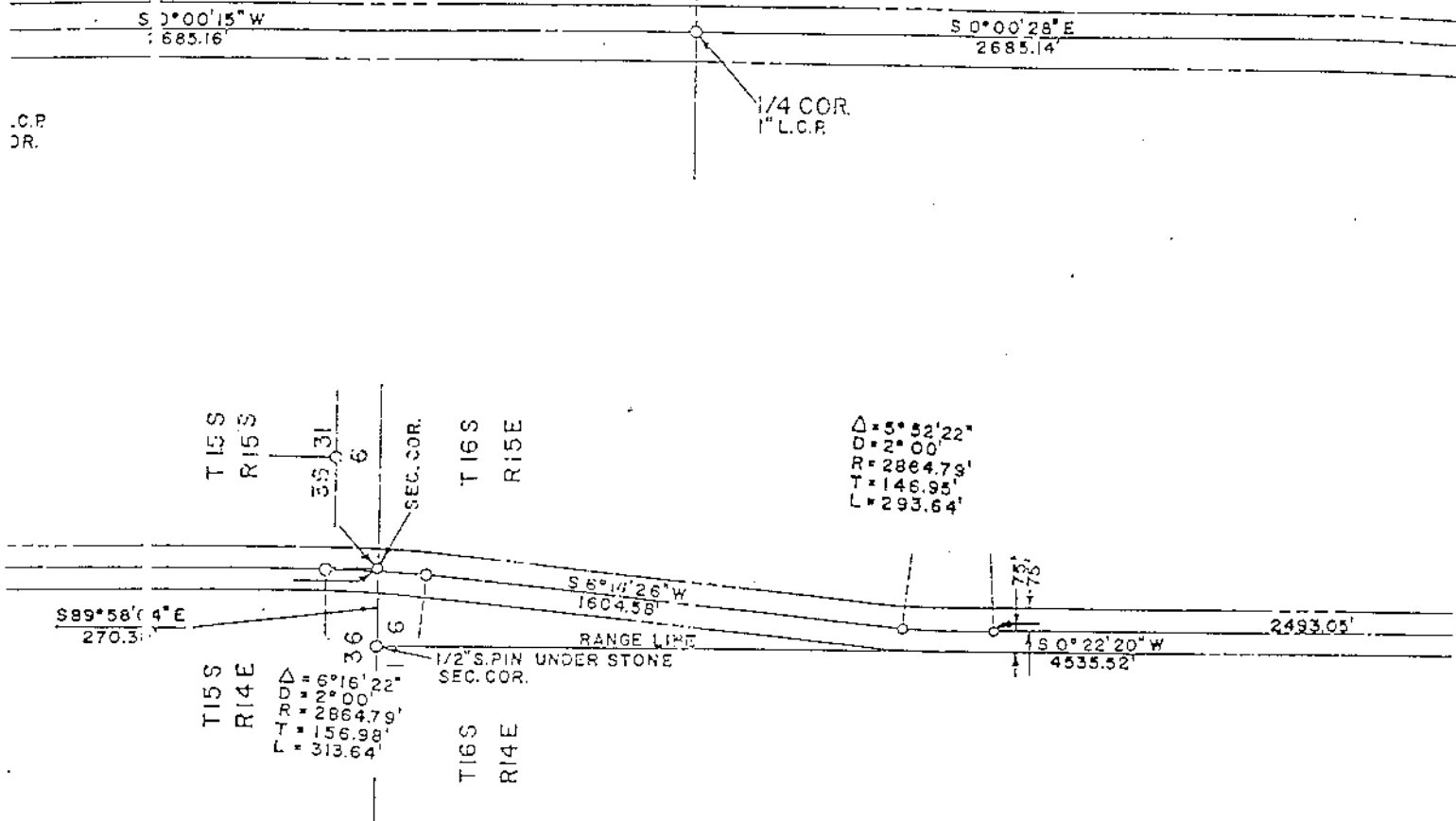
SUBSCRIBED TO BEFORE ME THIS 31<sup>ST</sup> DAY OF January, 1958  
 MY COMMISSION EXPIRES

*Ethel D. Swenney*  
 NOTARY PUBLIC

April 25, 1960.

HIGH  
 BOOK  
 NO.

ABOY



FILED FOR RECORD AT REQUEST OF THE PIMA COUNTY  
 HWAY DEPARTMENT EEB 3, 1957 AT 0:51 AM AND RECORDED IN  
 BK 8 OF ROAD MAPS AT PAGE 42 THEREOF AS INSTRUMENT  
7053 FEE NONE

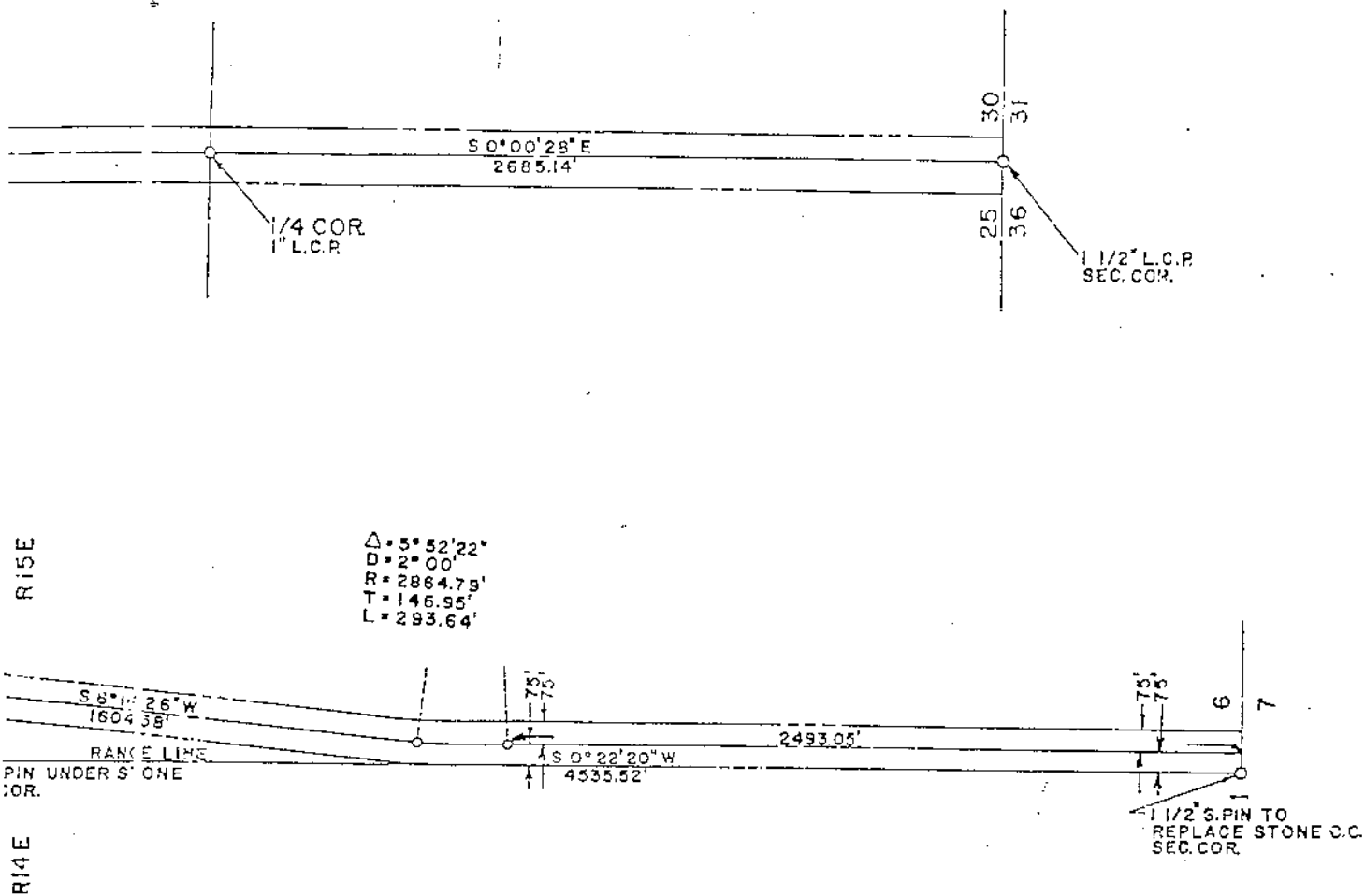
WITNESS MY HAND AND SEAL, DAY AND YEAR  
 GIVE WRITTEN.

ANNA SULLINGER  
 PIMA COUNTY RECORDER

Eda Mae Smith  
 DEPUTY



ESTABLISHMENT P  
 PIMA COUNTY HIGH  
**WILMOT**  
 (SO)  
 WALTER A. BURG  
 DRAWN BY E RODRIGUEZ  
 M.A. ERICKSON  
 DATE: NOV. 1957



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THE PIMA COUNTY  
 AND RECORDED IN  
 RECORD AS INSTRUMENT

DAY AND YEAR

SULLING R  
 COUNTY RECORDER

*Walter A. Burg*  
 DEPUTY

ESTABLISHMENT PROCEEDINGS NO. 955

PIMA COUNTY HIGHWAY DEPARTMENT

# WILMOT ROAD (SOUTH)

WALTER A. BURG

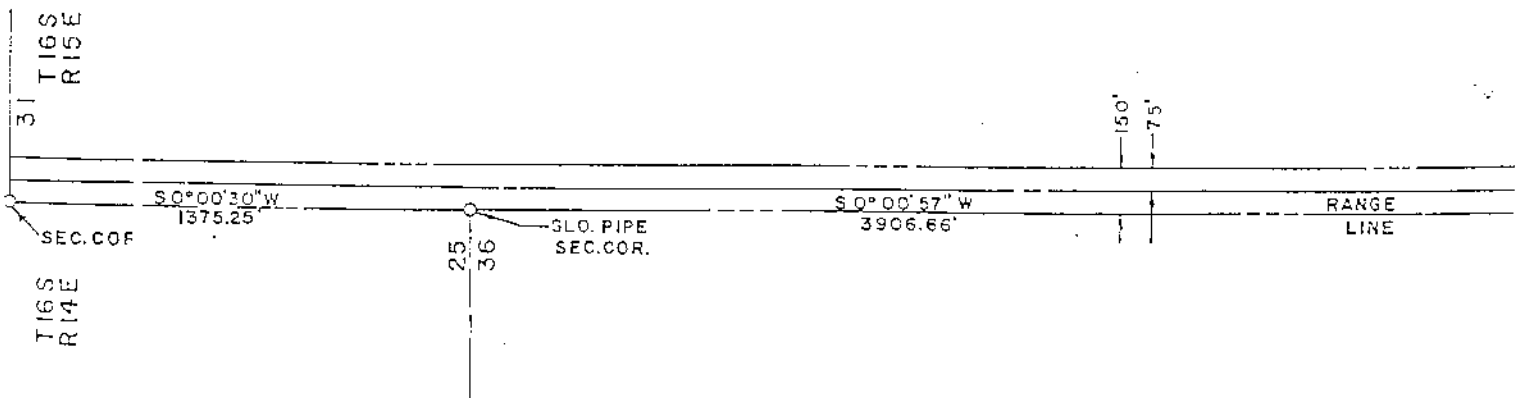
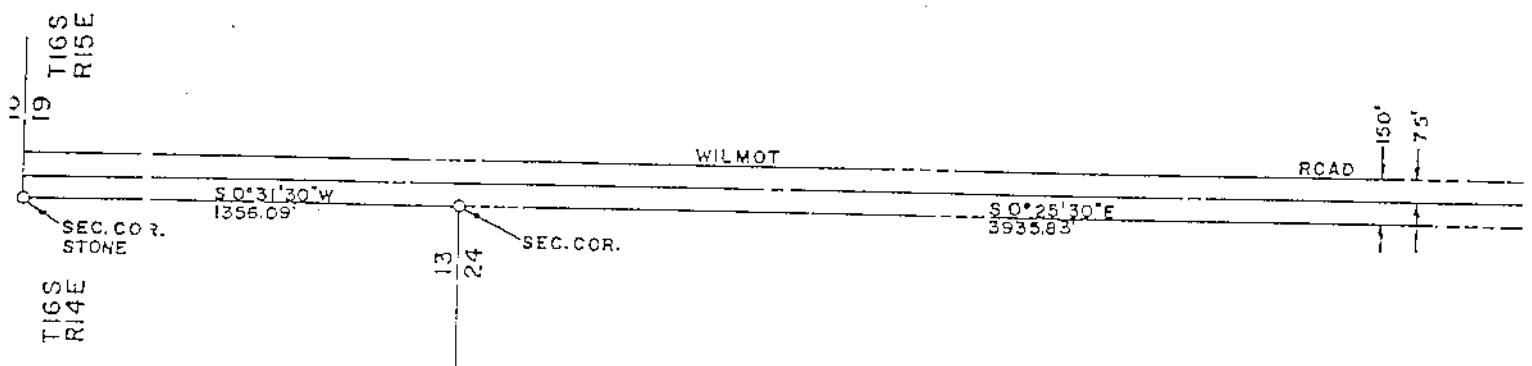
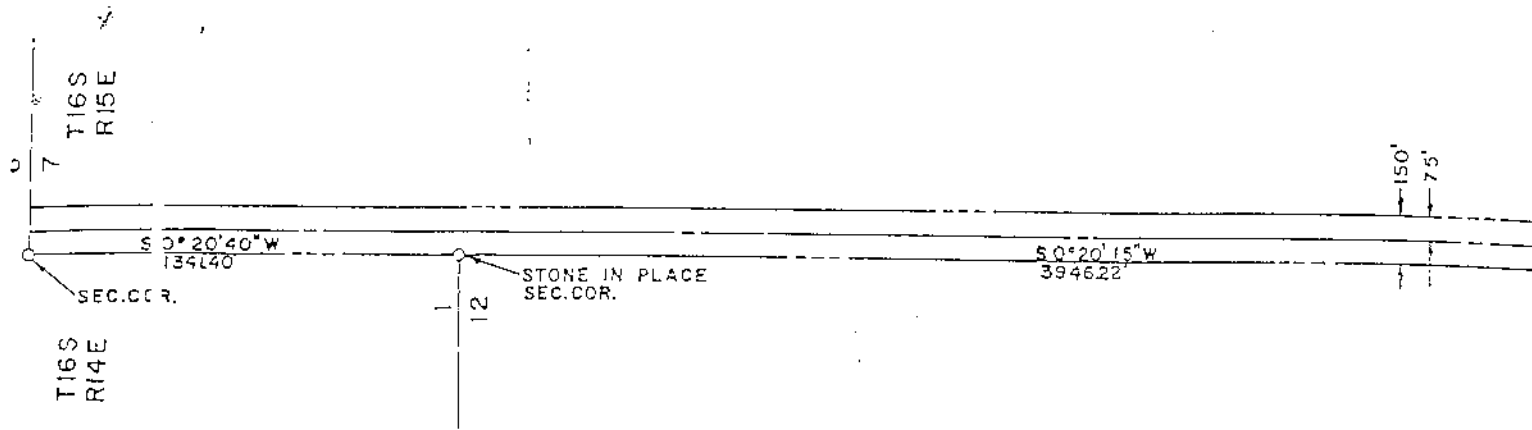
COUNTY ENGINEER

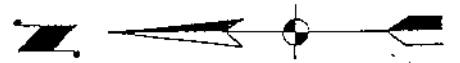
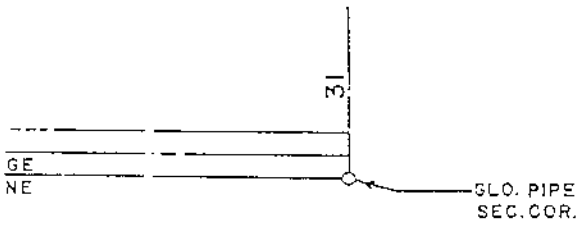
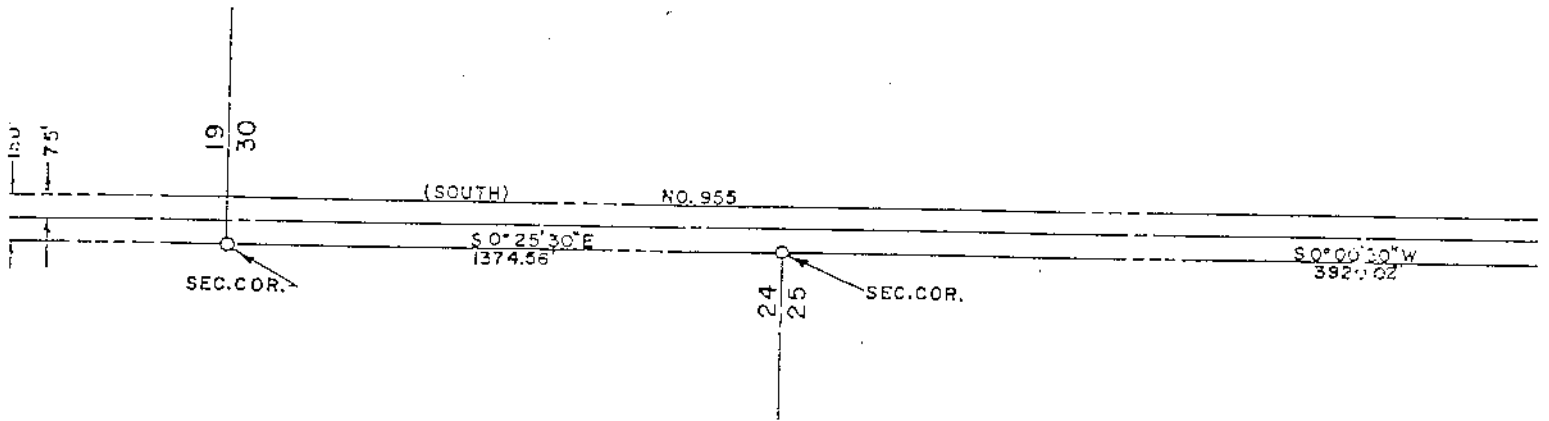
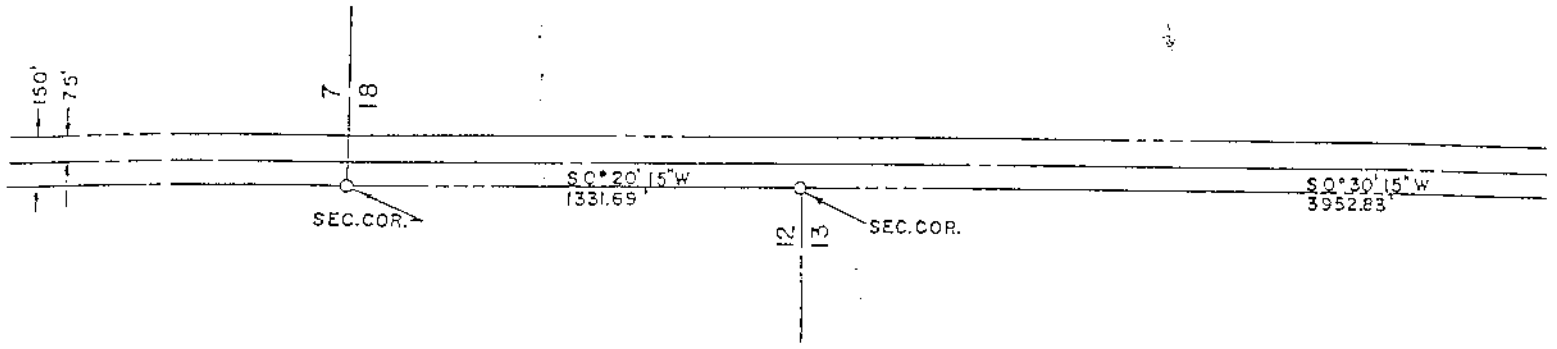
DRAWN BY F. RODRIGUEZ

CHECKED BY W. R. HANSON

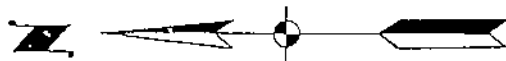
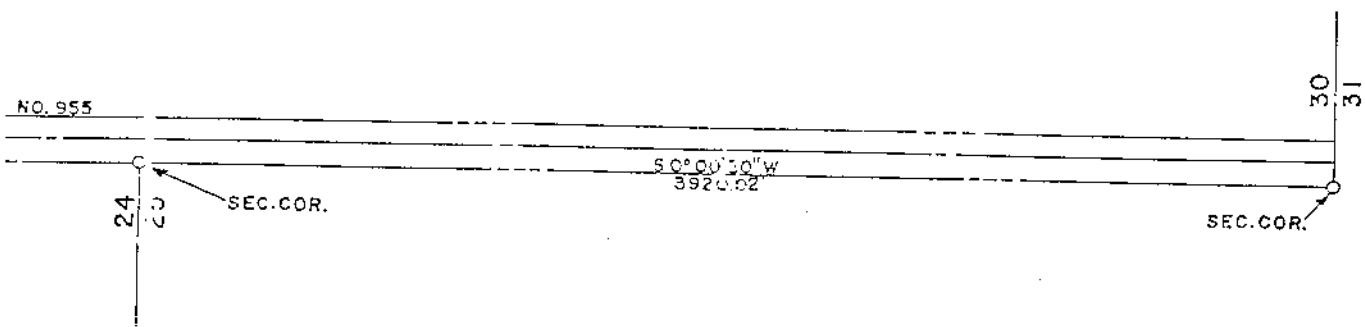
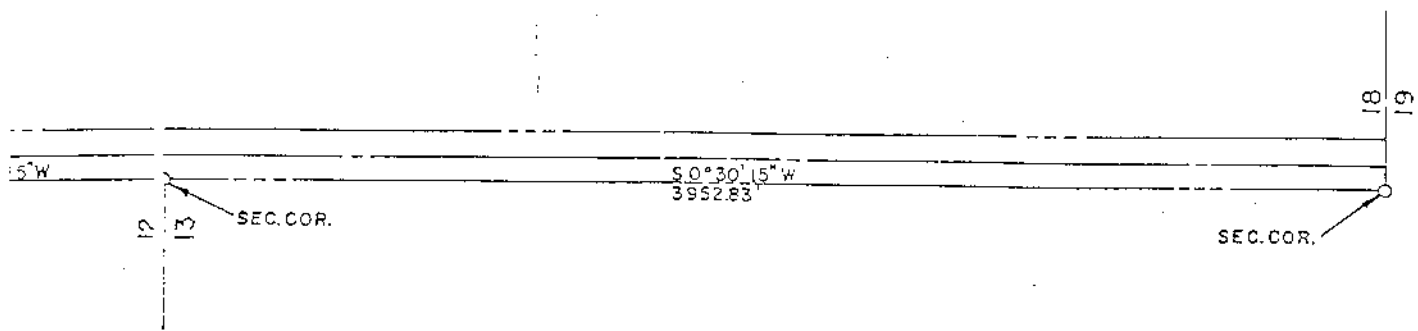
M.A. ERICKSON  
 DATE: NOV. 1957

SCALE: 1" = 400'





ESTABLISHMENT  
 PIMA COUNTY  
**WILMC**  
**(SO**  
 WALTER A. BURG  
 DRAWN BY F. RODRIGUEZ  
 M.A. ERICKSON  
 DATE NOV. 1957



ESTABLISHMENT PROCEEDINGS NO.955

PIMA COUNTY HIGHWAY DEPARTMENT

**WILMOT ROAD  
(SOUTH)**

WALTER A. BURG

COUNTY ENGINEER

DRAWN BY F.RODRIGUEZ  
M.A.ERICKSON

CHECKED BY WR.HANSON

DATE NOV. 1957

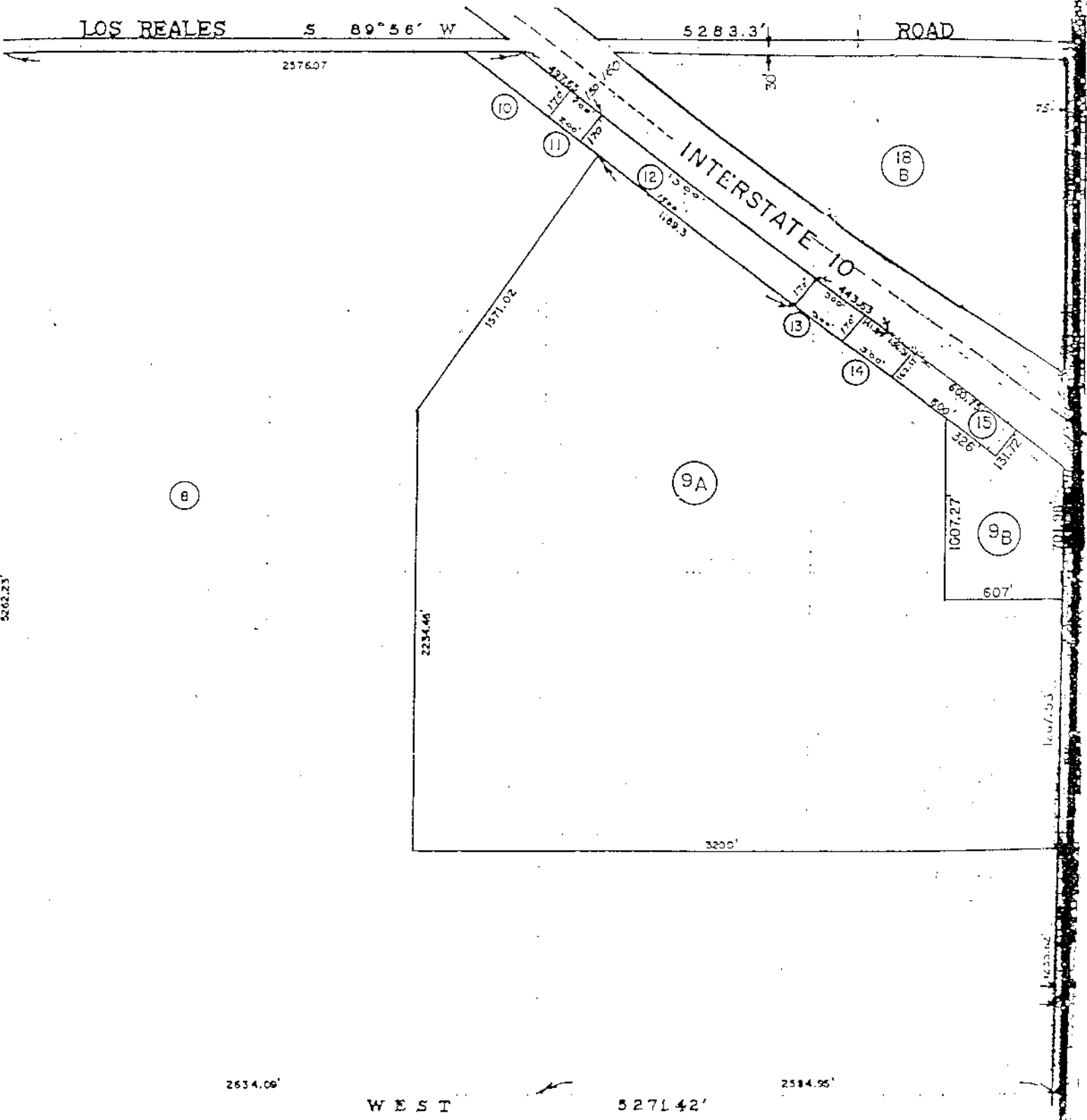
SCALE 1" = 400'

SHEET 2 OF 2

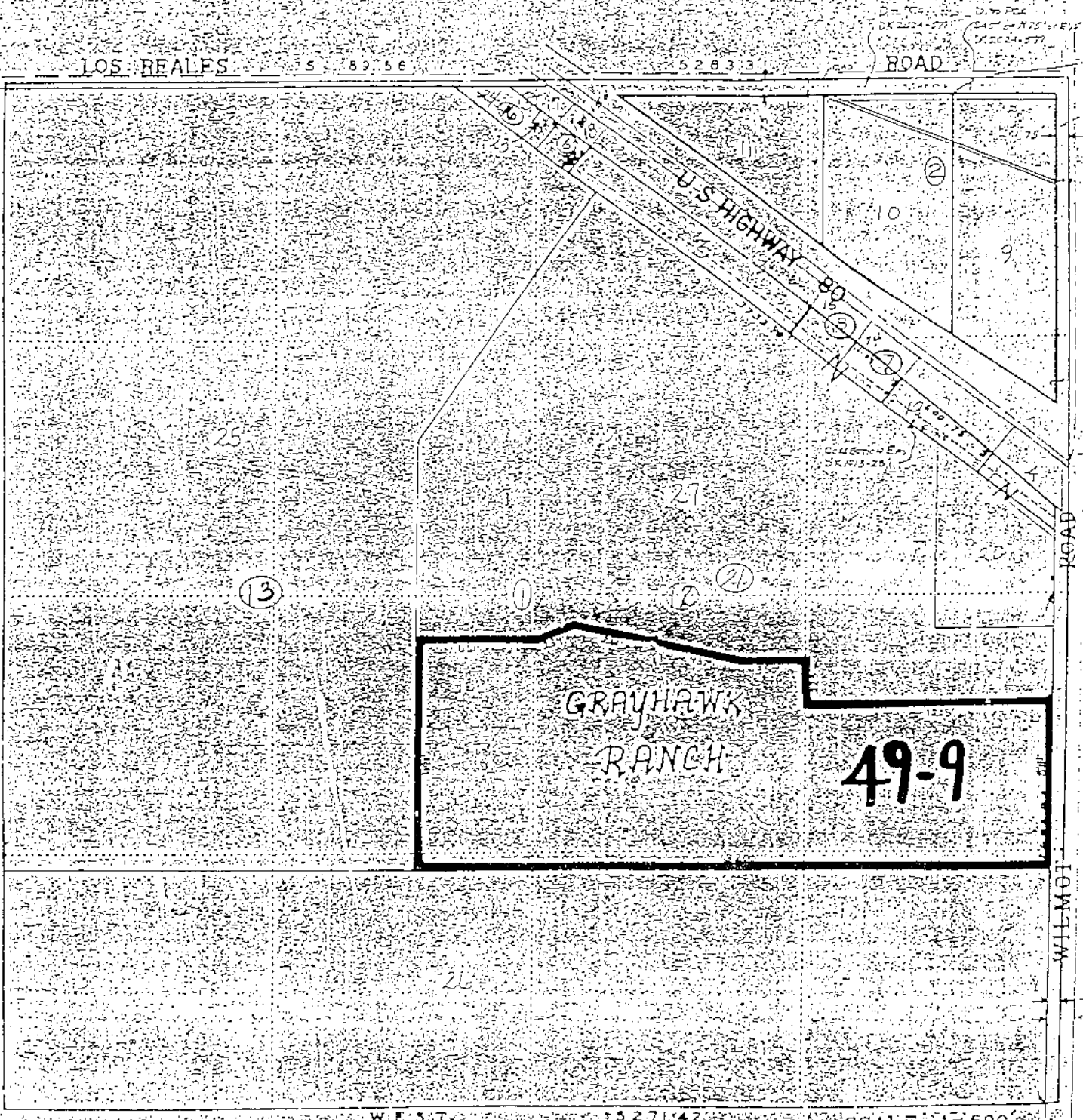
24

15

14



SECTION 24, TOWNSHIP 15 SOUTH, RANGE 14 EAST



LOS REALES S 89° 56'

52833'

ROAD

GRAYHAWK RANCH

49-9

WEST

527142'

SCALE 1" = 600'

WILMOT ROAD



F. ANN RODRIGUEZ, RECORDER  
RECORDED BY: MSA  
DEPUTY RECORDER  
5132 RO2D



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PAGE: 1991  
NO. OF PAGES: 9  
SEQUENCE: 19991920741  
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FIDELITY NATIONAL TITLE  
7750 E BROADWAY STE #A200  
TUCSON AZ 85710

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**WHEN RECORDED MAIL TO:**

**FIDELITY NATIONAL TITLE TRUST DEPT.  
7750 E. BROADWAY, SUITE B222  
TUCSON, AZ 85710**

**DOCUMENT TITLE:**

**FIRST AMENDMENT TO  
THE DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
AND GRANT OF EASEMENTS FOR  
WILMOT FARMS**

**THIS SHEET IS A PART OF THE ATTACHED DOCUMENT.  
DO NOT DETACH THIS COVER SHEET FROM THE DOCUMENT.**

11/14/99 10:44 AM

FIRST AMENDMENT  
TO  
THE DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
AND GRANT OF EASEMENTS FOR  
WILMOT FARMS

THIS FIRST AMENDMENT TO THE DECLARATION, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS FOR WILMOT FARMS ( THIS "AMENDMENT" IS MADE THIS \_\_\_\_\_/16<sup>TH</sup> DAY OF SEPTEMBER, 1999, BY AND AMONG WILMOT FARMS, INC., AN ARIZONA CORPORATION, AS THE DECLARANT, FIDELITY NATIONAL TITLE AGENCY, INC., AN

ARIZONA CORPORATION, AS TRUSTEE OF ITS TRUST NUMBER 10812 AND NOT PERSONALLY, AS THE TRUSTEE, AND THOSE "OWNERS" SIGNING THEIR NAME TO THIS DOCUMENT CONSTITUTING ADDITIONAL OWNERS OF PROPERTY SUBJECT TO THE ORIGINAL DECLARATION, WHICH OWNERS REPRESENT MORE THAN SIXTY SEVEN (67%) PERCENT OF THE OWNERS OF THE PROPERTY, OTHER THAN THE DECLARANT.

THIS AMENDMENT IS INTENDED TO AND SHALL SERVE TO AMEND AND MODIFY THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS FOR WILMOT FARMS DATED AS OF THE 18TH DAY OF APRIL 1997, AND RECORDED JULY 9, 1997 AT DOCKET 10583, PAGE 554, PIMA COUNTY RECORDER'S OFFICE, PIMA COUNTY, ARIZONA (THE "ORIGINAL DECLARATION").

PERSUANT TO SECTION 9.2 OF THE ORIGINAL DECLARATION, THE FOLLOWING AMENDMENTS ARE HEREBY ADOPTED:

1. SECTION 8.1, RESIDENTIAL AND RECREATIONAL PURPOSE, OF THE ORIGINAL DECLARATION IS HEREBY DELETED AND REPLACED WITH THE FOLLOWING:

8.1 RESIDENTIAL AND RECREATIONAL PURPOSES: EXCEPT AS PROVIDED IN THIS SECTION

8.1 NO PORTION OF THE PROPERTY SHALL BE USED FOR OTHER THAN SINGLE-FAMILY RESIDENTIAL PURPOSES. SITE BUILT HOMES SHALL BE ALLOWED ON ANY LOT WITHIN THE PROPERTY. MANUFACTURED OR MODULAR HOMES SHALL BE RESTRICTED TO ONLY LOTS 49 THROUGH 104 INCLUSIVE AND ALLOWED ON LOT 121. ALL MANUFACTURED HOMES MUST BE OF MODEL YEAR 1990 OR NEWER AND SHALL BE FULLY PERIMETER SKIRTED WITH MASONARY BLOCK OR PUMCRETE ON A CONCRETE FOOTER WITHIN SIXTY DAYS (60) DAYS OF PLACEMENT ON A LOT. IF GROUND SET, THE ABOVE 2 OPTIONS PLUS ANY OTHER METHOD APPROVED BY CITY OF TUCSON OR STATE OF ARIZONA DEPT. OF BUILDING AND FIRE SAFETY, MAY BE USED, PROVIDED SAID WORK IS COMPLETED WITHIN SIXTY(60) DAYS OF PLACEMENT ON A LOT. NO MANUFACTURED HOME THAT IS NOT BEING USED FOR SINGLE FAMILY RESIDENTIAL PURPOSES OR THAT IS USED FOR STORAGE SHALL BE PERMITTED ON ANY LOT. NO LOT SHALL BE USED, DIRECTLY OR INDIRECTLY, FOR ANY BUSINESS OR OTHER SIMILAR PURPOSE, EXCEPT FOR (1) THOSE BUSINESS USES ALLOWED IN ACCORDANCE WITH APPLICABLE ZONING ORDINANCE AND WHICH CONSTITUTE A SECONDARY USE OF THE LOT AND ARE COMPATIBLE WITH A RESIDENTIAL NEIGHBORHOOD, AND (2) USE BY DECLARANT (OR A DECLARANT AFFILIATE OR ASSIGNEE OF DECLARANT) OR BY A BUILDER WHO HAS BEEN SPECIFICALLY AUTHORIZED IN WRITING BY DECLARANT, FOR A PERIOD NOT TO EXCEED TEN (10) YEARS AFTER THE DATE THIS DECLARATION IS RECORDED, IN CONNECTION WITH CONSTRUCTION AND SALES ACTIVITIES WITH RESPECT TO THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, MAINTENANCE AND OPERATION OF MODEL HOMES, SALES OFFICES AND SIGNS ADVERTISING THE PROPERTY OR PORTIONS THEREOF).

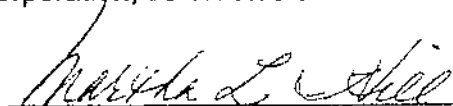
IN WITNESS WHEREOF, THE UNDERSIGNED HAVE EXECUTED THIS FIRST AMENDMENT AS OF THE DATE FIRST ABOVE WRITTEN.

111461002

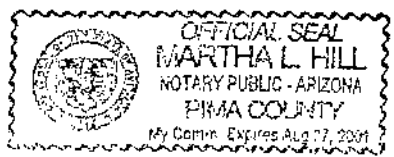


STATE OF ARIZONA     )  
                                      : ss.  
COUNTY OF PIMA     )

SUBSCRIBED AND SWORN TO BEFORE me this 5th day of October, 1999,  
by Kevin French its Sr. Trust Officer of Fidelity  
National Title Agency, Inc., an Arizona corporation, as Trustee of its Trust Number 10812  
and not personally, as the Trustee.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:



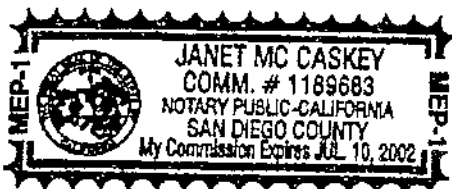
1046194

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF California  
COUNTY OF San Diego } SS.

On September 28, 1999 before me, the undersigned, a Notary Public in and for said State personally appeared Harold Laz  
Name(s) of Signer(s)

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



Witness my hand and official seal.

Janet Mc Caskey  
Signature of Notary

Janet Mc Caskey  
Name (Typed or Printed)

(This area for official notarial seal)

Capacity Claimed by Signer

Description of Attached Document

- Individual(s)
- Corporate Officer(s) - Title(s) President
- Partner(s)
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: \_\_\_\_\_

This certificate must be attached to the document described below:

Title or type of document First Amendment to Declaration of CCE

Number of Pages 1

Date of Document 9/28/99

Signer(s) Other than Named Above \_\_\_\_\_

Signer is Representing:

Name of person(s) or Entity(ies)  
\_\_\_\_\_  
\_\_\_\_\_

ATTENTION NOTARY

Although the information requested above is optional, it could prevent fraudulent attachment of this certificate to another document.

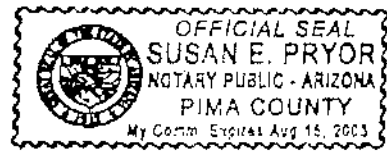
1114610511

STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20 DAY OF Sept,  
1999, BY GARY L. PAGE *Gary Page*, AS OWNER OF LOT 117  
OF WILMOT FARMS HOMES.

*Susan E Pryor*  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
8/15/2003

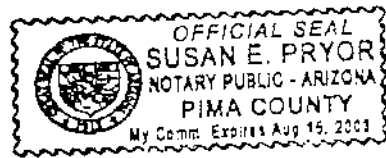


STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20 DAY OF Sept  
1999, BY PENNY GAYLE WILLIAMS *Penny Gayle Williams* AS OWNER OF LOT 14  
OF WILMOT FARMS HOMES.

*Susan E Pryor*  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
8/15/2003



STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20 DAY OF Sept  
1999, BY NICK AND MINERVA HERNANDEZ *Nick and Minerva Hernandez*, AS OWNERS OF LOT 50  
OF WILMOT FARMS HOMES.

*Susan E Pryor*  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
8/15/2003

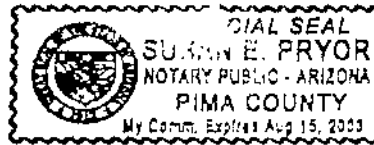
11451935

STATE OF ARIZONA )  
 )  
COUNTY OF PIMA ) SS.

This instrument was acknowledged before me this 20 day of Sept,  
1999, by Jeffrey A. Nickerson, as Owner of Lot 6 of WILMOT  
FARMS HOMES.

Susan E. Pryor  
Notary Public

My Commission Expires:  
8/15/03

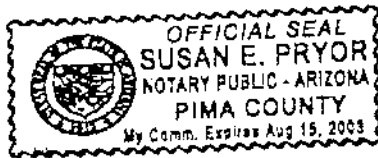


STATE OF ARIZONA )  
 )  
COUNTY OF PIMA ) SS.

This instrument was acknowledged before me this 20 day of Sept,  
Arthur E. Welton Arthur E. Welton and  
Colette D. Welton, by Colette D. Welton, as Owner of Lot 9 of WILMOT  
FREDERICK GANONG II  
KIMBERLEE GANONG  
FARMS HOMES.

Susan E. Pryor  
Notary Public

My Commission Expires:  
8/15/03



STATE OF ARIZONA )  
 )  
COUNTY OF PIMA ) SS.

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
Stephen J. Holbrook and  
Beth Holbrook, as Owner of Lot 27 of WILMOT  
FARMS HOMES.

\_\_\_\_\_  
Notary Public

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

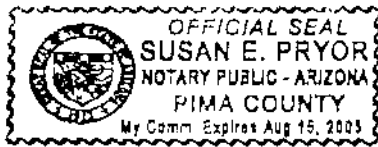
1114 E WILMOT

STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20 DAY OF Sept  
1999, BY JAMES Q. AND <sup>Cecilia</sup> ~~CECELIA~~ L. <sup>SEGRAVES</sup> ~~SEGRAVES~~, AS OWNERS OF LOT 10  
of WILMOT FARMS HOMES. James Q. Seagraves

Susan E. Pryor  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
8/15/003



STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

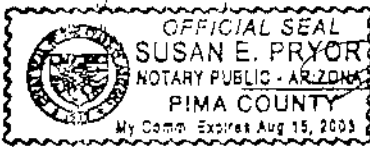
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
1999, BY KEN ANDERSON, OF PRESTIGE HOMES. AS OWNERS OF LOT 121  
OF WILMOT FARMS HOMES.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
\_\_\_\_\_

STATE OF ARIZONA )  
 ) SS  
COUNTY OF PIMA )

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20 DAY OF Sept  
1999, BY JOHN <sup>SEM</sup> MARSHALL, AS OWNER OF LOT 116  
OF WILMOT FARMS HOMES. John E. Marshall



Susan E. Pryor  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
8/15/003

1114619900



STATE OF ARIZONA )  
 ) ss.  
COUNTY OF PIMA )

*Kevin Hayes* This instrument was acknowledged before me this 20 day of Sept,  
Kevin L. Hayes and  
1999, by Joyce Hayes, as Owner of Lot 71 of WILMOT  
FARMS HOMES.

*Susan E. Pryor*  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
8/15/0003



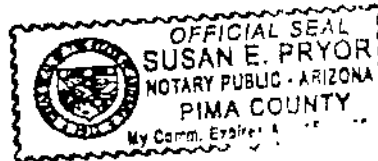
STATE OF ARIZONA )  
 ) ss.  
COUNTY OF PIMA )

This instrument was acknowledged before me this 20 day of Sept,  
1999, by David Alexander Gilbert and Debra K. Gilbert, as Owner of Lot 79 of  
WILMOT FARMS HOMES.

*David Alexander Gilbert*

*Susan E. Pryor*  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
8/15/0003



11461999

JANE DEE HULL  
GOVERNOR



JERRY A. HOLT  
COMMISSIONER

State of Arizona  
Department of Real Estate

2910 N. 44TH ST.  
SUITE 100  
PHOENIX, ARIZONA 85018  
(602) 468-1414

400 W CONGRESS  
SUITE 523  
TUCSON, ARIZONA 85701  
(520) 623-6940

September 10, 1997  
Amended October 28, 1997  
Second Amendment October 19, 1999

Wilmot Farms, Inc.  
8598 Ruelle Monte Carlo  
La Jolla, California 92037

LICENSE NO. 97-05202      WILMOT FARMS

Gentlemen:

This is to acknowledge issuance of the public report on the above referenced development. This property may now be offered for sale. Enclosed is the public report..

A copy of the Real Estate Commissioner's Public Report must be given to the prospective purchaser, allowing ample time for review, prior to signing the purchase contract and receipt for public report. The subdivider of the development shall obtain the purchaser's signature on a receipt form approved by this Department. Signed receipts shall be maintained at the office of the subdivider for a period of not less than five (5) years. Receipts shall be subject to inspection at any reasonable time by the Real Estate Commissioner or any of his representatives. The receipt form enclosed with this letter is approved by the Department and must be used when the prospective purchaser receives a copy of the Public Report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry A. Holt", written over the word "Sincerely,".

Jerry A. Holt, Commissioner

REQUIRED RECEIPT FOR PUBLIC REPORT

The law and regulations of the Real Estate Commissioner require that the owner, agent or subdivider of this development furnish you, as a prospective customer, with a copy of the Public Report. It is recommended that you read the report before you make any written offer to purchase or lease and interest in the development, and before you pay any money or other consideration toward the purchase or lease of an interest in the development.

FOR YOUR PROTECTION, PLEASE DO NOT SIGN THIS RECEIPT  
UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE  
HAD THE OPPORTUNITY TO READ IT.

\_\_\_\_\_  
(File No.)

\_\_\_\_\_  
(Tract No. or Name)

I understand that the report is not a recommendation or endorsement of the development, but is for information only.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

LICENSE NO. 97-05202 WILMOT FARMS

**ARIZONA  
SUBDIVISION PUBLIC REPORT  
FOR  
Wilmot Farms, Inc.**

LICENSE NO. 97-05202

**SUBDIVIDER**  
Wilmot Farms, Inc.  
8598 Ruelle Monte Carlo  
La Jolla, California 92037

September 10, 1997  
**Effective Date**  
**(Amended October 28, 1997)**  
**(Second Amended October 19, 1999)**

**STATE PROPERTY REPORT DISCLAIMER**

This report is **NOT A RECOMMENDATION NOR AN ENDORSEMENT** by the State of Arizona of this land but is provided for informational purposes **ONLY**.

This report reflects information provided by the subdivider and obtained by the Department in its review process in accordance with the provisions of Title 32, Chapter 20, Article 4, of the Arizona Revised Statutes, as amended. **NOTE** that not all of the information in this document has been verified by the Department; certain information has been accepted by the Department as true and accurate based on attestation of the subdivider and/or the subdivider's agents. The purchaser should independently verify all facts before signing any documents. The Department has not passed upon the quality or quantity of any improvement or structure and does not assume responsibility in either event.

Arizona Department of Real Estate  
Subdivisions Division  
2910 N. 44<sup>th</sup> Street  
Phoenix, Arizona 85018  
(602) 468-1414, Ext. 400

OR

Arizona Department of Real Estate  
Subdivisions Division (Tucson)  
400 W. Congress, Ste 523  
Tucson, Arizona 85701  
(520) 628-6940

**THE COMMISSIONER  
OF THE ARIZONA DEPARTMENT OF REAL ESTATE**

**REQUIRES THAT:**

1. The purchaser or lessee BE GIVEN this public report;
2. YOU SIGN A RECEIPT indicating that you received this report;

**RECOMMENDS:**

1. You DO NOT SIGN ANY AGREEMENT before you have read this report;
2. You see the EXACT PROPERTY you are interested in BEFORE SIGNING any document for lease or purchase.

**ARIZONA LAW STATES:**

1. THE SALE OR LEASE OF SUBDIVIDED LANDS PRIOR TO ISSUANCE OF THIS REPORT OR FAILURE TO DELIVER THIS REPORT TO PURCHASERS OR LESSEES SHALL RENDER THE SALE OR LEASE RESCINDABLE BY THE PURCHASER OR LESSEE. ACTION TO RESCIND MUST BE BROUGHT WITHIN 3 YEARS FROM DATE OF EXECUTION OF PURCHASE AGREEMENT.
2. CONTRACTS OR AGREEMENTS FOR THE PURCHASE OF AN UNIMPROVED LOT (WITHOUT A BUILDING)\* MAY BE RESCINDED BY THE PURCHASER WITHOUT CAUSE BY SENDING OR DELIVERING WRITTEN NOTICE OF RESCISSION BY MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE SIGNING.
3. IF YOU HAVE SIGNED A PURCHASE AGREEMENT FOR THE PURCHASE OF AN UNIMPROVED LOT (WITHOUT A BUILDING)\* PRIOR TO INSPECTING THE LOT, YOU HAVE SIX MONTHS TO INSPECT AND UPON INSPECTION MAY RESCIND THE PURCHASE AGREEMENT.

\* A contract or agreement for purchase of a lot which includes a building or obligates the seller to complete construction of a building within two years from the contract date does not constitute the purchase of an unimproved lot. Therefore, if your purchase includes a lot and a building or a building to be built, you are not entitled to the rescission rights described in paragraphs 2 and 3.

GENERAL

**This report includes:** Lots 1 thru 121.

**The map of this subdivision** is recorded in Book 49 of Maps, Page 74, records of Pima County, State of Arizona.

This subdivision is approximately 155.88 acres in size. It has been divided into 121 lots. Lot boundaries are staked.

General Notes on the Recorded Plat state, in part:

- Sewage Disposal for lots 1 through 121 will be by private individual disposal systems. Conceptual approval by the Pima County Department of Environmental Quality will be required.
- Prior to issuance of Building Permits, each lot owner will be responsible for obtaining permission from Pima County Department of Environmental Quality of disposal systems.
- No land use, fill, structure or fence which will reduce the flow capacity of the channels and regulatory floodplains of a watercourse within this subdivision shall be permitted, except as permitted by the City Engineer and regulations in effect on the date of recording of this subdivision, and as permitted by the recorded CC&R's which govern this subdivision.
- The following lots are affected by the City of Tucson Floodplain Regulations. Lots 4-6, 11-13, 15-24, 35, 49, 50, 56-71, 75-95, 97-101, and 109-115.

**YOU ARE ADVISED TO OBTAIN A COPY OF THE RECORDED MAP AND CORRECTION DOCUMENTS, IF ANY, AND NOTE ALL EASEMENTS, RESTRICTIONS AND STATEMENTS CONTAINED THEREON.**

SUBDIVISION LOCATION

**Location:** Corner of Hermans Road and Wilmot Road, I-10 east, then south ½ mile on Wilmot Road, Pima County, Arizona.

**SUBDIVISION CHARACTERISTICS**

**Topography:** Level.

**Flooding and Drainage:** A letter dated August 1, 1997 from CMG Drainage Engineering, Inc. states:

A drainage report for Wilmot Farms, Lots 1 through 121 was prepared by CMG Drainage Engineering, Inc., submitted to and approved by the City of Tucson Development Services Department. Based upon this approved report, the proposed subdivision lots each have a building site which is located outside of the designated flood zone. The building sites will be free from 100-year flood hazards when constructed in accordance with the approved drainage report.

**Adjacent Lands and Vicinity:** Single family residential in adjacent areas, to the west is the Los Reales Landfill. This subdivision lies near the I-10 expressway and is in the vicinity of a Federal Prison and the State Prison Complex.

**UTILITIES**

**Electricity:** Supplier is Tucson Electric Power Company, and facilities will be complete to lot lines by March 9, 1999.

**Telephone:** Supplier is U.S. West Communications, and facilities will be complete to lot lines by March 9, 1999.

**NOTE:** IT IS POSSIBLE THAT YOU MAY NOT HAVE PHONE SERVICE AT THE TIME OF CLOSING. PURCHASER IS ADVISED TO CONTACT THEIR SERVICE PROVIDER TO DETERMINE THE STATUS OF PHONE SERVICE. YOU MAY ALSO WANT TO CONSIDER TEMPORARY ALTERNATIVES, I.E., A CELLULAR PHONE.

**Gas:** Supplier is Southwest Gas Corporation, and facilities will be complete to lot lines by March 9, 1999.

**Water:** Supplier is City of Tucson, and facilities will be complete to lot lines by March 9, 1999.

LICENSE NO. 97-05202 WILMOT FARMS

**Sewage Disposal:** Service is by individual septic systems, and purchasers cost will be approximately \$1,800.00.

The Certificate of Approval of Sanitary Facilities for Subdivisions states:

ADDITIONAL SOIL TESTING SHALL BE REQUIRED IN THE PROPOSED LEACHFIELD AREA PRIOR TO APPLICATION TO PDEQ FOR APPROVAL TO CONSTRUCT.

**THE ABOVE COSTS ARE SUBJECT TO CHANGE BY SERVICE PROVIDERS. YOU SHOULD CONTACT THE ABOVE PROVIDERS REGARDING EXTENSION RULES AND REGULATIONS , SERVICE CONNECTIONS AND COSTS INVOLVED.**

### STREETS, ROADS AND DRAINAGE

**Access to the Subdivision:** Public streets will be surfaced with asphalt by March 9, 1999. and will be maintained by the City of Tucson upon completion and satisfactory inspection.

**Access within the Subdivision:** Public streets will be surfaced with asphalt by March 9, 1999 and will be maintained by the City of Tucson upon completion and satisfactory inspection.

**Flood and Drainage:** Flood and drainage devices will not be installed.

### ASSURANCES FOR COMPLETION

**Assurances for Completion of Subdivision Facilities:** An Assurance Agreement with the City of Tucson is recorded in Docket 10603, Page 921 expires May 9, 1999.

**Assurances for Maintenance of Subdivision Facilities:** The City of Tucson.

### LOCAL SERVICES AND FACILITIES

**Schools:** The elementary schools approximately 4 miles, the middle school 5 miles and the high school 4 miles from the subdivision.

**SCHOOL FACILITIES AND BUS SERVICE MAY CHANGE. YOU SHOULD CONTACT THE LOCAL SCHOOL BOARD REGARDING SCHOOLS AND BUS SERVICE.**



LICENSE NO. 97-05402 WILMOT FARMS

**Shopping Facilities:** Approximately 5 miles at Campbell and Irvington.

**Public Transportation:** Not available.

**Medical Facilities:** Kino Community Hospital, approximately 7.5 miles to the northwest.

**Fire Protection:** City of Tucson.

**Ambulance Service:** Available by calling 911.

**Police Protection:** City of Tucson.

**Garbage Service:** City of Tucson.

LOCATIONS AND COSTS OF THE ABOVE SERVICES AND FACILITIES MAY CHANGE. YOU SHOULD VERIFY THEIR CURRENT LOCATIONS AND COSTS PRIOR TO PURCHASE.

### **SUBDIVISION USE AND RESTRICTIONS**

**Use:** Single family residential use. Site built homes shall be allowed on any lot within the property. Manufactured or Modular homes shall be restricted to only lots 49 through 104 and on lot 121.

**Restrictions and Other Matter of Record:** Conditions, reservations and restrictions that may run with the land including City or County zoning restrictions should be investigated by you. Copies of those items which are recorded may be inspected at the office of the Pima County Recorder. Information about zoning may be obtained at the office of the City of Tucson Planning and Zoning Department. Restrictions are recorded as listed in the title section of this report and per the subdivision plat.

### **METHOD OF SALE OR LEASE**

**Sales:** Recorded Deed with earnest money held in a neutral escrow account at the title company.

**Use and Occupancy:** After close of escrow and completion of construction.

**THE PURCHASE CONTRACT IS A BINDING AGREEMENT. CONTRARY TO THE TERMS AND PROVISIONS OF THE CONTRACT, YOU MAY HAVE ADDITIONAL RIGHTS, REMEDIES AND WARRANTIES PROVIDED BY LAW. READ THOROUGHLY BEFORE SIGNING. IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE PRIOR TO COMMITMENT TO PURCHASE.**

TITLE

**Title to this subdivision** is vested in Stewart Title and Trust of Tucson, as Trustee under Trust No. 3574.

**Subdivider's interest** in the subdivision is evidenced by a beneficial interest in Trust NO. 3574.

**Title is subject**, among other things, to all taxes, assessments, covenants, conditions, restrictions, limitations, reservations, rights, obligations, powers, easements, rights-of-way, liens and charges of record. **YOU SHOULD INVESTIGATE THE TITLE AND SATISFY YOURSELF AS TO WHAT EFFECT, IF ANY, THESE MATTERS MAY HAVE ON THE USE OF THE LAND.** Title Exceptions affecting the condition of title are listed in Preliminary Title Report dated September 2, 1997 issued by Fidelity National Title Agency, Inc. and report dated October 6, 1999 issued by Stewart title and Trust. As a prospective purchaser, you should obtain a title report and examine the effect of the listed exceptions.

EXCEPTIONS, LIENS AND ENCUMBRANCES

- Regulations, conditions and restrictions governing use of ground water pursuant to Arizona Revised Statute 45-101 et. Seq.
- 1997 taxes, a lien not yet due and payable.
- Reservations contained in Patent from the State of Arizona, recorded in Book 190 of Deeds, Page 420.
- Easements, covenants, conditions and restrictions as set forth on recorded plat of said subdivision.
- Water rights, claims or title to water, whether or not shown by the public records.
- An easement for communication facilities and rights incident thereto as set forth in instrument recorded in Book 103 of Miscellaneous Records, Page 488.
- An easement for ingress and egress over the South 30 feet and rights incident thereto as reserved in Deed recorded in Docket 7623, Page 1565.
- An easement for telephone and telegraph lines and rights incident thereto as set forth in instrument recorded in Docket 2816, Page 285.
- Any and all matters as shown on that certain survey recorded in Book 11 of Records of Surveys, Pages 52 and 53; and in Book 7 of Records of Surveys, Page 70.
- Deed of Trust executed by Wilmot Farms, Inc., an Arizona corporation, Trustor, to Fidelity National Title Agency, Inc., an Arizona corporation, Trustee and to Harold Laz, as Trustee of the Harold Laz Living Trust, Beneficiary, in the amount of \$950,000.00, dated February 10, 1997, recorded February 24, 1997, in Docket 10488, Page 209, re-recorded April 10, 1997 in Docket 10521, Page 1718.

- Covenants, conditions, restrictions, easements and assessments (deleting therefrom, if any, restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin) in instrument recorded in Docket 10583, Page 554. As Amended October 16, 1999 at Docket 11146 page 1992.
- Any rights and obligations arising by reason of inclusion within any homeowners association or liability respecting maintenance of common areas.
- Assurance Agreement for subdivision improvements, third party trust, between Fidelity National Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 10,812, and City of Tucson, recorded in Docket 10603, Page 921.

**NOTE DEVELOPER IS REQUIRED TO NOTIFY THE DEPARTMENT OF REAL ESTATE OF ANY FUTURE PLACEMENTS OF LIENS OR ENCUMBRANCES TO ENSURE COMPLIANCE WITH A.R.S. 32-2181, ET SEQ.**

### **TAXES AND ASSESSMENTS**

**Real Property Taxes:** \$17.5395 per \$100.00 assessed valuation per 1997 tax rate. The average tax for an improved lot is \$526.19 per year.

**AMOUNT OF TAXES AND ASSESSMENTS SET FORTH ABOVE ARE APPROXIMATE ONLY AND SUBJECT TO CHANGE.**

### **PROPERTY OWNERS ASSOCIATION**

**Name and Assessment:** Wilmot Farms Homeowner's Association fees are \$10.00 per month.

**PAYMENTS TO PROPERTY OWNERS ASSOCIATIONS ARE SUBJECT TO CHANGE IN ACCORDANCE WITH RECORDED RESTRICTIONS. SAID ASSOCIATION MAY ALSO IMPOSE SPECIAL ASSESSMENTS.**

**Control of Association:** The earliest of the following: 120 days after Class A votes outstanding exceed the total number of Class B votes, December 31, 2004, or the date the declarant records a written instrument terminating the period of control.

LICENSE NO. 97-05202 WILMOT FARMS

PROSPECTIVE PURCHASERS ARE ADVISED TO READ THE RECORDED DECLARATION OF RESTRICTIONS, ASSOCIATION ARTICLES OF INCORPORATION AND ASSOCIATION BYLAWS FOR THIS SUBDIVISION TO DETERMINE THE RIGHTS OF LOT OWNERS TO PARTICIPATE IN THE CONTROL OF THE PROPERTY OWNERS' ASSOCIATION AND TO DETERMINE THE RIGHTS, DUTIES AND LIMITATIONS OF OWNERS IN AND TO THE USE OF THEIR LOT. FURTHER, YOU SHOULD DETERMINE FOR YOURSELF IF SUBDIVIDER'S ARRANGEMENTS AND PLANS FOR THE PAYMENT OF ASSESSMENTS ON UNSOLD LOTS WILL BE SUFFICIENT TO FULFILL THE NEEDS, DEMANDS AND FINANCIAL OBLIGATIONS OF THE ASSOCIATION, AS SET FORTH IN THE DECLARATION AND BYLAWS.

Title to Common Areas: Will be conveyed to the homeowners association

Membership: All lot owners.

MJY

LICENSE NO. 97-05202

WILMOT FARMS

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BYLAWS  
OF  
WILMOT FARMS HOMEOWNERS ASSOCIATION

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BYLAWS  
OF  
WILMOT FARMS HOMEOWNERS ASSOCIATION

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The following Bylaws (these "Bylaws") were adopted by the Board of Directors (the "Board") of Wilmot Farms Homeowners Association (the "Association") effective as of July 15, 1997:

ARTICLE 1

DECLARATION; DEFINITIONS

The Association has been formed for the purposes set forth in the Association's articles of incorporation (the "Articles") and, in particular (but without limiting the generality of the foregoing), to act as the "Association" under the Declaration of Covenants, Conditions and Restrictions and Grant of Easements for Wilmot Farms (the "Declaration") recorded on July 9, 1997, in Docket 10583, beginning at page 554, in the official records of Pima County, Arizona. Capitalized terms used herein but not otherwise defined in these Bylaws shall have the meanings assigned to them in the Declaration (as amended from time to time).

ARTICLE 2

OFFICES AND CORPORATE SEAL

2.1 Principal Office. The Association shall maintain its principal office and known place of business at 5790 North Placita Angelica, Tucson, Arizona 85718, or at such other address as may be designated by the Board.

2.2 Other Offices. The Association may also maintain offices and places for conducting business at such other place or places, both within and without the State of Arizona, as may be designated from time to time by the Board, and the business of the Association may be transacted at such other offices with the same effect as that conducted at the principal office.

2.3 Corporate Seal. A corporate seal shall not be requisite to the validity of any instrument executed by or on behalf of the Association, but nevertheless if in any instance a corporate seal be used, the same shall be a circle having on the circumference thereof the name of the Association and in the center the words "corporate seal," the year incorporated, and the state where incorporated.

ARTICLE 3

MEMBERS

3.1 Membership. The Members of the Association shall be determined in the manner set forth in the Declaration.



3.2 Place of Members Meetings. The annual meetings of Members shall be held at such place, convenient to the Property, as may be fixed from time to time by the Board, or in the absence of direction by the Board, by the president or secretary of the Association, and shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

3.3 Annual Members Meetings. The annual meeting of the Members shall be held in the month of June each year, beginning in June, 1998, with the exact date to be determined each year by the Board, provided that the Board may elect to delay the annual meeting past June in any given year (but in no event later than August 31) if necessary to permit preparation of financial statements or budgets, or for such other reasons as may be determined by the Board, in its good faith discretion. At each annual meeting the Members shall elect the Board and transact such other business as may properly be brought before the meeting.

3.4 Special Meetings of Members. Unless otherwise prescribed by Arizona statute or by the Articles, special meetings of the Members, for any purpose or purposes, may be called by: (a) the president; (b) a majority of the directors; or (c) Members having at least ten percent (10%) of all Class A votes (as determined in accordance with the Declaration).

3.5 Notice of Members Meetings. Not less than ten (10) nor more than fifty (50) days before the date of any annual or special meeting of the Members, either the secretary or any other officer of the Association shall cause written notice stating the place, date and time of the meeting (and, in the case of a special meeting, the items on the agenda, including, but not limited to, the general nature of any proposed amendment to the Declaration, Articles or Bylaws, any budget changes and any proposal to remove a director or officer) to be hand-delivered or sent prepaid by United States mail to the last known mailing address of each Member, as shown in the Association records, or to the mailing address of such Member's Lot). If mailed, such notice shall be deemed to be delivered when mailed. Business transacted at any special meeting of Members shall be limited to the items stated in the notice unless determined otherwise by a unanimous vote of the Members present at such meeting.

3.6 Quorum. Unless otherwise required by the Declaration, the Articles or applicable law, a quorum shall be deemed present for all purposes throughout any meeting of Members if Members entitled to cast at least ten percent (10%) of all outstanding votes are present in person or by valid proxy at the beginning of the meeting. Further, except as otherwise provided in these Bylaws, the Declaration, the Articles or applicable law, the action by Members holding a majority of votes represented at a meeting at which a quorum is present shall constitute the act of the full membership of the Association. Whether or not a quorum is present, a meeting may be adjourned from time to time by the vote of Members holding a majority of the votes represented at such meeting, whether in person or by valid proxy, without notice other than by announcement at the meeting of the time and place at which the adjourned meeting will be reconvened and without further notice to any absent Members, provided, however, that if the adjournment is for more than thirty (30) days, notice of the time and place at which the adjourned meeting will be reconvened shall be given to each Member in the manner provided in Section 3.5 above. If a quorum is present at the time and place the adjourned meeting is reconvened, any business may be transacted at the reconvened meeting which might have been transacted at the meeting as originally noticed.

3.7 Voting. The Members shall be entitled to the voting rights set forth in the Declaration. At every meeting of Members each Member in good standing shall be entitled to vote either: (a) in person; or (b) by a proxy duly appointed by a written instrument signed by the Member,

dated not more than eleven (11) months prior to such meeting (unless such instrument provides for a longer period not to exceed 25 months from the date of its execution and states that it is coupled with an interest and is irrevocable). The vote for directors and upon any question before the meeting shall be by voice vote, except that, upon demand of any ten (10) or more Members, a vote shall be taken by ballot. Except as otherwise provided herein or by applicable Arizona law, the Declaration or the Articles, all elections and other matters to be determined by the Members shall be decided by Members (whether present in person or by proxy) holding a majority of votes represented at a meeting at which a quorum is present, and cumulative voting shall not be permitted.

3.8 Freezing of List of Members or Fixing of Record Date. For the purpose of determining Members entitled to notice of or to vote at a meeting of Members, or in order to make a determination of Members for any other proper purpose, the Board may provide that the list of Members shall be frozen for a stated period not to exceed ten (10) days. If the list of Members shall be frozen for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, such list shall be frozen for not more than ten (10) days immediately preceding such meeting. In lieu of freezing the list of Members, the Board may fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than ten (10) days prior to the date of the particular meeting of Members or the date on which the particular action requiring such determination of Members is to be taken, as applicable. If the list of Members is not frozen and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, the record date for such determination of Members shall be four o'clock in the afternoon on the day before the day on which notice of the meeting is mailed. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any continuation of such meeting following an adjournment.

3.9 Action Without Meeting. Any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by all Members.

3.10 Waiver of Notice. Whenever any notice is required to be given to any Member under the provisions of the Articles, the Bylaws, the Declaration, applicable Arizona law, or otherwise, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.

3.11 Assessments. As more particularly provided in the Declaration, the Association has the right, power and authority to establish and levy Assessments against the Lots and the Owners thereof, and to enforce the payment of such Assessments.

3.12 Suspension. As more particularly provided in the Declaration, the Board may impose sanctions for violations of the Declaration and of the rules and regulations of the Association, which sanctions may include suspension of the right to vote and, in certain instances, imposition of reasonable monetary fines. The duration of any suspension of a Member's right to vote shall be limited as provided in the Declaration.

## ARTICLE 4

### DIRECTORS

4.1 Election. The business and affairs of the Association shall be managed, conducted and controlled by the Board. Unless otherwise provided in the Declaration, the Articles or these Bylaws, directors shall be elected for one-year terms. Except as provided in the Declaration, each director shall be elected at the annual meeting of Members concurrent with the expiration of the term of the director he or she is to succeed, and, except as otherwise provided in these Bylaws or in the Articles or the Declaration, shall hold office until his or her successor is elected and qualified. Nothing herein shall be construed to prevent the appointment or election of any person or persons to two or more terms as director, whether or not such terms shall be consecutive. No person shall be eligible for election as a director who is not at the time of election a Member of the Association, except such persons as may be designated by Declarant or by a corporate, partnership or other non-individual Owner. If, after election: (a) any director (except for a director designated by Declarant or by a corporate, partnership or other non-individual Owner) ceases to be a Member, he or she shall thereupon no longer be a director and his or her office shall become vacant; or (b) a corporate, partnership or other non-individual Owner ceases to be a Member, any director serving by virtue of having been designated by such corporate, partnership or other non-individual Owner shall thereupon no longer be a director and his or her office shall become vacant.

4.2 Number. The number of directors which shall constitute the whole Board shall be three (3), provided that, at any time after the Class B membership ceases to exist (as provided in the Declaration), such number may be increased to a total not to exceed twelve (12) directors upon the affirmative vote of Members holding a majority of all Class A votes represented in person or by proxy at any annual meeting of Members or at a special meeting of Members called for such purpose.

4.3 Vacancies. Except as otherwise provided in the Declaration, vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by the affirmative vote of a majority of the remaining directors then in office, or by a sole remaining director, and the directors so chosen shall hold office, in the case of a vacancy, for the remaining term of their predecessors, and, in the case of an increase in the authorized number of directors, until the next annual meeting of Members. At any time after there is no longer a Class B member, if there are no directors in office, any officer or Member may call a special meeting of Members for the purpose of electing the Board.

4.4 Annual Board Meetings. Within thirty (30) days after each annual meeting of Members, the newly elected directors shall meet forthwith for the purpose of organization, the election of officers, and the transaction of other business and, if a quorum of the directors is present, no prior notice of such meeting shall be required to be given, provided that the place and time of such first meeting of newly-elected directors may be changed by written consent of all of the directors.

4.5 Special Board Meetings. Special meetings of the Board may be called by the president or secretary and must be called by either of them on the written request of any member of the Board.

4.6 Notice of Board Meetings. Regular meetings of the Board may be held without notice at such time and place as may be determined by the Board. In case of special meetings of the Board, notice shall be given to each of the directors in accordance with such reasonable policy as the

Board may determine. Any business may be transacted at any meeting of the Board. Attendance of a person at a meeting shall constitute waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.

4.7 Quorum. One-half (1/2) of the number of the directors then serving shall constitute a quorum at a meeting of the Board (except that if three (3) directors be then serving, a quorum shall be two (2), and if one (1) director be then serving, a quorum shall be one (1)). If at any meeting there is less than a quorum present, the directors present may adjourn the meeting from time to time without further notice to any absent director.

4.8 Action Without a Meeting. Unless otherwise restricted by the Declaration, the Articles or these Bylaws, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent to the action in writing; such written consents shall be filed with the minutes of proceedings of the Board or committee.

4.9 Powers. Subject to the provisions of the Declaration, the Articles, these Bylaws and applicable law, the Board shall have power:

4.9.1 To elect and remove the officers of the Association;

4.9.2 To administer the affairs of the Association and any Association property;

4.9.3 To engage the services of a manager or managing agent who shall manage and operate the Association and any Association property for all of the Members upon such terms, for such compensation and with such authority as the Board may approve;

4.9.4 To formulate policies for the administration, management and operation of the Association and any Association property;

4.9.5 To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Association and any Association property, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel who may be the employees of a managing agent);

4.9.6 To appoint or dissolve committees of the Board, to remove any director from a committee at any time, and to delegate to such committees the Board's authority to carry out certain duties of the Board;

4.9.7 To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses;

4.9.8 To exercise all of the rights, powers and duties granted to it by the Declaration;

4.9.9 Unless otherwise provided herein or in the Declaration, the Articles or applicable law, to comply with the instructions of a majority of the Members as expressed in resolution duly adopted at any annual or special meeting of the Members; and

4.9.10 To exercise for the Association all other powers, duties and authority vested in or delegated to the Association.

4.10 Removal and Resignation of Directors. Any director or the entire Board may be removed, with or without cause, by Members holding a majority of all votes, except that any director appointed to the Board by Declarant: (a) may be removed and replaced at any time by Declarant; and (b) may not be removed, while the Class B membership exists, without the consent of Declarant. Any director may resign upon written notice pursuant to Article 8 of these Bylaws.

4.11 Place of Board Meetings. The Board shall hold meetings, both regular and special, in Maricopa County, Arizona, or at such other place or places, and such meetings may be held by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 4.11 shall constitute presence in person at such meeting.

4.12 Waiver of Notice. Whenever any notice is required to be given to any director of the Association under the provisions of the Articles, these Bylaws, the Declaration, applicable Arizona law or otherwise, a waiver thereof in writing signed by the person or persons entitled to such notices, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

4.13 Committees of the Board. The Board, by resolution adopted by a majority of the full Board, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution and permitted by law, shall have and may exercise all the authority of the Board. The Board, with or without cause, may dissolve any such committee or remove any member thereof at any time. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed by law.

4.14 Compensation. Directors shall receive no compensation for their services unless expressly provided for in a resolution duly adopted by Members holding, personally or by valid proxy, a majority of the votes then entitled to be cast at a meeting expressly called for that purpose.

## ARTICLE 5

### OFFICERS

5.1 Designation of Titles. The officers of the Association shall be a president, vice president, secretary and a treasurer, and shall be chosen by the Board; the Board may also choose a chairman of the Board. No person may hold, at any time, more than one of such offices, except that the offices of secretary and treasurer may be held by the same person. The officers need not be directors of the Association.

5.2 Election, Term of Office, Qualification. Except for the initial officers chosen by the Board at its first meeting following the incorporation of the Association (who shall serve until their successors shall have been duly chosen and shall qualify), each of the officers of the Association

shall be chosen annually by a majority of the Board, and shall hold office for one year or until his or her successor shall have been duly chosen and shall qualify, or until his or her death or until he or she shall resign or shall have been removed pursuant to these Bylaws or the Articles or the Declaration. No person shall be eligible for election as an officer who is not at the time of election a Member of the Association, except such persons as may be designated from time to time by Declarant or by a corporate partnership or other non-individual Owner. If, after election: (a) any officer (except for an officer designated by Declarant or by a corporate, partnership or other non-individual Owner) ceases to be a Member, he or she shall thereupon no longer be an officer and his or her office shall become vacant; or (b) a corporate, partnership or other non-individual Owner ceases to be a Member, any officer serving by virtue of having been designated by such corporate, partnership or other non-individual Owner shall thereupon no longer be an officer and his or her office shall become vacant.

5.3 Subordinate Officers, Agents or Employees. The Board may appoint such subordinate officers, agents or employees as the Board may deem necessary or advisable, including one or more assistant vice presidents, one or more assistant treasurers and one or more assistant secretaries, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine. The Board may delegate to the president or to any committee of the Board the power to appoint any such additional officers, agents or employees. Notwithstanding the foregoing, no assistant treasurer shall have power or authority to collect, account for, or pay any tax imposed by any federal, state or city government.

5.4 Removal. Any officer or agent may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. Election or appointment of an officer or agent shall not of itself create contract rights.

5.5 Vacancies. A vacancy in any office because of death, resignation, removal or any other cause, shall be filled for the unexpired portion of the term in the manner prescribed in Sections 5.1, 5.2 and 5.3 for election or appointment to such office.

5.6 Chairman of the Board. The chairman of the Board, if one shall have been appointed and be serving, shall preside at all meetings of the Board and shall perform such other duties as may be assigned to him or her from time to time.

5.7 President. The president shall preside at all meetings of Members, and if a chairman of the Board shall not have been appointed or, having been appointed, shall not be serving or shall be absent, the president shall preside at all meetings of the Board. The president shall be the principal officer of the Association and, subject to the control of the Board, shall in general supervise and control all of the business and affairs of the Association. The president may sign, with the secretary or any other proper officer of the Association authorized by the Board, deeds, mortgages, bonds, contracts or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by the Declaration, the Articles or these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board from time to time.

5.8 Vice President. The vice president shall have such powers and perform such duties as the Board or the president may from time to time prescribe and shall perform such other duties

as may be prescribed by the Declaration, the Articles or these Bylaws. At the request of the president, or in case of the president's absence or inability to act, the vice president shall perform the duties of the president, and when so acting shall have all powers of, and be subject to all the restrictions upon, the president.

5.9 Treasurer. The treasurer shall be responsible for the charge and custody of funds and securities of the Association, keeping full and accurate accounts of receipts and disbursements in books belonging to the Association and depositing all moneys and other valuable effects in the name of and to the credit of the Association in such banks and other depositories as may be designated by the Board. The treasurer shall be responsible for disbursing the funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and rendering to the president and to the directors at the regular meetings of the Board (or at such other times as they may require it), a statement of all financial transactions and an account of the financial condition of the Association; and, in general, the treasurer shall perform all the duties incident to the office of treasurer and such other duties as may from time to time be assigned to the treasurer by the Board.

5.10 Secretary. The secretary shall: (a) act as secretary of, and keep the minutes of, all meetings of the Board and of the Members; (b) cause to be given notice of all meetings of the Members and directors; (c) be custodian of the corporate seal (if any) and shall affix the seal, or cause it to be affixed, to all proper instruments when appropriate; (d) have charge of the books, records and papers of the Association relating to its organization as a corporation; (e) see that all reports, statements and other documents relating to the Association and required by law are properly kept or filed; and (f) in general perform all the duties incident to the office of secretary. The secretary shall also have such powers and perform such duties as are assigned to the secretary by these Bylaws or applicable law, and shall have such other powers and perform such other duties, not inconsistent with these Bylaws, as the Board shall from time to time prescribe.

5.11 Compensation. The officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by Members holding a majority of outstanding votes at a meeting expressly called for that purpose.

## ARTICLE 6

### ASSESSMENTS

6.1 Assessments, Liens and Budgets. Each Member, as an Owner, and each Lot shall be subject to the Assessments provided for in the Declaration. The Board shall have all rights, powers, authorities and obligations as are conferred upon it by the Declaration and by applicable law in connection with: (a) the preparation and adoption of budgets; (b) computation, levying, collection and enforcement of Assessments; and (c) adoption of reasonable charges for issuance of certificates regarding Assessments.

6.2 Capital Expenditures. Except as may be provided to the contrary in the Declaration, the Board shall not approve any capital expenditure (as opposed to a maintenance expense) in excess of \$10,000.00 without the prior approval of Members holding two-thirds (2/3) of the votes represented, personally or by valid proxy, at a duly convened meeting of Members.

6.3 Records and Statement of Account. The Board shall cause to be kept detailed, itemized and accurate records of all receipts and expenditures of the Association. Payment vouchers may be approved in such manner as the Board may determine.

6.4 Discharge of Liens. The Board may cause the Association to discharge any mechanics' lien or other encumbrance which in the opinion of the Board may constitute a lien against any Association property, rather than against a particular Lot only. When less than all of the Owners are responsible for the existence of any such lien, the Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including, without limitation, attorneys' fees incurred by reason of or in connection with such lien.

## ARTICLE 7

### PARLIAMENTARY RULES

The proceedings of all meetings of the Members, of the Board and of any committees of the Board shall be governed and conducted according to the latest edition of Robert's Manual of Parliamentary Rules.

## ARTICLE 8

### RESIGNATIONS

Any director or officer may resign his or her office at any time by giving written notice of such resignation to the president or the secretary of the Association. Such resignation shall take effect at the time specified therein or, if no time be specified therein, at the time of the receipt thereof, and the acceptance thereof by the Board or the Association shall not be necessary to make it effective.

## ARTICLE 9

### FISCAL YEAR

The fiscal year of the Association shall be from January 1 to December 31, unless changed by the Board as permitted by the Declaration.

## ARTICLE 10

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

10.1 Contracts. Except as limited or restricted by the Declaration, the Articles, these Bylaws or applicable law, the Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. No contract or other transaction between the Association and one or more of its directors or between the Association and any corporation, firm or association in which one or more of the directors of the Association are directors, or are financially interested, is void or voidable because such director or directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his, her or their votes are counted, if the contract or transaction is just and reasonable as to the Association at the time it is authorized or approved. Common or interested



directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

10.2 Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. No loan approved by the Board in an amount in excess of \$10,000.00 shall be contracted until approved by Members holding two-thirds (2/3) of the votes represented, personally or by valid proxy, at a duly convened meeting of Members.

10.3 Checks and Drafts. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board.

10.4 Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may elect.

## ARTICLE 11

### VOTING UPON SHARES OF OTHER CORPORATIONS

Unless otherwise ordered by the Board, the president shall have full power and authority on behalf of the Association to vote either in person or by proxy at any meeting of shareholders of any corporation in which the Association may hold shares or membership(s), and at any such meeting may possess and exercise all of the rights and powers incident to the ownership of such shares or membership(s) which, as the owner thereof, the Association might have possessed and exercised if present. The Board may confer like powers upon any other person and may revoke any such powers as granted at its pleasure.

## ARTICLE 12

### PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS

None of the net earnings or pecuniary profit from the operations of the Association shall at any time inure to any Member, director, officer or employee of, or member of a committee of or person connected with, the Association, or any other private individual, provided that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the Association in effecting any of its purposes as shall be fixed by the Board and other payments and disbursements which may be made in furtherance of one or more of its purposes. To the extent that Members receive a benefit from the general maintenance, acquisition, construction, management and care of any Association property, this benefit shall not constitute an inurement; to the extent a rebate of excess dues, fees or Assessments (and not net earnings) is paid to Members, such payment shall not constitute an inurement.

ARTICLE 13

REPEAL, ALTERATION OR AMENDMENT

13.1 Amendment. Subject to the requirements of applicable law, these Bylaws may be repealed, altered or amended, or substitute Bylaws may be adopted, only in accordance with the procedures set forth in the Articles, provided, however, that any matter stated herein to be or which is in fact governed by the Declaration or by the Articles may not be amended except through a properly adopted amendment to the Declaration or the Articles, as applicable.

13.2 Conflicts. In the case of any conflict between the Articles and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

The foregoing Bylaws were adopted by the Board, effective as of the date first set forth above.



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Janice Laz Romo, Secretary

STATE OF ARIZONA  
ACC/FAX  
DATE FILED

JUL 15 1997

ARTICLES OF INCORPORATION  
OF  
WILMOT FARMS HOMEOWNERS ASSOCIATION

DATE APPR 7/15  
TERM \_\_\_\_\_  
BY TLS  
08134714

The undersigned hereby adopts the following Articles of Incorporation, effective as of July 15, 1997:

1. Name: The name of the corporation shall be WILMOT FARMS HOMEOWNERS ASSOCIATION (the "Association").

2. Purpose: The Association is organized and shall be operated as a nonprofit corporation, for purposes of conducting any or all lawful affairs for which corporations may be incorporated under Title 10, Chapter 22, Arizona Revised Statutes, as in effect on the date these Articles are filed, and any amendments thereof or successor statutes thereto, and for the purposes of performing or exercising all duties, obligations, responsibilities and rights imposed upon or granted to the "Association" in the Declaration of Covenants, Conditions and Restrictions and Grant of Easements for Wilmot Farms (the "Declaration") recorded on July 9, 1997, in Docket 10583, beginning at page 534, in the office of the Pima County, Arizona Recorder. (References in these Articles to specific statutes shall be deemed to refer to such statutes as amended and to successor statutes thereto.)

3. Initial Activity: As its initial activity (which shall not limit the character of affair which the Association ultimately conducts), the Association intends to act as a property owners association, to adopt budgets, to collect assessments, to own, care for, manage and maintain any association property, and to take such other actions and engage in such other actions and activities as may be required of, or permitted for, the Association under the Declaration.

4. Statutory Agent: The name and address of the Association's initial statutory agent is L and R Service Co., One South Church Avenue, Suite 700, Tucson, Arizona 85701.

5. Board of Directors: The board of directors (the "Board") shall consist of three members, subject to increase as provided in the Association's bylaws (the "Bylaws"). The initial directors and their addresses are:

- Harold Laz  
8598 Ruetta Monte Carlo  
La Jolla, California 92037
- Janice Laz Romo  
5790 Placita Angelica  
Tucson, Arizona 85718
- Louis R. Laz  
27 Appleton  
Boston, Massachusetts 02116

APPROVED

6. Incorporator: The name and address of the incorporator of the Association are:

Harold Laz  
 8598 Ruelle Monte Carlo  
 La Jolla, California 92037

7. Members: The members of the Association ("Members") and their voting rights shall be determined as provided in the Declaration.

8. Net Earnings; Transfer of Assets on Dissolution: No part of the net earnings of the Association shall inure to the benefit of or be distributable to any Member, director or officer of the Association, or to any private individual, except the Association may pay reasonable compensation for services and make payments in furtherance of its purposes. Upon dissolution of the Association, the assets of the Association, whether real or personal, after rebate to Members of excess assessments or fees, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as close as possible to those to which they were required to be devoted by the Association. If such dedication is not accepted, such assets shall be transferred to a nonprofit corporation, trust or other organization to be devoted to purposes as close as possible to those to which they were required to be devoted by the Association. Use of funds for acquisition, construction, management or maintenance of association property or rebates to Members of excess assessments or fees shall not constitute an inurement of net earnings.

9. Amendments: Subject to any additional limitations imposed by the Declaration, these Articles and the Bylaws may only be amended in the following manner: The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either an annual or a special meeting, and if approved by members holding (either personally or by valid proxy) the Applicable Percentage (defined below) of the votes eligible to be cast on the amendment (including votes otherwise eligible to be cast but not represented personally or by valid proxy at such meeting), such amendment shall have been adopted, provided, however, that a copy of any such proposed amendment or a summary of the changes to be effected shall have been given to each Member in good standing at least ten (10) days prior to said meeting of the Members. For purposes hereof, the term "Applicable Percentage" shall mean, in the case of an amendment to these Articles, sixty-seven percent (67%), and in the case of an amendment to the Bylaws, fifty-one percent (51%). Any number of amendments may be submitted and voted upon at any one meeting.

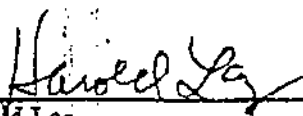
10. Indemnification: The Association shall indemnify each person identified in A.R.S. §10-2305(C) to the fullest extent permissible: (a) under the provisions of A.R.S. §10-2305; (b) under indemnification provisions of successor or amended statutes; (c) as provided in the Declaration or the Bylaws; or (d) by any agreement adopted pursuant to the provisions of A.R.S. §10-2305.

11. Director Liability: A director of the Association shall not be personally liable to the Association or its Members for monetary damages for breach of fiduciary duty as a director. This article shall not eliminate or limit the liability of a director for any conduct described in clauses (a) through (e), inclusive, of Section 10-2342(A)(8), Arizona Revised Statutes. If the Arizona Revised Statutes are amended to authorize further elimination or limitation of the liability of a director, then the liability of a director of the Association shall be eliminated or limited to the fullest extent

permitted by the Arizona Revised Statutes as so amended. Any repeal or modification of this article shall not increase the liability of a director of the Association arising out of acts or omissions occurring before the repeal or modification becomes effective.

12. Conflicts. In the event of any conflict between the Declaration and these Articles, the Declaration shall control. In the event of any conflict between these Articles and the Bylaws, these Articles shall control.

EXECUTED as of the date first set forth above.

  
\_\_\_\_\_  
Harold Laz

ARRIVED

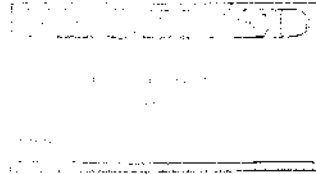


# CITY OF TUCSON

The Sunbelt City

DEPT. OF SOLID WASTE MANAGEMENT  
P.O. Box 27210  
Tucson, Arizona 85726-7210

July 6, 2000



Mr. Steve Canatsey  
Broker – Wilmot Farms  
1625 North Alvernon Way  
Tucson, AZ 85712

**RE: Disclosure of Landfill Information to Potential Wilmot Farms Buyers**

Dear Mr. Canatsey,

Enclosed you will find materials related to the Los Reales Landfill that you may use to disclose landfill information to Wilmot Farms customers. Two items in particular will be of interest to homeowners in the Wilmot Farms community. First, the Los Reales Landfill is currently an operational landfill and will be so until at least the year 2019. After 2019 expansion is planned to the south that will extend operations for an additional twenty years. Secondly, the landfill currently stands at 95 feet in height. By the year 2019 the landfill will grow to 155 feet in height, an increase of more than fifty percent. It is important that Wilmot Farms residents be made aware of these facts as early as possible, in order to avoid future misunderstandings.

While the City constructs and operates its landfills using the most modern methods that minimize their impact on the environment, there will always be some degree of nuisance to those living in the immediate vicinity. Thank you for your attention to this matter. If you have any questions, please contact Robert Boumis at (520) 791-3175.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eliseo Garza, Jr.".

Eliseo Garza, Jr.  
Director, Solid Waste Management Department, City of Tucson



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The Sunshine City

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Sincerely,

A handwritten signature in cursive script that reads "Eliseo Garza, Jr." with a small "1." at the end.

Eliseo Garza, Jr.  
Director, Solid Waste Management Department, City of Tucson

## Los Reales Landfill Fact Sheet

July 2000

### Facility Description

- Only landfill serving over 450,000 residents in City of Tucson.
- In operation since 1967.
- Receives about 1,800 tons per day of standard solid waste (no hazardous waste).
- Recyclable materials collected and shipped off site.
- Landfill activities can be seen and heard over one mile from the site.
- Landfill may release odors, dust, and litter up to one mile away despite best available control methods.
- Between 1,000 and 3,000 vehicles each day travel to the landfill on Craycroft, Alvernon, Los Reales, and Swan Roads.

### Future Development

- City plans to use landfill space on original parcel through at least 2019.
- Space is available on south property to keep landfill open through at least 2039.
- The mound will be filled 60 feet higher than present (155 feet final height).
- In the Fall of 1999, filling will began on east side of landfill parcel (600 feet from nearest private property).
- The City is studying a plan to develop an eco-industrial park, including a recyclable materials processing facility, a green waste composting facility, and a landfill cell on the south half square mile of City land.
- No uses are planned for east property except stormwater basin, although plans may change in the future.
- A large stockpile of clean dirt will sit on the eastern side of the property through at least 2004.

### Groundwater Conditions

- Groundwater is approximately 200 feet deep and moves northwest.
- Groundwater contamination was discovered in the northwest corner of the site in 1987.
- The groundwater contains perchloroethylene (PCE) and trichloroethylene (TCE) at levels up to five times the drinking water standard.
- A groundwater contamination cleanup system has been installed and was put into operation in early 1999.
- The contaminated groundwater has NOT reached any drinking water wells and does not affect the quality of water delivered in the vicinity.

### Landfill Gas Conditions

- The landfill is surrounded by methane monitoring wells which are tested at least once per month.
- Tests show no methane is leaking out of the landfill property.
- Some methane leaked out of the northwest part of the property in 1996, but a control system now prevents this leakage.
- A system has been installed to capture all gas that the landfill produces and convert it to electricity.

For additional information, call Chris Leverenz at the City of Tucson Solid Waste Management Department at 791-3175.





LANDFILL  
ENTRANCE

SWAN ROAD

LANDFILL  
EXIT

WASTE  
DIVERSION  
AREA

LOS REALES ROAD

PROPOSED  
NEW LINED  
CELLS

EXISTING LOS REALES  
LANDFILL DISPOSAL AREA

LANDFILL CELL  
(JULY 2000)

POTENTIAL SQUISH  
LANDFILL AREA

PROPOSED  
WASTE  
PROCESSING  
AREA

CRAYCROFT ROAD

INTERSTATE 10

STORMWATER  
BASIN

CITY OF  
TUCCSON  
PROPERTY  
LINE

BLACKHAWK  
RANCH

WILMOT  
FARMS

# LOS REALES LANDFILL DEVELOPMENT PLAN

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July 2000

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N.T.S.

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STORMWATER  
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# LOS REALES LANDFILL DEVELOPMENT PLAN